



Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail : council@town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA

June 27, 2024

6:00 pm

Councillors:

Felicia Penn
President
Precinct 13

Craig Tamash
Vice President
Precinct 4

Gordon Starr
Precinct 1

Dr. Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew P. Levesque
Precinct 10

Kris Clark
Precinct 11

Paula Schnepf
Precinct 12

The June 27, 2024 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel live stream on the Town of Barnstable's website:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to: <https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/TownCouncil/Agenda-Comment.asp>

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/82354471392> Meeting ID: 823 5447 1392
US Toll-free • 888 475 4499

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS (Pre-Recorded)

7. ACT ON PUBLIC SESSION MINUTES: June 06, 2024

8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

9. ORDERS OF THE DAY

A. Old Business

B. New Business

10. ADJOURNMENT

Administrator:
Cynthia A. Lovell
Cynthia.lovell@town.barnstable.ma.us

NEXT REGULAR MEETING: July 18, 2024

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2024-228	Reappointments to a Board/Committee/Commission: Board of Assessors: William Garreffo as a regular member to a term expiring 06/30/2027; Community Preservation Committee: Deborah Converse, as a BHA representative member to a term expiring 06/30/2027; F.P. Tom Lee, as a conservation commission representative member to a term expiring 06/30/2027; Katherine Garofoli, as a regular member to a term expiring 06/30/2027; Conservation Commission: William Hearn, as a regular member to a term expiring 06/30/2027; Elderly & Disabled Taxation Aid Committee: William Garreffo, as a Board of Assessors member, to a term expiring 06/30/2027; Golf Committee: Jason Aubee, as a regular member to a term expiring 06/30/2027; Keith Hochstein, as a regular member to a term expiring 06/30/2027; Historical Commission: Cheryl Powell, as a regular member to a term expiring 06/30/2027; Marilyn Fifield, as a regular member to a term expiring 06/30/2027; Human Services Committee: Sheree Kay, as a representative member, to a term expiring 06/30/2027; Hyannis Main Street Waterfront Historic District Appeals Committee: Aaron Webb as a resident of Hyannis member, to a term expiring 06/30/2025; Alison Alessi as an Architectural Representative member, to a term expiring 06/30/2025; Infrastructure and Energy Committee: John Solomon, as a regular member, to a term expiring 06/30/2027; Peter Doyle, as a regular member, to a term expiring 06/30/2027; Licensing Authority: Larry Decker, as a regular member to a term expiring 06/30/2026; Open Space Committee: Lev Malakhoff, as a regular member to a term expiring 06/30/2027; Tracy Pratt, as a regular member to a term expiring 06/30/2027; Ann Canedy, as a regular member to a term expiring 06/30/2027; Anne Rowland, as a regular member to a term expiring 06/30/2027; Shellfish Committee: Robert Lancaster, as a member holding a family permit to a term expiring 06/30/2027; Doug Crook, as a regular member to a term expiring 06/30/2027; Jacob Angelo, a member-at-large to a term expiring 06/30/2027; Paul Hendricks Jr., as a professional fisheries trained member to a term expiring 06/30/2027; Youth Commission: Isabelle Rudy, a student member to a term expiring 06/30/2025; Michaela Stampfl, a student member to a term expiring 06/30/2025; Shalanda Grant, a student member to a term expiring 06/30/2025; Madeleine Boyle, a student member to a term expiring 06/30/2025; Mary Steinhilber, a student member to a term expiring 06/30/2025; Sophia Machnik, as a student member to a term expiring 06/30/2025; Cameron Levesque, as a student member to a term expiring 06/30/2025; Jaden Jeffries, as a student member to a term expiring 06/30/2025; Daniel Gomes; as a student member to a term expiring 06/30/2025; Megan Garthee, as a student member to a term expiring 06/30/2025; (May be acted upon) (Majority Vote)4	4
2024-229	Appointments to a Board/Committee/Commission: Hyannis Main Street Waterfront Historic District Commission: Peri Wentworth, as an alternate member to a term expiring 06/30/2026; Conrad Watson, as an alternate member to a term expiring 06/30/2026; Disability Commission: Eileen Elias, as a regular member to a term expiring 06/30/2027; Inna Podgornaya, as a regular member to a term expiring 06/30/2027; Housing Committee: Eileen Elias as an alternate member to a term expiring 06/30/2025 (May be acted upon) (Majority Vote)5	5
B. NEW BUSINESS		
2024-230	Appointments to a Board/Committee/Commission: Comprehensive Financial Advisory Committee: Jeremy Shea, as a regular member to a term expiring 06/30/2027; JFK Memorial Trust Fund Advisory Committee: Wendy Northcross, as a regular member to a term expiring 06/30/2025 (First Reading) (Refer to Second Reading 07/18/2024)6	6
2024-231	Authorization to contract for and expend a Fiscal Year 2024 grant in the amount of \$74,085.24 from the Massachusetts Department of Environmental Protection for the purpose of funding the purchase of equipment that will be used to prevent, locate and respond to oil spills (May be acted upon) (Majority Vote) 7-8	7-8

2024-232	Resolve approving Mark S. Ells’ outside employment with Cape Cod Community College (May be acted upon) (Majority Vote)	9
2024-233	Resolve adopting a policy on use of Town cell phones and email by Town Councilors (May be acted upon) (Majority Vote)	10-17
2024-234	Resolve approving the Fish Weir applications from Jacob Angelo, a resident of West Barnstable (May be acted upon) (Majority Vote)	18-19
2024-235	Appropriation and Transfer Order in the amount of \$250,000 in Community Preservation Act Open Space Funds for the acquisition by Barnstable Land Trust of a 5.84-acre parcel located at 4609 Falmouth Road, Cotuit, shown on Assessors Map 024, Parcel 042 and the creation of a Conservation Restriction to be granted to the Town of Barnstable (Refer to Public Hearing 07/18/2024) ...	20-46
2024-236	Order authorizing the Town Manager to enter into and execute on behalf of the Town an amendment to the employment contract between the Town and Mark A. Milne (First Reading) (Refer to Second Reading 07/18/2024)	47
2024-237	Appropriation Order in the amount of \$37,000 for the purpose of funding the Town’s share of the costs related to the installation of up to 37 electric vehicle charging stations in public parking lots in and around the Village of Hyannis (Refer to Public Hearing 07/18/2024)	48-53
2024-238	Confirming reappointments to the Affordable Housing/Growth & Development Trust Fund Board: Michael Andrew Clyburn, Assistant Town Manager, and a resident of Sandwich, MA, to a term expiring June 30, 2025; Mark Milne, Town Director of Finance, and a resident of Marstons Mills, MA, to a term expiring June 30, 2026; Wendy Northcross, a resident of West Barnstable, MA, to a term expiring June 30, 2025; Laura Shufelt, a resident of West Barnstable, MA, to a term expiring June 30, 2026 (May be acted upon) (Majority Vote)	54
2024-239	Approving the appointment of David Anthony, the Town’s Director of Asset Management, to serve as the Town’s representative on the Cape & Island Vineyard Electric Cooperative, Inc. (May be acted upon) (Majority Vote)	55-57
2024-240	Appropriation Order in the amount of \$1,150,000 in Community Preservation Act Open Space/Recreation and Undesignated Funds for the Acquisition of 211 Cedar Tree Neck Road, Marstons Mills for Open Space and Recreation (Refer to Public Hearing 07/18/2024)	58-59

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it votes, the Council may go into executive session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2024-228
INTRO: 06/06/2024, 06/27/2024

2024-228 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: Reappointments to a Board/Committee/Commission: **Board of Assessors:** William Garreffi as a regular member to a term expiring 06/30/2027; **Community Preservation Committee:** Deborah Converse, as a BHA representative member to a term expiring 06/30/2027; F.P. Tom Lee, as a conservation commission representative member to a term expiring 06/30/2027; Katherine Garofoli, as a regular member to a term expiring 06/30/2027; **Conservation Commission:** William Hearn, as a regular member to a term expiring 06/30/2027; **Elderly & Disabled Taxation Aid Committee:** William Garreffi, as a Board of Assessors member, to a term expiring 06/30/2027; **Golf Committee:** Jason Aubee, as a regular member to a term expiring 06/30/2027; Keith Hochstein, as a regular member to a term expiring 06/30/2027; **Historical Commission:** Cheryl Powell, as a regular member to a term expiring 06/30/2027; Marilyn Fifield, as a regular member to a term expiring 06/30/2027; **Human Services Committee:** Sheree Kay, as a representative member, to a term expiring 06/30/2027; **Hyannis Main Street Waterfront Historic District Appeals Committee:** Aaron Webb as a resident of Hyannis member, to a term expiring 06/30/2025; Alison Alessi as an Architectural Representative member, to a term expiring 06/30/2025; **Infrastructure and Energy Committee:** John Solomon, as a regular member, to a term expiring 06/30/2027; Peter Doyle, as a regular member, to a term expiring 06/30/2027; **Licensing Authority:** Larry Decker, as a regular member to a term expiring 06/30/2026; **Open Space Committee:** Lev Malakhoff, as a regular member to a term expiring 06/30/2027; Tracy Pratt, as a regular member to a term expiring 06/30/2027; Ann Canedy, as a regular member to a term expiring 06/30/2027; Anne Rowland, as a regular member to a term expiring 06/30/2027; **Shellfish Committee:** Robert Lancaster, as a member holding a family permit to a term expiring 06/30/2027; Doug Crook, as a regular member to a term expiring 06/30/2027; Jacob Angelo, a member-at-large to a term expiring 06/30/2027; Paul Hendricks Jr., as a professional fisheries trained member to a term expiring 06/30/2027; **Youth Commission:** Isabelle Rudy, a student member to a term expiring 06/30/2025; Michaela Stampfl, a student member to a term expiring 06/30/2025; Shalanda Grant, a student member to a term expiring 06/30/2025; Madeleine Boyle, a student member to a term expiring 06/30/2025; Mary Steinhilber, a student member to a term expiring 06/30/2025; Sophia Machnik, as a student member to a term expiring 06/30/2025; Cameron Levesque, as a student member to a term expiring 06/30/2025; Jaden Jeffries, as a student member to a term expiring 06/30/2025; Daniel Gomes; as a student member to a term expiring 06/30/2025; Megan Garthee, as a student member to a term expiring 06/30/2025

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
<u>06/06/2024</u>	<u>First Reading, Referred to Second Reading 06/27/2024</u>

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

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2024-229

INTRO: 06/06/2024, 06/27/2024

2024-229 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Hyannis Main Street Waterfront Historic District Commission:** Peri Wentworth, as an alternate member to a term expiring 06/30/2026; Conrad Watson, as an alternate member to a term expiring 06/30/2026; **Disability Commission:** Eileen Elias, as a regular member to a term expiring 06/30/2027; Inna Podgornaya, as a regular member to a term expiring 06/30/2027; **Housing Committee:** Eileen Elias as an alternate member to a term expiring 06/30/2025

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
<u>06/06/2024</u>	<u>First Reading, Referred to Second Reading 06/20/2024</u>

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

B. NEW BUSINESS (First Reading) (Refer to Second Reading 07/18/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-230
INTRO: 06/27/2024**

2024-230 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Comprehensive Financial Advisory Committee:** Jeremy Shea, as a regular member to a term expiring 06/30/2027; **JFK Memorial Trust Fund Advisory Committee:** Wendy Northcross, as a regular member to a term expiring 06/30/2025

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-231
INTRO: 06/27/2024**

2024-231 AUTHORIZATION TO CONTRACT FOR AND EXPEND A FISCAL YEAR 2024 GRANT IN THE AMOUNT OF \$74,085.24 FROM THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURPOSE OF FUNDING THE PURCHASE OF EQUIPMENT THAT WILL BE USED TO PREVENT, LOCATE AND RESPOND TO OIL SPILLS

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2024 grant from the Massachusetts Department of Environmental Protection in the amount of **\$74,085.24** for the purpose of funding the purchase of Forward Looking Infrared and Night Vision equipment that will be used to prevent, locate and respond to oil spills.

