



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

Councilors:

Frederick Chirigotis
President
Precinct 4

Janice L. Barton
Vice President
Precinct 10

Ann B. Canedy
Precinct 1

Tom Rugo
Precinct 2

Michael P. Hersey
Precinct 3

James H. Cote
Precinct 5

Janet S. Joakim
Precinct 6

Jessica Rapp Grassetti
Precinct 7

Dr. Debra S. Dagwan
Precinct 8

James M. Tinsley
Precinct 9

June M. Daley
Precinct 11

John T. Norman
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator to the
Town Council:
Barbara A. Ford

Administrative
Assistant:

TOWN COUNCIL MEETING AGENDA October 4, 2012 7:00 PM

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

- **Barnstable Post 206 American Legion – State Baseball Champs**
Jake O'Rourke, Commander
Mort Sable, Past Commander
Coach Shawn Walsh
- **Award presentation -Massachusetts Shellfish Officers Association, Shellfish Constable of the Year, to Douglas Kalweit**
- **Update from Mark Ells, Barnstable Representative - Cape Cod Water Protection Collaborative**

3. PUBLIC COMMENT (May be limited to 2 minutes)

4. COUNCIL RESPONSE TO PUBLIC COMMENT

5. ACT ON MINUTES (Includes Executive Session)

6. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS

7. ORDERS OF THE DAY

- A. OLD BUSINESS**
- B. NEW BUSINESS**

8. TOWN MANAGER COMMUNICATIONS

9. ADJOURNMENT

NEXT REGULAR MEETING: October 18, 2012

A. OLD BUSINESS

2013-001	Amending the Zoning Ordinances C. 240, §240-35 (F) (Refer to public hearing 10/18/12)	3 - 4
2013-021	Appropriation of \$135,315 Community Preservation Funds for historic preservation of the Hyannis Public Library (Public hearing) (Roll-call)	5 - 6
2013-022	Reappointments to a board/committee/commission (Second reading)	7 - 8
2013-024	Appointments to a board/committee/commission (Second reading)	9

B. NEW BUSINESS

2013-025	Approval of a conservation restriction from Orenda Wildlife Trust on Map 197, Parcel 016, off Main Street, West Barnstable to the Barnstable Land Trust (May be acted upon)	10 - 11
2013-026	Approval of a conservation restriction from Orenda Wildlife Trust on 6.97 acres located on Map 253, Parcel 006 on Shallow Pond, Centerville to the Barnstable Land Trust (May be acted upon)	12 – 13

- **Executive Session:** The Town Council may vote to go into executive session to discuss litigation strategy with regard to the pending case *Marty v. Town of Barnstable*

Minutes- September 20, 2012. No executive session minutes for release.

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.

Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice.

Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

A. OLD BUSINESS (Refer to public hearing 10/18/12)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-001
INTRO: 07/12/12, 10/04/12**

2013-001 AMENDING C.240, ART III, §240-35.f (2) OF THE ZONING ORDINANCE

ORDERED:

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

Amend Section 240-35 titled Groundwater Protection Overlay Districts by adding new subsection (v) to paragraph F, subsection (2) Prohibited Uses as follows:

(v) Storage of commercial fertilizers, as defined in MGL c 128 section 64, unless such storage is within a structure designed and engineered to prevent escape or transport of commercial fertilizers to the groundwater under any circumstances.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- 07/12/12 Town Council Meeting—voted to refer to Planning Board for hearing
- 09/10/12 Planning Board hearing—voted to recommend passage
- 10/04/12 Town Council first reading
- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Amendments
- Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-001
INTRO: 07/12/2012, 10/04/12

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Director
DATE: September 18, 2012
SUBJECT: Groundwater Protection Overlay District Prohibited Uses Amendment

BACKGROUND: This amendment to the Zoning Ordinance is requested by the Hyannis Water Board to bring the Barnstable Ordinance into alignment with state regulations.

DEP regulation 310 CMR 22.21(2) (b) 3 Wellhead Protection Zoning and Nonzoning Controls requires this prohibition to be submitted to DEP by the water system operator.

The Hyannis Water Board has requested this amendment.

At their meeting on September 14, 2012, the Planning Board voted to recommend this amendment to Town Council for adoption.

