



# Town of Barnstable Town Council

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## REVISED MEETING AGENDA TOWN HALL HEARING ROOM

**November 6, 2014  
7:00 PM**

### Councillors:

Jessica Rapp Grassetti  
President  
Precinct 7

Ann B. Canedy  
Vice President  
Precinct 1

Eric R. Steinhilber  
Precinct 2

Paul Hebert  
Precinct 3

Frederick Chirigotis  
Precinct 4

James H. Crocker  
Precinct 5

William Crocker, Jr.  
Precinct 6

Debra S. Dagwan  
Precinct 8

James M. Tinsley  
Precinct 9

Sara Cushing  
Precinct 10

Philip N. Wallace  
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

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES (Including Executive Session)**
- 7. COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements**
  - **Adoption of Town Council Strategic Plan FY15**
  - **Department of Public Works Capital Project update, Daniel Santos, P.E., DPW Director**
  - **ViewPoint E Permitting**
  - **Presentation on Tax classification by Director of Finance, Mark A. Milne/ Director of Assessing Jeff Rudziak**
- 8. ORDERS OF THE DAY**
  - A. Old Business**
  - B. New Business**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

**NEXT REGULAR MEETING: November 20, 2014**

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**Approve Minutes** – October 16, 2014; Strategic Planning Session minutes 9/27/14

**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. 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 (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2015-027  
INTRO: 10/16/14, 11/06/14**

**2015-027 TOWN COUNCIL RULE CHANGE REGARDING: AGENDA ORDER OF BUSINESS**

**RESOLVED** That the Town Council Rules are hereby amended by striking out Rule 5E and inserting in place thereof the following:

**RULE 5E ORDER OF BUSINESS**

At every regular meeting of the Town Council, the order of business shall be as follows:

1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Communications
7. Act on Minutes (including Executive Session)
8. Communications from Elected Officials, Boards and Commissions, Staff, Correspondence, Announcements and Committee Reports
9. Orders of the Day - A. Old Business B. New Business
10. Adjournment.

**SPONSOR:** Town Council President Jessica Rapp Grassetti

DATE	ACTION TAKEN
<u>10/16/14</u>	<u>First Reading</u>
_____	_____

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

**A. OLD BUSINESS (Public hearing) (Roll call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-030**  
**INTRO: 10/16/14, 11/06/14**

**2015-030 APPROPRIATION ORDER OF \$211,544 FOR THE ACQUISITION AND IMPLEMENTATION OF E PERMITTING SOFTWARE**

**ORDERED:** That the sum of \$211,544 be appropriated from available funds in the General Fund for the purpose of acquiring and implementing ePermitting software.

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

DATE	ACTION TAKEN
<u>10/16/14</u>	<u>Refer to Public Hearing 11/06/14</u>

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2015-030**  
**INTRO: 10/16/14, 11/06/14**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**DATE:** October 8, 2014  
**SUBJECT:** Appropriation for ePermitting Software

**BACKGROUND:** In our continued efforts to gain efficiencies in our permitting process and improve customer service, the Information Technology Division has evaluated proposals from several vendors for the installation, implementation, and maintenance of ePermitting software. The implementation of ePermitting has been a priority for the Town Manager's office and with the support of the IT Division and Regulatory Services Department we are ready to move forward with the purchase and implementation of ePermitting. The ePermitting program will allow citizens and businesses to submit digital permits applications 24/7 through a web portal wherever they have internet access. We anticipate the implementation process to take 8 to 10 months from commencement of the implementation.

**ANALYSIS:** The Information Technologies Department commenced a review of vendors providing ePermitting services in early 2014. After attending state wide discussions regarding municipal e-permitting and observing general vendor presentations three vendors were invited to present their product to our staff. After an internal review by staff, reference checks, and a questions and answer session with the vendor, a preliminary recommendation was made to visit a community using the preferred vendor software.

As a result of the evaluation of E-Permitting Software, it is our recommendation to proceed with retaining ViewPoint as the best solution for the Town of Barnstable. Below are the highlights of why ViewPoint was selected:

- The software is intuitive, comprehensive, powerful, and easy to use. This is for both the on-line system for contractors and citizens, as well as for the back office departmental staff.
- The software is written and ready to go for numerous permitting types.
- The software is flexible, and it is easy to create additional, simple, permit types.
- The interface between the Town's existing major systems and ViewPoint is compatible and direct.
- ViewPoint is familiar with the Munis permitting system, which will make the conversion of our existing program easier and quicker.
- ViewPoint offers unlimited licensing for users, which allows for growth without additional licensing costs.
- ViewPoint currently services over 60 communities, with 25 municipalities in MA.
- The reference checks with other Towns for ViewPoint are incredibly positive.
- I.T. feels that the company is strong, smart, and enthusiastic about the product. We feel that company is committed to the product and to the customer.

**FISCAL IMPACT:**

The appropriation includes the following costs:

Software costs	\$125,795
Implementation	\$47,800
Maintenance pro-rated (6 Months)	\$12,949
Hardware (15 devices to start)	\$15,000
Consultant	<u>\$10,000</u>
Total	\$211,544

Recurring costs for maintenance will be added to the FY16 operating budget and is expected to be approximately \$26,000. Funding for the initial acquisition and setup will be provided from the General Fund’s “Free Cash”.

**TOWN MANAGER RECOMMENDATION:**

The Town Manager recommends approval of the transfer order.

**A. OLD BUSINESS (Public hearing) (Roll call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-031**  
**INTRO: 10/16/14, 11/06/14**

**2015-031 APPROPRIATION ORDER OF \$25,000 FOR THE INITIAL ENVIRONMENTAL ASSESSMENT AT THE WEST BARNSTABLE SHOOTING RANGE**

**ORDERED:** That the sum of \$25,000 be appropriated from available funds in the General Fund for the purpose of conducting an initial environmental assessment at the shooting range in order to develop a plan for the long-range remediation and management of the property.

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

DATE	ACTION TAKEN
<u>10/16/14</u>	<u>Refer to Public hearing 11/06/14</u>

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-031**  
**INTRO: 10/16/14, 11/06/14**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**DATE:** October 9, 2014

**BACKGROUND:** A shooting range has existed in what is currently the West Barnstable Conservation Area for more than fifty years. It operated first informally and then more formally, with Conservation Commission oversight, beginning in 1984. Firearms that were historically used at the range include shotguns, rifles, and pistols, firing lead shot bullets. The range was closed in December 2012 and remains closed.