SPONSORS: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2024-231
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Derek Lawson, Director of Marine & Environmental Affairs
DATE: June 27, 2024
SUBJECT: Authorization to contract for and expend a Fiscal Year 2024 grant in the amount of **\$74,085.24** from the Massachusetts Department of Environmental Protection for the purpose of funding the purchase of equipment that will be used to prevent, locate and respond to oil spills

BACKGROUND: The Town of Barnstable Harbormaster Division applied for grant funding for Forward Looking Infrared (FLIR) and Night Vision equipment. This equipment will assist in locating and deploying oil spill response equipment. The Massachusetts Department of Environmental Protection has selected the Town of Barnstable Harbormaster Division for funding under the Marine Oil Spill Prevention & Response Act (MOSPRA) Grant Program.

ANALYSIS: The FLIR equipment will all the Harbormaster Division to use vessels and/or vehicles to respond and potentially locate hazardous material spills throughout The Town of Barnstable. This equipment will allow staff to effectively protect natural resources as well as assist in locating vessels that potentially may be spilling contaminates into the water.

FISCAL IMPACT: There is no impact on the Town's Operating Budget. This is a reimbursable grant in the amount of \$74,085.34.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: Patrick Reid, Assistant Harbormaster

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-232
INTRO: 06/27/2024**

**2024-232 RESOLVE APPROVING MARK S. ELLS' OUTSIDE EMPLOYMENT WITH
CAPE COD COMMUNITY COLLEGE**

RESOLVED: That, in accordance with Section 7 of the Employment Agreement between the Town of Barnstable and Mark S. Ells effective July 1, 2021, the Barnstable Town Council does hereby approve Mark S. Ells' outside employment with Cape Cod Community College (the "College") to allow him to continue teaching at the College for the period of July 1, 2024, through June 30, 2025.

SPONSOR: Felicia Penn, Town Council President

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-233
INTRO: 06/27/2024**

2024-233 RESOLVE ADOPTING A POLICY ON USE OF TOWN CELL PHONES AND EMAIL BY TOWN COUNCILORS

RESOLVED: That the Council does hereby approve and adopt the following policy for Town Councilors, effective July 1, 2024:

POLICY ON USE OF TOWN CELL PHONES AND TOWN EMAIL ACCOUNTS BY TOWN COUNCILORS

1. Purpose:

This Policy requires that all Town Councilors use Town-issued cell phones and Town email accounts for conducting all Town business in order to facilitate their compliance with the state's public records and records retention laws and regulations.

2. Public Records/Records Retention:

Councilors understand and acknowledge that their use of Town Information Technology equipment and resources, including email and text messages, may result in the creation of public records, which are subject to disclosure upon request. Councilors are responsible for properly maintaining such records. Personal cell phones and personal email accounts should not be used for Town business. Councilors acknowledge and agree that if they use personal cell phones and personal email accounts for Town business, the Town shall have the right to access and inspect those devices and accounts to respond to public records requests or to discovery requests arising out of administrative, civil or criminal proceedings related to Town business or Town operations.

3. Responsibility of Councilors in Using Town Information Technology Equipment and Resources:

Councilors acknowledge and agree that their use of Town Information Technology equipment and resources, including, but not limited to, Town-issued cell phones and Town email accounts, is subject to the Town of Barnstable IT Policy (the "Town Policy"), a copy of which is attached hereto. Councilors are responsible for reading and complying with the Town Policy. Town Information Technology equipment and resources may not be used for political purposes. Other prohibited uses are set forth in the Town Policy.

4. No Expectation of Privacy:

As set forth in the Town Policy, Town Information Technology equipment and resources are the property of the Town, and Councilors shall have no expectation of privacy in their use of such equipment and resources.

5. Annual Training:

Councilors agree that they shall complete on an annual basis the same cybersecurity awareness training required of Town employees.

SPONSOR: Felicia Penn, Town Council President

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2024-233
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Karen L. Nober, Town Attorney
DATE: June 27, 2024
SUBJECT: Resolve adopting a Policy on use of Town Cell Phones and Email by Town Councilors

BACKGROUND: The state public records law is extremely broad in scope and provides that all records made or received by any officer or employee of a municipality are public records, which are subject to disclosure and production upon request, unless the records fall within an exemption to the definition of “public records” as set forth in G.L. c. 4, sec. 7(26). State law also sets forth requirements for the retention of records, and separate guidance on those requirements will be provided to Town Councilors and town staff.

As elected officials, Town Councilors are subject to and expected to comply with the public records and records retention requirements of state law. It has, however, been the longstanding practice for nearly every Councilor to use personal cell phones and personal email accounts to conduct Town business. This means that when public records requests are received, Councilors must conduct their own searches of their own devices for any responsive records. Councilors have different degrees of expertise in conducting such searches, and searches conducted by more than one Councilor have not always produced consistent results. As a general rule, for records requests involving staff records, Information Technology (IT) staff currently conducts the necessary email searches, rather than having individual employees conduct those searches. It is therefore preferable to have all town business conducted on town devices so that IT staff can conduct the necessary searches and can assist with searches of town-issued cell phones without having to search personal cell phones. Town emails are also backed up on the town’s server. In addition, once a Councilor leaves office, the town has no ability to access the Councilors’ personal accounts to respond to records requests and to ensure that records retention requirements are followed. Having Town Councilors utilize town email and town cell phones for town business would facilitate and ensure compliance with the state public records law.

Accordingly, it is recommended that the Council adopt the proposed policy requiring Councilors to use town email and town cell phones for the conduct of town business and that Councilors’ use of such information technology resources be subject to the existing town policy attached hereto.

FISCAL IMPACT: The acquisition of new cell phones for all Town Councilors can be provided from remaining funds in the Fiscal Year 2024 Operating Budget and it is expected that the cost of the monthly service charges can be covered within the Fiscal Year 2025 approved General Fund Operating Budget.

Policy on the use of Information Technology Resources (ITR)

Approved by the Town Manager, 03/23/2001

- Purpose of this Document
 1. User Responsibility
 2. Acceptable Uses
 3. Unacceptable Uses
 4. Data Confidentiality
 5. Copyright Protection
 6. Computer Viruses
 7. Network Security
 8. E-Mail
 9. No Expectation of Privacy
 10. Requests of Information Technology
 11. Help Desk Procedures
 12. Security Awareness Training

Purpose of this Policy

This document formalizes the policy for employees and users of all Town of Barnstable's Information Technology Resources (from here on referred to as ITR), including computers, tablets, cellphones, printers and other peripherals, programs, data, local and wide area networks, e-mail and the Internet. Use of Town of Barnstable's ITR by any employee or user shall constitute acceptance of the terms of this policy and any such additional policies.

Departments and Divisions are encouraged to replicate this policy and ensure its visibility to all staff. This document will be handed out by Information Technology (IT) and Human Resources (HR) to all new employees. A signed copy of this document acknowledging the receipt and understanding of this policy will be kept on file with HR and IT. This document will be routinely updated. An e-mail will be sent to all employees indicating when there has been a change in the document, and it is the responsibility of the employee to review the revised document.

The purpose of this policy is to accurately convey the policies of the Town, the Town Manager and the Information Technology Department in the use of the Town of Barnstable's ITR. The policies contained within this document reflect a responsible use of the Town's ITR. The policies will be strongly enforced and employees and users of the Town of Barnstable's ITR are expected to follow these policies at all times.

This policy is designed to protect the Town of Barnstable and its employees as well.

Other laws also cover certain subjects covered or touched upon in this policy, and some of the things forbidden here are also serious crimes, potentially involving substantial fines and jail terms. Nothing in this policy lessens your responsibility under those laws.

1.) User Responsibility

It is the responsibility of any person using Town of Barnstable's ITR to read, understand, and follow this policy. In addition, users are expected to exercise reasonable judgment in interpreting this policy and in making decisions about the use of ITR. Any person with questions regarding the application or meaning of this policy should seek clarification from the Town of Barnstable's IT Department or HR Department.

Failure to observe this policy may subject individuals to disciplinary actions, including termination of employment.

2). Acceptable Uses

The Town of Barnstable firmly believes that ITR empower users and makes their jobs more fulfilling by allowing them to deliver better services at lower costs. As such, employees are encouraged to use ITR to the fullest extent in pursuit of their departmental goals and objectives.

3). Unacceptable Uses of Town of Barnstable's ITR

It is unacceptable for any person to use Town of Barnstable's ITR:

- In furtherance of any illegal act, including violation of any criminal or civil laws or regulations, whether local, state or federal;
- For any political purpose;
- For any commercial purpose;
- To send threatening or harassing messages, whether sexual or otherwise;
- To access or share sexually explicit, obscene, or otherwise inappropriate materials;
- To infringe any intellectual property rights;
- To gain, or attempt to gain, unauthorized access to any computer or network;
- For any use that causes interference with or disruption of network users and resources, including propagation of computer viruses or other harmful programs;
- Downloading and or installation of unauthorized software or files;
- As the same connectivity for the Town of Barnstable's internet access also provides for the Town of Barnstable's Web page, bandwidth compromising programs are not allowed. Examples include but are not limited to, streaming video and audio (watching video or listening to music), online gaming, and the like. To intercept communications intended for other persons;
- To misrepresent either the Town of Barnstable or a persons role at the Town of Barnstable;
- To distribute chain letters;
- To access on-line gambling sites;
- To libel or otherwise defame any person;
- Installation of ANY software or hardware not obtained through IT. IT is responsible to comply with the Commonwealth of Massachusetts, Chapter 30B Bidding practices with respect to the Town's purchase of any and all ITR equipment. ALL software and hardware or related ITR equipment must go through IT to ensure the Town's compliance with state laws. IT is also responsible for maintaining accurate asset information regarding all ITR.

4). Data Confidentiality

In the course of performing their jobs, Town of Barnstable employees and users often have access to confidential or proprietary information, such as personal data about identifiable individuals or commercial information about business organizations.

Under no circumstances is it permissible for employees or users to acquire access to confidential data unless such access is required by their jobs. Under no circumstances may employees or users

disseminate any confidential information that they have rightful access to, unless such dissemination is required by their jobs.

5). Copyright Protection

Computer programs are valuable intellectual property. Software publishers can be very aggressive in protecting their property rights from infringement. In addition to software, legal protections can also exist for any information published on the Internet, such as the text and graphics on a web site. As such, it is important that users respect the rights of intellectual property owners. Software cannot be copied or installed without a valid license obtained through IT.

In addition, employees are not allowed to install personally owned hardware and/or software on a Town of Barnstable ITR without express authorization from the Town of Barnstable's IT Department. The installation of such software on a Town of Barnstable's machine may be in violation of licensing infringements, or may introduce other problems associated with network access, hardware performance, etc.

