



Town of Barnstable

Town Council

367 Main Street, Village of Hyannis MA 02601

508.862.4734 • Fax 508.862.4770

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

www.town.barnstable.ma.us



TOWN COUNCIL MEETING

AGENDA

July 17, 2008

6:00 PM

Councilors:

Janet S. Joakim

President

Frederick Chirigotis

Vice President

Richard G. Barry

Janice L. Barton

Ann A. Canedy

James H. Crocker, Jr.

Leah C. Curtis

Henry C. Farnham

J. Gregory Milne

James F. Munafo, Jr.

Tom Rugo

James M. Tinsley, Jr.

Harold E. Tobey

Administrator:

Donald M. Grissom

Administrative

Assistant:

Barbara A. Ford

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Recognition – Debra Blanchette
John Reed**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING: August 21st

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2008-131	Authorization for the Growth Management Department to expend an appropriation and transfer of Community Preservation funds for community housing improvements at 770 Independence Drive, Hyannis (Public Hearing closed) (Roll-call)	4 – 5
2008-159	Acceptance of FY09 Grant from the Cape Cod Economic Development Council’s Regional Economic Development Pilot Program in the amount of \$75,000 (May be acted upon)	6 - 7
2008-160	Appropriation Order for the Community Preservation Fund FY09 debt service (Public Hearing) (Roll-call)	8 – 9
2008-161	Community Preservation Fund Reserve set-asides & appropriation for Community Preservation Committee administrative expenses (Public Hearing) (Roll call)	10 - 11
2008-162	Appointments to a Board/Committee/Commission (Second reading)	12
2008-163	Adoption of the Town of Barnstable Comprehensive Plan for 2008 (Public Hearing) (Roll-call) (45 minute presentation & question period)	13 - 14
2008-164	Reappointments to Boards/Committees/Commissions (Second reading)	15 - 17
B. NEW BUSINESS		
2009-001	Acceptance of a gift for payment (not to exceed \$2,500) of 50,000 juvenile oysters to the Town of Barnstable from Three Bays Preservation, Inc. (May be acted upon)	18 - 19
2009-002	Transfer of funds from the Conservation Division, grounds line item into the Division overtime account (May be acted upon)	20 - 21
2009-003	Reappointments to Boards/Committees/Commissions (First reading)	22
2009-004	Appointments to Boards/Committees/Commissions (First reading)	23
2009-005	Authorization for the town manager to enter into a regulatory agreement between the Town of Barnstable and Alan Granby & Janice Granby. (May be acted upon) (Roll-call, 2/3)	24 - 32
2009-006	Authorization for the town manager to enter into a regulatory agreement between the Town of Barnstable and Adam Weiner, Trustee Guaranteed Fresh Produce. (May be acted upon) (Roll-call, 2/3)	33 - 39
2009-007	Authorization for the town manager to execute an amended and restated restriction - Beale Way/Hinkley. (First Reading)	40 - 43
2009-008	Amendment to the Zoning Ordinance: Article III. District Regulations, §240-39 Shopping Center Redevelopment Overlay District (Refer to Public Hearing 08/21/08) (Roll-call, 2/3)	44 - 45

ITEM NO.	INDEX TITLE	PAGE
2009-009	Acceptance of a gift of a solar lighting system from the Massachusetts Technology Collaborative to illuminate the flagpole at the Barnstable Senior Center (May be acted upon).....	46- 48
2009-010	Appropriation and loan order for the Barnstable Harbor Dredge Project (Refer to Public Hearing 08/21/08) (Roll-call, 2/3)	49 - 50
2009-011	Acceptance of a gift from the Friends of the Barnstable Senior Center (May be acted upon).....	51 – 52
2009-012	Acceptance of a \$1000 grant to the Barnstable Senior Center from the IBM Corp. for the purchase of computer equipment (May be acted upon)	53 – 54
2009-013	Amend the General Ordinance to adopt procedures for absentee members of boards at adjudicatory hearings (Refer to Public Hearing 08/21/08) (Roll-call)	55 – 56
2009-014	Community Preservation Fund appropriation and transfer order from the proposed amount set aside for community housing in the amount of \$108,000 of (Refer to Public Hearing 08/21/08) (Roll-call, 2/3)	57 – 58
2009-015	Appropriation and transfer order in the amount of \$31,200 for a special projects coordinator staff position to support the Barnstable Coastal Resources Management Committee (Refer to Public Hearing 08/21/08) (Roll-call, 2/3)	59 –60

Minutes – June 19, 2008

Please Note: It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Public hearing closed) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-131

INTRO: 05/01/08, 05/15/08, 06/19/08, 07/17/08

2008-131 COMMUNITY PRESERVATION FUND APPROPRIATION FOR COMMUNITY HOUSING IMPROVEMENTS

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum of Two Hundred Fifty Thousand and No/100 (\$250,000) Dollars be appropriated and transferred from Community Preservation Housing funds in the Community Preservation Fund on June 21, 2007 under item 2007-162; and that the Town of Barnstable, Growth Management Department is authorized to contract for and expend the amount of \$250,000 with the prior approval of the Town Manager; for the development of 148 apartments, of which 40 units will be affordable rentals and the remaining 108 will be market rate in five (5) buildings located at 770 Independence Drive, Hyannis, MA, Map 332, Parcel 010-001

SPONSOR: 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

COMMUNITY PRESERVATION FUND APPROPRIATION FOR COMMUNITY HOUSING – VILLAGE GREEN AT INDEPENDENCE PARK

ITEM# 2008-131

INTRO: 05/01/08, 05/15/08, 06/19/08, 07/17/08

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: April 25, 2008
SUBJECT: Community Preservation Fund Appropriation: Village Green Apartments

BACKGROUND: The Community Preservation Committee (CPC) met on February 26, 2008 and has recommended that the town support the funding request of \$250,000.00, made by the JDJ Housing Development, LLC (JDJH) for three years of ground rent for a permitted 40B affordable housing development, also known as Village Green Apartments. This development is proposed on town owned land located at 770 Independence Drive, Hyannis, MA, Map 332, Parcel 010-001. The total funds requested for this project is \$250,000.00; and shall be appropriated and transferred from the Community Preservation Funds.

RATIONALE: Funding for this project is shared among the following:

\$15,000,000.00 provided through a Citizen's Bank loan
\$3,000,000.00 in equity provided by Keller Company and Diversified Funding
\$250,000.00 *requested from CPA funds for three (3) years of ground rent*

The project goal is to help support the creation of 148 units, 40 units will be affordable community housing committed to low and moderate-income households.

This project directly contributes to and supports the town's 10% goal of affordable housing. CPA funds are applicable in bridging the gap between the cost of development and debt, as well as leveraging CPA funds with other public or private funds.

Keller Company as well as the town will monitor all phases of construction and financing. Diversified Funding as leasing agent and property manager will be required to execute a monitoring agreement acceptable to the Town, at its own expense, which would verify that eligible tenants are renting the units at affordable rents. It is required that the developer provide documentation during each phase of this project to the town

Funding will be disbursed in phases, following receipt of project status reports from the developer and inspections of each phase performed by town staff. This development will incorporate a deed restriction to the Town of Barnstable for these units.

STAFF ASSISTANCE: Theresa Santos, Administrative Assistant, CPC

SPONSOR: Community Preservation Committee

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-159
INTRO: 06/19/08, 07/17/08

2008-159 ACCEPTANCE OF FY09 GRANT IN THE AMOUNT OF \$75,000 FROM THE CAPE COD ECONOMIC DEVELOPMENT COUNCIL'S REGIONAL ECONOMIC DEVELOPMENT PILOT PROGRAM

RESOLVED, that the Town Council does hereby accept the grant award in the amount of \$75,000 from the Cape Cod Economic Development Council's Regional Economic Development Pilot Program (REDPP).

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
-------------	---------------------

_____	_____
-------	-------

_____	_____
-------	-------

- ___ Read item
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF A\$75,000 FY 08-09 GRANT FROM THE CCEDC REGIONAL ECONOMIC DEVELOPMENT PILOT PROGRAM

ITEM# 2008-159
INTRO: 06/19/08, 07/17/08

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Patty Daley
DATE: May 30, 2008
SUBJECT: FY09 Regional Economic Development Pilot Program (REDPP) grant acceptance

BACKGROUND: The Growth Management Department applied for and has been awarded a third year of funding from the Cape Cod Economic Development Council in the amount of \$75,000 to supplement the efforts to revitalize downtown Hyannis.

ANALYSIS: Acceptance of this grant will contribute to the Town's economic development and downtown revitalization efforts.

FISCAL IMPACT: This grant will allow the Town to provide additional support and services to residents, businesses, organizations, and stakeholders in downtown Hyannis. The match of funds for this grant comes from monies, which have already been appropriated.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Beth Dillen

A. OLD BUSINESS (Public Hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-160
INTRO: 06/19/08, 07/17/08**

**2008-160 APPROPRIATION ORDER FOR COMMUNITY PRESERVATION FUND
FY09 DEBT SERVICE**

ORDERED: That the Town Council hereby appropriate \$2,995,075 for the purpose of paying the FY09 Community Preservation Fund debt service requirements, and to meet such appropriation, that \$2,604,116 be provided from current year revenues of the Community Preservation Fund and that \$390,959 be provided from surplus funds reserved for the open space program within the Community Preservation Fund.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

APPROPRIATION ORDER FOR COMMUNITY PRESERVATION FUND FY09 DEBT SERVICE

ITEM# 2008-160
INTRO: 06/19/08, 07/17/08

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
DATE: June 3, 2008
SUBJECT: Appropriation Order for FY 2009 Community Preservation Fund Debt Service

BACKGROUND: Part of the annual budget process includes an appropriation from the Community Preservation Fund to pay for the annual debt service associated with bonds issued under the program including those that were issued under the former Landbank Program.

ANALYSIS: The debt service requirements for FY 2009 for the Community Preservation Fund (CPF) are \$2,995,075. The estimated surtax revenue for the CPF in FY 2009 to be billed is \$2,604,116. The difference of \$390,961 will be covered by the fund balance brought forward from the Landbank Program as recommended by the Community Preservation Committee.

FISCAL IMPACT: There is no impact to the General Fund budget as a result of this appropriation. This appropriation will be provided from current year estimated revenues from the CPF and a portion of the fund balance generated under the Landbank Program.

