



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA September 2, 2010 7:00 PM

Councilors:

Frederick Chirigotis
President

James H. Crocker
Vice President

Richard G. Barry
Janice L. Barton
Ann B. Canedy
Debra S. Dagwan
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
John T. Norman
Tom Rugo
James M. Tinsley

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **PROCLAMATION: SUICIDE PREVENTION WEEK**
- 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: September 16, 2010

A. OLD BUSINESS

2011-003	Amend the General Ordinances, Chapter 177 Sandy Neck Beach (Public hearing) (Roll-call)	3 - 4
2011-004	Amending the General Ordinances, Chapter 228 Vehicle Storage (Public hearing) (Roll-call)	5 – 7
2011-007	Amending the Administrative Code, Chapter 141, Section 241-45.1 Human Services Committee (Second reading)	8 – 9
2011-009	Appropriation of \$46,600 of Community Preservations Funds for the acquisition of 1.79 acres of open space at 864 Mary Dunn Road and 0 Mid Cape Highway (west), Route 6 (Public hearing) (Roll-call)	10 – 11

B. NEW BUSINESS

2011-011	Acceptance of a \$31,870 grant from the Commonwealth of Massachusetts Executive Office of Public Safety for 911 Police Department Training (May be acted upon)	12 - 13
2011-012	Acceptance of a \$95,455 grant from the U.S. Department of Justice for technology updates to the Police Department (May be acted upon)	14– 15
2011-013	Acceptance of a \$177,282 grant from the Commonwealth of Massachusetts Executive Office of Public Safety for Police Department replacement of the 911 Center personnel (May be acted upon)	16– 17
2011-014	Amending zoning ordinance by adding a new subsection to §240-91 Non-Conforming Lots: I. Lot Area Exchange by Lot Line Change (Refer to planning board for hearing)	18 – 19
2011-015	Acceptance of a \$121,624 Port Security Grant Program award from the Department of Homeland Security, FEMA (May be acted upon)	20 – 21
2011-016	Acceptance of a USDA Natural Resources Conservation Service Cape Cod Water Resources Restoration Program grant funding in the amount of \$954,950 (May be acted upon)	22 – 23
2011-017	Acceptance of the provisions of MGL C.138 §33B relating to the sales of alcoholic beverages by on-premise licensees on Sundays and certain legal holidays (May be acted upon)	24 – 26
2011-018	Reappointments to a board/committee/commission (First reading)	27
2011-019	Appointment to a board/committee/commission (First reading)	28
2011-020	Transfer from the Department of Public Works Personnel Budget \$30,000 to the Department of Public Works Operating Expense Budget for public outreach (May be acted upon)	29 – 30

Minutes — August 5, 2010

Please Note: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session.

The Council may also act on items in an order other than they appear on this agenda.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-003

INTRO: 07/15/10, 08/05/10, 09/02/10

2011-003 AMEND GENERAL ORDINANCES, CHAPTER 177 SANDY NECK BEACH

ORDERED:

SECTION I

Chapter 177 of the General Ordinances (Sandy Neck) is hereby amended by striking out Chapter 177, Article 1 and inserting in place thereof the following:

ARTICLE 1. Operation of Motor Vehicles.

§ 177-1. Operation of a vehicle within a closed area on Sandy Neck Beach. No person shall operate a motor vehicle on Sandy Neck Beach except within marked open sections of the front beach off road vehicle corridor and on the beach access trail.

§ 177-2. Operation of a vehicle on Sandy Neck Beach without a valid permit.

No person shall operate a motor vehicle on Sandy Neck Beach without first obtaining a Sandy Neck off road vehicle permit.

§ 177-3. Violations and penalties.

Any person violating this chapter shall be punished by a fine not more than \$200 for each offense.

SECTION 2

The schedule of fines in Article I, Section 1-3 of the General Ordinances are hereby amended by striking out the lines related to Chapter 177, Article I and inserting in place thereof the following:

Code Chapter/Section	Subject	Fine
Ch. 177, Art. I	Vehicle within a closed area (Sandy Neck Beach Park)	\$150
Ch. 177, Art. II	Vehicle without a valid permit (Sandy Neck Beach Park)	\$150

SECTION 3

The schedule of fines in Article 1 of the General Ordinances is hereby amended by adding the following new section, §1-6.1:

§1-6.1: Fines for the Violation of Marine and Environmental Affairs Division Regulations

Offense	Fine
Sandy Neck Beach Regulations	
Violation of regulation	\$50

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read item	
___ Rationale	
___ Council discussion	
___ Move/vote	

