



Town of Barnstable  
Town Council  
James H. Crocker Jr. Hearing Room  
367 Main Street, 2<sup>nd</sup> floor,  
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# 2025-181 Updated on  
04/29/2025 to add  
Item#2025-182 and  
Item#2025-183

## TOWN COUNCIL MEETING

May 01, 2025

6:00 pm

Councillors:

Craig Tamash  
President  
Precinct 4

Kris Clark  
Vice President  
Precinct 11

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

Paula Schnepf  
Precinct 12

Felicia Penn  
Precinct 13

Administrator:  
Cynthia A. Lovell  
[Cynthia.lovell@town.barnstable.ma.us](mailto:Cynthia.lovell@town.barnstable.ma.us)

The May 01, 2025 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2<sup>nd</sup> 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/89372940737> Meeting ID: 893 7294 0737  
US Toll-free 1-888- 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 and available on Video on Demand on the Town website)

#### 7. MINUTES

- ACT ON PUBLIC SESSION MINUTES: April 17, 2025

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

- District Attorney Robert Galibois update

#### 9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

#### 10. ADJOURNMENT

NEXT REGULAR MEETING: May 15, 2025

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**A. OLD BUSINESS**

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**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# 2025-151**  
**INTRO: 04/17/2025, 05/01/2025**

**2025-151 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Historical Commission:** Andrew Fisher, as a regular member to a term expiring 06/30/2027; **Housing Committee:** Joseph Taccogna, as a regular member, to a term expiring 06/30/2026; **Human Services Committee:** Patrick Downey, as a regular member to a term expiring 06/30/2026; **Mid Cape Cultural Council:** Mary Bianco, as a regular member, to a term expiring 06/2026

**SPONSOR:** Appointments Committee Members: Councilor Kristin Terkelsen, Chair; Councilor Jeffrey Mendes, Chair; Councilor John Crow, Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
<u>04/17/2025</u>	<u>Refer to Second Reading 05/01/2025</u>

\_\_\_\_\_

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-123**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-123 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,000,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE UNITED ELEMENTARY SCHOOL HVAC EQUIPMENT REPLACEMENT DESIGN PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$1,000,000** be appropriated for the purpose of funding the Barnstable United Elementary School HVAC Equipment Replacement Design Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,000,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-124**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-124 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$500,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL GYM FLOOR REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$500,000** be appropriated for the purpose of funding the Barnstable High School Gym Floor Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$500,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-125**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-125 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$550,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL CULINARY KITCHEN PHASE II PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$550,000** be appropriated for the purpose of funding the Barnstable High School Culinary Kitchen Phase II Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$550,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-126**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-126 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$3,000,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL PERFORMING ARTS CENTER UPGRADE PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$3,000,000** be appropriated for the purpose of funding the Barnstable High School Performing Arts Center Upgrade Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$3,000,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-127**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-127 APPROPRIATION ORDER IN THAT THE AMOUNT OF \$200,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE WEST BARNSTABLE ELEMENTARY SCHOOL GYMNASIUM FLOOR REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$200,000** be appropriated for the purpose of funding the Barnstable West Barnstable Elementary School Gymnasium Floor Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$200,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-128**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-128 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE PUBLIC SCHOOLS DISTRICT WIDE MECHANICAL UPGRADES PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$250,000** be appropriated for the purpose of funding the Barnstable Public Schools District Wide Mechanical Upgrades Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$250,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-129**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-129 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$350,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE PUBLIC SCHOOLS DISTRICT WIDE HVAC REPAIRS PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$350,000** be appropriated for the purpose of funding the Barnstable Public Schools District Wide HVAC Repairs Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$350,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-130**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-130 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE INTERMEDIATE SCHOOL GYM FLOOR REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$250,000** be appropriated for the purpose of funding the Barnstable Intermediate School Gym Floor Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$250,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-131**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-131 APPROPRIATION ORDER IN THE AMOUNT OF \$162,700 FOR THE PURPOSE OF FUNDING THE BARNSTABLE INTERMEDIATE SCHOOL LIBRARY FLOOR REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$162,700** be appropriated for the purpose of funding the Barnstable Intermediate School Library Floor Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$162,700** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-132**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-132 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$2,100,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE INTERMEDIATE SCHOOL ROOFTOP UNIT REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$2,100,000** be appropriated for the purpose of funding the Barnstable Intermediate School Rooftop Unit Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$2,100,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-133**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-133 APPROPRIATION ORDER IN THE AMOUNT OF \$80,000 FOR THE PURPOSE OF FUNDING THE DEMOLITION OF OLD PORTABLES PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$80,000** be appropriated for the purpose of funding the Demolition of Old Portables Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$80,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-134**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-134 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$507,600 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL EXHAUST FAN REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$507,600** be appropriated for the purpose of funding the Barnstable High School Exhaust Fan Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$507,600** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-135**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-135 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$900,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE UNITED ELEMENTARY SCHOOL BUILDING ENVELOPE UPGRADE PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$900,000** be appropriated for the purpose of funding the Barnstable United Elementary School Building Envelope Upgrade Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$900,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-136**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-136 APPROPRIATION ORDER IN THE AMOUNT OF \$50,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL LOCKER ROOM RENOVATIONS PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$50,000** be appropriated for the purpose of funding the Barnstable High School Locker Room Renovations Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$50,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-137**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-137 APPROPRIATION ORDER IN THE AMOUNT OF \$160,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE PUBLIC SCHOOL NETWORK INFRASTRUCTURE REPLACEMENT AND UPGRADE PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$160,000** be appropriated for the purpose of funding the Barnstable Public School Network Infrastructure Replacement and Upgrade Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$160,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-138**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-138 APPROPRIATION ORDER IN THE AMOUNT OF \$200,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE PUBLIC SCHOOL SECURITY CAMERA UPGRADE PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$200,000** be appropriated for the purpose of funding the Barnstable Public School Security Camera Upgrade Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$200,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Vote

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-139**

**INTRO: 04/03/2025, 04/17/2025, 05/01/2025**

**2025-139 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$500,500 FOR THE PURPOSE OF FUNDING THE BARNSTABLE WEST BARNSTABLE ELEMENTARY SCHOOL ROOF REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2026 – FISCAL YEAR 2030 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the amount of **\$500,500** be appropriated for the purpose of funding the Barnstable West Barnstable Elementary School Roof Replacement Project as outlined in the Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$500,500** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Public Hearing 04/17/2025</u>
<u>04/17/2025</u>	<u>Open and continue to 05/01/2025</u>

- Read Item
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-152  
INTRO: 05/01/2025**

**2025-152 TRANSFER ORDER IN THE AMOUNT OF \$9,000 TO FUND REPAIRS TO THE POLICE DEPARTMENT'S NAUSET BOAT AND PURCHASE REDACTION SOFTWARE ASSOCIATED WITH BODY WORN CAMERAS**

**RESOLVED:** That the amount of **\$9,000** be transferred from the Fiscal Year 2025 Police Department Personnel Budget to the Fiscal Year 2025 Police Department Operating Expense Budget for the purpose of funding repairs to the flooring in the Nauset Police Boat and purchasing a license for redaction software necessary to enable the Department to properly respond to public records requests related to Body Worn Cameras.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION
_____	_____
_____	_____

- Read item
- Rationale
- Council discussion
- Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-152**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Jean B. Challies, Chief of Police  
**DATE:** May 01, 2025  
**SUBJECT:** Transfer Order in the amount of **\$9,000** to fund repairs to the Police Department's Nauset Boat and purchase redaction software associated with body worn cameras

**BACKGROUND:** Since the Department launched the Axon Bodycam Program in May of 2024, the Records Department has reviewed upwards of 200 bodycam videos relevant to FOIA and Public Records requests. During that time Axon allowed the Department to briefly test their Redaction Assistant Software Program to assist in the legally required redaction of bodycam videos that are requested and then disseminated to the requesting party. The assistance of this Artificial Intelligence (AI) redaction tool has enabled the Department's Records Access Officer and her designee to redact requested bodycam videos in a timely manner, which would otherwise be completed manually requiring hours to complete and overtime expense. For example, this AI tool can return redaction results of bodycam videos up to 2 hours long within 10 minutes, whereas it would take upwards of 4 hours or more to complete this task manually and is extremely burdensome. This software has proven to be so helpful that the Department has continued to use this software beyond the testing period. The annual cost of the Axon Evidence Redaction User License is \$12,473 and will be added in the subsequent fiscal year's operating budgets. For Fiscal Year 2025 Axon is charging the Police Department a prorated amount of \$7,295 for this software license beyond the testing period and is part of this request.