TOWN MANAGER RECOMMENDATION: The Town Manager requests favorable action by the Town Council.

A. OLD BUSINESS (Public Hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-161
INTRO: 06/19/08, 07/17/08**

**2008-161 COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES AND
APPROPRIATION FOR COMMUNITY PRESERVATION COMMITTEE
ADMINISTRATIVE EXPENSES**

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2009, the following sums, or sums equaling ten percent (10%) of the annual revenues of the Community Preservation Fund if a different amount, be set aside for further appropriation and expenditure for the following purposes: Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for open space but not including land for recreational use; Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for historic resources; Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for community housing; and that the sum of One Hundred Fifty Thousand and No/100 (\$150,000.00) Dollars be appropriated from the annual revenues of the Community Preservation Fund to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment, consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

SPONSOR: Town Manager John C. Klimm, at the request of the Community Preservation Committee

BARNSTABLE TOWN COUNCIL

**COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES
AND APPROPRIATION FOR COMMUNITY PRESERVATION COMMITTEE
ADMINISTRATIVE EXPENSES**

**ITEM# 2008-161
INTRO: 06/19/08, 07/17/08**

SUMMARY

TO: Town Council
FROM: Town Manager John C. Klimm
DATE: May 15, 2008
SUBJECT: FY09 Community Preservation Fund Reserve Set-Asides and Appropriation for
Community Preservation Committee Administrative Expenses

BACKGROUND AND ANALYSIS: The CPA Committee has met and requested that we make reservations of annual estimated revenues for the three programs under the Community Preservation Fund and an appropriation for the purposes of financing the operating costs of the community preservation program.

FISCAL IMPACT: This is a reservation and appropriation from the Community Preservation Fund and has no adverse impact on the general fund.

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-162
INTRO: 06/19/08, 07/17/08

2008-162 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION

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

PLANNING BOARD

Paul R. Curley, 27 Lancaster Way, West Barnstable, as a member to a term expiring 06/30/2010

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

A. OLD BUSINESS (Public Hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-163
INTRO: 06/19/08, 07/17/08

2008-163 ADOPTION OF THE TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2008

RESOLVED AND ORDERED: That the Town Council hereby adopts the Town of Barnstable Comprehensive Plan 2008 and instructs the Town Clerk to submit the plan to the Clerk of the Cape Cod Commission for certification that it is consistent with the Regional Policy Plan.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ADOPTION OF THE TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2008

ITEM# 2008-163
INTRO: 06/19/08, 07/17/08

SUMMARY

TO: Town Council
FROM: Patty Daley, Growth Management, Interim Director
DATE: June 10, 2008
SUBJECT: Town of Barnstable Comprehensive Plan 2008

BACKGROUND: This agenda item is the update of the 1997 Local Comprehensive Plan adopted by Town Council on October 30, 2007 and certified as consistent with the Regional Policy Plan by the Cape Cod Commission on February 12, 1998.

At their meeting on June 9, 2008 the Planning Board as the Local Planning Committee unanimously voted to send the Comprehensive Plan (CP) to Town Council for review and adoption. Once Town Council approves the CP it will then be submitted to the Cape Cod Commission for certification.

ANALYSIS: A comprehensive plan describes Barnstable's land use policy. This CP focuses on the location of new growth where capacity exists to absorb impacts; guidance for areas where investment in redevelopment is desirable and incentives can be provided; support and maintenance of the villages, their character and economy; economic sectors for focused attention; protection, improvement and maintenance of natural resources; and community housing, facilities and infrastructure, heritage preservation and health and human services issues.

RATIONALE: The 1997 Local Comprehensive Plan is the certified and approved plan of record for Barnstable. This updated plan reflects conditions, science, data and policies that have changed since 1997. The Comprehensive Plan is a source of information for residents, appointed and elected officials, businesses and other stakeholders as they consider land use options in Barnstable.

FISCAL IMPACT: The fiscal impact is neutral. Plan implementation would create an overall positive fiscal impact.

STAFF ASSISTANCE: Patricia Daley, Growth Management, Interim Director
Jo Anne Miller Buntich, Growth Management, Assistant Director
Jacqueline Etsten, AICP, Growth Management, Principal Planner

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-164
INTRO: 06/19/08, 07/17/08**

2008-164 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

AGRICULTURAL COMMISSION

Mary Knoble, 40 Asa Meigs Rd, Marstons Mills 02648 to a term expiring 06/30/2011

AIRPORT COMMISSION

Donald Megathlin, 71 St. Joseph Street, Hyannis, 02601 to a term expiring 06/30/2011

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Lois R. Andre, 139 Woodside Road, West Barnstable, 02668; term expires 06/30/2011
Jeanine Marshall, 5 Shootflying Hill Road, Centerville, 02632; term expires 06/30/2011
Christopher Kehoe, 78 Sylvan Drive, Hyannis, 02601; term expires 06/30/2011

BOARD OF ASSESSORS

Jeremy Gilmore, 83 Dunaskin Road, Centerville, 02632; term expires 06/30/2011

BOARD OF HEALTH

Paul Canniff, 106 Hayes Road, Centerville, 02632; term expires 06/30/2011

CABLE TV ADVISORY COMMITTEE

Joseph Garodnick, 56 Wild Goose Way, Centerville; 02632; term expires 06/30/2011

COMMUNITY PRESERVATION COMMITTEE

Terry Duenas, 690 Cedar St, West Barnstable, 02668; term expires 06/30/2011
Patrick Princi, (planning board representative) 29 Wayside Lane, West Barnstable, 02668; term expires 06/30/2011

CONSERVATION COMMISSION

Lawrence Morin, 476 74 Studley Rd., Hyannis, 02601; term expires 06/30/2011
John Abodeely, 476 Baxters Neck Road, Marstons Mills, 02648; term expires 6/30/2011

COUNCIL ON AGING

John Ross, 40 High Street, PO Box 452, West Barnstable, A 02668; term expires 06/30/2011
Ril Handrick Christin, 46 Bayberry Lane, Cummaquid, 02637; term expires 06/30/2011
Edward E. Perron, 85 Outpost Lane, Centerville, 02632; term expires 06/30/2011
Haskell Kennedy, 59 Pontiac St, Hyannis, 02601; term expires 06/30/2011

2008-164 REAPPOINTMENTS (7/17/08 Second Reading) CONT'D

DISABILITY COMMISSION

Jim Berks, 402 Prince Hickley, Centerville, 02632; term expires 06/30/2011
Linda Cook, 82 Gleneagle Drive, Centerville, 02632; term expires 06/30/2011

GOLF COMMITTEE

Terry Duenas, 690 Cedar St, West Barnstable, 02668; term expires 06/30/2011

HISTORICAL COMMISSION

Jessica Rapp Grasseti, 1611 Main St, Cotuit, 02635; term expires 06/30/2011
Barbara Flinn, 104 Pine Avenue, Hyannis, 02601; term expires 06/30/2011
Nancy Shoemaker, 21 Meadow Lane, W. Barnstable; A 02668, term expires 06/30/2011

HOUSING COMMITTEE

Larry Gordon, 97 Loomis Lane, Centerville, 02632; term expires 06/30/2011
Paul Hebert, (BHA representative) 142 Strawberry Hill Rd, Centerville 02632 term expires 06/30/2011
Michael Schulz, 81 Meadow Lark Lane, Osterville; 02655 term expires 06/30/2011

HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION

David Dumont, 298 Main St, STE 7, Hyannis, 02601; term expires 06/30/2011
Joseph Dunn, 30 Chestnut St, Hyannis, 02601; term expires 06/30/2011
Barbara Flinn, (historical commission rep) 104 Pine Avenue, Hyannis, 02601; term expires 06/30/2011

LICENSING AUTHORITY

Richard L. Boy, 50 Sterling Road, Hyannis, 02601 as an alternate member; term expires 06/30/2011
Martin Hoxie, 367 Nottingham Drive, Centerville, 02632; term expires 06/30/2011

MID CAPE REGIONAL CULTURAL COUNCIL

Patricia Austin, 82 Woodland Avenue, Hyannis, 02601; term expires 06/30/2011

PLANNING BOARD

Raymond B. Lang, 4 Jason's Lane, Osterville, 02655; term expires 06/30/2011

PUBLIC WORKS COMMISSION

Paul J. Canniff, 106 Hayes Road, Centerville, 02632; term expires 06/30/2011

RECREATION COMMISSION

Rene King, 192 Zeno Crocker Rd, Centerville, 02632; term expires 06/30/2011
Clyde Takala, 31 Cherry Tree Rd, Cotuit, 02632; term expires 06/30/2011

REGISTRAR OF VOTERS

John Sheehan, 100 Marston Lane, Cummaquid, 02675; term expires 06/30/2011

SANDY NECK BOARD

Nason F. King, 523 Whistleberry Drive, Marstons Mills, 02648; term expires 06/30/2011
Peter Sampou, (ConCom rep) 111 Cedar St, West Barnstable, 02668; term expires 06/30/2011

2008-164 REAPPOINTMENTS (7/17/08 Second Reading) CONT'D

SCHOLARSHIP COMMITTEE

Janice Cliggott, 6 Tidale Lane, Hyannis, 02601; term expires 06/30/2011

SHELLFISH COMMITTEE

Matthew Ostrowski, (commercial permit) 91 Old Toll Road, W. Barnstable, 02601; term expires 06/30/2011

Andre P. Sampou, (family permit) 375 Cedar St, W. Barnstable, 02668; term expires 06/30/2011

TRUST FUND ADVISORY BOARD

Frances S. Parks, 1441 Old Post Road, Marstons Mills, 02648; term expires 06/30/2011

Jayne Scanlon, 160 South Main St, MA, 02655; term expires 06/30/2011

WATER QUALITY COMMITTEE

Robert B. Wood, 216 Church Street, W. Barnstable, MA 02668; term expires 06/30/2011

WATERWAYS COMMITTEE

Steven Swain, 414 Phinney's Lane, Centerville, MA 02632; term expiring 06/30/2011

ZONING BOARD OF APPEALS

Vote for one, term expires 06/30/2010:

John Norman, 1625 Old Post Rd, Marstons Mills, 02648-*(Submitted resignation)*

(Nominated from the floor on June 19, 2008 by Councilor Milne)

Ron S. Jansson, 96 Dromoland Lane, Barnstable, 02630-*(Submitted resignation)*

(Nominated from the floor on June 19, 2008 by Councilor Rugo)

Vote for two, term expires 06/30/2011:

Daniel Creedon, III, 49 Links Lane, West Barnstable, 02668-*(Submitted resignation)*

(Nominated by the appointments committee)

Leonard Gobeil, 720 Pitchers Way, Hyannis, 02601

(Nominated from the floor on June 19, 2008 by Councilor Rugo)

James Hatfield, 47 Chole Court, Hyannisport, 02672-*(Submitted resignation)*

(Nominated by the appointments committee)

Edward FX Lynch, 57 Capt. Loring Lane, Barnstable 02630-*(Withdrawn)*

(Nominated from the floor on June 19, 2008 by Councilor Rugo)

Reappointment as associate member, term expires 06/30/2011

John Norman, 1625 Old Post Rd, Marstons Mills, MA 02648-*(Submitted resignation)*

SPONSOR: Appointments Committee

DATE ACTION TAKEN

____ Read item

____ Council discussion

____ Move/vote

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-001
INTRO: 07/17/08**

2009-001 ACCEPTANCE OF A GIFT TO THE TOWN OF BARNSTABLE FOR PAYMENT OF APPROXIMATELY 50,000 JUVENILE OYSTERS FROM THREE BAYS PRESERVATION INC. NOT TO EXCEED \$2,500 IN MONETARY VALUE.

