



# Town of Barnstable Town Council

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Councillors:

Dr. Debra S. Dagwan  
President  
Precinct 8

Jessica Rapp Grassetti  
Vice President  
Precinct 7

Ann B. Canedy  
Precinct 1

Tom Rugo  
Precinct 2

Michael P. Hersey  
Precinct 3

Frederick Chirigotis  
Precinct 4

James H. Cote  
Precinct 5

Janet S. Joakim  
Precinct 6

James M. Tinsley  
Precinct 9

Janice L. Barton  
Precinct 10

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:  
Cynthia A. Lovell

## MEETING AGENDA TOWN HALL HEARING ROOM September 19, 2013 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES (Includes Executive Session)**
- 7. COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements**
- 8. ORDERS OF THE DAY**
  - A. Old business**
  - B. New business**
- 9. TOWN MANAGER COMMUNICATIONS**
  - **WORKSHOP: Discussing proposed amendments to Agenda Item 2013-166 –Chapter 224 Vacant or Foreclosing Properties**
- 10. ADJOURNMENT**

**NEXT REGULAR MEETING: October 3, 2013**

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**A. OLD BUSINESS**

2014-013	Amending the Zoning Ordinances, Chapter 240, extending the temporary moratorium on establishing and permitting medical marijuana treatment centers and associated activities <b>(Joint public hearing with the Planning Board) (Roll-call, 2/3)</b> .....	3 – 4
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**B. NEW BUSINESS**

2014-022	A resolve in support of preserving tax-exempt financing <b>(May be acted upon)</b> .....	5 – 7
2014-023	Appropriation and transfer \$175,000 from the Capital Trust Fund for sand nourishment due to storm damage and the creation of a Sandy Neck Parking Lot Stabilization Plan <b>(Refer to public hearing 10/03/13)</b> .....	8 – 9

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**Approve Minutes** – September 12, 2013 No executive session minutes.

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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.

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.

**B. NEW BUSINESS (Joint public hearing with Planning Board) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-013  
INTRO: 09/12/13, 09/19/13**

**2014-013 AMENDING ZONING ORDINANCES, CHAPTER 240, EXTENDING THE TEMPORARY MORATORIUM ON ESTABLISHING AND PERMITTING MEDICAL MARAJUANA TREATMENT CENTERS AND ASSOCIATED ACITIVITIES**

**Ordered that:**

Section 1. That the Zoning Ordinance, Article XIII, §240-129C, Temporary moratorium on medical marijuana treatment centers and associated activities relating to Ballot Question 3, is hereby amended by striking the phrase: " January 1, 2014 or until one hundred eighty (180) days after the effective date of the final regulations promulgated by the State Department of Public Health relating to Ballot Question 3, whichever occurs first" and substituting in its place "May 19, 2014."

So Section 240 §129C as revised now reads:

"C. The moratorium shall be in effect through and including May 19, 2014."

Section 2. That the Zoning Ordinance, Article XIII, §240-129F, Temporary moratorium on medical marijuana treatment centers and associated activities relating to Ballot Question 3, is hereby amended by striking the phrase, "January 2, 2014 or one hundred eighty (180) days after the effective date of the final regulations promulgated by the Department of Public Health relating to Ballot Question 3, whichever occurs first" and substituting in its place "on May 20, 2014."

So Section 240 §129 F as revised now reads:

"F. Unless extended, continued or modified by a subsequent action of Town Council, this section shall cease to be effective on May 20, 2014."

**SPONSOR:** Council President Debra Dagwan and Councilor Ann Canedy

<b>DATE</b>	<b>ACTION TAKEN</b>
<u>09/12/13</u>	<u>Referred to a joint public hearing with the planning board 09/19/13</u>

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-013**  
**INTRO: 09/12/13, 09/19/13**

## **SUMMARY**

**TO:** Council President Dagwan  
**FROM:** Ruth Weil, Town Attorney  
Jo Anne Miller Buntich, Growth Management Director  
**DATE:** August 27, 2013  
**SUBJECT:** Zoning Ordinance Definition Amendment

**BACKGROUND/RATIONALE:** Pursuant to the moratorium established in March 2013, the Town Attorney and Growth Management Director, as requested, have conducted a study to explore siting and the impact of medical marijuana dispensaries and related uses.

