



# Town of Barnstable Town Council

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## **TOWN COUNCIL MEETING**

### **AGENDA**

**February 3, 2011**

**7:00 PM**

Councillors:

Frederick Chirigotis  
President

Janice L. Barton  
Vice President

Richard G. Barry  
Ann B. Canedy  
James H. Crocker  
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**
- 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: February 17, 2011**

**A. OLD BUSINESS**

2011-045	Amend the General Ordinances: Chapter 1, General Provisions and Chapter 237, Wetlands Protection <b>(Public hearing) (Roll-call)</b> .....	3 - 4
2011-049	Amend the Administrative Code, Chapter 241 §19 Golf Committee <b>(Second reading)</b> .....	5 - 6
2011-050	Appoint members to a board/committee/commission <b>(Second reading)</b> .....	7

**B. NEW BUSINESS**

2011-052	Amend the Fee Ordinance- Town Clerk and Town Collector Fees <b>(Refer to public hearing 02/17/11) (Roll-call)</b> .....	8 – 11
2011-053	Authorizing the Town Manager to execute a substantial amendment to the Regulatory Agreement between the Town of Barnstable and 89 Lewis Bay, LLC formerly Greenery Development, LLC <b>(First reading) (Roll-call, 2/3)</b> .....	12 - 15

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**Minutes** —January 20, 2011

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**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 (Public hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-045  
INTRO: 01/20/11, 02/03/11**

**2011-045 AMEND THE GENERAL ORDINANCES, ART 1 §1-6 CHAPTER 1, GENERAL PROVISIONS AND CHAPTER 237, §237-1 WETLANDS PROTECTION**

**ORDERED:** That the General Ordinances of the Code of the Town of Barnstable be amended as follows.

**Section 1** By adding the following to Article I, § 1-6 Chapter I, General Provisions

**Fines for Violations of Conservation Commission Regulations**

SECTION § 1-6. By adding to § 1-6, Schedule of Fines of the General Ordinances of the Code of the Town of Barnstable after “Land Use Regulations (Ch. 702) Defacing or destruction of any structure, sign or gate \$200” the following in the appropriate columns: “Shooting Range (Ch 702), Violations of Shooting Range Regulations, Fine \$150.”

**Section 2** By deleting the following FROM § 237-1 Chapter 237 – WETLANDS PROTECTION “public trust rights”, and

By deleting the definition of public trust rights FROM § 237-13 Chapter 237 – WETLANDS PROTECTION

**SPONSOR:** John C. Klimm, Town Manager at the request of the Conservation Commission

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# 2011-045**  
**INTRO: 01/20/11, 02/03/11**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Thomas F. Geiler, Director, Regulatory Services Department  
**DATE:** Dec. 17, 2010

**BACKGROUND:** Chapter 1 lacks a fine for violations of Ch. 702 Shooting Range Regulations. Chapter 237 still contains references to public trust rights as a protected interest, although the SJC struck those in its Fafard decision in 2000.

**ANALYSIS:** The ability to issue non-criminal fines will enhance safety at the shooting range. Removing public trust rights from Chapter 237 will bring the wording up to date with the practice of the Commission since the 2000 decision.

**BOARD AND COMMISSION ACTION:** Conservation Commission has approved both requested actions.

**STAFF ASSISTANCE:** David C. Houghton, First Assistant Town Attorney  
Robert Gatewood, Conservation Administrator

**A. OLD BUSINESS (Second reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-049**

**INTRO: 01/20/11, 02/03/11**

**2011-049 AMENDING THE ADMINISTRATIVE CODE – GOLF COMMITTEE**

**ORDERED:**

The Barnstable Town Council does hereby amend the Administrative Code of the Town of Barnstable by striking Section 241-19 in its entirety and substituting the following therefore:

**241-19 Golf Committee**

- A. Composition.** There shall be a Golf Committee consisting of at least seven (7) members appointed through nominations by the Appointments Committee.
- B. Authorities and responsibilities.** The Golf Committee is advisory to the Town Manager relative to the operation of the municipal golf courses. The Committee advises on the establishment of course policies, rules and regulations. The Town Manager retains authority over the personnel and financial matters for the proper operation of the courses, including the setting of the rates; however, the Town Manager seeks the Committee’s recommendations on rates. The Committee provides advice to the Town Manager in the preparation of the operating and capital budgets for the municipal courses. The Golf Committee is an advisory committee of the Town.
- C. Interrelationships.**
  - i. Town Council: The Golf Committee interacts with the Town Council in order to discuss matters of municipal golf course policies, rules, and regulations.
  - ii. Town Manager: The Golf Committee interacts with the Manager for the purposes noted herein, seeking to ensure that the Manager remains apprised of the needs of the municipal golf courses. The Manager provides staff support to the Committee through the Golf Section of Community Services Department, Recreation Division.
- D. Term of office.** Terms are three years, staggered dates of expiration so that no more than three expire each year.

**SPONSOR:** John C. Klimm, Town Manager upon the recommendation of the Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____
_____	_____
_____ Read Item	
_____ Move/vote	

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-049**

**INTRO: 01/20/11, 02/03/11**

### **SUMMARY**

**RATIONALE:** When the Golf Committee was first established, the Town had one golf course, the Old Barnstable Golf Course. Since acquiring the Hyannis Golf Course, the town now has two municipal golf courses, with the complexity of issues that face the Golf Committee, two additional members will enhance its efforts.

To assist the Golf Committee with current issues as well as long-range marketing and financial planning strategies; reviewing facility inadequacies; and improvement recommendations, the Golf Committee should consider forming sub-committees for these specific purposes.

**A. OLD BUSINESS (Second reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-050**  
**INTRO: 01/20/11, 02/03/11**

**2011-050 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town Council appoint the following individuals to a multiple-member board/committee/commission:

**AGRICULTURAL COMMISSION**

Melissa R. Caughey, 35 Fox Hollow Lane, Osterville, as a member, to a term expiring 6/30/2013  
*(Appointed at the January 20, 2011 Town Council Meeting)*

**GOLF COMMITTEE**

Nancy C. Beauchamp, 7 Christina's Path, Hyannis, as a member, to a term expiring 6/30/2013  
David S. Miller, 214 Carriage Lane, Barnstable, as a member, to a term expiring 6/30/2012  
Geoffrey Converse, 558 Lumbert Hill Road, Centerville, as a member, to a term expiring 6/30/2013

**B. NEW BUSINESS (Refer to public hearing 02/17/11)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-052  
INTRO: 02/03/11**

**2011-052 AMEND THE FEE ORDINANCE -TOWN CLERK FEES & TOWN COLLECTOR FEES**

**ORDERED that:**

Section 1: The Code of the Town of Barnstable, Chapter 76, Article III, § 76-10, Exemption from payment of fees, is hereby amended by renumbering said section as § 76-16,

Section 2: The Code of the Town of Barnstable, Chapter 76, Article II, Schedule of Fees, is hereby amended by adding after § 76-9, the following new section:

**§ 76-10. Town Clerk's Fees**

<b>MGL c. /Section</b>	<b>Description</b>	<b>Fee</b>
<b>Chapter 262, Section 34, clause:</b>		
1	For filing & indexing assignment for benefit of creditors	\$10.00
11	Entering amendment of a record of the birth of a child born out of wedlock subsequently legitimized	\$20.00
12	Correcting errors in a record of birth	\$20.00
13	Furnishing certificate of a birth	\$10.00
13A	Furnishing an abstract copy of a record of birth	\$10.00
	Research & furnish an ancient (over 100 years) vital record	\$20.00
14	Entering delayed record of birth	\$20.00
20	Filing certificate of a person conducting business under any title other than his real name.(good for 4 years)	\$40.00
21	For filing by a person conducting business under any title other than his real name; Statement of change of his residence, or discontinuance, retirement or withdrawal from, or change of location of, such business.	\$20.00
22	Furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such a person of his discontinuance, retirement or withdrawal from such business.	\$10.00
23	Recording the name and address, the date and number of certificate issued to a person registered for the practice of podiatry in the Commonwealth	\$25.00
29	Correcting errors in a record of death	\$20.00
30	Furnishing a certificate of death	\$10.00
30A	Furnishing an abstract copy of a record of death	\$10.00
42	Entering notice of intention of marriage and issuing certificate	\$41.00
43	Entering certificate of marriage filed by persons married out of the Commonwealth	\$20.00
44	Issuing certificate of marriage (certified)	\$10.00
44A	Furnishing an abstract copy of a record of marriage	\$10.00
45	Correcting errors in a record of marriage	\$20.00
54	Recording power of attorney	\$20.00
57	Recording certificate of registration granted to a person engaged in the practice of optometry, or issuing a certified copy thereof.	\$25.00

**2011-052 CONTINUED**

58	Recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth.	\$25.00
62	Recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Sec. 22 of Chapter 166.	\$40.00 flat rate \$10.00 add'l fee
66	Examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than	\$10.00
67	Copying any manuscript or record pertaining to a birth, marriage or death.	\$ 5.00
69	For receiving and filing a complete inventory of all items to be included in a "closing out sale, etc. – 1 <sup>st</sup> page:	\$10.00
	Plus each additional page	\$2.00
75	For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by Sec. 2, Chapter 182	\$20.00
79	Recording any other documents	\$10.00
	Issuing burial permits	\$5.00
	Certification of any document from our office not named	\$10.00
	Raffle Permit (non-profit organizations)	\$10.00

Section 3: The Code of the Town of Barnstable, Chapter 76, Article II, Schedule of Fees, is hereby amended by adding the following new section:

**§ 76-11. Town Collector’s Fees**

MGL c./Section	Description	Fee
60 § 23	Municipal Lien Certificates	\$40.00
60 § 15, cl. 2	Demand Fees for Personal Property, Real Estate and Excise Taxes	\$15.00

**SPONSOR:** John Klimm, Town Manager at the request of the Town Clerk and Town Collector

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

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2011-052**  
**INTRO: 02/03/11**

## SUMMARY

**TO:** Town Council  
**FROM:** Linda Hutchenrider, Town Clerk  
Maureen Niemi, Town Collector  
**DATE:** January 24, 2011  
**SUBJECT:** Change in Town Clerk and Town Collector Fee Schedules

**BACKGROUND:** Fees were increased in 1988 for the Town Clerk, then subsequently a few items were increased in 2003. In the Clerk's office costs have increased, salaries have increased, and demands on staff time have increased. After thorough consideration of the time and efforts on all of the duties required for each of these, it is felt that the increases are minimal and fall within a cost of service structure.

The Town Collector feels that an increase in the demand fee and the fee charged for a Municipal Lien certificate would bring the Town of Barnstable within the scope that other surrounding communities are charging as the current fee structure is low. An increase in the Municipal Lien Certificate fee would cover the cost of producing same. An increase in the Demand fee may encourage more timely payments, which would help the Town's cash flow and budget. Both fees at present are low compared to numerous other Town's contacted and the new fee structure would still allow an additional increase if necessary according to Chapter 60 and Chapter 40 of the Massachusetts General Laws.

**FISCAL IMPACT:** The Town Clerk projects an annual revenue increase of just over \$1,000. The fees are in keeping with recommendations of the Massachusetts Town Clerks' Association.

The Tax Collector projects an annual revenue increase resulting from these fee increases are \$36,000 from MLC's and \$53,000 from demand fees. This revenue will be used to offset the costs of the Town Collector's operations.