RESOLVED AND ORDERED: That the Town Council hereby accept a gift of payment from Three Bays Preservation Inc. for approximately 50,000 oyster seed not to exceed \$2,500. Three Bays Preservation Inc. wishes to contribute to the public oyster enhancement / propagation projects in the Three Bays as administered by the Natural Resources Program.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF A GIFT FOR PAYMENT OF APPROXIMATELY 50,000 JUVENILE OYSTERS FROM THREE BAYS PRESERVATION INC

**ITEM# 2009-001
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Douglas Kalweit, Supervisor, Natural Resources
DATE: June 19, 2008

SUBJECT: Acceptance of payment for approximately 50,000 juvenile oysters as a gift to the Town of Barnstable from Three Bays Preservation Inc. to be used to enhance the public shellfisheries of the Town of Barnstable. The payment for the gift shall not exceed \$2,500.

BACKGROUND: the Town of Barnstable Natural Resources Program has been propagating oysters in Barnstable Harbor for the benefit of recreational shell fishermen, and resource enhancement. The gift of oysters would benefit the efforts to enhance the oyster populations of the Three Bays on the Town's Southside. Adverse environmental and biological factors (i.e., severe ice conditions, habitat loss, predators, diseases, etc.) have impacted and dwindled the standing populations significantly.

SCOPE OF WORK: Natural Resources staff will perform all culturing operations utilizing racks, oysters bags, trays and associated culturing gear located in the Prince Cove, Warren's Cove and Marstons Mills River estuarine complex. The propagated oysters may be reserved for long term growth and survival research or disseminated for public harvests.

FISCAL IMPACT: The Marine and Environmental Affairs Division Natural Resources Program will assign staff labor to fulfill the procedures of evaluating, propagating and planting the oysters.

TOWN MANAGER'S RECOMMENDATION: The Town Manager recommends favorable action on this order.

STAFF ASSISTANCE: Shellfish Biologist Thomas Marcotti, Natural Resources Program.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-002
INTRO: 07/17/08**

**2009-002 TRANSFER ORDER OF FUNDS FROM THE CONSERVATION DIVISION,
GROUNDS LINE ITEM INTO THE DIVISION OVERTIME ACCOUNT**

ORDERED: That the sum of \$2,300 be transferred from the Conservation Division, Grounds line item into the Division Overtime account to provide for the July 1- Sept.1 locking/unlocking of the entry gate at the Crocker Neck conservation area in Cotuit.

SPONSOR: Town Manager John C. Klimm-

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

TRANSFER ORDER FROM THE CONSERVATION DIVISION GROUNDS LINE ITEM TO ITS OVERTIME ACCOUNT

**ITEM# 2009-002
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
THROUGH: Thomas F. Geiler, Director Regulatory Services
DATE: June 18, 2008
SUBJECT: Transfer \$2,300.00 from the Conservation Division Grounds Line Item to its Overtime Account

BACKGROUND: This Conservation Division initiative seeks to keep Crocker Neck conservation area open to vehicle access during summer, while protecting against nighttime use with its attendant problems. The Division can accomplish this goal by locking/ unlocking the access gate on a daily basis July 1-Sept. 1.

ANALYSIS: The proposed initiative is viewed as a way of providing continued vehicle access while limiting use-related impacts at this popular but sensitive waterfront area. The use of volunteer gatekeepers to extend vehicle access on either side of high summer provides a more limited open-gate schedule starting Memorial Day, and ending Columbus Day.

FISCAL IMPACT: There is no fiscal impact. The division's Land Management Program continues to be supplemented through generous grants from Barnstable County and USDA Natural Resources Conservation Service. There is no reduction in land maintenance activities as a result of this transfer.

TOWN MANAGER RECOMMENDATION: Approval

STAFF ASSISTANCE: R. Gatewood

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-003
INTRO: 07/17/08**

2009-003 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

LAND ACQUISITION & PRESERVATION COMMITTEE

Kristine P. Clark, 398 Woodside Rd, West Barnstable, to a term expiring 06/30/2011

Shirley A. Fisher, 115 Old Stage Rd, Centerville, to a term expiring 06/30/2011

Thomas Mullen, 38 Coach Lane, Barnstable, to a term expiring 06/30/2011

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Ralph Krau, 312 Compass Circle, West Hyannisport, to a term expiring 06/30/2011

James Sproul, 548 Main St, Centerville, to a term expiring 06/30/2011

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-004
INTRO: 07/17/08**

2009-004 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

AIRPORT COMMISSION

Timothy R. Luzietti, 119 Pond View Dr, Centerville, to a term expiring 06/30/2011

COUNCIL ON AGING

Sarah P. Schlegel, 21 Trotters Lane, Marstons Mills, (associate) to a term expiring 06/30/2010

HUMAN SERVICES COMMITTEE

Merrill Blum, Veterans' Transition, 94 Water View Circle, Centerville, to a term expiring 06/30/2011

Bill Doherty, Barnstable County Commissioners, 482 Pleasant Lake Avenue, Barnstable, to a term expiring 06/30/2011

Kim Kalweit, VINFEN Corp, 310 Barnstable Road, Hyannis, to a term expiring 06/30/2011

Mary Pat Messmer, Cape Cod Child Development, 83 Pearl St., Hyannis, to a term expiring 06/30/2011

HYANNIS MAIN ST. WATERFRONT HISTORIC DISTRICT COMMISSION

Joseph A. Cotellessa, 65 Sylvan Drive, Hyannis, to a term expiring 06/30/2011

SANDY NECK BOARD

Lynn Heslinga, 1649 Hyannis Road, Barnstable, to a term expiring 06/30/2010

ZONING BOARD OF APPEALS

Eric Steinhilber, 399 Bishops Terrace, Hyannis, (associate) to a term expiring 06/30/2010

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

B. NEW BUSINESS (May be acted upon) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-005
INTRO: 07/17/08**

2009-005 ORDER AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ALAN GRANBY AND JANICE HYLAND

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Alan Granby and Janice Hyland, for the property shown on Barnstable Assessor's Map 327 Parcel 145,146 and 257, and located within the MS zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: Density: Relief is granted from Section 240-24.1.4.B, to allow 16 residential units on 40,721 s.f. of land; Front Setback is granted from Section 240.24.1.4.C from 20 ft to 16.8 ft.; Side Setback is granted from Section 240.24.1.4.C from 10 ft. to 6.3 ft; Rear Setback is granted from Section 240.24.1.4.C from 10 ft. to 9.2 ft; Driveway width/impervious surface limits from Section 170.9 from not more than 25% of the front yard as parking and no more than 20 feet of frontage as a parking area to 17.5% of the front yard as parking and 24 feet of frontage as a parking area; Dumpster setback, Relief is granted from 10 ft. to 7 ft.

The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

PROPOSED REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ALAN GRANBY AND JANICE HYLAND

ITEM# 2009-005

INTRO: 07/17/08

SUMMARY

TO: Town Council
FROM: Growth Management Department
DATE: July 2, 2008
SUBJECT: Proposed Regulatory Agreement 37, 49 and 53 School Street, Hyannis

RATIONALE: This is a proposed Regulatory Agreement between the Town of Barnstable and Mr. Alan Granby and Ms. Janice Hyland. Regulatory agreements are authorized by Chapter 168 of the Barnstable Code. The ordinance allows the Town to enter into agreements with private property owners to allow new development in a manner that varies from local ordinances when it is deemed beneficial to the community.

The applicant is proposing a regulatory agreement to gain additional development rights for a 16 unit residential rental development at 37, 49 and 53 School Street in Hyannis. The applicant is proposing a regulatory agreement to establish an alternative means to comply with the requirements of the Barnstable Zoning Ordinance for density, setbacks and impervious surface area under the Zoning Ordinance as follows:

- Density: Relief is granted from Section 240-24.1.4.B, to allow 16 residential units on 40,721 s.f. of land; Under this Section in the MS District these properties are allowed 5 units with 11 bedrooms by-right. Through a special permit the density could be 11 units with 3 workforce units. This proposal requests zoning relief from these density requirements to construct 16 units with 30 bedrooms with 8 of those units as workforce units
- Front Setback is granted from Section 240.24.1.4.C from 20 ft to 16.8 ft.
- Side Setback is granted from Section 240.24.1.4.C from 10 ft. to 6.3 ft
- Rear Setback is granted from Section 240.24.1.4.C from 10 ft. to 9.2 ft
- Driveway width/impervious surface limits from Section 170.9 from not more than 25% of the front yard as parking and no more than 20 feet of frontage as a parking area to 17.5% of the front yard as parking and 24 feet of frontage as a parking area.
- Dumpster setback, Relief is granted from 10 ft. to 7 ft.

The Agreement would authorize this zoning relief. The Agreement is beneficial to the community because the 37, 49 and 53 School Street project redevelops an existing property, the developer will contribute public capital facilities by making payment of \$92,700, \$80,000 of which is to be used for the rehabilitation of sewer pipe liner on School Street with the remainder retained for additional infrastructure improvements which will benefit the area in and around School Street and will provide 8 units of workforce housing in the existing buildings at 37 and 53 School Street.

