



Town of Barnstable

Town Council

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James M. Tinsley, Jr.
Harold E. Tobey

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA

**September 18, 2008
7:00 PM**

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

NEXT MEETING: October 2nd

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Minutes – September 4, 2008

Please Note: It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2008-163

INTRO: 06/19/08, 07/17/08, 08/21/08, 09/18/08

2008-163 ADOPTION OF THE TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2008

RESOLVED AND ORDERED: That the Town Council hereby adopts the Town of Barnstable Comprehensive Plan 2008 and instructs the Town Clerk to submit the plan to the Clerk of the Cape Cod Commission for certification that it is consistent with the Regional Policy Plan.

SPONSOR: Town Manager John C. Klimm

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ADOPTION OF THE TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2008

ITEM# 2008-163

INTRO: 06/19/08, 07/17/08, 08/21/08, 09/18/08

SUMMARY

TO: Town Council
FROM: Patty Daley, Growth Management, Interim Director
DATE: June 10, 2008
SUBJECT: Town of Barnstable Comprehensive Plan 2008

BACKGROUND: This agenda item is the update of the 1997 Local Comprehensive Plan adopted by Town Council on October 30, 2007 and certified as consistent with the Regional Policy Plan by the Cape Cod Commission on February 12, 1998.

At their meeting on June 9, 2008 the Planning Board as the Local Planning Committee unanimously voted to send the Comprehensive Plan (CP) to Town Council for review and adoption. Once Town Council approves the CP it will then be submitted to the Cape Cod Commission for certification.

ANALYSIS: A comprehensive plan describes Barnstable's land use policy. This CP focuses on the location of new growth where capacity exists to absorb impacts; guidance for areas where investment in redevelopment is desirable and incentives can be provided; support and maintenance of the villages, their character and economy; economic sectors for focused attention; protection, improvement and maintenance of natural resources; and community housing, facilities and infrastructure, heritage preservation and health and human services issues.

RATIONALE: The 1997 Local Comprehensive Plan is the certified and approved plan of record for Barnstable. This updated plan reflects conditions, science, data and policies that have changed since 1997. The Comprehensive Plan is a source of information for residents, appointed and elected officials, businesses and other stakeholders as they consider land use options in Barnstable.

FISCAL IMPACT: The fiscal impact is neutral. Plan implementation would create an overall positive fiscal impact.

STAFF ASSISTANCE: Patricia Daley, Growth Management, Interim Director
Jo Anne Miller Buntich, Growth Management, Assistant Director
Jacqueline Etsen, AICP, Growth Management, Principal Planner

A. OLD BUSINESS (Joint Public Hearing with Planning Board) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-008

INTRO: 07/17/08, 08/21/08, 09/18/08

2009-008 AMEND ZONING ORDINANCE, ARTICLE III. DISTRICT REGULATIONS, §240-39. SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT

ORDERED that:

Section 1. That the Zoning Ordinance, Article III. District Regulations, §240-39. Shopping Center Redevelopment Overlay District, Section F. Permitted and prohibited uses, is hereby amended as follows:

By adding the following language to §240-39 F. (2)(f):

“except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District, as lies within the underlying Highway Business District, subject to the special permit provisions of §240-39M.”

So that as revised subsection (f) shall now read:

“(f) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District, as lies within the underlying Highway Business District, subject to the special permit provisions of §240-39M.”

Section 2. That the Zoning Ordinance, Article III. District Regulations, §240-39. Shopping Center Redevelopment Overlay District, Section M. Special permit provisions, is hereby amended as follows:

By adding the following new sentence to §240-39M. (1)(a):

“ In addition, no building permit or occupancy permit shall be issued for a drive-through bank unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this §240-39M.”

Section 3. That the Zoning Ordinance, Article III. District Regulations, §240-39. Shopping Center Redevelopment Overlay District is hereby amended by deleting §240-39 G. (1)(e) in its entirety and inserting in place thereof, the following new (e):

(e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet

[1] One hundred feet along Route 132/Iyanough Road.

[2] One hundred feet along the easterly side of the roadway which would be created if Independence Drive were extended from its existing terminus on the northerly side of Route 132 along its current trajectory across Route 132 and the redevelopment area.

[3] Within one hundred feet of Route 28/Falmouth Road, the minimum setback shall be twenty feet, but there shall be a maximum setback of fifty feet.

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

AMEND ZONING ORDINANCE SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT

ITEM# 2009-008

INTRO: 07/17/08, 08/21/08, 09/18/08

SUMMARY

TO: Town Council and Planning Board
FROM: Growth Management Department
DATE: July 7, 2008
SUBJECT: Amend Zoning Ordinance, Article III. District Regulations, §240-39.

BACKGROUND: This involves the amendment of the Zoning Ordinance, Article III District Regulations, §240-39. Shopping Center Redevelopment Overlay District (SCROD), to permit a drive-through bank in that portion of the SCROD which is located in the Highway Business (HB) portion of the SCROD. The amendment also amends the front yard setbacks on Route 28/Falmouth Road within the SCROD to provide that within the first 100 feet, the minimum building setback shall be 20 feet and the maximum building setback shall be 50 feet.

