



Town of Barnstable Town Council

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MEETING AGENDA TOWN HALL HEARING ROOM

March 21, 2013

7:00 PM

Councillors:

Dr. Debra S. Dagwan
President
Precinct 8

Jessica Rapp Grassetti
Vice President
Precinct 7

Ann B. Canedy
Precinct 1

Tom Rugo
Precinct 2

Michael P. Hersey
Precinct 3

Frederick Chirigotis
Precinct 4

James H. Cote
Precinct 5

Janet S. Joakim
Precinct 6

James M. Tinsley
Precinct 9

Janice L. Barton
Precinct 10

June M. Daley
Precinct 11

John T. Norman
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator to the
Town Council:
Barbara A. Ford

Administrative
Assistant:
Cynthia A. Lovell

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Recognition of the Barnstable High School Girls Gymnastics Team – Winners of the State Gymnastics Championship and the New England Gymnastics Championship Titles**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES (Includes Executive Session)**
- 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 REGULAR MEETING: April 4, 2013

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Approve Minutes- March 7, 2013 No executive session minutes released.

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

Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice.

Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-032

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

2013-032 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING, "CHAPTER 54. BUILDING AND PROPERTY MAINTENANCE"

ORDERED: That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter 54.

"Chapter 54"

BUILDING AND PROPERTY MAINTENANCE

§54-1. Purpose and intent.

The purpose and intent of this ordinance is to eliminate nuisances in the town. Nuisances, such as deteriorated structures, vacant buildings, overgrowth of vegetation, trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas; adversely affect the value of adjacent and surrounding property; and impair the health, safety and general welfare of the inhabitants of the town. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

§54-2. Building, structure and premises maintenance.

Each owner and occupant shall comply with this ordinance by keeping land, premises, buildings and structures in a safe, sanitary and non-hazardous manner so as to prevent deterioration and ensure that the property itself may be preserved safely so that hazards to public health and safety are avoided. For purposes of sections 54-2 to 54-4, "occupant" means the person or persons other than an owner or owners having exclusive possession of land, premises, buildings and structures, or parts thereof, and the obligation to maintain the same.

§54-3. Building and structure maintenance standards.

- A. All means of egress, devices, safeguards and equipment shall be kept in good working order
- B. All exterior components of every building and structure including but not limited to walls, roofs, chimneys, cornices, gutters, downspouts, drains, porches, canopies, awnings, steps, landings, fire escapes, exterior stairs, windows, shutters, and doors, shall be kept in sound condition and good repair, with proper weather protection and waterproofing, and be maintained substantially free of deterioration, including but not limited to loose or missing shingles or siding, crumbling brick, stone and mortar, and peeling, scaling or deteriorated paint.
- C. Vacant buildings and structures shall be maintained in compliance with this ordinance and be kept secure from use or occupation by unauthorized persons.
- D. Overhanging structures, including canopies, awnings, exterior stairways, fire escapes, and other overhanging extensions shall be maintained in sound condition and good repair, be securely anchored, and be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.
- E. All buildings and structures damaged by fire, explosion, weather or other cause shall be repaired and returned to their former condition or in compliance with this ordinance, or be razed within six (6) months unless granted an extension by the Building Commissioner.

§54-4. Maintenance of land, premises and landscape elements.

A. Each owner and occupant shall keep premises and land, including but not limited to steps, walks, driveways, fences, retaining walls and vegetation, in good condition. "Occupant" for purposes of this section has the same meaning as in section 54-2.

B. All paved driveways and walks shall be maintained substantially free from broken or uneven condition.

C. All steps, fences, retaining walls and landscape features shall be firmly anchored and maintained in good structural repair. Elements subject to deterioration shall be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.

D. All premises shall be maintained substantially free from overgrowth of vegetation which constitutes a suitable habitat for vermin, otherwise poses a hazard to the health and safety of any person in the vicinity of the premises, or is so overgrown as to have a clear adverse affect on the value of surrounding properties.

E. Indoor items such as furniture, appliances, plumbing fixtures and bedding shall be kept within enclosed structures after fifteen (15) days. All other personal property shall be kept within enclosed structures or screened from public view after six (6) months. Functional outdoor items such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, operable vehicles, trailers, boats and inventory shall not be subject to the requirements of this subsection.

F. Water shall not be permitted to continuously stagnate outside of any building or structure for more than ten (10) days except under natural conditions. Nothing in this subsection shall operate as a waiver or exception to any other law, rule or regulation for the storage or handling of water.

§54-5. Storage and Removal of Rubbish, Garbage and Refuse.

A. Owner's responsibilities. The owner of any building, structure or premises shall be responsible for receptacles with tight-fitting lids to be used for the proper storage of rubbish, garbage and other refuse. Said receptacles shall be located in such manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

B. Occupant's responsibilities. The occupants of any building, structure or premises shall be responsible for the proper storage of rubbish, garbage and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse, which is stored outside a building or structure is properly covered. Said occupant(s) shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and ultimate disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

C. For purposes of subsections (A) and (B): "owner" shall mean any person(s) who alone or severally with others has legal title to buildings, structures, vacant land or to land with buildings or structures thereon, or to any dwelling or rooming unit, mortgagee in possession, or agent, trustee or person appointed by a court; and "occupant" shall mean any person(s) who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

D. Premises covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.

§54-6. Enforcement

A. The Board of Health, the Police Chief, and the Building Commissioner, or their designees, are hereby designated as the enforcing authorities for this ordinance. If any enforcing authority determines that a violation of the standards contained in this ordinance exists, he or she shall notify the owner or occupant to

remove or abate the nuisance by a date certain as determined by the enforcing authority not more than ten (10) days after service of notice of the violation(s): provided, however, that if the enforcing authority determines that the violation is such that the public health and safety will be jeopardized by that delay, the enforcing person may order the abatement or removal of the nuisance in a shorter time as public health and safety may in her or his judgment require. The order shall be in writing and may be served personally on the owner, occupant or his authorized agent by any person authorized by the enforcing authority. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through non-criminal, criminal or civil proceedings and no action shall preclude any other enforcement action or actions.

B. In addition to any penalties or enforcement action(s) hereunder, after final determination of three (3) or more violations within a twelve-month period an enforcing authority may notify a violator in writing that the enforcing authority may elect to bill the violator for the costs incurred by the Town for response to each subsequent violation not abated or ordered without abatement as provided herein. Such bill(s) shall be due and payable in full by the violator within thirty (30) days of submission and if unpaid thereafter shall be subject to a municipal charges lien as provided in G. L. c. 40 §58.

§54-7. Applicability and Severability.

A. The provisions of this ordinance are in addition to and not in lieu of any other ordinance, rule or regulation of the Town of Barnstable and any board, commission or officer. Compliance with this ordinance shall not thereby constitute compliance with any other ordinance, rule or regulation, and violation of this ordinance does not thereby preclude violation of any other ordinance, rule or regulation.

B. If any provision of this ordinance is declared invalid, it shall not thereby invalidate any other provision.

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/06/12</u>	<u>Public hearing cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing cont'd to 03/21/13</u>

- ___ Read Item
- ___ Motion to open public hearing
- ___ Rationale read
- ___ Public input
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-032

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, C.54

RATIONALE: Throughout the Town of Barnstable, many blighted and/or abandoned homes not presently addressed by the town. The intent of this ordinance is to eliminate deteriorated structures, vacant buildings, overgrowth of vegetation, trash and debris within neighborhoods and commercial areas, where buildings may be abandoned.

This amendment outlines basic property management and repair standards and guidelines for structural and landscape management, trash removal, and land maintenance standards.

At present, these unchecked blighted/abandoned properties impair the health, safety and general welfare of the neighborhood in which they are located. It is intended that this amendment address these issues of abandoned/blighted properties and improve the standard of public safety and general welfare in the neighborhoods in which they are located.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-034

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES

ORDERED: That Chapter 170 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By striking the following sections 170-11 entitled “storage and removal of rubbish, garbage, and other refuse” and 170-12 entitled “inspections” and re-numbering the remaining sections accordingly.

“§170-11. Storage and removal of rubbish, garbage, and other refuse.

A. Owner’s responsibilities. The owner of any dwelling shall be responsible for providing receptacles with tight-fitting lids to be utilized for the proper storage of rubbish, garbage, and other refuse. Said receptacles shall be located in such a manner that no objectionable odor enters any dwelling and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.

B. Occupant's responsibilities. The occupant(s) of any dwelling shall be responsible for the proper storage of rubbish, garbage, and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage, and other refuse which is stored outside the dwelling unit is properly covered. Said occupant shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage, and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and for the ultimate disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.”

§170-12. Inspections.

Dwelling units covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.”

SECTION 2. By adding the following sentence to subsection 170-12(A) of section 170-12 as re-numbered entitled “violations and penalties” after the first sentence; “Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of \$300.00”; and by adding the following at the end of the second sentence in subsection 170-12(B) as re-numbered; “or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period” ; said subsection 170-12 to read as follows.

“§170-12. Violations and penalties.

A. Any person who violates any provision of this chapter shall be subject to a fine not to exceed \$300. Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of \$300.00. Each day of continued violation may be deemed to be a separate offense.

B. This chapter may be enforced under the provisions of MGL c. 40, §21D. The fine for any violation under the provisions of MGL c. 40, §21D shall be \$100 or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period. Each day of continued violation may be deemed to be a separate offense.”

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing cont'd to 03/21/13</u>
<input type="checkbox"/>	Read Item
<input type="checkbox"/>	Motion to open public hearing
<input type="checkbox"/>	Rationale read
<input type="checkbox"/>	Public input
<input type="checkbox"/>	Close public hearing
<input type="checkbox"/>	Council discussion
<input type="checkbox"/>	Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-034

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote, and Jessica Rapp Grassetti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, C.170

RATIONALE: The Code of Barnstable General Ordinances, Chapter 170 concerns rental properties in the town. This amendment provides for a maximum fine of \$300 after two (2) valid violations within a twelve (12) month period, making it consistent with other graduated fines.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-035

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

2013-035 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 133, NOISE

ORDERED: That Chapter 133 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By revising §133-1 as follows:

By adding the words "or owning" between the words "of" and "premises" in the Title and by adding the words "or owning" between the words "of" and "any" in the first line of the first sentence of the paragraph.

So, as amended, §133-1 shall now read:

"§133-1. Responsibility for noise violations by person in charge of or owning premises.

It shall be unlawful for any person or persons occupying, having charge of or owning any building, dwelling, structure, premises, shelter, boat or conveyance or any part thereof in the Town, to cause or suffer to allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical or electronic sound making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of 150 feet from the building, dwelling, structure, premises, shelter, boat or conveyance in which or from which it is produced. The fact that the noise is plainly audible at a distance of 150 feet from the building, dwelling, structure, premises, shelter, boat or conveyance from which it originates shall constitute prima facie evidence of a violation of this chapter."

SECTION 2: By revising §133-4 as follows:

By adding the words "and owner's responsibility for repeated violations by renters" after the word "renters" in the title; and by adding the following after the first sentence in the paragraph: "The owner of any building, dwelling, structure, premises, shelter, boat or conveyance which is let, rented or leased shall be notified in writing of each violation of this chapter committed by his tenants, lessees and sublessees After notice of two such violations within a twelve month period, for each subsequent violation, the owner shall be deemed to have suffered to allow noise in violation of §133-1. "

So as amended, §133-4 shall now read:

"§133-4. Notice of noise restrictions to be provided to renters and owner's responsibility for repeated violations by renters.

The owner of any building, dwelling, structure, premises, shelter, boat or conveyance, which is let, rented or leased, shall provide any and all tenants, lessees and sublessees with a copy of this chapter. The owner of any building, dwelling, structure, premises, shelter, boat or conveyance, which is let, rented or leased, shall be notified in writing of each violation of this chapter committed by his tenants, lessees and sublessees. After notice of two such violations within a twelve month period, for each subsequent violation, the owner shall be deemed to have suffered to allow noise in violation of §133-1. "

SECTION 3: By revising §133-5 as follows:

By adding the following after the first sentence: "After final determination of three (3) or more violations within a twelve-month period, an enforcing authority may notify a violator in writing that it elects to bill the violator for the costs incurred by the Town for response to each subsequent violation. The person so notified shall have the right to appeal this notification by requesting, in writing, a hearing before the Town Manager or her designee within seven (7) days of receipt of said notification. The Town Manager may from time to time appoint a three person panel containing one (1) Barnstable member of the Cape Cod Board of Realtors, one (1) member of a civic association and one (1) at large member to hear appeals and advise the Town Manager on disposition. A decision on the appeal must be in writing. If the Town Manager or her designee finds in favor of the appealing party, the cost of the penalty shall be abated. All unabated charges shall be due and payable in full by the violator within thirty (30) days of submission. All unpaid charges for violations of this chapter by an owner shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58."

So, as amended, §133-5 shall now read:

"§133-5. Violations and penalties

Any person violating the provisions of this chapter shall be punished by a fine not to exceed \$200 for each offense. After final determination of three (3) or more violations within a twelve-month period, an enforcing authority may notify a violator in writing that it elects to bill the violator for the costs incurred by the Town for response to each subsequent violation. The person so notified shall have the right to appeal by requesting, in writing, a hearing before the Town Manager or her designee within seven (7) days of receipt of said notification. The Town Manager may from time to time appoint a three person panel containing one (1) Barnstable member of the Cape Cod Board of Realtors, one (1) member of a civic association and one (1) at large member to hear appeals and advise the Town Manager on disposition. A decision on the appeal must be in writing. All unabated charges shall be due and payable in full by the violator within thirty (30) days of submission. All unpaid charges for violations of this Chapter by an owner shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58."

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/06/12</u>	<u>Public hearing cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing cont'd to 03/21/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-035

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, Chapter 133 §133-1

RATIONALE: Chapter 133 is the current Noise Ordinance in the Town of Barnstable. At present, it defines a noise violation as noise that emanates more than 150 feet from its source. The ordinance currently states that: "[i]t shall be unlawful for any person or persons occupying or having charge of any building, dwelling, structure, premises, shelter, boat or conveyance or any part thereof in the Town, to cause or suffer to allow any unnecessary, loud, excessive or unusual noise..." The amendment clarifies the owner's responsibility for noise violations on leased premises and requires that the owner be notified in writing of each noise violation committed by his tenants. After notice of two such violations within a twelve month period, for each subsequent violation, the owner shall be deemed "to have suffered to allow noise" in violation of the ordinance.

After final determination of three (3) or more violations within a twelve-month (12) period, the Town may notify a violator in writing that it elects to bill the individual previously found in violation of the ordinance for the costs incurred by the Town for response to each subsequent violation. There is a process to appeal this decision to the Town Manager or his designee.

The intent of the ordinance is to curtail the waste of municipal resources and taxpayer dollars, as well as to encourage responsible renting and peaceful neighborhood living conditions.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-043

INTRO: 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

**2013-043 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES
ARTICLE 1, §1-3, CHAPTER 170 RENTAL REGISTRATION**

ORDERED: That the schedule of fines in Article I, Section 1-3 of the General Ordinances is hereby amended by striking out the line related to Chapter 170 and inserting in place thereof the following.

<u>CODE, CH/SECTION</u>	<u>SUBJECT</u>	<u>FINE</u>
Art. I, §1-3, Ch. 170	Rental Registration	
	Any violation.....	\$100
	Rental Registration	
	Two documented violations by owner in a twelve-month period	\$300

SPONSOR: Councilor Jennifer Cullum

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing cont'd to 03/21/13</u>
<u> </u>	<u>Read Item</u>
<u> </u>	<u>Motion to open public hearing</u>
<u> </u>	<u>Rationale read</u>
<u> </u>	<u>Public input</u>
<u> </u>	<u>Close public hearing</u>
<u> </u>	<u>Council discussion</u>
<u> </u>	<u>Move/vote</u>

BARNSTABLE TOWN COUNCIL

ITEM# 2013-043

INTRO: 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum
DATE: November 6, 2102
SUBJECT: Amending the General Ordinances, Article 1, §1-3, Chapter 170, Rental Registration

BACKGROUND: Amending Chapter 170, Rental Registration, relates to the passage of 2013-034 - Chapter 170, Rental Properties. This amendment will conform to the maximum allowable fine of \$300 as referenced.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-060

INTRO: 12/20/12, 03/07/13, 03/21/13

2013-060 AMENDING ZONING ORDINANCE, CHAPTER 240, ARTICLE XII, CHAPTER 240 SEC. 240-125B (1) (e)—USE VARIANCES WITHIN 300 FEET ALONG ROUTE 6A SCENIC HIGHWAY

ORDERED: That Chapter 240, Article XII of the Zoning Ordinance is hereby amended as follows:

By amending the §240-125B. (1) (e) by adding the words “and Route 6A,” between the words “West Main Street and the word “within” so that the resulting section reads:

Use variances. To authorize variances for uses in accordance with the provisions of this chapter; provided, however, that no such variances shall be granted within 300 feet of the major arteries known as Route 28, Route 132, Route 149, West Main Street and Route 6A, within the Marstons Mills Village District (MMVD) and the West Barnstable Village Business District (WBVBD) and within 300 feet of the MMVD and WBVBD boundary

SPONSOR: Councilors June Daley and Ann Canedy

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>12/20/12</u>	<u>Council referred to pln brd for a hearing</u>
<u>02/28/13</u>	<u>Planning Board referred back to Town Council</u>
<u>03/07/13</u>	<u>Referred to public hearing 03/21/13</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-060

INTRO: 12/20/12, 03/07/13, 03/21/13

SUMMARY

TO: Town Council
FROM: Councilor June Daley and Councilor Ann Canedy
DATE: December 11, 2012
SUBJECT: Use variances along Route 6A within 300 feet of the scenic roadway

RATIONALE: This is an amendment to the Zoning Ordinance, prohibiting use variances along Route 6A within 300 feet of that scenic roadway.

Both the West Barnstable and Barnstable villages are in support of this amendment. This action is an implementation item in the West Barnstable Village Plan, adopted as part of Section 8 of the Barnstable Comprehensive Plan in 2010 by the Town Council.

The majority of this prohibition falls within residentially zoned areas. The West Barnstable Village Business District and the Barnstable Village VB-A occupy a small portion of Route 6A.

B. NEW BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-069

INTRO: 01/17/13, 02/28/13, 03/21/13

2013-069 AMEND THE ADMINISTRATIVE CODE BY ADDING SECTION 241-44.2 PROBLEM PROPERTY APPEALS COMMITTEE

ORDERED, That:

Section 1: That Chapter 241 of the Town's Code be amended by adding the following new section creating a Problem Properties Appeals Committee

"§ 241-44.2 Problem Properties Appeals Committee."

A. Term of office.

There shall be a Problem Properties Appeals Committee consisting of three unpaid members and up to three (3) alternate members. Members shall serve for three-year terms, so arranged that an equal number expire each year.

B. Authorities and responsibilities.

- (1) The Problem Properties Appeals Committee decides on individual cases brought by persons seeking relief from a decision of the Chief of Police to officially identify a property as a chronic problem property under §160-2B(6) and to assess the property owner penalties under §160-2C.
- (2) The committee will formulate its decision in conformance with Chapter 160, Chronic Problem Properties. The decision of the three member panel shall be determined by majority vote of the Committee. If the Committee finds, that the property is not a chronic problem property, the designation shall be removed and any penalties assessed shall be rescinded. If the Committee finds that the property is a chronic problem property, it may: 1) uphold the penalty in its entirety or 2) reduce the penalty or (3) abate any portion thereof that has already been paid.
- (3) The Town Council may from time to time designate the Committee as the Committee to hear appeals for other ordinances involving problem properties.

C. Interrelationships.

- (1) **Town Council:** The Problem Property Appeals Committee interacts with the Town Council in matters relating to the implementation of its functions under the provision of this section.
- (2) **Town Manager:** The Problem Property Appeals Committee interacts with the Town Manager in matters relating to the implementation of its functions under the provision of this section."

Section 2: That Section 241, Attachment 1 of the Code is hereby amended by adding the Problem Properties Appeals Committee to the list of multiple member bodies so designated.

SPONSOR: Councilor Janet Joakim

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-069

INTRO: 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Janet Joakim
DATE: January 14, 2013

BACKGROUND: This item responds to the discussion at the January 10, 2013 Town Council workshop on the “problem property” ordinance, providing a method to appeal a determination by the Chief of Police.

FISCAL IMPACT: There is no direct fiscal impact.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-079
INTRO: 03/07/13, 03/21/13

2013-079 APPROPRIATION AND TRANSFER ORDER--\$7,000,000 FROM THE GENERAL FUND TO THE CAPITAL TRUST FUND

ORDERED:

That the Town Council hereby appropriates and transfers from available funds the sum of \$7,000,000 from the General Fund to the Capital Trust Fund.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/07/13</u>	<u>Referred to public hearing 03/21/13</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-079
INTRO: 03/07/13, 03/21/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: February 20, 2013
SUBJECT: Appropriation and Transfer Order of \$7 million for the Capital Trust Fund

BACKGROUND: The Town of Barnstable's capital needs are many. The FY 2013 capital improvement plan included a capital needs list of almost \$91 million in General Fund requests over the next five years. The Town committed to funding \$1.8 million of this amount in FY 2013. Additional funding sources need to be identified going forward to continue to address the projects on this list. Excess General Fund reserves have been dedicated to the Capital Trust Fund previously and this request seeks to do the same. The Capital Trust Fund is used as a financial tool to accumulate resources that are used for financing the Town's capital needs. Transferring these funds will allow the town to fund a more aggressive capital program over the next 5 years.

ANALYSIS: Positive operating results for the fiscal year ending June 30, 2012 resulted in the growth of the Town's "free cash" as certified by the MA Department of Revenue. The growth in free cash was the result of unexpended appropriations and actual revenues exceeding budget estimates. The main components of the unexpended appropriations were from vacancy savings in personnel budgets and utility savings. The main components in the excess revenue generated were from the release of excess overlay, excise taxes, charges for services, permits and investment income. The Town's "free cash" was certified at \$17,272,393 as of July 1, 2012. This request is to transfer \$7 million of the amount into the Capital Trust Fund. By adding this amount to the Capital Trust Fund, it is projected that the trust fund could finance a total of approximately \$50 million over the next 5 years.

FISCAL IMPACT: In accordance with Town Council policy, an amount equal to 4% of the General Fund's operating budget, net of transfers, must be set aside for extraordinary and/or unforeseen expenditures from our certified "free cash" balance. The remaining balance is available for appropriation subject to Town Council approval. The allocation of the savings account balances as of July 1, 2012 in concurrence with town policies and the revenue sharing agreement between municipal and school operations is as follows:

Town Council Reserve	\$5,027,944
Sewer Construction Trust Fund	\$640,000
Municipal Savings	\$4,680,981
School Savings	<u>\$6,923,468</u>
Total	\$17,272,393

The \$640,000 allocated to the Sewer Construction Trust Fund represents taxes collected in FY11, which have not been moved to the trust fund as of June 30, 2012. Special legislation creating the trust fund was not approved until the early part of FY13 and this amount has subsequently been credited to the trust fund upon its passage. The proposed transfer of \$7 million will be drawn from the municipal savings balance (\$3 million) and the school savings (\$4 million). This will leave a balance in each savings account that represents approximately 5% of their respective operating budgets. Combined with the Town Council reserve of \$5 million, the total remaining balance in the general fund free cash account (\$9.6 million) represents about 7.5% of the overall general fund operating budget (almost twice the amount of the Town Council's reserve policy).

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the transfer order.

STAFF ASSISTANCE: Mark Milne, Director of Finance

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-082

INTRO: 03/07/13, 03/21/13

2013-082 APPROPRIATION ORDER OF \$50,000 TO CONDUCT A PLANNING PROCESS TO STUDY THE NOVEL AND COMPLEX ISSUES OF SITING MEDICAL MARIJUANA TREATMENT CENTERS

ORDERED: That the sum of \$50,000 be appropriated to hire a consultant for the purposes of conducting a planning process to study the public health, safety, general welfare, legal and land use implications, including the direct and secondary effects of siting medical marijuana treatment centers and accessory uses in the Town, as those uses are defined under Ballot Question 3 on November 6, 2012, and to meet this appropriation that \$50,000 be transferred from available funds.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/07/13</u>	<u>Referred to 03/21/13 public hearing</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-082

INTRO: 03/07/13, 03/21/13

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: February 28, 2013
SUBJECT: Appropriation for a professional consultant to study Medical Marijuana Treatment Center Moratorium requirements

RATIONALE: This request responds to the fiscal impact of the Medical Marijuana Treatment Center (MMTC) Moratorium. These funds will be used to hire a qualified professional consultant to conduct a study pursuant to the moratorium. Tasks required to fulfill the study requirements of the Medical Marijuana Treatment Center Moratorium include the following:

- ♦ A simplified list of use requirements set out in the MMTC legislation
- ♦ Research of Chapter 240 the Zoning Ordinance to document any sections where amendments would be required to address MMTC use and activity
- ♦ Research related land use regulations in the Town Code to document any sections where amendments would be required to address MMTC use and activity
- ♦ Conduct comparative studies of other communities nationwide that have implemented such uses
- ♦ Conduct thorough research, using professional resources to determine direct and secondary effects of siting medical marijuana treatment centers within the community and produce detailed documentation of those effects. Such research and documentation shall include the potential direct and secondary impacts of siting one MMTC and any change in these impacts when more than one MMTC is located in the community.
- ♦ Thoroughly analyze the Department of Public Health regulations and registration process(es) to determine if these regulations and processes create additional areas to be addressed through local regulations of any type.

The work product will be:

- ♦ A professionally researched and thoroughly documented study presenting the results from the above referenced tasks,
- ♦ An analysis that determines ordinances, regulations and/or other land use strategies that must be developed and adopted to regulate the siting of medical marijuana treatment centers, to regulate uses related to medical marijuana and to ameliorate to the greatest extent feasible the direct and secondary effects of this land use.
- ♦ Participation in several meetings to inform residents and Town officials about the study results as they develop the community's preferred course of action.

B. NEW BUSINESS (Refer to public hearing 04/04/13)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-083
INTRO: 03/21/13

2013-083 AMENDING THE GENERAL ORDINANCE, CH 40 S.5, ADDING TO SECTION B

ORDERED: That Chapter 40 Section 5 of the General Code of the Town of Barnstable is hereby amended by adding to Section B after the words “other boats or of the shore” the words, “Additionally there shall be no water skiing within 300 feet of a shoreline being used as a swimming area whether public or private.”

SPONSOR: Town Manager, Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-083
INTRO: 03/21/13

SUMMARY

TO: Town Council
FROM: Lynne M. Poyant, Director of Community Services
DATE: March 5, 2013
SUBJECT: Ordinance change for Chapter 40 (Boats)

BACKGROUND: In the summer of 2012, the Town Council adopted updates to Chapter 40 of the town code relating to boats. State law requires any boating law to be approved by the Massachusetts Environmental Police (MEP). When we submitted our changes for review, they observed a section that was not recently amended that was in conflict. This occurred when the state regulations changed after our original ordinance was enacted decades ago. This section was not one of the changes adopted in 2012.

The new wording would be as follows:

*Water skiing as hereinafter permitted is subject to the provisions of §8, Chapter 90B, of the General Laws of Massachusetts and to the further restriction that there shall be no water skiing within 150 feet of bathers, divers, piers, docks, floats, moorings, other boats or of the shore. **Additionally there shall be no water skiing within 300 feet of a shoreline being used as a swimming area whether public or private.** For the purpose of this article, the words "water skiing" shall include the towing or manipulation of a surfboard, tube or other similar device behind a vessel.*

RATIONALE: For our ordinance to be valid and enforceable, the MEP must sign off on them. This minor change, which mirrors the state regulation, will allow them to do that. Without this change, the amendments in 2012 will not be valid.

FISCAL IMPACT: None

STAFF ASSISTANCE: Daniel J. Horn, Marine & Environmental Affairs Director/Harbormaster
Joe Gibbs, Assistant Harbormaster
Charles McLaughlin, Assistant Town Attorney

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-084
INTRO: 03/21/13**

**2013-084 ACCEPTANCE OF A GIFT OF A UNIVERSAL MICROCHIP SCANNER FROM
AKC COMPANION ANIMAL RECOVERY (APPROXIMATE VALUE \$315)**

RESOLVED: That the Town Council does hereby accept a gift of one universal microchip scanner from AKC Companion Animal Recovery with a total value of approximately \$315 to be used by the Animal Control Program of the Marine & Environmental Affairs Division.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-084
INTRO: 03/21/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: March 8, 2013
SUBJECT: Acceptance of gift of a universal microchip scanner from AKC Companion Animal Recovery (total value of approximately \$315)

BACKGROUND: Responsible pet owners now have the ability to microchip and enroll their pets in the AKC Companion Animal Recovery (AKC CAR) recovery service. AKC CAR is an affiliate of the American Kennel Club® and the nation's largest not-for-profit pet identification and 24/7 recovery service provider. Pet can be identified with a microchip or collar tag; assisting in the recovery of a lost pet.

RATIONALE: The Town of Barnstable scan all animals, whether found alive or deceased. If a chip is found, we attempt to trace it through the recovery organizations and then reunite the pet with the owner.

FISCAL IMPACT: There is no fiscal impact.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance.

STAFF ASSISTANCE: Daniel J. Horn, Marine & Environmental Affairs Director
Charlie Lewis, Animal Cont

A NEW BUSINESS (Refer to public hearings 04/04/13)

FY 2014 CAPITAL BUDGET APPROPRIATION ORDERS

2013-085 APPROPRIATION AND LOAN ORDER

Water Supply Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$1,050,000** be appropriated for the purpose of funding the pipe replacement and upgrade program for the Hyannis Water System as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,050,000**, 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.

2013-086 APPROPRIATION AND TRANSFER ORDER

Water Supply Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$200,000** be appropriated for the purpose of Pump Station and Treatment Plant Upgrades as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$200,000** be transferred from the Water Supply Enterprise Fund reserves, 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.

2013-087 APPROPRIATION AND LOAN ORDER

Water Supply Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$489,500** be appropriated for the purpose of funding the New Well Exploration Program as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$489,500**, 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.

2013-088 APPROPRIATION AND LOAN ORDER

Water Supply Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$300,000** be appropriated for the purpose of funding the Air Stripper Upgrade as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$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.

2013-089 APPROPRIATION AND LOAN ORDER

Water Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$540,000** be appropriated for the purpose of funding the New Water Main Loop as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$540,000**, 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.

2013-090 APPROPRIATION AND TRANSFER ORDER

Sewer Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$190,000** be appropriated for the purpose of funding the Staff Locker Room Construction as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$190,000** be transferred from the Sewer Enterprise Fund reserves, 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.

2013-091 APPROPRIATION AND TRANSFER ORDER
Sewer Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$80,000** be appropriated for the purpose of funding the construction of a Backup Pump for the Bears' Way Pump Station as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$80,000** be transferred from the Sewer Enterprise Fund reserves, 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.

2013-092 APPROPRIATION AND TRANSFER ORDER
Sewer Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$50,000** be appropriated for the purpose of funding the Pretreatment Building and Clarifier Evaluation as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$50,000** be transferred from the Sewer Enterprise Fund reserves, 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.

2013-093 APPROPRIATION AND TRANSFER ORDER
Sewer Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$50,000** be appropriated for the purpose of funding the Hydraulic Load Testing Analysis as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$50,000** be transferred from the Sewer Enterprise Fund reserves, 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.

2013-094 APPROPRIATION AND TRANSFER ORDER
Solid Waste Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$225,000** be appropriated for the purpose of funding a New Trash Truck as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$225,000** be transferred from the Solid Waste Enterprise Fund reserves, 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.

2013-095 APPROPRIATION AND TRANSFER ORDER
Solid Waste Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$190,000** be appropriated for the purpose of funding a New Roll-off Container Truck as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$190,000** be transferred from the Solid Waste Enterprise Fund reserves, 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.

2013-096 APPROPRIATION AND TRANSFER ORDER
Airport Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$200,000** be appropriated for the purpose of funding the testing, design, and constructing of the Runway 6 Engineered Material Arresting System (EMAS) as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$200,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission 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.

2013-097 APPROPRIATION AND TRANSFER ORDER

Airport Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$102,000** be appropriated for the purpose of funding the design of a new Fixed Base Operations Facility as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$102,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission 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.

2013-098 APPROPRIATION AND TRANSFER ORDER

Airport Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$200,000** be appropriated for the purpose of funding airport Terminal and ARFF Building Improvements as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$200,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission 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.

2013-099 APPROPRIATION AND TRANSFER ORDER

Airport Enterprise Fund Capital Improvement Plan

ORDERED: That the sum of **\$90,000** be appropriated for the purpose of funding Airfield Access control and Security Upgrades as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$90,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission 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.

2013-100 APPROPRIATION AND LOAN ORDER

Airport Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$260,000** be appropriated for the purpose of funding Airfield lighting regulators and runway hold-position signs as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$260,000**, and that the Airport Commission 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.

2013-101 APPROPRIATION AND LOAN ORDER

Airport Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$7,800,000** be appropriated for the purpose of funding for the design and construction of the main terminal ramp – phase 2; construction of the aircraft deicing pad; the relocation and reconstruction of all of taxiway alpha from runway 33 end to runway 15 end; and other miscellaneous airfield improvements as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$7,800,000**, and that the Airport Commission 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.

2013-102 APPROPRIATION AND LOAN ORDER

Airport Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$810,000** be appropriated for the purpose of funding a New Fuel Farm as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$810,000**, and that the Airport Commission 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.

2013-103 APPROPRIATION AND LOAN ORDER

Airport Enterprise Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of \$634,000 be appropriated for the purpose of funding the East Ramp Sewer Extension as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$634,000, and that the Airport Commission 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.

2013-104 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of \$100,000 be appropriated for the purpose of funding the removal of underground oil tanks at school locations as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$100,000 be transferred from available funds within the Town’s Capital Trust Fund, and that the Barnstable School Committee 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.

2013-105 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of \$125,000 be appropriated for the purpose of funding the removal of modular classrooms at school locations and an alternative space assessment as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$125,000 be transferred from available funds within the Town’s Capital Trust Fund, and that the Barnstable School Committee 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.

2013-106 APPROPRIATION AND LOAN ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of \$1,679,000 be appropriated for the purpose of funding the following seven school facility improvement projects as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager;

School Fire, Intrusion and Communication System Upgrades.....	\$200,000
School Network Access Upgrades.....	\$189,000
Grade 4/5 Building Roof & Trim Replacement	\$600,000
Hot Water Circulating Pumps Replacements in Schools.....	\$85,000
Bleacher Upgrades in Schools	\$55,000
Design of Barnstable Intermediate School Facade & Roof Replacement	\$100,000
New A/C Units at Barnstable High School	\$450,000

and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,679,000, and that the Barnstable School Committee 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.

2013-107 APPROPRIATION AND LOAN ORDER

Capital Trust Fund Capital Improvement Plan

ORDERED: That the sum of \$260,000 be appropriated for the purpose of funding the following two school equipment replacement projects as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager;

School Walk-in Cooler and Kitchen Equipment Replacements.....	\$110,000
School Grounds Maintenance Equipment	\$150,000

and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$260,000, and that the Barnstable School Committee 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.

2013-108 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$3,250,000** be appropriated for the purpose of funding the repair of the Town's public roads and drainage systems as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$2,836,000** be transferred from available funds within the Town's Capital Trust Fund and that **\$414,000** be transferred from the Town's Sale of Real Estate Special Revenue Fund, 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.

2013-109 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$50,000** be appropriated for the purpose of funding a drainage study as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$50,000** be transferred from available funds within the Town's Capital Trust Fund, 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.

2013-110 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$35,000** be appropriated for the purpose of funding the design of a parking lot expansion at the Barnstable Senior Center as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$35,000** be transferred from available funds within the Town's Capital Trust Fund, 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.

2013-111 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$45,000** be appropriated for the purpose of funding the hydrilla removal project as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$45,000** be transferred from available funds within the Town's Capital Trust Fund, 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.

2013-112 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$35,000** be appropriated for the purpose of funding the fanwort removal project as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$35,000** be transferred from available funds within the Town's Capital Trust Fund, 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.

2013-113 APPROPRIATION AND TRANSFER ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$90,000** be appropriated for the purpose of funding the assessing records conversion project as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$90,000** be transferred from available funds within the Town's Capital Trust Fund, 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.

2013-114 APPROPRIATION AND LOAN ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$300,000** be appropriated for the purpose of funding the water quality evaluation and sewer CAD model as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$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.

2013-115 APPROPRIATION AND LOAN ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$370,000** be appropriated for the purpose of funding the following two roadway projects as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager;

Bumps River Bridge Repairs	\$120,000
Sidewalk Overlays and Guardrail Replacements.....	\$250,000

and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$370,000**, 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.

2013-116 APPROPRIATION AND LOAN ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$2,131,000** be appropriated for the purpose of funding the following thirteen municipal facility improvement projects as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager;

MEA Facility Upgrades	\$131,000
Barnstable Police Station Upgrades	\$168,000
Town Hall Interior Upgrades	\$150,000
Design Highway Facility Lockers, showers, etc.	\$66,000
Structures & Grounds Facility Roof Upgrades	\$103,000
Osterville Community Building Upgrades.....	\$200,000
West Barnstable Community Building Upgrades	\$72,000
U.S. Custom House Upgrades.....	\$263,000
Guyer Barn Upgrades.....	\$148,000
46 & 50 Pearl St. Upgrades.....	\$114,000
Comprehensive Beach Facility Design	\$115,000
Lombard Parking & Ballfield Design	\$101,000
Tennis Courts Upgrades.....	\$500,000

and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$2,131,000**, 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.

2013-117 APPROPRIATION AND LOAN ORDER

Capital Trust Fund Capital Improvement Plan (2 / 3 vote)

ORDERED: That the sum of **\$875,000** be appropriated for the purpose of funding the following three waterway improvement projects as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager;

School Street Bulkhead Replacement	\$142,000
Millway Boat Ramp and Dock Upgrades.....	\$133,000
Dredging of East Bay	\$600,000

and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$875,000**, 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.

B. NEW BUSINESS (May be acted upon) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-118
INTRO: 03/21/13**

2013-118 AUTHORIZING THE TOWN MANAGER TO EXECUTE A THIRD SUBSTANTIAL AMENDMENT TO THE REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND 89 LEWIS BAY, LLC FORMERLY THE GREENERY DEVELOPMENT, LLC

AMENDMENT # 3 TO REGULATORY AGREEMENT
89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS

This modification to a regulatory agreement (“Agreement”) is entered by and between the developer, 89 Lewis Bay, LLC (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___ day of _____, 2013 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WHEREAS The Developer is seeking to amend the existing Agreement to allow for the construction of a +/- 2,960 sq. ft. one story twelve (12) bay detached garage, accessory to the existing 80,000 square foot structure structure containing the residential condominium use. These 12 garage bays are for the exclusive use of Lewis Bay Court residential condominium owners.

WHEREAS the Developer has participated in one informal and three public hearings on the Agreement amendment application and received a majority vote from the Planning Board approving the following substantial amendment on February 25, 2013;

WHEREAS the Developer has participated in a public hearing before the Town Council on the Agreement amendment application and received a majority vote approving the application on _____, 2013;

WHEREAS, the 2007 Regulatory Agreement recorded at the Barnstable Registry of Deeds, Book #22250, Page 278 and as modified in 2011, recorded at the Barnstable Registry of Deeds, Book #25694, Page 67 as amended remains in full force and effect except as modified herein;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows: that the regulatory agreement dated July 22, 2007 and recorded at the Barnstable Registry of Deeds, Book #22250, Page 278 be amended as follows

1. Paragraph # 1 a) shall be amended to include the following: “One page Plan entitled ‘Lewis Bay Court Condominium with Proposed Garage Building’ dated August 28, 2012 last revised February 19, 2013, as prepared by BSC Group.

- 2. Paragraph # 2 shall be amended to include the following: “The Developer proposes to amend the existing Agreement to allow for the construction of a +/- 2,960 sq. ft. one story twelve (12) bay detached garage, accessory to the existing 80,000 sq. ft. structure. Said garage structure shall be incorporated into and made a part of the Lewis Bay Court Condominium. Each garage bay unit therein shall only be used as accessory to a Residential Unit of the Condominium.
- 3. Paragraph # 5 shall be amended to include the following: “Development rights for the 3rd Amendment of the Agreement shall be exercised and development permits may be obtained hereunder for a period of eighteen months from the date of this Amendment.”
- 4. Paragraph # 18 shall be amended to include the following: “Developer shall relocate or replace all existing plants, shrubs/and/or trees as detailed on attached sketch plan Developer to remove and replant existing material wherever possible any new plants shall be approved by the Director of Growth Management or designee from Growth Management staff as to size and species in accordance with sketch plan submitted by the applicant.”
- 5. Paragraph # 38 Parking: shall be amended to include the following: “Relief is granted under Section 240-24.104 to allow for a total of 145 daytime parking spaces of which 12 spaces are garage spaces and 133 outside parking.”
- 6. Paragraph # 38 Setbacks: shall be amended to include the following: “Relief is granted under Section 240-24.1.4 to allow for a side setback of 3.4 feet +/-.

WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this _____ day of _____, 2013

 Town of Barnstable
 By: Thomas Lynch
 Barnstable Town Manager

 89 Lewis Bay LLC
 By: Charles F. Doe
 Principal

SPONSOR: Councilor Jennifer Cullum

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2013-118
INTRO: 03/21/13

SUMMARY

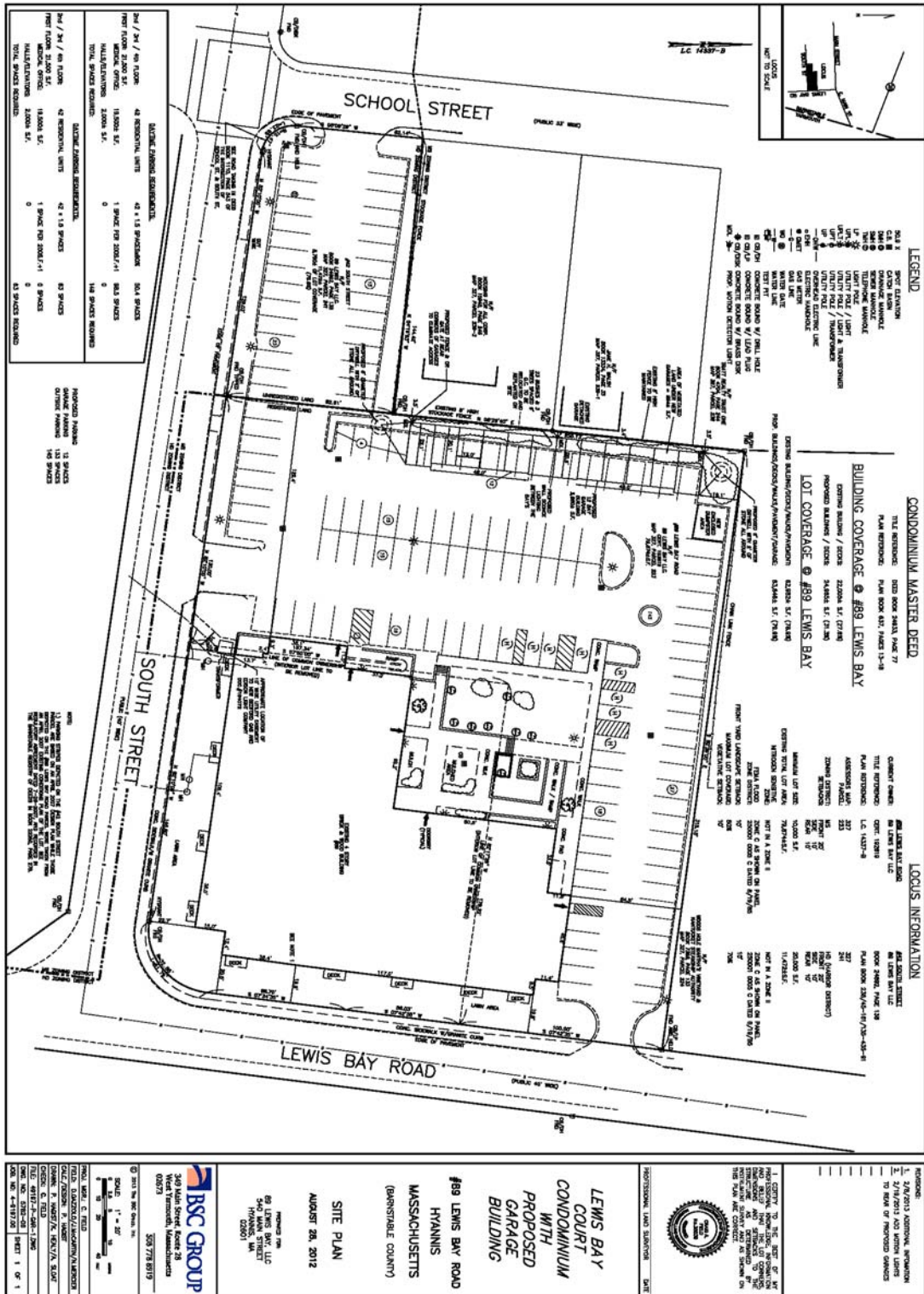
TO: Town Council
FROM: Planning Board
DATE: March 4, 2013
SUBJECT: Proposed modification of Regulatory Agreement
Property: 89 Lewis Bay Road and 42 South Street, Applicant 89 Lewis Bay LLC

ANALYSIS/RATIONALE: The initial 2007 Regulatory Agreement allowed for the renovation of the subject Property, which consisted of a main building located at 89 Lewis Bay Road, which is was formerly used as a nursing home and allowed for the demolition of two dilapidated residential structures, located at 42 South Street. The main building has been renovated to include forty-two (42) residential condominiums, constructed on the second, third and fourth floors. The first floor is permitted for office/medical office. All exterior construction has been completed as have the 42 condominiums. The interior of the first floor remains partially constructed in anticipation of a tenant.

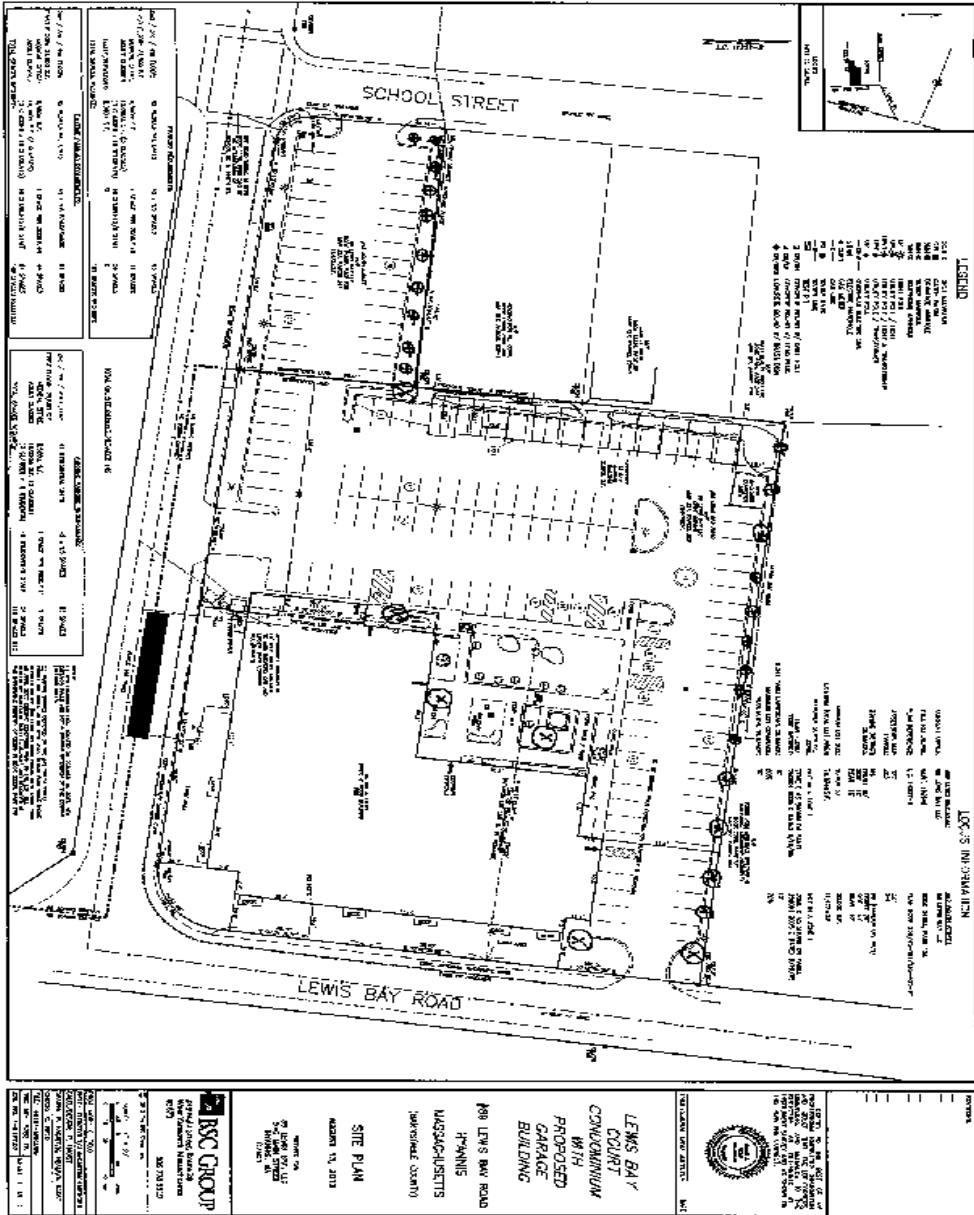
The Regulatory Agreement for this Property was first amended in 2011 to allow for a culinary school in the permitted commercial space on the first floor. That Agreement has lapsed. The second amendment, also in 2011, altered the mitigation package set forth in the original regulatory agreement.

In this third amendment to the regulatory agreement, the applicant proposes to construct a twelve bay garage on the west end of the parking lot for the benefit of the condominium users, who have requested such structures. The accessory garage was reviewed Site Plan Review and the Growth Management Department. The Planning Board, by unanimous vote, determined this to be a reasonable accessory use for the property that does not contravene the spirit and intent of the original Regulatory Agreement.

2013-118 Garage Plan with Lighting



2013-118 Landscape Concept Sketch



⊗ 6 TREES
⊕ 24 BODIES