ITEM# 2009-005 (CONT'D)

REGULATORY AGREEMENT PROCESS: The proposed Agreement was negotiated by the Barnstable Planning Board over the course of two public hearings held on May 9, 2007 and April 10, 2008. The proposed Agreement was approved by the Planning Board for recommendation to the Town Council by a majority vote of the Board on June 9, 2008.

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

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

Copies of the full size plans are available for viewing at the office of the Town Clerk.

FISCAL IMPACT: Positive

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management,
Jo Anne Miller Buntich, Assistant Director, Growth Management

REGULATORY AGREEMENT
37, 49 and 53, School Street, HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the developer, Alan Granby and Janice Hyland, (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___ day of ___, 2008 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, Developer under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both, and provide fair workforce housing on-site;

WHEREAS, this Agreement shall establish the permitted uses, densities, and traffic within the Development, the duration of the agreement, and any other terms or conditions mutually agreed upon between Developer and the Town;

WHEREAS, this Agreement shall vest land use development rights in the property for the duration of the agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare;

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, Developer is the legal owner of the property (“Property”) at 37, 49 and 53 School Street, Hyannis, consisting of approximately 40,721 sq ft, shown on Barnstable Assessor’s Map 327/ as Parcels 145, 146 & 257, and desires to develop the Property pursuant to a regulatory agreement;

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS, the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS, Developer has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS, the Development is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, prior to applying for approval of this Agreement, Developer has undergone informal review by the Hyannis Main Street Waterfront Historic District on September 20th, 2006;

WHEREAS, the Development is serviced by municipal sewer and does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS, the Property currently consists of two historic structures; one historic structure includes three apartments and the other includes five apartments. The property also includes a small cottage that contains one apartment;

WHEREAS, Developer proposes to: retain the eight existing apartments within the two existing historic structures; and, to demolish the cottage; and to construct four new duplex units as further described herein;

WHEREAS, Developer will require zoning relief from maximum density (units and bedrooms per acre), front yard setback (regarding existing historic structures), side yard setback, dumpster set back, and maximum entrance driveway width/impervious front yard parking area, all as further defined in condition number 33 below;

WHEREAS, Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on June 9, 2008;

WHEREAS, Developer has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____ (DATE);

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows;

1. If the Development rights granted hereunder are exercised, Developer agrees to construct the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
 - a. Plans entitled “School Street Townhouses, 37, 49 & 53 School Street” prepared by Baxter Nye Engineering & Surveyors, Sheets C-1 through C-9, dated June 18, 2007;
 - b. Building Floor Plans entitled “New Multifamily for: Janice Hyland & Alan Granby” prepared by “Cotuit Bay Design, LLC, dated June 19, 2007, pages A1, A1A and A2;
 - c. Such other plans and plan revisions as may be required by the terms and conditions of this Agreement;
2. Developer proposes to retain the existing historic structures and demolish the existing cottage at the property, and to construct four duplex units totaling approximately 10,900 square feet of gross floor area in the Medical Service (MS) Zoning District and Growth Incentive Zone (GIZ) of Barnstable (the “Development”);
3. Developer proposes to retain, eliminate and/or create residential dwelling units as follows;

Location	# Units	# Bedrooms	# Workforce
37 School Existing	5	6	5 at 100% of AMI
53 School Existing	3	4	3 at 100% of AMI
Duplex 1	2	5	0
Duplex 2	2	5	0
Duplex 3	2	5	0
Duplex 4	2	5	0
Total	16	30	8 at 100 % of AMI

The eight (8) workforce units shall be rental units and shall not be sold individually without the prior written approval of the Planning Board after public hearing. The eight new market rate units may be sold individually or leased as Developer should elect.

4. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of two years from the effective date of the Agreement. Upon receipt of necessary development permits construction shall proceed continuously and expeditiously, but in no case shall construction exceed three years from receipt of necessary development permits. Developer estimates that construction will commence on or about June, 2009 and will be completed on or about September 2010; the development rights granted under this agreement shall not transfer to another owner without the prior written permission of the Planning Board and the Town Manager.
5. All lead paint in the existing units located at 37 and 53 School Street shall be removed as units become vacant. No such vacated unit shall be occupied until Developer provides verification acceptable to the Building Commissioner, with copies to the Planning Board, that the unit has been de-lead;
6. Prior to the issuance of any building permits for the construction of the eight (8) new units, Developer shall provide the Town of Barnstable Building Commissioner access to inspect all the units located at 37 and 53 School Street for the purpose of making a determination as to their compliance with the applicable building code, allowing for whatever grandfather protection the apartment units within the buildings may have based upon the age of the creation of said apartments units. Within thirty (30) days of the completion of the inspection, the Building Commissioner shall provide Developer with a detailed written list of all the repairs and/or renovations that are required to be completed to bring these units into compliance with the applicable building code. No occupancy permits shall issue for any of the 8 new units in the Project until all required repairs and renovations are made to the satisfaction of the Building Commissioner;
7. Developer provided the Town with funds to hire an independent inspector to evaluate all the appliances, utility services, fixtures, heating systems and structural systems including roofs, windows, floors, walls, etc located at 37 and 53 School Street. The inspector's report (Eagle Eye Inspection Agreement for 37 and 51 School Street Hyannis dated 1-30-08) is on file with the Planning Board. The Developer shall either replace, or make repairs to, or renovate any items rated less than "C" in the inspector's report. No occupancy permits shall issue for any of the 8 new units in the Project until all repairs and renovations identified by the Planning Board are made to the satisfaction of the Building Commissioner;
8. Developer shall establish a condominium association or unit owners association to carry out the ongoing maintenance and upkeep of the property and buildings as well as complying with the terms and conditions of this Agreement. The association shall include all residential condominium units and Developer on behalf of occupants of rental units. For the purposes of this Agreement, the term "Developer" shall mean the Developer and/or Developer's successor condominium association(s) or any other successors in interest or assignees. The form and content of condominium association documents, including the condominium master deed and association bylaws, shall be approved by the Town of Barnstable Legal Department prior to the sale of any condominium units;
9. If the development rights granted herein are exercised, Developer shall contribute to public capital facilities to serve the proposed development and the Town by making payment in the amount of \$92,700. The amount of \$80,000 of that sum shall be used for the rehabilitation of the sewer pipe liner on School Street and the remainder shall be retained for additional infrastructure improvements which will benefit the area in and around School Street. No building permit shall issue for construction of any of the eight (8) new units until the total amount of \$92,700 is paid into the Town;
10. Lighting for the development shall be contained on-site, shall be down cast, shall not contribute to light pollution of the area, and shall be constructed consistent with the lighting plan identified in paragraph 1, above. Developer shall screen the area around the dumpster with a fence landscaped with climbing ivy, forsythia or other flowering plants which will reach fence height over the years;
11. The site shall be landscaped consistent with the landscaping plan identified in paragraph 1, above. All landscaping within the development shall be low water use and shall minimize the use of fertilizers and

- pesticides. Developer shall maintain landscaping, irrigation and drainage, including subsurface drainage, in perpetuity;
12. Utilities shall be buried underground within the Property and shall be maintained by Developer;
 13. Developer shall be responsible for snow plowing and snow removal on the Development site in perpetuity;
 14. *Bond: Prior to the issuance of any foundation building permit, Developer will provide a performance bond in an amount to be approved by the Planning Board or its designee, said bond to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said performance bond may be released by the Planning Board to Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of Developer;*
 15. Bond: To ensure completion of development [*Steve to recommend amount with developer input*];
 16. Developer and its successors will participate in the Town of Barnstable's Transportation Management Association (TMA) upon its formation. Participation shall include: (a) distribution of materials provided by the Town to all tenants, lessees, and purchasers of condominium units within the development; and (b) the identification of a representative for the development who will serve as the contact between the inhabitants and tenants of the development and the Town's TMA;
 17. Developer shall provide 8 workforce units which shall be rental units. Developer agrees to rent the eight workforce units to qualified affordable tenants whose income is at 100% of the area median income based upon household size. The rental prices for each unit shall be based upon a formula under which monthly housing costs, including rent and utilities, shall not exceed 30 % of 90% of the area median income based upon household size;
 18. Before any building permits shall issue for the market rate units, Developer shall have executed and recorded at the Barnstable County Registry of Deeds a workforce housing restriction, which shall survive foreclosure, and which shall require that these units remain workforce housing units in perpetuity and a monitoring services agreement, both in a form which has been approved by the Town Attorney. The workforce housing restriction and monitoring services agreement shall apply to each of the 8 rental workforce units and shall be binding on Developer. Developer reserves the right, subject to prior notification to and written approval from the Planning Board, to convert the rental units to home ownership units. Any units so converted shall remain subject to a workforce housing restriction which shall survive foreclosure.
 19. The Barnstable Housing Authority (BHA) shall serve as the Monitoring Agent for the workforce units. The BHA shall initially review the income eligibility of each of the tenants residing in the workforce units and every September thereafter shall review and certify the income eligibility of the tenants occupying the workforce units. Developer shall cooperate with the BHA and shall provide the BHA with all information requested, including tenant releases, to verify income eligibility. The BHA shall provide the Planning Board with an annual report, within 60 days of the completion of its certification, verifying the income eligibility of the tenant(s) occupying the workforce units. Developer shall pay the BHA an initial start up fee of \$500.00 plus \$125.00 for each work force unit for a total of One Thousand, Five Hundred (\$1,500.00) Dollars. No building permit shall issue for the market rate units, until Developer provides the Building Commissioner with proof that said \$1,500.00 has been paid to the BHA. Thereafter, no later than July 1st of each year, Developer shall pay the BHA a monitoring fee of \$125.00 for each workforce unit. Every five (5) years from the date of the execution of this Agreement, the Planning Board shall review the fee charged by the BHA and shall adjust the fee if it determines that the fee fails to adequately compensate the BHA for the costs of conducting the income certification. Developer's failure to cooperate with the BHA or to pay the fees required herein shall be deemed a material breach of this Agreement;