Additionally, the Police Marine Unit personnel have determined that there is rot starting on the deck in the stern area of E-602, our 21' Nauset police boat. The unit consulted with experts at Millway Marine in Barnstable and the recommendation was to reinforce the deck by epoxying plywood over and beyond the damaged area and then sealing it with a layer of fiberglass. The deck will then be resurfaced and a new deck coating/sealant applied. There will be two new access hatches installed to replace the two that were leaking causing the damage. The work will be completed internally by the Police Marine Unit and there will be no overtime costs associated with these repairs. This boat will be ready for the opening of the season. The cost of the materials needed to repair the Nauset police boat is \$1,705 and is also part of this request.

**ANALYSIS:** The acceptance of this request will allow the Barnstable Police Department to proceed with these purchases.

**FISCAL IMPACT:** The available funds in the Police Department personnel budget are due to several vacant positions throughout the first three quarters of the fiscal year resulting in vacancy savings. The total Fiscal Year 2025 operating budget appropriation for the Police Department is not changing.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends approval of this transfer order request.

**STAFF ASSISTANCE:** Jean B Challies, Chief of Police; Anne Spillane, Director of Finance and Support Services, Barnstable Police Department

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-153  
INTRO: 05/01/2025**

**2025-153 TRANSFER ORDER IN THE AMOUNT OF \$124,507 TO FUND THE PURCHASE OF OFFICE FURNISHINGS AND THE REDESIGN OF OFFICE SPACE AT THE POLICE DEPARTMENT FACILITY**

**RESOLVED:** That the amount of **\$124,507** be transferred from the Fiscal Year 2025 Police Department Personnel Budget to the Fiscal Year 2025 Police Department Operating Capital Budget for the purpose of funding the purchase of office furnishings and the redesign of office space at the Police Department facility located at 1200 Phinney’s Lane, Hyannis.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-153**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Jean B Challies, Chief of Police  
**DATE:** May 01, 2025  
**SUBJECT:** Transfer Order in the amount of **\$124,507** from the Fiscal Year 2025 Police Department Personnel Budget to the Fiscal Year 2025 Police Department Operating Capital Budget to fund the purchase of office furnishings and facility renovations

**BACKGROUND:** The Barnstable Police Department to fund the update and modernization of office space and furniture within the Barnstable Police Department facility located at 1200 Phinney's Lane. Much of the existing office setups are original from when the police facility was built in 1981. The need for space has significantly changed over the years with an increase in personnel, specialty units and general growth and the working space is now significantly inadequate in both the use of space and in the functionality of the existing furniture. In several instances there are 2-3 people working in a space that is the size of a large closet. This request seeks to refurbish and rethink the existing building usage by replacing bulky office furniture and redesigning offices in order to maximize the efficient use of space to accommodate a growing workforce, new functions and operations now and into the future.

**ANALYSIS:** The police department has conferred with WB Mason, the Department of Public Works Structures & Grounds Division; and Ockers to develop a plan and a budget for these needed updates. The offices that will be impacted are the Sergeants Office; Report Writing; Traffic; Dispatch Supervisor Office; Clinician Office; and Police Administration.

**FISCAL IMPACT:** This one-time funding request of \$124,507 includes the redo of office space, office furnishings, and wiring, and will be funded via a transfer of monies from the Police Department personnel budget which has accumulated enough savings from vacancies in positions throughout the year.

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

**STAFF ASSISTANCE:** Jean B Challies, Chief of Police; Jennifer Ellis, Deputy Chief; Anne Spillane, Director of Finance and Support Services, Barnstable Police Department

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-154  
INTRO: 05/01/2025**

**2025-154 TRANSFER ORDER IN THE AMOUNT OF \$19,800 TO FUND THE PURCHASE OF NAVIGATION EQUIPMENT AND BOAT TRAILER FOR THE MARINE AND ENVIRONMENTAL AFFAIRS DEPARTMENT**

**RESOLVED:** That the amount of **\$19,800** be transferred from the Fiscal Year 2025 Marine and Environmental Affairs Department Personnel Budget to the Fiscal Year 2025 Marine and Environmental Affairs Department Operating Expense Budget for the purpose of funding the replacement of navigation equipment and boat trailer.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-154**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Derek Lawson, Director, Marine and Environmental Affairs  
**DATE:** May 01, 2025  
**SUBJECT:** Transfer Order in the amount of **\$19,800** to fund the purchase of navigation equipment and boat trailer for the Marine and Environmental Affairs Department.

**BACKGROUND:** Requesting one-time funding to replace outdated navigational equipment on the division's 25-foot Parker as well as one-time funding to replace an outdated and deteriorating boat trailer. This trailer is essential for the Harbormaster Division operations, and it transports the division's 25-foot Parker. This replacement will ensure operational safety.

**ANALYSIS:** The current vessel is operating with the original navigational equipment purchased in 2007. Reliable and modern navigation systems are critical to ensure safe, efficient operations. This existing vessel services as a backup patrol vessel and is also the town's Aid to Navigation (ATON) vessel. Replacing the aging navigation will help to ensure the towns ATON's are on location providing safe navigation for recreational and commercial vessel traffic. The existing navigation equipment is no longer working on this vessel. The estimated cost is \$7,800.

The current boat trailer purchased in 2007 has reached the end of its useful life for hauling vessels. Over time, this trailer has been repaired, and parts have been replaced. It has suffered significant wear and tear leading to safety concerns and operational disruptions. This is a one-time funding request to replace this trailer. If the division is not provided with the funding to replace the existing trailer, the vessel it services may not be able to operate, impacting operations. The estimated cost is \$12,000.

**FISCAL IMPACT:** This one-time funding request of \$19,800 for navigation equipment and trailer will be funded via a transfer from the Marine and Environmental Affairs Department personnel budget which has accumulated enough savings from vacancies in positions throughout the year.

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

**STAFF SUPPORT:** Derek Lawson, Director Marine and Environmental Affairs; Brian Taylor, Harbormaster

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-155  
INTRO: 05/01/2025**

**2025-155 AUTHORIZATION TO CONTRACT FOR AND EXPEND A FISCAL YEAR 2025 GRANT IN THE AMOUNT OF \$3,928 FROM RESTORE AMERICA’S ESTUARIES FOR THE PURPOSE OF FUNDING THE PURCHASE OF WATER QUALITY EQUIPMENT AND PLANTINGS FOR STORMWATER SWALES**

**RESOLVED:** That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2025 Grant from Restore America’s Estuaries, a non-profit organization, in the amount of **\$3,928** for the purpose of purchasing water quality equipment for the Town’s estuaries and ponds monitoring programs and plantings for stormwater swales.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rational
- Council Discussion
- Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-155**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director of Public Works  
**DATE:** May 01, 2025  
**SUBJECT:** Authorization to contract for and expend a Fiscal Year 2025 grant in the amount of **\$3,928** from Restore America's Estuaries for the purpose of funding the purchase of water quality equipment and plantings for stormwater swales

**BACKGROUND:** Restore America's Estuaries (RAE) is providing a grant opportunity for communities in the Southeast New England Program (SNEP) region that have projects aimed at restoring clean water, healthy ecosystems, and sustainable communities. The purpose of this grant program is to assist stakeholders in funding purchases of equipment and supplies to advance these types of projects.

**ANALYSIS:** The Town of Barnstable has been awarded a \$3,928 grant to purchase equipment for the Town's estuaries and ponds monitoring programs and plantings for stormwater swales.

**FISCAL IMPACT:** This is a reimbursement grant in the amount of \$3,928. The Town must expend and request reimbursement of the costs. All costs associated with this grant must be expended prior to May 31, 2025.

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

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-156  
INTRO: 05/01/2025**

**2025-156 RESOLVE APPROVING AN EXEMPTION UNDER M.G.L. CHAPTER 268A,  
SECTION 20(d)**

**RESOLVED:**That the Town Council does hereby approve an exemption of Gregory Egan’s financial interest in a municipal contract under M.G.L. c. 268A, section 20(d), as further described in the attached disclosure filed by Mr. Egan with the Town Council and authorizes the Town Council President to sign the Ethics Commission form approving such exemption on behalf of the Town Council.

**SPONSOR:** Councilor Paul Neary, Precinct 6, Liaison to the Waterways Committee

DATE	ACTION
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-156**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Karen L. Nober, Town Attorney  
**DATE:** May 01, 2025  
**SUBJECT:** Resolve approving an exemption under M.G.L. c. 268A, Section 20(d)

**BACKGROUND:** Section 20 of M.G.L. c. 268A, the state conflict of interest law, prohibits municipal employees from having a financial interest in a municipal contract. However, that section of the law contains a number of exemptions for municipal employees and for special municipal employees. Section 20(d) provides an exemption for a special municipal employee who files with the Town Clerk a disclosure of the employee's financial interest and the interests of the employee's immediate family in the contract, if the Town Council approves the exemption.

