



# Town of Barnstable Town Council

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Councilors:

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President

Harold E. Tobey  
Vice President

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J. Gregory Milne  
James F. Munafo, Jr.  
Tom Rugo  
James M. Tinsley, Jr.

Administrator:  
Donald M. Grissom

Administrative  
Assistant:  
Barbara A. Ford

## **TOWN COUNCIL MEETING AGENDA**

**February 5, 2009  
6:30 PM**

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

**NEXT MEETING: February 26<sup>th</sup>**

| ITEM NO. | INDEX TITLE | PAGE |
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|----------|-------------|------|

**A. OLD BUSINESS**

|                 |   |       |
|-----------------|---|-------|
| <b>2009-039</b> | Approve the McCowan Cotuit Trust-1992 (grantor)/Barnstable Land Trust (grantee) conservation restriction of over 1.57 acres of land located at 1372 Main Street, Map 33, Parcel 46 in Cotuit ( <b>May be acted upon</b> ) ..... | 3 - 5 |
| <b>2009-058</b> | Appropriation and transfer order for FY09 parking reinforcement expenses ( <b>Public hearing</b> ) ( <b>Roll-call</b> ) .....   | 6 - 7 |
| <b>2009-060</b> | Community Preservation Fund appropriation and transfer order in the amount of \$12,000 for community housing ( <b>Public hearing</b> ) ( <b>Roll-call</b> ) .....   | 8 - 9 |
| <b>2009-062</b> | Appointment to a board/committee/commission ( <b>Second reading</b> ) .....   | 10    |

**B. NEW BUSINESS**

|                 |   |         |
|-----------------|---|---------|
| <b>2009-063</b> | Acceptance of gifts for the Sandy Neck education and research programs ( <b>May be acted upon</b> ) ..... | 11 - 12 |
|-----------------|---|---------|

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Minutes – January 8, 2009 and January 22, 2009

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**Please Note:**

It is possible that if it so votes, the Council may go into executive session.

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-039**

**INTRO: 11/06/08, 11/20/08, 12/04/08, 02/05/09**

**2009-039 APPROVE THE CONSERVATION RESTRICTION BETWEEN THE MCCOWAN COTUIT TRUST-1992 (GRANTOR) AND THE BARNSTABLE LAND TRUST, INC. (GRANTEE)**

**RESOLVED**, that the Town Council approve the conservation restriction between McCowan Cotuit Trust-1992, grantor, and Barnstable Land Trust, Inc., grantee, over 1.57 acres of land located at 1372 Main Street, Map 33 Parcel 46 in Cotuit, Massachusetts for the purpose of preserving open space.

**SPONSOR:** Council President Janet S. Joakim, upon the approvals from the Legal Department and the Barnstable Conservation Commission

| DATE  | ACTION TAKEN |
|-------|--------------|
| _____ | _____        |
| _____ | _____        |

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

# **BARNSTABLE TOWN COUNCIL**

## **MCCOWAN CONSERVATION RESTRICTION AS GRANTED TO THE BARNSTABLE LAND TRUST, INC.**

**ITEM# 2009-039**

**INTRO: 11/06/08, 11/20/08, 12/04/08, 02/05/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** October 22, 2008  
**SUBJECT:** McCowan/BLT Conservation Restriction

Property Location: 1372 Main Street, Cotuit  
Map/ Parcel: 033/046  
Total Acreage: 1.56 acres with barn  
Boundaries: East – Nantucket Sound  
West – Main Street, Cotuit (a designated scenic road)  
North and South – Residential

**SUMMARY:** This item has been placed on the agenda for the Council’s approval of a perpetual conservation restriction to be given by the McCowan Cotuit Trust –1992, to be held by the Barnstable Land Trust, Inc. (BLT) covering 1.57 acres, more or less, as recited in the instrument, at 1372 Main Street in Cotuit.

**BACKGROUND:** A conservation restriction (CR) in perpetuity restricts future development of land to protect a resource important to the public. The donation of a CR preserves open space without any exchange of Community Preservation Act or other Town funds or private funds, and without incurring maintenance and monitoring costs by the Town. In addition to the Council’s approval, the Town Manager’s and the Secretary of Energy & Environmental Affairs’ approvals will also be required to give the restriction the broadest legal effect.

In the summer of 2008, Barnstable Land Trust was approached about a possible conservation restriction on 1.57 acres in Cotuit, which is the site of an historic barn. For over 100 years, the family has owned the barn, and adjacent captain’s house known as the “Red House.” Both house and barn were once part of larger holdings owned by the Morse family. Lucy Morse, their great, great grandmother, is locally famous for her captivating silhouettes.

The family summers in Cotuit. As non-residents, they have seen their taxes rise dramatically in recent years. Both the barn lot and Red House lot are grandfathered as separate building lots. To reduce the taxes, the family could merge the two lots, creating one 2.46-acre waterfront lot. Instead, the family wishes to place a CR on the barn lot to ensure that it will remain essentially as it is. They are giving up the right to ever build close to the water and the barn lot will never contain a habitable dwelling.