In 1996, the Zoning Ordinance was amended to add the SCROD so as to permit the renovation and redevelopment of the then existing shopping center, subject to specific regulations and requirements, including the issuance of a special permit by the Zoning Board of Appeals under §240-39M. Under the SCROD, after the issuance of a special permit, the regulations and requirements set forth in the SCROD govern even where they are inconsistent with or less restrictive than the other requirements of the chapter.

Even though a drive-through bank is a use permitted by special permit in the underlying HB District, such use is prohibited in the SCROD District.

The Board of Appeals has issued a special permit for the redevelopment of the Cape Cod mall. Accordingly, at present, a drive-through bank is a prohibited use in the SCROD.

ANALYSIS: The purpose of the amendment is to permit drive-through banks in so much of the SCROD as is included within the underlying HB District, and subject to the issuance of a special permit or to the modification of the special permit issued to redevelop the Mall.

The amendment to the setback provisions along Route 28 would ensure that with respect to any future buildings constructed within 100 feet of Route 28, the parking would be located to the rear or side of the buildings.

RATIONALE: Permitting a drive-through bank in the HB portion of the SCROD, will make the use consistent with the underlying HB District

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management
Jo Anne Miller Buntich, Assistant Director, Growth Management

A. OLD BUSINESS (May be acted upon) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-021
INTRO: 08/21/08, 09/18/08**

**2009-021 AUTHORIZING THE TOWN MANAGER TO EXECUTE A
REGULATORY AGREEMENT BETWEEN THE TOWN OF
BARNSTABLE AND RUTH M. RUSHER TRUST**

ORDERED, THAT: The Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Ruth M. Rusher Trust, for the property shown on Barnstable Assessor’s Map 326 Parcel 045, and located within the HD zoning district and the Downtown Hyannis Growth Incentive Zone, including zoning relief as follows:

- | | |
|--|-----------------------------|
| <u>HD zoning district permitted or conditional use</u> | Section 240-24.1.7 |
| <u>Reduction in onsite parking requirements</u> | Section 240-24.1.10 (4) (b) |

The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.

SPONSORS: Councilor J. Gregory Milne
Councilor James Tinsley
Councilor Harold Tobey

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

A REGULATORY AGREEMENT - RUTH M. RUSHER TRUST

ITEM# 2009-021

INTRO: 08/21/08, 09/18/08

SUMMARY

TO: Town Council
FROM: Growth Management Department
DATE: August 12, 2008
SUBJECT: Proposed Regulatory Agreement--111 Ocean Street, Hyannis, Rusher Hostel

RATIONALE: This is a proposed Regulatory Agreement between the Town of Barnstable and the Ruth M. Rusher Trust. Chapter 168 of the Barnstable Code authorizes regulatory agreements. The ordinance allows the Town to enter into agreements with private property owners to allow new development in a manner that varies from local ordinances when it is deemed beneficial to the community.

The applicant is proposing a regulatory agreement to gain additional development rights for a hostel use at 111 Ocean Street in Hyannis. The applicant is proposing a regulatory agreement to establish an alternative means to comply with the requirements of the Barnstable Zoning Ordinance for use and parking as follows:

<u>HD zoning district permitted or conditional use</u>	Section 240-24.1.7
<u>Reduction in onsite parking requirements</u>	Section 240-24.1.10 (4) (b)

The Agreement would authorize this zoning relief. The applicant proposes to renovate, and in some cases expand, three existing buildings for use as a hostel, and to add a new 10-car asphalt parking lot. Total square footage of buildings will be 4,225 s.f. A hostel staff manager would reside on the premises.

The Agreement is beneficial to the community because the 111 Ocean Street project redevelops an existing property. As community benefits, the applicant notes affordable access for visitors and their intention to partner with local businesses for the benefit of their visitors and the businesses. They also noted that the hostel could be used in the off-season to house artists-in-residence, or other cultural programs.

REGULATORY AGREEMENT PROCESS: The Barnstable Planning Board negotiated the proposed Agreement over the course of 2 public hearings held on August 13 and 27, 2007, September 10, 2007. The proposed Agreement was approved by the Planning Board for recommendation to the Town Council by a majority vote of the Board on January 28, 2008.

Because the applicant requests zoning relief, a two-thirds vote of the Town Council is needed to finally approve the proposed Regulatory Agreement.

If the Town Council approves the Regulatory Agreement, it is endorsed by the Town Manager and recorded at the Registry of Deeds.

Copies of the full size plans are available for viewing at the office of the Town Clerk.

FISCAL IMPACT: Positive

STAFF ASSISTANCE: Patty Daley, Interim Director, Growth Management,
Jo Anne Miller Buntich, Assistant Director, Growth Management

REGULATORY AGREEMENT
Rusher Trust Hostel
111 OCEAN STREET, HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the applicant, Ruth M. Rusher Trust, (“Applicant” and “Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___ day of ____, 2008 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Applicant under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both;

WHEREAS this Agreement shall establish the permitted uses, densities, and traffic within the Development, the duration of the agreement, and any other terms or conditions mutually agreed upon between the Applicant and the Town.