Gregory Egan is an unpaid member of the Town's Waterways Committee, and that position has been designated by the Town Council as a "special municipal employee" position for purposes of the conflict-of-interest law. As set forth in the attached disclosure, Mr. Egan's company, Crosby Yacht Yard, Inc., seeks to rent a seasonal boat slip at a discounted rate to support community safety to the Town's Marine and Environmental Affairs (MEA) Department for use by the Harbormaster. As President of Crosby Yacht Yard, Mr. Egan has a financial interest in this contract. In accordance with the conflict-of-interest law, Mr. Egan seeks Town Council approval of an exemption of his financial interest pursuant to Section 20(b). If the Council approves the exemption, Mr. Egan will file the attached disclosure with the Town Clerk, along with a copy of the Town Council vote. If the Council chooses not to approve the exemption, Mr. Egan will not enter into this contract with MEA.

**FISCAL IMPACT:** The cost of the slip is currently \$5,351.94. This will be paid for through the Harbormaster Division operating budget. An increase of \$5,000 is being requested in Fiscal Year 2026 for the Harbormaster Division operating budget; the remaining funds can be covered by the existing budget.

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney

**DISCLOSURE BY SPECIAL MUNICIPAL EMPLOYEE  
OF FINANCIAL INTEREST IN A MUNICIPAL CONTRACT  
AS REQUIRED BY G. L. c. 268A, § 20(d)**

SPECIAL MUNICIPAL EMPLOYEE INFORMATION	
Name of special municipal employee:	Gregory Egan
Put an X beside one statement.	<p>I am a <b>special municipal employee</b> because:</p> <p><input type="checkbox"/> I am a selectman in a town with a population of 10,000 or fewer people;</p> <p><input type="checkbox"/> I am not a mayor, alderman or city councilor, and</p> <p><input checked="" type="checkbox"/> I serve in a municipal position for which <b>no compensation</b> is provided, or</p> <p><input type="checkbox"/> I earned <b>compensation for fewer than 800 hours</b> in the preceding 365-day period, or</p> <p><input type="checkbox"/> By the classification of my position by my municipal agency or by the terms of a contract or my conditions of employment, I am <b>permitted to have personal or private employment during normal business hours.</b></p> <p><input type="checkbox"/> I work for a company or organization which has a contract with a municipal agency, and I am a "<b>key employee</b>" because the contract identifies me by name or it is otherwise clear that the municipal is contracting for my services in particular, and the <b>contract states that I am a special municipal employee or indicates that I meet one of the three requirements listed above.</b></p>
Title/ Position	Waterways Committee Member
Fill in this box if it applies to you.	If you are a special municipal employee because a municipal agency has contracted with your company or organization, please provide the name and address of the company or organization.
Municipal Agency/ Department:	This is "my Municipal Agency." Waterways Committee
Agency Address:	Barnstable Town Hall 367 Main St. Hyannis, MA
Office phone:	
Office e-mail:	
	Check one: <input type="checkbox"/> Elected    or <input checked="" type="checkbox"/> Non-elected
Starting date as a special municipal employee.	Appointed July 15, 2021; reappointed Sept. 5, 2024

<p><b>BOX # 1</b></p> <p>Select either <b>STATEMENT #1</b> or <b>STATEMENT #2.</b></p> <p><b>Write an X by your financial interest.</b></p>	<p><b>ELECTED SPECIAL MUNICIPAL EMPLOYEE</b></p> <p>I am an elected special municipal employee.</p> <p><input type="checkbox"/> <b>STATEMENT #1:</b> I had a financial interest in a contract made by a municipal agency before I was elected to a compensated special municipal employee position. I will continue to have this financial interest in a municipal contract.</p> <p><input type="checkbox"/> <b>STATEMENT #2:</b> I will have a new financial interest in a contract made by a municipal agency.</p> <p><b>My financial interest in a contract made by a municipal agency is:</b></p> <p><input type="checkbox"/> A compensated, non-elected position with a municipal agency.</p> <p><input type="checkbox"/> A contract between a municipal agency and myself.</p> <p><input type="checkbox"/> A financial benefit or obligation because of a contract that a municipal agency has with another person or with a company or organization.</p> <p><input type="checkbox"/> Other work because a municipal agency has a contract with my company or organization and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the municipal is contracting for my services in particular.</p>
<p><b>BOX #2</b></p> <p>Select either <b>STATEMENT #1</b> or <b>STATEMENT #2.</b></p> <p><b>Write an X by your financial interest.</b></p>	<p><b>NON-ELECTED SPECIAL MUNICIPAL EMPLOYEE</b></p> <p>I am a non-elected special municipal employee (compensated or uncompensated).</p> <p><input type="checkbox"/> <b>STATEMENT #1:</b> I had a financial interest in a contract made by a municipal agency, other than an employment contract, before I took a non-elected, compensated special municipal employee position. I will continue to have this financial interest in a municipal contract.</p> <p><b>My financial interest in a contract made by a municipal agency is:</b></p> <p><input type="checkbox"/> A contract between a municipal agency and myself, but not an employment contract.</p> <p><input type="checkbox"/> A financial benefit or obligation because of a contract that a municipal agency has with another person or with a company or organization.</p> <p>OR</p> <p><input checked="" type="checkbox"/> <b>STATEMENT #2:</b> I will have a new financial interest in a contract made by a municipal agency.</p> <p><b>My financial interest in a contract made by a municipal agency is:</b></p> <p><input type="checkbox"/> A compensated, non-elected position with a municipal agency.</p> <p><input type="checkbox"/> A contract between a municipal agency and myself.</p> <p><input checked="" type="checkbox"/> A financial benefit or obligation because of a contract that a municipal agency has with another person or with a company or organization.</p> <p><input type="checkbox"/> Other work because a municipal agency has a contract with my company or organization and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the municipal is contracting for my services in particular.</p>
<p>Name and address of municipal agency that made the contract</p>	<p><b>FINANCIAL INTEREST IN A MUNICIPAL CONTRACT</b></p> <p>This is the "contracting agency."</p> <p>Town of Barnstable, Marine &amp; Environmental Affairs Dept. (Harbormaster) Hyannis, MA (MEA)</p>
<p>Write an X to confirm this statement.</p>	<p><input checked="" type="checkbox"/> In my work as a special municipal employee for my Municipal Agency, I participate in or have official responsibility for activities of the contracting agency.</p>

<p><b>FILL IN THIS BOX OR THE NEXT BOX</b></p>	<p>ANSWER THE QUESTION IN THIS BOX IF THE CONTRACT IS BETWEEN THE MUNICIPAL AGENCY AND YOU.</p> <ul style="list-style-type: none"> <li>- Please explain what the contract is for.</li> </ul> <p>The contract would be for the rental of a seasonal boat slip to MEA for use by the Harbormaster.</p>
	<p>ANSWER THE QUESTIONS IN THIS BOX IF THE CONTRACT IS BETWEEN THE MUNICIPAL AGENCY AND ANOTHER PERSON OR ENTITY</p> <ul style="list-style-type: none"> <li>- Please identify the person or entity that has the contract with the municipal agency.</li> <li>- What is your relationship to the person or entity?</li> <li>- What is the contract for?</li> </ul> <p>Crosby Yacht Yard, Inc. (CYY, Inc.) is the contracting entity. I am Pres. of CYY, Inc. Rental of a seasonal boat slip.</p>
<p>What is your financial interest in the municipal contract?</p>	<p>- Please explain the financial interest and include the dollar amount if you know it.</p> <p>Proposed contract amount is \$5,351.94 for rental of a seasonal boat slip. If entered into, the contract may be subject to renewal on an annual basis.</p>
<p>Date when you acquired the financial interest</p>	<p>Contract has not yet been executed - execution subject to approval by the Town Council.</p>
<p>What is the financial interest of your immediate family?</p>	<p>- Please explain the financial interest and include the dollar amount if you know it.</p> <p>N/A</p>
<p>Date when your immediate family acquired the financial interest</p>	<p>N/A</p>
<p>Employee signature:</p>	
<p>Date:</p>	<p>3/19/25</p>

SEE NEXT PAGE FOR APPROVAL  
 BY CITY COUNCIL, BOARD OF ALDERMEN,  
 BOARD OF SELECTMEN, TOWN COUNCIL,  
 OR DISTRICT PRUDENTIAL COMMITTEE

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-181  
INTRO: 05/01/2025**

**2025-181 TRANSFER ORDER IN THE AMOUNT OF \$293,138 TO FUND THE  
PURCHASE OF FOUR POLICE VEHICLES**

**RESOLVED:** That the amount of **\$293,138** be transferred from the Fiscal Year 2025 Police Personnel Budget to the Fiscal Year 2025 Police Department Operating Capital Budget for the purpose of funding the purchase of four (4) police vehicles.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION
_____	_____
_____	_____

- Read item
- Rationale
- Council discussion
- Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-181**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Jean B Challies, Chief of Police  
**DATE:** April 25, 2025  
**SUBJECT:** Transfer order in the amount of **\$293,138** to fund the purchase of four police vehicles

**BACKGROUND:** The Barnstable Police Department has requested funding for 8 vehicles totaling \$660,547 in the FY26 budget. However, there are concerns that the cost of newly ordered vehicles will increase in FY26 due to potential tariffs. The Police Department inquired with the vehicle dealership we use to purchase most of our police vehicles to determine if there were any vehicles available at this time (April, 2025) that could be purchased through the Plymouth County Cooperative Procurement Contract of which the Town is a member. Many municipalities are seeking vehicles that are available to purchase off the lot at the dealerships, because the impact of tariffs does not affect those vehicles. Therefore, the availability of vehicles that are immediately available from the inventory on the lot at the dealership is limited and in high demand.