Meetings with various individuals and groups were held from early March until late in July. These interviews have been methodically documented with a report soon to be submitted to the Council and Planning Board.

A workshop with the Planning Board took place on August 26. This was the next step toward moving from the study process to the legislative process. Since predicting the duration of the public process for the medical marijuana overlay district is not possible, this moratorium extension is proposed to ensure the Town is fully in control of the siting of this new land use.

The public hearing process will be reconvened first with the Planning Board in October and then to the Town Council at the conclusion of the Planning Board public process. Staff's goal is to conclude the entire process before the end of the calendar year.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-022  
INTRO: 09/19/13**

**2014-022 RESOLUTION IN SUPPORT OF THE PRESERVATION OF TAX-EXEMPT FINANCING**

**RESOLVED:**

WHEREAS, tax-exempt municipal bonds are the primary means by which state and local governments finance three quarters of the critical infrastructure of our nation, including roads, bridges, hospitals, schools, and utility systems; and

WHEREAS, through the tax exemption, the federal government continues to provide critical support for the federal, state and local partnership that develops and maintains essential infrastructure, which it cannot practically replicate by other means; and

WHEREAS, the municipal tax exemption has enabled state and local governments to finance more than \$1.65 trillion in infrastructure investment over the last decade; and

WHEREAS, this tax exemption is part of a more than century-long system of reciprocal immunity under which owners of federal bonds are, in turn, not required to pay state and local income tax on the interest they receive from federal bonds; and

WHEREAS, municipalities benefit from this tax exemption through substantial savings on the interest cost of borrowed money; and

WHEREAS, tax exempt bonds benefit state and local governments who need the support of investors to finance critical infrastructure, taxpayers across the country who depend on this infrastructure for reliable transportation systems, schools, public health facilities, energy, clean water and affordable housing, the federal government, who gets quite a bargain on their partnership with state and local government to provide the nation's infrastructure through the exemption; and investors who buy bonds for many reasons, including the safe nature of these financial products; and

WHEREAS, municipal bonds are the second safest investment, aside from U.S. Treasuries, with state and local governments having nearly a zero default rate; and

WHEREAS, 72.4 percent of the total outstanding municipal debt is held by individual investors, either directly or through mutual funds and money market funds (Source – 2010 Thomson Reuters); and

WHEREAS, Congress and the President have proposed legislation to reduce or repeal the tax exemption on municipal bonds; and

WHEREAS, these proposals to reduce or repeal the tax exemption would have severely detrimental impacts on national infrastructure development and the municipal market, raising costs for state and local borrowers and creating uncertainty for investors; and

WHEREAS, if the proposal to cap the exemption on municipal bonds at 28 percent had been in place over the last 10 years it would have cost state and local governments an additional \$173 billion in interest costs; and

WHEREAS, total repeal of the exemption over the last decade would have cost state and local governments over \$495 billion in additional interest costs; and

WHEREAS, the municipal tax exemption has a long history of success, having been maintained through two world wars and the Great Depression, as well as the recent Great Recession, and it continues to finance the majority of our nation's infrastructure needs for state and local governments of all sizes when no other source exists to do so;

NOW, THEREFORE, BE IT RESOLVED that the Town of Barnstable, Massachusetts opposes any efforts by Congress and the White House to reduce or repeal the federal tax exemption on interest earned from municipal bonds; and

BE IT FURTHER RESOLVED that we oppose any action that would reduce or repeal the exemption on tax-exempt bond interest, and affirm that there should be no legislative action to apply any changes retroactively to current outstanding bonds; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to our Congressional Representatives and key members of the Administration.

