



Town of Barnstable Town Council

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

TOWN COUNCIL MEETING AGENDA Including Joint Meeting with the Board of Health September 16, 2021

7:00 PM

Councillors:

Matthew Levesque
President
Precinct 10

Paula Schnepf
Vice President
Precinct 12

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Nikolas Atsalis
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grassetti
Precinct 7

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Jennifer L. Cullum
Precinct 13

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

Administrative
Assistant:
Kelly Crahan
Kelly.Crahan@town.barnstable.ma.us

The September 16, 2021 Town Council Meeting of the Barnstable Town Council shall be conducted remotely and shall be physically closed to the public. Alternative public access shall be provided as set forth below.

1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 live stream: <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Remote Participation: Real-time public comment may be addressed to the Barnstable Town Council utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://zoom.us/j/93684085865> Meeting ID: 936 8408 5865
US Toll-free 1- 888 475 4499

3. Written Comments may be submitted to:

https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

- Joint Meeting with the Board of Health – Workshop on Managing Sewer Expansion in the Town

6. TOWN MANAGER COMMUNICATIONS

7. ACT ON MINUTES (Including Executive Session)

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

9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

EXECUTIVE SESSION

Councilors:

Matthew Levesque
President
Precinct 10

Paula Schnepf
Vice President
Precinct 12

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Nikolas Atsalis
Precinct 4

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The Town Council will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a)(3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect on the litigating position of the Town and Town Council. Specifically, the Council will discuss two lawsuits filed against the Town by the Conservation Law Foundation, one regarding claims under the Federal Clean Water Act and the other regarding claims relating to the Massachusetts Title 5 septic regulations.

The Board of Health will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a)(3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect on the litigating position of the Town and Board of Health. Specifically, the Board of Health will discuss two lawsuits filed against the Town by the Conservation Law Foundation, one regarding claims under the Federal Clean Water Act and the other regarding claims relating to the Massachusetts Title 5 septic regulations

10. ADJOURNMENT

NEXT REGULAR MEETING: October 07, 2021

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

A. OLD BUSINESS

| | | |
|----------|---|------|
| 2022-007 | Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by adding a Mixed-Use Sub Zone of the Medical Services Overlay District (Public Hearing) (Roll Call 2/3 Full Council) | 4-12 |
| | Continue Agenda Item 2022-007, as written, to a public hearing to be held at the Town Council meeting on October 21, 2021, subject to an affirmative majority vote of the Council. | |

B. NEW BUSINESS

| | | |
|----------|---|-------|
| 2022-017 | Acceptance of the Mutual Agreement Document (MAD) for the donation of the Graykey Software and Hardware valued at \$25,270.50 from Operation Underground Railroad (O.U.R.) (May be acted upon) (Roll Call Majority) | 13-14 |
| 2022-018 | Acceptance of a Fiscal Year 2022 State 911 Department Training Grant in the amount of \$22,742.60 from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security (May be acted upon) (Roll Call Majority) | 15-16 |
| 2022-019 | Acceptance of a Fiscal Year 2022 911 Support and Incentive Grant in the amount of \$270,026 from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security (May be acted upon) (Roll Call Majority) | 17-18 |
| 2022-020 | Resolve approving the appointment of R. Lane Partridge as the Director of Assessing for the Town of Barnstable (May be acted upon) (Roll Call Majority) | 19-20 |
| 2022-021 | Determination Under Section 19 of G.L. c. 268A, the Conflict of Interest Law (May be acted upon) (Roll Call Majority) | 21-22 |
| 2022-022 | Resolve ratifying Town Council vote of October 19, 2019 and authorizing the Town Manager to negotiate further amendments to the Town’s agreement with Vineyard Wind, LLC or a new agreement (May be acted upon) (Roll Call Majority) | 23-24 |

Approve Minutes: September 2, 2021

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-007

INTRO: 07/15/2021, 09/02/2021, 09/16/2021

**2022-007 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I
GENERAL ORDINANCES, CHAPTER 240 ZONING BY ADDING A MIXED-
USE SUB ZONE OF THE MEDICAL SERVICES OVERLAY DISTRICT**

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add a Mixed-Use Sub Zone of the Medical Services Overlay District, as shown on maps dated July 7, 2021, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District
- Proposed Amendment to the Hyannis Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District
- Proposed Amendment to the Barnstable Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

SECTION 2

By amending Article II, Section 240-5, Establishment of districts, by inserting the term “Mixed-Use Sub Zone of the Medical Services Overlay District” immediately below the term “Medical Services Overlay District” as it appears under the heading “Overlay Districts”.

SECTION 3

By inserting in Article III, the following new Section 240-38.1:

“§ 240-38.1 Mixed-Use Sub Zone of the Medical Services Overlay District

A. Purpose.

- (1) The purpose of this section is to permit the development and relocation of medical and healthcare services, together with commercial, retail and residential uses, on a site with convenient regional access. The Mixed-Use Sub Zone is established as a special district of the Medical Services Overlay District which overlays in majority part the Industrial Zoning District, and, in part, the Groundwater Protection and Wellhead Protection Overlay Districts.
- (2) Provisions of this section are designed to ensure that all development activities associated with the Mixed-Use Sub Zone will be carried out so as to provide for and maintain protection of neighboring properties, convenient and safe access for vehicular and pedestrian movement, fire-fighting and emergency rescue vehicles, satisfactory methods of stormwater management, groundwater recharge and handling and disposal of sewage and waste and adequate off-street parking. To the extent anything contained in this Section 240-38.1 conflicts with any other provisions of this zoning ordinance, this Section 240-38.1 shall govern.