A. OLD BUSINESS (Public hearing)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-021
INTRO: 09/20/12, 10/04/12

2013-021 APPROPRIATION OF \$135,315 COMMUNITY PRESERVATION FUNDS FOR HISTORIC PRESERVATION – HYANNIS PUBLIC LIBRARY

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum of One Hundred Twenty Five Thousand One Hundred Forty Three and NO/100 (\$125,143.00) Dollars be appropriated and transferred from the Historic portion of the Community Preservation Fund and the sum of Ten Thousand One Hundred Seventy Two and NO/100 (\$10,172.00) Dollars be appropriated and transferred from the Undesignated portion of the Community Preservation Fund; and that the Town Manager is authorized to contract for and expend the total amount appropriated, subject to oversight of the project expenses by the Community Preservation Committee, for the preservation of the historic Hyannis Public Library to include; document preparation, site work, building construction, sill replacements, window work, painting trim and storm windows, and rebuilding the chimney of the Hyannis Public Library located at 401 Main Street, Hyannis, Map/Parcel 326/013, to be secured by a historic restriction on behalf of the Town of Barnstable.

SPONSOR: Councilor Jen Cullum
Thomas K. Lynch, Town Manager upon recommendation of the
Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-021
INTRO: 09/20/12, 10/04/12

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: September 6, 2012
SUBJECT: Hyannis Public Library – Historic Preservation

BACKGROUND: The Community Preservation Committee (CPC) met on Monday, March 26, 2012 and unanimously voted to recommend, to the Town Council through the Town Manager, the funding request by the Hyannis Public Library in the amount of \$135,315.00 for the Historic Preservation of the Ora A. Hinckley portion of the Hyannis Public Library located in the village of Hyannis.

RATIONALE: The Ora A. Hinckley building, named after the first full-time librarian, was constructed sometime between the Otis Loring House predating 1833 (in the era of whale oil lamps) facing Main Street and the Eagleston Wing of 1939. The complex is within the “Municipal Group” National Historic Register District and combined with the nearly original Post Office, the preserved Old Town Hall, the newly restored “Normal School” Town Hall and the reconstructed Asa Barse House, makes an important contribution to the character and scale of the district.

The restoration of the building is consistent with the Secretary of the Interior’s Standards and the proposed project is fully supported by the Hyannis Main Street Waterfront Historic District Commission. Preservation includes; document preparation, site work, building construction, sill replacements, window work, painting trim and storm windows and rebuilding the chimney.

Preserving truly historic buildings such as the Ora A. Hinckley building maintains a livable, historically authentic, and vibrant seaside community in Downtown Hyannis.

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-022
INTRO: 09/20/12, 10/04/12

2013-022 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

AGRICULTURAL COMMISSION

William Plettner, 510 Willow Street, West Barnstable, as a member to a term expiring 6/30/2015

David Ross, 60 Widgeon Lane, West Barnstable, as a member to a term expiring 6/30/2015

COUNCIL ON AGING

Bridget Burke, 98 Brant Way, Hyannis, as a member to a term expiring 6/30/2015

L. Helen Stretch, 114 Baxter Road, Hyannis, as a member to a term expiring 6/30/2015

Barbara Cross, 290 West Main Street, Hyannis, as a member to a term expiring 6/30/2015

Charlotte Saunders, 148 Arrowhead Drive, Centerville, as a member to a term expiring 6/30/2015

Robert Burke, 98 Brant Way, Hyannis, as a member to a term expiring 6/30/2015

Ella Rollins, 205 Ebenezer Road, Osterville, as a member to a term expiring 6/30/2015

Angelo Tromba, 766 Putnam Avenue, Cotuit, as a member to a term expiring 6/30/2015

DISABILITY COMMISSION

Sheila Mulcahy, 9 Chippingstone Road, Marstons Mills, as a member to a term expiring 6/30/2015

Merrill Blum, 94 Waterview Circle, Centerville, as a member to a term expiring 6/30/2015

ELDERLY & DISABLED TAXATION AID COMMITTEE

William Garreffi, 22 Thornberry Lane, Centerville, as a member to a term expiring 6/30/2015

HOUSING COMMITTEE

Larry Gordon, 97 Loomis Lane, Centerville, as a member to a term expiring 06/30/2014