**ANALYSIS:** The Barnstable Police Department has the opportunity to purchase 4 such vehicles - off the lot from the Colonial Municipal Group and they have reserved those vehicles for us to purchase and have provided us with the VIN numbers of each vehicle. If we can proceed forward with purchasing these 4 vehicles before the end of FY25 it will not only save money, but will also avoid shortages in vehicles inventories that the dealerships may encounter in the next fiscal year. The Department will still need to purchase 4 additional vehicles in FY26, as the dealership only has 4 vehicles on the lot at this time available to purchase.

**FISCAL IMPACT:** The funds for the purchase of these vehicles will be transferred from the FY25 Police Personnel Budget that are available due to vacancy savings created throughout the year. The Police Department's funding request for vehicle purchases in FY26 will be reduced from \$660,547 for 8 vehicles, to \$338,804 for 4 if this transfer is approved; or \$321,743 less. Purchasing the vehicles this fiscal year saves the Town \$28,605.

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

**STAFF ASSISTANCE:** Jean B Challies, Chief of Police; Anne Spillane, Finance and Support Services Director, Barnstable Police Department

**B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-182  
INTRO: 05/01/2025**

**2025-182 APPROPRIATION ORDER IN THE AMOUNT OF \$978,000 FOR THE PRESERVATION AND RESTORATION WORK AT THE WEST BARNSTABLE RAILROAD DEPOT LOCATED AT 2469 MEETINGHOUSE WAY, WEST BARNSTABLE**

**WHEREAS**, as authorized by the Town Council pursuant to Item No. 2023-204, approved on July 20, 2023, the Town of Barnstable entered into a 99-year lease agreement, dated October 1, 2024, with the Parker Lombard Trust under which the Town leases from the Trust, for nominal consideration, the West Barnstable Railroad Depot building and surrounding 0.48± acres of land located at 2469 Meetinghouse Way, being Assessor Parcel Map 155, Parcel 043;

**WHEREAS**, under the lease agreement, as lessee, the Town is responsible, subject to appropriation, for the maintenance of the leased premises, including the depot building; and

**WHEREAS**, at its February 25, 2025 meeting, the Community Preservation Committee (CPC) unanimously voted to recommend approval of \$792,000 for historic preservation and restoration work on the depot building, as described in the application made to the CPC by the Town’s Department of Public Works;

**WHEREAS**, the proposed work requires an additional \$186,000, which would be appropriated from General Fund reserves;

**NOW, THEREFORE, IT IS ORDERED:** That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of \$792,000 shall be appropriated first from the Historic Preservation Fund within the Community Preservation Fund and second from the Community Preservation Undesignated Fund, and that the amount of \$186,000 shall be appropriated and provided from the General Fund reserves for a total appropriation of **\$978,000**, for preservation and restoration work at the West Barnstable Railroad Depot building located at 2469 Meetinghouse Way in West Barnstable; and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

**SPONSOR:** Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

DATE	ACTION
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-182**  
**INTRO: 05/01/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lindsey Counsell, Chair, Community Preservation Committee  
**DATE:** May 15, 2025  
**SUBJECT:** Appropriation Order in the amount of **\$978,000** for the preservation and restoration work at the West Barnstable Railroad Depot located at 2469 Meetinghouse Way, West Barnstable

**BACKGROUND:** At the February 24, 2025, Community Preservation Committee meeting, the seven committee members present voted unanimously to recommend to the Town Council, through the Town Manager, the Department of Public Work's (DPW) application for \$792,000 in Community Preservation Act (CPA) funds for preservation and restoration work at the West Barnstable Railroad Depot, which is under the control of the Town pursuant to a 99-year lease from the Parker Lombard Trust executed on October 1, 2024. DPW's application for CPA funding seeks to address to extent the funds will permit: the removal and salvage of the existing clay tile roof; repair of damaged substructures due to water damage and rot; exterior soffit repair; reinstallation of roof tiles; and window restoration as necessary. The DPW also plans on using capital funds for the design and installation of a mechanical system controlling indoor temperature and humidity. The West Barnstable Railroad Depot was built in 1910 and is an example of a turn-of-the-century arts and crafts/mission style railroad depot and is one of the last remaining historic railroad depots on Cape Cod. This funding request represents a portion of the total estimated project cost of \$978,000 with Capital Improvement Plan funding provided in the amount of \$186,000.

**ANALYSIS:** The building is within and, as identified by the Massachusetts Historical Commission, contributes to the Old Kings Highway Regional Historic District (BRN.O), the West Barnstable Historic Village District (BRN.D), the West Barnstable – Central Area (BRN.AO); and is listed on the National Register of Historic Places as a contributing building within the West Barnstable Village – Meetinghouse Way Historic District. The depot building is also listed individually on the State Register of Historic Places (BRN.1015). Restoration of the West Barnstable Railroad Depot offers excellent cost/benefit value by working to preserve a significant historical asset that is both culturally and economically important to Barnstable.

**FISCAL IMPACT:** This appropriation shall be provided first from the Historic Preservation Fund within the Community Preservation Fund and second from the Community Preservation Undesignated Fund. The General Fund contribution towards this project is \$186,000 and will be provided from the General Fund reserves which currently has a balance of \$28,173,607.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

**VOLUNTEER ASSISTANCE:** Lindsey Counsell, Chair, Community Preservation Committee

**B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-183  
INTRO: 05/01/2025**

**2025-183 APPROPRIATION ORDER IN THE AMOUNT OF \$1,350,000 IN  
COMMUNITY PRESERVATION FUNDS FOR THE PURPOSE OF  
ACQUIRING A CONSERVATION RESTRICTION ON 10.3± ACRES OF OPEN  
SPACE AT 30 AND 31 CROCKERS NECK ROAD, COTUIT**

**ORDERED:** That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of **\$1,350,000** be appropriated from the funds set aside for Open Space and Recreation within the Community Preservation Fund and secondly from the Community Preservation Undesignated Fund for the purpose of the Town, acting by and through its Town Manager, acquiring a perpetual Conservation Restriction (CR) from Barnstable Land Trust, Inc. on 1.01 acres of land located at 30 Crockers Neck Road, Cotuit, Barnstable, shown as Assessors Map 020, Parcel 093, Lot 001, and 9.3 acres± of land located at 31 Crockers Neck Road, Cotuit, Barnstable, shown as a portion of Assessors Map 020, Parcel 097, for conservation, recreation, and open space purposes pursuant to G.L. c. 184, sections 31-32, and subject to Article 97 of the Amendments to the Massachusetts Constitution. The Town Council hereby approves the CR pursuant to G.L. c. 184, section 32, authorizes the Town Manager to negotiate the terms of the final CR in substantially the form attached hereto and subject to minor changes to be made by the Secretary of Energy and Environmental Affairs, and authorizes the Town Council President to sign the CR on the Town Council’s behalf. It is further ordered that the Town Manager is authorized 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
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2025-183  
INTRO: 05/01/2025

## SUMMARY

**TO:** Town Council  
**FROM:** Marks S. Ells, Town Manager  
**THROUGH:** Lindsey Counsell, Chair, Community Preservation Committee  
**DATE:** May 01, 2025  
**SUBJECT:** Appropriation Order in the amount of **\$1,350,000** in Community Preservation Funds for the purpose of acquiring a Conservation Restriction on 10.3± acres of open space at 30 and 31 Crockers Neck Road, Cotuit

**BACKGROUND:** At the December 16, 2024, Community Preservation Committee (CPC) meeting, the six members present voted unanimously to recommend to the Town Council, through the Town Manager, Barnstable Land Trust, Inc.'s (BLT) application for \$1,350,000 for the acquisition of a conservation restriction (CR) by the Town of Barnstable from BLT on a total of 10.3 acres± of open space located at 30 and 31 Crockers Neck Road, Cotuit, Barnstable.