- B. District established.** A "Mixed-Use Sub Zone of the Medical Services Overlay District" is hereby established and shall be considered superimposed over any other districts established by this chapter and is shown as an overlay on the Official Zoning Map established pursuant to §240-6, Zoning Map, herein.
- C. Principal permitted uses.** The principal permitted uses allowed in the Mixed-Use Sub Zone shall include all uses permitted in the Medical Services Overlay District, which include all uses permitted in the underlying IND District (including, without limitation, any use permitted in the B and S&D Districts). Additionally, multifamily dwellings (apartments) on a lot within 1,000 feet of Kidd's Hill Road within the Mixed-Use Sub Zone shall be permitted subject to the following provisions in lieu of the requirements set forth in Sections 240-21.A(9)(a)-(i) or 240.38(F), or any other provisions as may be set forth in this Zoning Ordinance:
- (1) The minimum lot area ratio shall be 1,500 square feet of lot area per each apartment unit for new multifamily structures.
 - (2) The maximum lot coverage shall be 25%.
 - (3) The maximum height shall not exceed 35 feet¹.
 - (4) The minimum front yard setback shall be 60 feet.
 - (5) The minimum side and rear yard setbacks shall be 30 feet.
 - (6) The maximum floor area ratio shall be 0.75.
 - (7) A perimeter green space of not less than 20 feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.
 - (8) No living units shall be constructed or used below the ground level.
- D. Accessory uses.** Within the Mixed-Use Sub Zone, accessory uses or accessory buildings are permitted, including, without limitation, parking garages, pools, parking areas and offices, provided that any such use or building is customarily incidental to, subordinate to and on the same lot as the principal use it serves.
- E. Conditional uses.** The conditional uses allowed in the Mixed-Use Sub Zone shall include all conditional uses permitted in the Medical Services Overlay District, the IND District, the S&D District, and the B District.
- F. Special Permit uses.** The special permit uses allowed in the Mixed-Use Sub Zone shall include all special permit uses permitted in the Medical Services Overlay District, the IND District and the B District, 'Senior Living, Assisted Living'², 'Senior Living, Nursing Homes'², independent living facilities, memory care facilities, and long-term care facilities. Additionally, multifamily dwellings (apartments) on a lot, any portion of which is set back greater than 1,000 feet from Kidd's Hill Road within the Mixed-Use Sub Zone, shall be allowed by special permit, subject to the provisions of Section 240-38.1(C) above in lieu of the requirements set forth in Sections 240-21(A) (9) (a)-(i) or 240.38(F), or any other provisions as may be set forth in this Zoning Ordinance.

¹ Except that for multifamily structures on a lot not less than 10 acres, the maximum building height shall be not more than 4 stories which shall not be more than 55 feet in height measured to the highest point on the roof (not including antennas or similar roof structures).

² As such term is defined in Section 240-25(F).

- G. Bulk regulations** (dimensional requirements) for all uses other than multifamily dwellings (apartments):
- (1) Minimum lot area: 90,000 square feet.
 - (2) Minimum lot frontage: 200 feet.
 - (3) Minimum setback, front: 60 feet.
 - (4) Side/rear yard: 30 feet minimum.
 - (5) Building height:³ 35 feet⁴.
 - (6) Front yard landscape buffer: 45 feet.
 - (7) Landscape buffer, rear and side yard: 30 feet.
 - (8) Maximum lot coverage: 25%.
 - (9) Maximum floor area ratio: 0.40.
- H. Parking Regulations.**
- (1) For multifamily dwellings, off-street parking shall be provided at a ratio of 1.3 spaces per dwelling unit, and 1 guest space per 10 dwelling unit spaces
 - (2) For retail uses, off-street parking shall be provided at a ratio of 1 space per 250 retail sf.
 - (3) For medical uses, off-street parking shall be provided at a ratio of 1 space per 250 sf.
- I. Design and Screening Standards.** Notwithstanding anything contained in Section 240-52, or any other provisions as may be set forth in this Zoning Ordinance, each off-street parking space in the Mixed-Use Sub Zone shall have minimum dimensions of 9 feet by 18 feet excluding the driveway to such space.
- J. Incidental Storage of Hazardous Materials and Impervious Coverage.** Hazardous Materials may be stored and offered for sale in connection with retail use or incidental to multifamily use in the Mixed-Use Sub Zone, except as prohibited by the WP Wellhead Protection Overlay District.
In the Mixed-Use Sub Zone, compliance with the lot coverage requirements set forth in Sections 240-35(F)(3) and 240-35(G)(3) may be determined across multiple lots located within the district if the owners of such lots agree to do so in a written agreement provided to the building department. Additionally, for purposes of Sections 240-35(F) (3) and 240-35(G) (3), porous pavement shall not be considered paved surface.
- K. Signage.** Notwithstanding the provisions of Sections 240-64, 65 and 66 herein, (i) on lots with not less than 10 acres in the Mixed-Use Sub Zone, an aggregate sign area of up to 400 square feet shall be allowed, provided that the sign area of any single sign does not exceed 200 square feet, and (ii) one free-standing sign of up to 200 square feet shall be allowed in the Mixed-Use Sub Zone, provided that such free-standing sign identifies at least two commercial, retail and/or medical uses within the Mixed-Use Sub Zone.”
- L. Exemption.** The uses described in this Section 240-38.1 shall be exempt from the residential building permitting limitations established by Article XI, Sections 240-110 through 240-122.”