BARNSTABLE TOWN COUNCIL

ITEM# 2011-003

INTRO: 07/15/10, 08/05/10, 09/02/10

SUMMARY

TO: Town Council
FROM: Lynne M. Poyant, Director of Community Services
DATE: July 6, 2010
SUBJECT: Town of Barnstable Ordinance changes for § 177-1, § 177-2 and § 177-3 as well a schedule of fines for Sandy Neck Beach Regulations

BACKGROUND: The Town Ordinances, as they pertain to Sandy Neck Beach, are outdated. They include multiple references to the Sandy Neck Governing Board which has been disbanded for many years. In addition, the ordinances refer to the off road vehicle permit as an “inspection sticker” which is confusing to the public and the court system. With regard to fines, the dollar amount is not defined for violations of the regulations. In addition, the fine amount for driving on the beach in many cases is less than the cost of an off road vehicle permit. This makes driving illegally on the beach less expensive than purchasing a permit and obtaining and obeying the rules and regulation of the beach.

RATIONALE: By updating the Town Ordinances, the public will have a better understanding of the Town laws as they pertain to driving a vehicle on Sandy Neck Beach. In addition, citations issued will be more defensible in the court system with improved and comprehensible language defining the violation. Finally, fines for regulation violations will be clearly delineated and not subject to individual interpretation.

FISCAL IMPACT: There will be a minimal increase in revenue as fines for violations will increase.

STAFF ASSISTANCE:

Nina Coleman, Sandy Neck Park Manager
Ruth J. Weil, Town Attorney

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-004

INTRO: 07/15/10, 08/05/10, 09/02/10

2011-004 AMEND GENERAL ORDINANCE. C. 228, VEHICLE STORAGE

ORDERED: That the General Ordinances of the Code of the Town of Barnstable are hereby amended by striking Chapter 228 and inserting the following Chapter 228

“CHAPTER 228

VEHICLE, BOAT, RECREATIONAL AND CONTAINER STORAGE

§ 228-1. Purpose and Intent.

The purpose and intent of this chapter is to promote beneficial and convenient relationships between the natural resources of the Town and its inhabitants.

§ 228-2. Unregistered motor vehicle and trailer storage.

No person shall at any time have more than one unregistered motor vehicle or trailer or any part or portion thereof, ungaraged, on premises owned, occupied or controlled by said person.

§ 228-3. Boat and registered trailer storage.

- A. No person shall at any time have more than two boats greater than twenty-one feet in length clearly visible on premises owned, occupied or controlled by said person.
- B. No person shall at any time have more than two registered trailers clearly visible on premises owned, occupied or controlled by said person.

§ 228-4. Mobile home, recreational trailer, and camper storage.

- A. No person shall at any time have any mobile home clearly visible on premises owned, occupied or controlled by said person except as provided in § 228-7(A)(7).
- B. No person shall at any time have more than two recreational trailers clearly visible on premises owned, occupied or controlled by said person.
- C. No person shall at any time have more than two campers clearly visible on premises owned, occupied or controlled by said person.

§ 228-5. Container and equipment storage.

- A. No person shall at any time have any containers with a capacity of five (5) or more cubic yards clearly visible on premises owned, occupied or controlled by said person.
- B. No person shall at any time have any motorized earth moving equipment clearly visible on premises owned, occupied or controlled by said person.

§ 228-6 Compliance.

- A. Each unit listed in §§ 228-3(A), 228-3(B), 228-4(A), 228-4(B), 228-4(C), 228-5(A) and 228-5(B) other than a boat stored on a registered trailer shall be considered as a single unit for purposes of compliance with this chapter. Not more than two of the same or different units listed in §§ 228-3(A), 228-3(B), 228-4(B), 228-4(C), 228-5(A) and 228-5(B) shall be stored on premises other than in compliance with the requirements of this chapter. The combination of a boat stored on a registered trailer shall be considered a single unit for purposes of compliance with this chapter.
- B. A unit required to be stored in compliance with this chapter shall not be considered clearly visible if the following dimensions are screened from view from any vantage point on each lot directly

ITEM# 2011-004 (Continued)

abutting or directly across a way abutting the premises which contain a dwelling but only up to the top of the first floor of any single dwelling or the top of the first story of any multiple dwelling:

- (1) the full length and width; and
- (2) the full height if the unit is six (6) feet or less high; or
- (3) if the unit is more than six (6) feet high, by a well maintained fence or natural objects six (6) feet high, buildings or natural objects more than six (6) feet high, or any combination thereof.