**ANALYSIS:** Lead is a regulated contaminant in soil and groundwater according to Mass. DEP. As the result of shooting at the range over several decades, lead is present in the soil at levels that exceed DEP's Maximum Contaminant Levels. No lead has ever been removed from the range. This Transfer Order will fund a study which will determine:

- 1) The distribution of lead contamination in surficial soils at the shooting range
- 2) The estimated cost to clean-up the range
- 3) The estimated cost to develop a safe and modern shooting range at the range

**FISCAL IMPACT:** Funding for the appropriation will be provided from the General Fund's "Free Cash".

**TOWN MANAGER RECOMMENDATION:** Town Manager Thomas K. Lynch recommends approval of the Transfer Order.

**STAFF ASSISTANCE:** Daniel W. Santos, P.E., Director of Public Works

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2015-032  
INTRO: 10/16/14, 11/06/14**

**2015-032 TO SEE IF THE TOWN COUNCIL WILL AMEND THE GENERAL  
ORDINANCES BY ADDING A NEW CHAPTER 78 ON FERTILIZER**

**ORDERED:** That the General Ordinances of the Code of the Town of Barnstable shall be amended by adding the following new Chapter 78 which will serve as the Town's Implementing Regulations pursuant to the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07

**"CHAPTER 78"  
FERTILIZER**

**§78-1. Purposes and Intent**

- A. Mounting evidence supports the claim that excessive nutrient enrichment of the region's ground waters and surface waters may have significant public health significance, including direct detrimental effects on drinking water sources by increased concentrations of nitrates that can violate Safe Drinking Water Standards, and have significant negative impacts to economic, environmental and recreational resources and values in the Town and region.
- B. The Town has significant amounts of glacially deposited coarse, sandy soils that are subject to rapid water infiltration, percolation, and leaching of nutrients. These soil characteristics mean that agronomic practices of soil fertilization common in other parts of the region, state and country may not always apply in the Town, as these practices vary by soil type.
- C. The Town, recognizing that excessive, inappropriate or improper use of fertilizers is part of the overall problem of nutrient pollution promulgates the following Ordinance regarding the use of fertilizer on turf. This Ordinance incorporates by reference the University of Massachusetts Extension's Turf Management Best Management Practices. These practices, if followed, are deemed to protect the public health, safety and welfare and aid in achieving compliance with the Total Maximum Daily Loads (TMDL) for the Town's water resources prescribed by the Commonwealth of Massachusetts while allowing reasonable use of fertilizers for the enhancement and maintenance of turf quality.

**§78-2. Applicability**

- A. It is necessary and desirable to control by regulation in the Town of Barnstable the use of fertilizer that contains phosphorus and nitrogen for the purposes set out herein.
- B. This Ordinance allows for a reduction of nitrogen and phosphorus going into the Town's waters and wetlands by means of an organized system of education, certification, standardization and regulation of practice. This Ordinance is not intended to eliminate the use of fertilizer but only to eliminate excess amounts of phosphorus and nitrogen from reaching our water and groundwater.

This Ordinance adopts the Best Management Practices as the normal operating procedures for turf management throughout the Town.

- C. This Ordinance shall apply to turf management practices and to the application of nitrogen and phosphorus-containing fertilizer and other materials to turf within the Town, but not to plants other than turf.
- D. This Ordinance shall serve as the Town's Implementing Regulations pursuant to the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07.

#### §78-3. Authority

This Ordinance is adopted as Implementing Regulations pursuant to and as authorized by the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07, and by Section 9 of Chapter 262 of the Acts of 2012.

#### §78-4. Definitions

For the purposes of this Ordinance, the following words shall have the following meanings unless the context clearly indicates a different meaning:

“Agriculture/Agricultural Use” means farming in all of its branches including the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural, floricultural or horticultural commodities, including but not limited to cranberries.

“Barnstable” is the Town and all of its waters.

“Best Management Practices” (BMP), means a sequence of activities designed to limit a non point pollution source. For the purposes of this Ordinance and pursuant to §78-5A of this Ordinance, BMP means the edition of “Best Management Practices for Soil and Nutrient Management in Turf Systems,” prepared by University of Massachusetts Extension, Center for Agriculture, Turf Program in effect on September 18, 2014.

“Certified Fertilizer Applicator” means an Applicator certified in the manner prescribed hereunder to apply fertilizer and manage turf in conformance with the BMP.

“Combination Products,” sometimes known as “Weed and Feed,” means any product that, in combination with fertilizer, contains pre- or post-emergence herbicides, insecticides other pesticides or plant growth regulators.

“Compost” is the biologically stable humus-like material derived from composting, or the aerobic, thermophilic decomposition of, organic matter, which is used as a fertility source for turf.

“Fertilizer Applicator” means any person who applies fertilizer to turf and soils.

“Fertilizer” means a substance that enriches turf with elements essential for plant growth, such as nitrogen, phosphorus, or other substances; fertilizer hereunder does not include dolomite, limestone, or

lime, grass clippings, or compost/ compost tea.” Fertilize, fertilizing, or fertilization” means the act of applying fertilizer to turf.

“Impervious surface” means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, except for compacted areas on athletic fields such as clay or baseball infields, intensely trafficked turf and the like.

“Landscape professional” means a person, either as a sole proprietor or as part of a company, who, in exchange for money, goods, services, or other consideration, performs landscaping services. A Landscape professional can include turf management staff at a private golf course operation or other private entity.

“Landscaping” means, for purposes of this Ordinance, establishment (including by sod, seeding, or transplanting), renovation, maintenance, management or fertilization of turf

“Municipal applicator” means a public employee of a city, town, the county, or the state or federal government (or an employee of a department of and within such public entity) who fertilizes and manages turf located on property owned or controlled by a town, the county, the state or federal government (including publicly owned golf courses and athletic fields) within the scope of their official public employment responsibilities.

“Non-Certified Fertilizer Applicator” means an Applicator who is not certified in the manner prescribed hereunder to manage turf and apply fertilizer in conformance with the BMP.