SPONSOR: Matthew Levesque, President, Councilor, Precinct 10

³ Skylights, mechanical penthouses and architectural features not designed for human occupancy shall be excluded in determining the height of any building in the Mixed-Use Sub Zone.

⁴ Except that for structures containing ‘Senior Living, Assisted Living’, ‘Senior Living, Nursing Homes’, independent living facilities, memory care facilities and/or long-term care facilities, on a lot not less than 10 acres, the maximum building height shall not be more than 4 stories which shall not be more than 55 feet measured to the highest point on the roof (not including antennas or similar roof structures).

DATE ACTION TAKEN

07/15/2021 Refer to Planning Board

09/02/2021 Continue Public Hearing to 09/16/2021

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-007

INTRO: 07/15/2021, 09/02/2021, 09/16/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director, Planning & Development Department
DATE: July 15, 2021
SUBJECT: Amending Article III to add Chapter 240 Section 38.1 Mixed-Use Sub Zone of the Medical Services Overlay District

BACKGROUND: Cape Cod Hospital is the current owner of approximately 40 acres of land located at 35 & 0 Wilkens Lane in Hyannis, Massachusetts (the “Property”). The Property is primarily zoned IND Industrial District, MSOD Medical Services Overlay District, and is within the GP Groundwater Protection and WP Wellhead Protection Overlay Districts. The Property is subject to the terms of a Development Agreement between Cape Cod Healthcare, Inc., (the “Hospital”) and the Cape Cod Commission, dated March 20, 2003. Under the terms of the Development Agreement, the Commission approved the development of an approximately 263,000 SF outpatient medical complex at the Property, to be constructed in phases.

The Hospital has constructed a portion of the approved development, which the Hospital operates as the Wilkens Outpatient Medical Complex. While the Hospital remains committed to expanding its medical facilities and services in Hyannis, such expansion will largely be focused on the Hospital’s main Park Street campus in Hyannis, in light of regulatory and other considerations. Notwithstanding its focus on the main campus, the Hospital plans to construct an additional phase of the approved development, similar in size to the portion that has been constructed, on the Property. In that this additional phase of the approved development will only occupy a portion of the Property, the Hospital decided that the best course was to divide the Property into multiple parcels to allow for additional complementary uses on the Property and provide critical funding for the Hospital. Accordingly, the Hospital has entered into an agreement with New England Development (“NED”), whereby NED would acquire and develop, in phases, the remaining approximately 32-acre area of land located at the Property with residential and commercial uses. The Hospital will retain ownership and operation of the contiguous portion of land which contains the existing Wilkens Outpatient Medical Complex as well as sufficient acreage to accommodate future expansion. This arrangement will allow the Hospital to expand its existing facility at the Property and provide capital necessary to support its other expansion plans and ongoing operations. NED intends to develop the 32 acres in phases with the first phase being multi-family residential rental housing (including affordable housing), with two outparcels reserved for future development.

RATIONALE: The proposed zoning amendment would add a new zoning overlay district, Chapter 240, Section 38.1 Mixed-Use Sub Zone of the Medical Services Overlay District. The proposed overlay district provides flexibility within the Sub-Zone to permit development and relocation of medical and healthcare services together with complementary commercial, retail and residential uses, on the previously developed and/or disturbed site with convenient regional access.

Multifamily residential development is a use permitted in the IND Industrial District. The proposed zoning overlay modifies the bulk and dimensional standards applicable to this use to allow housing development at a greater density than currently permitted. Maximum allowable building height is

increased to four stories, not to exceed 55 feet. Parking requirements are reduced for multifamily, retail and medical uses. Uses not already permitted in the IND or MSOD, or additional multifamily development not currently contemplated (beyond 1000' of Kidd's Hill Road) will require a Special Permit.

Development within the Mixed-Use Sub Zone will also require Cape Cod Commission approval by way of an amendment to the existing Development Agreement between the Hospital and the Cape Cod Commission. Further, the adoption of the amendment will permit the Hospital to proceed with its agreement with NED which will result in 32 acres of the Mixed-Use Sub Zone to be returned to the property tax rolls while providing the opportunity to create much needed multifamily housing including affordable housing.

FISCAL IMPACT: A fiscal impact analysis was prepared by Fougere Planning & Development, Inc. for New England Development & Cape Cod Healthcare which concluded the following:

Immediately following the transfer of the property from a tax-exempt not-for-profit entity to a non-exempt for-profit entity, the Project Site will become subject to property taxation. According to the project proponent, the estimated value of the property will be \$121,000 per acre and the proposed development project will result in a net annual positive fiscal impact of \$469,316. The initial phase of the proposed project would create the 4th largest taxpayer in the community with an additional twenty one acres of land available for future development. One time building permit fees will generate approximately \$630,000 in revenue. Twenty-seven affordable housing units will be created, addressing a critical need in the community, and there will be intangible positive economic benefits of creating market rate housing.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