WHEREAS this Agreement shall vest land use development rights in the property for the duration of the Agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare.

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS the Applicant is the legal owner of the property (“Property”) at 111 and 105 Ocean Street, Hyannis, consisting of approximately .45 acres, shown on Barnstable Assessor’s Map 326 as Parcel 045, title to which is recorded in Barnstable County Registry of Deeds Book 18564 Page 234, and desires to develop the Property pursuant to a Regulatory Agreement;

WHEREAS, it is anticipated that ownership of the Property will be transferred from the Ruth Rusher Trust to the Cape Cod Foundation once building permits are issued for the Project and as such the Cape Cod Foundation shall also be a signatory to this Agreement and the when the term “Developer” is used herein it shall include the Cape Cod Foundation;

WHEREAS, the Applicant is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS, the Town and Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS the Applicant has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS the Development is located in the Hyannis Growth Incentive Zone (“Hyannis GIZ”) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and the Applicant has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, the Applicant has undergone informal review by the Hyannis Main Street Waterfront Historic District on August 15 and September 19, 2007;

WHEREAS the Applicant has undergone informal site plan review on September 5, 2007;

WHEREAS, the Development is serviced by municipal sewer and does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS the Applicant will require zoning relief from the use regulation schedule in the HD zoning district, more specifically referred to in Paragraph 36, below;

WHEREAS the Applicant has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on January 28, 2008;

WHEREAS the Applicant has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____;

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 Applicant and the Town do enter into this Agreement, and hereby agree and covenant as follows;

1. The Applicant agrees to construct the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
 - a. Plans entitled "Proposed Site Plan" Sheet S-1 dated 02.26.2007, and Proposed Plans A-2, A-3, A-4, A-5, and A-6 dated 06.26.2007 prepared by A+E Architects, 15 Cape Lane, Brewster, MA
 - b. Such other plans and plan revisions as may be required by the terms and conditions of this Agreement
2. The Developer proposes to renovate four existing buildings to develop the Property as a Hostel. For the purposes of this Agreement, a Hostel is defined as a facility which provides inexpensive, overnight accommodations for travelers in dorm-style rooms with male, female, coed and family rooms. The hostel is designed to bring people together through the use of shared kitchens, bathrooms, and common areas. The four existing buildings at the Property shall be remodeled and updated to comply with applicable building and health codes.
3. A new 16 car parking area is also proposed to service the hostel (the "Development"), with 13 spaces of pervious parking and an additional three lined and available if the need arises.
4. As shown on the plans entitled, proposed Plans A-2, A-3, A-4, A-5, and A-6 dated 06.26.2007 prepared by A+E Architects, 15 Cape Lane, Brewster, MA Hostel shall have a maximum of 13 rooms with a maximum of 47 occupants, including Hostel staff and children under 18. The maximum number of occupants shall be posted in the area of the premises where guests register.
5. When open, the Hostel shall have a minimum number of one Hostel staff on the premises on a 24 hour basis.
6. Hostel visits shall be limited in duration. Each individual Hostel visitor shall be limited to not more than fourteen (14) aggregate nights in a one year period. The Hostel management shall keep a log containing the names of visitors or groups of visitors occupying the Hostel. The log shall be made available for inspection by the Town Board of Health and/or the Town Manager's office upon request, but in no case shall such log be made available later than five (5) business days after receipt of a written request by the Town.
7. The Hostel shall operate on a seasonal basis and shall not receive visitors between November 15th through April 15th of each year, but may be open at its option seven (7) days a week from April 15th through November 15th in any one year.
8. Separate sleeping accommodations shall be provided for visiting boys and girls under the age of 18. This shall not apply to a family sharing a discrete room.
9. The preparation of food shall be restricted to the kitchen and a designated area for outdoor grilling and dining. The management shall ensure that food preparation does not occur in sleeping rooms.
10. The Hostel management shall clearly post and shall enforce a quiet time between 11 pm and 7 am.
11. Smoking shall not be allowed, Outdoor smoking on the premises shall only be permitted in designated areas with proper receptacles.
12. The possession and/or consumption of alcoholic beverages or illegal substances shall be prohibited. The management shall take steps to remove anyone from the premises who has too much to drink or is disruptive.
13. Animals, with the exception of service animals assisting persons with disabilities shall be prohibited.