The CR would be granted on a 9.3-acre ± portion of a 9.61-acre property, excluding the clubhouse structure and immediately surrounding land, at 31 Crockers Neck Road, shown as Assessors Map 020, Parcel 097, known as the Cotuit Highground Golf Course, and on a 1.01-acre property at 30 Crockers Neck Road, shown as Assessors Map 020, Parcel 093, Lot 001, providing the parking for the golf course property.

This vote would provide the Town Council's approval of the appropriation. The vote would also provide the Council's approval of the CR, which is required under G.L. c. 184, section 32, and would authorize the Council President to sign the CR on behalf of the Council. Further, the Town Manager would be authorized to negotiate and accept the final CR, substantially in the attached form and subject to the approval of the Massachusetts Secretary of Energy and Environmental Affairs (EEA).

The proposed CR has been reviewed by Town staff and the Conservation Commission and has been submitted to EEA for review and approval. It is anticipated that EEA approval of the CR will be completed in late summer 2025 in time for a project closing in October 2025.

BLT has reached an agreement with the current owners for the purchase of the property with a short-term lease back for golf use for a period of five years. Accordingly, the CR would allow BLT to continue golf course operations, including a lease to the golf course operator, for a period of 5 years. The CR would allow BLT to request, prior to the expiration of the 5-year period, an extension to the permitted uses of operating the property for golf purposes or engaging an operator to manage the property for golf purposes. Under the CR, an extension could not exceed five years and would be subject to the Town's approval. Prior to the expiration or each extension, the CR would permit BLT to request a subsequent extension to continue golf course operations, with each subsequent extension not to exceed 5 years and subject to Town approval. Should the Town not grant an extension, or should BLT decide to cease the use of the property for golf purposes, BLT will consider alternative recreational uses, including walking trails, picnic areas, and a natural playscape, subject to the Town's approval. Once golf course operations cease under the CR, neither BLT nor the Town could reauthorize golf as a permitted use.

**ANALYSIS:** Acquisition of the CR is consistent with the Local Comprehensive Plan, Open Space and Recreation Plan, and other planning documents and preserves community character. Cotuit Highground Golf Course is a popular recreation area and a local gathering spot for the community in the winter for sledding and otherwise for golf. The property is within the local Resource Protection Overlay District and is within the marine watershed recharge area to Shoestring Bay and Popponeset Bay, making it important for the protection of groundwater and coastal water quality. Protection of the property will preserve cultural and scenic values for the community and provide close-to-home recreation opportunities.

As noted above, the CPC voted unanimously to support and recommend the application for appropriation of Community Preservation Act (CPA) funds for the acquisition of the CR on December 16, 2024. The Conservation Commission also voted its support for CPA funding of the CR acquisition on March 4, 2025. Finally, the Open Space Committee voted its support for CPA funding of the CR acquisition on March 10, 2025.

**FISCAL IMPACT:** The acquisition cost of the CR using CPA funds is \$1,350,000, to be appropriated from the amount set aside for Open Space and Recreation within the Community Preservation Fund and the Community Preservation Undesignated Fund.

**VOLUNTEER ASSISTANCE:** Lindsey Counsell, Chair, Community Preservation Committee

**GRANTOR: Barnstable Land Trust, Inc.**

**GRANTEE: Town of Barnstable**

**ADDRESS OF PREMISES: 30 and 31 Crockers Neck Road, (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 \_\_\_\_, Page \_\_\_\_.**

## **GRANT OF CONSERVATION RESTRICTION**

### **I. STATEMENT OF GRANT**

**BARNSTABLE LAND TRUST, INC.**, a Massachusetts nonprofit corporation with an office at 1540 Main Street, Barnstable, Massachusetts 02668, being the sole owner of the Premises as defined herein, for its successors and assigns (“Grantor”), acting pursuant to Sections 31 and 32 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, 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, pursuant to Item No. 2025-XXX of the Barnstable Town Council, passed May, 15, 2025, for its successors and assigns (“Grantee”), for consideration paid of One Million Three Hundred and Fifty Thousand Dollars and 00/100 (\$1,350,000.00), IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION, OPEN SPACE, AND RECREATION PURPOSES, the following Conservation Restriction on land located in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts containing two tracts of land with a total area of 10.3 acres± (“Premises”), which Premises is more particularly described in Exhibit A and shown in the attached reduced copy of a survey plan and sketch plans in Exhibit B, incorporated herein and attached hereto.

The Conservation Restriction was acquired utilizing One Million Three Hundred and Fifty Thousand Dollars and 00/100 (\$1,350,000.00) in Community Preservation Act funds, funded first from the amount set aside for Open Space and Recreation Fund within the Community Preservation Fund and the balance funded from the Community Preservation Undesignated Fund, pursuant to Chapter 44B of the Massachusetts General Laws, 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 2025-. An attested copy of the Town Council Order is attached hereto as Exhibit C.

### **II. PURPOSES:**

This Conservation Restriction is defined in and authorized by Sections 31 and 32 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction (“Purposes”) are to assure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition and available for appropriate outdoor recreational purposes and to prevent any use or change that would materially impair the Conservation Values (as defined below).

**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 Cotuit Village and the Town of Barnstable and the protection of the Premises will enhance the open-space value of these and nearby lands.
- Public Access. Public access to the Premises will be allowed for golf, for as long as the golf course is a continuing operation, outdoor recreation, community garden use, education and nature study.

- Water Quality. The Premises lies within the watershed to Shoestring Bay and Popponeset Bay. The Massachusetts Estuaries Project (MEP) technical report indicates the Popponeset Bay system exceeds its critical threshold for nitrogen, resulting in impaired water quality. Protection of vegetated landscapes from development can help maintain water quality in coastal waters by removing the potential for additional stormwater and septic system pollutant sources.
- Wetlands. The coniferous wooded swamp (i.e., Atlantic white cedar swamp) on the Premises provides 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).
- Wildlife Habitat Protection. The Premises contains forested upland and wetland wildlife habitat that are part of a larger matrix of public and private open space that afford good wildlife migration corridors.
- Climate Change Resiliency. Conservation of the Premises will help mitigate the impacts of climate change including avoiding the impacts of development such as stormwater runoff, habitat loss, and topsoil removal, and maintaining wildlife habitat.
- Scenic Character. The Premises provides scenic and aesthetic value to the residents of Barnstable and the general public by providing an open pastoral view from public ways, particularly Crockers Neck Road and Grove Street, including but not limited to features such as expansive vistas and rolling fields. Protection of the Premises will preserve the scenic character and vista landscape.
- 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), 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 advanced by protecting the wooded swamp wetlands and their upland buffer on the Premises. The Wildlife and Plant Habitat Goal will be advanced by protecting natural and vegetated areas from development. The Open Space Goal will be advanced by

protecting new open space areas from development, expanding the existing network of open space while protecting ground water quality flowing to nearby Popponesset Bay coastal waters.

- 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 “To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities, and community character”. 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) “Preserving “quality open spaces throughout the Town which protect and enhance its visual heritage.” 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 a goal to conserve and protect areas in 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;
  - 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.
- Consistency with Clearly Delineated State Conservation Policy. Protection of the Premises will further the goals and objectives Massachusetts 2023 Statewide Comprehensive Outdoor Recreation Plan, including Goal 3. To create and renovate neighborhood parks. Neighborhood parks are recognized in the plan as the “*key to getting more people out recreating given that lack of time, along with the need for certain site amenities such as parking and restrooms, were listed as barriers for recreating more frequently*” (pp. 50).

- 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; provide public access; and contribute to the preservation of open space.