C. Screens shall consist of buildings, natural objects, well maintained fences, or any combination thereof not attached to the unit which blocks the unit from view and are in compliance with all applicable laws, ordinances and regulations.

D. A unit or units required to be stored in compliance with this chapter shall be grouped in one storage area.

§ 228-7. Nonapplicability.

A. This chapter shall not apply to the following.

- (1) To governmental entities and government premises.
- (2) To any unit used for agricultural purposes on the premises.
- (3) To any unit listed in §§ 228-3(B), 228-5(A) and 228-5(B) for the duration of work allowed under a permit issued for the premises.
- (4) To premises duly licensed under the provisions of Chapter 140 of the General Laws.
- (5) To boats while secured on the shore of the premises or at a pier.
- (6) To trailers and tents permitted under the provisions of §§ 240-9(A) – (D).
- (7) To one (1) mobile home stored in compliance with § 240-45, which shall not be considered in determining the number of mobile homes stored on the premises for purposes of compliance with this chapter.
- (8) To a vacant lot or a lot which contains a building or buildings partly or completely without a dwelling or dwellings except buildings accessory to a dwelling on the same lot. A unit is not required to be screened from view from a vacant lot or a lot with a building or buildings some or all of which does not or do not contain a dwelling or dwellings.

§ 228-8. Penalties.

Any person failing to comply with this chapter or remove a unit not in compliance with this chapter, or any part or portion thereof, within seven days after notice by the Building Commissioner, or his designee, the Board of Health or its designees, or the Police Department of the Town, shall be subject to a fine of not more than \$300. Each day during any portion of which a violation continues to exist, shall constitute a separate offense.

§ 228-9. Severability.

Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect.”

SPONSOR: Council Vice President James H. Crocker

DATE

ACTION TAKEN

- _____ Read Item
- _____ Motion to Open Public Hearing
- _____ Rationale
- _____ Public Hearing

- _____ Close public hearing
- _____ Council discussion
- _____ Move to vote

BARNSTABLE TOWN COUNCIL

ITEM# 2011-004

INTRO: 07/15/10, 08/05/10, 09/02/10

SUMMARY

TO: Town Council
FROM: Councilor James H. Crocker
DATE: July 8, 2010
SUBJECT: Order amending storage code general ordinance Chapter 228

BACKGROUND: Chapter 162 sections 1 and 2 require a public hearing for an ordinance amendment.

The amendments are brought forward with a concern for property rights, an effort to reduce cost of enforcement, and the hope of bringing harmonious feelings toward neighbors and neighborhoods.

This legislative item is to further clarify unregistered vehicle storage and additional items such as boats, mobile homes and construction equipment and to define storage methods to promote beneficial and convenient relationships between the natural resources of the Town and its inhabitants.

FISCAL IMPACT: No expense is anticipated. A savings of municipal time and enforcement dollars is expected.

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-007

INTRO: 08/05/10, 09/02/10

2011-007 AMENDING THE ADMINISTRATIVE CODE – HUMAN SERVICES COMMITTEE

ORDERED:

The Barnstable Town Council does hereby amend the Administrative Code of the Town of Barnstable by striking Section 241-45.1(A) in its entirety and substituting the following therefore:

241-45.1 Human Services Committee

A. Composition and term of office. There shall be a Human Services Committee consisting of at least 9 members, representing Barnstable’s diverse community. These members should include, but not be limited to, representatives from Human Services organizations and corporations based in the Town of Barnstable, as well as individuals residing in the Town of Barnstable concerned with Human Services, Term of office will be three years, staggered, appointed through the Town Council Appointments Committee.

SPONSOR: Councilor Janice Barton

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-007

INTRO: 08/05/10, 09/02/10

SUMMARY

TO: Town Council
FROM: Councilor Jan Barton
SUBJECT: Reducing the number of members for the Human Services Committee

RATIONALE: In 2006, the ad hoc Human Service Needs Committee was converted to a standing Human Services Committee for the Town of Barnstable. At the time, a crisis existed with the population of individuals who were chronically homeless and living outside, primarily in the village of Hyannis. The standing Human Services Committee, through its initiation of “Operation In From the Cold” and “Operation In From The Streets” drew upon the expertise and contributions of many of the human service organizations based in the Town of Barnstable. More than 21 organizations participated in this successful program, and it was felt at the time that they should all be included in the Human Services Committee moving forward. With the integration of OIFTS into the mission of the Duffy Health Center, and other initiatives that are centered on alleviating the plight of the homeless in our area, the Human Services Committee has since shifted its focus to other matters, including domestic violence and financial issues. While trying to be inclusive at the outset, as a working group, it has become apparent that asking 21 representatives of the Human Services Community, a group that is often overcommitted time-wise, to attend meetings even every other month, is difficult. The Committee feels that with 9 official members, maintaining a quorum and conducting business will be less cumbersome and more efficient. The order states that more members can be added if necessary or desired, and as with all public meetings, anyone who wants to contribute may attend. Reducing the number of official members will be attained mostly through attrition as terms expire.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-009

