



Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601

508.862.4738 • 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA January 6, 2011 7:00 PM

Councilors:

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**
 - **No Place for Hate Committee—Peace Builders Award Presentation**
- 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: January 20, 2011

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Minutes --November 18, 2010, December 2, 2010, and December 16, 2010

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 (Second reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-036
INTRO: 12/02/10, 01/06/11**

2011-036 AMEND ADMINISTRATIVE CODE-ADMINISTRATIVE POLICIES & PROCEDURES

ORDERED:

The Town Council does hereby amend Section 241-56D (3) of the Administrative Code of the Town of Barnstable as follows:

By striking out in the first sentence therein the term “4.25%” and substituting in its place the term “3.00%”.

So that as revised Section 241-56D (3) shall now read:

(3) Debt refinancing. An advance refunding of outstanding debt shall only be considered when present value savings of at least 3.00% of the principal amount of the refunded bonds are produced, unless: (a) a debt restructuring is necessary or (b) bond covenant revisions are necessary in order to facilitate the ability to provide services or to issue additional debt. An analysis shall be conducted when necessary to determine whether debt financing, cash purchase, or leasing is the most cost effective method of financing for the Town.

SPONSOR: John C. Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-036
INTRO: 12/02/10, 01/06/11

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: November 22, 2010

- A 4.25% threshold, while it's not necessarily outdated, may be too ambitious given the fact that the rates on the Town's bonds that can be refunded are already at historically low rates.
- The higher threshold is more reflective of when rates were higher and there was more opportunity to wait for rates to lower. Current rates are not expected to further decrease appreciably, and if anything, are expected to rise.
- It's possible for the Town to wait and hope rates either stay low or even decrease in the next couple of years, and if that were the case, the 4.25% threshold might be met but by that time the savings might be reduced because the Town would have meanwhile continued to pay off our debt at the higher rates.
- In the current market, 3% is the minimum and general standard for local issuers.

Even if the present value is lowered, we would still consider a number of other factors before doing a refunding, including the present value savings threshold. Other factors include the savings versus the cost of effecting the refunding, and the so-called "negative arbitrage", if any, of the issue. Negative arbitrage represents the amount of savings that could be achieved if the investments of the escrow fund set up to effect the refunding could earn the yield permitted under federal tax law for the issue. So, investment rates, the direction of interest rates, the time to the call date, the issuance of other new money debt and the possibility for consolidation, are all additional considerations that factor into a decision whether or not to do a refunding.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends favorable action.

STAFF ASSISTANCE: Debra Blanchette, Town Treasurer

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-037

INTRO: 12/02/10, 01/06/11

2011-037 AUTHORIZATION TO REFUND GENERAL OBLIGATION BONDS

ORDERED: That in order to reduce interest costs, the Treasurer, with the approval of the Town Manager, is authorized to issue refunding bonds, at one time or from time to time, pursuant to Chapter 44, Section 21A of the General Laws, or pursuant to any other enabling authority, to refund all or any portion of the Town's general obligation bonds outstanding as of the date of the final passage of the Order, and that the proceeds of any refunding bonds issued pursuant to this Order shall be used to pay the principal, redemption premium and interest on the bonds of the Town to be refunded, and costs of issuance of the refunding bonds; and that the Treasurer is authorized to execute such documents as may be necessary or desirable to carry out this transaction, including one or more refunding trust agreements with a bank or trust company.

SPONSOR: Town Manager John C. Klimm

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-037
INTRO: 12/02/10, 01/06/11

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: November 22, 2010
SUBJECT: Refunding General Obligation Bonds

BACKGROUND: As a general matter in the bond market, blocks or lots of bonds maturing in the early years are charged lower rates of interest at the time of sale while those maturing in the later years are charged a higher rate of interest at the time of sale. As economic conditions change, so do interest rates. The Treasury is always alert to opportunities to refund (refinance) outstanding bonds to achieve future interest savings.