14. The four habitable buildings shall include a full emergency sprinkler system as approved by the Hyannis Fire District.
15. The curb cut on Ocean Street shall be configured on Ocean Street so it only allows for "right turn in, right turn out" and Developer shall install a "No Left Turn" sign.
16. Developer shall construct a Passive Stormwater Maintenance and Infiltration System to service the Development
17. Developer will provide a bicycle rack at the Property.
18. Developer and its successor(s) shall maintain all landscaping and drainage facilities during the term of this agreement for the period for which the development rights granted hereunder continue to be exercised.
19. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Barnstable Code Section 240-104(G)). This document shall be submitted before the issuance of the final certificate of occupancy.
20. Prior to the issuance of any building permit, the Developer shall submit a landscape plan which shall be reviewed and approved by the Planning Board.
21. The Developer shall apply or cause its approved operator to apply for and receive a yearly license for the operation of the Hostel from the Town Manager or his designee, unless the Town Manager determines that there is an alternative adequate licensing procedure, The Developer agrees that for the first year the fee for said license shall be \$1,000 per year. Thereafter, the fee shall be determined pursuant to the Town's fee-setting procedures. A denial, suspension or revocation of a license by the Town Manager or his designee shall result in the closure of Hostel operation on the premises, subject to all rights of appeal. No occupancy permit shall be issued until the Developer demonstrates that the premises are duly licensed.
22. Developer shall permit or cause its approved operator to permit the inspection of the premises by town staff, including but not limited to health, building and fire safety personnel.
23. Upon notice and hearing, the Town Manager reserves the right to terminate Hostel operations if necessary to protect the public health, safety or welfare.
24. No change in the licensed operator of the premises shall be permitted without the prior written approval of the Town Manager or his designee.
25. Any reconfiguration of the interior of the premises which alters the number of rooms available for guests shall receive the prior written approval of the Planning Board, who may approve such change administratively.
26. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of two years from the effective date of the Agreement, provided, however, that prior to the expiration of said one year period the Applicant may request one six month extension to obtain development permits. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. The Applicant estimates that construction will commence on or about October 2008 and will be completed on or about October 2009.
27. Commencing in the third year of operation, the Developer has agreed to contribute to public capital facilities to serve the proposed development and the Town by making a yearly payment in lieu of taxes. The initial payment shall be \$ 5,355.40, which amount shall be increased by 2 ½ per cent per year. No license (permit) shall issue for the third year of operation until the initial payment constituting a contribution to public capital facilities has been received by the Town.
28. Any lighting for the development shall be contained on-site, shall be down cast and shall not contribute to light pollution of the area;
29. All landscaping within the Development shall be low water use and shall minimize the use of fertilizers and pesticides in keeping with the Hyannis Village Zoning Districts Design and Infrastructure Plan;

30. All plumbing fixtures shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
31. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible;
32. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces) sewer permits and water permits.
33. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:30 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays. No exterior construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration;
34. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;
35. Developer has represented to the Board that it intends to enter into contract with the Eastern New England Council Hostelling International – American Youth Hostel, Inc. to operate the Hostel. Prior to the issuance of any occupancy permit for the premises, Developer shall submit a copy of said contract to the Planning Board for their determination that the contract incorporates the terms and conditions of this regulatory agreement. All operators shall be bound by the terms and conditions of this Agreement and the Developer shall incorporate this Agreement by reference into any contract it enters into for the operation of the premises and said contract shall require that the operator comply with the terms of this Agreement.
36. Town hereby grants a waiver from the following zoning restrictions: permitted or conditional use in the HD zoning district (Hostel), Section 240-24.1.7 of the Barnstable Code and reduction in onsite parking requirements, Section 240-24.1.10 (4)(b)
37. The Developer shall submit revised plans which address the comments submitted by the Site Plan Review Committee dated September 5, 2007, to the extent applicable, which plans shall be reviewed and approved administratively by the Building Commissioner.

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

Dated this _____ day of _____, 2008.

 Town of Barnstable
 By:

 Developer
 By:

B. NEW BUSINESS (Refer to Public Hearing 10/02/08) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-024
INTRO: 09/18/08**

2009-024 COMMUNITY PRESERVATION FUND APPROPRIATION FOR HOUSING

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars be appropriated and transferred from the amount set aside for the creation of affordable Housing in the Community Preservation Fund on August 21, 2008 under agenda item number 2008-161, to buy down the cost of five (5) affordable homes, at \$50,000.00 per home, inclusive of closing costs and legal fees, for resale to first-time homebuyers at affordable prices by the Housing Assistance Corporation, through the Town of Barnstable’s Inclusionary Housing Ordinance and that the Town of Barnstable Growth Management Department is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager for the creation of affordable housing and to acquire affordable housing restrictions, easements and other security on behalf of the Town.

SPONSOR: Town Manager upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

COMMUNITY PRESERVATION FUND APPROPRIATION FOR HOUSING

ITEM# 2009-024
INTRO: 09/18/08

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: September 3, 2008
SUBJECT: Rationale for the funding for the Housing Assistance Corporation Home Ownership Program

BACKGROUND: The Community Preservation Committee (CPC) met on August 19, 2008 and has recommended that the town support the funding request of \$250,000.00 from the Housing Assistance Corporation for their Home Ownership Program. The request is for five (5) homes at \$50,000.00 per unit, inclusive of closing costs and legal fees.