INTRO: 08/05/10, 09/02/10

2011-009 APPROPRIATION - \$46,600 CP FUND RESERVE SET-ASIDES FOR OPEN SPACE

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum not to exceed the amount of Forty Six Thousand Six Hundred Dollars and No/100 (\$46,600) Dollars be appropriated and transferred from the amount set aside for Open Space acquisitions under the Community Preservation Fund on June 17, 2010 for Fiscal Year 2011, Agenda Item Order Number 2010-149 for the acquisition of open space by the Town and interests in land on the properties shown on Assessor's Map as Map 332 Parcel 005 and Map 348 Parcel 036; that the Town of Barnstable, Growth Management Department is authorized to contract for and expend the amount of \$46,600 with the prior approval of the Town Manager, for the acquisition; and that the Town Manager is authorized to execute restrictions for this acquisition consistent with the purposes of the Community Preservation Act.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-009

INTRO: 08/05/10, 09/02/10

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: July 21, 2010
SUBJECT: Rationale, Open Space Acquisition Cobb Trust (1.79 acres), Map 332 Parcel 005 and Map 348 Parcel 036 Order # 2011-009

BACKGROUND: The Community Preservation Committee (CPC) met on March 30, 2009 and has recommended that the town support the funding request of \$46,600, made by the Growth Management Department to acquire two parcels of land totaling 1.79 acres of the following two lots: Map 332 Parcel 005 and Map 348 Parcel 036. The total acquisition cost for the 1.79 acres is \$46,600 for the parcel purchase, closing costs and legal fees, and shall be appropriated and transferred from the Community Preservation Funds Open Space set aside. The Town has obtained appraisals that support the purchase price. The Probate Court has approved Steven Heslinga as the new Trustee of the Cobb Trust allowing this item to move forward at this time.

RATIONALE: The first parcel, located at 864 Mary Dunn Road, Hyannis, abutting Israel Pond, (Map 332 Parcel 005) consists of approximately 0.59 acres of land and is located entirely within the Wellhead Protection Overlay District. The acquisition of this parcel will be dedicated to Open Space and water supply protection as it directly abuts the Hyannis Water Supply Division property.

The second parcel, located at 0 Midcape Highway, Hyannis (Map 348 Parcel 036) consists of approximately 1.2 acres of land and is landlocked within the 350 +/- acres of land owned by the Commonwealth of Massachusetts Division of Fish and Game. The acquisition of this parcel will also be dedicated to Open Space.

The acquisition of both parcels will allow for the permanent protection of the many rare plant and animal species habitat that live within the surrounding lands by deterring future development. Further protection of the public drinking water supply wells off Mary Dunn Road will be achieved with the acquisition of the parcel abutting Israel Pond.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-011
INTRO: 09/02/10**

2011-011 ACCEPTANCE - \$31,870 GRANT FROM MASS EXEC.OFFICE OF PUBLIC SAFETY

RESOLVED, that the Town Council hereby accepts a FY2011 State 911 Department Training Grant award in the amount of \$31,870 from the Executive Office Public Safety.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-011
INTRO: 09/02/10

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: July 14, 2010
SUBJECT: Acceptance of FY11 State 911 Department Training Grant from the Commonwealth of Massachusetts Executive Office of Public Safety

BACKGROUND: The town has been awarded a Statewide Emergency Telecommunications Board Training Grant award for FY2011 in the amount of \$31,870.00. The Department applied for, and was awarded, this amount to support the training costs associated with the implementation and conversion to the new Statewide E911 system and other 911 related specialty trainings offered by the State.

ANALYSIS: The acceptance of this grant will assist the Department in the conversion training of officers and telecommunicators to the new E911 system and to attend specialty 911 trainings (i.e., domestic violence calls, suicide calls, etc.).

FISCAL IMPACT: There is no matching funding required for this grant. This is a reimbursement grant as expenses are incurred up to the total dollar amount of the grant.

TOWN MANAGER RECOMMENDATION: Town Manager John C. Klimm recommends acceptance of this grant.

