



Town of Barnstable

Town Council

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James F. Munafo, Jr.
Tom Rugo
James M. Tinsley, Jr.

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA June 18, 2009 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 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: July 16th

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B. NEW BUSINESS

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Minutes – May 21, 2009 and June 4, 2009

Please Note:

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

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

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-128
INTRO: 05/21/09, 06/18/09

2009-128 APPROPRIATE & TRANSFER FOR LIGHTING IN ASELTON PARK

ORDERED: That the Barnstable Town Council hereby appropriates \$150,000 for the continuation of the lighting of the walkway to the sea through Aselton Memorial Park and to meet the appropriation that the town transfers a sum of money from the embarkation fee special revenue fund

SPONSORS: Town Councilors James F. Munafo, Jr., James M. Tinsley, Jr., Harold E. Tobey, J. Gregory Milne and the 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

LIGHTING FOR THE WALKWAY TO THE SEA ASELTON PARK

ITEM# 2009-128
INTRO: 05/21/09, 06/18/09

SUMMARY

TO: Town Council
FROM: Town Manager John C. Klimm
DATE: May 14, 2009
SUBJECT: Lighting for the Walkway to the Sea through Aselton Park

BACKGROUND: This item is the next stage in a follow-up to the lighting study adopted in September of 2007 by the Town Council. That same study led to the new lighting on Main Street and in the new Pleasant Street Park. Lighting in the Walkway to the Sea though the Village Green has been designed and will be installed this year.

Under this project lighting will be installed in Aselton Park to complete the link from the Village Green over to Pleasant Street. Currently the walkway to the sea from Ocean Street to the waterfront through Aselton Park is unlit.

FISCAL IMPACT: There is no fiscal impact. The total amount of monies is to come from embarkation fees, which is appropriately directed to the Hyannis Waterfront area.

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2009-129
INTRO: 06/04/09, 06/18/09

2009-129 COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES & CPC APPROPRIATION FOR ADMINISTRATIVE EXPENSES

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2010, the following sums, or sums equaling ten percent (10%) of the annual revenues of the Community Preservation Fund if a different amount, be set aside for further appropriation and expenditure for the following purposes: Two Hundred Two Thousand Eight Hundred and Ninety One and No/100 (\$202,891.00) Dollars or ten percent (10%) for open space but not including land for recreational use; Two Hundred Two Thousand Eight Hundred and Ninety One and No/100 (\$202,891.00) Dollars or ten percent (10%) for historic resources; Two Hundred Two Thousand Eight Hundred and Ninety One and No/100 (\$202,891.00) Dollars or ten percent (10%) for community housing; and that the sum of One Hundred Fifty Thousand and No/100 (\$150,000.00) Dollars be appropriated from the annual revenues of the Community Preservation Fund to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment, consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL
CPF SET-ASIDES AND
CPC OPERATING EXPENSES APPROPRIATION

ITEM# 2009-129
INTRO: 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 18, 2009

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

FISCAL IMPACT: This is a reservation and appropriation from the Community Preservation Fund and has no adverse impact on the general fund. The total estimated FY 2010 revenue for the Community Preservation Fund and reservations have been estimated as follows:

FY 2010 Estimated Surtax	\$2,681,515
FY 2010 Estimated state match (29% of FY09 surtax billings)	<u>\$758,672</u>
Total estimated FY 2010 revenue	\$3,440,187
FY 2010 revenue dedicated to debt service	(\$2,681,514)
FY 2010 revenue dedicated to program administration	<u>(\$150,000)</u>
Balance available for program areas	\$608,673
Reserve for open space	\$202,891
Reserve for historic preservation	\$202,891
Reserve for community housing	<u>\$202,891</u>
Total reservations	<u>\$608,673</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2009-130
INTRO: 06/04/09, 06/18/09

2009-130 APPROPRIATION FOR COMMUNITY PRESERVATION FUND FY10 DEBT SERVICE

ORDERED: That the Town Council hereby appropriate \$2,894,078 for the purpose of paying the FY10 Community Preservation Fund debt service requirements, and to meet such appropriation, that \$2,681,514 be provided from current year revenues of the Community Preservation Fund and that \$212,564 be provided from surplus funds reserved for the open space program within the Community Preservation Fund

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

**APPROPRIATION FOR COMMUNITY PRESERVATION FUND
FY10 DEBT SERVICE**

**ITEM# 2009-130
INTRO: 06/04/09, 06/18/09**

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 18, 2009

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

ANALYSIS: The debt service requirements for FY 2010 for the Community Preservation Fund (CPF) are \$2,894,078. The estimated surtax revenue for the CPF in FY 2010 to be billed is \$2,681,514. The difference of \$212,564 will be covered by the fund balance brought forward from the Landbank Program as recommended by the Community Preservation Committee.

FISCAL IMPACT: There is no impact to the General Fund budget as a result of this appropriation. This appropriation will be provided from current year estimated surtax revenues in the Community Preservation Fund and a portion of the fund balance generated under the Landbank Program that is reserved for the open space program. The current balance in this reserved fund balance account is \$2,160,022. The balance; net of this request, is \$1,947,458.

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

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-131

INTRO: 05/21/09, 06/04/09, 06/18/09

2009-131 APPROPRIATION & LOAN ORDER-SEWER COLLECTION SYSTEM EXPANSION

ORDERED: That the sum of \$44,100,000 be appropriated for the purpose of funding the sewer collection system expansion in the Lake Wequaquet area; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$44,100,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council, and that betterments or any of the methods for sewer assessments be assessed.

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

LAKE WEQUAQUET AREA SEWER EXPANSION

ITEM# 2009-131

INTRO: 05/21/09, 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 21, 2009
SUBJECT: Lake Wequaquet area sewer expansion project

BACKGROUND:

The Town's Comprehensive Wastewater Facilities Plan for the Hyannis Water Pollution Control Facility has identified several areas where there are public health and environmental concerns that are caused by failing septic systems and/or dense population concentration in Zones of Contribution to public water supply wells. The Lake Wequaquet area is one of the areas of concern that has been determined to be best solved by sewerage and connection to the Hyannis Water Pollution Control Facility.

ANALYSIS:

Design of the sewer system for the Lake Wequaquet area was funded by a prior appropriation and is well beyond the preliminary design stage. The construction project has been listed on the State Revolving Fund Intended Use Plan for 2009 as eligible for a 2% interest loan with an 8.8% principle subsidy. The total estimated budget for the project is \$44.1M serving an estimated 1300 customers. To be eligible for SRF funding as describe above the community must have committed to obtaining local funding authorization by June 30, 2009, and filing a complete loan application by August 1, 2009 for projects to be funded through the ARRA.

FISCAL IMPACT:

The cost of the sewer expansion project is to be funded through the SRF program with the principal subsidy described above. Revenues to pay for the SRF subsidized loan are to be recovered through sewer betterment to the properties served by this sewer expansion project.

TOWN MANAGER RECOMMENDATION:

The Town Manager recommends approval of the appropriation order after the required public hearing. The Town Manager recommends the approval of the borrowing of these funds.