RATIONALE: The project goal is to buy down the cost of five (5) affordable homes for resale to first-time homebuyers at affordable prices by the Housing Assistance Corporation; creating affordable homeownership opportunities for local residents who meet the area median income requirements therefore increasing the inventory in the Town of Barnstable.

The Housing Assistance Corporation is the designated buyer for these homes and the funds requested would greatly lower the mortgages. These homes will receive weatherization and repair upgrades, increasing the quality of affordable homes as well.

Funding partnerships will include the Department of Housing and Community Development, Barnstable County and the Cape Light Compact. Due to market fluctuations, once homes are identified, a site visit and subsequent approval from the CPC must take place.

This project is in keeping with the Local Comprehensive Plan, while fulfilling criteria for affordable community housing. Each home purchase will be inclusive of closing costs and legal fees; administered by the Town of Barnstable, Growth Management Department. Each home will be deed restricted requiring that the home remains affordable in perpetuity.

B. NEW BUSINESS (Refer to Public Hearing 10/02/08) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-025
INTRO: 09/18/08**

2009-025 COMMUNITY PRESERVATION FUND APPROPRIATION FOR HISTORIC PRESERVATION

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the amount not to exceed Five Thousand Five Hundred and No/100 (\$5,500.00) Dollars be appropriated and transferred from the amount set aside in the Community Preservation Fund on August 21, 2008 under agenda item number 2008-161; and that the Town of Barnstable, Growth Management Department is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager for Historic Preservation and reproduction (photocopying, binding, digitally scanning and distribution) of the verbatim transcript of the Barnstable Town Record, Volume I, allowing distribution of the copies to public institutions across southeastern Massachusetts; further maintaining limited access to the original volume and lengthening its preservation through less handling and use.

SPONSOR: Town Manager upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

COMMUNITY PRESERVATION FUND APPROPRIATION FOR HOUSING

ITEM# 2009-025
INTRO: 09/18/08

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: September 3, 2008
SUBJECT: Rationale: Barnstable Historic Archives Transcripts / Agenda Item 2009-161

BACKGROUND: The Community Preservation Committee (CPC) met on August 19, 2008 and has recommended that the town support the funding request from Eben L. Johnson for the Historical Archives Transcription of Barnstable Town Records not to exceed \$5,500.00; and shall be appropriated and transferred from the Community Preservation Funds.

RATIONALE: The project goal is to reproduce and distribute copies of the completed verbatim transcript of the Barnstable Town Record, Volume 1 among numerous public institutions across southeastern Massachusetts. These transcripts will provide countless citizens with access into the early town's history.

Currently, only one copy of the Barnstable Town Record, Volume 1 exists; it is located in the vault of the Office of the Town Clerk and utilized only under supervised conditions. Distribution of these reproduced transcripts would provide wider accessibility and more direct access regarding the factual recorded of Barnstable history.

This project will enhance the protection, restoration and preservation of the information currently contained in the original volume, which is deteriorating, from handling these.

No historic restriction is necessary because the original and the reproductions are the property of the Town of Barnstable.

B. NEW BUSINESS (Refer to Public Hearing 10/02/08) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-026
INTRO: 09/18/08**

2009-026 ACCEPT MGL C. 59 §5K AND AMEND THE GENERAL ORDINANCE TO ESTABLISH A PROGRAM FOR A SENIOR CITIZEN PROPERTY TAX WORK-OFF ABATEMENT

ORDERED, that:

SECTION 1: Section 5K of chapter 59 of the general laws is hereby accepted.

SECTION 2: That the general ordinance of the town of Barnstable is hereby amended by adding a new Chapter 183, Senior Citizen Property Tax Work-Off Abatement Program.

SECTION 3: Chapter 183: Senior Citizen Property Tax Work-Off Abatement Program

§183-1: Purpose:

In accordance with the provisions Section 5K, Chapter 59 of the general laws, the town is offering a program which allows certain eligible seniors aged sixty and older the opportunity to perform work for the town in exchange for an abatement of property taxes for the maximum amount of \$750.00 yearly.

§183.2: Eligibility

In order to be eligible to apply for the program, an individual shall meet all of the following requirements:

- A. Owns and occupies a residential property in the immediate fiscal year preceding the fiscal year in which the taxpayer applies to volunteer his/her services;
- B. Has reached 60 years of age by the July 1 of the fiscal tax year for which the tax credit is given;
- C. Has a gross yearly income of not more than \$30,000 for single taxpayers and \$40,000 for married taxpayers, and
- D. Cannot be a compensated employee of the Town during the fiscal year for which the tax credit is sought.

§183.3: Program Administration

- A. The Town Manager or his/her designee shall be responsible for administering the Senior Tax Work-Off Program.
- B. The Town Manager or his/her designee shall review and approve the volunteer services to be included in the program and place and/or assign eligible residents to perform such services.