### **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 Grantee;
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 Grantee’s intention to maintain the entire Premises under unified ownership;

9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. Residential, or Industrial Uses. Using the Premises for residential, or industrial purposes;
12. 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. Golf Course. For a period of five years following the date the CR is recorded at the Registry of Deeds, the right to lease and sub-lease the Premises for the continued operation of the Golf Course on the Premises, which operation may include the following:
  - a. Maintenance, Repair, Replacement and Other Minor Work. Performing minor work necessary or convenient for the continued operation of the Golf Course, including but not limited to, mowing, cutting, raking, hole cup relocation, nourishment of sand traps, seeding, repair or maintenance of damaged structures and features, aeration, and use of fertilizers, and other routine work (as well as importation of sand, loam, sod or other non-hazardous materials required to perform such work) as necessary to maintain the Golf Course and using any equipment necessary to accomplish said activities, within the existing tee boxes, fairways, greens, sand traps, rough, and greens, all as documented in the Baseline Report.
  - b. Golf Course Alteration and Other Major Work. With the prior written approval of the Grantees, altering the Golf Course as desired for the continued operation of the Golf Course. Such alterations may include excavating, filling, constructing and/or relocating holes, fairways, tees, greens, sand traps, and signage.
  - c. Rules and Regulations. Grantor may develop reasonable rules and regulations, subject to approval by the Grantee, governing use of the golf course by the public, including, but not limited to, times during which the Premises will be available for such use by the public, standards for appropriate conduct on the Premises, fees for playing golf and the use of the golf course's facilities, and restrictions on public access to certain areas of the Premises as appropriate.
  - d. The permitted acts and uses under this Paragraph III.B(1) shall expire five years from the date the CR is recorded at the Registry of Deeds. The Grantor may request an initial extension to continue conducting or permitting the acts and uses, as well as subsequent written extensions to continue conducting or permitting the acts and uses, under this Paragraph III.B(1). Each request for an extension, whether the initial extension or a subsequent extension, shall be made in writing by Grantor and sent to Grantee in accordance with Paragraph XIII. The written request for an extension shall be made at least 60 days prior (but no more than 180 days prior) to the scheduled

expiration of the permitted rights under this paragraph. Any extension shall be subject to the written approval of the Grantee, which shall not be unreasonably withheld, and shall not exceed five years. If the Grantee approves of an extension, Grantor shall record at the Registry of Deeds a notice of the extension signed by the Grantor and Grantee. If the permitted acts and uses under this Paragraph III.B(1) are not extended with the approval of Grantee and expire, the acts and uses under this Paragraph III.B(1) shall be prohibited in accordance with Paragraph III.A, and Grantor and Grantee may not subsequently reauthorize the acts and uses under this Paragraph III.B(1) without an amendment to the CR in accordance with Paragraph XI.

2. 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). Removal of trees may be permitted with prior written approval of the Grantee;
3. 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;
4. Composting. Stockpiling, storage for removal, and composting or mulching, of soil, branches, grass clippings, tree and brush clippings and limbs, rocks, stumps, and similar biodegradable materials originating on the Premises and removed in the normal course of maintenance of the Premises, as well as sand, loam, sod or other non-hazardous materials imported onto the Premises for use on the Premises, provided that no composting or stockpiling shall occur within 100 feet of any wetlands and provided that stockpiled or composting material shall not exceed a footprint of 2,000 square feet at grade;
5. Irrigation Wells. With prior written notice to the Grantee, the installation of irrigation wells and related water and utility lines, and other necessary infrastructure, so long as the surface is restored to the extent practicable to its prior condition after such installation and maintenance and the work is performed so as to minimize the impact on the Conservation Values;
6. Irrigation Systems. Maintenance of the existing irrigation system and related water and utility lines, the recycling of water for irrigation systems, and, with prior written notice to the Grantee, the installation of a new irrigation system and related water and utility lines, and other necessary infrastructure, so long as the surface is restored to the extent practicable to its prior condition after such installation and maintenance and the work is performed so as to minimize the impact on the Conservation Values;
7. Drainage System. Maintenance, repair, and replacement of the existing drainage systems and, with prior written approval of the Grantee, the relocation of the existing drainage systems or the installation of new drainage systems and other necessary infrastructure, so long as the surface is restored to the extent practicable to its prior condition after such installation and maintenance and the work is performed so as to minimize the impact on the Conservation Values;
8. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to remove obsolete golf course improvements, 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;

9. Trails and Cart Paths.

- a. Maintenance and Use. Conducting routine maintenance of trails and cart paths for use by golf pull-carts (provided the rights permitted under Paragraph III.B(1) have not expired), maintenance vehicles, equipment, and other trail users, including widening trail corridors up to six (6) feet in width overall.
- b. New Trails. With prior written approval of the Grantee, constructing new trails and cart paths and relocating existing trails and cart paths, provided that any construction or relocation results in trails and cart paths that conform with the width limitations above, including the construction of public access trails.
- c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, benches, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features.

10. Outdoor Recreation Facilities.

- a. With prior written notice to the Grantee, the construction, use, maintenance, repair, and replacement of appurtenances and minor structures to support and accommodate public outdoor recreational use of public trails, including but not limited to interpretive signs, kiosks, waste receptacles, drinking-water fountains, and benches, provided no such appurtenance or structure exceeds a footprint of 500 square feet;
- b. If the Premises should cease to be used as a golf course or the rights permitted under Paragraph III.B(1) have expired, with the prior written approval of the Grantee, the right to demolish, remove, repair, remodel or replace existing structures and infrastructure for use in connection with public outdoor passive and active recreational activities and environmental education activities, including facilities or other uses consistent with the purposes of this Conservation Restriction;
- c. If the Premises should cease to be used as a golf course or the rights permitted under Paragraph III.B(1) have expired, and with the prior written approval of the Grantee, the right to create a nature based playscape designed to provide an environment for children that facilitates nature-based play, provided that such facility shall not exceed a total footprint of one acre.

11. 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 Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;

12. 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 Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;

13. Fences. Constructing, installing, maintaining, and replacing sight-pervious fences and gates in order to prevent unauthorized vehicle entry and dumping, vandalism or other acts destructive on the Premises. Any fences shall not detract from the public's view across the Premises.
14. Motorized Vehicles. Using motorized mobility devices, including Other Power-Driven Mobility Devices as defined in federal law, by persons with mobility impairments, and the use of motorized vehicles and equipment as necessary or convenient for the carrying out of the Permitted Acts and Uses set forth in this Paragraph III.
15. Parking Area. Using, repairing, maintaining, replacing, improving and expanding the parking area at 30 Crockers Neck Road, as shown in the Baseline Report (see Paragraph XV), to provide public access to the Premises for the Purposes described herein. Said parking area shall conform with the follow requirements:
  - a. The parking surface shall be unpaved or surfaced with pervious materials only, except for the provision of access by persons with mobility impairments as required under the American with Disabilities Act (ADA).
  - b. The footprint at grade of the parking area shall not exceed 20,000 square feet, excluding stormwater improvements.
  - c. With approval in writing by the Grantee, stormwater infrastructure and improvements shall be allowed to extend into currently vegetated areas, provided that these areas shall be revegetated following construction.
16. Storage Shed. Using, repairing, maintaining, replacing, improving but not expanding the storage shed located on the Premises, as documented in the Baseline Report (see Paragraph XV) to be used only to support the Permitted acts and Uses and Purposes described in this Conservation Restriction. The footprint at grade of the storage shed shall not exceed 600 square feet.
17. Outdoor Recreational and Educational Activities. Golfing, insofar as the golf course is a continuing operation or the rights permitted under Paragraph III.B(1) have not expired, sledding, hiking, cross-country skiing, snowshoeing, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities non golf activities may occur only during those times when the golf course is closed to golf play to the extent the golf course is a continuing operation or the rights permitted under Paragraph III.B(1) have not expired. Grantor may host unrelated educational activities such as painting or yoga classes, and the like, provided that such events shall be incidental and subordinate to the primary use of the Premises for Horticulture Activities.
18. Community Gardens. With the written approval of the Grantee, the right to establish an at-grade or raised bed community garden, in a location approved by the Grantee, for small-scale "Horticulture Activities", defined as raising fruits, vegetables, berries, nuts, and other foods for human consumption, flowers, and ornamental plants and shrubs, and farm-based education addressing the subjects of sustainable agriculture, food production and nutrition, and/or environmental conservation and ecology, provided that:
  - a. The Community Garden area does not exceed a total footprint of 7,000 SF.
  - b. The use of the garden is consistent with the Purposes and Conservation Values of this Conservation Restriction and the permitted uses herein,
  - c. Members of the public shall have the opportunity to lease sections of the Community Garden for small-scale planting and harvesting of crops,

- d. The storage and use of slow-release organic fertilizers, and other natural controls are permitted, provided such uses are in compliance with all applicable local, state and federal statutes and regulations, and only to the extent that any such use does not have a demonstrable detrimental effect on the Conservation Values of the Premises. Grantor shall use best management practices.
  - e. The Grantor shall establish reasonable guidelines for use of the Community Garden. The Grantor shall have sole responsibility for maintaining and managing use of the community garden, subject to review and approval of management and maintenance guidelines by the Grantee. The Grantee may require the Grantor to post rules against any use by the public that results in material impairment of the Conservation Values.
19. Other. Such other non-prohibited activities or uses of the Premises may be permitted with the prior approval of the Grantee provided that the Grantee has made a finding, such finding to be documented in writing and kept on file at the office of the Grantee, that such activities are consistent with the Permitted Acts and Uses, do not impair the conservation values and purposes of this Conservation Restriction, and, where feasible, result in a net gain in Conservation Values of the Premises.