6). Computer Viruses

Users should exercise reasonable precautions in order to prevent the introduction of a computer virus into the Town of Barnstable's network. Virus scanning software should be used to check any software downloaded from the Internet or obtained from any source other than the IT Department. Users should not interfere with virus scanning software that is installed on their computers and will comply with all updates that are sent out from the IT Department.

Copy all "outside" documents to one of your network drives prior to opening.

That process will automatically scan the file and alert you should the file contain a virus.

7). Network Security

Most desktop computers are connected to a local area network, which links computers within the Town of Barnstable and through the wide area network, to most other computers within the organization. As such, it is critically important that users take particular care to avoid compromising the security of the network. Most importantly, users should never share their passwords with anyone else, and should promptly notify the Town of Barnstable's IT Department if they suspect their passwords have been compromised. In addition, users who will be leaving their PC's unattended for extended periods, should log off the network or "lock" their machines during this time. Finally, no user is allowed to access the Internet or other external networks for other than work purposes, unless they have received specific permission from the Town of Barnstable's IT Department.

8). E-Mail

When using e-mail, there are several points users should consider. First, because e-mail addresses identify the organization that sent the message (username@town.barnstable.ma.us), users should consider e-mail messages to be the equivalent of letters sent on official letterhead. For the same reason, users should ensure that all e-mails are written in a professional and courteous tone. Although many users regard e-mail as being like a telephone in offering a quick, informal way to communicate, users should remember that e-mails can be stored, copied, printed, or forwarded by recipients. Therefore, users should not write anything in an e-mail message that they would not feel just as comfortable putting into a memorandum.

Subject to certain exceptions in the law, employees are reminded that e-mail messages are considered public records, copies of which may be requested by any member of the public. It should be noted that even deleted messages might be subject to disclosure because they still exist on backup tapes.

Furthermore, because of the electronic search and retrieval methodologies available with e-mail, there is a much higher degree of likelihood that a carelessly composed message containing an unforeseeably relevant key word will turn up in some notorious and embarrassing context. Users must keep this constantly in mind.

E-mail attachments represent an impact on network capacity and should only be used to communicate official business documents to recipients. The forwarding of non-business-related information is in violation of this policy. Employees who are the recipients of non-business-related e-mail with attachments are required to discard them and should under no circumstances forward them to anyone. E-mail attachments that are received from an unknown party should be considered "suspicious" and should not be opened until the senders identity can be confirmed. Many viruses are spread using e-mail systems in this manner.

The Internet offers a wide variety of electronic mailing lists. These mass-mailing lists come from list servers managed by a wide range of organizations. To receive the mass-mailings one must subscribe to the list using the Internet e-mail address.

Employees are NOT to subscribe to mailing lists if the content is not directly related to their job function. Recreational examples would include "Joke of the Day", "Horoscopes", "Trivia", "Daily Word", etc... Each of these mass-mailings use limit network capacity and storage capacity that should be used for other business-related purposes.

9). No Expectation of Privacy

The Town of Barnstable's ITR are the property of the Town of Barnstable and are to be used in conformance with this Policy.

The Town of Barnstable retains the authority to inspect any users ITR, and data contained in it, and data sent or received by that ITR. Users should be aware that network administrators, in order to ensure proper network operations, monitor all network traffic. Use of Town of Barnstable's ITR constitutes express consent for the Town of Barnstable to monitor and/or inspect any data that users create or receive and any messages they send or receive, and any web sites they access browsing the Internet. Department Heads can request detailed reports indicating e-mail and internet usage for those employees they supervise.

10). Requests of IT

Requests of IT for new hardware, software, and applications development MUST come through the Information Technology Manager or Assistant Information Technology Manager. Staff has been instructed to forward ALL requests for said services through these contacts.

Geographic Information Systems (GIS) requests MUST be made through the GIS Coordinator. Do not request these services from any other It staff members. Requests will be handled on a priority basis. In the future, IT will be requesting an Information Technology Steering Committee be formed comprised of Senior Managers to aid in the setting of priorities.

11). Help Desk Procedures

Employees/Users requiring assistance with software, hardware, applications or any issues related to ITR are required to email the help desk: **helpdesk@town.barnstable.ma.us** to initially establish the help desk request.

If a help desk call is necessary, a work order will be generated and forwarded to the appropriate technical staff to handle. Please DO NOT call IT staff directly. This not only circumvents IT's ability to track the needs of its users, but interrupts IT staff performing important functions. (508) 862-4635

ALL questions regarding software, hardware and applications MUST go through the Help Desk.

12.) Security Awareness Training

Employees are required to complete any security awareness training that I.T. provides.

Employee Responsibilities

The employee named below is responsible for this equipment at all times.

The employee is responsible for taking reasonable precautions to secure the equipment in such a manner that it will not be subject to theft or damage.

Loss, theft or damage to this laptop must be reported to the employee's supervisor and to the IT Department at once.

Employees are responsible for any loss, theft or damage that occurs outside of Town of Barnstable locations.

Employees may elect to provide a police report indicating the cause of the loss, theft or damage to the laptop to the Town of Barnstable. If a police report is not provided, then the employee is liable for the full replacement value of the equipment, as specified below.

- If Issued Equipment is damaged or in need of repair, the employee should submit a ticket in the IT Technology Help desk or follow other technology support request protocols as established.
- If Issued Equipment has been lost or stolen, the staff member is directed to notify his/her supervisor of the loss or theft Immediately as well as the supervisor notifying IT.
- I understand that my use of this laptop is governed by the guidelines set forth in this policy.
- I understand that this laptop/phone must be secured by a password at all times.
- I understand that I am responsible for maintaining the confidentiality of any data stored or accessed on this laptop or phone.
- I understand that this laptop is managed by a central system that will allow Town personnel to wipe or lock the laptop in the event of loss or theft. In the event of loss or theft, IT personnel may attempt to track the location of the device using manufacturer location tracking tools.
- I will notify my supervisor if I am retiring, resigning or taking a leave of absence in excess of two weeks.
- I will return this equipment to the Town of Barnstable as a result of my change of status.
- If this will be my primary computer, I understand that this equipment will be on site during regular workdays when not working remotely.
- I agree that I am accountable for the property listed above, and that I must exercise reasonable care in its safekeeping.
- Equipment owned by the Town of Barnstable that is assigned to me will only be used within the scope of the duties of my position, and for Work-related business. I will not use the equipment for personal use.

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-234
INTRO: 06/27/2024**

2024-234 RESOLVE APPROVING THE FISH WEIR APPLICATIONS FROM JACOB ANGELO, A RESIDENT OF WEST BARNSTABLE

RESOLVED: Pursuant to M.G.L. c. 130, section 29, the Barnstable Town Council does hereby approve the applications of Jacob Angelo, a resident of West Barnstable, for two (2) fish weir sites in the coastal waters of the Town of Barnstable in Nantucket Sound, each for a one-year period.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2024-234
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Brian Taylor, Harbormaster
DATE: June 20, 2024
SUBJECT: Resolve approving the Fish Weir applications from Jacob Angelo, a resident of West Barnstable

BACKGROUND: The fish weir locations indicated on his applications are in the same location as existing fish weir authorization, which was given to Nantucket Fish Weirs, Inc in 2021 (Dates of operation March through June). This requested dates of operation by Mr. Angelo are September 8th through November.

This request was presented to the Waterways Committee in March 2024 and April 2024. The committee made a motion to accept the applications and recommend them for Town Council approval for a period of one (1) year.

ANALYSIS: The Marine and Environmental Affairs Department supports the request of the applicant to construct and maintain fish weirs for a period of a year. Mr. Angelo has indicated that both sites will continue to have U.S. Coast Guard approved yellow lights for each trap.

FISCAL IMPACT: There is a Fifty-dollar fee (\$50.00) per Fish Weir that goes toward the General Fund.

TOWN MANAGER RECOMMENDATION Mark S. Ells, Town Manager, recommends approval of the permits for a term of one year each.

STAFF ASSISTANCE: None.

B. NEW BUSINESS (Refer to Public Hearing on July 18, 2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-235
INTRO: 06/27/2024**

2024-235 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$250,000 IN COMMUNITY PRESERVATION FUNDS FOR THE PURPOSE OF ACQUIRING A CONSERVATION RESTRICTION ON A 5.84-ACRE OPEN SPACE PARCEL LOCATED AT 4609 FALMOUTH ROAD, COTUIT, AND SHOWN ON ASSESSORS MAP 024, PARCEL 042

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G. L. c 44B, the sum of **Two Hundred and Fifty Thousand Dollars (\$250,000)** shall be appropriated and transferred from the amount set-aside for Open Space and Recreation within the Community Preservation Fund to the Barnstable Land Trust for the purpose of acquiring a Conservation Restriction (“CR”) on property located at 4609 Falmouth Road, Cotuit, and shown on Assessors Map 024, Parcel 042, and on a plan of land entitled “Plan of Land in Santuit, Barnstable, Mass For Theodore Nigro,” dated May 1973, prepared by Robert H. Waite, Registered Land Surveyor, and recorded at the Barnstable County Registry of Deeds in Plan Book 278, at Page 18, pursuant to G.L. c. 184, sections 31-32 for open space and conservation and passive recreation purposes to be granted to the Town of Barnstable, acting through the Town Manager, as the primary grantee and the Cotuit Water District acting through its Board of Water Commissioners as the secondary grantee, said CR in substantially the form attached hereto, subject to minor changes to be made by the Secretary of the Executive Office of Energy and Environmental Affairs. This Order authorizes the Town Council President to sign the CR on the Town Council’s behalf. It further authorizes the Town Manager to expend the amount appropriated on behalf of the Town for the acquisition of the CR, subject to oversight by the Community Preservation Committee, and to accept, negotiate, execute, receive, deliver and record any written instruments to effectuate this Order and complete this transaction.

SPONSOR: Mark S. Ells, 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
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-235
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee on Behalf of Community Preservation Committee
DATE: June 27, 2024
SUBJECT: Appropriation and Transfer Order in the amount of **\$250,000** in Community Preservation Act Open Space Funds for the acquisition by Barnstable Land Trust of a 5.84 acre parcel located at 4609 Falmouth Road, Cotuit, shown on Assessors Map 024, Parcel 042 and the creation of a Conservation Restriction to be granted to the Town of Barnstable

BACKGROUND: The Barnstable Land Trust, Inc. (BLT) is seeking approval from the Town Council, upon recommendation of the Town Manager, for Community Preservation Open Space Funds in the amount of \$250,000 for the acquisition of a conservation restriction (CR) by the Town of Barnstable from the Barnstable Land Trust, Inc., on 5.84 acres± of open space located at 4609 Falmouth Road, Cotuit, Barnstable, shown as Assessors Map 024, Parcel 042. The Cotuit Water District, acting through its Board of Water Commissioners, will co-hold the CR as the secondary grantee.

Further, the Town Manager is seeking approval from the Town Council to accept the CR, subject to the approval of the CR by the Massachusetts Secretary of Energy and Environmental Affairs (EEA). The proposed CR has been reviewed by Town staff, the Conservation Commission, and will be submitted to Massachusetts Department of Environmental Protection (MassDEP) and the EEA Division of Conservation Services for review and approval. It is anticipated that EEA approval of the CR will be completed in spring 2025 in time for a project closing by June 2025. This request is that the project be considered by the Town Council for approval of the funding request, and acceptance of the CR, in substantially the form attached hereto, for Town Council approval.