C. The Town Manager or his/her designee shall certify the amount of volunteer services performed by each participating taxpayer to the Barnstable Board of Assessors on or before December 1 of the year for which tax credits are to be given. Upon timely receipt of this certification, the Board of Assessors shall credit the real property tax obligations of the participating taxpayers in an amount not to exceed \$750 per taxpayer. A copy of each taxpayer's certification will be given to that taxpayer. This credit shall be in addition to any exemption or abatement for which the volunteer may otherwise be eligible.

D. The Town Manager shall determine annually the maximum number of residents who may participate in the program and shall advise the Board of Assessors of this number prior to the start of the fiscal year for which tax credits are to be given.

§183.4: Program Criteria

A. The hourly rate at which the volunteer services are to be credited shall be the minimum wage of the Commonwealth in effect at the time the services are provided.

B. The Town will pay the volunteer's share of FICA taxes.

C. The maximum amount by which the real property tax obligation of any one volunteer may be reduced in any given tax year shall not exceed \$750.

D. Tax credits may be applied only toward real property, which the volunteer occupies as a principal residence and has property tax liability.

E. Only one tax abatement per property per year shall be allowed.

F. Participation will be awarded using a lottery system if qualified applications received exceed the number of available slots.

G. Taxpayers in the program may not participate in two consecutive years unless the number of applicants is less than the eligible slots.

SPONSOR: Council on Aging

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL
ADOPTION OF A GENERAL ORDINANCE
SENIOR CITIZEN PROPERTY TAX WORK-OFF ABATEMENT PROGRAM

ITEM# 2009-026
INTRO: 09/18/08

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: September 9, 2008
SUBJECT: Adoption of a General Ordinance Establishing a Senior Citizen Property Tax Work-off Abatement Program

BACKGROUND: The Town Council may establish a property tax work-off program for taxpayers over 60 years old. Under the program, participating taxpayers volunteer their services to the town in exchange for a reduction in their tax bills. Acceptance of the statute may be revoked but the town must wait until at least three years after the statute was accepted to do so. Revocation is also made by the Town Council.

ANALYSIS: Many seniors living on fixed incomes are faced with cost increases including; but not limited to, utilities, prescription medications and property taxes. This program would allow eligible seniors the opportunity to work off a portion of their annual property tax bill by providing volunteer services to the town. The town would benefit from their expertise and experience. It is important to note that seniors participating in this program are not replacing town employees. They will be augmenting services that are currently provided. The positions will be primarily clerical requiring mail sorting, copying, filing, phone work and reception.

The maximum abatement taxpayers may earn is \$750 per fiscal year. In addition, they cannot receive credit for their services at an hourly rate higher than the state's minimum wage. As of January 1, 2008, that rate is \$8.00 an hour. Using the state's minimum wage rate a volunteer can earn the maximum abatement working 93.75 hours. The Town should also set the rate no lower than the federal minimum wage unless advised by the Wages and Hours Division of the United States Department of Labor that the federal fair labor standards act does not apply to the program. The federal minimum wage is currently \$5.85 an hour.

Taxpayers may earn abatements under the work-off program in addition to any property tax exemptions they may be eligible for under other statutes, such as personal exemptions under G.L. Ch. 59 §5 or residential exemptions under G.L. Ch. 59 §5C. They may also defer the balance of their taxes under G.L. Ch. 59 §5(41A) if they are eligible to do so. Additionally, seniors may be eligible for the State Senior Circuit Breaker Tax Credit. Participation in this tax work-off program may affect a taxpayer's eligibility under the State Circuit Breaker program if the tax work-off program reduces their tax liability to certain non-qualifying levels.

The Human Resources Division must certify to the Board of Assessors the hours of services performed by the taxpayer before the actual tax for the fiscal year is committed. The certification must state the amount actually earned as of that time. Services performed after that date is credited

toward the next fiscal year's actual tax bill to the extent consistent with the program rules established by the town. A copy of the certification must also be given to the taxpayer before the actual tax bill is issued.

The amount of the property tax reduction earned by the taxpayer under this program is not considered income or wages for purposes of state income tax withholding or workmen's compensation. However, the United States Internal Revenue Service (IRS) has ruled that under current federal law the abatement amount is included in the taxpayer's gross income for both federal income tax and Federal Insurance Contribution Act (FICA) tax purposes. Participating seniors will receive a W2 under this program and the employee's share of FICA taxes (\$57.38) will be paid by the Town resulting in federal taxable income to the participant of \$807.38.

Earned reductions must be applied to the actual tax bills for the fiscal year. The assessors must commit the full tax for the year and process the gross amount earned as certified by Human Resources for the taxpayer's volunteer services as an abatement to be charged against the overlay account. The taxpayer's actual tax bill, however, should only show a credit for the amount earned net of any federal withholdings. The municipal share of federal Social Security and Medicare taxes may also be charged to the overlay unless the community has otherwise provided.