“Nutrient” means any of the following 17 elements needed for growth of a plant; the three (3) non-mineral elements: carbon, hydrogen, and oxygen; the six (6) macronutrients: nitrogen, phosphorus, potassium, calcium, magnesium, and sulfur; and the eight (8) micronutrients: boron, copper, iron, chloride, manganese, molybdenum, nickel and zinc.

“Nutrient management” means the systematic control of the application and availability of nutrients to plants in order to minimize nutrient loss and to maintain the productivity of the soil.

“Readily available nitrogen” means any water-soluble nitrogen (WSN) that is readily available to turf after application.

“Slow-release, controlled-release, timed-release, or slowly soluble/ available nitrogen” means nitrogen in a form that delays its availability for uptake and use after application, and is not rapidly available to turf.

“Soil” means the upper-most layer of the earth’s surface, comprised of mineral and organic matter, which can host biological communities.

“Soil test” means a technical analysis of soil conducted by a soil testing laboratory that uses standards recommended by and in agreement with the University of Massachusetts Amherst Extension Program BMP, including a Modified Morgan soil testing procedure and extractable nutrient values.

“Turf” means grass-covered soil held together by the roots of the grass, also known as “sod” or “lawn.”

“Waters” or “Water-bodies” include, but are not limited to, streams, including intermittent streams, creeks, rivers, freshwater and tidal wetlands, ponds, lakes, marine waters, canals, lagoons, and estuaries within the Town, including without limitation all waters defined in Massachusetts General Laws Chapter 131, Section 40 and Town Wetland Ordinance or Regulations with the exception of the following: coastal and inland banks, beaches, coastal dunes, dune fields, and lands subject to coastal storm flowage, inland or coastal flooding or inundation, or within 100 feet of the hundred-year storm line.

#### §78-5. STANDARDS OF PERFORMANCE

##### A. Best Management Practices

The Best Management Practices (“BMP”), as defined herein, shall be applied to the standards of performance.

##### B. Performance Standards for Non-Certified Fertilizer Applicators

Fertilizer Applicators who do not hold Fertilizer Certification issued in accordance with §78-6B of this Ordinance shall comply with the following standards for fertilizer applications to turf:

- (1) Non-Certified Fertilizer Applicators shall not apply fertilizer during or immediately prior to heavy rainfall, such as but not limited to thunderstorms, hurricanes, or northeastern storms, or when the soil is saturated due to intense or extended rainfall;
- (2) Non-Certified Fertilizer Applicators shall not apply fertilizer or compost between October 1 and the following March 31;
- (3) Non-Certified Fertilizer Applicators shall not apply, spill, or deposit fertilizer on any impervious surface and fail to remove the applied, spilled, or deposited fertilizer immediately (and in which case the Applicator shall then either contain, dispose of legally or apply the fertilizer as allowed), and shall not apply, spill or deposit fertilizer in a manner that allows fertilizer to enter into storm drains;
- (4) Unless the Town’s existing Laws and Regulations, including its Wetland Ordinance or Regulations, contain a stricter standard or other enforcement or approval mechanism such as through the Town’s Conservation Commission, which shall control, Non-Certified Fertilizer Applicators shall not apply fertilizer closer than 100 feet to any water-body, or within the Zone I of a public drinking water well unless permission is obtained through the enforcement authority set out in §78-6D(1) herein allowing such activity;
- (5) A Non-Certified Fertilizer Applicator shall not apply fertilizer that contains phosphorus, unless a soil test taken not more than three years before the proposed fertilizer application indicates that additional phosphorus is needed for growth of that turf, or unless establishing new turf or re-establishing or repairing turf after substantial damage or land disturbance, in which case the application shall be in compliance with the BMP;
- (6) A single application of fertilizer that contains nitrogen shall not exceed .9 pounds of actual nitrogen per thousand square feet, shall consist of at least 20% slow-release

nitrogen fertilizer<sup>1</sup> and the annual rate shall not exceed 3.2 pounds of actual nitrogen per thousand square feet. Single applications shall be done at intervals of no less than four weeks until the annual maximum is reached;

- (7) The fertilizer application requirements of this §78-5B shall apply with the same limitations to Combination Products, i.e. amount of nitrogen applied, vicinity of water bodies, etc.
- (8) Non-Certified Fertilizer Applicators shall not deposit grass clippings, leaves, or any other vegetative debris into or within 50 feet of water-bodies, retention and detention areas, drainage ditches or storm water drains, or onto impervious surfaces such as, but not limited to, roadways and sidewalks, except during scheduled clean-up programs.

#### C. Performance Standards for Certified Fertilizer Applicators

Certified Fertilizer Applicators shall be exempt from the requirements set forth in §78-5B of this Ordinance, provided that they shall manage turf and apply fertilizer to turf in accordance with the BMP. The burden shall be on the Certified Fertilizer Applicator, if and as required, to show that he/she is applying fertilizer in accordance with the BMP.

#### D. Exemptions. The following activities shall be exempt from this Ordinance:

- (1) Application of fertilizer as a fertility source for Agriculture and Agricultural Use.
- (2) Application of fertilizer as a fertility source to home gardens, landscape ornamentals, shrubs, trees bushes, vegetables, fruit and container plants.

### §78-6. EDUCATION, CERTIFICATION, ENFORCEMENT, AND PENALTIES

#### A. Fertilizer/Turf Management Education

Fertilizer education may consist of, but is not limited to, collaboration with retailers to post in-store information on town fertilizer regulations, the BMP and Fertilizer Certification requirements; mailings and flyers for the general public concerning town fertilizer regulations, the BMP and Fertilizer Certification requirements; and outreach to Landscape professionals and Municipal Applicators concerning fertilizer-related laws, the BMP and Fertilizer Certification requirements. The Town may rely on Cape Cod Cooperative Extension to assist in maintaining a program of fertilizer and turf management education that is based on the BMP.

#### B. Fertilizer Certification

- (1) Any Non Certified Fertilizer Applicator may apply to the Town or Cape Cod Cooperative Extension, as the case may be, for Fertilizer Certification as a Certified Fertilizer Applicator.

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<sup>1</sup> **Note:** this represents the minimum percentage: use of higher SRN content is generally preferable, especially on sandy root zones, during stress and pre-stress periods, and when there are fewer annual applications of nitrogen made to a lawn.