At the May 20, 2024, Community Preservation Committee meeting, the seven Committee members present voted unanimously to recommend to the Town Council through the Town Manager, BLT's request for \$250,000 in Community Preservation Open Space/Recreation Funds for the acquisition of a 5.84-acre parcel addressed 4609 Falmouth Road, Cotuit, Map 024, Parcel 042. The total purchase price of the parcel is \$590,000. An application will be made to EEA for a Conservation Partnership grant for \$300,000 to be submitted in July 2024. \$50,000 has been approved by the Cotuit Fire District, acting through its Board of Water Commissioners, in support of the project. The parcel has frontage on Falmouth Road and abuts a BLT 5.9-acre conservation area to the south. Public access would be off Santuit-Newtown Road. The Town of Barnstable would be granted a conservation restriction on the property and the property would be managed by the BLT.

ANALYSIS: This acquisition would create almost 12 acres of contiguous open space, conserving high value natural resources and recreation access as well as protecting nearby drinking water wells (or within water protection zone or Zone II). Acquisition of the CR is consistent with the Local Comprehensive Plan, Open Space Plan, and other planning documents and preserves community character. The property is within the local Resource Protection Overlay District and the Well Protection District, as well as the state designated Zone II Wellhead Protection Area. The property borders state-

designated Priority Habitat of Rare Species, BioMap Rare Species Core Habitat, Wetland Core Habitat and Wetland Core Buffer and includes a vernal pool currently being certified by the Natural Heritage Endangered Species Program. The property includes state designated Prime Forest Land and Prime Farmland soils. A public trail is proposed on the property and will connect with the existing Barnstable Land Trust property to the south, where public parking will be provided on Santuit-Newton Road.

FISCAL IMPACT: This appropriation is provided from the set-aside for Open Space and Recreation Funds within the Community Preservation Fund which has an available balance of \$403,390. There is no impact on the general fund operating budget.

APPROVALS: The Community Preservation Committee (CPC), voted unanimously to support and recommend the application for appropriation of Community Preservation Act Funds for the acquisition of the CR on May 20, 2024. The Conservation Commission voted its support for CPA funding of the CR acquisition on June 4, 2024. The Open Space Committee voted its support for CPA funding of the CR acquisition on June 10, 2024.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends approval

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

GRANTOR: Barnstable Land Trust, Inc.

PRIMARY GRANTEE: Town of Barnstable

SECONDARY GRANTEE: Cotuit Fire District

ADDRESS OF PREMISES: 4609 Falmouth Road, Village of Cotuit, Barnstable, MA

FOR GRANTOR'S TITLE SEE: Barnstable County Registry of Deeds at Book _____, Page _____.

FOR GRANTOR'S PLAN SEE: Barnstable County Registry of Deeds at Plan Book 278, Page 18.

GRANT OF CONSERVATION RESTRICTION

I. STATEMENT OF GRANT

BARNSTABLE LAND TRUST, INC., a Massachusetts nonprofit corporation with an office and mailing address at 1540 Main Street, West Barnstable, MA 02668, being the sole owner of the Premises as defined herein, for its successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, to the **TOWN OF BARNSTABLE**, a Massachusetts municipal corporation with principal offices at Town Hall, 367 Main Street, Hyannis, Barnstable County, Massachusetts 02601-3907, acting by and through its TOWN MANAGER, its successors and assigns ("Primary Grantee"), for consideration of Two Hundred and Fifty Thousand and 00/100 Dollars (\$250,000.00) paid, and to the **COTUIT FIRE DISTRICT**, a Massachusetts municipal corporation duly organized pursuant to Chapter 328 of the Acts of 1926, with a principal place of business at 64 High Street, Cotuit, Massachusetts 02635, acting by and through its BOARD OF WATER COMMISSIONERS, its permitted successors and assigns ("Secondary Grantee"), for consideration of Fifty Thousand and 00/100 Dollars (\$50,000.00) paid, the following Conservation Restriction on land located in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts containing 5.84 acres ("Premises"), which Premises is more particularly described in Exhibit A and shown in the attached reduced copy of a survey plan in Exhibit B, both of which are incorporated herein and attached hereto. As used herein, the terms "Grantee" and "Grantees" shall refer to the Primary Grantee and the Secondary Grantee collectively.

The Primary Grantee acquired this Conservation Restriction utilizing, in part, Community Preservation Act funds pursuant to Chapter 44B § 1 et seq. of the Massachusetts General Laws (the "CPA"), which funds were authorized for such purposes by a vote of the Barnstable Town Council at a duly called meeting held on , on Agenda Item , an attested copy of which vote is attached hereto as Exhibit C (the "CPA Vote").

The Secondary Grantee acquired this Conservation Restriction, pursuant to authority granted by vote of the Cotuit Fire District on Article 13 of the Cotuit Fire District Annual Meeting held on May 29, 2024, an attested copy of which vote is attached hereto as Exhibit D (the "Cotuit Fire District Vote"). The Cotuit Fire District acquires this Restriction subject to approval of the Department of Environmental Protection ("DEP") pursuant to Massachusetts General Laws Chapter 40, Section 41, which approval is attached hereto as Exhibit E.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31-32 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction ("Purposes") are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition, for the protection of the Station 1, Station 2, and Station 4 Cotuit Fire District Water Department wells ("Wells") approved by MassDEP as a source of public drinking water (Source ID

4020003) and available for passive outdoor recreational use, and to prevent any use or change that would materially impair the Conservation Values (as defined below).

Conservation Partnership. The fee interest in the Premises was acquired utilizing, in part, assistance from the Conservation Partnership program which requires, pursuant to Section 2A of Chapter 286 of the Acts of 2014 the conveyance of this Conservation Restriction.

The Conservation Values protected by this Conservation Restriction include the following:

- Open Space. The Premises contributes to the protection of the scenic and natural character of Barnstable and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved, including the 5.9-acre± Barnstable Land Trust owned conservation area to the south and the 7.25-acre conservation restriction protected “Miceli Property” abutting across Falmouth Road to the north.
- Soils and Soil Health. The Premises includes 4.1 acres± of Prime Farmland Soils and 4.6 acres± of Prime Forest Land and Forest of Statewide Importance as identified by the USDA Natural Resources Conservation Service (source MassGIS MassMapper). The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Section 7A of Chapter 128 of the Massachusetts General Laws.
- Wildlife Habitat. The Premises is proximate to areas designated by the MA Division of Fisheries and Wildlife acting by and through its Natural Heritage and Endangered Species Program (NHESP) as “Priority Habitats of Rare and Endangered Species”, the protection of which aligns with NHESP’s wildlife and habitat protection objectives. The Premises includes a certified vernal pool providing important habitat for a wide variety of wildlife for breeding, feeding, migration and shelter habitat.
- Public Access. Public access to the Premises will be allowed for passive outdoor recreation, education, and nature study. The Premises connects to existing conservation open space owned by Barnstable Land Trust and provides the potential for an approximately half-acre trail loop to provide close-to-home recreational opportunities for the public.
- Biodiversity. The Premises is proximate to areas designated as BioMap Wetland Core Habitat and Critical Natural Landscape Wetland Buffer, as defined by the Massachusetts Natural Heritage and Endangered Species Program. BioMap, last updated in 2022, was designed to guide strategic biodiversity conservation in Massachusetts by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. BioMap is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan.
- Water Quality. The Premises lies within the watershed to the Santuit River, Shoestring Bay and Popponesset Bay. Protection of intact natural forested landscapes can help maintain water quality for public drinking water and the health of coastal embayment’s.
- Wetlands. The potential vernal pool wetlands on the Premises provide valuable habitat for a diverse array of wildlife species as well as provide the many other public benefits of wetlands protection recognized by the Commonwealth of Massachusetts (Section 40 of Chapter 131 of the Massachusetts General Laws).

- Water Supply. The Premises includes Zone II Wellhead Protection Areas as identified by the MA Department of Environmental Protection, the protection of which is critical to maintaining the public drinking water supply.
- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989, as amended), adopted a *Regional Policy Plan* (RPP), amended in 1996, 2002, 2009, 2012, and 2018, which provided, *inter alia* (references are to the 2018 RPP, amended in 2021 to accommodate climate change goals and objectives):
 - “To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers.” (Wetland Resources Goal, p. 55).
 - “To protect, preserve, or restore wildlife and plant habitat to maintain the region’s natural diversity” (Wildlife and Plant Habitat Goal, p. 55).
 - In reference to this Wildlife and Plant Habitat Goal, the RPP states, “For many years habitat loss due to development has been the primary threat to the region’s habitats” (p. 32); and
 - “To conserve, preserve, or enhance a network of open space that contributes to the region’s natural community resources and systems” (Open Space Goal, p. 55). In reference to this Open Space Goal, the RPP states, “the open space of the Cape is critical to the health of the region’s natural systems, economy, and population. Open space provides habitat for the region’s diverse species and protection of the region’s drinking water supply” (p. 30).

Granting this Conservation Restriction will advance each of these goals outlined in the RPP. The Wetlands Goal will be addressed in protecting the Premises’ wetland resources and their upland buffer zone. The Wildlife and Plant Habitat Goal will be served because the Premises contains a host of important plant and wildlife species and is in close proximity to NHESP Priority Habitat of Rare Species and BioMap Core Habitat and Critical Natural Landscape areas. The Open Space Goal will be advanced because the Premises abuts 4.9 acres of existing conservation land and will expand passive recreation opportunities for the public.

- Consistency with Clearly Delineated Town of Barnstable Conservation Policy. Protection of the Premises will further the Town of Barnstable’s documented goals regarding conservation land. The Town outlined its conservation goals in its *Open Space and Recreational Plan* (1984, amended 1987, 1998, 2005, 2010, 2018), identifying goals, policies, and actions to guide conservation efforts, among them the goal of preserving “quality open spaces throughout the Town which protect and enhance its visual heritage.” Additional objectives include (*references are to the 2018 Plan*):
 - 1) "Preservation of open space for protection of drinking water resources, and for protection of other natural, historic and scenic resources is a community-wide priority; and;
 - 2) Protection of open space should continue to be an integral component of the Town's efforts." (p. 6)

To achieve this vision, the Plan sets several goals for the town including:

- 1) "To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities, and community character, and;

2) “Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, [and] preserve historic, scenic and cultural resources...” (pp. 10-11).

Additionally, the Barnstable Town Council’s Strategic Plan for fiscal year 2024-2025 identified the goal to “Conserve and protect areas in the town that are most significant as natural and historical resources for water supply, visual quality, outdoor recreation, public access, wildlife habitat and cultural history”.

Moreover, in 1981, the Town of Barnstable adopted a Conservation Restriction Program consisting of policies and guidelines, in particular an *Open Space Policy*, approved by the Board of Selectmen, Assessors, and Conservation Commission, which encourages the use of conservation restrictions in perpetuity to protect natural resources in accordance with the purposes of the *Open Space and Recreation Plan*, and which further specified that purposes of a conservation restriction could include the following:

- preserve scenic view;
- prevent disturbance of wetlands;
- preserve a shoreline;
- prevent the cutting of trees or forests;
- preserve open space;
- preserve important natural habitats of fish, wildlife or plants; and,
- limit or prevent construction on land of natural resource value.