### **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, regional, 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 Grantee. Whenever notice to or approval by Grantee is required, Grantor shall notify or request approval from Grantee, 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 Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.

2. Grantee Review. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt 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. Grantee's 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 Grantee, and its 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 Grantee 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 Grantee for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantee 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 Grantee 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 Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee 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.

### **C. Non-Waiver**

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its 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 Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, oil or hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

### **E. Acts Beyond the Grantor's Control**

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee 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 Grantee 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 to the Grantee the right and easement to allow access to the Premises by the general public, but only for daytime use and only as described in Paragraph III.B.17, 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. During the operation of the Premises as a commercial golf course, the public shall have limited rights of entry for passive recreation other than as paying visitors for golf use. These entry rights by the public are limited to walking, snowshoeing, sledding, and cross-country skiing, but not any motorized vehicle, snowmobile, bicycle or equestrian use, and may occur only during those times when the golf course is closed to golf play. The Grantor or its lessee and the Grantee reserve the right to post portions of the golf course as off-limits to public use at all times, such as greens and tee boxes, or if there is evidence that damage to the course results from this non-golf related use. In the event that golf operations permanently cease or the rights permitted under Paragraph III.B(1) have expired, the Premises shall be open to the general public for recreational use subject to rules and regulations of the Grantor. 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.17 or this section. The Grantee 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 Grantee 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 Grantee, 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 Grantee shall use its 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 Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, 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 Grantee’s property right as of the Effective Date (See Paragraph XII.) was determined to be 75%<sup>1</sup>. Such proportionate value of the Grantee’s 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 Grantee 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 Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee 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 Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

# **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**

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<sup>1</sup> \$1,350,000 CPA funding ÷ \$1,800,000 appraised value of Premises = 75%

The Grantee is 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 Grantee its attorney-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 Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires 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. 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 Grantee 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.

## **IX. ESTOPPEL CERTIFICATES**

Upon request by the Grantor, the Grantee 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 Grantee agrees that it 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 Grantee 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 Grantee as a "qualified organization" or "eligible donee" 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 Grantee, 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 Grantee 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 Grantee 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  
West Barnstable, MA 02668

To Grantee: Town of Barnstable, Town Manager  
367 Main Street,  
Hyannis, MA 02601

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 effectuate the Purposes and the policy and purposes of Sections 31 and 32 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 Grantee 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”) titled “*Cotuit Highground Conservation Restriction Baseline Report*”, and dated prepared by Grantor with the cooperation of the Grantee, consisting of maps, photographs, and other documents and on file with the Grantee and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee 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. Subordination**

The Grantor shall record at the Barnstable County Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any 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 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 Grantee's 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.

Grantee Acceptance and Approval by the - Town of Barnstable Town Manager

Approval – Town of Barnstable Town Council

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-1: Sketch Plan of Premises

Exhibit B-2: Reduced copy of Survey Plan – 30 Crockers Neck Road

Exhibit B-3: Sketch Plan of Premises - 31 Crockers Neck Road

Exhibit C: Town Council Order

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2025.

**Barnstable Land Trust, Inc.**

\_\_\_\_\_  
Leigh Townes, President,  
Barnstable Land Trust, Inc.

\_\_\_\_\_  
Robert Carey, 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 Robert Carey, 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 Barnstable Land Trust, Inc. to the Town of Barnstable.

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 personal knowledge, to be the person whose name is signed on the attached or preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as Town Manager on behalf of the Town of Barnstable.

\_\_\_\_\_  
Notary Public  
My Commission Expires

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

At a public meeting duly held on , the Town Council of the Town of Barnstable, Massachusetts, voted to approve the foregoing Conservation Restriction from Barnstable Land Trust, Inc. to the Town of Barnstable 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.

TOWN COUNCIL PRESIDENT:

\_\_\_\_\_  
Craig A. Tamash

**COMMONWEALTH OF MASSACHUSETTS**

**Barnstable, ss**

On the day of , 2025, before me, the undersigned notary public, personally appeared **Craig A. Tamash**, and proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as President of the Barnstable Town Council.

\_\_\_\_\_  
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 Barnstable Land Trust, Inc. to the Town of Barnstable 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 Premises subject to this Conservation Restriction is two tracts of land with a total of 10.3 acres, more or less, located in the village of Cotuit in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts, more particularly bounded and described as follows:

#### 30 Crockers Neck Road:

*Lot 1* on a plan titled *Plan of Land in "Cotuit" Barnstable, Massachusetts*, dated January 23, 1984, by William M. Warwick, R.L.S, W.M. Warwick & Associates, Inc., Box 801, North Falmouth, MA, recorded at the Barnstable County Registry of Deeds in Plan Book 380, Page 7.

Containing 1.01 acres, more or less,  
and,

#### 31 Crockers Neck Road:

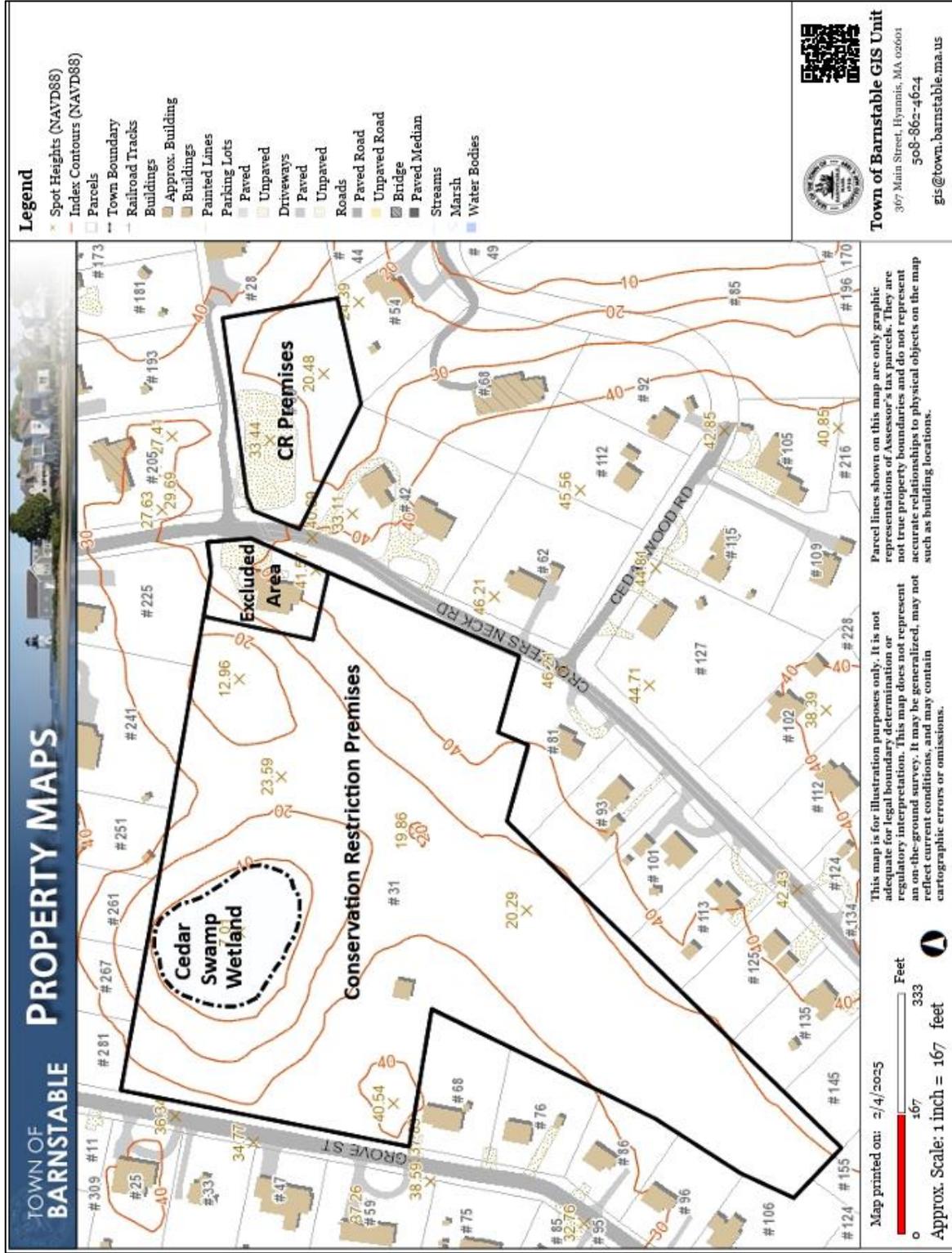
A portion of on a plan titled , dated , by recorded at the Barnstable County Registry of Deeds in Plan Book , Page , the portion of the lot held under this Conservation Restriction being more particularly bounded and described as follows:

METES AND BOUNDS DESCRIPTION TO BE ADDED BASED ON NEW SURVEY PLAN  
PENDING

Containing 9.3 acres, more or less.