**SPONSOR:** Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2014-022**  
**INTRO: 09/19/13**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**DATE:** April 22, 2013  
**SUBJECT:** A resolution in support of the preservation of tax-exempt financing

**BACKGROUND:** Under the federal tax code, investors are not required to pay federal income tax on interest earned from most bonds issued by state and local governments. The tax exemption for municipal bond interest has been in law since the federal income tax was promulgated 100 years ago, and tax-exempt bonds have financed trillions of dollars of infrastructure investment over that time. The effect of this tax exemption is that state and local governments receive a lower interest rate on their borrowing than they would if their interest was taxable to investors. In typical market conditions, the tax exemption can save states and localities up to two percentage points on their borrowing rates. Several legislative proposals have been offered to curtail or eliminate the federal tax exemption for municipal bond interest. Partially or fully taxing the interest on municipal borrowing would have a direct effect on state and local budgets in the form of increased interest expense. Taxing the interest on municipal borrowing for investors would have the same effect as taxing state and local governments directly.

The Town of Barnstable is facing its largest ever capital program in the form of water quality improvements. Eliminating the tax exemption for municipal bonds at this time would significantly increase the cost of this program making the financial challenge that much more difficult to achieve. For every \$1 million borrowed that is amortized over 20 years, the additional interest cost is estimated to be \$210,000 if the town's borrowing rates were to increase by up to two percentage points.

**STAFF SUPPORT:** Mark A. Milne, Finance Director

**COMMITTEE SUPPORT:** The Comprehensive Finance Advisory Committee unanimously voted to support this resolution at their June 24, 2013 meeting.

**B. NEW BUSINESS (Refer to public hearing 10/03/13)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-023  
INTRO: 09/19/13**

**2014-023 APPROPRIATION AND TRANSFER \$175,000 FROM THE CAPITAL TRUST FUND FOR SAND NOURISHMENT DUE TO STORM DAMAGE AND CREATION OF SANDY NECK PARKING LOT STABILIZATION PLAN**

**ORDERED:** That the sum of \$175,000 be appropriated for the purpose of funding a sand nourishment project at Sandy Neck Beach; and to meet this appropriation, that \$175,000 be transferred from the Capital Trust Fund, and that the Capital Trust Fund be reimbursed from the Sandy Neck Enterprise Fund Reserve upon the Division of Local Service’s certification of the said enterprise fund’s reserve.

**SPONSOR:** Thomas K. Lynch, Town Manager  
Town Councilor June Daley

<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# 2014-023**  
**INTRO: 09/19/13**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**THROUGH:** Lynne M. Poyant, Director of Community Services  
**DATE:** July 2, 2013  
**SUBJECT:** Appropriation and Transfer Order of \$175,000 for sand nourishment and parking lot stabilization from the Capital Trust Fund reimburse the Capital Trust Fund from the Sandy Neck Enterprise Fund Reserve upon the Division of Local Service's certification of the said enterprise fund's reserve.

**BACKGROUND:** This appropriation covers two phases. The first phase covers sand nourishment for approximately 12-15 feet of beachfront that has been lost. Recent storms from the northeast have had significant impact on the coastline of Sandy Neck Beach Park. Over the years, the beachfront has changed with the weather. The significant loss of beachfront compromises the parking lot that sits adjacent to it. As we have seen many other communities struggle with this issue, we know that replenishing the lost sand is a necessity. This work will be done in the fall. Phase II will include performing the required engineering, permitting and bid phase services for dune stabilization at the Sandy Neck Parking Lot. The Phase II dune stabilization method is anticipated to consist of sand filled bio-degradable (coir) bags. This stabilization method is currently supported by MA DEP and is considered a "step up" from conventional nourishment; however, this type of system does have its limitations and should in no way be viewed as a "permanent solution" to erosion. Typically, this type of system is anticipated to have a service life of +/- 5 years provided it is not subjected to a major catastrophic event and annual maintenance (i.e. maintaining sand cover, repair damaged bags, etc.) is performed. Unfortunately, current regulations will not allow armoring/hard structures to stabilize the dune, which in turn, results in limited options being available to stabilize the shoreline along the parking lot area.

**FISCAL IMPACT:** The Capital Trust Fund will be reimbursed from the Sandy Neck Enterprise Fund Reserve upon the Division of Local Service's certification of the said enterprise fund's reserve.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends the approval of the transfer of these funds.

**STAFF ASSISTANCE:** Nina Coleman, Sandy Neck Beach Park Manager  
Daniel J. Horn, MEA Director and Harbormaster  
Mark Milne, Finance Director  
Daniel Santos, DPW Director  
John Juros, DPW Architect