20. All plumbing fixtures in the new units and any replacement plumbing fixtures in the existing units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
21. Consistent with approved plans, Developer shall construct a Passive Stormwater Maintenance and Infiltration System to service the Development;
22. Developer will assume all maintenance responsibilities for the Passive Stormwater System servicing the Property, and the landscaping and irrigation at the Property;
23. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible;
24. Developer shall provide calculations demonstrating adequate water flow for fire suppression as required by the Hyannis Fire Department;
25. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces,), sewer permits and water permits. Only approved contractors are allowed to work on Town owned property. Contractors are required to have the insurance stipulated in the Street Excavation Rules and Regulations (SERR) and all work on town property must comply with all provisions of SERR. All work within the public way and public utility services shall be to Town Standards. All plans shall be reviewed and approved by the Department of Public Works prior to initiating any work within the public way;
26. Developer will make best efforts to complete construction work in accordance with a construction schedule and sequencing plan submitted to the Town prior to the execution of the Regulatory Agreement. To the extent construction impacts public property or public rights of passage, changes in the schedule, if needed as work progresses, are subject to the approval of the Town. The construction schedule shall, to the maximum extent feasible, avoid interference with ferry truck traffic. The developer shall notify the Town of Barnstable Growth Management Department and the Department of Public Works at least 48 hours in advance of working on Town property. The Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work;
27. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:30 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays. No exterior construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration;
28. During all stages in the demolition, rehabilitation and new construction, all vehicles, equipment and materials associated with the development shall be required to be located off the right of way of School Street except as may be required to install utilities, and work authorized by this Agreement and as approved by Public Works and then only on a temporary basis;
29. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;
30. Each residential unit shall have at least one dedicated parking space;
31. Developer will provide a bicycle rack at the Development site;
32. Upon completion of all work (the Project); Developer shall cause a registered engineer of land surveyor to submit as-built plans accompanied by a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy;

33. Town hereby grants a waiver from the following zoning restrictions:
Density: Relief is granted from Section 240-24.1.4.B, to allow 16 residential units on 40,721 s.f. of land;
Front Setback is granted from Section 240.24.1.4.C from 20 ft to 16.8 ft.
Side Setback is granted from Section 240.24.1.4.C from 10 ft. to 6.3 ft
Rear Setback is granted from Section 240.24.1.4.C from 10 ft. to 9.2 ft
Driveway width/impervious surface limits from Section 170.9 from not more than 25% of the front yard as parking and no more than 20 feet of frontage as a parking area to 17.5% of the front yard as parking and 24 feet of frontage as a parking area.
Dumpster setback, Relief is granted from 10 ft. to 7 ft.
34. All mechanical equipment associated with the Development (air conditioners, electric generators, etc.) shall be located so as to conform to the minimum required setbacks for the district. That being: a 16.8-foot front setback and a 6.3-foot side and a 9.2 rear yard setbacks. All mechanical equipment shall be screened from neighboring homes and ways;
35. The development allowed in this permit shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added without prior permission from this Board.

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

Dated this _____ day of _____, 2008

 Town of Barnstable
 By:

 Developer, Alan Granby and Janice Hyland
 By:

COMMONWEALTH OF MASSACHUSETTS
 _____ County, ss.

On this ____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, the trustee of Guaranteed Fresh Produce, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged to me that he/she signed it voluntarily for its stated purpose as Trustee of Guaranteed Fresh Produce.

 Notary Public
 My commission expires:

COMMONWEALTH OF MASSACHUSETTS
 _____ County, ss.

On this ____ day of _____, 2008, before me, the undersigned notary public, personally appeared John C. Klimm, Town Manager for the Town of Barnstable, Massachusetts, and proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged to me that he signed it voluntarily for its stated purpose as Town Manager as aforesaid.

 Notary Public
 My commission expires:

B. NEW BUSINESS (May be acted upon) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-006
INTRO: 07/17/08**

2009-006 AUTHORIZATION FOR THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ADAM WEINER, TRUSTEE GUARANTEED FRESH PRODUCE

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Adam Weiner, for the property shown on Barnstable Assessor’s Map 343 Parcel 003, and located within the MS zoning district and the Downtown Hyannis Growth Incentive Zone, including zoning relief as follows:

Permitted Use: Relief is granted to continue but reduce the scope of the existing specialty retail and expand the use to include wholesale and storage operations of Guaranteed Fresh Produce in the Medical Services (MS) District as described on the approved plans and within this agreement.

Building setbacks: Relief is granted from Section 240.24.1.4.C (1) b, Setbacks and permission is granted to continue existing non-conforming building setbacks insofar as it is required to redevelop the site as shown on the approved Existing Conditions Plan Sheet C-3 and the Layout and Materials Plan Sheet C-4.

Parking: Relief is granted from Section 240.24.1.10.A.4.a, c, d, and e and permission is granted for the construction of the number, length and location of parking spaces insofar as it is required to redevelop the site as shown on the approved plans.

Street Trees: Relief is granted from Section 240.24.1.10.A (5) (f) to allow the street trees to be planted according to the approved landscape plan and as required herein.

Natural State/Impervious Coverage: Relief is granted from Section 240.1.4.C insofar as it is required to redevelop the site according to the approved plan and as required herein.

The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.

SPONSOR: John Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ADAM WEINER, TRUSTEE GUARANTEED FRESH PRODUCE

**ITEM# 2009-006
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: Growth Management Department
DATE: July 1, 2008
SUBJECT: Proposed Regulatory Agreement, 35 Iyannough Road, Hyannis-Guaranteed Fresh

RATIONALE: This is a proposed Regulatory Agreement between the Town of Barnstable and Mr. Adam Weiner, Guaranteed Fresh Produce trustee. Regulatory agreements are authorized by Chapter 168 of the Barnstable Code. The ordinance allows the Town to enter into agreements with private property owners to allow new development in a manner that varies from local ordinances when it is deemed beneficial to the community.

The applicant is proposing a regulatory agreement to gain additional development rights for a wholesale and small retail produce use at 35 Iyannough Road in Hyannis. The applicant is proposing a regulatory agreement to establish an alternative means to comply with the requirements of the Barnstable Zoning Ordinance for use, setbacks, parking, street trees and impervious surface area under the Zoning Ordinance as follows:

Permitted Use: Relief is granted to continue but reduce the scope of existing specialty retail and expand the use to include wholesale and storage operations of Guaranteed Fresh Produce in the Medical Services (MS) District as described on the approved plans and within this agreement.

Building setbacks: Relief is granted from Section 240.24.1.4.C (1) b, Setbacks and permission is granted to continue existing non-conforming building setbacks insofar as it is required to redevelop the site as shown on the approved Existing Conditions Plan Sheet C-3 and the Layout and Materials Plan Sheet C-4.

Parking: Relief is granted from Section 240.24.1.10.A.4.a, c, d, and e and permission is granted for the construction of the number, length and location of parking spaces insofar as it is required to redevelop the site as shown on the approved plans.

Street Trees: Relief is granted from Section 240.24.1.10.A (5) (f) to allow the street trees to be planted according to the approved landscape plan and as required herein.

Natural State/Impervious Coverage: Relief is granted from Section 240.1.4.C insofar as it is required to redevelop the site according to the approved plan and as required herein.

The Agreement would authorize this zoning relief. The Agreement is beneficial to the community because the 35 Iyannough Road project redevelops an existing underutilized and uninviting property. The developer will mitigate traffic, stormwater, community character and parking impacts through site design, landscaping, hours of operation and the closure of one of two curb cuts on Iyannough Road.

ITEM# 2009-006 (CONT'D)

REGULATORY AGREEMENT PROCESS: The Barnstable Planning Board negotiated the proposed Agreement over the course of two public hearings held on June 9, 2008 and June 23, 2008. By a majority vote, the Planning Board approved the proposed Agreement for recommendation to the Town Council on June 23, 2008.

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

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

Copies of the full size plans are available for viewing at the office of the Town Clerk.

FISCAL IMPACT: Positive

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management,
Jo Anne Miller Buntich, Assistant Director, Growth Management

REGULATORY AGREEMENT
34 Iyannough Road, HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the developer, Adam Weiner, Guaranteed Fresh Produce trustee (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___day of ___, 2008 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Developer under this Agreement will mitigate traffic, stormwater, landscaping and streetscape impacts from redevelopment;

WHEREAS this Agreement shall establish the permitted uses and site design within the Development, the duration of the agreement, and any other terms or conditions mutually agreed upon between the Developer and the Town.

WHEREAS this Agreement shall vest land use development rights in the property for the duration of the agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare.

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS the Developer is not the legal owner of the property (“Property”) at 35 Iyannough Road but has an agreement on file with the Town showing that property owners John & Martha Tremblay, trustees of Rafkin Realty Trust have an agreement with Mr. Weiner to transfer the Property and authorize Mr. Weiner to pursue this application for the Property consisting of approximately 30,513 sq ft, shown on Barnstable Assessor’s Map 343 as Parcel 003 and Land Court Plan 11685C by virtue of Land Court Certificate of Title # 134196, and desires to develop the Property pursuant to a regulatory agreement;

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS the Developer has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS the Development is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and the Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, the Development proposes to redevelop a blighted site;

WHEREAS, the Development is located in a Wellhead Protection Overlay District and in an area of high groundwater where the Development proposes to contain an improved on-site septic system providing appropriate separation from groundwater;

Whereas the Development site does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS, the Development will operate a retail and wholesale use that will have complementary hours of operation to minimize site circulation conflicts and traffic conflicts;

WHEREAS, the Development will close one of two existing curb cuts on Iyanough Road and so improves traffic circulation and provides some congestion relief;

WHEREAS, the Development will improve stormwater on site and prevent stormwater generated on site from traveling off site onto adjacent properties or roadways;

WHEREAS, the Development will provide streetscape improvements in the form of street tree and site design improvements through landscaping;

WHEREAS, the Development will remove the existing pylon sign and install a new sign in a different location;

WHEREAS, the Development will require zoning relief to continue the specialty retail and wholesale use in the Medical Services (MS) District;

WHEREAS the Development will require zoning relief to continue the existing non-conforming building in its present location such relief is sought from setbacks, street trees, natural state, impervious surface coverage and parking all as further defined in number 17 below;

WHEREAS, Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on June 9, 2008;

WHEREAS the Developer has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____(DATE);

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows;

36. If the Development rights granted hereunder are exercised, the Developer agrees to construct the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
 - a) Plans entitled "Site Development Construction Plans" sheets C-1 through C-7 stamped by Matthew W. Eddy, RPE # 43183 and John Ellis PLS # 29874 dated 5/12/08
 - b) Such other plans and plan revisions as may be required by the terms and conditions of this Agreement;
37. The Developer proposes to convert the existing 30,513 sq. ft. building at the property to suit the business plan of Guaranteed Fresh Produce;
38. Uses shall be the retail and wholesale of fresh produce, with accessory offices, storage, loading and unloading docks for trucks as necessary to service the wholesale and retail uses of the business as requested under the MS Zoning District, § 240-24.1-4 of the Barnstable Code;
39. Developer proposes daily use of eight (8) 24' box trucks of 31' in length for the Guaranteed Fresh Produce business. Such use is authorized by this agreement. Any change to the length or number of these trucks shall require prior approval by the Planning Board. This condition shall not be construed

to prevent vendor delivery trucks of any type or length from visiting the site for normal business purposes.