- (2) The Town may seek the assistance of the Cape Cod Cooperative Extension, to establish application requirements for and the process required to obtain Fertilizer Certification and renewals thereof, including evidence that the applicant is proficient in the BMP.
- (3) Notwithstanding the requirement for a proficiency assessment set out in, §78-6B(2) above, Municipal applicators or Landscape professionals who meet the following criteria shall be presumed to be proficient in the BMP and may become Certified Fertilizer Applicators without the need for an additional proficiency assessment:
  - (a) Current Massachusetts Pesticide Commercial Applicator License (category 00) or Commercial Applicator License with Turf Certification (category 37) or Commercial Applicator License with Shade Tree & Ornamentals Certification (category 36), with evidence of participation in a recognized continuing education program for turf management within the past year, or
  - (b) Active membership in the Cape Cod Landscapers Association, the Golf Course Superintendents Association of Cape Cod, Massachusetts Association of Lawn Care Professionals (MALCP) or a substantially similar organization and any one of the following:
    - (i) Associate's Degree or higher in Turf Management, or closely related field, with evidence of participation in a recognized continuing education program for turf management within the past year;
    - (ii) Current Massachusetts Certified Landscape Professional (MCLP) certification or current Massachusetts Certified Arborist (MCA) certification, or substantially similar professional certification with emphasis on turf management, with evidence of participation in a recognized continuing education program for turf management within the past year;
    - (iii) Certificate of Completion from the University of Massachusetts Extension Green School (Turf or Landscape sections) or the University of Massachusetts Winter School for Turf Managers, or a horticultural certificate from Cape Cod Community College, or substantially similar professional certification with emphasis on turf management, with evidence of participation in a recognized continuing education program for turf management within the past year.
- (4) The Town may seek the assistance of the Cape Cod Cooperative Extension to help develop or administer an assessment to determine an Applicator's proficiency of the BMP and to assist with or administer a Fertilizer Certification process, which if administered by Extension, may be a county-wide process.
- (5) Municipal applicators or Landscape professionals who are Non-Certified Fertilizer Applicators may nonetheless apply fertilizer and manage turf pursuant to the standards for Certified Fertilizer Applicators set out in §78-5C of this Regulation so long as they fertilize and manage turf under the direct supervision of a manager or supervisor who has attained Fertilizer Certification hereunder." Direct supervision" shall mean the instruction and control by such manager or supervisor who is responsible for fertilizer applications made and that person making them, and who is either physically present at the time and place the fertilizer is applied, or if not physically present, is available if and when needed.

- (6) All Certified Fertilizer Applicators shall ensure that a copy of the official documentation of said Fertilizer Certification is readily available when and at the location fertilizer is being applied, and shall provide such Certification when requested to do so by an officer or agent of the enforcement authority set out in §78-6D(1) herein.
- (7) All Certified Fertilizer Applicators who apply plant nutrients shall maintain records for 3 years of each application made. The following information shall be recorded, when applicable:
  - (a) Name of applicator;
  - (b) Date of application;
  - (c) Address or location description of the application site;
  - (d) Type and amount of nutrients applied;
  - (e) Size of the area being treated;
  - (f) Representative nutrient value or values;
  - (g) Plant nutrient analysis of product used;
  - (h) Method and rate of application;
  - (i) Total amount used;
  - (j) An original or legible copy of the label of the plant nutrient; and
  - (k) The implementation of all activities or protocols recommended or required by the nutrient management plan, if applicable.
- (8) The records required under this §78-6B shall be made available for inspection by the Town's Director of Health Division.

**C. Retailer Requirements**

Any retailer who sells, or offers for sale, phosphorus containing fertilizer shall:

- (1) Display the product separately from non-phosphorus plant nutrients; and
- (2) Post in a location where phosphorus containing fertilizer is displayed a clearly visible sign, at least 11" x 17" in dimension, which reads as follows:

“PHOSPHORUS RUNOFF POSES A THREAT TO WATER  
QUALITY, THEREFORE, UNDER GL Ch. 128 sec. 65A,  
PHOSPHORUS CONTAINING FERTILIZER MAY ONLY BE  
APPLIED TO LAWN OR NON-AGRICULTURAL TURF WHEN

- (i) a soil test indicates that additional phosphorus is needed for the growth of that lawn or non-agricultural turf; or
- (ii) it is used for newly established lawn or non-agricultural turf during the first growing season.”

**D. Enforcement**

- (1) Enforcement Authority

This Ordinance shall be enforced by the Town's Director of Health Division

- (2) Non-Criminal Disposition

Whoever violates any provision of this Regulation may be penalized by a non criminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition ordinance. If non criminal disposition is elected, then any person who violates any provision of this Regulation shall be subject to a penalty in the amount of three hundred dollars (\$300.00) per day for each day of violation, commencing ten days following day of receipt of written notice from the Town's Board of Health. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

(3) Other Remedies

The Town's Director of Health Division may enforce this Ordinance or enjoin violations thereof through any lawful process, and the election of one remedy by the Town's Director of Health Division shall not preclude enforcement through any other lawful means.

§78-7. SEVERABILITY CLAUSE

Should any section, part or provision of this Ordinance be deemed invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining terms of this Regulation as a whole or any part thereof, other than the section, part or provision held invalid, which shall remain in full force and effect.

§78-8. AMENDMENTS

- A. No amendment to this Regulation shall be adopted until such time as the Town Council shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen days prior to the date set for such hearing. No such amendment shall be effective unless the proposed amendment has been approved by the Town Council.
- B. Amendments shall also be subject to the procedures set out in Sections 10 and 11 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended. Specifically, amendments must also be consistent with the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07 and the Guidelines for Implementing Regulations set out therein, including the requirement for consistency with the BMP.

§78-9. EFFECTIVE DATE

The effective date of this Ordinance shall be the date provided under Section 2-8 of the Barnstable Charter or the date the Ordinance has been certified by the Cape Cod Commission as consistent with the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07, whichever occurs later

§78-10. INTERIM PROVISION

Notwithstanding any provisions to the contrary contained herein, any application of fertilizer to turf shall be made in accordance with §78-5B herein unless and until the Fertilizer Certification process outlined in §78-6B herein is implemented and in effect.”

**FISCAL IMPACT:** None

**SPONSORS:** Town Council President, Jessica Rapp Grasseti, Town Council Vice President, Ann Canedy, Councilor Frederick Chirigotis and Councilor Debra Dagwan at the request of the Citizen Advisory Committee.