Paul E. Hebert, 142 Strawberry Hill Road, Centerville, as a member to a term expiring 06/30/2013

HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION

David Colombo, 61 Marshview Lane, Marstons Mills, as a member to a term expiring 6/30/2015

JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE

Deborah Shiflett-Fitton, 282 Church Street, W. Barnstable, as a member to a term expiring 6/30/2015

Martin Flynn, 848 Santuit Newtown Road, Marstons Mills, as a member to a term expiring 6/30/2015

PUBLIC WORKS COMMISSION

Wolfgang Fattler, 629 Cedar St., West Barnstable, as a member to a term expiring 6/30/2015

RECREATION COMMISSION

Steven Mele, 56 Lakeview Drive, Centerville, as a member to a term expiring 6/30/2015

Kevin Turner, 202 Skunknet Road, Centerville, as a member to a term expiring 6/30/2015

SHELLFISH COMMITTEE

Richard Haskell, 96 Scudder Road, Osterville, as a member-at-large to a term expiring 6/30/2015

Robert Lancaster, 21 Hannah Circle, Cotuit, as a family-permit-holder member to a term expiring 06/30/15

TRUST FUND ADVISORY COMMITTEE

Timothy McNamara, 955 Main Street, Osterville, as a member to a term expiring 6/30/2015

Christopher Ward, 44 Fernbrook Lane, Centerville, as an attorney-at-law representative member to a term expiring 6/30/2015

WATER POLLUTION CONTROL BOARD

Wolfgang Fattler, 629 Cedar Street, W. Barnstable, as a member to a term expiring 6/30/2015

SPONSOR: Appointments Committee

DATE

ACTION TAKEN

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

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-024
INTRO: 09/20/12, 10/04/12

2013-024 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

COUNCIL ON AGING

Eleanor Letterie, 14 Janes Way, Osterville, from an alternate to a member, term expiring 6/30/2013
Josephine Melpignano, 35 Bay View Road, Barnstable, as an associate member, term expiring 6/30/2014
Lester Frank, 52 King Arthur Drive, Osterville, from an associate to a member, term expiring 6/30/2014

HOUSING COMMITTEE

Glen Anderson, 31 Captain Lumbert Lane, Centerville, as the Barnstable Housing Authority representative member, term expiring 6/30/2014

PERSONNEL BOARD (VOTED AT THE SEPT. 20, 2012 COUNCIL MEETING)

Nancy Newton, 101 Curlew Way, Cotuit, as a member, term expiring 6/30/2015
James Poplasky, 12 Edgewood Road, Hyannis, as a member, term expiring 6/30/2014

RENEWABLE ENERGY COMMISSION

Stephen Thomas, 535 South Street, Hyannis, as a member, term expiring 6/30/2013
Walter Henry, 464 Bay Lane, Centerville, as a member, term expiring 6/30/2014

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-025
INTRO: 10/04/12**

**2013-025 APPROVAL OF A CONSERVATION RESTRICTION IN WEST BARNSTABLE
ON MAP 197, PARCEL 016 TO BARNSTABLE LAND TRUST, INC.**

RESOLVED, that the Town Council approve a Conservation Restriction from Orenda Wildlife Land Trust, Inc. (grantor) to the Barnstable Land Trust, Inc. (grantee), over approximately 6.97 acres of land off Main Street/Route 6A in West Barnstable, Map 197 Parcel 016, for conservation purposes.

SPONSOR: Councilor June Daley, upon approval from the Legal Department

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-025

INTRO: 10/04/12

SUMMARY

TO: Town Council
FROM: Councilor June Daley
DATE: August 15, 2012
SUBJECT: Conservation Restriction to Barnstable Land Trust, Inc. from Orenda Wildlife Land Trust, Inc. over approximately 6.97 acres of land off Route 6A in West Barnstable

BACKGROUND: Orenda Wildlife Land Trust was approached earlier this year by the current owners, Barbara and Robert Pogorelc, about donating their 6.97-acre property to it. The southern boundary of the property is the railroad bed. The rest of the property is surrounded by Town of Barnstable conservation land, part of the Great Marsh. This ecologically significant property is comprised of upland and freshwater wetlands, and abuts salt marsh. The property contains state-designated Priority Habit for Rare Species, and is within the Sandy Neck/Barnstable Harbor Area of Critical Environmental Concern as well as the Old Kings Highway Regional Historic District.