40. Proposed signage shall conform to the height provisions of § 240-12 and shall not be internally illuminated.
41. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of one year from the effective date of the Agreement. The development rights granted under this agreement shall not transfer to another owner without the prior written permission of the Planning Board and the Town Manager;
42. The Developer has agreed to mitigate traffic impacts from the Development and shall establish hours of operation for the retail and wholesale use so that site circulation, parking and use conflicts are eliminated or minimized. Retail operations are proposed from the hours of 10 AM to 3 PM which avoid peak site and off site traffic conditions. Changes in retail operations that vary more than 60 minutes from these hours shall require an amendment to this agreement;
43. Developer has agreed to mitigate traffic impacts from the Development by seeking and obtaining all necessary permissions from local and state agencies to close the Property's easterly curb cut. The commencement of activities on this site pursuant to this agreement shall not occur before this curb cut has been redeveloped as landscaped buffer along Iyannough Road as shown on the plans entitled: "Landscape Plan Sheet C-6";
44. The Developer has agreed to mitigate stormwater impacts caused by existing and proposed impervious areas on site. Stormwater management shall, to the maximum extent feasible, utilize best management practices and shall prevent stormwater from traveling off site;
45. The Developer has agreed to mitigate community character impacts by providing additional site landscaping over what exists on the Property. The landscaping plan for the Property must be approved by the Planning Board, or its designee. All landscaping within the development shall be low water use and shall minimize the use of fertilizers and pesticides;
46. The Developer has agreed to mitigate impacts from arrangement of existing non-conforming parking by planting and maintaining street trees along the Iyannough Road Property frontage. The tree size and the species shall be determined in consultation with the Tree Warden and approved by the Planning Board or its designee. The tree maintenance plan shall be submitted before the commencement of operations pursuant to this agreement. A tree replacement surety shall be held by the Town for one full growing season after tree planting as determined by the Tree Warden and Growth Management Department. Surety may be released after such time upon the receipt of an inspection report from the Tree Warden, satisfactory to the Planning Board or their designee;
47. Developer and its successors will participate in the Town of Barnstable's Transportation Management Association (TMA) upon its formation. Participation shall include: (a) distribution of materials provided by the Town to all tenants, lessees, and purchasers of condominium units within the development; and (b) the identification of a representative for the development who will serve as the contact between the inhabitants and tenants of the development and the Town's TMA;
48. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible;
49. Development uses shall not use, store, generate, treat or dispose of hazardous waste or hazardous materials in quantities greater than 25 gallons (or the dry weight equivalent) or less, and shall not generate hazardous waste in quantities greater than the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353;

50. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;
51. Upon completion of all work, a registered engineer of land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy;
52. Town hereby grants a waiver from the following zoning restrictions:
 - Permitted Use: Relief is granted to continue but reduce the scope of the existing specialty retail and expand the use to include wholesale and storage operations of Guaranteed Fresh Produce in the Medical Services (MS) District as described on the approved plans and within this agreement.
 - Building setbacks: Relief is granted from Section 240.24.1.4.C (1) b, Setbacks and permission is granted to continue existing non-conforming building setbacks insofar as it is required to redevelop the site as shown on the approved Existing Conditions Plan Sheet C-3 and the Layout and Materials Plan Sheet C-4.
 - Parking: Relief is granted from Section 240.24.1.10.A.4.a, c, d, and e and permission is granted for the construction of the number, length and location of parking spaces insofar as it is required to redevelop the site as shown on the approved plans.
 - Street Trees: Relief is granted from Section 240.24.1.10.A (5) (f) to allow the street trees to be planted according to the approved landscape plan and as required herein.
 - Natural State/Impervious Coverage: Relief is granted from Section 240.1.4.C insofar as it is required to redevelop the site according to the approved plan and as required herein.

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

Dated this _____ day of _____, 2008.

 Town of Barnstable
 By: John C. Klimm
 Town Manager

 Developer,
 By:

APPROVED AS TO FORM

 Ruth J. Weil
 Town Attorney

COMMONWEALTH OF MASSACHUSETTS _____ County, ss.

On this ____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, the trustee of Guaranteed Fresh Produce, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged to me that he/she signed it voluntarily for its stated purpose as Trustee of Guaranteed Fresh Produce.

 Notary Public
 My commission expires:

COMMONWEALTH OF MASSACHUSETTS _____ County, ss.

On this ____ day of _____, 2008, before me, the undersigned notary public, personally appeared John C. Klimm, Town Manager for the Town of Barnstable, Massachusetts, and proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged to me that he signed it voluntarily for its stated purpose as Town Manager as aforesaid.

 Notary Public
 My commission expires

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-007
INTRO: 07/17/08**

2009-007 AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDED AND RESTATED RESTRICTION - BEALE WAY/HINCKLEY RESTRICTION

ORDERED: That the Town Council vote to amend a certain “Grant of Restriction” granted to the Town by Heather Hinckley by instrument dated January 21, 2005 and recorded in the Barnstable Registry of Deeds in Book 19807 Page 263 concerning property on Beale Way, Barnstable, MA; and that the Town Manager is hereby authorized to execute an Amended and Restated Restriction, in the form attached hereto, and that upon the execution and recording of the Amended and Restated Restriction, the original restriction shall have no further force and effect and the rights of the parties shall be subject to and governed solely by the terms of the Amended and Restated Restriction

SPONSOR: Town Councilor Ann Canedy

DATE	ACTION TAKEN
------	--------------

_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDED AND RESTATED RESTRICTION - BEALE WAY/HINCKLEY RESTRICTION

**ITEM# 2009-007
INTRO: 07/17/08**

SUMMARY

TO: Town Council and Planning Board
FROM: Growth Management Department
DATE: July 7, 2008
SUBJECT: Amend Restriction Granted by Heather Hinckley recorded in the Barnstable Registry of Deeds in Book 19807 Page 263

BACKGROUND: Heather Hinckley as the owner of land located on Beale Way, Barnstable, MA and in connection with the settlement of a lawsuit filed against the Planning Board, (*Heather Hinckley v. Robert Stahley et al, Barnstable Superior Court C.A. No. 04-200*), granted a restriction to the Town for the purpose of providing and preserving adequate access to the land. The restriction provided that the land would not be developed into more than 2 lots and there would be no improvements except for 2 single family dwellings and certain appurtenant uses, certain utility purposes and uses consistent with the principal recreational uses of the Barnstable Yacht Club (located at the end of Beale Way). At the time of the grant the land was improved with a single family dwelling and the restriction provided that no additional single family dwelling could be built unless certain improvements had been made to Beale Way, including a macadam surface and two turnouts.

The restriction is being amended to state that the land has been divided into 2 lots shown as Lot 1 and Lot 2 on Plan Book 599 Page 25, that Lot 2 is improved with a single family dwelling and that Lot 1, or a portion thereof, may be combined with a portion of the land to the east, shown as "Judith E. Kaess" on Plan Book 599 Page 25, for the purpose of creating one buildable lot, for single family residential purposes with the access to the lot to be via Beale Way; and that no building permit shall be issued for a single-family dwelling on Lot 1 or on any new lot created by a division, subdivision or combination of Lot 1 with a portion of the adjoining land, unless and until certain improvements are made to Beale Way, including a macadam surface and two turnouts, with a plan attached showing the approved location of the two turnouts.

FISCAL IMPACT: Neutral

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management
Jo Anne Miller Buntich, Assistant Director, Growth Management

AMENDED AND RESTATED RESTRICTION

This Agreement made this _____ day of _____, 2008, by and between, Heather Handy Hinckley, of 114 Beale Way, Box 365, Barnstable, MA 02630 ("Grantor") and the Town of Barnstable, a Massachusetts municipal corporation, with a principal office at New Town Hall, 367 Main Street, Hyannis, MA 02601 ("Town");

WITNESSETH:

WHEREAS, Grantor, by instrument dated January 21, 2005, and recorded in the Barnstable County Registry of Deeds in Book 19807 Page 263, granted to the Inhabitants of the Town of Barnstable, a restriction ("original Restriction") for the purpose of providing, protecting and preserving adequate access to land owned by the Grantor and located on Beale Way, Barnstable, Barnstable County, MA;

WHEREAS, the land owned by the Grantor on Beale Way, was formerly shown as Lot 2 on a plan recorded with the Barnstable County Registry of Deeds in Plan Book 407 Page 95; and

WHEREAS, Lot 2 on Plan Book 407 Page 95 has been divided into Lot 1 and Lot 2 as shown on an Approval Not Required Plan recorded in Barnstable County Registry of Deeds in Plan Book 599 Page 25.