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-132

INTRO: 05/21/09, 06/04/09, 06/18/09

2009-132 APPROPRIATION & LOAN ORDER – PUMP-STATION AND FORCE MAIN

ORDERED: That the sum of \$9,960,000 be appropriated for the purpose of designing and constructing sewer pump stations and force mains; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$9,960,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council, and that betterments or any of the methods for sewer assessments be assessed.

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

FY09 PUMP STATION & FORCE MAIN DESIGN & CONSTRUCTION

ITEM# 2009-132

INTRO: 05/21/09, 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 21, 2009
SUBJECT: FY09 Pump Station and Force Main design and construction project

BACKGROUND:

The Town's Comprehensive Wastewater Facilities Plan for the Hyannis Water Pollution Control Facility has identified several areas where there are public health and environmental concerns that are caused by failing septic systems and/or dense population concentration in Zones of Contribution to public water supply wells. In addition to identifying specific Areas of Concern that are recommended for connection to the Hyannis Water Pollution Control Facility, pump station improvements and installation are identified in the plan.

ANALYSIS:

The proposed design and construction project are for a pump station to service the sewer expansion projects currently proposed in the Town's Comprehensive Wastewater Facilities Plan. The construction project has been listed on the State Revolving Fund Intended Use Plan for 2009 as eligible for a 2% interest loan with an 8.8% principle subsidy. The total estimated budget for the project is \$9.96M serving an estimated 5468 customers. To be eligible for SRF funding as describe above the community must have committed to obtaining local funding authorization by June 30, 2009, and filing a complete loan application by August 1, 2009 for projects to be funded through the ARRA.

FISCAL IMPACT:

The cost of the pump station and force main project is to be funded through the SRF program with the principal subsidy described above. Revenues to pay for the SRF subsidized loan are to be recovered through impact/connection fee to the properties served by the sewer expansion projects.

TOWN MANAGER RECOMMENDATION:

The Town Manager recommends approval of the appropriation order after the required public hearing. The Town Manager recommends the approval of the borrowing of these funds.

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-133

INTRO: 05/21/09, 06/04/09, 06/18/09

2009-133 APPROPRIATION-& LOAN ORDER - SEWER COLLECTION SYSTEM EXPANSION

ORDERED: That the sum of \$3,300,000 be appropriated for the purpose of funding the sewer collection system expansion at Stewart’s Creek – West Side (Phase II); and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$3,300,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council, and that betterments or any of the methods for sewer assessments be assessed.

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

FY09 WEST SECTION OF STEWART'S CREEK AREA SEWER EXPANSION

ITEM# 2009-133

INTRO: 05/21/09, 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 21, 2009
SUBJECT: FY09 West Section of Stewart's Creek area sewer expansion project

BACKGROUND:

The Town's Comprehensive Wastewater Facilities Plan for the Hyannis Water Pollution Control Facility has identified several areas where there are public health and environmental concerns that are caused by failing septic systems and/or dense population concentration in Zones of Contribution to public water supply wells. The Stewart's Creek area is one of the areas of concern that has been determined to be best solved by sewerage and connection to the Hyannis Water Pollution Control Facility. The East Section of the Stewart's Creek area project has already been appropriated.

ANALYSIS:

Design of the sewer system for Stewart's Creek area was funded by a prior appropriation and is well beyond the preliminary design stage. The construction project has been listed on the State Revolving Fund Intended Use Plan for 2009 as eligible for a 2% interest loan with an 8.8% principle subsidy. The total estimated budget for the project is \$7.2M serving an estimated 320 customers. To be eligible for SRF funding as describe above the community must have committed to obtaining local funding authorization by June 30, 2009, and filing a complete loan application by August 1, 2009 for projects to be funded through the ARRA.

FISCAL IMPACT:

The cost of the sewer expansion project is to be funded through the SRF program with the principal subsidy described above. Revenues to pay for the SRF subsidized loan are to be recover through sewer betterment to the properties served by this sewer expansion project.

TOWN MANAGER RECOMMENDATION:

The Town Manager recommends approval of the appropriation order after the required public hearing. The Town Manager recommends the approval of the borrowing of these funds.

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-135
INTRO: 06/04/09, 06/18/09**

**2009-135 APPROPRIATION & LOAN ORDER – HYANNIS WATER SYSTEM WATER
MAIN UPGRADE**

ORDERED, That the sum of \$1,700,000 be appropriated for the purpose of funding the water main upgrade from the Maher Treatment Plant on Old Yarmouth Road through South Street for the Hyannis Water System; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,700,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council.

SPONSORS: 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

HYANNIS WATER SYSTEM WATER MAIN UPGRADE

ITEM# 2009-135
INTRO: 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: Town Councilor James M. Munafo, Jr.
DATE: May 26, 2009
SUBJECT: Appropriation and loan order

BACKGROUND: The Hyannis Water Board and Department of Public Works have prioritized the construction of this water main upgrade as one of the prioritized capital improvement recommendations of the Master Plan for the Hyannis Water System.

ANALYSIS: The fire flow tests performed for the Insurance Services Office in 2006 and the Hydraulic Study results identified deficient fire flows in the down town Hyannis area. This project is needed to improve these fire flows.

The construction of this water main upgrade has been listed on the State Revolving Fund Intended Use Plan for 2009 as eligible for a 2% interest loan with a 14.1% principle subsidy relative to the American Recovery and Reinvestment Act (Federal Stimulus Monies).

The total budget for the project is \$1.7 M and to be eligible for SRF funding as described above the community must have committed to obtaining local funding authorization by June 30, 2009, and filing a complete loan application by August 1, 2009 for projects to be funded through the State Revolving Fund and American Recovery and Reinvestment Act (Federal Stimulus Monies)..

FISCAL IMPACT: The cost of the construction of this water main upgrade is to be funded through the SRF program with the principal subsidy described above. Revenues to pay for the SRF subsidized loan are to be recovered through the Hyannis Water System water rates and fees previously approved for FY 2010. No additional fee increase is required to pay for the debt service associate with this SRF loan.

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

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-136

INTRO: 06/04/09, 06/18/09

2009-136 APPROPRIATION & LOAN ORDER –HYANNIS WATER SYSTEM IMPROVEMENTS

ORDERED: That the sum of \$1,140,000 be appropriated for the purpose of funding the water supply wells, pump station and water system improvements for the Hyannis Water System; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,140,000 and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council.

SPONSORS: 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

HYANNIS WATER SYSTEM IMPROVEMENTS

ITEM# 2009-136

INTRO: 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 21, 2009
SUBJECT: FY09 Appropriation and Loan Order

BACKGROUND: The Hyannis Water Board and Department of Public Works have prioritized the replacement of the Supervisory Control and Data Acquisition (SCADA) computer system, and the upgrades relative to the Air Stripper and well buildings as prioritized capital improvements within the recommendations of the Master Plan for the Hyannis Water System.

ANALYSIS: The existing SCADA system at the Hyannis Water System is over 20 years old and obsolete. Spare parts are not available and maintenance service is increasingly difficult to obtain. The master plan for the Hyannis Water System and all operations contractors that assessed the water system did recommend to replace this system. The air stripper improvements at the Maher Treatment plant were recommended by Weston & Sampson and confirmed through a detailed report provided by Haley & Ward Engineers. The water supply well, pump station & treatment plant upgrades will provide for the need for backup power supply, entryway improvements and electrical upgrades.