ANALYSIS: Authorization of this item will position the Town to act quickly to changing economic conditions that may result in interest savings on the Town's outstanding general obligations bonds. As with any other borrowing authorization, this refunding authorization will not be effective until 30 days after its final passage. The Town is actively researching this opportunity and will initiate a refunding if the market conditions warrant such action.

FISCAL IMPACT: Impact will be favorable to future annual debt service. The issuance costs associated with any refunding will be factored into projected savings and are paid for from a premium charged to the buyer of these refunded bonds at the time of sale.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends favorable action.

STAFF ASSISTANCE: Debra Blanchette, Town Treasurer

A. OLD BUSINESS (Joint public hearing with planning board) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-039

INTRO: 12/16/10, 01/06/11

2011-039 AMEND THE ZONING ORDINANCE C. 240, ART. III MAH RESIDENTIAL DISTRICT

ORDERED that:

Section 1: The Code of the Town of Barnstable, Chapter 240, Article III, MAH Residential District, Section 240-16.1 I, Definitions, is hereby amended by striking the definition of AFFORDABLE UNIT thereunder and substituting in its place the following definition:

“AFFORDABLE UNIT- A dwelling unit reserved in perpetuity for rental or ownership by a household earning 80% or less of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) set forth in the Local Initiative Program Guidelines, in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory.”

Section 2. The Code of the Town of Barnstable, Chapter 240, Article III, MAH Residential District, Section 240-16.1 F (3) is hereby amended as follows:

By striking out the first sentence of Section 240-16.1 F (3) and substituting in its place the following sentence:

“The affordable housing restrictions and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP) Guidelines.”

So that as revised, Section 240-16.1 F (3) shall now read:

“The affordable housing restrictions and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP) Guidelines. The affordable housing deed rider and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.”

Section 3. The Code of the Town of Barnstable, Chapter 240, Article III, MAH Residential District, Section 240-16.1 F (6) is hereby amended by striking out the reference to 760 CMR 45.00, as it appears in the second sentence therein

So that as revised, Section 240-16.1 F (6) shall now read:

“Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units (with the exception that development under this section providing off-site inclusionary housing in conjunction with a senior continuing care retirement community shall not be required to provide services offered within the senior continuing care facility). It is the intent of this section that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units.”

SPONSOR: John Klimm, Town Manager

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-039
INTRO: 12/16/10, 01/06/11

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: December 7, 2010

BACKGROUND: At the present time the MAH, Multi-family Affordable Housing Residential District, allows for multi-family affordable housing in a residential district created by the Town Council as such. However, in order to qualify as “affordable units” under the current legislation the rental of such units is not authorized. Existing market conditions indicate a need for the creation of rental affordable units. The proposed change would continue to mandate that such units be affordable in perpetuity, however, it would provide a potential developer to have the discretion of offering such units as either “rental” or “ownership” units. This allows the developer the option to offer either as market conditions may warrant.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-040
INTRO: 01/06/11**

2011-040 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

HUMAN SERVICES COMMITTEE

Estelle Fritzing, Executive Director, Community Action Committee of Cape Cod and Islands representative member, 115 Enterprise Road, Hyannis to a term expiring 6/30/2012

Coreen Brinckerhoff, Cape Organization for Rights of the Disabled representative member, 106 Bassett Lane, Hyannis to a term expiring 6/30/2013

Heidi Nelson, Executive Director, Duffy Health Center representative member, 105 Park Street, Hyannis to a term expiring 6/30/2013

Reverend John Holt, United Methodist Church, 57 Pond Street, Osterville, as a member to a term expiring 6/30/2012

A. Roy Fogelgren, Cape Cod Council of Churches, 320 Main Street, Hyannis, as a member to a term expiring 6/30/2013

Mary Pat Messmer, CEO, Cape Cod Child Development representative member, 83 Pearl Street, Hyannis to a term expiring 6/30/2011

Merrill Blum, Veterans' Outreach Center representative member, 163 North Street, Hyannis to a term expiring 6/30/2012