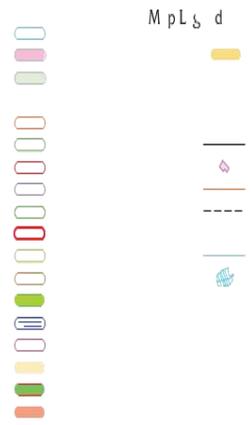
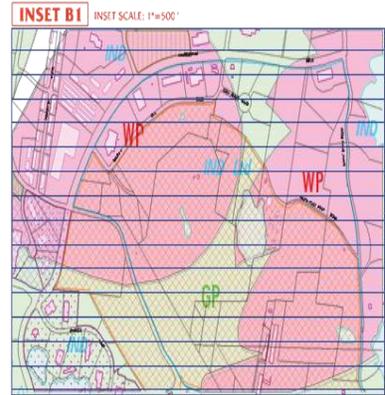
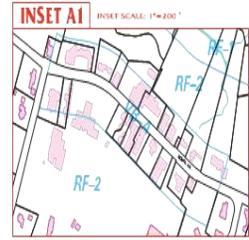
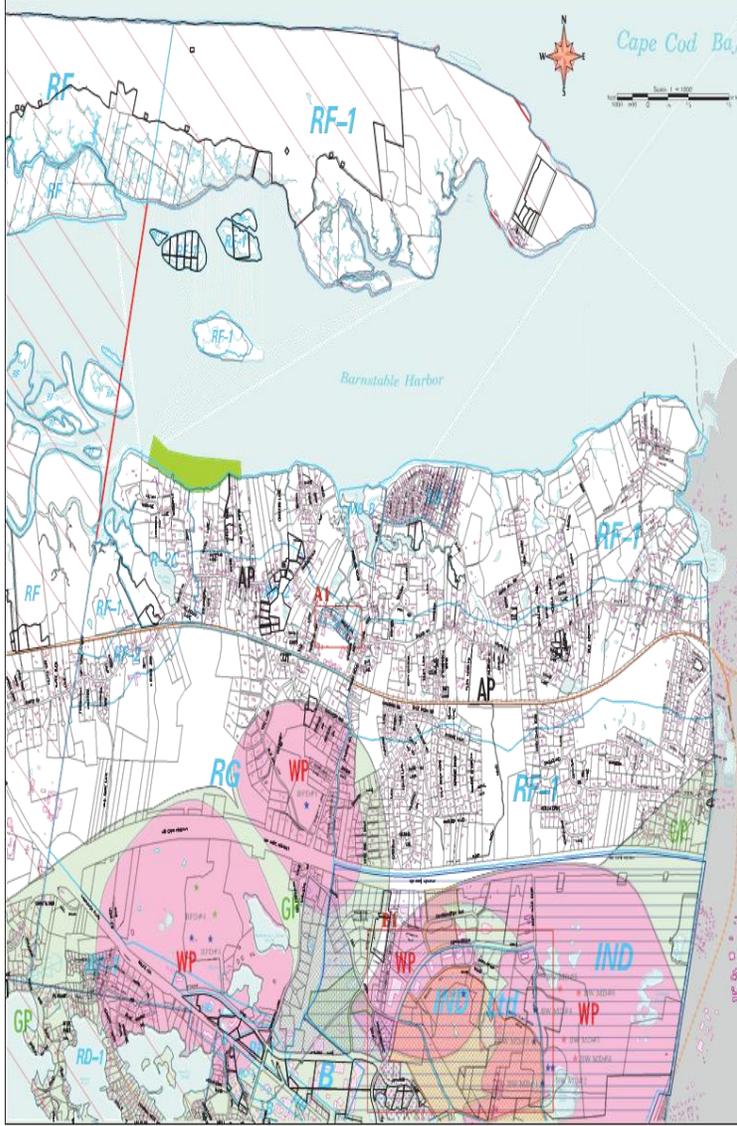
STAFF SUPPORT: Elizabeth Jenkins, Director of Planning & Development; Kate Maldonado, Assistant Director of Planning & Development



PROPOSED AMENDMENT to the BARNSTABLE ZONING MAP
Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