DATE	ACTION TAKEN
<u>10/16/14</u>	<u>Refer to Public hearing 11/06/14</u>
<u>    </u> Read Item	
<u>    </u> Motion to Open Public Hearing	
<u>    </u> Rationale	
<u>    </u> Public Hearing	
<u>    </u> Close public hearing	
<u>    </u> Council discussion	
<u>    </u> Move/vote	

# BARNSTABLE TOWN COUNCIL

**ITEM# 2015-032**  
**INTRO: 10/16/14, 11/06/14**

## SUMMARY

**TO:** Town Council  
**FROM:** Philip M. Boudreau, Esq., Chair, Citizens Advisory Committee  
**DATE:** October 16, 2014  
**SUBJECT:** Amendment to the General Ordinances to adopt Implementing Regulations pursuant to the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07.

**RATIONALE:** There is mounting evidence to suggest that excessive nutrient enrichment of the region's ground and surface waters can cause detrimental effects on drinking water sources by increased concentrations of nitrates that can violate Safe Drinking Water Standards, and can cause significant negative impacts to economic, environmental and recreational resources and values in the Town and region, specifically to our fresh water lakes, ponds and wetlands and to our salt water estuaries and embayments. Excessive, inappropriate or improper use of lawn fertilizers is part of the overall problem of nutrient pollution, contributing to the recognized degradation of these important resources.

Specifically, this regulation would control the use of lawn fertilizer that contains phosphorus and nitrogen, with the goal of reducing the amount of nitrogen and phosphorus going into the Town's waters and wetlands by means of an organized system of education, certification, standardization and regulation of practice. This Ordinance is not intended to eliminate the use of lawn fertilizers, but only to eliminate excess amounts of phosphorus and nitrogen from reaching our water and groundwater.

The lawn fertilizer limits in this regulation are based largely on the University of Massachusetts Extension's Turf Management Best Management Practices, which, if followed, should aid in the protection of the Town's natural resources and the public health, safety and welfare of the residents of the Town of Barnstable, as well as to aid in achieving compliance with the Total Maximum Daily Loads (TMDL) for the Town's water resources prescribed by the Commonwealth of Massachusetts, all while allowing the reasonable use of lawn fertilizers for the enhancement and maintenance of turf quality.

**STAFF ASSISTANCE:** Philip M. Boudreau, Esq., Chair, Citizens Advisory Committee  
Citizen's Advisory Committee

**B. NEW BUSINESS (Refer to public hearing 11/20/14)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-035  
INTRO: 11/06/14**

**2015-035 APPROPRIATION ORDER OF \$90,000 FROM THE SANDY NECK  
ENTERPRISE ACCOUNT SURPLUS FOR THE SANDY NECK DUNE  
NOURISHMENT PROGRAM**

**ORDERED:** That the sum of ninety thousand dollars and no/100 (\$90,000.00) be appropriated from the Sandy Neck Enterprise Account Surplus funds for the purpose of funding protective sand placement for additional dune nourishment in front of the Sandy Neck parking lot and septic system.

**SPONSOR:** Thomas K. Lynch, Town Manager  
Philip Wallace, Town Council, Precinct 11

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2015-035**  
**INTRO: 11/06/14**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**THROUGH:** Lynne M. Poyant, Director of Community Services  
**DATE:** September 16, 2014  
**SUBJECT:** Appropriation Order of \$90,000 for sand nourishment and parking lot stabilization from Sandy Neck Enterprise Account Surplus

**BACKGROUND:** Over the past few years, Sandy Neck has experienced significant erosion of our beachfront that has jeopardized the integrity of the Sandy Neck parking lots and septic field due to the loss of the protective dune. In 2013, we placed 5,500 cubic yards of sand on the dune in front of the parking lots. This was the first phase of a two-phase project that ultimately will involve engineered soft-scape such as bio-degradable coir bags.

The winter of 2013/2014 consisted of many storms out of the north and we lost approximately half of the placed sand. Our Phase II dune stabilization is in the design and permitting phase and we do not anticipate commencement of the project until the fall of 2015. Therefore, we need funding for the additional placement of 4,000 cubic yards of sand to insure that the parking lots and septic field are not compromised before a more permanent solution is in place.

**FISCAL IMPACT:** Without additional sand placement, we could have significant storm damage to our parking lots and septic system that would be extremely costly to repair.

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

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

**B. NEW BUSINESS (First reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-036  
INTRO: 11/06/14**

**2015-036 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

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

**COMPREHENSIVE FINANCIAL ADVISORY BOARD**

John Schoenherr, 59 Bay Lane, Centerville as a regular member to a term expiring 6/30/15

**COUNCIL ON AGING**

MaryAnn Collins, 123 Connemara Circle, Hyannis as an associate member to a term expiring 6/30/17

**GOLF COMMITTEE**

Brian J. Conway, 31 White Pine Lane, Centerville as a regular member to a term expiring 6/30/16

**PUBLIC WORKS COMMISSION**

Albert B. Baker, 30 Wakeby Road, Marstons Mills as an associate member to a term expiring 6/30/17

**RECREATION COMMISSION**

Michael Ewald, 95 Milne Road, Osterville as a regular member to a term expiring 6/30/15

**WATER POLLUTION CONTROL**

Ed Eichner, 141 Pine Tree Drive, Centerville, as a regular member to a term expiring 6/30/17

**ZONING BOARD OF APPEALS**

Matthew Levesque, 72 Wheeler Road, Marstons Mills, as an associate member to a term expiring 6/30/17

Robin Young, 142 Great Bay Road, Osterville as an associate member to a term expiring 6/30/15

**SPONSOR:** The Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read Item	
___ Rationale	
___ Council Discussion	
___ Move/vote	

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

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2015-037  
INTRO: 11/06/14**

**2015-037 LETTER OF SUPPORT FOR THE DUFFY HEALTH CENTER'S "IN FROM THE STREETS" PROGRAM**

**RESOLVED**, that the Town Council, pursuant to the policy adopted under Town Council Order 2015-024, hereby approves sending a letter of support for the Duffy Health Center's "In From the Streets" program, a collaborative program with the town of Barnstable which offers Barnstable's most vulnerable homeless residents, including veterans, elderly men and women and the mentally ill, a temporary, safe place to live.