WHEREAS, the parties desire to enter into this Amended and Restated Restriction for the purpose of amending and restating the provisions of the original Restriction;

WHEREAS, the parties agree that upon the execution and recording of this Amended and Restated Restriction, the original Restriction shall have no further force and effect and the rights of the parties shall be subject to and governed solely by the terms of this Amended and Restated Restriction;

NOW THEREFORE, in consideration of \$1.00 and the mutual promises and covenants contained herein, the parties hereby agree that this Amended and Restated Restriction shall be substituted for the original Restriction and the Grantor does hereby grant to the Inhabitants of the Town of Barnstable, a Massachusetts municipal corporation with an office at 367 Main Street, Hyannis, MA, the following restriction on the land shown as Lot 1 and Lot 2 on Plan Book 599 Page 25, in accordance with the provisions of the Agreement for Judgment in *Heather Hinckley v. Robert Stahley et al*, Barnstable Superior Court C.A. No. 04-200, which restriction shall run with the land and have legal significance and be binding upon all successors in title as provided herein, and shall be enforceable only by the Town of Barnstable:

1. There now exists a single family dwelling on Lot 2 on Plan Book 599 Page 25. No further improvements shall be made on Lot 2 except for:
 - (a) the construction and maintenance of facilities appurtenant to the existing single family dwelling;
 - (b) any improvements pursuant to the power line easement recorded in Book 1009 on Page 551; and
 - (c) any uses accessory to the principal recreational use of the Barnstable Yacht Club.
2. Lot 1 on Plan Book 599 Page 25 is a vacant lot. Lot 1 may be used for the following purposes:
 - (a) the construction and maintenance of one single family dwelling and its appurtenant facilities;
 - (b) any improvements pursuant to the power line easement recorded in Book 1009 on Page 551;
 - (c) any uses accessory to the principal recreational use of the Barnstable Yacht Club; and

(d) Lot 1, or a portion thereof, may be combined with a portion of the land to the east, shown as "Judith E. Kaess" on Plan Book 599 Page 25, for the purpose of creating one buildable lot, for single family residential purposes with the access to the lot to be via Beale Way.

3. No building permit shall be issued for a single-family dwelling to be constructed on Lot 1 or on any new lot created by a division, subdivision or combination of Lot 1 with a portion of the adjoining land of "Judith E. Kaess" unless and until:

(a) Beale Way as shown on Plan Book 599 Page 25 is improved and maintained to the satisfaction of the building permitting authority, with a macadam surface one and one-half inches in thickness and ten feet wide; and

(b) two ten foot by thirty foot paved turnouts are constructed wholly within the layout of Beale Way in the area as shown on the attached plan.

4. Grantor acknowledges and agrees for herself and her successors in interest that the Grantee is under no duty or obligation to improve or maintain any access to the land area shown as Lot 1 and Lot 2 on Plan Book 599 Page 25, pursuant to this restriction or otherwise.

5. Grantor acknowledges and agrees for herself and her successors in interest that these restrictions shall constitute restrictions running with said land so as to affect title to said land.

Heather Handy Hinckley

Town of Barnstable

COMMONWEALTH OF MASSACHUSETTS

Barnstable ss:

On this the ____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification which was a _____, to be the person(s) whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/they signed it for its stated purpose.

Notary Public
My Commission expires:

COMMONWEALTH OF MASSACHUSETTS

Barnstable ss:

On this the ____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification which was a _____, to be the person(s) whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/they signed it for its stated purpose.

Notary Public
My Commission expires:

B. NEW BUSINESS (Refer to Public Hearing 08/21/08) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-008

INTRO: 07/17/08

2009-008 AMEND ZONING ORDINANCE, ARTICLE III. DISTRICT REGULATIONS, §240-39. SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT

ORDERED that:

Section 1. That the Zoning Ordinance, Article III. District Regulations, §240-39. Shopping Center Redevelopment Overlay District, Section F. Permitted and prohibited uses, is hereby amended as follows:

By adding the following language to §240-39 F. (2)(f):

“except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District, as lies within the underlying Highway Business District, subject to the special permit provisions of §240-39M.”

So that as revised subsection (f) shall now read:

“(f) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District, as lies within the underlying Highway Business District, subject to the special permit provisions of §240-39M.”

Section 2. That the Zoning Ordinance, Article III. District Regulations, §240-39. Shopping Center Redevelopment Overlay District, Section M. Special permit provisions, is hereby amended as follows:

By adding the following new sentence to §240-39M. (1)(a):

“ In addition, no building permit or occupancy permit shall be issued for a drive-through bank unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this §240-39M.”

Section 3. That the Zoning Ordinance, Article III. District Regulations, §240-39. Shopping Center Redevelopment Overlay District is hereby amended by deleting §240-39 G. (1)(e) in its entirety and inserting in place thereof, the following new (e):

(e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet

[1] One hundred feet along Route 132/Iyanough Road.

[2] One hundred feet along the easterly side of the roadway which would be created if Independence Drive were extended from its existing terminus on the northerly side of Route 132 along its current trajectory across Route 132 and the redevelopment area.

[3] Within one hundred feet of Route 28/Falmouth Road, the minimum setback shall be twenty feet, but there shall be a maximum setback of fifty feet.

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

AMEND ZONING ORDINANCE SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT

**ITEM# 2009-008
INTRO: 07/17/08**

SUMMARY

TO: Town Council and Planning Board
FROM: Growth Management Department
DATE: July 7, 2008
SUBJECT: Amend Zoning Ordinance, Article III. District Regulations, §240-39.

BACKGROUND: This involves the amendment of the Zoning Ordinance, Article III District Regulations, §240-39. Shopping Center Redevelopment Overlay District (SCROD), to permit a drive-through bank in that portion of the SCROD which is located in the Highway Business (HB) portion of the SCROD. The amendment also amends the front yard setbacks on Route 28/Falmouth Road within the SCROD to provide that within the first 100 feet, the minimum building setback shall be 20 feet and the maximum building setback shall be 50 feet.

In 1996, the Zoning Ordinance was amended to add the SCROD so as to permit the renovation and redevelopment of the then existing shopping center, subject to specific regulations and requirements, including the issuance of a special permit by the Zoning Board of Appeals under §240-39M. Under the SCROD, after the issuance of a special permit, the regulations and requirements set forth in the SCROD govern even where they are inconsistent with or less restrictive than the other requirements of the chapter.

Even though a drive-through bank is a use permitted by special permit in the underlying HB District, such use is prohibited in the SCROD District.

The Board of Appeals has issued a special permit for the redevelopment of the Cape Cod mall. Accordingly, at present, a drive-through bank is a prohibited use in the SCROD.

ANALYSIS: The purpose of the amendment is to permit drive-through banks in so much of the SCROD as is included within the underlying HB District, and subject to the issuance of a special permit or to the modification of the special permit issued to redevelop the Mall.

The amendment to the setback provisions along Route 28 would ensure that with respect to any future buildings constructed within 100 feet of Route 28, the parking would be located to the rear or side of the buildings.

RATIONALE: Permitting a drive-through bank in the HB portion of the SCROD, will make the use consistent with the underlying HB District

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management
Jo Anne Miller Buntich, Assistant Director, Growth Management

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-009

INTRO: 07/17/08

2009-009 ACCEPTANCE OF A GIFT OF A SOLAR LIGHTING SYSTEM FROM THE MASSACHUSETTS TECHNOLOGY COLLABORATIVE TO ILLUMINATE THE FLAGPOLE AT THE BARNSTABLE SENIOR CENTER

ORDERED: That the Town of Barnstable hereby accepts a gift of a solar lighting system from the Massachusetts Technology Collaborative to illuminate the flagpole at the Barnstable Senior Center.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF A GIFT OF A SOLAR LIGHTING SYSTEM FROM THE MASSACHUSETTS TECHNOLOGY COLLABORATIVE

ITEM# 2009-009
INTRO: 07/17/08

SUMMARY

TO: Town Council
FROM: Director of Community Services Lynne Poyant
DATE: July 7, 2008

RATIONALE: Thanks to the efforts of Senator Robert O’Leary, Barnstable was one of only six communities in the state to be awarded a grant-funded solar light system through the Massachusetts Technology Collaborative (MTC). The solar light will provide illumination for the flagpole at the Barnstable Senior Center. We are grateful to the Massachusetts Technology Collaborative for providing funding for the solar light system and to Local 223 of the International Brotherhood of Electrical Workers for installing it free of charge. The Department of Public Works should also be thanked for their assistance with coordinating this project.

BACKGROUND: The Massachusetts Technology Collaborative (MTC) in partnership with the International Brotherhood of Electrical Workers (IBEW) Local 103 have combined their resources to offer a pilot program to the cities and towns of the Commonwealth that provides a free solar powered lighting system for illuminating a memorial monument, a flagpole, or small sitting area.

This use of solar lighting not only provides visual appeal to a previously unlit space, it introduces the community to clean, renewable solar photovoltaic electricity. The program is also helping Massachusetts business SolarOne—that designs and develops these systems—to grow its operations in the Commonwealth. The purchase of the solar panels, accompanying lighting fixtures, So-Bright™ intelligent control technology, and battery is made possible by a grant from the Renewable Energy Trust administered by the Massachusetts Technology Collaborative. The labor to install the units is made possible by members of IBEW Local 103 and their affiliates. A decal identifying the grantee and IBEW will be affixed to the system. The SolarOne system, designed for the specific location, includes an extended four-year performance warranty after the Basic Warranty period of one year expires.

The pilot program will be available initially to six communities that fulfill the necessary requirements. The municipality must be a customer of a Massachusetts investor-owned electric distribution utility. The cost of each solar lighting system is \$4000.00 +/-, plus shipping and handling. The expertise and installation labor cost of the IBEW electricians is volunteered. It is their way of giving back to the community and assisting MTC in promoting solar energy. It is hoped that this program will be a success and it will be offered to additional communities in the future.

STAFF ASSISTANCE: Madeline Taylor, Director of Senior Services
Mark Ells, Director of Department of Public Works

B. NEW BUSINESS (Refer to Public Hearing 08/21/08) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-010
INTRO: 07/17/08**

**2009-010 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$419,250
FOR THE BARNSTABLE HARBOR DREDGE PROJECT**

ORDERED: That the sum of \$419,250 be appropriated all for the purpose of funding the maintenance dredging of Barnstable Harbor, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$419,250, 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: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

APPROPRIATION AND LOAN ORDER FOR THE DESIGN AND PERMITTING OF BARNSTABLE HARBOR

**ITEM# 2009-010
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
DATE: July 7, 2006
SUBJECT: Appropriation and Loan Order for the maintenance dredging of Barnstable Harbor

BACKGROUND: In FY 2006 the Town Council appropriated capital funds to proceed with the design and permitting for the maintenance dredging of Barnstable Harbor. The maintenance dredging is needed to remove approximately 15,000 cubic yards of material from the existing channel area within Barnstable Harbor.