FISCAL IMPACT: The amounts earned under the program are charged to the Town's reserve for abatements and exemptions; similar to other exemptions granted. The cost would be dependent upon the number of participants, the amount of the maximum abatement granted and the treatment of FICA taxes. For example, if the abatement is established at the maximum authorized amount, or \$750, and 20 seniors participate, and the Town elects to pay the volunteer's share of FICA taxes, then \$17,295 would be granted in exemptions ($20 \times \$750 = \$15,000 + (\$15,000 \times 15.3 \text{ percent})$).

COUNCIL ON AGING RECOMMENDATION/COMMENTS: The Council on Aging recommends the implementation of this program with the suggestion that some consideration should be given to assigning some of these individuals to the Senior Center. This would accomplish two things:

- 1) Be helpful to an understaffed staff that already serves the needs of the recipients.
- 2) Could introduce someone who may be a future volunteer to the senior center.

TOWN MANAGER RECOMMENDATION:

The Town Manager recommends the implementation of this program.

STAFF ASSISTANCE:

Mark Milne, Finance Director
William Cole, Human Resource Director
Madeline Taylor, Senior Services Director
Debra Blanchette, Treasurer
Nancy Finch, Assistant Assessor

M.G.L.A. 59 § 5K

Massachusetts General Laws Annotated Currentness

Part I. Administration of the Government (Ch. 1-182)

Title IX. Taxation (Ch. 58-65C)

Chapter 59. Assessment of Local Taxes (Refs & Annos

Persons and Property Exempt from Taxation

§ 5K. Property tax liability reduced in exchange for volunteer services; persons over age 60

In any city or town which accepts the provisions of this section, the board of selectmen of a town or in a municipality having a town council form of government, the town council or the mayor with the approval of the city council in a city may establish a program to allow persons over the age of 60 to volunteer to provide services to such city or town. In exchange for such volunteer services, the city or town shall reduce the real property tax obligations of such person over the age of 60 on his tax bills and any reduction so provided shall be in addition to any exemption or abatement to which any such person is otherwise entitled and no such person shall receive a rate of, or be credited with, more than the current minimum wage of the commonwealth per hour for services provided pursuant to such reduction nor shall the reduction of the real property tax bill exceed \$750 in a given tax year. It shall be the responsibility of the city or town to maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the real property tax has been reduced and to provide a copy of such record to the assessor in order that the actual tax bill reflect the reduced rate. A copy of such record shall also be provided to the taxpayer prior to the issuance of the actual tax bill. Such cities and towns shall have the power to create local rules and procedures for implementing this section in any way consistent with the intent of this section

In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services be considered income, wages, or employment for purposes of taxation as provided in chapter 62, for the purposes of withholding taxes as provided in chapter 62B, for the purposes of workers' compensation as provided in chapter 152 or any other applicable provisions of the General Laws, but such person while providing such services shall be considered a public employee for the purposes of chapter 258, but such services shall be deemed employment for the purposes of unemployment insurance as provided in chapter 151A.

M.G.L.A. 59 § 5K

B. NEW BUSINESS (Refer to Public Hearing 10/02/08) (Roll Call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-027
INTRO: 09/18/08**

2009-027 ACCEPTANCE OF A PORT SECURITY GRANT FROM THE DEPARTMENT OF HOMELAND SECURITY, FEMA IN THE AMOUNT OF \$90,000 AND THE SUPPLEMENTAL APPROPRIATION OF \$30,000 AS MATCHING FUNDS

ORDERED, that: The Barnstable Town Council does hereby accept a Port Security Grant from the Department of Homeland Security, FEMA in the amount of \$90,000 and that the amount of \$30,000 in matching funds is hereby transferred from the mooring fee special revenue account, and further, that the Town Manager is authorized to expend these funds in accordance with the grant

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF A FEMA HOMELAND SECURITY GRANT

ITEM# 2009-027
INTRO: 09/18/08

SUMMARY

TO: Town Council
FROM: Director of Community Services Lynne Poyant
DATE: September 9, 2008
SUBJECT: FEMA Homeland Security Grant

RATIONALE: FEMA's Infrastructure Protection Activities (IPA) grant program is designed to strengthen the Nation's ability to protect critical infrastructure facilities and systems. These activities are comprised of five separate grant programs including Port Security Grant Program (PSGP).

Together, these grants fund a range of preparedness activities, including strengthening infrastructure against explosive attacks, preparedness, planning, equipment purchase, training, exercises, and security management and administration costs. IPA grants support objectives outlined in post-9/11 laws, strategy documents, plans, Executive Orders and Homeland Security Presidential Directives, the National Preparedness Guidelines and associated work products, including the National Infrastructure Protection Plan (NIPP) and its transportation sector-specific plans and Executive Order 13415 (Strengthening Surface Transportation Security).

The FY2008 IPA grant program contains significant improvements based upon extensive outreach to stakeholders. In addition, the risk assessments that formed the basis for eligibility under the IPA were refined slightly to conform with the final provisions of the Implementing Recommendations of the 9/11 Commission Act of 2007.

Captain R.J. Perry, Sector Commander of the United States Coast Guard (Woods Hole), validated that the Barnstable Harbormaster is a provider of layered waterside security pursuant to the area maritime security plan.