**SPONSOR:** Councilor Jennifer L. Cullum

DATE	ACTION TAKEN
_____	_____
_____	_____

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

**B. NEW BUSINESS (Refer to public hearing 11/20/14)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-038  
INTRO: 11/06/2014**

**2015-038 ALLOCATION OF TAX LEVY FY15 – TAX FACTOR**

**RESOLVED**, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the fiscal year 2015.

**SPONSOR:** Town Manager at the request of the Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-038**  
**INTRO: 11/06/2014**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** October 27, 2014  
**SUBJECT:** Allocation of Tax Levy FY15 – Tax Factor

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The residential factor commonly referred to as the “Split Tax Rate” allows the Town Council to create separate tax rates; one for residential property owners and a separate one for commercial, industrial and personal property owners, (CIP owners). Under a residential “Factor of 1”, all property owners would pay taxes at the same rate per \$1,000 of valuation. The maximum permissible shift would increase the CIP tax rate by 150%. Since 2007, the Town Council’s policy has been to select a Residential Factor of “1”. Please see tax factor information handouts provided prior to the meeting.

**B. NEW BUSINESS (Refer to public hearing to 11/20/14)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-039  
INTRO: 11/06/2014**

**2015-039 ALLOCATION OF TAX LEVY FY15 – RESIDENTIAL EXEMPTION**

**RESOLVED**, that the Town Council hereby votes to adopt a Residential Exemption at the percentage of 20% for fiscal year 2015.

**SPONSOR:** Town Manager at the request of the Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2015-039**  
**INTRO: 11/06/2014**

## SUMMARY

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** October 27, 2014  
**SUBJECT:** Allocation of Tax Levy FY15– Residential Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between property owners within certain property classes based on statutory criteria. The Town Council can choose to adopt a “residential exemption”. The maximum exemption allowed is 20% of the average assessed value of all Class One (or Residential) parcels. This exemption would be applied to residential parcels which are qualified as the principal residence of the taxpayer. Principal residence is a taxpayer’s domicile, that is, their fixed place of habitation, permanent home, and legal residence, as used for federal and state income tax purposes. This option shifts property taxes between residential taxpayers only and does not affect the CIP class of taxpayers. If the full 20% exemption amount is adopted, residential taxpayers whose principal residence is in the Town of Barnstable will receive a tax reduction as long as their property assessment is approximately less than \$880,000 and the residential tax rate for all taxpayers will rise to cover the exempted portion of value of the qualified properties. The tax savings these property owners realize will be shifted to all non-resident property owners and residential property owners whose assessments are greater than approximately \$880,000. At the 10% level of exemption, a lesser amount will be exempted and the residential tax rate will not rise as much as under a 20% exemption. Under this option, property tax savings are greater as the assessed value of the property declines (progressive) and the percentage exemption adopted increases. See the tax factor informational handouts provided prior to the meeting for actual numbers and analysis. The town council has voted to adopt a 20% residential exemption for the past 9 fiscal years.

**B. NEW BUSINESS (Refer to public hearing 11/20/14)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-040  
INTRO: 11/06/2014**

**2014-040 ALLOCATION OF TAX LEVY FY15 – SMALL COMMERCIAL EXEMPTION**

**RESOLVED**, that the Town Council hereby votes not to adopt a Small Commercial Exemption for fiscal year 2015.

**SPONSOR:** Town Manager at the request of the Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-040**  
**INTRO: 11/06/2014**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** October 27, 2014  
**SUBJECT:** Allocation of Tax Levy FY15 – Small Commercial Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the allocation of local property taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes.

The Town Council has the option of granting up to a 10% exemption to the owner of commercial property which is occupied by qualified small businesses. This option shifts property taxes between commercial and industrial property owners only and industrial properties cannot qualify for this exemption. It does not impact residential or personal property taxpayers. Qualifying property must be commercial, assessed under \$1,000,000 and be totally occupied by businesses with less than 10 employees. Adoption of the 10% level of this exemption would result in an increase in the commercial and industrial tax rate of approximately \$0.05 per thousand for all commercial and industrial properties only, including those receiving the exemption. Unlike the residential exemption, this exemption is calculated as 10% of the individual parcel's value, rather than being a flat amount for all properties and is less progressive as a result. In the prior 8 fiscal years, the Town council voted not to adopt the small business exemption.

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

### **BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-041  
INTRO: 11/06/14**

#### **2015-041 ACCEPTANCE OF COMMUNITY PRESERVATION LAND AND EASEMENT CONVEYANCES AND GRANT OF CONSERVATION RESTRICTIONS FOR CAPE COD RAIL TRAIL EXTENSION RIGHT OF WAY FROM YARMOUTH TOWN LINE TO INDEPENDENCE DRIVE, HYANNIS.**

**ORDERED:** That the Town accepts the following:

**SECTION 1:** Conveyance from the Commonwealth of Massachusetts, acting through the Division of Fisheries and Wildlife within the Department of Fish and Game, of an exclusive and perpetual right and easement to construct and maintain a twelve (12) foot wide, hard-surfaced shared use public pedestrian and bicycle path with three (3) foot soft shoulders on either side, and a parking area for up to ten (10) automobiles, together with cuts and fills, (hereinafter “the path”) from the Yarmouth Town Line to Independence Drive in Hyannis upon, along, across and over the area owned by the Commonwealth and known as Hyannis Ponds Wildlife Management Area; and further that the Town be authorized to assign its rights to the Commonwealth upon assumption by the Commonwealth of maintenance and operation of the path. The exact boundaries of the easement shall be determined by the Town acting through the Town Manager and the commonwealth after completion of a survey in accordance with registry of deeds recording standards.

**SECTION 2:** That the Town accept conveyance from the Barnstable Housing Authority in fee simple the land containing 1.5 acres, more or less, further described as Lot 1 on a plan entitled “PLAN OF LAND IN BARNSTABLE, MA PREPARED FOR: BARNSTABLE WATER COMPANY” A. M. Wilson Associates, Inc. Scale: 1” = 200’ date 11-15-1990 Job No: 2.0487.4, Sheet 1 of 1,” and recorded in the Barnstable County Registry of Deeds in Plan Book 477, Page 66, also shown as Parcel 009 on Town of Barnstable Assessors Map 332 having a street address of 844 Mary Dunn Road, Hyannis.