ANALYSIS: The Harbor reports that shoaling in the channel is making it difficult for all but the smallest boats to use the channel during low tide periods. This greatly restricts the access to the Harbor for both commercial and recreational boats. Permits have been obtained to apply dredge material at Sandy Neck and Blish Point. The Town is awaiting the final permits to proceed with this project.

FISCAL IMPACT: After the adoption of the FY09 capital improvement program the Town has approximately \$1.8 million per year for the next four years in borrowing capacity for additional capital improvements that can be financed within the projected cash flow of the Capital Trust Fund. Approval of this project will reduce the remaining funds available for all other improvements currently listed in the capital plan.

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management,
Jo Anne Miller Buntich, Assistant Director, Growth Management

SPONSOR: Town Manager John C. Klimm

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-011
INTRO: 07/17/08**

2009-011 ACCEPTANCE OF A GIFT OF A WII VIDEO GAME SYSTEM AND RELATED ACCESSORIES FROM THE FRIENDS OF THE BARNSTABLE COUNCIL ON AGING

RESOLVED: That the Town of Barnstable hereby accepts a gift of a Wii Video Game system and related accessories from the Friends of the Barnstable Council on Aging

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF A GIFT OF A Wii VIDEO GAME SYSTEM AND RELATED ACCESSORIES FROM THE FRIENDS OF THE BARNSTABLE COUNCIL ON AGING

**ITEM# 2009-011
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: Community Services Director Lynne Poyant
DATE: July 71, 2008

RATIONALE: The Friends of the Barnstable Council in Aging were recently awarded grant funding from the Cape Cod Foundation for the purchase of a Wii Video Game system and related accessories. The Wii has become increasingly popular in senior centers across the country and all results indicate that when introduced to seniors, the benefits are physically, cognitively and emotionally rewarding. We believe the Wii will generate a new and exciting opportunity for learning and socialization and we look forward to introducing all of its many benefits to our seniors. For many of them this will be their first virtual experience. Our project's work plan to introduce the Wii will include free instruction and training workshops, as well as incorporating the Wii into programming for "Kids of All Ages", our intergenerational program.

STAFF ASSISTANCE: Director of Senior Services Madeline Taylor

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-012
INTRO: 07/17/08**

2009-012 ACCEPTANCE OF A \$1,000 GRANT TO THE BARNSTABLE SENIOR CENTER FROM IBM CORPORATION FOR THE PURCHASE OF COMPUTER EQUIPMENT

RESOLVED: That the Town of Barnstable hereby accepts a grant in the amount of \$1,000 for the purchase of computer equipment and authorize the expenditure of monies for that purpose

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF A \$1,000 GRANT TO THE BARNSTABLE SENIOR CENTER FROM IBM CORPORATION FOR THE PURCHASE OF COMPUTER EQUIPMENT

**ITEM# 2009-012
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: Director of Community Services Lynne Poyant
DATE: July 7, 2008
SUBJECT: Acceptance of a grant from IBM for the Senior Center

RATIONALE: Over the past few years, computer classes have become increasingly popular with seniors. With the completion of the Garden Level, the Barnstable Senior Center now has a dedicated computer lab and we look forward to expanding our menu of computer classes. Thanks to the efforts of computer instructor Paul Robock, a former IBM employee, we received funding through IBM's Community Service grants. This grant will allow us to purchase computer equipment for the new lab.

In recognition of their grant, IBM Corporation will be appropriately mentioned in all publicity materials.

STAFF ASSISTANCE: Madeline Taylor, Director of Senior Services

B. NEW BUSINESS (Refer to Public Hearing 08/21/08) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-013
INTRO: 07/17/08**

2009-013 TO SEE IF THE TOWN COUNCIL WILL ACCEPT G.L. C.39, §23D AND AMEND THE GENERAL ORDINANCE TO ADOPT PROCEDURES FOR ABSENTEE MEMBERS OF BOARDS AT ADJUDICATORY HEARINGS

ORDERED, that:

SECTION 1: Section 23D of chapter 39 of the general laws is hereby accepted.

SECTION 2: Chapter 37 of the General Ordinance is hereby amended by inserting the following after Section 37-7:

§37-8. Absentee Members of certain Boards, Committees and Commissions

In accordance with Massachusetts General Laws Chapter 39, section 23D, an absentee voting member of any of the boards, committees and commissions of the town of Barnstable holding an adjudicatory hearing shall not be disqualified from voting solely on the basis of missing a single session so long as the following criteria are met: (1) the absentee voting member shall be absent from no more than a single session of the hearing at which testimony or other evidence is received; (2) prior to voting, the absentee member shall certify in writing that he has examined all evidence received at the missed session, and watched the video recording of the missed session, or, if no video recording is available, then has listened to the audio tape or reviewed a verbatim transcript of the missed session; and (3) the absentee member shall certify in writing which evidence was reviewed, and the written certification shall be made part of the record, and shall be filed with the Town Clerk.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ADOPTION OF THE MULLIN RULE FOR REGULATORY BOARDS

ITEM# 2009-013
INTRO: 07/17/08

SUMMARY

TO: Town Council
FROM: Patty Daley, Interim Director, Growth Management
DATE: July 8, 2008
SUBJECT: Adoption of the Mullin Rule for Regulatory Boards

ANALYSIS: The Planning Board instituted this ordinance request. Upon acceptance by the Town through adoption of an ordinance, G.L. c.39, §23D, authorizes a member of a board, committee or commission holding an adjudicatory hearing to vote in the matter even though the individual has missed one session, provided that certain conditions are met. In order to vote, the member must review the proceedings of the missed hearing and sign a statement acknowledging the review. This provision, if accepted, overturns in part judicial precedent providing that only members present at all sessions of an adjudicatory hearing on a particular matter are eligible to vote on that matter.

RATIONALE: The acceptance and adoption of this Ordinance will allow various regulatory processes to proceed in a more efficient manner.

FISCAL IMPACT: The fiscal impact is neutral. Adoption will reduce costs for applicants who must currently expend additional funds to have consultants and attorneys present for additional hearing sessions.

STAFF ASSISTANCE: Patricia Daley, Interim Director, Growth Management
Jo Anne Miller Buntich, Growth Management, Assistant Director
Ruth Weil, Town Attorney

BARNSTABLE TOWN COUNCIL

ADOPTION OF THE MULLIN RULE FOR REGULATORY BOARDS

ITEM# 2009-013
INTRO: 07/17/08

M.G.L.A. 39 § 23D

§ 23D. Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification

(a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate, or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

B. NEW BUSINESS (Refer to public hearing 08/21/08) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-014
INTRO: 07/17/08**

**2009-014 COMMUNITY PRESERVATION FUND APPROPRIATION & TRANSFER
IN THE AMOUNT OF \$108,000 FOR COMMUNITY HOUSING**

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of One Hundred Eight Thousand and No/100 (\$108,000.00) Dollars be appropriated and transferred from the proposed amount set aside for Community Housing in the Community Preservation Fund described in agenda Item 2008-161 for the purpose of creating and supporting the purchase of affordable rental units, by the Barnstable Housing Authority, through the Town of Barnstable's Inclusionary Housing Ordinance by allocating \$50,000.00 per unit to buy down the cost of two (2) units and \$4,000.00 per unit for closing costs and legal fees of the two (2) units to be administered by the Town of Barnstable, Growth Management Department and authorize the Town Manager to acquire affordable housing restrictions, easements and other security on behalf of the Town.

SPONSOR: Town Manager upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

CPC FUNDING REQUEST FROM BHA FOR ITS WORKFORCE HOUSING INCLUSIONARY PROGRAM (WHIP) PHASE 2

**ITEM# 2009-014
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: July 2, 2008
SUBJECT: Rationale for the funding for the Barnstable Housing Authority (WHIP) Phase 2

BACKGROUND: The Community Preservation Committee (CPC) met on June 17, 2008 and has recommended that the town support the funding request of \$108,000.00 from the Barnstable Housing Authority for their Workforce Housing Inclusionary Program (WHIP) Phase 2.

RATIONALE: The project goal is to create and support the purchase of affordable rental units, by the Barnstable Housing Authority, which units have been created through the Town of Barnstable's Inclusionary Housing Ordinance. The request is for \$50,000.00 per unit to buy down the cost of two (2) units and \$4,000.00 per unit to cover closing costs and legal fees for the units located at Flagship Estates, LLC in Hyannis. The Barnstable Housing Authority is the designated buyer for these units and the funds requested would greatly help in lowering the mortgages therefore lowering the rent necessary to meet expenses of these units.

The Barnstable Housing Authority will provide the administrative support for the program. Each unit will be deed restricted requiring that the unit remains affordable in perpetuity.

STAFF ASSISTANCE: Alisha Parker

B. NEW BUSINESS (Refer to Public Hearing 08/21/08)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-015
INTRO: 07/17/08**

2009-015 APPROPRIATION AND TRANSFER ORDER TO FUND A SPECIAL PROJECTS COORDINATOR TO SUPPORT THE BARNSTABLE COASTAL RESOURCES MANAGEMENT COMMITTEE

ORDERED: That the Town Council hereby appropriate the sum of \$31,200 to fund a one-year, half time, Special Projects Coordinator staff position to support the Barnstable Coastal Resources Management Committee, and to fund that appropriation, that \$31,200 be transferred from available funds.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

APPROPRIATION AND TRANSFER ORDER TO FUND A SPECIAL PROJECTS COORDINATOR TO SUPPORT THE BARNSTABLE COASTAL RESOURCES MANAGEMENT COMMITTEE

**ITEM# 2009-015
INTRO: 07/17/08**

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: July 8, 2008
SUBJECT: FY09 Appropriation Order for Special Projects Coordinator Staff Position

BACKGROUND: In May of 2008, the Barnstable Town Council created a Coastal Resources Management Committee, which Committee is charged with updating the 1990 Camp, Dresser & McKee Coastal Resources Management Plan. The Committee is also charged with investigating the question of whether to pursue state-designation of town Harbor Management Plans and with making recommendations for land use enactments, watershed zoning, and identifying other tools deemed by the Committee to be beneficial to the Town.

The Committee has held several meetings and has identified the need for administrative and technical assistance to best carry out its charge. The requested funds would support a one-year, half-time position tasked with data gathering and analysis, report drafting, and other tasks as identified by the Committee.

FISCAL IMPACT: This is a one-time expense. The funding for this appropriation will be provided from the Capital Trust Fund.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the appropriation order after the required public hearing.