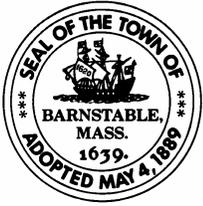
**STAFF SUPPORT:** Linda Hutchenrider, Town Clerk and Maureen Niemi, Town Collector

## COMPARISON OF TOWN CLERK'S EXISTING AND PROPOSED FEES

Clause Description	Current Fee	Proposed Fee
1 For filing & indexing assignment for benefit of creditors	\$10.00	\$10.00
11 Entering amendment of a record of the birth of a child born out of wedlock subsequently legitimized	\$20.00	\$20.00
12 Correcting errors in a record of birth	\$20.00	\$20.00
13 Furnishing certificate of a birth	\$10.00	\$10.00
13A Furnishing an abstract copy of a record of birth	\$ 8.00	\$10.00
Research & furnish an ancient (over 100 years) vital record	\$10.00	\$20.00
14 Entering delayed record of birth	\$20.00	\$20.00
20 Filing certificate of a person conducting business under any title other than his real name. (good for 4 years)	\$30.00	\$40.00
21 For filing by a person conducting business under any title other than his real name; Statement of change of his residence, or discontinuance, retirement or withdrawal from, or change of location of, such business.	\$15.00	\$20.00
22 Furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such a person of his discontinuance, retirement or withdrawal from such business.	\$ 5.00	\$10.00
24 Recording the name and address, the date and number of certificate issued to a person registered for the practice of podiatry in the Comm.	\$20.00	\$25.00
29 Correcting errors in a record of death.	\$20.00	\$20.00
30 Furnishing a certificate of death	\$10.00	\$10.00
30A Furnishing an abstract copy of a record of death	\$ 8.00	\$10.00
42 Entering notice of intention of marriage and issuing certificate	\$31.00	\$41.00
43 Entering certificate of marriage filed by persons married out of the Commonwealth	\$10.00	\$20.00
44 Issuing certificate of marriage (certified)	\$10.00	\$10.00
44A Furnishing an abstract copy of a record of marriage	\$ 8.00	\$10.00
45 Correcting errors in a record of marriage	\$20.00	\$20.00
54 Recording power of attorney	\$20.00	\$20.00
57 Recording certificate of registration granted to a person engaged in the practice of optometry, or issuing a certified copy thereof.	\$20.00	\$25.00
58 Recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth.	\$20.00	\$25.00
62 Recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Sec. 22 of Chapter 166.	\$40.00 \$10.00	\$40.00 flat rate \$10.00 add'l fee
66 Examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than	\$10.00	\$10.00
67 Copying any manuscript or record pertaining to a birth, marriage or death.	\$ 5.00	\$ 5.00
69 For receiving and filing a complete inventory of all items to be included in a "closing out sale, etc.	\$10.00 \$ 2.00	\$10.00 1 <sup>st</sup> page plus \$ 2.00 per add'l page
75 For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by Sec. 2, Chapter 182	\$20.00	\$20.00
79 Recording any other documents	\$10.00	\$10.00
Issuing burial permits	\$ 5.00	\$ 5.00
Certification of any document from our office not named	\$ 5.00	\$10.00
Raffle Permit (non-profit organizations)	\$10.00	\$10.00

## COMPARISON OF TOWN COLLECTOR'S EXISTING AND PROPOSED FEES

Description	Current Fee	Proposed Fee
Municipal Lien Certificates	\$25.00	\$40.00
Demand Fees for Personal Property, Real Estate and Excise Taxes	\$5.00	\$15.00



# Town of Barnstable Planning Board

[www.town.barnstable.ma.us/growthmanagement](http://www.town.barnstable.ma.us/growthmanagement)



Jo Anne Miller Buntich  
Director

**TO:** Town Council  
**FROM:** Planning Board  
**DATE:** January 28, 2011  
**SUBJECT:** Proposed Regulatory Agreement Substantial Amendment  
Lewis Bay Court formerly Greenery Development, LLC

Following is a proposed Substantial Amendment to the Regulatory Agreement between the Town of Barnstable and Lewis Bay Court, LLC formerly Greenery Development, LLC. The Developer proposes to modify the existing Regulatory Agreement to authorize zoning relief to add for profit educational use up to 10,000 SF on the first floor use for this property.