**SECTION 3:** That the Town accept in the alternative either the grant of a fee simple ownership interest or a conservation restriction interest from the Trustee of the Cobb Trust in a 9.86 acre, more or less, portion of the land owned by the Cobb Trust having a street address of 755 Independence Drive, Hyannis shown on Assessors Map 332 as Parcel 010002 after completion of a survey of the restricted portion in accordance with registry of deeds recording standards for and in consideration of the sum of \$321,000 appropriated on March 27, 2008 in agenda item number 2008-112 as mitigation and further consideration for the grant of the easement in section 1.

**SECTION 4:** That, as mitigation and further consideration for the grant of the easement in section 1, the Town grant or assign, as the case may be, conservation restrictions to the Commonwealth of Massachusetts, acting through the Division of Fisheries and Wildlife within the Department of Fish and Game, on the following parcels of land:

*a.* Lot 1 described on plan entitled “PLAN OF LAND IN BARNSTABLE, MA PREPARED FOR: BARNSTABLE WATER COMPANY” A. M. Wilson Associates, Inc. Scale: 1” = 200’ date 11-15-1990 Job No: 2.0487.4, Sheet 1 of 1, and recorded in the Barnstable County Registry of Deeds in Plan Book 477, Page 66 and also shown as Parcel 009 on Town of Barnstable Assessors Map 332 and containing 1.5 acres, more or less, with a street address of 844 Mary Dunn Road, Hyannis;

*b.* A lot shown as Parcel 005 on Town of Barnstable Assessors Map 332 and containing 0.6 acres, more or less, shown on plan recorded in said registry of deeds in Plan Book 340, Page 26 having a street address of 864 Mary Dunn Road, Hyannis and formerly owned by the Cobb Trust, now owned by the Town by deed recorded in said registry in Book 26130 Page 73;

*c.* A lot shown as Parcel 036 on Town of Barnstable Assessors Map 348 and containing 1.2 acres, more or less, located on the south side of the Mid-Cape Highway with a street address of 0 Mid Cape Highway (Route 6) formerly owned by the Cobb Trust, now owned by the Town by deed recorded in said registry in Book 25130, Page 73, Parcel 2;

*d.* A parcel containing 133 acres more or less being the eastern portion of Lot 2 on Plan 34248A with Certificate of Title No. 60006 starting from land now or formerly of Michael Burke and Lillian M. Atwood and Nyes Lane a/k/a Hinckley’s Lane shown on Assessors Map 177 as Parcel 1 having a street address of 0 Hinckley’s Lane, West Barnstable, formerly owned by Trustees of Meetinghouse Investment Fund, now owned by the Town of Barnstable for conservation purposes under Certificate of Title No. 76207; and

*e.* Grant or assign a conservation restriction on the parcel of land further described in section 3.

**SECTION 5:** That the Town Manager is authorized to execute, deliver, receive and record any documents on behalf of the Town for the grant and acceptance, as the case may be, of any of the interests in land further described in sections 1 through 4(e), and further to enter into contracts, subject to appropriation to the extent required, for survey and other services in the preparation and recording of plans as required for the conveyance or acceptance of any interest authorized by this order: provided, however, that no instrument be accepted, delivered or recorded so as to transfer any interest until after execution and delivery of either (a) a memorandum of agreement by the Commonwealth of Massachusetts Department of Fisheries and Wildlife for no further land interest mitigation or (b) a memorandum or agreement or understanding as-to-form for Zone I protection for one or two potential future public drinking water supply wells located on land of the Hyannis Water Supply Division shown on Assessors Map 331 as Parcel 003X01 pursuant to section A.2 of the Department of Environmental Protection policy 94-03 which Zone I would extend in whole or in part onto the adjacent publicly owned land of the Commonwealth of Massachusetts Department of Fisheries and Wildlife Hyannis Ponds Wildlife Management Area shown on Assessors Map 347 as Parcel 2.

**SECTION 6:** That the Town Manager submit a petition to the General Court of the of the Commonwealth for a special act approving the grant of the easement in section 1 and the conservation restrictions on parcels of land described in section 4, as follows.

“AN ACT AUTHORIZING THE COMMONWEALTH TO GRANT AN EASEMENT TO THE TOWN OF BARNSTABLE AND THE TOWN OF BARNSTABLE TO GRANT OR ASSIGN SEVERAL CONSERVATION RESTRICTIONS TO THE COMMONWEALTH

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the granting of an easement essential for further developing and extending the Cape Cod Rail Trail shared use pedestrian and bicycle path from its present terminus in the Town of Dennis through the Town of Yarmouth and to Independence Drive in the Town of Barnstable, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

**SECTION 1:** Notwithstanding chapter 30B of the General Laws and sections 32 to 38, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the Commonwealth of Massachusetts, acting through the Division of Fisheries and Wildlife within the Department of Fish and Game, may grant to the Town of Barnstable, and the Town of Barnstable may acquire from the Commonwealth, a permanent exclusive easement for the right to enter, use, improve, operate, maintain, manage and assign the easement area as a shared use pedestrian and bicycle path as the easement area is more particularly defined in section 2. The parcel of land upon which the easement is to be granted was acquired by the Commonwealth for the purposes of protection of endangered species and habitat, natural habitat protection, fish and wildlife conservation and associated public recreation. The exact boundaries of the easement shall be determined by the Town and Commonwealth after completion of a survey in accordance with registry of deeds recording standards.

**SECTION 2:** In consideration of and as a condition of the grant of the easement authorized in section 1, and to ensure a no net loss of lands protected for the purposes for which the commonwealth acquired the land upon which the easement is to be granted, the Town of Barnstable is authorized to grant or assign, as the case may be, and the commonwealth acting through the Division of Fisheries and Wildlife within the Department of Fish and Game is authorized to acquire, conservation restrictions on the following parcels of land further described as follows.