The Town of Barnstable promotes the Cape Cod Pathways program intended to create a series of looped and through-routes in the town and beyond for public walking and scenic enjoyment. The Premises will provide the opportunity for new recreational trails for use by the public.

- Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively “conservation values”) of great importance to the Grantees and the people of Barnstable and the Commonwealth of Massachusetts, including the advancement of the following goals of the State’s 2023 Statewide Comprehensive Outdoor Recreation Plan (SCORP):
 - 1.3) Support the acquisition of land that will protect water supply and also be open for recreation;
 - 4.2. Acquire new blocks of land with preference to those parcels that are designated as an Urban Area by the 2020 US Census, in Environmental Justice Census blocks, or the trailhead is within a half-mile of a transit stop;

The protection of the Premises will preserve land within the Zone II Wellhead protection Area while also provide new trails for passive recreation. The location of the Premises on Falmouth Road, a major transit route for Cape Cod, provides new recreational opportunities for the broader community.

- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: reserve the land for education regarding the natural world; protect wildlife habitats; and it would contribute to the preservation of open space because it is proximate to other parcels already conserved.

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, wind turbine, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantees;
7. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
8. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantees' intention to maintain the entire Premises under unified ownership;
9. Hunting. Using the Premises for hunting;
10. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;

11. Adverse Impacts to Stone Walls, Boundary Markers Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
12. Residential or Industrial Uses. Using the Premises for residential or industrial purposes;
13. Inconsistent Uses. Using the Premises for commercial purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A, the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report (see Paragraph XV);
2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that no stockpiling or composting shall take place within 100 feet of any wetland;
4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantees, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
5. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantees. A copy of the results of any such investigation on the Premises is to be provided to the Grantees;
6. Trails. Maintaining and constructing trails as follows:
 - a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening trail corridors up to eight (8) feet in width overall, with a treadway up to five (5) feet in width.

- b. New Trails. With prior written approval of the Grantees, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the width limitations above.
 - c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
7. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantees' interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
8. Motorized Vehicles. Using motorized vehicles by persons with mobility impairments and as otherwise permitted herein.
9. Outdoor Passive Recreational and Educational Activities. Hiking, horseback riding, cross-country skiing, snowshoeing, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities;

C. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

D. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

E. Notice and Approval

1. Notifying Grantees. Whenever notice to or approval by Grantees is required, Grantor shall notify or request approval from Grantees, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.

- d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantees to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. Where Grantee's approval is required, the Secondary Grantee, within thirty (30) days of receipt of Grantor's request, shall notify the Primary Grantee of the Secondary Grantee's decision. Within sixty (60) days of the Primary Grantee's receipt of Grantor's request, the Primary Grantee shall either affirm, amend or reverse the decision of the Secondary Grantee, shall notify the Secondary Grantee thereof in writing, and shall issue its decision to the Grantor in writing. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no decision is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall proceed to issue its decision within sixty (60) days of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.
3. Resubmittal. Grantees' failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

IV. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantees, and their duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantees will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantees for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantees determine that a violation of this Conservation Restriction has occurred and intend to exercise any of the rights described herein, the Grantees shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantees may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantees determines that there is no ongoing

violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantees may notify the proper authorities of such violation.

3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantees all reasonable costs and expenses (including counsel fees) incurred by the Grantees in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.
4. Coordination between Primary and Secondary Grantee. Whenever there is a question of whether there is a violation of this Conservation Restriction, or how to proceed in addressing the violation, the Primary Grantee shall consult with the Secondary Grantee. The Primary Grantee shall then determine whether there is a violation and how to proceed in addressing the violation. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no response is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall notify Grantor and proceed as provided in Paragraph IV.B.2.

C. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantees. Any election by the Grantees as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise their rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantees do not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantees or their agents.

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantees to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantees will cooperate in the restoration of the Premises, if desirable and feasible.

V. PUBLIC ACCESS

Subject to the provisions of this Conservation Restriction, the Grantor hereby grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph III.B.9 provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the Purposes and Conservation Values. Grantor has the right to control, limit, or

prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph III.B.9. The Grantees may require the Grantor to post the Premises against any use by the public that results in material impairment of the Conservation Values. This grant of public access to the Premises is solely for the purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantees hereto express their intent to benefit from exculpation from liability to the extent provided in such section.

VI. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official (“Secretary”), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor’s and Grantee’s Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then the Grantees, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantees shall use their share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantee’s Receipt of Property Right

Grantor and Grantees agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantees, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted Premises. The proportionate value of the Primary Grantee’s property right as of the Effective Date (See Paragraph XII) was determined to be 42 %¹. The proportionate value of the Secondary Grantee’s property right as of the Effective Date (See Paragraph XII) was determined to be 8 %². Such proportionate value of the Grantees’ property right shall remain constant.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantees shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantees shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantees in accordance with Paragraph VI.B and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantees shall use their share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

¹ Town CPA funds: \$250k /\$590k = 42%

² Cotuit Fire District funds: \$50k /\$590k = 8%

VII. DURATION and ASSIGNABILITY

A. Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments

The Grantees are authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantees its attorneys-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantees, shall be in gross and shall not be assignable by the Grantees, except when all of the following conditions are met:

1. the Grantees require that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. Any transfers shall receive prior approval by the Grantee to assure that the Premises is transferred to a qualified conservation organization. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantees may record it in the Barnstable County Registry of Deeds, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

C. Grantees' Liability

The Grantor and its successors and assigns shall each be liable under this section for any such violations of this restriction as may exist during their respective periods of ownership of the premises. Any new owner may be held responsible for any continuing violations existing during his or her period of ownership.

By acceptance of this Restriction, the Grantees do not undertake any liability or obligation relating to the condition of the premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantees shall, within sixty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantees agree that they will not take title, to any part of the Premises without having first assigned this Conservation Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

A. Limitations on Amendment

Grantor and Grantees may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantees as "qualified organizations" or "eligible donees" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantees, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VI (Termination/Release/Extinguishment); or
7. cause the provisions of this Paragraph XI to be less restrictive; or
8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive.

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantees and Grantor, approved by the Town of Barnstable and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the Barnstable County Registry of Deeds.

XII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantees have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the Barnstable County Registry of Deeds.

XIII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Barnstable Land Trust, Inc.
1540 Main Street
Barnstable, MA 02668

To Primary Grantee: Town of Barnstable, c/o Town Manager
367 Main Street
Hyannis, MA 02601-3907

To Secondary Grantee: Cotuit Fire District, c/ Board of Water Commissioners
64 High Street,
Cotuit, Massachusetts 02635

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Grantor and Grantees with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report (“Baseline Report”) “Santuit Woodland Conservation Restriction Baseline Report”, and dated prepared by Grantees with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantees and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantees to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVI. MISCELLANEOUS

A. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. No Surety Interest

The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

C. Executory Limitation

If either Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then that Grantee’s rights and obligations under this Conservation Restriction shall run to the other Grantee. If both Grantees shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization

under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then their rights and obligations under this Conservation Restriction shall run to the Town of Barnstable Conservation Commission. If the Town of Barnstable Conservation Commission is no longer in existence at the time the rights and obligations under this Conservation Restriction would otherwise vest in it, or if the Town of Barnstable Conservation Commission is not qualified or authorized to hold conservation restrictions as provided for assignments pursuant to Paragraph VII, or if it shall refuse such rights and obligations, then the rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

D. Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

E. The following signature pages are included in this Grant:

- Grantor – Barnstable Land Trust, Inc.
- Primary Grantee Acceptance – Town of Barnstable Town Manager
- Secondary Grantee Acceptance – Cotuit Fire District Board of Water Commissioners
- Approval of Town of Barnstable Town Council
- Approval of Department of Environmental Protection
- Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

F. The following exhibits are attached and incorporated herein:

- Exhibit A: Legal Description of Premises
- Exhibit B: Reduced Copy of Recorded Plan of Premises
- Exhibit C: Town Council Order Authorizing the Use of CPA Funds
- Exhibit D: Cotuit Fire District Vote Authoring Funds
- Exhibit E: Massachusetts Department of Environmental Protection Approval

WITNESS my hand and seal this ____ day of _____, 2025 as authorized by vote of the Barnstable Land Trust, Inc., at a meeting duly held on _____, 2025, authorizing grant of the foregoing Conservation Restriction to the Town of Barnstable and the Board of Water Commissioners of the Cotuit Fire District.

Barnstable Land Trust, Inc.

Leigh Townes, President,
Barnstable Land Trust, Inc.

Jill McCleary, Treasurer
Barnstable Land Trust, Inc.

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. _____ 2025

Then personally appeared the above-named Leigh Townes, President, Barnstable Land Trust, Inc. and Jill McCleary, Treasurer, Barnstable Land Trust, Inc., the corporation named in the foregoing instrument, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the persons whose names are signed on the document, and each acknowledged she is duly authorized to act on behalf of said corporation, and each further acknowledged the foregoing instrument to be the free act and deed of said corporation, before me.

Notary Public
My commission expires:

ACCEPTANCE AND APPROVAL OF TOWN MANAGER

I, Mark S. Ells, as Town Manager of the Town of Barnstable, Massachusetts, hereby approve in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and accept the foregoing Conservation Restriction from the Barnstable Land Trust, Inc. to the Town of Barnstable and the Board of Water Commissioners of the Cotuit Fire District.

TOWN OF BARNSTABLE
TOWN MANAGER: _____
Mark S. Ells

Barnstable, ss

On the day of , 2025, before me, the undersigned notary public, personally appeared Mark S. Ells, and proved to me through satisfactory evidence of identification, which was _to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as the Town Manager of the Town of Barnstable.

Notary Public
My Commission Expires

**ACCEPTANCE OF THE GRANT BY THE BOARD OF WATER COMMISSIONERS OF THE
COTUIT FIRE DISTRICT**

We, the undersigned, being a majority of the Board of Water Commissioners of the Cotuit Fire District hereby certify that at a public meeting duly held on _____, 2025, acting pursuant to the authority granted under Article 13 of the Cotuit Fire District Annual Meeting held on May 29, 2024, voted to approve and accept the foregoing Conservation Restriction from Barnstable Land Trust, Inc.

COTUIT WATER DISTRICT

By a majority of the Board of Water Commissioners:

Scott Horsley

Mark Robinson

David Churbuck

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this day of , 2025, before me, the undersigned notary public, personally appeared , , and , and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

**APPROVAL OF THE TOWN OF BARNSTABLE
TOWN COUNCIL**

At a public meeting duly held on , 2024, the Town Council of the Town of Barnstable, Massachusetts, voted to approve the foregoing Conservation Restriction from the Barnstable Land Trust, Inc. to the Town of Barnstable and the Board of Water Commissioners of the Cotuit Fire District in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and hereby certifies approval of the foregoing Conservation Restriction. An attested copy of the vote of the Town Council is attached hereto and included herein as Exhibit C.

TOWN COUNCIL PRESIDENT:

Felicia R. Penn

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On the day of , 2024, before me, the undersigned notary public, personally appeared **Felicia R. Penn**, and proved to me through satisfactory evidence of identification, which was to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as the President of and on behalf of the Town Council of the Town of Barnstable.