**ANALYSIS:** This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which “encouraged...grants of conservation restrictions” which yielded

“benefits to the Town.” Specifically, the McCowan Conservation Restriction offers the following public benefits and will:

- preserve a scenic view,
- protect marine water quality,
- preserve and protect a shoreline,
- limit construction on land of natural resource value,
- prevent disturbance of wetlands,
- preserve open space, and
- preserve important natural habitats of fish, wildlife or plants.

Conservation Values of the McCowan Conservation Restriction:

- 1) lies within a Town of Barnstable Resource Protection Overlay District
- 2) partially lies within an MNHESP Priority Habitat for Rare Species;
- 3) encompasses almost 200 linear feet of shoreline on Nantucket Sound;
- 4) contains mature pine woodland, providing a bordering upland buffer to the coastal bank, dune and beach habitats of the Premises;
- 5) has approximately 70 feet of frontage on Main Street in Cotuit, a Town of Barnstable designated Scenic Road,
- 6) contains a wooden barn, dating back to at least 1880;
- 7) encompasses a scenic view visible from the waters of Nantucket Sound;
- 8) is identified in the 2002 Regional Policy Plan as lying within a watershed (Three Bays System Subwatershed) where critical nutrient load has been determined or where there are documented water quality problems (the McCowan CR removes the potential for one 4 bedroom house with attendant septic system and lawn);
- 9) is located within a Town of Barnstable primary area of archaeological sensitivity, defined as an area within 1000 feet of a marine or marine related ecosystem and which has a high probability of containing prehistoric archaeological sites; and,
- 10) is a substantial contributing element to the overall scenic and historic character of the area by adding to and maintaining the land predominantly in its natural condition.

**TOWN OF BARNSTABLE TAX CONSEQUENCES:** Effectively None

The McCowan Conservation Restriction will retire one waterfront building lot. Since the family could achieve similar tax relief by simply merging the two lots, Town Assessor Jeffrey Rudziak agrees that the effect of the conservation restriction from a property tax perspective is effectively no different than merging the two lots.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-058**

**INTRO: 01/08/09, 01/22/09, 02/05/09**

**2009-058 APPROPRIATION AND TRANSFER ORDER FOR FY09 PARKING ENFORCEMENT OPERATING EXPENSES**

**ORDERED**, that the Town Council hereby appropriates the sum of \$54,400 for fiscal year 2009 parking enforcement expenses, and to meet this appropriation that \$54,400 be transferred from available funds within the Bismore Parking Special Revenue Fund.

**SPONSOR:** Town Manager John C. Klimm

| DATE  | ACTION TAKEN |
|-------|--------------|
| _____ | _____        |
| _____ | _____        |

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

**BARNSTABLE TOWN COUNCIL**  
**APPROPRIATION & TRANSFER ORDER FY09**  
**PARKING ENFORCEMENT EXPENSES**

**ITEM# 2009-058**

**INTRO: 01/08/09, 01/22/09, 02/05/09**

**SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** December 22, 2008  
**SUBJECT:** FY09 Appropriation Order for the Parking Enforcement Expenses

**BACKGROUND:** In the summer of 2008, the Town Manager requested the parking area in the southerly portion of Bismore Park be refurbished and returned to use as a municipal parking lot. The town is installing new parking Kiosks in this area that will become operational in fiscal year 2009 eliminating the need for on-site parking attendants. In their place, parking enforcement will be increased to 16 hours, days seven days a week. The enforcement function will be handled by the Regulatory Service Department, which will need to hire additional part-time staff and vehicles.

**ANALYSIS:** Expenses for operating this parking lot are estimated to be \$20,400 through the end of fiscal year 2009. Additionally, \$34,000 is requested to buy two "Smart Cars." These are 2-passenger small "city vehicles" with MPG ratings of approximately 35 MPG. These vehicles will be used for parking enforcement at Bismore as well as other areas in town. It is estimated that the new parking Kiosks will generate an additional \$220,000 in revenue annually.

**FISCAL IMPACT:** This appropriation request is funded from the Bismore parking special revenue fund, which has a balance of \$118,127. Approval of this appropriation will allow the town to implement the new parking enforcement program, which is anticipated to increase annual revenues by \$220,000. The use of "Smart Cars" for parking patrol functions will save approximately \$1800.00 per year at today's fuel costs.