#### Regulatory Agreement Process

The proposed Agreement was negotiated by the Barnstable Planning Board over the course of two public hearings held on January 10 and January 24, 2011 and informal discussions held on November 8 and 22, 2010. This proposed substantial amendment to the Regulatory Agreement was recommended by the Planning Board to the Town Council for further action by a majority vote of the Board on January 24, 2011.

Because the applicant requests zoning relief, a two-thirds vote of the Town Council is needed to finally approve the proposed Regulatory Agreement.

If the Town Council approves this Substantial Amendment to the Regulatory Agreement, it is then endorsed by the Town Manager and recorded at the Registry of Deeds.

**B. NEW BUSINESS (First reading) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-053  
INTRO: 02/03/11**

**2011-053 AUTHORIZING THE TOWN MANAGER TO EXECUTE A SUBSTANTIAL AMENDMENT TO 89 LEWIS BAY, LLC FORMERLY GREENERY DEVELOPMENT, LLC REGULATORY AGREEMENT**

**ORDERED:** That the Barnstable Town Council authorizes the Town Manager to execute a substantial amendment to the Regulatory Agreement between the Town of Barnstable and 89 Lewis Bay, LLC formerly the Greenery Development, LLC:

AMENDMENT No 1 TO REGULATORY AGREEMENT  
89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS

This amendment to a regulatory agreement (“Agreement”) is entered by and between the developer, 89 Lewis Bay, LLC (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this \_\_\_ day of \_\_\_\_\_, 2011 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Developer under this Agreement; is the predecessor in interest to the Greenery Development LLC, the original developer of the subject parcels, which Regulatory Agreement was dated July 26, 2007, recorded at the Barnstable Registry of Deeds, Book 22250 page 286, hereinafter the “2007 Regulatory Agreement”.

WHEREAS, the Developer is the legal owner of the property (“Property”) at 89 Lewis Bay Road and 42 South Street, Hyannis, consisting of approximately 91,346 sq ft, shown on Barnstable Assessor’s Map 327 as Parcels 241 and 223, and desires to develop the Property pursuant to a regulatory agreement.

WHEREAS, 89 Lewis Bay, LLC, as the Declarant, has converted the Property to Lewis Bay Court Condominium by a Master Deed recorded October 20, 2010 at the Registry of Deeds, Book 24923 page 77, said Master Deed established 42 Residential Units and 4 Commercial Units, and as the Declarant owns the majority of the Property, 89 Lewis Bay, LLC is a ‘Qualified Applicant’ as defined in Section 168 of the Barnstable Code to Amend the Agreement.

WHEREAS, in addition to the improvements at 89 Lewis Bay Road and 42 South Street, Hyannis, the Developer has contributed to the overall revitalization of Downtown Hyannis through continued investment, rehabilitation and redevelopment of properties on Main Street, North Street and Center Street thereby approximately 150 year round jobs and retaining approximately 130 year round jobs and creating approximately 15 seasonal jobs and retaining approximately 10 seasonal jobs.

WHEREAS, the Developer has purchased full interest in the Property to gain the ability to move the Development forward more expeditiously.

WHEREAS the Developer has undergone at least two public hearings on the proposed Amendment to the Agreement and received a majority vote from the Planning Board recommending execution of this Amendment on January 24, 2011.