STAFF ASSISTANCE: Paul B. MacDonald, Chief of Police

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-012
INTRO: 09/02/10

2011-012 ACCEPTANCE OF A \$95,455 GRANT FROM US DEPT OF JUSTICE

RESOLVED, that the Barnstable Town Council does hereby accept fiscal year 2010 Edward Byrne Memorial Justice Assistance Grant: Local Solicitation from the United States Department of Justice in the amount of \$95,455.00.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-012
INTRO: 09/02/10

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: August 3, 2010
SUBJECT: Acceptance of FY10 Byrne Memorial Justice Assistance Grant: Local Solicitation

BACKGROUND: The Barnstable Police Department applied for and was awarded the FY10 Byrne Memorial Justice Assistance Grant: Local Solicitation from the United States Department of Justice, in the amount of \$95,455.00. This grant has been deemed to be a disparate certification allocation to be distributed among four towns as outlined below based on a prescribed grant formula amount for each town. The Town of Barnstable will act as the grant administrator and fiscal agent for all towns:

Town of Barnstable: \$21,729 to be expended for the purchase of technology replacements such as aging printers, laptop computers and CPU's for desktop computers.

\$22,000 to be expended for the purchase of air card service to enable mobile connectivity between police cruiser and the internal police software and Internet, so that the police officers can continue their patrols without having to return to the station.

Town of Bourne: \$11,351 to be expended on overtime for investigative purposes for investigation of prescription narcotic abusers and the associated crimes relative to illegal prescription drug use.

Town of Falmouth: \$18,661 to be expended on the replacement of primary handguns and holsters for all officers of the department.

Town of Yarmouth: \$21,714 to be expended on overtime, training equipment and trailer rental to train all sworn officers in a Terrorism Response Training Program.

ANALYSIS: The acceptance of this grant will allow the aforementioned police departments to take action on the programs as described previously.

FISCAL IMPACT: There is no matching funding required for this grant. This is a reimbursement grant as expenses are incurred up to the total dollar amount of the grant. The Town of Barnstable Police

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-013
INTRO: 09/02/10**

2011-013 ACCEPTANCE - \$177,282 GRANT FROM MA EXEC. OFFICE OF PUBLIC SAFETY

RESOLVED, that the Barnstable Town Council does hereby accept the fiscal year 2011 911 Department Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety, State 911 Department in the amount of \$177,282.00.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-013
INTRO: 09/02/10

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: July 14, 2010
SUBJECT: Acceptance of FY11 911 Department Support and Incentive Grant

BACKGROUND: The Barnstable Police Department applied for and was awarded the 911 Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Officer of Public Safety and Security, State 911 Department in the amount of \$177,282.00.

The Barnstable Police Department serves as a primary Public Safety Answering Point (PSAP) in that it receives all categories of 911 calls (Fire, Police, & Medical Emergency) and then dispatches to the appropriate service according to the type of need of the call. Eligible entities for this grant are primary, regional and regional secondary PSAPS and Regional Emergency Communications Centers (RECC). Additional monies are available under the grant guidelines pertinent to this grant, because the Barnstable Police Department serves as a Primary PSAP.

The Barnstable Police Department proposes that this funding be used to fund 911 Communications Center as follows: \$177,282.00: Personnel costs for the Replacement of 911 Center Personnel.

ANALYSIS: The acceptance of this grant will allow the Department to replace qualified personnel in the communications center in order to provide adequate staffing to that area on an understaffed shift without incurring undo overtime expenses.

FISCAL IMPACT: This is a reimbursement grant for overtime and equipment.

TOWN MANAGER RECOMMENDATION: Town Manager John C. Klimm recommends acceptance of this grant.

STAFF ASSISTANCE: Paul B. MacDonald, Chief of Police

B. NEW BUSINESS (Refer to planning board for public hearing)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-014
INTRO: 09/02/10**

2011-014 AMENDING ZONING - NON-CONFORMING LOTS, LOT AREA EXCHANGE

ORDERED:

That Chapter 240, Article VIII of the Zoning Ordinance is hereby amended by adding new Subsection I to § 240-91 Nonconforming Lots as follows:

§ 240-91 Nonconforming Lot

I. Lot Area Exchange by Lot Line Change

(1) Lot Area Equal Exchange As-of-Right. The lot area of legally non-conforming lots may be changed as of right by a lot line change provided that:

- a. The exchange of lot area between abutting lots is an equal exchange;
- b. Any existing non-conformities are not increased;
- c. New non-conformities are not created; and
- d. No new lots are created by the lot area exchange by lot line change.