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

**STAFF ASSISTANCE:** Growth Management Department, Finance Department, D.P.W. Department, and the Regulatory Services Department

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-060**

**INTRO: 01/08/09, 01/22/09, 02/05/09**

**2009-060 COMMUNITY PRESERVATION FUND APPROPRIATION FOR COMMUNITY HOUSING**

**ORDERED**, that pursuant to the provisions of G. L. c. 44B, the sum of Twelve thousand No/100 (\$12,000.00) Dollars be appropriated and transferred from the amount set aside for unreserved funds in the Community Preservation Fund on August 21, 2008 under agenda item number 2008-161, and that the Town of Barnstable Growth Management Department is authorized to contract and expend the amount for the contracting of a Housing Consultant to update the Town of Barnstable's Housing Production Plan and Housing Needs Assessment as an administrative expense

**SPONSOR:** Town Manager upon recommendation of the Community Preservation Committee

| <b>DATE</b> | <b>ACTION TAKEN</b> |
|-------------|---------------------|
| _____       | _____               |
| _____       | _____               |

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



**BARNSTABLE TOWN COUNCIL**  
**APPROPRIATION & TRANSFER ORDER OF**  
**COMMUNITY PRESERVATION FUNDS FOR COMMUNITY HOUSING**

**ITEM# 2009-060**  
**INTRO: 01/08/09, 01/22/09, 02/05/09**

**SUMMARY**

**To:** Town Council  
**From:** Community Preservation Committee  
**Date:** January 8, 2009  
**Subject:** Rationale: Funding for GMD Housing Consultant

**BACKGROUND:** The Community Preservation Committee (CPC) met on December 16, 2008, and has recommended that the town support the funding request of \$12,000.00 for the Growth Management Department to contract for a Housing Consultant to update the Town of Barnstable's Housing Production Plan and Housing Needs Assessment.

**RATIONALE:** The Town of Barnstable's current Housing Production Plan certification will expire on March 3, 2009. Review of the plan by the Department of Housing and Community Development requires several weeks before it can be certified. Once certified, the Commonwealth of Massachusetts provides some incentives to towns with certified plans.

Once the plan is completed, commencement of outlined goals can be implemented. The plan will complement the Barnstable Comprehensive Plan and will support and enhance those goals as well. Similar to the current plan, it is anticipated that affordable rental housing will remain the primary objective. This plan will define the process for achieving the 10% affordability goal and promote diversity. In order to achieve this goal in a timely fashion, this plan must develop strategies, which create housing opportunities that contribute more than 10% or 20% per project.

The plan will echo and support the Town's overarching land use and community character goals including adaptive reuse of existing structures.

**A. OLD BUSINESS (Second Reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-062**  
**INTRO: 01/22/09, 02/05/09**

**2009-062 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

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

**PUBLIC WORKS COMMISSION**

Allen W. Morrisey, MD, 69 Country Club Drive, Cummaquid, to a term expiring 06/30/2010

**SPONSOR:** Appointments Committee

| <b>DATE</b> | <b>ACTION TAKEN</b> |
|-------------|---------------------|
| _____       | _____               |
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- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-063**  
**INTRO: 02/05/09**

**2009-063 ACCEPTANCE OF GIFTS FOR THE SANDY NECK EDUCATION AND RESEARCH PROGRAMS**

**RESOLVED**, that the Town Council, pursuant to the provisions of G.L. c. 44, §53A, hereby establishes an account for the purpose of receiving gifts to help defray the costs of the Sandy Neck educational program including, but not limited to, the maintenance of the town owned cottage called the Halfway House.

**SPONSOR:** Town Manager John C. Klimm

| DATE  | ACTION TAKEN |
|-------|--------------|
| _____ | _____        |
| _____ | _____        |

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

# **BARNSTABLE TOWN COUNCIL**

## **ACCEPTANCE OF GIFTS FOR THE SANDY NECK EDUCATION AND RESEARCH PROGRAMS**

**ITEM# 2009-063  
INTRO: 02/05/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** January 22, 2009  
**SUBJECT:** Acceptance of gifts for the Sandy Neck education and research programs including the upkeep and maintenance of the Halfway House

**BACKGROUND:** The Town owns an historic cottage that is remotely located about halfway down Sandy Neck beach on the Great Marsh. In recent memory, this structure was referred to as the Research Cottage but lately we began using its historic name the "Halfway House." In 2005, using revenue from merchandise sales, the Sandy Neck Program started working on improvements to the Halfway House. With the help of numerous volunteers and the Centerville Boy Scouts, we have substantially enhanced the cottage, while retaining its historic values. Improvements include a new roof, retaining wall, and siding. The cottage is now operational. However, more work is needed in order to keep this facility available to educational groups and research scientists. We would like the ability to accept gifts for Halfway House maintenance projects as well as for educational supplies.

**ANALYSIS:** Acceptance of gifts will assist the Town in maintaining the Halfway House as well as for educational supplies.

**FISCAL IMPACT:** None

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends the approval of the acceptance of gifts.

**BOARD / COMMITTEE ACTION:** The Sandy Neck Board unanimously supports the creation of a gift account.

**STAFF ASSISTANCE:** Mark Milne, Director of Finances  
Nina Coleman, Sandy Neck Park Manager