JULY 7, 2011

BARNSTABLE - SHEET 1 OF 7



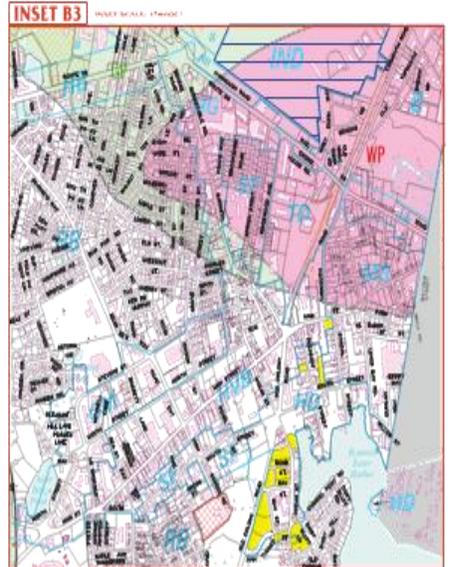
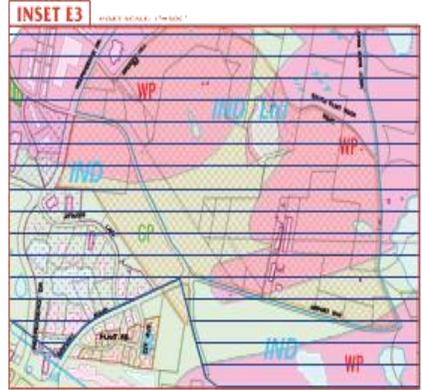
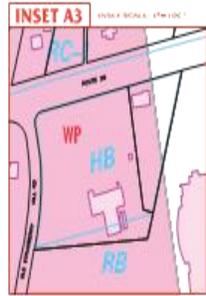
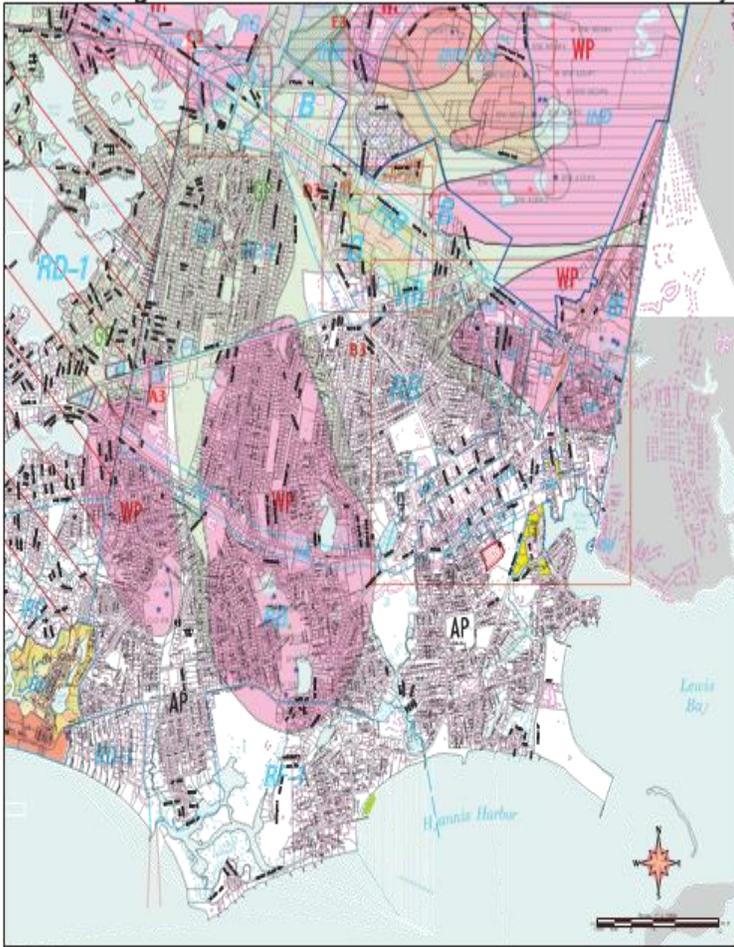
PROPOSED AMENDMENT TO THE BARNSTABLE ZONING MAP - JULY 7, 2011



PROPOSED AMENDMENT to the HYANNIS ZONING MAP
Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

JULY 7, 2021

HYANNIS - SHEET 3 OF 7



Map Legend

| | | |
|--|---|---|
| Planning District | Cottage Beach Neighborhood Overlay | Cottage Hill Neighborhood Overlay |
| Wetland Protection Overlay District | Conantville Neighborhood Overlay District | Conantville Rural North Bank Neighborhood Overlay |
| Coastal Protection Overlay District | Hyannis Parking Overlay District | Existing Public Water Line |
| MUD | Proposed Future Public Water Line | Project Street (R.F. 2021) |
| Mixed-Use Overlay District | Buildings | Railroad Track |
| Dock and Pier Overlay District | Power Boundary Line | Public Right of Way |
| Former Code 5 School Planned Unit Development Overlay District | Wetland Edge of Water | |
| Medical Services Overlay District | | |
| Mixed-Use Sub-Zone of the Medical Services Overlay District | | |
| Resource Protection Overlay District | | |
| Shopping Center Redevelopment Overlay District | | |
| Other Through Restaurant Sub-Zone of the Shopping Center Redevelopment Overlay Dist. | | |
| Senior Contributing Care Retirement Community - SCRCOC 2008 | | |
| Recreational Shellfish Area and Shellfish Riparian Area District & Other Overlay Districts | | |
| Coastal Municipal Solar Photovoltaic Overlay District | | |
| Medical Marijuana Overlay District | | |
| Cottage Village Neighborhood Overlay | | |
| Long / Short Beach Neighborhood Overlay | | |

ALL DISTRICTS AND OVERLAYS ARE SUBJECT TO REVISIONS BY THE BOARD OF ZONING OFFICIALS.
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B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-017
INTRO: 09/16/2021**

2022-017 ACCEPTANCE OF A DONATION FROM OPERATION UNDERGROUND RAILROAD (O.U.R.) OF GRAYKEY SOFTWARE AND HARDWARE VALUED AT \$25,270.50 PROVIDED BY GRAYSHIFT LLC

RESOLVED: That the Barnstable Town Council does hereby authorize the acceptance of a donation from Operation Underground Railroad (O.U.R.) to the Barnstable Police Department of a one-year GrayKey license for the use of software and hardware provided by Grayshift LLC, which will serve as a valuable investigative tool for use by investigators at the Barnstable Police Department in cases that require digital forensics and the need to open electronic devices without a password, and which is valued at **\$25,270.50**; and that the Town Manager be authorized to execute an agreement for the donation stated herein.