WHEREAS the Developer has presented the Amendment to the Agreement before the Town Council and received a 2/3rds vote authorizing the Town Manager to execute a substantial amendment to the application on \_\_\_\_\_, 2011;

WHEREAS, the 2007 Regulatory Agreement remains in full force and effect except as modified herein;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows: that the realtor and agreement dated July 22, 2007 and recorded at the Barnstable Registry of Deeds, Book 22250 page 286 be amended as follows

1. Paragraph #1 of the 2007 Regulatory Agreement shall be amended to include the revised site plan submitted entitled "Lewis Bay Court Condominium 89 Lewis Bay Road Hyannis, Massachusetts" sheet titled "Site Plan" as dated October 12, 2010 and last revised January 10, 2011, as prepared by BSC Group.
2. Paragraph #3 of the 2007 Regulatory Agreement shall be amended to provide for a for-profit educational, use this shall be in addition to any uses provided for in the 2007 Regulatory Agreement, and Paragraph #38, amended to include a new section to read "Principal Permitted Uses: Relief is granted from Section 240-24.1.4(A) of the Barnstable Code, Principal Permitted Uses in the MS Zoning District to allow for the inclusion of for-profit educational use as a use to be allowed as-of-right.
3. Paragraph #5 of the 2007 Regulatory Agreement shall be amended to provide for a construction completion date of December 31, 2011 for the for-profit educational use and December 31, 2014 for the remainder of the Development.
4. But for the specific changes addressed in this amendment and conditions of the 2007 Regulatory Agreement shall remain in full force and effect. All improvements, submissions and other actions required in the 2007 Regulatory Agreement shall be completed by March 31, 2015.
5. The duration of the Regulatory Agreement as amended shall be ten (10) years.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Town of Barnstable  
By: John C. Klimm  
Barnstable Town Manager

\_\_\_\_\_  
89 Lewis Bay LLC  
By: Charles F. Doe  
Principal

**SPONSOR:** Councilor Richard G. Barry

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM# 2011-053**  
**INTRO: 02/03/11**

**BACKGROUND/ANALYSIS/RATIONALE:** The Applicant seeks the modification of a Regulatory Agreement between the Town of Barnstable and 89 Lewis Bay, LLC the predecessor in interest to The Greenery Development LLC.

The 2007 Regulatory Agreement allowed for the renovation of the subject Property, which consisted of a main building located at 89 Lewis Bay Road, which is was formerly used as a nursing home and allowed for the demolition of two dilapidated residential structures, located at 42 South Street. The main building has been renovated to include. Forty-two (42) residential condominiums, constructed on the second and third floors and within the newly constructed fourth floor. The 2007 Regulatory Agreement also allowed for the first floor to be used for both office use and medical office use.

The applicant seeks to modify the existing Regulatory Agreement to allow for the additional use of a culinary school “for profit educational use” and for the extension of construction completion dates until December 31, 2011 for the proposed culinary school, December 31, 2014 for all other construction and December 31, 2015 for all improvements submissions and actions.

The applicant's proposal is to develop approximate 10,000 square feet of the first floor into a culinary school. This will have significant positive impact on the Town of Barnstable. These impacts include providing trained and educated help for the restaurant/hospitality industry, the lifeblood of Cape Cod. Additionally, it will provide opportunities for the citizens of Barnstable to expand their own lives and opportunities by taking recreational cooking classes. The financial impact will include the creation of approximately 30 jobs at the school. These include chef teachers, support kitchen staff, managers and ancillary employees. The culinary school will also provide opportunities for local businesses such as linen services, cleaning services and the like. These jobs are in addition to the estimated 280 jobs either created or retained by individuals occupying commercial space recently renovated or constructed by the principal owner of the Applicant.

In order for the Development to proceed as recommended by the Developer and with the unanimous support of the Planning Board, the Regulatory Agreement must receive a 2/3 majority vote from the Town Council approving the zoning waivers requested by the Developer as set forth in paragraph 5 of the proposed Amendment No. 1 to Regulatory Agreement 89 Lewis Bay Road and 42 South Street.

**FISCAL IMPACT:** The fiscal impact is positive.