Notary Public
My Commission Expires:

**APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS OF THE
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from the Barnstable Land Trust, Inc. to the Town of Barnstable and the Board of Water Commissioners of the Cotuit Fire District in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2025

Rebecca L Tepper

Secretary of Energy and Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this day of , 2025, before me, the undersigned notary public, personally appeared Rebecca L Tepper, and proved to me through satisfactory evidence of identification which was

_____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

EXHIBIT A

Description of the Premises

The land in Barnstable, Massachusetts, containing 5.84 acres, +/-, shown on a plan of land titled "Plan of Subdivision of Land in Santuit, Barnstable, Mass, for Theodore Nigro, Scale: 1 inch = 40 Feet", dated May 21, 1973, by Robert H. Waite, registered land surveyor, West Yarmouth, Mass., recorded at the Barnstable County Registry of Deeds in Plan Book 278, Page 18.

For Grantors Title see Barnstable County Registry of Deeds at Book , Page .

Town Barnstable Assessors Map 024, Parcel 042

Street Address: 4609 Falmouth Road (Route 28), Village of Cotuit, Barnstable MA 02635

EXHIBIT B

Reduced Copy of Plan of Premises

For official full size plan see Barnstable County Registry of Deeds Plan Book 278 Page 18.

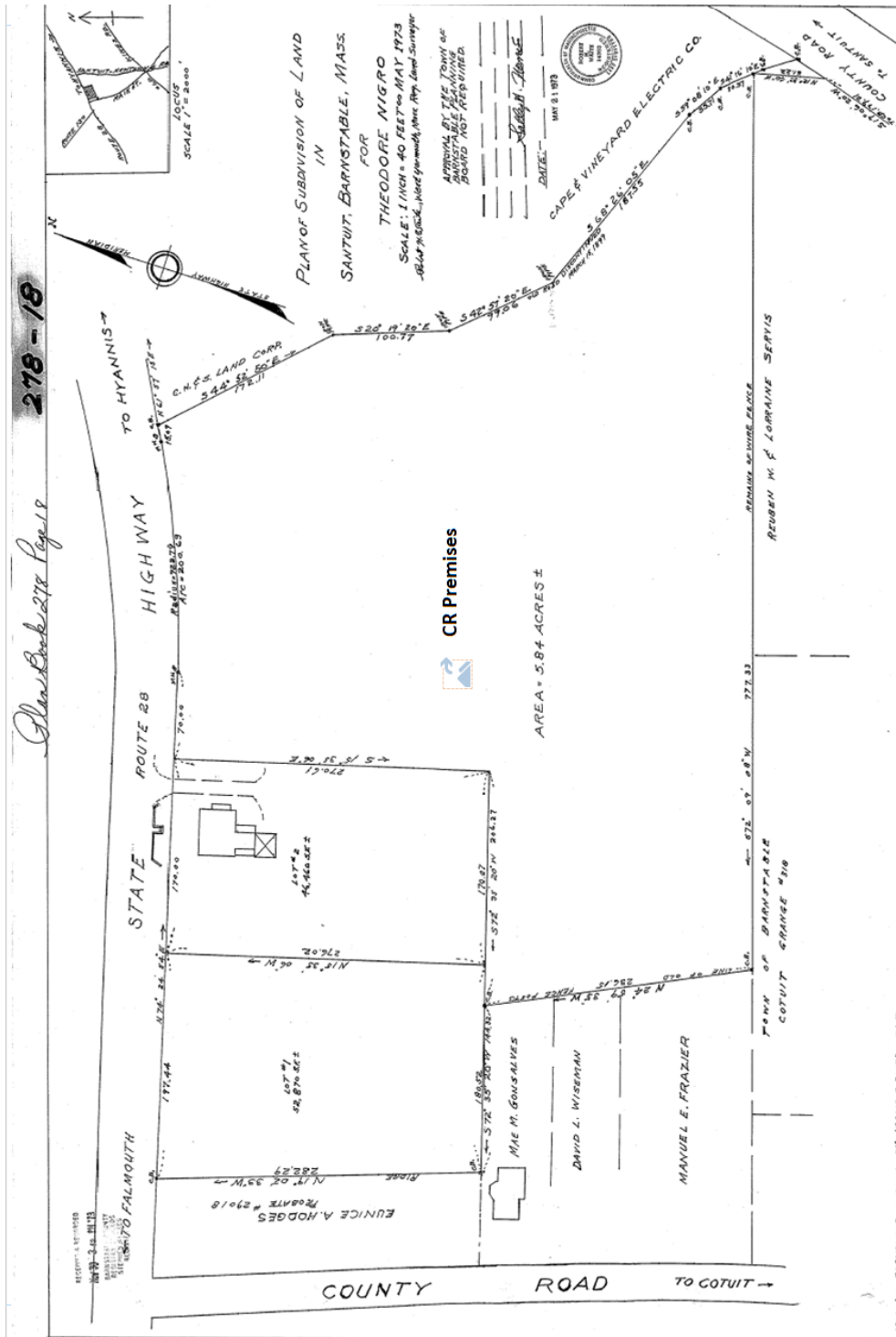


EXHIBIT C

Town Council Order

EXHIBIT D

Cotuit Fire District Vote Authoring Funds

EXHIBIT E

Massachusetts Department of Environmental Protection Approval

B. NEW BUSINESS (First Reading) (Refer to Second Reading on 07/18/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-236
INTRO: 06/27/2024**

2024-236 ORDER AUTHORIZING THE TOWN MANAGER TO ENTER INTO AND EXECUTE ON BEHALF OF THE TOWN AN AMENDMENT TO THE EMPLOYMENT CONTRACT BETWEEN THE TOWN AND MARK A. MILNE

ORDERED: That the Town Council hereby authorizes the Town Manager to enter into and execute on behalf of the Town an amendment to the employment contract between the Town and Mark A. Milne (“Milne”) entered into on July 1, 2021, under which Milne serves as the Town’s Director of Finance, to: (a) extend the term of the contract for an additional year, ending on June 30, 2027; (b) authorize Milne to work in a remote capacity on a full-time basis for a period commencing as of July 1, 2024 and ending on June 30, 2027; and (c) provide that if Milne’s employment is terminated due to the Town Manager’s determination that allowing him to work remotely is no longer feasible for the Town, that Milne shall continue to be paid his regular salary on a bi-weekly basis through the end of the fiscal year in which notice of such termination was provided or shall be paid a lump sum payment of 6 months’ salary, whichever is greater, with all other terms and conditions the same as those in the employment contract currently in effect between the parties.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (Refer to Second Reading 07/18/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-237
INTRO: 06/27/2024**

2024-237 APPROPRIATION ORDER IN THE AMOUNT OF \$37,000 FOR THE PURPOSE OF FUNDING THE TOWN'S SHARE OF THE COSTS RELATED TO THE INSTALLATION OF UP TO 37 ELECTRIC VEHICLE CHARGING STATIONS IN PUBLIC PARKING LOTS IN AND AROUND THE VILLAGE OF HYANNIS

ORDERED: That the amount of **\$37,000** be appropriated from the General Fund Reserves for the purpose of funding the Town's share of the costs related to the installation of up to thirty-seven (37) Electric Vehicle Charging stations in public parking lots in and around the Village of Hyannis.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Motion to Open Public Hearing
- _____ Rationale
- _____ Public Hearing
- _____ Close Public Hearing
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-237
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: David W Anthony, Director of Asset Management
DATE: June 27, 2024
SUBJECT: Appropriation Order in the amount of **\$37,000** for the purpose of funding the Town's share of the costs related to the installation of up to 37 electric vehicle charging stations in public parking lots in and around the Village of Hyannis

BACKGROUND: On December 7, 2023 the Town Council authorized the Town Manager to contract for and to expend two grants associated with this project, a \$264,409 reimbursement grant under the Massachusetts Electric Vehicle Incentive Program (MassEVIP) Public Access Charging (PAC) Program to acquire thirty-four electric vehicle charging station(s) and a \$15,097.80 reimbursement grant under the Massachusetts Electric Vehicle Incentive Program (MassEVIP) Public Access Charging (PAC) Program to acquire three electric vehicle charging station(s) for Fleet vehicles at 225 South Street (Armory) in Hyannis.

The distribution of funds and chargers from these grants are planned as follows:

- \$34,117.00 for ten ports at 744 West Main Street, Hyannis, MA
- \$42,647.00 for ten ports at 895 Falmouth Road, Hyannis, MA
- \$42,647.00 for ten ports at 18 North Street, Hyannis, MA
- \$34,117.00 for ten ports at 243 North Street, Hyannis, MA
- \$42,647.00 for ten ports at 25 Ocean Street, Hyannis, MA
- \$34,117.00 for ten ports at 367 Main Street, Hyannis, MA
- \$34,117.00 for eight ports at 141 Bassett Lane, Hyannis, MA
- \$15,098 for six ports at 225 South Street, Hyannis, MA

This program is closely tied to an Eversource initiative that funds and contracts directly for the installation of make-ready heavy infrastructure to install these EV Chargers. Eversource funds 100% of the costs for survey, design, contracting and installation of heavy cable from power points to the installed concrete pads in our parking lots where the actual EV Chargers funded by MASS EVIP will be installed. The total value of this Eversource funded work is expected to be \$1,246,059.

The identification of these locations was preliminarily completed through the work of Sean Hogan, Environmental and Sustainability Manager, and Eversource based on power availability and identified locations of public parking lots. The selection of equipment was a partnered decision taking into account durability, dependability, availability and consistency with other Town Installations. The oversight of all the EV charging stations will be administered through the Environmental and Sustainability Manager as part of the Asset Management Operations.

There is a small balance, not to exceed \$37,000, that the Town is responsible for related to this project. It represents less than 3% of the overall project cost. There is a possibility that as many as eight (8) level three charging stations will be folded into this program, which will lower the Towns cost as these will be free of charge, but the appropriation order is requested to cover the roughly 3% of the total project costs without those chargers in the plans.

ANALYSIS: This project, begun in 2022 to enhance and expand the Public's access to Electric vehicle charging stations in the Town, when fully installed, will include a total of 37 chargers (74 charging ports) over eight locations in the Town.