BACKGROUND: The Town of Barnstable has applied for and been awarded a Port Security Grant in the amount of \$90,000.00 for the purchase of a 21-24' commercial grade center console harbor patrol vessel. The grant total is for \$120,000.00 of which the Town is responsible for a 25% or \$30,000 match. The Town has within its jurisdiction three regulated maritime facilities, two in Hyannis Harbor (Steamship Authority and Hy-Line Cruises) and one in Barnstable Harbor (Hyannis Whale Watcher Cruises/Millway Marina). While this vessel will benefit the entire Town, our intent is to locate it at Barnstable Harbor. The Harbormasters Office has requested funding for such a replacement vessel for Barnstable Harbor as far back as the FY1999 budget. We were one of only seven grants in the entire Commonwealth of Massachusetts that received Port Security Grant Money.

ANALYSIS: We do have only 45 days, from the September 5th official date of notification, to accept the grant.

FISCAL IMPACT: \$30,000 in matching funds through the mooring fee special revenue account and an anticipated operational increase of approximately \$2,500/year

STAFF ASSISTANCE: Joe Gibbs, Mooring Officer
Dan Horn, Director of Marine and Environmental Affairs
Lynne M. Poyant, Director of Community Services

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-028
INTRO: 09/18/08**

2009-028 ACCEPTANCE OF A GRANT TO THE BARNSTABLE SENIOR CENTER FOR TRANSPORTATION SERVICES FOR THE ELDERLY, FROM ELDER SERVICES OF CAPE COD AND THE ISLANDS.

RESOLVED, THAT: The Town of Barnstable hereby accept a grant in the amount of \$6,000.00 to support the ongoing provision of transportation services to local elders and authorize the expenditure of monies for that purpose.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF GRANT FROM ELDER SERVICES OF CAPE COD & THE ISLANDS FOR TRANSPORTATION SERVICES AT THE BARNSTABLE SENIOR CENTER

**ITEM# 2009-028
INTRO: 09/18/08**

SUMMARY

TO: Town Council
FROM: Director of Community Services Lynne M. Poyant
DATE: September 9, 2008
SUBJECT: Grant Acceptance for elder transportation services

RATIONALE: The transportation program offered by the Barnstable Senior Center offers a vital link for local seniors. Through the program, seniors can arrange direct transportation to and from medical, social, and other appointments through the Senior Center on a handicap accessible van. For many seniors, driving themselves to appointments is no longer a viable option, so this service becomes their primary link to outside services. Acceptance of this grant will allow the Senior Center to continue to provide this invaluable community service to elders and their caregivers. Funding for this grant comes from Title III E of the Older Americans Act. In recognition of their grant, Elder Services of Cape Cod & the Islands will be appropriately mentioned in all publicity materials.

FISCAL IMPACT: None

STAFF ASSISTANCE: Madeline Taylor, Director of Senior Services

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-029
INTRO: 09/18/08**

2009-029 ACCEPTANCE OF A GRANT TO THE BARNSTABLE SENIOR CENTER FOR A PARENTING GRANDPARENTS SUPPORT GROUP, FROM ELDER SERVICES OF CAPE COD AND THE ISLANDS.

RESOLVED, THAT: The Town of Barnstable hereby accept a grant in the amount of \$5,000.00 to fund a Parenting Grandparents support group at the Barnstable Senior Center.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF GRANT FROM ELDER SERVICES OF CAPE COD & THE ISLANDS TO SUPPORT A PARENTING GRANDPARENTS SUPPORT GROUP AT THE BARNSTABLE SENIOR CENTER

**ITEM# 2009-029
INTRO: 09/18/08**

SUMMARY

TO: Town Council
FROM: Community Services Director Lynne M. Poyant
DATE: September 9, 2008
SUBJECT: Grant for a grandparent support group at the Barnstable Senior Center

RATIONALE: We have recently become aware of the growing number of grandparents in our community who have become responsible for raising their grandchildren. There is currently no such program in our community to address this issue and, as part of our mission to design and implement needed services for our senior population, we felt it was necessary to respond to this unmet need. Our request for funding has been approved by Elder Services of Cape Cod and the Islands and we are excited that we can now reach out to parenting grandparents in our community and provide support to both them and their grandchildren. Our intention is to provide monthly peer support for each group as well as offer intergenerational activities to promote bonding between the groups through a variety of activities. A professional in the field of social work will facilitate the grandparents group and we will have guest speakers who, through presentations and workshops, will discuss a range of relevant topics. The program will provide grandparents with practical and supportive information and advice to help them with parenting their grandchildren. This program marks the first collaboration between the Senior Services and Youth Services Divisions of the Community Services Department. Funding for this grant comes from Title III-E of the Older Americans Act. In recognition of their grant, Elder Services of Cape Cod & the Islands will be appropriately mentioned in all publicity materials.

FISCAL IMPACT: None

STAFF ASSISTANCE: Madeline Taylor, Director of Senior Services
Sally-Ann Imes, Youth Services Coordinator