Royden Richardson, President, Cape Head Injured Persons' Housing and Education representative member, 9 Park Avenue, Centerville to a term expiring 6/30/2011

Bill Doherty, Barnstable County Commissioner, Main Street, Barnstable, as a member to a term expiring 6/30/2011

SPONSOR: Appointments Committee
DATE **ACTION TAKEN**

- Read item
- Council discussion
- Move/vote

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-041
INTRO: 01/06/11**

**2011-041 CONFIRMATION AND RATIFICATION OF R-2C ZONING DISTRICT
INCORPORATED ON THE MARCH 4, 2010 AMENDED ZONING MAP**

RESOLVED, that the Town Council hereby ratifies and confirms its vote passed on May 10, 2007 under Item #2007-101, creating a new zoning district known as R-2C, which covers the area that was shown on a reference map entitled “Proposed Pond Village DCPCs 1 and 2 Draft Map” and which district is currently incorporated into the Zoning Map of the Town of Barnstable Massachusetts Index Map, last amended March 4, 2010

SPONSOR: Councilor Ann Canedy

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-041
INTRO: 01/06/11

TO: Town Council
FROM: Councilor Ann Canedy
DATE: December 27, 2010

BACKGROUND: The Pond Village DCPC passed the Town Council in May 2007 resulting in the implementation of 2 acre zoning within the DCPC.

The language of the original Ordinance contradicts the map that accompanied it in creating the boundaries of the DCPC. The map illustrates the intended and understood boundaries. The map controls in any dispute. Therefore, the Town Council does not need to take further action.

However, the affected landowner Doug Mitchell has requested that the Town Council affirm the map's boundaries. Since the inception of the DCPC, the Mitchell property has been included within the boundaries of the DCPC. His property is duly encompassed by the boundaries laid out in the map. However, the Ordinance narrative appears to exclude his property. This was unintentional.

While understanding that the map would control should any boundary dispute arise in any future land transfer, Mr. Mitchell nevertheless wants to avoid the potential for dispute through this affirmation that his property is included within the boundaries of the Pond Village DCPC.

B. NEW BUSINESS (Refer to public hearing 01/20/11) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-042
INTRO: 01/06/11**

**2011-042 APPROPRIATE & TRANSFER \$70,000 FROM AIRPORT RESERVE FUND FOR
STAGE II ENVIRONMENTAL RISK ASSESSMENT**

ORDERED: that the sum of Seventy Thousand Dollars and no cents (\$70,000.00) be appropriated for the purposes of funding a Stage II Environmental Risk Assessment (ERA) for the Upper Gate Pond and Lewis Pond as required by the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000; and that to meet this appropriation, \$70,000 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: John C. 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

SUMMARY

ITEM# 2011-042
INTRO: 01/06/11

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager
(2) Barnstable Municipal Airport Commission
DATE: December 9, 2010

BACKGROUND: The proposed Stage II Environmental Risk Assessment (ERA) is required under 310 cod of Massachusetts Regulations (CMR) 40.0000, the Massachusetts Contingency Plan (MCP) to determine if a condition of No Significant Risk (NSR) exists at Upper Gate and Lewis ponds. Completion of the proposed Stage II ERA will include the collection of sediment and macro invertebrate samples for laboratory analysis of contaminants of concern (COCs) from both ponds, and installation and sampling of groundwater monitoring wells in locations hydrologically downgradient of the ponds.

Completion of the proposed Stage II ERA will allow for a determination of whether remedial activities are necessary to achieve a condition of NSR for both of the ponds, and proceed with the filing of a Rapid Action Outcome (RAO) for this portion of the Airport. A condition of NSR for the ponds would be documented in a RAO partial closure report submitted to Massachusetts Department of Environmental Protection (DEP).

FISCAL IMPACT: This appropriation of funds will be sufficient to complete the project and there are adequate airport enterprise reserve funds available. This project is not eligible for FAA or MDOT grant reimbursements. This appropriation will not be added to the base operating budget of the airport enterprise fund going forward.