# EXHIBIT B-1

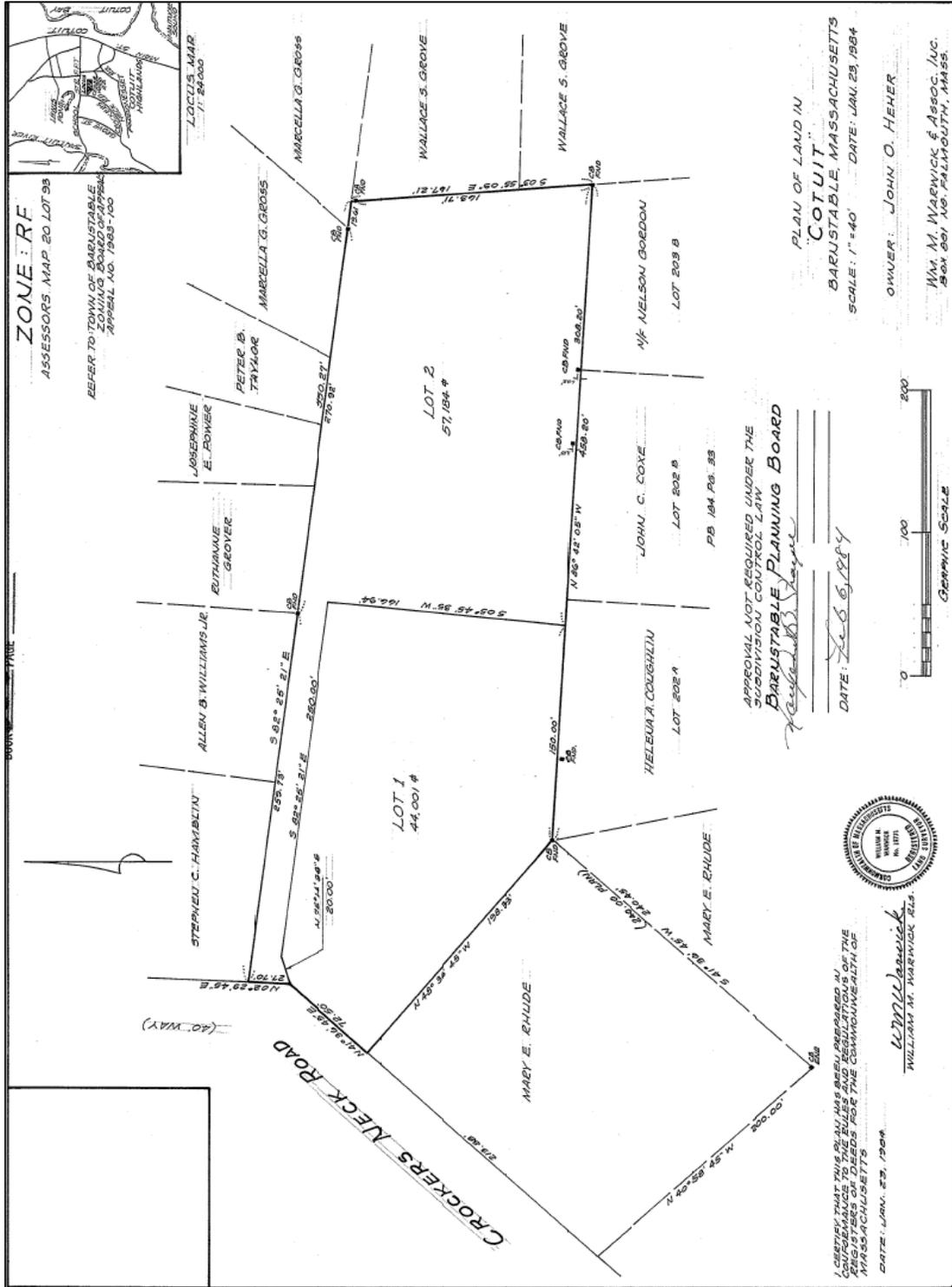
## Sketch of Premises



**EXHIBIT B-2**

Reduced Copy of Survey Plan - 30 Crockers Neck Road (Lot 1)

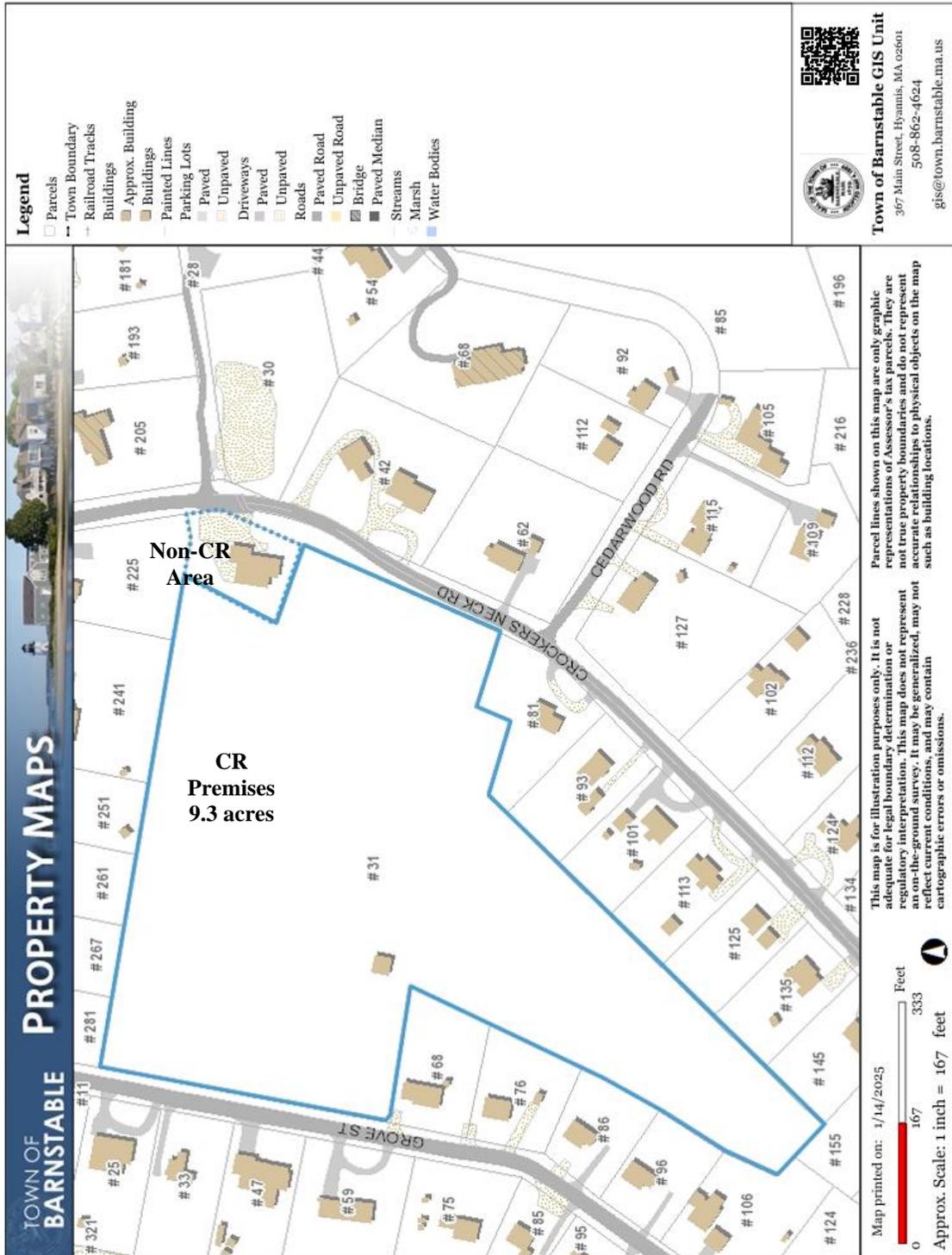
For official full size plan see Barnstable Registry of Deeds Plan Book 380 Page 7



# EXHIBIT B-3

## Sketch Plan - 31 Crockers Neck Road

For official full size plan see Barnstable Registry of Deeds Plan Book Page



**EXHIBIT C**

Town Council Order

*Following*