(2) Lot Area Exchange Special Permit. If the proposed lot area exchange by lot line change does not meet the requirements of § 240-91.I(1) above the Zoning Board of Appeals may allow the lot area exchange through the issuance of a special permit subject to the provisions of § 240-125.C herein and provided that the Board finds all the following criteria are met:

- a. The proposed lot area exchange will not result in any violation of state and/or local environmental codes and does not increase any existing non-conformities with state and/or local environmental codes;
- b. Other than a change in lot area, the proposed lot area exchange does not create any new non-conformities or increase or intensify any existing non-conformities; and
- c. No new lots are created by the lot area exchange by lot line change.

SPONSOR: Councilor Richard Barry

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-014
INTRO: 09/02/10

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Director
DATE: August 17, 2010
SUBJECT: Amendment to the Nonconforming Lot Provisions

BACKGROUND/ANALYSIS/RATIONALE: At present there is no provision in the zoning ordinance that allows a simple transfer of land between two neighboring developed lots. Neighbors wishing to exchange areas of their lots need a variance from the Zoning Board for that change in the configuration of their lots.

The Zoning Board has seen many of these lot area exchange requests in the course of their work. However the only option for relief is the variance process. Since these lot area exchanges do not depart from the overall purpose and intent of the zoning ordinance, the Board is requesting that a simpler process be brought forward.

This amendment, Section 240-91.I - Lot Area Exchange by Lot Line Change, is being submitted to address that situation. The amendment limits adjustments so they will not introduce any new zoning nonconformity nor intensify existing nonconformities; assures status quo with respect to environmental codes governing nitrogen loading; and precludes creating new developable lots.

The need for this amendment was discussed with the Town Council in October of 2006 and again recognized by the Board in 2010 as a fundamental amendment needed.

Growth Management Department staff developed and reviewed this amendment that allows some lot area exchanges as-of-right and others by special permit. In both instances, the amendment protects the purpose and supports the intent of the Zoning Ordinance in all residential districts.

STAFF ASSISTANCE: Growth Management Department

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-015
INTRO: 09/02/10**

2011-015 ACCEPTANCE OF A \$121,624 PORT SECURITY GRANT PROGRAM AWARD

RESOLVED: That the Barnstable Town Council does hereby accept a 2010 Port Security Grant Program (PSGP) award from the Department of Homeland Security, FEMA in the amount of \$121,624 of which \$34,000 is for enhancements to previously awarded equipment; \$37,899 for radio equipment and \$49,725 for response equipment.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-015
INTRO: 09/02/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: August 20, 2010
SUBJECT: Port Security Grant Program (PSGP) Award in the amount of \$121,624.

BACKGROUND: The FY2010 Port Security Grant Program (PSGP) is an important component of a coordinated, national effort to strengthen the security of America's critical infrastructure. This project is supported under the Department of Homeland Security Appropriations Act, 2010 (Public Law 111-083). The Harbormaster's Office has applied for and been awarded a grant in the amount of \$121,624. The grant award includes three projects: 1) Enhance / Maintain Existing Equipment previously funded including warranty service, new software and training (\$34,000); 2) upgrade radio equipment to come into compliance with FCC regulations (\$37,899); and 3) purchase of additional Response Equipment to include Automatic Identification System and thermal imaging equipment for search and rescue (\$49,725).

ANALYSIS: Acceptance of this grant will allow the Town to be better equipped in responding to search and rescue and homeland security incidents.

FISCAL IMPACT: No matching funding is required for this grant. This grant allows the grant program to maintain equipment previously awarded as well as allows for funding of radio equipment that will no longer be in compliance in 2013.

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

STAFF ASSISTANCE:

Joe Gibbs, Assistant Harbormaster/Mooring Officer
Daniel J. Horn, Director Marine & Environmental Affairs / Harbormaster

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-016
INTRO: 09/02/10**

2011-016 ACCEPTANCE-USDA NATURAL RESOURCES CONSERVATION SERVICES GRANT - \$954,950

RESOLVED, That the Town Council hereby accepts USDA Natural Resources Conservation Service - Cape Cod Water Resources Restoration Program grant funding in the amount of \$782,250 for estuary restoration, herring run improvement and stormwater remediation for shellfish protection in various locations in the Town of Barnstable; and that \$45,000 be transferred from Council Order 2008-107 Maintenance Dredging of Cotuit Harbor to be used as grant matching funds.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-016
INTRO: 09/02/10

SUMMARY

TO: Town Council
THROUGH: John Klimm, Town Manager
FROM: Thomas F. Geiler, Director, Regulatory Services Dept. and Mark Ells, Director, Dept. of Public Works
DATE: August 23, 2010
SUBJECT: Restoration Program grant funding

BACKGROUND: USDA NRCS grant funding has been secured to enable the following Town estuary restoration, herring run improvement and stormwater remediation projects:

<u>Project</u>	<u>Eligible construction cost</u>	<u>Grant amount</u>	<u>Town match</u>
Rushy Marsh Pond Restoration	\$ 361,000	minus \$ 270,750	equals \$ 90,250
Marstons Mills Herring Run	\$ 226,000	\$ 169,500	\$ 56,500
<u>Stormwater Remediation for Shellfish</u>			
1) Barns. Harbor - Scudder Lane	\$ 53,000	\$ 39,750	\$ 13,250
2) Cotuit Bay - Oyster Place Road	\$ 207,000	\$ 155,250	\$ 51,750
3) Cotuit Bay - Little River Road	\$ 79,000	\$ 59,250	\$ 19,750
4) North Bay - Bay Street	<u>\$ 117,000</u>	<u>\$ 87,750</u>	<u>\$ 29,250</u>
Total for all projects:	\$1,043,000	\$782,250	\$260,750

ANALYSIS: NRCS grant funding provides the Town with a cost-effective means of implementing much-needed natural resource improvement projects.

FISCAL IMPACT: Town's 25% match funding for construction is in place for all projects.

<u>Project</u>	<u>Town match</u>	<u>Source</u>
Rushy Marsh Pond	\$90,250	CIP 2007-097 & transfer from CIP 2008-107
Marstons Mills Herring Run	\$56,500	CIP 2010-105
Stormwater sites 1-3	\$84,750	CIP 2010-106
Stormwater site 4	\$29,250	DPW annual pavement mgmt appropriation

The terms of the grants allow the Town to offset a portion of the local match through in-kind services, thus further reducing our costs. In order to finalize Rushy Marsh's total budget (engineering services component estimated at \$67,500), the project may potentially come back to Town Council in the FY2012 CIP for additional funds, should DPW be unable to provide the engineering service in-house.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends favorable action.

BOARD AND COMMISSION ACTION: Permitting through the Conservation Commission is required for most but not all projects. The Commission has already approved the Rushy Marsh Pond Restoration.

STAFF ASSISTANCE: Conservation, DPW, MEA

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-017
INTRO: 09/02/10**

2011-017 ACCEPTING PROVISIONS OF MGL C.138 §33B RELATING TO SALES OF ALCOHOLIC BEVERAGES BY ON-PREMISE LICENSEES ON SUNDAYS & CERTAIN LEGAL HOLIDAYS

ORDERED, that M.G.L. Chapter 138, Section 33B is hereby accepted.

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-017
INTRO: 09/02/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Thomas F. Geiler, Director of Regulatory Services
DATE: August 23, 2010
SUBJECT: M.G.L. Chapter 138 §33B Sunday Sales of Alcohol by On Premise Licensees

BACKGROUND: The Barnstable Licensing Authority voted two in favor, 1 abstained; on a motion to recommend the Town Council adopt the provisions of M.G.L. Chapter 138 section 33B to allow the Licensing Authority to approve Sunday sales of alcohol served on the licensed premises, as early as 10:00 a.m. Currently the Licensing Authority is allowed to issue on premise licenses starting at 11:00 a.m.

During July of 2010, the legislature changed the provisions of Chapter 138 section 33B to authorize 10:00 a.m. alcohol sales on Sundays and the Governor signed the local acceptance legislation:

The legislation does not automatically authorize all on premise licensees to serve at 10:00 a.m. on Sunday. Each licensee would be required to apply to the Licensing Authority and secure approval based on the impact of the early opening on abutters and neighbors.

ANALYSIS: The acceptance of this legislation would allow the Licensing Authority to approve 10:00 a.m. Sunday sales in establishments that would benefit without negative impact on the abutters and neighbors.

FISCAL IMPACT: Additional cost of the 10:00 a.m. alcohol sales is expected to be minimal.

The Licensing Authority recommends adoption.

STAFF ASSISTANCE:

Thomas F. Geiler, Director of Regulatory Services
Christine P. Ade, Administrative Assistant - Licensing

Effective: July 1, 2010

Massachusetts General Laws Annotated [Currentness](#)

Part I. Administration of the Government (Ch. 1-182)

[TITLE XXt](#). Public Safety and Good Order (Ch. 133-148A)

[Chapter 138](#). Alcoholic Liquors ([Refs & Annos](#))

§ 33B. Sales of alcoholic beverages by on-premise licensees on Sundays and certain legal holidays; sales between 10:00 A.M. and 12:00 noon

[Text of section as amended by 2010, 131, Sec. 93 effective July 1, 2010. See 2010, 131, Sec. 202]

The local licensing authority of any city or town which accepts this section may authorize licensees under section twelve to sell alcoholic beverages between the hours of 10:00 a.m. and 12:00 noon on Sundays, the last Monday in May and on Christmas day or on the day following when said day occurs on Sunday.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-018
INTRO: 09/02/10**

2011-018 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

BOARD OF ASSESSORS

Gail Fitzback, 79 Longfellow Drive, Centerville, 02632, as a member to a term expiring 6/30/2013

CABLE TV ADVISORY BOARD

Nancy Richard, 4022 Main Street, Cummaquid, 02637, as a member to a term expiring 6/30/2013

COUNCIL ON AGING

Thomas Pelish, 73 Brant Way, Hyannis, 02601, as a member to a term expiring 6/30/2013

Paul Curley, 27 Lancaster Way, West Barnstable, 02668, as a member to a term expiring 6/30/2013

SPONSOR: The Appointments Committee

DATE

ACTION TAKEN

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

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-019
INTRO: 09/02/10**

2011-019 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Jeffrey Craddock, 17 Captain Baker Rd, Marstons Mills, 02648, as a member to a term expiring 06/30/2013

BARNSTABLE YOUTH COMMISSION

Christa Mullaly, 23 New Haven Ave, Marstons Mills, 02648, as a member to a term expiring 06/30/2011

BOARD OF REGISTRARS

Catherine Shaughnessy, 72 Stonehedge Dr., Barnstable, 02630, as a member to a term expiring 6/30/2013

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Henry J. McClean, 195 Ansel Howland Rd, Centerville, 02632, as a member to a term expiring 6/30/2012

DISABILITY COMMISSION

Anne T. Mazzola, 16 Linden Street, Hyannis, 02601, as a member to a term expiring 6/30/2013

Sheila Mulcahy, 9 Chippingstone Road, Marstons Mills, 02648, as a member to a term expiring 6/30/2012

HOUSING COMMITTEE

Donald C. Lynde, 126 Lake Shore Dr, Marstons Mills, 02648, as a member to a term expiring 06/30/2012

JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE

Martin D. Flynn, 848 Santuit Newtown Rd, Marstons Mills, 02648, as a member to a term expiring 6/30/2012

LAND ACQUISITION COMMITTEE

James G. Hinkle, 4275 Main Street, Cummaquid, 02637, as a member to a term expiring 6/30/2011

WATERWAYS COMMITTEE

Joseph L. Duffy, 140 Long Pond Road, Marstons Mills, 02648, as a member to a term expiring 6/30/2013

SPONSOR: Appointments Committee

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-020
INTRO: 09/02/10**

2011-020 TRANSFER FROM DPW PERSONNEL BUDGET \$30,000 TO DPW OPERATING EXPENSE BUDGET

ORDERED,

That the sum of \$30,000.00 be transferred from the FY 2011 Public Works Department Personnel Budget to the FY 2011 Public Works Operating Expense Budget.

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-020
INTRO: 09/02/10

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
Date: 08/27/2010
Subject: Funding for Clean Water Education Initiative

BACKGROUND: This funding request is part of a comprehensive educational outreach project to provide the latest information to residents regarding the issue of sewerage and environmental protection. The project includes a two-fold approach: Committee Outreach and Information Dissemination.

A request from Council President Chirigotis to various committee's and entities will be made asking that they participate in an on-going educational outreach program. These include, but are not limited to, Barnstable County, the Comprehensive Financial Advisory Committee, Board of Health, Waterways Committee, Shellfish Committee, Citizens Advisory Committee, DPW Commission, Economic Development Committee and Water Quality Advisory Committee. Each committee will be asked to reach out to civic associations, neighborhood groups, etc. to discuss the relevant implications of the issue of sewerage to their particular area of interest.

Secondly, a request is made for \$30,000.00 to prepare a publication, similar to a successful publication used in Falmouth, to provide vital information to our citizens through distribution through our local newspapers. The funds requested will pay for the preparation, assembly and distribution of this informational publication.

ANALYSIS: The environmental and financial implications of sewerage to present and future Barnstable residents requires that we implement an on-going educational and outreach program, as recommended by our Comprehensive Financial Advisory Committee.

FISCAL IMPACT: The cost of this project is contained in this memo.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends favorable action.

STAFF ASSISTANCE: Mark Milne, Mark Ells, Ruth Weil, Joanne Miller-Buntich.