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

BOARD AND COMMISSION ACTION: Project approved by the Barnstable Municipal Airport Commission as an FY2012 CIP.

STAFF ASSISTANCE: R. W. Breault, Jr., Airport Manager

B. NEW BUSINESS (Refer to public hearing 01/20/11) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-043
INTRO: 01/06/11**

2011-043 APPROPRIATE & TRANSFER \$92,000 FROM AIRPORT RESERVE FUND FOR FUNDING A DRAFT & FINAL ENVIRONMENTAL IMPACT REPORT (EIR)

ORDERED: that the sum of Ninety-Two Thousand Dollars and no cents (\$92,000.00) be appropriated for the purposes of funding the development of a Draft and Final Environmental Impact Report (EIR) as required by the Massachusetts Environmental Policy Act (MEPA) for the Town Council and Cape Cod Commission mandated Master Plan and for the Development Agreement with the Cape Cod Commission both of which will establish future development and redevelopment parameters for the Barnstable Municipal Airport; and that to meet this appropriation, \$92,000 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: John C. 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

SUMMARY

ITEM# 2011-043
INTRO: 01/06/11

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager
(2) Barnstable Municipal Airport Commission
DATE: December 9, 2010

BACKGROUND: Completion of a Master Plan and Development Agreement was a condition of the Airport Terminal Cape Cod Commission (CCC) Development of Regional Impact (DRI) Approval. The Development Agreement process requires the completion of an EIR through MEPA. The completion of these documents will essentially pre-permit future hangar space and other planned development at the Airport, allowing the Airport to market this space to prospective tenants.

The Airport previously completed and submitted a Draft Master Plan to the Town of Barnstable Growth Management Department for their review and approval. The CCC also reviewed and commented on the Plan; this EIR will build upon the Master Plan and provide sufficient detail for its finalization. The Airport also recently submitted an Environmental Notification Form (ENF) which this EIR process will build upon.

Completion of the EIR will allow the Airport to complete a Development Agreement with the CCC thereby pre-permitting future hangar and ramp/apron space to projected build-out. If the Development agreement is not completed the Airport will not be in compliance with the Conditions of the 2007 CCC DRI decision.

ANALYSIS: The following tasks will be completed as part of this project:

- Alternatives Analysis - a series of two to three options for alternative apron/hangar designs will be prepared for consideration.
- Conceptual Design and summary of the stormwater management systems proposed for the Master Plan development scenario with a demonstration that the stormwater facilities constructed in the future will comply with the Massachusetts Stormwater Regulations.
- Conceptual Design of East Ramp new sewer connections on the airport property, the details on septic system abandonment, and details on how the connection will comply with DEP's Sewer Extension requirements.
- Analysis of greenhouse gas (GHG) emissions and mitigation measures in accordance with the standard requirements of the MEPA GHG Policy and Protocol ("the policy"). The analysis will quantify the direct and indirect GHG emissions associated with the project's energy use and transportation-related emissions.
- Discussion of the information requested in the ENF Certificate related to the ongoing remediation of hazardous materials at the airport, and related to how the Airport complies with the hazardous materials performance standards of the CCC Regional Policy Plan.
- Assessment of Construction period impacts as required in the MEPA ENF Certificate.
- Traffic Impacts due to additional trip generated by future traffic.

FISCAL IMPACT: This appropriation of funds will be sufficient to complete the project and there are adequate airport enterprise reserve funds available until reimbursed by the FAA at 95% and MDOT at 2.5% of total eligible costs. This appropriation will not be added to the base operating budget of the airport enterprise fund going forward.

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

BOARD AND COMMISSION ACTION: Project approved by the Barnstable Municipal Airport Commission as an FY2011 Supplemental CIP and as part of the FY2011 FAA and MDOT ACIP.

STAFF ASSISTANCE: R. W. Breault, Jr., Airport Manager