The construction of these items have been listed on the State Revolving Fund Intended Use Plan for 2009 as eligible for a 2% interest loan with a 14.1% principle subsidy relative to the American Recovery and Reinvestment Act (Federal Stimulus Monies).

The total budget for the project is \$970,000 and \$875,000 will be eligible for SRF funding as described above. The community must have committed to obtaining local funding authorization by June 30, 2009, and filing a complete loan application by August 1, 2009 for projects to be funded through the State Revolving Fund and American Recovery and Reinvestment Act (Federal Stimulus Monies). The cost of the design of these upgrades will be \$95,000.

FISCAL IMPACT: The cost of the construction of these upgrades is to be funded through the SRF program with the principal subsidy described above. The cost of the design of these upgrades will be transferred from the mitigation funds received by the Town from the MTBE lawsuit. Revenues to pay for the SRF subsidized loan are to be recovered through the Hyannis Water System water rates and fees previously approved for FY 2010. No additional fee increase is required to pay for the debt service associate with this SRF loan.

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

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Joint public hearing with planning board) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-137
INTRO: 06/04/09, 06/18/09**

2009-137 DCPC IMPLEMENTING REGULATIONS-CENTERVILLE VILLAGE DISTRICT

ORDERED:

Preamble: This ordinance is adopted as an implementing regulation of the Centerville Village portion of the Centerville Village Craigville Beach District of Critical Planning Concern (DCPC). Included in this order in **Section 1** amends the zoning map to create the Centerville Village District; **Section 2** adopts the Centerville Village Implementing Regulations; **Section 3** rezones portions of the DCPC not included in the Centerville Village District from BA to RC; and **Section 4** amends the Sign Code § 240-67 to add "Centerville Village District" to that section.

Section 1

Centerville Village District Map

That the official zoning map of the Town of Barnstable is hereby amended by adding the Boundary of the Centerville Village District replacing portions of the B, RC and RD-1 district in the vicinity of Main Street and South Main Street in Centerville as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Centerville Village District" dated May 28, 2009.

Section 2

Centerville Village District Implementing Regulations

That Chapter 240, Zoning Ordinance is hereby amended by adding a new section, Section XIII District of Critical Planning Concern Implementing Regulations and adding Centerville Village District Implementing Regulations:

Article XIII District of Critical Planning Concern Regulations

§240-130 Centerville Village District

Authority

This Article is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§240-130-1 Purposes and Intent

The purposes and intent of this section is to guide development and redevelopment in Centerville Village that:

- Promotes a location-appropriate scale and traditional mix of business, institutional and residential land uses that contribute to and respect the historic character and historic neighborhood development patterns;
- Acknowledges the historic context of the village including the National Register District which encompasses properties in the northern portion of the CVD
- Protects and preserves the historic and scenic streetscape and minimizes traffic congestion;
- Provides a variety of functions that support residents' day-to-day use of the district.
- Supports and enhances the diverse locally owned economy and retain established village goods and service offerings;
- Preserves and enhances the traditional New England village character of Centerville through architectural design that replicates in scale and character the

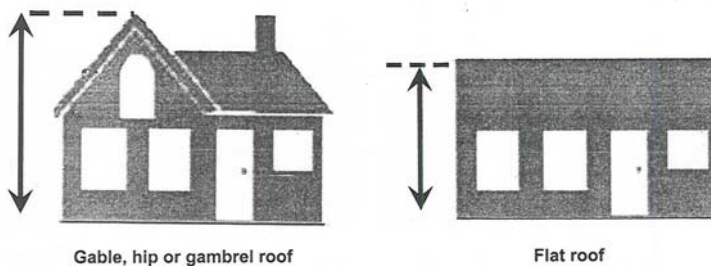
best examples of traditional neighborhood design from the historic towns and villages of Cape Cod and New England and to enhance the aesthetic quality of Barnstable as a whole.

The further purpose and intent of this section is to enable the Town of Barnstable to enter into development agreements (hereinafter "regulatory agreements") under Chapter 168 of the Code within the Centerville Village District (CVD) as described and authorized by Chapter 168 of the Town of Barnstable Code.

§ 240-130-2 Definitions

Apartment - One or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit located in a building containing two or more such rooms or suites or located in a building devoted primarily to nonresidential use or in a mixed use building.

Bed and Breakfast - Tourist and guest accommodations located within an owner-occupied, single-family residential dwelling unit, let for compensation for brief periods of time, customarily less than two weeks long, without cooking facilities accessible to the guests; or the temporary abode of visitors who have a permanent residence elsewhere.



Building Height – The vertical distance between the grade and the highest point of a gable, hip or gambrel roof; the highest point of the coping of a flat roof.

Grade - The referenced plane of the average of all finished ground level adjoining the building or structure for a distance of 6 feet from all exterior walls.

Ice Cream Specialty Use - An establishment specializing in the retail sale of ice cream for consumption on or off site or carry out consumption that may include a seating area for food service use as an accessory to the ice cream specialty retail or an ice cream retail use in existence at the time of the adoption of this ordinance. Accessory food service use may sell, and serve by wait staff a variety of foods that may be prepared on site. Ice cream specialty retail and any accessory food service use is subject to formula business limitations as described herein. Ice cream specialty retail may include on-site ice cream product preparation for wholesale sales provided however; in no case shall wholesale sales of ice cream product for use off- site become the principal use; truck distribution and delivery activity necessary to the wholesale sale of ice cream product for off-site use shall not create additional congestion, and the use shall not generate noise that violates Town Ordinances, or detract from the established character within the CVD.

Impervious Surface A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, natural stone, sidewalks, etc. Any area which may be designed initially to be semi-pervious but has been shown to become impervious over time (e.g., gravel, crushed stone, shells, porous pavement, etc.) shall be considered impervious surface.

Inn - A commercial structure used for overnight lodging accessed through interior hallways which may include the provision of meals and incidental related services to lodgers or a motel use in existence at the time of the adoption of this ordinance.

Library - A building or room that houses a collection of books, records, literary documents or other reference materials for borrowing, reading, study, education or reference and which is generally owned or operated by a non-profit educational corporation.

Lot Area - The horizontal area of a lot exclusive of any area in a street or way open to public use. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year, or considered as wetland resource area as defined in the Wetlands Protective Act, Chapter 131, Section 40 of MGL and subsequent regulations, 310 CMR 10.00.

Mixed Use Development - Development including at least one residential unit and at least one non-residential use on a single lot or several non-residential uses on a single lot.

Non-Profit Educational Use – An educational use conducted by a not for profit corporation whose articles of incorporation permit it to engage in educational activities and “educational purposes” as its principal permitted use within the meaning of Massachusetts General Laws, Chapter 40A, sec. 3, including but not limited to libraries and museums.

Professional or Business Office - Office, but not including medical office.

Religious Institution – An institution engaged in “religious purposes” within the meaning of Massachusetts General Laws, Chapter 40A, Section 3.

Single Family Residence – A detached residential building designed for and occupied by a single family.