SPONSOR: Mark S. Ells, Town Manager

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-017
INTRO: 09/16/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: September 16, 2021
SUBJECT: Acceptance of the Mutual Agreement Document (MAD) for the donation of the Graykey Software and Hardware valued at **\$25,270.50** from Operation Underground Railroad (O.U.R.)

BACKGROUND: The Barnstable Police Department has the opportunity to be the recipient of a donation from the Operation Underground Railroad (O.U.R.), a 501 (c) (3) organization that exists to protect children from sex trafficking and sexual exploitation. By accepting this donation, the Barnstable Police Department agrees to provide O.U.R. with the number of individuals arrested as well the number of victims identified who are associated with the use of their donation. O.U.R. does not require any names or case identifiers. Raw numbers will be provided in bimonthly reports, which O.U.R. will solicit. The data provided to O.U.R. will be compiled with other Law Enforcement Agencies, which then made-available to donors of O.U.R. regarding how their donations equate to the “measurables” necessary to combat child exploitation. The GrayKey is hardware and software designed by Grayshift LLC, that enables digital investigation units in law enforcement agencies to extract data from locked and encrypted mobile devices, while maintaining a chain of custody. Graykey software is designed to be integrated into our existing forensic analysis capabilities and supports a broad range of iOS devices, versions, and Androids. As Mobile devices have become a major source of evidence, GrayKey can assist with expediting backlogs on the analysis of phones by keeping them at the investigation agency, rather than sending them to a Federal Agency for analysis, whereby extensive backlogs exist. The Barnstable Police Department proposes that this donation be accepted to provide the Digital Forensics and Investigative Unit with the tools to unlock critical digital evidence.

ANALYSIS: The acceptance of this donation will allow the Barnstable Police Department to access encrypted data and locked devices, collect encrypted third party application databases and enable decryption. The ability to unlock and decrypt evidence needed will assist in closing cases faster and more efficiently by maintaining the chain of custody at the Barnstable Police Department. The GrayKey software and hardware have a total value of \$25,270.50.

FISCAL IMPACT: This donation of software and hardware created by Gray Shift LLC and donated by Operation Underground Railroad to the Barnstable Police Department Digital Forensics and Investigative Services Unit is to be received and implemented at no cost to the Barnstable Police Department over the length of the a one year signed contract. This one year period provides an opportunity to utilize this program and determine how beneficial it would be to the department on a long term basis.

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

STAFF ASSISTANCE: Matthew K. Sonnabend, Chief of Police; Kevin Connolly, Detective Sergeant; Lena Bevilacqua, Administrative Assistant to Investigative Services / Police Grant Coordinator; Anne Spillane, Support Services

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-018
INTRO: 09/16/2021**

2022-018 ACCEPTANCE OF A FISCAL YEAR 2022 STATE 911 DEPARTMENT TRAINING GRANT IN THE AMOUNT OF \$22,742.60 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

RESOLVED: That the Town Council does hereby accept a Fiscal Year 2022 State 911 Department Training Grant in the amount of **\$22,742.60** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security for the purpose of funding costs associated with the mandatory training of all 911 dispatchers who perform emergency dispatch operations, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-018
INTRO: 09/16/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: September 16, 2021
SUBJECT: Acceptance of a Fiscal Year 2022 State 911 Department Training Grant award in the amount of **\$22,742.60** from the Commonwealth of Massachusetts Executive Office of Public Safety and Security

BACKGROUND: The Department has been awarded a grant in the amount of \$22,742.60 relative to our role as a primary Public Safety Answering Point (PSAP) to fund the training and certification of enhanced 911 telecommunicators, including emergency medical dispatch (EMD).

This grant will fund 16 hours each of continuing education courses as required by law in such areas as CPR, EMD Recertification and specialized dispatch training on other topics including active shooter, domestic violence and suicide for 14 telecommunicators. Only telecommunicators who are trained/certified in basic telecommunications and EMD can work in the dispatch area and must complete 16 hours of continuing education annually. The grant will also fund the training costs associated with the initial training of newly hired civilian dispatchers.

ANALYSIS: Acceptance of this grant will enable the department to fulfill their training obligations as a primary PSAP as mandated by State 911.

GRANT DETAIL: \$22,742.60 will be directed to pay for class fees and personnel costs associated with the training.

FISCAL IMPACT: This is a reimbursement grant for all training costs, materials and overtime. The town must expend the funds upfront and subsequently submit for reimbursement. The elimination of this source of grant funding would have a direct impact on future General Fund budgets, as the cost would still remain a mandatory recurring operational expense and therefore would have to be replaced with general fund revenue. All costs associated with this grant contract must be completed by June 30, 2022.