Orenda's conveyance of this CR to the Barnstable Land Trust will enhance the adjoining Town and BLT conservation lands, preserve important wildlife habitat, and protect freshwater wetlands. The current owners have been deemed eligible to receive a Conservation Land Tax Credit (CLTC) for their donation of this land to Orenda. The CLTC program requires that a conservation restriction be placed on the property.

ANALYSIS: This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which "encouraged...grants of conservation restrictions" which yielded "benefits to the Town," and furthers the Town of Barnstable's 2010 Update to its Open Space Plan.

Specifically, the Conservation Restriction has the following public benefits and will:

- Increase the amount of protected open space in town;
- Preserve important wildlife habitat;
- Prevent the disturbance of wetlands;
- Preserve the scenic quality and character of this undisturbed area.

APPROVALS: The Conservation Commission and Land Acquisition and Preservation Committee have each voted to support this conservation restriction.

FISCAL IMPACT: None. The FY 2012 assessment is \$13,200. Once acquired by Orenda the property will come off the tax rolls.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-026
INTRO: 10/04/12**

2013-026 APPROVAL OF A CONSERVATION RESTRICTION IN SHALLOW POND, CENTERVILLE ON MAP 253, PARCEL 006, TO BARNSTABLE LAND TRUST, INC.

RESOLVED, that the Town Council approve a Conservation Restriction from Orenda Wildlife Land Trust, Inc. (grantor) to the Barnstable Land Trust, Inc. (grantee), over a 0.68-acre island in Shallow Pond in Centerville, 0 Huckins Neck Road, Town of Barnstable Assessor's Map 253, Parcel 006, for conservation purposes.

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

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-026
INTRO: 10/04/12

SUMMARY

TO: Town Council
FROM: Councilor Ann Canedy
DATE: August 15, 2012
SUBJECT: Conservation Restriction to Barnstable Land Trust, Inc.

SUMMARY: This item has been placed on the agenda for the Council's approval of a conservation restriction (CR) to be granted to the Barnstable Land Trust, Inc. by Orenda Wildlife Land Trust, Inc., covering a 0.68-acre island in Shallow Pond in Centerville. The land is shown on Barnstable Assessor's Map 253 as Parcel 006.

BACKGROUND: Earlier this year, Ms. Heather Day-Thorburn of St. John, New Brunswick sold the island to the Orenda Wildlife Land Trust in order to have its habitat preserved. She is to receive a Massachusetts Conservation Land Tax Credit, owing to the significance of the island's conservation values. The CLTC program requires that a conservation restriction be placed on the property. The intent of the grant of this Conservation Restriction is to retain in its natural condition this small pond island.

The island is well-wooded throughout, interrupted only by the one small clearing and occasional footpaths. The island's beech/holly forest is indicative of the climax forest on the Cape. Its gravelly soils encourage the beech trees in particular. The CR will protect the state-designated rare species habitats on the island, as well as help to maintain the integrity of the freshwater wetlands (Shallow Pond) adjacent to the property, and protect approximately 660 feet of the pond's shoreline. The entire Premises lies within the Town's Groundwater Protection Overlay District and within a DEP Zone II Area of Contribution.

Responsive both to the State's interest in protecting the island's habitats and the Conservation Commission's input, the CR provides for controlled public access to this particular property as well as allowing the public to beach kayaks at the landing spot located along the island's northwest shoreline.

ANALYSIS: This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which "encouraged...grants of conservation restrictions" which yielded "benefits to the Town," and furthers the Town of Barnstable's 2010 Update to its Open Space Plan.

Specifically, the Conservation Restriction has the following public benefits and will:

- ◆ Increase the amount of protected open space in town;
- ◆ Preserve important wildlife habitat;
- ◆ Preserve the scenic quality and character of this undisturbed area.

APPROVALS: The Conservation Commission and Land Acquisition and Preservation Committee have each voted to support this conservation restriction.

FISCAL IMPACT: None. The FY 2012 assessment is \$9,000. The property transferred to Orenda in July 2012, and will come off the tax rolls beginning Fiscal Year 2014.