Small-Scale Food Service – An establishment where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian traffic and use of the area by residents, the community and visitors.

Small-Scale Retail - Small stores and businesses, including but not limited to, corner groceries, artist space, bookstore, galleries and other small retail uses typically found in small New England towns. Small-scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers e.g. gasoline and oil filling stations, garages for automotive or machine repair. Small scale retail is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

Story - That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above and having at least 1/2 its height above grade.

Section 240-130-3 Permitted Uses

The following principal and accessory uses are permitted in the Centerville Village District subject to the use limitations outlined below. Other uses of an appropriate scale and function may also be considered subject to a Regulatory Agreement and are subject to the use limitations outlines below. Municipal uses are exempt from these regulations.

A. Use limitations

Permitted retail establishment, lodging establishment, restaurant, or take out food franchise shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than fourteen (14) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

B. Principal uses.

- *Ice Cream Specialty Retail
- *Mixed Use Development
- *Professional or Business Office.
- Single Family Residence
- *Small Scale Food Service
- *Small Scale Retail
- *Bed and Breakfast
- *Inn

*Subject to use limitations as described in §240-130-3 A.

C. Accessory uses.

- Automated banking facilities (ATM) within a principal building or a walk-up facility located in a rear or side yard that also meets landscaping and lighting guidelines of this section.
- Garage accessory to a single-family residence. Such structures shall be located in the rear or side yard. The footprint of the garage shall not exceed 40% of the footprint of the single-family residence and shall consist of one story unless otherwise permitted for residential use.
- Apartment

- D. Exempt Uses** Religious Institutions, accessory day care centers, and Non-Profit Educational uses are permitted as exempt uses within the CVD. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the CVD as set forth in Sections 240-130-1A Purposes and Intent, § 240-130-5 Dimensional, Bulk and Other Regulations, § 240-130-6 Design Guidelines, and § 240-130-7 Site Development Standards.

Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use, provided however that the relief granted will not create a public safety hazard along adjacent roadways and will not create a nuisance to other surrounding properties.

A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

Section 240-130.3

- A. Continuation.** Structures, uses and site improvements in existence at the time of the adoption of this ordinance shall be allowed to continue.

- B. Change, Expansion or Alteration of Uses and Structures.**

As of right

1. The normal and customary repair and maintenance of a building or structure is permitted as of right.
2. The alteration and expansion of a building or structure is permitted as of right provided that the alteration or expansion conforms in all other respects with all applicable requirements of this chapter.

By Special Permit

Alterations or expansions of a previously established building or structure that do not qualify under as of right provisions shall be permitted only by a special permit from the Zoning Board of Appeals, the Special Permit Granting Authority (SPGA) for the CVD. In granting such special permit, the Board must find that the proposed alterations and/or expansion are not substantially more detrimental, by standards set out herein, to the surrounding neighborhood under this Chapter § 240-130-1 A. Purposes and Intent, 240-130-4A Use Limitations and, where applicable, § 240-130-2 Definitions.

- C. Special Permit for Dimensional Relief**

The SPGA may provide relief from minimum lot area, minimum lot frontage, maximum building setback, minimum yard setbacks, facade length requirements, ground floor window requirements when such relief ensures that the proposed development is consistent with the § 240-130-1 A. Purposes and Intent and the applicant demonstrates undue hardship without desired relief.

- D. Re-establishment of damaged or destroyed use, building or structure.**

The re-establishment of a use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:

- 1 The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade.
- 2 If the building's location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations; and
- 3 The reconstruction or repair will not constitute an expansion or intensification of any use.
- 4 In the case of any use in which it would otherwise be required, the site plan review process has been followed.

- 5 Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction, the CVD design guidelines do not apply.

Any previously established use or structure which no longer complies with the provisions of the CVD shall be discontinued unless a building permit has been applied for within two years from the date of damage or destruction, and construction is continuously pursued to completion.

Section 240- 130-4 Additional Provisions

Other regulations

The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7 Application of District Regulations; § 240-9 C-D; § 240-10 Prohibited Uses; § 240-34 Flood Area Provisions; § 240-46 A-B Home Occupations; Sign Regulations § 240-59 through 62, and 240-67; Growth Management Sections 240-110 through 122; Article IX Site Plan Review; Article XII Administration and Enforcement § 240-123 – 240-124; § 240-125 C Special Permit Provisions as these provisions of the Barnstable Code cited in this section may be amended from time to time;

Conflicts

Unless otherwise stated, the requirements of the Centerville Village District shall apply to uses and structures within the Centerville Village District. In the event of a conflict, these regulations shall apply.

Severability

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

Section 240-130-5 Dimensional, Bulk and Other Requirements

Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks			Maximum Building Height ¹		Maximum Lot Coverage By Structures	Total Impervious Surface
		Front ² (feet)	Rear (feet)	Side (feet)	Feet	Stories		
20,000 SF or Lot area as of mm/dd/2009	20	20' or Setback of existing structure from front lot line as of mm/dd/2009 whichever is less	10	10	30	2 ½	35%	80%

NOTES:

(1) Height - Maximum building height. The maximum height of buildings or structures is 36 feet or two and one half stories whichever is less at the highest point of the roof for roofs with a pitch of at least six (6) inches in each foot and at the highest point of a gambrel roof.

(2)Setbacks

- a) The existing building setback may be modified through a special permit from the Zoning Board of Appeals upon demonstration to the satisfaction of that board that redevelopment cannot meet the minimum setback without undue hardship or due to topography, lot shape or constraints of existing structures.
- b) Parking is discouraged in the front yard setback. Wherever possible parking shall be located within side or rear yards.

- c) Landscaping is required in the front yard

Section 240-130-6 Design Guidelines

Purpose:

The purpose of these design guidelines is to enhance the traditional small-scale village character currently found in the CVD through the use of compatible building materials, appropriate scale and architectural details currently found within the district or immediate surrounding area. New structures are encouraged to complement, but not necessarily duplicate, surrounding structures.

Objectives:

1. To encourage site planning and architectural design that will enhance the existing historic character of the CVD.
2. Ensure that redevelopment and new development is compatible with the existing character of the CVD while encouraging variety through flexibility in the application of these design standards.

Application:

The Design Guidelines set forth herein do not apply to structures in existence as of the effective date of the CVD but shall apply to all new development, to any additions to existing structures and to all reconstruction projects except as provided for in § 240-130.

- A. Massing:** Buildings or portions of buildings with a mass, including rooflines, over 25 feet in length must divide their elevations into smaller parts through a variety of architectural elements including but not limited to dormers or additive massing as well as pronounced changes in wall planes. Flat and shed roofs are limited to a length of 20 linear feet and only in combination with other gable or hip roof elements; except that ground floor open porches may have a longer expanse of shed roof on a structure that otherwise meets these massing provisions.
- B. Roof Pitch:** Except as permitted under massing herein, roof pitch and pattern for new structures and additions to existing structures shall complement the roof pitches found on the main rooflines of existing structures within the CVD and the immediate surrounding area or at least 4 in 12 where the roofs of surrounding structures are flat or only slightly pitched
- C. Ground floor windows for non-residential development:**
 1. All new non-residential development, including non-residential portions of mixed use developments, shall provide ground floor windows along street facades, including windows that allow view into working areas or lobbies, pedestrian entrances, or display windows. The glazing pattern shall be aligned in a regular and traditional pattern as found within the CVD and the immediate surrounding area.
 2. Window glazing or films that inhibit two-way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows. Mirrored windows are prohibited throughout the CVD.
 3. Street façade blank walls greater than four (4) feet in length that do not include display areas, windows, architectural features, and/or doorways are prohibited.
- D. Architectural details and materials:**
 - 1 Architectural character of buildings must complement the historic character of buildings found within the CVD and the immediate surrounding area.
 - 2 Façade materials shall be high quality, authentic materials such as wood, stone or brick. Manufactured materials intended to duplicate the look of natural materials may be allowed.
 - 3 External side elements including but not limited to screening devices, site walls, enclosed service, loading and refuse areas and mechanical equipment shall be designed as an integral part of the building's architectural character.
 - 4 Primary entrance to buildings, other than single family homes, shall be distinguished with façade variations, porticos, roof variations, recesses or other integral architecturally appropriate building elements.
 - 5 Extended bands of corporate or franchise colors are prohibited in the CVD.
 - 6 Metal sided buildings are prohibited in the CVD.

- 7 The following design features shall be incorporated into structures within the CVD where architecturally appropriate. In no case shall a structure be void of all the following elements.
 - Gable
 - Offsets on the building face or roof of at least two inches
 - Gable dormers
 - Cupolas or other appropriate roof elements
 - Covered porches

Section 240-130-7 Site Development Standards

All new development and redevelopment and change of use except as set forth in §240-130 within the CVD with the exception of single-family residences shall comply with the provisions of Article IX Site Plan Review § 240-98.

A. Access Management.

To ensure traffic safety, pedestrian safety and maintain traffic flow the following standards for new access shall apply in the CVD:

1. New access on South Main Street and Main Street:
 - Shall only be allowed where access is to be relocated to improve internal circulation or address safety at existing access.
 - Interconnections between lots and uses are strongly encouraged to prevent unsafe turning conflicts and increase pedestrian safety.
 - New driveways are strongly discouraged on South Main Street and Main Street within 200 feet of any intersection.

Should a new driveway that does not meet the provisions above be deemed necessary to the use of the structure or lot applicant shall demonstrate through a professional study that driveway location will not create new traffic safety hazards or increase traffic congestion.

2. New access shall not be more than 20 feet in width unless a professionally conducted study determines a wider width is necessary for safety purposes.

B. Parking spaces, computation.

1. The parking standards contained within the Schedule of Off-Street Parking Requirement, § 240-56 of the Barnstable Zoning Ordinance, shall establish the minimum parking requirements, with the following exceptions:
 - a. The use of shared parking for different uses having different peak hours of demand will be considered in evaluating compliance with § 240-56. A signed lease agreement or recorded easement between relevant parties sharing parking must be provided as part of the site plan approval or special permit process.
 - b. A permitted use can be changed to another permitted use, and any permitted principal or accessory use can be intensified, without increasing the required off-street parking requirements of § 240-56, Schedule of Off-Street Parking Requirements, provided that:
 1. There is no increase in gross square footage of the building; and
 2. There is no reduction in existing parking spaces required pursuant to § 240-56; and
 3. Parking space requirements for residential dwelling units shall be one parking space per bedroom for one- and two-bedroom units or a total of two parking spaces for units with two or more bedrooms.
2. Parking spaces shall be provided for new and/or expanded building area, and for new and/or expanded outdoor uses, as follows:
 - a. Parking space requirements for residential mixed use shall be subject to Section A above and for the residential units parking the parking requirement shall be one parking space per bedroom for one- and two-bedroom units or a total of two parking spaces for units with two or more bedrooms.
 - b. Parking space requirements for non-residential uses shall be subject to Section A above.

3. Reduction of required parking spaces may be allowed provided the Building Commissioner, who may waive up to two (2) spaces, or if parking is proposed to be reduced by more than two (2) spaces the Zoning Board of Appeals must find that:
 - a. Adequate shared parking is available consistent with § A. 1 above or,
 - b. There are other factors that support the reduction.

C. Landscaping.

All applications for new non-residential development and redevelopment shall be accompanied by a landscape plan that shows the location within the development of each species of trees, shrubs and/or other plantings, their suitability for the conditions at the proposed location and their size at maturity

1. Those portions of the front yard not occupied by pedestrian amenities and public spaces shall be landscaped.
2. Existing trees and other features of the land, especially slopes, shall be protected in the development or redevelopment of the site.
3. Landscape materials shall be used that, at full growth, will not overwhelm the site location or interfere with views or pedestrian activity over time.
4. Landscaping plan will adequately provide street trees and will screen parking.

D. Lighting.

1. All exterior lighting shall use full cutoff light fixtures in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
2. Flood, area and up lighting is prohibited for uses and signage.

Section 3

Amend the “Zoning Map to rezone the portions of the BA

That the “Zoning Map of the Town of Barnstable Massachusetts” last amended on April 2, 2008 on file with the Town Clerk is hereby amended to rezone portions of the BA zoning district that lie outside the Centerville Village District boundary to the RC zoning district as shown on the illustration map entitled “Centerville Village District”.

Section 4

Amend the Barnstable Zoning Ordinance § 240-67 Signs

That the Town of Barnstable Zoning Ordinance Chapter 240, § 67 Signs is hereby amended to read “Section 240-67 Signs in the CVD, VB-A, and VB-B Districts”.

SPONSORS: Council President Frederick Chirigotis, Councilor Janet S. Joakim, and Councilor Tom Rugo

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

IMPLEMENTATION OF DCPC CENTERVILLE VILLAGE DISTRICT

ITEM# 2009-137
INTRO: 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: Jo Anne Buntich Miller, Director of Growth Management
DATE: May 29, 2009

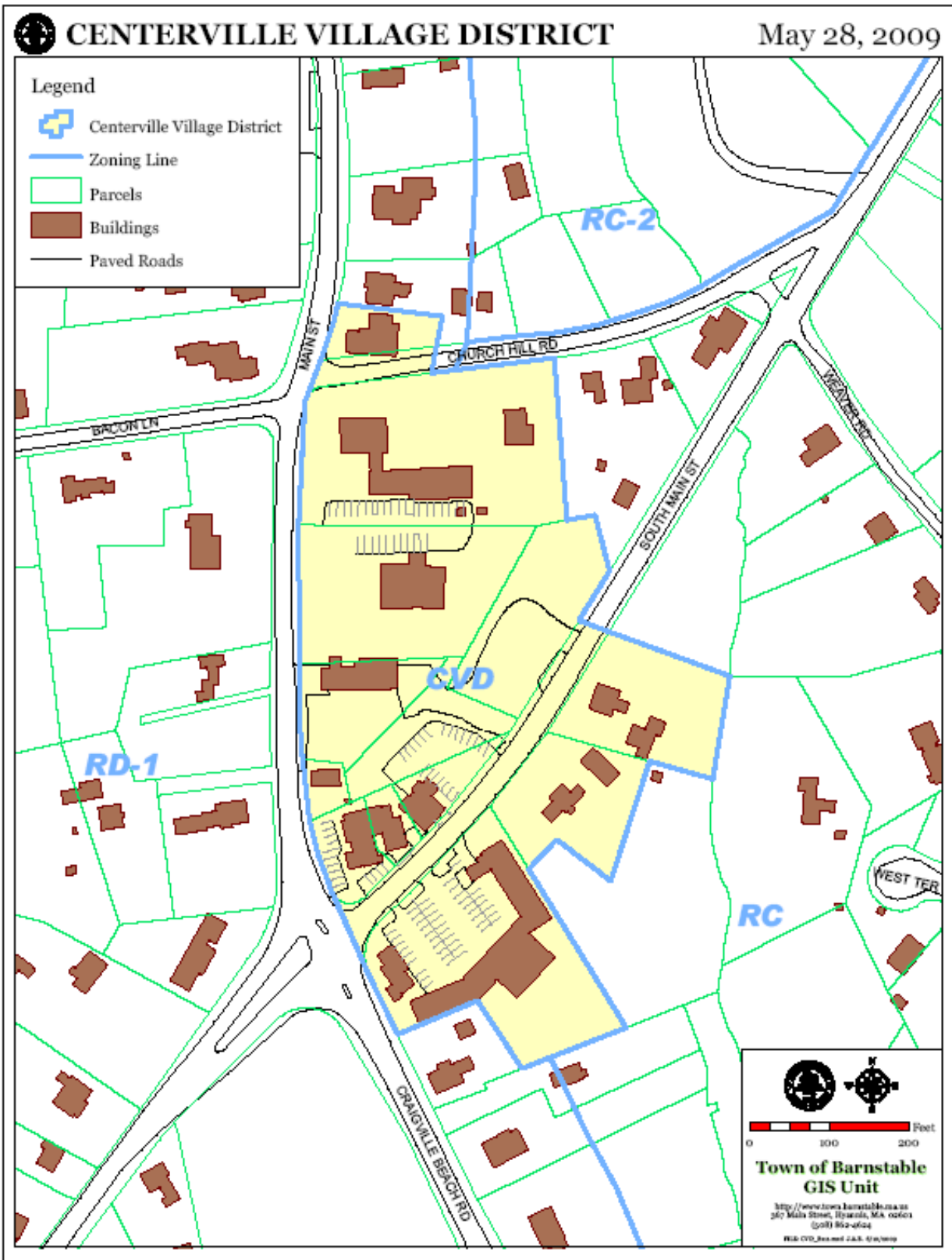
BACKGROUND: This is an amendment to the Zoning Ordinance that creates Section XIII District of Critical Planning Concern Regulations, Section 240-130 Centerville Village District.

The Centerville Village DCPC was nominated in February of 2008 as a Cultural, Historic, Architectural Resource and Economic Development Resource District. The DCPC process was initiated at the request of Centerville residents. Adoption of these implementing regulations will allow the Town to provide the regulation desired by local residents and ensure that this small economic center will grow in a way that existing infrastructure can support.

The Town through the Town Attorney's Office and the Growth Management Department organized and partnered with an Advisory Group representing stakeholders in the Village DCPC. Attorneys Phil Boudreau and Eliza Cox – and at the outset Patrick M. Butler - represented property owners, Roy Richardson, represented the Centerville Village Association, Town Attorney Ruth Weil and Interim Director of Growth Management Jo Anne Miller Buntich along with former Interim Director Patty Daley worked with this group. Attorney Michael Ford has been copied on all group correspondence for his client. This group has met several times a month since July 2008. The regulations presented here are a product of that process.

ANALYSIS: Adoption of this regulation will create the Centerville Village District by rezoning portions of the existing BA, RD-1 and RC districts and rezones the existing BA district to the Centerville Village District and the RC district. This order also amends the zoning map to accommodate these changes and adds the Centerville Village District to the Sign Code.

RATIONALE: These regulations respond to and support the purposes of the District of Critical Planning Concern which included protecting village cultural, historic and architectural character which is accomplished through use regulations, dimensional regulations and design guidelines. The locally owned businesses, the economic resource, are supported through allowed by-right uses and a formula business prohibition. The inclusion of the regulatory agreement process will allow the Town and business uses to work together to address additional needs of the village uses.



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

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-138
INTRO: 06/04/09, 06/18/09**

2009-138 AMEND THE REGULATORY AGREEMENT ORDINANCE TO INCLUDE THE CENTERVILLE VILLAGE DISTRICT.

ORDERED, That Chapter 168 of the General Ordinance, Regulatory Agreements, is hereby amended by adding the Centerville Village District to the existing Regulatory Agreement District.

SECTION 1

That Chapter 168, Regulatory Agreement Ordinance, is amended by adding the Centerville Village District to the Hyannis Regulatory Agreement District Map as shown on a map on file with the Town Clerk entitled "Hyannis Regulatory Agreement District Map", dated March 9, 2007, by amending said map as shown on the map entitled "Proposed Amendment to Regulatory Agreement District Map Adding the Centerville Village District" dated May 28, 2009.

SECTION 2

That Chapter 168, the Regulatory Agreement Ordinance, is hereby amended by striking out Section 168-1 A and inserting in place thereof the following:

It is the purpose and intent of this chapter to enable the Town of Barnstable to enter into development agreements (hereinafter "regulatory agreements") in the areas delineated on the attached map, dated May 28, 2009, entitled "Regulatory Agreement Districts."

SECTION 3

That Chapter 168, the Regulatory Agreement Ordinance, is hereby amended by striking out Section 168-1 B and inserting in place thereof the following:

This chapter shall apply within the Regulatory Agreement Districts, shown on the attached map.

SPONSORS: Town Council President Frederick Chirigotis, Councilor Janet Joakim and Councilor Thomas Rugo.

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

REGULATORY AGREEMENT CENTERVILLE VILLAGE DISTRICT

**ITEM# 2009-138
INTRO: 06/04/09, 06/18/09**

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Director of Growth Management
DATE: May 29, 2009

BACKGROUND: This is an amendment to the General Ordinance that allows the newly created Centerville Village District (CVD) to access the provisions of Chapter 168 Regulatory Agreements. The Regulatory Agreement is part of the District of Critical Planning Concern (DCPC) regulations for the CVD.

The Centerville Village DCPC was nominated in February of 2008 as a Cultural, Historic, Architectural Resource and Economic Development Resource District. The DCPC process was initiated at the request of Centerville residents. Adoption of these implementing regulations will allow the Town to provide the regulation desired by local residents and ensure that this small economic center will grow in a way that existing infrastructure can support.

The Town through the Town Attorney's Office and the Growth Management Department organized and partnered with an Advisory Group representing stakeholders in the Village DCPC. Attorneys Phil Boudreau and Eliza Cox – and at the outset Patrick M. Butler - represented property owners, Roy Richardson, represented the Centerville Village Association, Town Attorney Ruth Weil and Interim Director of Growth Management Jo Anne Miller Buntich along with former Interim Director Patty Daley worked with this group. Attorney Michael Ford has been copied on all group correspondence for his client. This group has met several times a month since July 2008. The regulations presented here are a product of that process.

ANALYSIS: Adoption of this general ordinance amendment will allow properties in the Centerville Village District to negotiate regulatory agreements with the Town as specified within Chapter 168.

RATIONALE: The CVD regulations respond to and support the purposes of the District of Critical Planning Concern which included protecting village cultural, historic and architectural character which is accomplished through use regulations, dimensional regulations and design guidelines. The locally owned businesses, the economic resource, are supported through allowed by-right uses and a formula business prohibition. The inclusion of the regulatory agreement process will allow the Town and business uses to work together to address additional needs as they may arise.

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



A. OLD BUSINESS (Joint public hearing with Planning Board) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-139

INTRO: 06/04/09, 6/18/09

2009-139 AMEND ZONING ORDINANCE RELATING TO SCCRCOD

ORDERED, that:

Section 1. That the Code of the Town of Barnstable, Zoning Ordinance, Chapter 240, Article III, District Regulations, §240-29. SCCRCOD, Senior Continuing Care Retirement Community Overlay District, is hereby amended, by adding a new section “I” after §240-29.9 (H) as follows:

(I) Phasing and Period of Validity for Special Permit: The applicant, as part of the application, may propose a phasing plan identifying the specific units to be constructed in each phase and stating the reasons for the request. Said submission shall show the full buildout of the development. The Planning Board, upon a finding of good cause and of consistency with the provisions of this section, may approve a phasing plan that allows the construction of the development to be extended over a period not to exceed ten (10) years. Notwithstanding anything to the contrary contained in §240-125C (3), as long as the applicant proceeds with construction continuously in compliance with the approved phasing plan or with any modifications thereto approved by the Planning Board, the period of validity for the special permit shall be the same as the period of the phasing plan.

Section 2. That the Code of the Town of Barnstable, Zoning Ordinance, Chapter 240, Article III, District Regulations, §240-29. SCCRCOD, Senior Continuing Care Retirement Community Overlay District, is hereby amended, by adding a new section “I” after §240-29.10 (H) as follows

(1) Where a phasing plan has been proposed, that the applicant has demonstrated good cause to phase the development and that the approved phasing plan is consistent with the provisions of the SCCRCOD.

SPONSOR: John C. Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

AMEND ZONING - SCCRCOD PHASING PLANS

ITEM# 2009-139

INTRO: 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 21, 2009
SUBJECT: Zoning Amendment Period of Validity for Senior Continuing Care Retirement Community (SCCRCOD) Special Permit

RATIONALE: Section 240-29 of the zoning ordinance was adopted in June 2007 and subsequently amended in February 2008. This zoning ordinance allows development of residential communities that are somewhat self-contained for purposes of offering seniors a variety of services onsite consistent with their needs as they age in place.

Such facilities are significantly larger than the average development in that they require multiple facilities. Developers of this type of project are frequently required to procure a minimum of 50% of pre-sale of such units before potential lenders will extend credit for these projects.

In addition, it is not uncommon for developers of these projects to expend significant sums for soft costs associated with project development. As a result these projects are customarily phased and developed over a longer period of time than other uses allowed by special permit.

These circumstances make a modification to the zoning ordinance necessary to assure potential developers that their soft cost expenditures will not be susceptible to time constraints due to the traditional limitation periods of special permits. Given current economic conditions, investors are not willing to expend significant sums of money for soft costs without assurances that the permits that they had invested in have a life beyond the typical two years provided for with special permits.

TOWN MANAGER RECOMMENDATION: Town Council to proceed to a joint public hearing with the Planning Board to receive public comment on the proposal.

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-140
INTRO: 06/04/09, 06/18/09

2009-140 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

AGRICULTURAL COMMISSION

William Plettner, 510 Willow Street, West Barnstable, as a member, to a term expiring 6/30/2012
David Ross, 60 Widgeon Lane, West Barnstable, as a member, to a term expiring 6/30/2012

AIRPORT COMMISSION

Daniel Santos, 111 Stoney Point Road, Cummaquid, as a member, to a term expiring 6/30/2012
Robert O'Brien, 41 Deacon Court, Barnstable, as a member, to a term expiring 6/30/2012
John Griffin, Jr., 109 Old Farm Road, Centerville, as a member, to a term expiring 6/30/2012

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Royden Richardson, 129 Spring Street, Centerville, as a member, to a term expiring 6/30/2012

BARNSTABLE HISTORICAL COMMISSION

Leonard Gobeil, 720 Pitchers Way, Hyannis, as a member, to a term expiring 6/30/2012
Marilyn Fifield, 49 Colonial Way, Barnstable, as a member, to a term expiring 6/30/2012

BOARD OF ASSESSORS

William Garreffo, 22 Thornberry Lane, Centerville, as a member, to a term expiring 6/30/2012

BOARD OF HEALTH

Junichi Sawayanagi, 1085 Main Street, West Barnstable, as a member, to a term expiring 6/30/2012

CABLE TV ADVISORY BOARD

Max Kumin, 3826 Main Street, Cummaquid, as a member, to a term expiring 6/30/2012

COMMUNITY PRESERVATION COMMITTEE

Susan Rohrbach, 432 Main Street, Centerville, as a member, to a term expiring 6/30/2012

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Laura Cronin, 402 South St., Hyannis, as a member, to a term expiring 6/30/2012
Stanley Hodkinson, 123 Ensign Rd, Centerville, as a member, to a term expiring 6/30/2012

CONSERVATION COMMISSION

Dennis Houle, 679 Poponessett Road, Cotuit, as a member, to a term expiring 6/30/2012
Scott Blazis, 4 Three Ponds Drive, Centerville, as a member, to a term expiring 6/30/2012

COUNCIL ON AGING

Ella Rollins, 205 Ebeneser Road, Osterville, as a member, to a term expiring 6/30/2012
Charlotte Saunders, 635 Lumbert Mill Road, Centerville, as a member, to a term expiring 6/30/2012
Robert Burke, 98 Brant Way, Hyannis, as a member, to a term expiring 6/30/2012
Bridget Burke, 98 Brant Way, Hyannis, as a member, to a term expiring 6/30/2012
Angelo Tromba, 766 Putnam Avenue, Cotuit, as a member, to a term expiring 6/30/2012
Barbara Cross, 17 Forest Glen Road, Hyannis, as a member, to a term expiring 6/30/2012

ELDERLY & DISABLED TAXATION AID COMMITTEE

Carol Horgan, 60 Winifield Lane, Osterville, as a member, to a term expiring 6/30/2012
William Garreffo, 22 Thornberry Lane, Centerville, as a member, to a term expiring 6/30/2012

JFK MEMORIAL TRUST FUND COMMITTEE

Robert Jones, 65 Pinewood Drive, Hyannisport, as a member-at-large, to a term expiring 6/30/2012

LAND ACQUISITION AND PRESERVATION COMMITTEE

Phyllis Miller, 688 Main Street, Cotuit, as a member, to a term expiring 6/30/2012
Stephen O'Neil, 21 Nobb Hill Road, Hyannisport, as a member, to a term expiring 6/30/2012
Duncan Gibson, 149 Harbor Point Road, Cummaquid, as a member, to a term expiring 6/30/2012

LICENSING AUTHORITY

Eugene Burman, 283 Holly Point Road, Centerville, as a member, to a term expiring 6/30/2012

PUBLIC WORKS COMMISSION

Phillip McCartin, 10 Hollingsworth Road, Osterville, as a member-at-large, to a term expiring 6/30/2012

SANDY NECK BOARD

Richards French, 80 Acre Hill Road, Barnstable, as a member-at large, to a term expiring 6/30/2012
George Muhlebach, 150 Millway, Barnstable, as a member-at-large, to a term expiring 6/30/2012
Barbara Bell, 316 Flint Street, Marstons Mills, as a member-at-large, to a term expiring 6/30/2012

TRUST FUND ADVISORY COMMITTEE

Christopher Ward, 44 Fernbrook Lane, Centerville, as member-at-large, to a term expiring 6/30/2012

WATERWAYS COMMITTEE

Michael Hersey, 62 Homeport Drive, Hyannis, as a member-at-large, to a term expiring 6/30/2012
John Meade, 153 Elliott Road, Centerville, as a member-at-large, to a term expiring 6/30/2012

SPONSOR: The Appointments Committee

A. OLD BUSINESS (Second reading) (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-141
INTRO: 06/04/09, 06/18/09

2009-141 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

COUNCIL ON AGING

Edward Perron, 85 Outpost Lane, Centerville, as an associate to a term expiring 6/30/2011

L. Helen Stretch, 114 Baxter Road, Hyannis, as a member to a term expiring 6/30/2012

Sarah Schlegel, 121 Trotters Lane, Marstons Mills, as a member to a term expiring 6/30/2011

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-142
INTRO: 06/04/09, 06/18/09

2009-142 APPROPRIATION AND TRANSFER ORDER \$2,695,176 - MTBE FUNDS

ORDERED: That the sum of \$2,695,176 be appropriated and transferred from the MTBE settlement reserve fund to the Capital Trust Fund

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2009-142
INTRO: 06/04/09, 06/18/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: June 1, 2009
SUBJECT: Appropriation Order – MTBE Funds

RATIONALE: The Town of Barnstable has received a total of \$3,498,176 in settlement proceeds from MTBE litigation. To date, \$794,000 has been appropriated from these funds in FY09 for various improvements to the Hyannis Water System operations. A total of \$2,695,176 remains in unappropriated funds. This item request that the Town Council approve the transfer of the remaining unappropriated funds into the Capital Trust Fund where they will reside until further Town Council action is taken to appropriate them for a specific capital project. These funds cannot be spent without further Town Council action. It is the town's intent to bring forward a capital appropriation(s) for improvements to the Town's water system operations at a future date(s) using the remaining balance of the MTBE settlement funds.

FISCAL IMPACT: In accordance with the guidance issued by the Division of Local Services, MA Department of Revenue, any remaining funds from MTBE litigation settlements that remain unappropriated at the end of fiscal year 2009 must be closed to the General Fund's fund balance and will become part of the Town's certified free cash balance thereafter. This request will segregate the remaining funds from the General Fund and place them in the Capital Trust Fund which is used for financing capital improvements.

STAFF ASSISTANCE: Mark Milne, Director of Finance

A. OLD BUSINESS (Second reading) (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-143
INTRO: 06/04/09, 06/18/09

2009-143 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

BOARD OF REGISTRARS

Lucien Poyant, 56 West Hyannisport Circle, Hyannis, as an appointed member, to a term expiring 6/30/2012

PERSONNEL ADVISORY BOARD

Robert O'Brien, 41 Deacon Court, Barnstable, as a member, to a term expiring 6/30/2012

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-144

INTRO: 06/18/09

**2009-144 ACCEPTANCE OF A GRANT FROM CC COOPERATIVE EXTENSION
WILDFIRE ASSESSMENT & PREPAREDNESS PROGRAM**

RESOLVED, That the Town Council hereby accepts a Cape Cod Cooperative Extension Wildfire Assessment and Preparedness Program Land Management and Wildfire grant in the amount of \$10,000 to improve a trail map, provide signage at intersections, improve trail markings, maintain road buffers my mowing and repair washouts at the West Barnstable Conservation Area, located in West Barnstable and Marstons Mills.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2009-144
INTRO: 06/18/09

SUMMARY

DATE: June 2, 2009
TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Thomas F. Geiler, Regulatory Services Department Director
SUBJECT: Cape Cod Cooperative Extension's Wildfire Assessment and Preparedness Program
Land Management and Wildfire Grant

BACKGROUND: Cape Cod Cooperative Extension grant funding, in the amount of \$10,000, has been secured to enable four, of several goals, to be completed as listed in the Wild Fire Preparedness Plan for West Barnstable Conservation Area and Adjacent Open Space Lands. Initial work started under the same grant program in 2005.

The first goal is to improve and update the existing trail map that is available to citizens on the town web site. The improved map will be broken up into four quadrants. This will assist in helping people find where they are and will play a crucial roll in trail marking.

Second goal; provide signage at intersections and entrances for all existing dirt roads. This is critical for our fire fighters and rescue squads to respond to any fires or injured people as quickly as possible. The property is over 1,000 acres and is used by hikers, horseback riders, hunters (in season) and mountain bikers every day.

Third goal, improve trail intersection markings. Trail intersections will be marked with new wooden signs, pin pointing a location with a quadrant and trail number. For example NW1. If there is an emergency on the trail, whether it is an injury or fire, anyone will be able to call into the fire department and report the closest trail sign. We will provide a copy of the new map for the local fire departments, Natural Resource Department and Police Department.

Fourth goal, use mechanical means to reduce fuel loadings in residential and wildland interface zones and fill and or grade washouts, gullies, and dips in road surfaces. We will continue to mow and maintain road buffers, an annual process.

ANALYSIS: The Cape Cod Cooperative Extension grant funding provides the Town with cost-effective means to address and combat wildfire hazards on town-owned or town administered open space tracts.

FISCAL IMPACT: The local match requirement for the grant totals \$3,800. It is comprised of a \$2,800 soft match using volunteer hours and \$1,000 in kind match, material and labor from our DPW Highway Division.

BOARD AND COMMISSION ACTION: Improving signage and road maintenance was approved by the Conservation Commission as part of our Wildland Fire and Preparedness Plan. No further board action is required.

STAFF ASSISTANCE: Darcy Karle, Conservation Division

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-145
INTRO: 06/18/09**

2009-145 EXEMPTION OF INTEREST UNDER THE CONFLICT OF INTEREST LAW

RESOLVED, That the interests of Robert O'Brien, as Budget Analyst; and Scott Blazis, as an employee of the Barnstable Public Schools and Leonard Gobeil, as Special Projects Coordinator, are hereby found to be not likely to interfere with the objective performance of their duties in the best interests of the Town in the following positions and are hereby exempt:

AIRPORT COMMISSION & PERSONNEL BOARD

Robert O'Brien

CONSERVATION COMMISSION

Scott Blazis

BARNSTABLE HISTORICAL COMMISSION

Leonard Gobeil

SPONSOR: Town Councilor, Leah Curtis, Chair, Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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