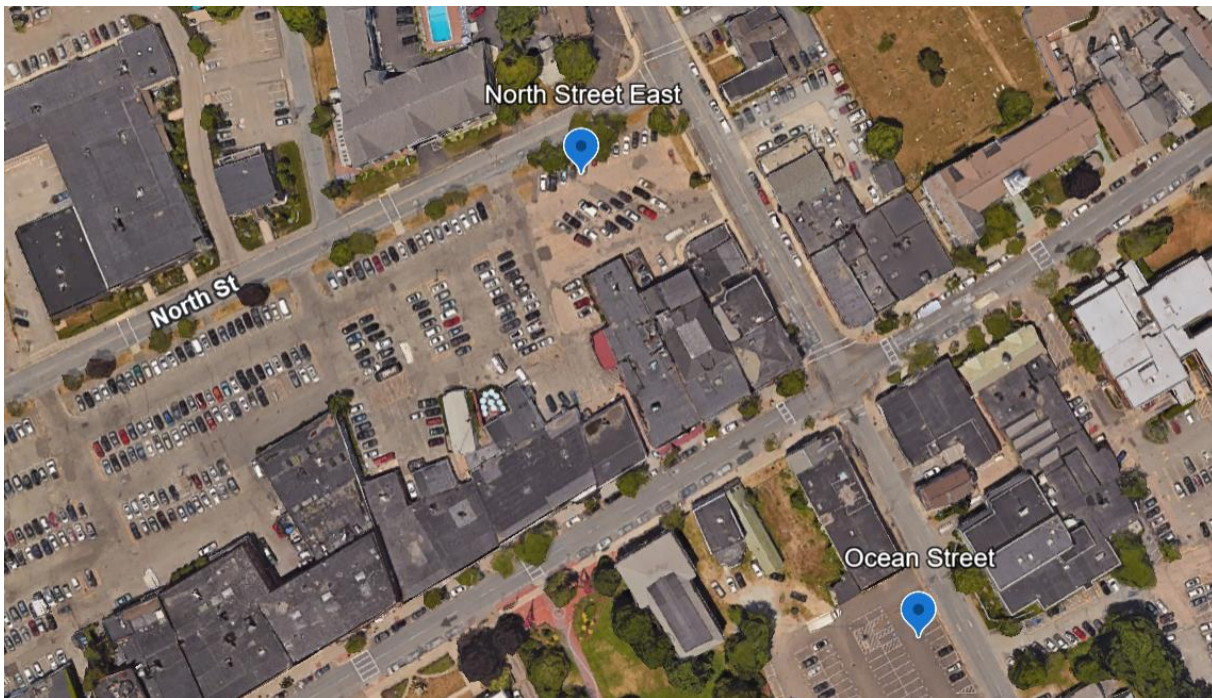
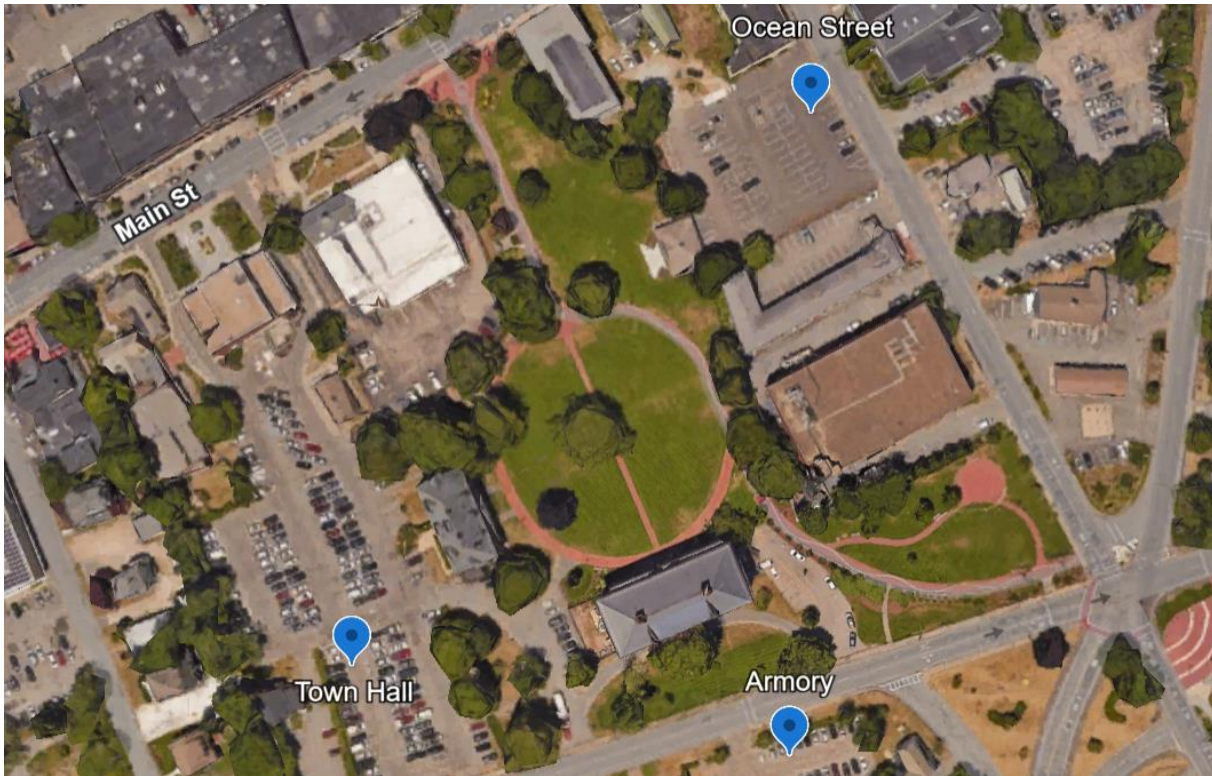
FISCAL IMPACT: The Town Manager has set charging fees through public fee hearings in 2023 so that when these chargers come online, the cost for the electricity will be paid by the users of these charging stations. A fractional amount is included in the per Kilowatt charge for future maintenance. The management of these stations will be through the Environmental and Sustainability Manager. The municipalities on Cape Cod, through the Cape Light Compact, are looking into a regional contract for EV Charger maintenance, with Barnstable taking a leading role in this contract development as we will have the highest number of EV chargers installed on Municipal lots on Cape when this is done. The funding provided by this request will not be included in the base operating budget going forward. This is a one-time request associated with the Town's portion of the project outside of the grant dollars. The General Fund Reserves will be used to fund these costs.

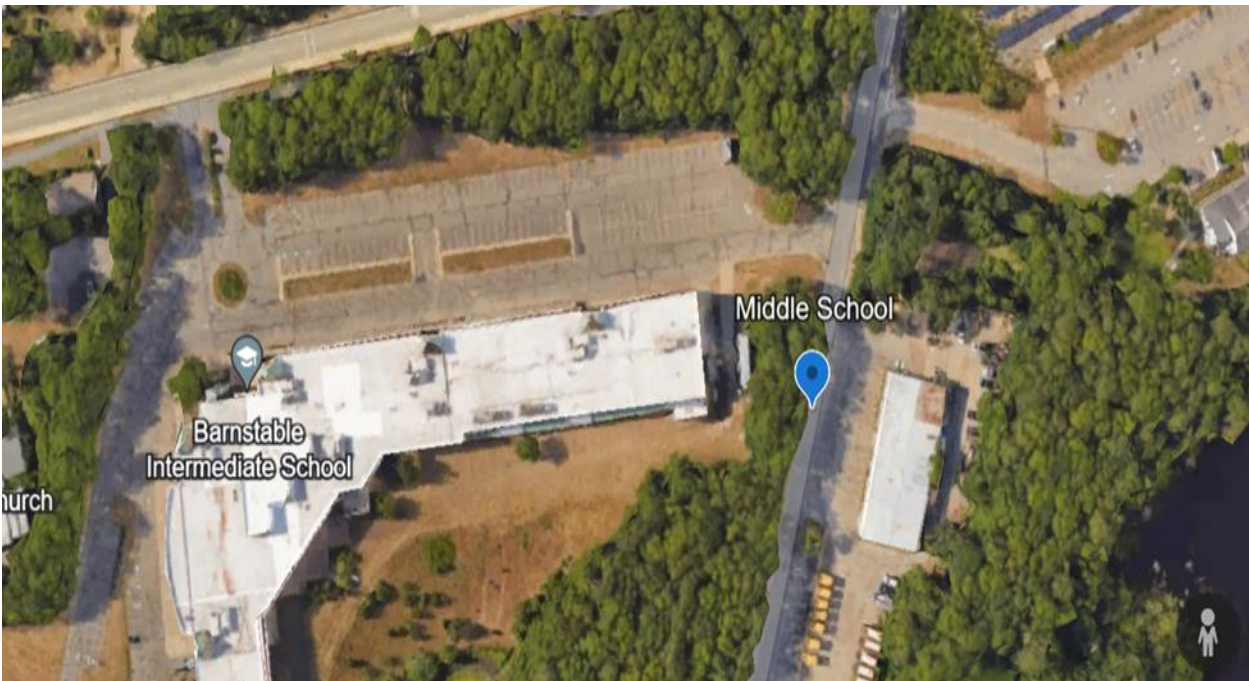
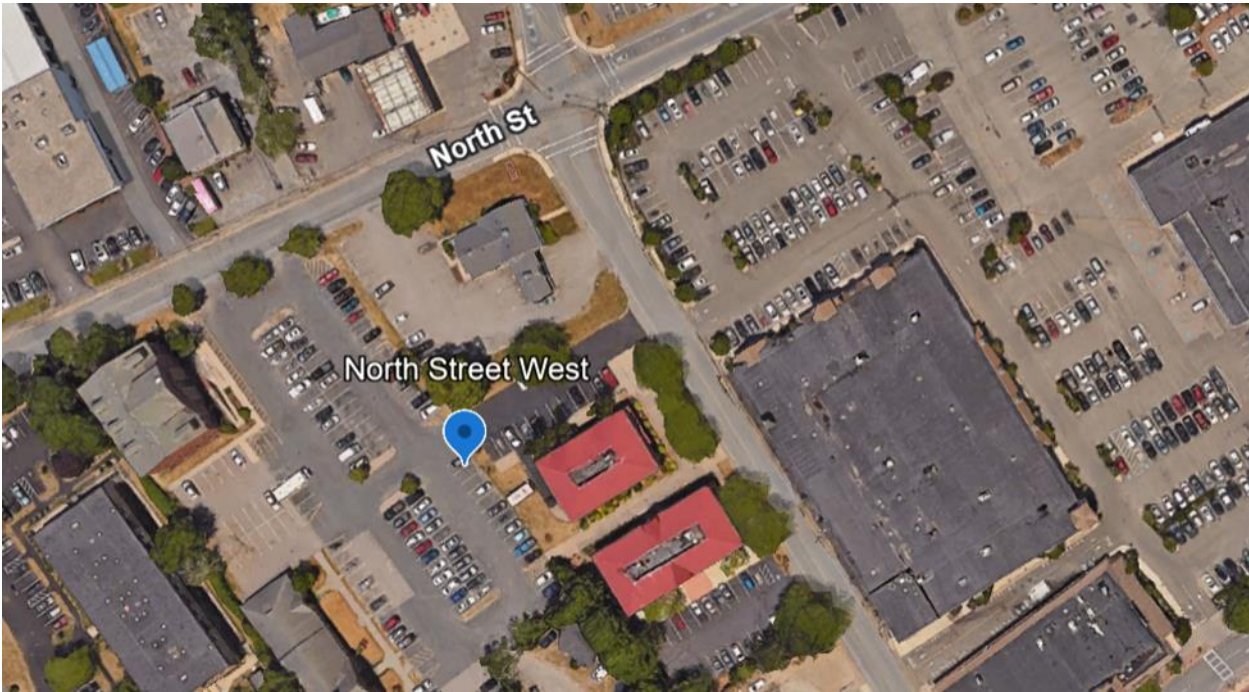
TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this supplemental appropriation request.

STAFF ASSISTANCE: David Anthony, Director of Asset Management, Sean Hogan, Environmental and Sustainability Manager.