**a.** Lot 1 described on plan entitled “PLAN OF LAND IN BARNSTABLE, MA PREPARED FOR: BARNSTABLE WATER COMPANY” A. M. Wilson Associates, Inc. Scale: 1” = 200’ date 11-15-1990 Job No: 2.0487.4, Sheet 1 of 1, and recorded in the Barnstable County Registry of Deeds in Plan Book 477, Page 66 and also shown as Parcel 009 on Town of Barnstable Assessors Map 332 and containing 1.5 acres, more or less, with a street address of 844 Mary Dunn Road, Hyannis;

**b.** A lot shown as Parcel 005 on Town of Barnstable Assessors Map 332 and containing 0.6 acres, more or less, shown on plan recorded in said registry of deeds in Plan Book 340, Page 26 having a

street address of 864 Mary Dunn Road, Hyannis formerly owned by the Cobb Trust, now owned by the Town by deed recorded in said registry in Book 26130 Page 73;

*c.* A lot shown as Parcel 036 on Town of Barnstable Assessors Map 348 and containing 1.2 acres, more or less, located on the south side of the Mid-Cape Highway with a street address of 0 Mid Cape Highway (Route 6) formerly owned by the Cobb Trust, now owned by the Town by deed recorded in said registry in Book 25130, Page 73, Parcel 2;

*d.* A parcel containing 133 acres more or less being the eastern portion of Lot 2 on Plan 34248A with Certificate of Title No. 60006 starting from land now or formerly of Michael Burke and Lillian M. Atwood and Nyes Lane a/k/a Hinckley's Lane shown on Assessors Map 177 as Parcel 1 having a street address of 0 Hinckley's Lane, West Barnstable, formerly owned by Trustees of Meetinghouse Investment Fund, now owned by the Town of Barnstable for conservation purposes under Certificate of Title No. 76207; and further

*e.* Grant or assign a conservation restriction on a 9.86 acre, more or less, portion of the land owned by the Cobb Trust having a street address of 755 Independence Drive, Hyannis shown on Assessors Map 332 as Parcel 010002, after completion of a survey of the restricted portion in accordance with registry of deeds recording standards.”

**SPONSOR:**

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-041**  
**INTRO: 11/06/14**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Town Manager  
**THROUGH:** Lindsey Counsell, Community Preservation Committee  
**DATE:** November 3, 2014  
**SUBJECT:** Cape Cod Rail Trail Extension Easement & Conservation Restrictions

**BACKGROUND:** The purpose of this request is to obtain an easement in the eastern portion of the town from Mass Fish and Wildlife Division (Fish & Wildlife) to cross their property for the construction of a multiuse pathway known as the Cape Cod Rail Trail Extension. This effort is a partnership with the Town of Yarmouth and the Mass DOT to extend the multiuse pathway from its future terminus at Peter Homer Park on Old Town House Road in Yarmouth, westerly to Willow Street then over the roadway and rail line via a pedestrian bridge and into Barnstable. The area to be utilized for this multiuse pathway is east of Mary Dunn Road and south of Route 6 to the Yarmouth town line. The each town's obligation for this project is to provide the necessary right of way for the layout of the pathway and the funding for and the design of the facility.

In exchange for this easement the town will grant conservation restrictions to Fish & Wildlife on the five parcels listed in the Order. To meet the deadlines established for the project the easements and conservation restriction transfers must be approved by the Town Council before a request can be made to the state legislature for so called Article 97 legislation that will transfer interest in the aforementioned properties to the town and Fish & Wildlife. Approval of Article 97 legislation can take several committee reviews and legislative sessions and is unpredictable at best.

There is \$8 million dollars of air quality mitigation dollars or so called CMAQ funds set aside for the construction of this project and the Dept. of Conservation and Recreation will take over maintenance of the facility when it is completed. This project is slated to go into final design and bidding and all the easements, conservation restrictions and Article 97 transfers must be completed by the town and Fish & Wildlife before the Mass DOT can put the project out to bid.

**FISCAL IMPACT:** None

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

**STAFF ASSISTANCE:** Community Preservation Committee

**B. NEW BUSINESS (Refer to public hearing 11/20/14)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-042  
INTRO: 11/06/2014**

**2015-042 APPROPRIATION AND LOAN ORDER OF \$200,000 FOR THE ACQUISITION OF GOLF COURSE MAINTENANCE EQUIPMENT**

**ORDERED:** That the sum of \$200,000.00 be appropriated for the purpose of funding the acquisition of golf course maintenance equipment, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$200,000.00, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

**SPONSOR:** Thomas K. Lynch, 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# 2015-042**  
**INTRO: 11/06/2014**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**THROUGH:** Lynne M. Poyant, Community Services Director  
**DATE:** October 23, 2014  
**SUBJECT:** Acquisition of Golf Course Equipment

**RATIONALE:** Several pieces of golf turf maintenance equipment at Olde Barnstable Fairgrounds are 10-15 years old and in need of replacement. Tee mowers, rough mowers, large area leaf and debris sweeper and front end loader have all exceeded their useful life. While living within our means as an Enterprise Fund, when budget cuts occurred, they were frequently made to capital needs, especially equipment. The present equipment fails to meet our conditioning standards. The condition of the playing surfaces and consistency found on a golf course are the determining factors golfers weigh when deciding where to play. We must ensure that users of the golf course continue to find the highly conditioned, quality playing conditions they have been accustomed to and that have helped us earn us a reputation for. This drives our revenue production. Olde Barnstable Fairgrounds has been voted by golfers as being a "Top 25" public place to play in New England for 2012 & 2013. Two Toro Tri-Flex tee mowers, one Toro 4500D rough mower, one Toro Versa-Vac sweeper and a Kubota L4760 front end loader/backhoe will be acquired.

**FISCAL IMPACT:** The FY15 budget included funds for the first year's lease payment to acquire this equipment as this method of financing was anticipated. After approaching several leasing companies it has been determined that doing an outright purchase of the equipment and financing the acquisition with a general obligation bond issue would be the most advantageous course of action. Every leasing company approached by the golf course has a provision in their lease agreement that limits the amount of bonds the town can issue on an annual basis over the term of the lease.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends the purchase of this equipment.

**STAFF ASSISTANCE:** Bruce McIntyre, Director of Golf Operations  
Mark Milne, Finance Director

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2015-043**

**INTRO: 11/06/14**

**2015-043 AUTHORIZATION FOR THE TOWN MANAGER TO ENTER INTO A FIVE CONTRACT WITH VIEWPOINT GOVERNMENT SOLUTIONS, INC. FOR THE PURPOSE OF ACQUIRING, IMPLEMENTING AND MAINTAINING E-PERMITTING SOFTWARE**

**RESOLVED:** That the Town Council hereby authorizes the Town Manager to enter into a five year contract with ViewPoint Government Solutions Inc .for the purpose of acquiring, implementing and maintaining e permitting software.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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