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

STAFF ASSISTANCE: Matthew K. Sonnabend, Chief of Police; Anne Spillane, Support Services; Lena Bevilacqua, Administrative Assistant to Investigative Services / Police Grant Coordinator

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-019
INTRO: 09/16/2021**

2022-019 ACCEPTANCE OF A FISCAL YEAR 2022 911 SUPPORT AND INCENTIVE GRANT IN THE AMOUNT OF \$270,026 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

RESOLVED: That the Town Council does hereby accept a Fiscal Year 2022 911 Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security in the amount of **\$270,026** for the purpose of funding overtime costs associated with shift shortages in the Barnstable Police Department’s 911 telecommunications center and a portion of the base salaries of civilian dispatchers working in the 911 center, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
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- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-019
INTRO: 09/16/2021

SUMMARY

TO: Town Council
FROM: Mark S. Eells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: September 16, 2021
SUBJECT: Acceptance of a Fiscal Year 2022 911 Department Support and Incentive Grant in the amount of **\$270,026** from the Commonwealth of Massachusetts Executive Office of Public Safety

BACKGROUND: The Police Department applied for and was awarded a 911 Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security, State 911 Department in the amount of \$270,026.00. The Barnstable Police Department serves as a primary Public Safety Answering Point (PSAP) in that it receives all categories of 911 calls (Fire, Police & Medical Emergency) and then dispatches to the appropriate service according to the type of call. Additionally, Emergency Medical Dispatch continues to be administered by the Barnstable Police Department throughout the duration of the call, in keeping with State 911 regulations. Eligible entities for this grant are primary, regional and regional secondary PSAPS and Regional Emergency Communications Centers (RECC). Additional monies are available under the grant guidelines pertinent to this grant, because the Barnstable Police Department serves as a Primary PSAP and also takes cell phone calls. The Barnstable Police Department proposes that this funding be used to fund personnel costs incurred in the operation of the department's 911 Telecommunications Center.

ANALYSIS: The acceptance of this grant will allow the Department to place qualified personnel in the communications center in order to provide adequate staffing to that area without incurring undue personnel expenses. As approved in the Fiscal Year 2022 personnel budget this grant will fund the base pay and/or overtime of 911 EMD certified civilian dispatchers up to the funding limit of \$270,026.00.

FISCAL IMPACT: This is a reimbursement grant for personnel costs. The town must expend the funds upfront and subsequently submit for reimbursement. The elimination of this source of grant funding would have a direct impact on future General Fund budgets, as the cost would still remain a mandatory recurring operational expense and therefore would have to be replaced with general fund revenue. All costs associated with this grant contract must be completed by June 30, 2022.

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

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL ITEM

**ITEM# 2022-020
INTRO: 09/16/2021**

2022-020 RESOLVE APPROVING THE APPOINTMENT OF R. LANE PARTRIDGE AS THE DIRECTOR OF ASSESSING FOR THE TOWN OF BARNSTABLE

RESOLVED: That the Town Council hereby approves the appointment by the Town Manager of R. Lane Partridge as the Director of Assessing.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
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- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL ITEM

ITEM# 2022-020
INTRO: 09/16/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Mark A. Milne, CPA, Director of Finance
DATE: September 16, 2021
SUBJECT: Resolve approving the appointment of R. Lane Partridge as the Director of Assessing for the Town of Barnstable

BACKGROUND: An interview team comprised of the Director of Finance, Human Resources Director, Town Treasurer/Collector, Planning and Development Director and Chair of the Board of Assessors conducted the interviews. Mr. Partridge was unanimously recommended for the position.

ANALYSIS: Mr. Partridge has over 20 years of experience in the assessment administration field, most recently working as the Town Assessor for the Concord, MA for the past 10 years and Hingham, MA prior to that. In addition, he has extensive commercial appraisal experience having participated in many complicated commercial appraisals for eminent domain takings as part of Boston's Central Artery/Tunnel Project. Mr. Partridge is also actively involved in the Massachusetts Association of Assessing Officers and the International Association of Assessing Officers, continuously enhancing his professional development.

STAFF SUPPORT: Mark A. Milne, CPA, Director of Finance

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL ITEM

**ITEM# 2022-021
INTRO: 09/16/2021**

2022-021 DETERMINATION UNDER SECTION 19 OF M.G.L. c. 268A, THE CONFLICT OF INTEREST LAW

RESOLVED: That the Town Council does hereby determine that the financial interest of Mark Ells in decisions regarding the award of a Cost of Living Adjustment (COLA) to Town employees in the Non-Affiliated Executive Group (Department Heads), including whether to award a COLA and the amount of any such COLA, as described in Mr. Ells’ disclosure form presented to the Town Council at this meeting in accordance with G.L. c. 268A, § 19, is not so substantial as to be deemed likely to affect the integrity of the services which the Town may expect from Mr. Ells, thereby authorizing Mr. Ells to participate as Town Manager in such decisions during the term of his employment agreement with the Town; and ratifies the participation by Mr. Ells in the award of a COLA to Department Heads effective July 1, 2021; and further authorizes the President of the Town Council to make this determination on the disclosure form on behalf of the Town Council.

SPONSOR: Councilor Jennifer Cullum, Precinct 13

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- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL ITEM

ITEM# 2022-021
INTRO: 09/16/2021

SUMMARY

TO: Town Council
THROUGH: Mark S. Ells, Town Manager
FROM: Karen L. Nober, Town Attorney
DATE: September 16, 2021
SUBJECT: Determination Under Section 19 of G.L. c. 268A

Section 19 of G.L. c. 268A, the state conflict of interest law, prohibits a municipal employee from participating in a particular matter in which he or she has a financial interest, unless the employee's appointing authority makes a determination that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Town may expect from the employee. Section 19 requires that an employee who wishes to participate in such a matter file a disclosure with the employee's appointing authority of the nature and circumstances of the particular matter and make full disclosure of the employee's financial interest prior to participating. If the appointing authority makes such a determination, then the employee may participate in the matter, notwithstanding his or her financial interest.

As set forth in the attached disclosure, Mark Ells' duties as Town Manager include making decisions regarding the award of a Cost of Living Adjustment (COLA) to Town employees in the Non-Affiliated Executive Group (Department Heads), including whether to award a COLA and the amount of any such COLA. The award of a COLA to Mr. Ells is governed by his employment contract with the Town. Prior to this year, Mr. Ells' employment contract specified the amount of the COLA that he would receive each year. However, in September 2020, the Town and Mr. Ells agreed to a new contract for the term July 1, 2021 through June 30, 2026. At the request of the Town Council, the COLA provisions were revised to provide that "[t]he Town Manager will receive an annual Cost of Living Adjustment (COLA) equal to that received by employees in the Non-Affiliated Executive Group (Department Heads)." Due to that change in language, Mr. Ells now has a financial interest in the decisions that he makes regarding COLAs for Department Heads. Therefore, in order for Mr. Ells to continue to make these decisions, he needs the Town Council's authorization to do so, and the Council would need to make the determination set forth above. Because these decisions affect the Town Manager and Department Heads, there is no other Town employee who could make these decisions who would not also have a financial interest in these decisions. If the Council does not want to make this determination, then the only feasible alternative would be to revise Mr. Ells' employment contract to separate his financial interest from these decisions, either by specifying the amount of the COLA he will receive each year or by putting in place a process for the Council to make that decision each year.

I note that Section 19 contemplates having the employee make the disclosure prior to participation in the matter. However, since Mr. Ells has already awarded a COLA to Department Heads effective July 1, 2021, his receipt of a COLA has been put on hold pending the Council's decision on how it wishes to proceed.

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL ITEM

**ITEM# 2022-022
INTRO: 09/16/2021**

2022-022 RESOLVE RATIFYING THE TOWN COUNCIL VOTE OF OCTOBER 10, 2019, AUTHORIZING THE TOWN MANAGER TO COMMENCE NEGOTIATIONS WITH VINEYARD WIND, LLC, REGARDING AMENDMENTS TO THE EXISTING HOST COMMUNITY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND VINEYARD WIND, LLC (HCA), AND AUTHORIZING THE TOWN MANAGER TO NEGOTIATE FURTHER AMENDMENTS TO THE HCA OR A NEW HOST COMMUNITY AGREEMENT WITH VINEYARD WIND (HCA II) WITH RESPECT TO A SECOND PROJECT THAT WOULD COME ASHORE AT CRAIGVILLE BEACH

RESOLVED: That the Town Council hereby reaffirms and ratifies its vote of October 10, 2019, authorizing the Town Manager to commence negotiations with Vineyard Wind, LLC, regarding amendments to the existing Host Community Agreement between the Town of Barnstable and Vineyard Wind, LLC (“HCA”); authorizes the Town Manager to negotiate amendments to the HCA or a new Host Community Agreement (“HCA II”) with Vineyard Wind with respect to an impending proposal of Vineyard Wind to bring a second off-shore wind project ashore at Craigville Beach; and further authorizes the Town Manager to negotiate and execute such other agreements as he may determine are necessary to arrange for parallel, simultaneous installation of sewer and related facilities alongside Vineyard Wind duct bank installations contemplated by either or both HCA and HCA II.

SPONSOR: Mark S. Ells, Town Manager

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

BARNSTABLE TOWN COUNCIL ITEM

ITEM# 2022-022
INTRO: 09/16/2021

MEMORANDUM

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Charles S. McLaughlin, Jr., Senior Town Attorney
DATE: September 16, 2021
SUBJECT: Resolve ratifying Town Council vote of October 19, 2019 and authorizing the Town Manager to negotiate further amendments to the Town's agreement with Vineyard Wind LLC or a new agreement

RATIONALE: The Town and Vineyard Wind LLC ("VW") executed a Host Community Agreement ("HCA") in October 2018. HCA contemplated two phases of projects, both of which involved landings at Covell's Beach. Since 2018, a number of matters have developed and need to be documented. For example, Vineyard Wind agreed to join with the Town in a joint construction project whereby installation of VW's duct bank and the Town's new sewer installation would proceed simultaneously side by side. VW and the Town also agreed subsequently on safety protocols to contain any spillage of hazardous materials at its proposed electrical substation. And, although the initial HCA contemplated 2 phases, VW's current proposal is to bring the Phase 2 cables ashore at Craigville Beach via a route that had not been discussed during the development of the initial HCA. Management and Town Council leadership have been closely engaged with VW on these subjects, and it is now appropriate to either negotiate a second Host Community Agreement or to negotiate substantial additions and amendments to the HCA to fully reflect the understandings, undertakings, and obligations of the parties. This resolution will make clear that the Town Manager is authorized to undertake these negotiations.

FISCAL IMPACT: This resolve authorizes the Town Manager to negotiate terms, conditions, and mitigation – financial and otherwise – with reference to the proposed project that would come ashore at Craigville Beach. The fiscal impact is a combination of a host fee, personal property tax, construction improvements of parking lots, roadways and utilities where impacted by the proposed landing and utility installation, and other mitigation as defined in the HCA.

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

STAFF ASSISTANCE: Karen L. Nober, Town Attorney