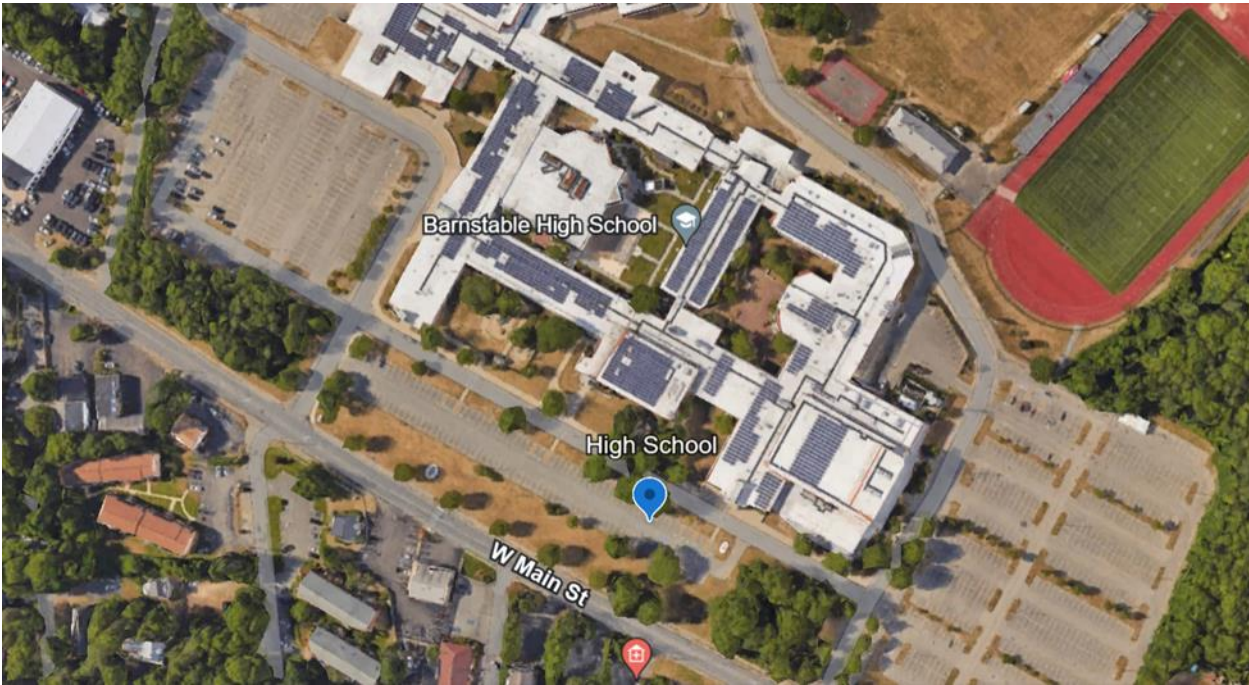
Potential EV Charger Sites

Location Exhibit in support of Town Council Appropriation Request





Asset Mgmt 6 27 24



Asset Mgmt 6 27 24

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-238
INTRO: 06/27/2024**

2024-238 CONFIRMING REAPPOINTMENTS TO THE AFFORDABLE HOUSING/GROWTH & DEVELOPMENT TRUST FUND BOARD

RESOLVED: That the Town Council hereby confirms the Town Manager’s reappointment of the following individuals to serve as Trustees of the Affordable Housing/Growth and Development Trust Fund Board (the “Board”), pursuant to the provisions of M.G.L. c. 44 § 55C, and in accordance with the Amended Declaration of Trust, as approved by the Board at its September 25, 2020 meeting:

Michael Andrew Clyburn, Assistant Town Manager, and a resident of Sandwich, MA, to a term expiring June 30, 2025;

Mark Milne, Town Director of Finance, and a resident of Marstons Mills, MA, to a term expiring June 30, 2026;

Wendy Northcross, a resident of West Barnstable, MA, to a term expiring June 30, 2025;

Laura Shufelt, a resident of West Barnstable, MA, to a term expiring June 30, 2026.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-239
INTRO: 06/27/2024**

2024-239 APPROVING THE APPOINTMENT OF DAVID ANTHONY, THE TOWN'S DIRECTOR OF ASSET MANAGEMENT, TO SERVE AS THE TOWN'S REPRESENTATIVE ON THE CAPE & ISLAND VINEYARD ELECTRIC COOPERATIVE, INC.

RESOLVED: Upon the recommendation of the Town Manager, the Town Council does hereby approve the appointment of David Anthony, the Town's Director of Asset Management, to serve as the Town's representative to the Cape & Island Vineyard Electric Cooperative, Inc. ("CVEC"), of which the Town is a member. The purpose of CVEC is to develop and/or own renewable and non-renewable electric generation facilities, and to procure and/or sell long-term electric supply or other energy-related goods or services, including renewable energy certificate contracts, at competitive prices to its members.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-239
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: June 17, 2024
SUBJECT: Appointment to Cape and Vineyard Electric Cooperative

BACKGROUND: The **Cape & Vineyard Electric Cooperative, Inc.** (“CVEC”) was organized on September 12, 2007. CVEC was formed under Massachusetts General Laws, c. 164, §136, which provides for the establishment of energy cooperatives. CVEC has the authority to develop, manage, and/or own renewable electric generation and storage facilities and to procure and/or sell long-term electric supply or other energy-related goods or services. CVEC’s activities, policies and goals include acquiring the best market rate for electricity supply for its municipal members and participants, promoting and supporting the development of renewable energy resources, improving the quality of service and reliability, and utilizing and encouraging conservation and other forms of energy efficiency.

CVEC’s formation stemmed from the members’ desire to develop renewable energy projects and use renewable energy projects to stabilize electric rates for ratepayers within CVEC member communities. CVEC Requests for Proposals on behalf of multiple projects, bid out at the same time for efficiency and pricing leverage, have resulted in projects for member towns that might never have been put into place due to costs, expertise in contracting, or economies of scale. There are over 50 Solar projects developed through CVEC since 2007, including battery storage projects, producing over 50 Megawatts of Renewable Solar energy. All of CVEC’s solar projects are owned by third-party developers. CVEC buys the energy from the developer and resells it to the town, charging a nominal administration fee for each kilowatt hour sold. CVEC’s thus operates as a participant’s “back office” by managing the billing process as well as overseeing and troubleshooting any project issues.

The CVEC Solar arrays in Barnstable total over 14 megawatts of name plate electricity output. These projects are at the Landfill (2 arrays), Cape Cod Gateway Airport (2 Arrays), West Villages School (roof mounted small array), Barnstable High School (2 roof top solar arrays) and Barnstable Adult Community Center (BACC) (Ground Mounted array near the parking lot).

On July 19, 2007, the Town Council voted to authorize then Town Manager John Klimm to join the Cooperative for Barnstable. The Town of Barnstable, the Cape Light Compact and the County of Barnstable were the first three members of CVEC. An executive committee of five members, which includes the initial three members and two additional at large members elected from the other members, was formed to oversee the regular business of CVEC. This executive committee performs its functions consistent with the CVEC bylaws and conducts the business of CVEC through a hired Administrator. Policy changes and budgets are approved by the full board of directors.

Currently, there are twenty-five members of CVEC: Aquinnah, Barnstable, Barnstable County, Bourne, Brewster, Chatham, Chilmark, Dennis, Dukes County, Eastham, Edgartown, Falmouth, Harwich, Oak Bluffs, Orleans, Marion, Mashpee, Nantucket, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Yarmouth, and the Cape Light Compact.

ANALYSIS: Each member community appoints an individual to represent the Town. Town Manager John Klimm appointed former Assistant Town Attorney Charles McLaughlin to serve as Barnstable's representative. Over the past 17 years, Attorney McLaughlin represented the Town until his recent retirement. Given the specific energy-related work done by CVEC, the appointed representative must have a working knowledge of renewable energy, contracting and a solid understanding of how energy markets work. In addition, the appointed individual, while representing their respective towns or organizations, needs to have a regional perspective and understanding of greater Cape Cod. As the representatives are subject to the Massachusetts Conflict of Interest Law, and CVEC operates under the Open Meeting Laws, familiarity with the requirements of these laws is necessary.

David Anthony, Director of Asset Management, has worked for the Town for 26 years. His background in procurement, energy contracting, Risk Management and Property Management gives him a solid understanding of the issues that CVEC deals with on a regular basis. David has had the opportunity to work since 2007 on CVEC projects and has been involved in every CVEC project and installation in the Town of Barnstable. He has also served as the Town's representative to the Cape Light Compact Governing Board since 2006, and currently serves as Secretary to the CLC. A number of the CVEC directors also serve on the Cape Light Compact Governing Board for their respective Towns.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this appointment.

STAFF ASSISTANCE: David Anthony, Director of Asset Management

B. NEW BUSINESS (Refer to Public Hearing 07/18/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-240
INTRO: 06/27/2024**

2024-240 APPROPRIATION ORDER IN THE AMOUNT OF \$1,150,000 IN COMMUNITY PRESERVATION ACT FUNDS AUTHORIZING THE ACQUISITION OF PROPERTY LOCATED AT 211 CEDAR TREE NECK ROAD, MARSTONS MILLS, FOR OPEN SPACE AND RECREATION PURPOSES

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G. L. c 44B, the amount of Four Hundred and Fifty Thousand Dollars (**\$450,000**) be appropriated from the amount set-aside for Open Space and Recreation and the amount of Seven Hundred Thousand Dollars (**\$700,000**) be appropriated from the Undesignated Fund within the Community Preservation Fund for the purpose of acquiring property located at 211 Cedar Tree Neck Road, Marstons Mills, Assessors’ Map 076, Parcel 025 (the “Property”), for open space and recreation purposes. Funds not used for the purchase of the Property will be returned to the Community Preservation Act Fund. Further, it is ordered that the Town Manager, on behalf of the Town, is hereby authorized to expend the amounts appropriated and to take or acquire the Property, through a negotiated transaction, subject to oversight by the Community Preservation Committee, and to negotiate, accept, approve, execute, receive, deliver and record any written instruments to effectuate this Order and complete the transaction.

SPONSOR: Mark S. Ells, 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
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-240
INTRO: 06/27/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee on Behalf of Community Preservation Committee
DATE: June 27, 2024
SUBJECT: Appropriation Order in the amount of **\$1,150,000** in Community Preservation Act Open Space/Recreation and Undesignated Funds for the Acquisition of 211 Cedar Tree Neck Road, Marstons Mills for Open Space and Recreation

BACKGROUND: At the June 17, 2024, Community Preservation Committee meeting, the six Committee members present voted unanimously to recommend to the Town Council through the Town Manager, the Marina Enterprise Fund's request for a total of \$1,150,000 in Community Preservation Act Funds to be transferred first from the Open Space/Recreation Fund and the remaining balance to be transferred from the Undesignated Fund for the acquisition of 211 Cedar Tree Neck Road, Marstons Mills, Assessors' Map 076, Parcel 025. The property directly abuts the Marina at Prince Cove that is owned by the Town of Barnstable and would allow for a phased expansion of the Marina providing additional public access to the water, supporting multiple recreational uses, and maximizing the Town-owned Marina. Funds not used for the purchase of the property will be returned to the Community Preservation Act Fund. Funding for any future expansions will be provided by the Marina Enterprise Fund.

ANALYSIS: This acquisition would allow expansion of the abutting Marina owned by the Town of Barnstable and provide residents and visitors with additional public access to the water and recreation opportunities.

FISCAL IMPACT: This appropriation is provided from the amount set aside within the Community Preservation Act Fund for Open Space/Recreation which has an available balance of \$450,000 and the Undesignated Fund within the Community Preservation Fund which has an available balance of \$10,866,000. There is no impact on the General Fund Operating Budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee