



Town of Barnstable Town Council

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Updated 03-14-11: corrected sponsor on 2011-087

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Vice President

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Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA

March 17, 2011

7:00 PM

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

NEXT MEETING: April 7, 2011

A. OLD BUSINESS

2011-064	Acceptance of a \$2,000,000 grant from the Commonwealth of Massachusetts MassWorks Infrastructure Program for Phase III of the Bearse’s Way reconstruction and improvements project (May be acted upon)	4 - 5
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B. NEW BUSINESS

**FY12 CAPITAL IMPROVEMENT PROGRAM ORDERS 2011-065 through 2011-085
(Refer to public hearing on 04/07/11):**

2011-065	Capital Trust Fund CIP \$3,250,000 appropriation for funding repair of public roads and drainage systems (Refer to public hearing 04/07/11) (Roll-call, 2/3)	6
2011-066	Capital Trust Fund CIP \$25,000 appropriation order for funding treatment of Hydrilla in Long Pond & Mystic Lake (Refer to public hearing 04/07/11) (Roll-call, 2/3)	6
2011-067	Capital Trust Fund CIP \$430,000 appropriation & loan order funding dredging of Mill Pond, Marstons Mills and sediment sampling, mapping & development of Wequaquet Lake management plan (Refer to public hearing 04/07/11) (Roll-call, 2/3)	6
2011-068	Capital Trust Fund CIP \$400,000 appropriation & loan order funding installation of traffic calming measures and the sidewalk improvement program (Refer to public hearing 04/07/11) (Roll-call, 2/3)	6
2011-069	Capital Trust Fund CIP \$665,000 appropriation & loan order funding permitting for dredging East Bay Entrance Channel, a channel across East Bay to East Bay boat ramp, and a channel between the end of Blish Point boat ramp and the main channel into Barnstable Inner Harbor (Refer to public hearing 04/07/11) (Roll-call, 2/3)	7
2011-070	Capital Trust Fund CIP \$271,000 appropriation & loan order funding a new emergency generator at the Barnstable Police facility on Phinney’s Lane (Refer to public hearing 04/07/11) (Roll-call, 2/3)	7
2011-071	Capital Trust Fund CIP \$600,000 appropriation & loan order funding the renovations to Prince Cove & Hayward Road boat ramps (Refer to public hearing 04/07/11) (Roll-call, 2/3)	7
2011-072	A Capital Trust Fund CIP \$1,764,000 appropriation & loan order funding school and municipal building projects (Refer to public hearing 04/07/11) (Roll-call, 2/3)	7
2011-073	Airport Enterprise Fund CIP \$60,000 appropriation order for funding the design of an above ground Fuel Farm at the Airport to service aircraft (Refer to public hearing 04/07/11) (Roll-call)	8
2011-074	Airport Enterprise Fund CIP \$500,000 appropriation order for funding repairs to the surfaces of two airport runways (Refer to public hearing 04/07/11) (Roll-call)	8
2011-075	Airport Enterprise Fund CIP \$20,000 appropriation order for funding the inspection of the Airport’s EMASS arresting pad at Runway 6 (Refer to public hearing 04/07/11) (Roll-call)	8
2011-076	Airport Enterprise Fund CIP \$400,000 appropriation order for funding the purchase of a new airfield sweeper (Refer to public hearing 04/07/11) (Roll-call)	8
2011-077	Airport Enterprise Fund CIP \$50,000 appropriation for funding the installation of an oily-water separator replacing an inoperative filtration system in the Airport’s emergency response-firefighting building (Refer to public hearing 04/07/11) (Roll-call)	8

2011-078	Airport Enterprise Fund CIP \$75,000 appropriations order for funding a property line and leasehold survey 6 (Refer to public hearing 04/07/11) (Roll-call)	9
2011-079	Airport Enterprise Fund CIP \$207,000 appropriation order funding a groundwater bioremediation/oxidant injection system at the Airport's North Ramp (Refer to public hearing 04/07/11) (Roll-call)	9
2011-080	Marina Enterprise Fund CIP \$90,000 appropriation order for funding the design for dredging Barnstable Inner Harbor (Refer to public hearing 04/07/11) (Roll-call)	9
2011-081	Marina Enterprise Fund CIP \$20,000 appropriation order for design and permitting of repairs to Prince Cove Marina Bulkhead (Refer to public hearing 04/07/11) (Roll-call)	9
2011-082	Water Supply Enterprise Fund CIP \$1,050,000 appropriation order funding the pipe replacement & upgrade program for the Hyannis Water System (Refer to public hearing 04/07/11) (Roll-call, 2/3)	9
2011-083	Water Supply Enterprise Fund CIP \$170,000 appropriation order funding the design of water main upgrades on Scudder Avenue, Hyannis (Refer to public hearing 04/07/11) (Roll-call)	10
2011-084	Sewer Enterprise Fund CIP \$300,000 appropriation and loan order funding the reconstruction of force main manholes/vaults leading from the Freezer Road pump station in Barnstable to the sewer plant on Barse's Way (Refer to public hearing 04/07/11) (Roll-call, 2/3)	10
2011-085	Sewer Enterprise Fund CIP \$50,000 appropriation order funding the installation of connections for emergency generators at three pump stations in Hyannis: Old Colony Road, Marks Path and Kalmus Beach (Refer to public hearing 04/07/11) (Roll-call)	10

END OF CIP ORDERS

2011-086	Authorizing the Town Manager to execute a regulatory agreement between the Town of Barnstable and HSR Realty Trust (First reading) (Roll-call, 2/3)	11 – 18
2011-087	Resubmission of Town Council vote to petition for an Act of Special Legislation-establishing a sewer construction fund (May be acted upon)	19 – 20
2011-088	Amending the Zoning Ordinance with an updated Flood Plain Regulation (Refer to Joint Public Hearing with Planning Board 04/07/11) (Roll-call, 2/3)	21 – 22
2011-089	Appropriation of \$27,846 from Police Department Abandoned Property receipts to FY11 Police Department Operating Budget (Refer to public hearing 04/07/11) (Roll-call)	23 - 24
2011-090	Acceptance of a \$10,000 Underage Alcohol Drinking enforcement grant from the Executive Office of Public Safety and Security (May be acted upon)	25 – 26
2011-091	Acceptance of a \$17,000 Emergency Management Performance grant (May be acted upon)	27 – 28

Minutes —February 17, 2011 and March 3, 2011

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

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

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-064
INTRO: 03/03/11, 03/17/11

2011-064 ACCEPT A \$2,000,000 GRANT FROM MASSWORKS INFRASTRUCTURE PROGRAM

RESOLVED: That the Town Council does hereby accept the grant award in the amount of \$2,000,000 from the Commonwealth Of Massachusetts MassWorks Infrastructure Program

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-064
INTRO: 03/03/11, 03/17/11

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Jo Anne Miller Buntich, Growth Management Director
DATE: February 22, 2011
SUBJECT: A \$2,000,000 grant from Commonwealth Of Massachusetts MassWorks Infrastructure Program

BACKGROUND: The Growth Management Department with assistance from the Department of Public Works applied for and has been awarded funding from the Commonwealth Of Massachusetts MassWorks infrastructure program in the amount of \$2,000,000 for the reconstruction of portions of Stevens Street and High School Road and associated streetscape improvements as Phase III of the Bearse's Way Project.

FISCAL IMPACT: This grant will allow the Town to complete these improvements in a more timely fashion than would otherwise be possible. This public sector infrastructure investment is a key component of the Town's Downtown Hyannis Revitalization and economic development program. This grant does not require a match.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Steve Seymour, PE, Senior Engineer GMD
Roger Parsons, PE, Senior Project Manager, Roads DPW
Marcia King, Grants Coordinator

B. NEW BUSINESS (Refer to public hearing 04/07/11)

BARNSTABLE TOWN COUNCIL

FY12 CAPITAL IMPROVEMENT PROGRAM ORDERS

ITEMS# 2011-065 – 2011-085

INTRO: 03/17/11

2011-065 APPROPRIATION ORDER-- \$3,250,000 CAPITAL TRUST FUND CIP

ORDERED:

That the sum of \$3,250,000 be appropriated for the purpose of funding the repair of the Town's public roads and drainage systems as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$3,250,000 be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-066 APPROPRIATION ORDER-- \$25,000 CAPITAL TRUST FUND CIP

ORDERED:

That the sum of \$25,000 be appropriated for the purpose of funding the treatment of Hydrilla in Long Pond and Mystic Lake as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$25,000 be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-067 APPROPRIATION & LOAN ORDER-- \$430,000 CAPITAL TRUST FUND CIP

ORDERED:

That the sum of \$430,000 be appropriated for the purpose of funding: (1) the dredging of Mill Pond in Marstons Mills and (2) sediment sampling, mapping and developing a management plan for Wequaquet Lake as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$430,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

2011-068 APPROPRIATION & LOAN ORDER-- \$400,000 CAPITAL TRUST FUND CIP

ORDERED:

That the sum of \$400,000 be appropriated for the purpose of funding: (1) the installation of traffic calming measures at various locations in Town and (2) the Town's sidewalk improvement program as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$400,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

FY12 CAPITAL IMPROVEMENT PROGRAM ORDERS FOR HEARING ON 04/07/11 (Continued)
ITEMS# 2011-065 – 2011-085

2011-069 APPROPRIATION & LOAN ORDER-- \$665,000 CAPITAL TRUST FUND CIP ORDERED:

That the sum of \$665,000 be appropriated for the purpose of funding three dredging projects: (1) permitting for dredging the East Bay Entrance Channel; (2) dredging a channel across East Bay to the East Bay boat ramp; and (3) dredging a channel between the end of Blish Point boat ramp and the main channel leading into Barnstable Inner Harbor as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$665,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

2011-070 APPROPRIATION & LOAN ORDER-- \$271,000 CAPITAL TRUST FUND CIP ORDERED:

That the sum of \$271,000 be appropriated for the purpose of funding a new emergency generator for the Barnstable Police facility located on Phinney's Lane; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$271,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

2011-071 APPROPRIATION & LOAN ORDER -- \$600,000 CAPITAL TRUST FUND CIP ORDERED:

That the sum of \$600,000 be appropriated for the purpose of funding renovations to two boat ramps: (1) Prince Cove Boat Ramp and (2) Hayward Road Boat Ramp as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$600,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

2011-072 APPROPRIATION & LOAN ORDER-- \$1,764,000 CAPITAL TRUST FUND CIP ORDERED:

That the sum of \$1,764,000 be appropriated for the purpose of funding the following school and municipal building projects:

Schools:

School facilities asbestos abatement \$332,000

Barnstable High School Early Learning Center (doors and flooring) \$103,000

Hyannis West Elementary School exterior repairs \$177,000

Hyannis West Elementary School replacement of classroom sinks & countertops \$182,000

Hyannis West Elementary School convert boiler from oil to gas \$87,000

Barnstable High School replace stadium lighting system \$179,000

West Villages & BCHMCPS reconstruct parking lots \$190,000

Interior School Painting program \$65,000

BWB & Centerville Elementary Schools window replacement \$335,000

Municipal

Marine & Environmental Affairs building roof replacement \$114,000

as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,764,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

FY12 CAPITAL IMPROVEMENT PROGRAM ORDERS FOR HEARING ON 04/07/11 (Continued)
ITEMS# 2011-065 – 2011-085

2011-073 APPROPRIATION ORDER-- \$60,000 AIRPORT ENTERPRISE FUND CIP ORDERED:

That the sum of \$60,000 be appropriated for the purpose of funding the design of an above ground Fuel Farm at the Airport to service aircraft as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$60,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-074 APPROPRIATION ORDER -- \$500,000 AIRPORT ENTERPRISE FUND CIP ORDERED:

That the sum of \$500,000 be appropriated for the purpose of funding repairs to the surfaces of two airport runways as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$500,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-075 APPROPRIATION ORDER -- \$20,000 AIRPORT ENTERPRISE FUND CIP ORDERED:

That the sum of \$20,000 be appropriated for the purpose of funding the inspection of the airport's EMASS arresting pad at runway 6 as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$20,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-076 APPROPRIATION ORDER -- \$400,000 AIRPORT ENTERPRISE FUND CAPITAL CIP ORDERED:

That the sum of \$400,000 be appropriated for the purpose of funding the purchase of a new airfield sweeper as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$400,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-077 APPROPRIATION ORDER -- \$50,000 AIRPORT ENTERPRISE FUND CIP ORDERED:

That the sum of \$50,000 be appropriated for the purpose of funding the installation of a an oily water separator to replace a filtration system that is no-longer operative in the airport's emergency response-firefighting (ARFF) building as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$50,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

FY12 CAPITAL IMPROVEMENT PROGRAM ORDERS FOR HEARING ON 04/07/11 (Continued)
ITEMS# 2011-065 – 2011-085

2011-078 APPROPRIATION ORDER -- \$75,000 AIRPORT ENTERPRISE FUND CIP ORDERED:

That the sum of \$75,000 be appropriated for the purpose of funding a property line and leasehold survey 6 as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$75,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-079 APPROPRIATION ORDER -- \$207,000 AIRPORT ENTERPRISE FUND CIP ORDERED:

That the sum of \$207,000 be appropriated for the purpose of funding a groundwater bioremediation/oxidant injection system at the airport's North Ramp area as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$207,000 be transferred from surplus funds within the Airport Enterprise Fund, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-080 APPROPRIATION ORDER -- \$90,000 MARINA ENTERPRISE FUND CIP ORDERED:

That the sum of \$90,000 be appropriated for the purpose of funding the design for dredging Barnstable Inner Harbor as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, \$90,000 be transferred from surplus funds within the Marina Enterprise Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-081 APPROPRIATION ORDER -- \$20,000 MARINA ENTERPRISE FUND CIP ORDERED:

That the sum of \$20,000 be appropriated for the purpose of funding the design and permitting of repairs to the Prince Cove Marina Bulkhead as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, \$20,000 be transferred from surplus funds within the Marina Enterprise Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

2011-082 APPROPRIATION & LOAN ORDER-\$1,050,000 WATER SUPPLY ENTERPRISE FUND CIP ORDERED:

That the sum of \$1,050,000 be appropriated for the purpose of funding the pipe replacement and upgrade program for the Hyannis Water System as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,050,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

FY12 CAPITAL IMPROVEMENT PROGRAM ORDERS FOR HEARING ON 04/07/11 (Continued)
ITEMS# 2011-065 – 2011-085

2011-083 APPROPRIATION ORDER -- \$170,000 WATER SUPPLY ENTERPRISE FUND CIP ORDERED:

That the sum of \$170,000 be appropriated for the purpose of funding the design of water main upgrades on Scudder Avenue, Hyannis as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$170,000 be transferred from surplus funds within the Water Supply Enterprise Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

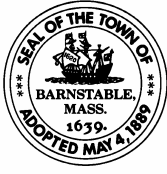
2011-084 APPROPRIATION & LOAN ORDER--\$300,000 SEWER ENTERPRISE FUND CIP ORDERED:

That the sum of \$300,000 be appropriated for the purpose of funding the reconstruction of force main manholes/vaults leading from the Freezer Road pump station in Barnstable to the Sewer Plant on Bearse's Way, Hyannis as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$300,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

2011-085 APPROPRIATION ORDER -- \$50,000 SEWER ENTERPRISE FUND CIP ORDERED:

That the sum of \$50,000 be appropriated for the purpose of funding the installation of connections for emergency generators at three pump stations in Hyannis, Old Colony Road, Marks Path and Kalmus Beach as outlined in the FY 2012 - FY 2016 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$50,000 be transferred from surplus funds within the Sewer Enterprise Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto

SPONSOR: Town Manager John Klimm



**The Town of Barnstable
Growth Management Department**

www.town.barnstable.ma.us

Office: 508-862-4678
Fax: 508-862-4782

Jo Anne Miller Buntich
Director

TO: Town Council
FROM: Planning Board
DATE: March 8, 2011
SUBJECT: Proposed Regulatory Agreement
90 High School Road, HSR Realty Trust

Following is a proposed Regulatory Agreement between the Town of Barnstable and HSR Realty Trust for the redevelopment of 90 High School Road and 67 Winter Street, Hyannis. This property, a 3.79 acre site, was formerly occupied by Puritan Pontiac.

The proposed Agreement would authorize zoning relief to add the following principal permitted uses on the property: a Class I Automobile Dealership, Auto Body Repair and Vehicle Liner uses, educational facility, indoor storage and service of boats, retail and mixed use of retail and office, food retail and sales, including public markets and/or specialty food markets. No other zoning relief is sought.

The Developer proposes to renovate the site and the existing 53,857 SF building for multiple uses including indoor storage and service of boats. Uses proposed under this proposed Agreement would be exercised in two phases. Phase 1 would add storage and service of boats, in the middle section of the building, to the existing auto body repair use in the rear portion of the building. Phase 2 uses would be exercised following the lease of the front portion of the building. Site improvements, landscaping, lighting, and building façade upgrades, are also proposed in two phases, with initial site work beginning in 2011.

Regulatory Agreement Process

The proposed Agreement was discussed by the Planning Board, including two public hearings, on November 22, 2010, December 13, 2010, January 10, 2011 and January 24, 2011. The Planning Board, by a vote of five to one on January 24, 2011, recommended this proposed Regulatory Agreement to Town Council for further action.

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

FISCAL IMPACT: The fiscal impact is positive.

200 Main Street, Hyannis, MA 02601 (o) 508-862-4786 (f) 508-862-4784
367 Main Street, Hyannis, MA 02601 (o) 508-862-4678 (f) 508-862-4782

B. NEW BUSINESS (First reading) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-086
INTRO: 03/17/11**

2011-086 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND HSR REALTY 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 HSR Realty Trust, Developer, for the property shown on Barnstable Assessor's Map 309 as Parcels 265 and 215 and located within the Office and Multifamily (OM) zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the redevelopment of the existing site at 90 High School Road and 67 Winter Street, Hyannis; and hereby granting a waiver from the provisions of the Barnstable Ordinances Section 240-24.1.6 as follows: allowing as principal permitted uses a Class I Automobile Dealership, Auto Body Repair and Vehicle Liner uses, educational facility, indoor storage and service of boats, retail and mixed use of retail and office, food retail and sales including public markets and/or specialty food markets, in addition to the allowed by-right and conditional uses in the OM District.

REGULATORY AGREEMENT
WAYNE KURKER
90 HIGH SCHOOL ROAD EXTENTION AND 67 WINTER STREET
HYANNIS, MA 02601

This regulatory agreement ("Agreement") is entered into by and between the applicant, Wayne Kurker as Trustee of the HSR Realty Trust, ("Applicant" and "Developer") and shall include successors and assigns, and the Town of Barnstable ("Town"), a municipal corporation, on this ____ day of _____, 2011 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

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

WHEREAS, the Applicant is the legal owner of the Property ("Property") at 90 High School Road Extension and 67 Winter Street, Hyannis, totaling approximately 3.79 acres as shown on Barnstable Assessor's Map 309 as Parcels 265 and 215, the title to which is recorded in Barnstable County Registry of Deeds in Book 23928 Page 231, which is improved with a single story building totaling 53,857 gross square feet of which 3,085 square feet is a mezzanine area and that the Applicant desires to reuse pursuant to this Regulatory Agreement.

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

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

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

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 reuse of the Property will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Property is located in the Hyannis Growth Incentive Zone (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 reuse 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 proposed reuse has undergone informal site plan review on December 9, 2010 and which site plan was found approvable for Phase I use of the site as defined in this Agreement.

WHEREAS, the proposal has undergone at least two public hearings on the Agreement application and received an affirmative majority vote from the Planning Board on January 24, 2011;

WHEREAS, the proposal has undergone a public meeting on the Agreement application before the Town Council and received a two-thirds vote approving the application on [DATE PENDING];

WHEREAS, the Developer in accordance with Section 168-6. *Elements of Regulatory Agreements* acknowledges that additional mitigation as may be deemed necessary will be addressed as flexible permitting is implemented.

WHEREAS, the Town acknowledges that this Regulatory Agreement will result in the preservation of year-round jobs from the boat storage and service business related to Hyannis Marina to be conducted within a portion of the existing building.

WHEREAS, this Agreement authorizes only the uses, intensity of use, and mitigation stipulations specified herein. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Section 168-10.

WHEREAS, the development was constructed in 1968 and lacks sufficient site improvements and appropriate lighting and landscaping.

WHEREAS, the use of paints containing organotin compounds, such as tributyltin, on boats and ships has been shown to be harmful to human and environmental health, and particularly detrimental to shellfish populations;

WHEREAS, idling and parking of large trucks within the public ways has been shown to negatively impact the surrounding residential neighborhood.

WHEREAS, the Applicant has estimated that the number of boats proposed to be stored in a portion of the existing building is between forty (40) and no more than eighty (80), with the higher number of boats being stored and serviced from October through May.

NOW THEREFORE, in consideration of the agreement 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 to covenant as follows:

1. The developer proposes to renovate and occupy the existing single-story 53,857 square foot building, of which 3,085 square feet is mezzanine space, with the following continued and or proposed uses:

- A. Continued use as a Class I Automobile Dealership, with automobile and light truck sales, including related retail and office space and/or automobile and light truck service and repair, consisting of all or any of the following: auto and light truck sales, auto and light truck service, auto body repair, parts storage and sales, car wash, auto detailing, and related retail and office space.
 - B. Continued Auto Body Repair and Vehicle liner uses.
 - C. Proposed use as an educational facility.
 - D. Proposed use for indoor storage and service of boats. Boat storage and service shall not be permitted in the westerly most 15,407 square foot portion of the building.
 - E. Proposed use of retail and mixed use of retail and office.
 - F. Food retail and sales with delivery, including a public market and/or specialty food markets
 - G. Any other uses permitted under applicable provisions of the OM District.
2. All of the authorized uses will be conducted within the existing structure except to the extent that those uses are customarily conducted in the open air.
 3. Notwithstanding the provisions of Paragraph 2, outdoor boat storage or service of boats is prohibited on 90 High School Road and 67 Winter Street properties.
 4. Any proposed expansion, partial demolition, or total demolition of the existing building shall constitute a substantial change to the Property and require review by the Planning Board and Town Council pursuant to Section 168-10.
 5. Phasing.
 - A. The parties agree that the initial use of the Property, so-called Phase I use, will be as follows:
 - i. Continuation of the Auto Body Shop in 6,155 sq. ft in the area shown on the Plans filed herewith;
 - ii. Continuation of the Vehicle Liner Shop in 1,500 sq. ft in the area shown on the Plans filed herewith;
 - iii. Use of the middle section of the building, which may constitute between 15,680 square feet and 27,710 square feet of space, for boat storage and service.
 - iv. Completion of the following site improvements prior to June 30, 2011 or October 15, 2011 as specified on the attached Landscape Phasing Plan agreed to on January 13, 2011:
 - a) Installation of landscaping in accordance with plans entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Peter Hansen Landscape Design, dated December 22, 2010, which shall be signed and stamped by a Massachusetts registered landscape architect.
 - b) Installation of a landscape buffer on the Property along Stevens Street in compliance with Paragraph 13 herein.
 - c) Replacement of any unshielded building-mounted light fixtures on the Stevens Street façade with full-cut off light fixtures that do not spill over or cause glare on neighboring properties.
 - d) Installation of a bike rack, to contribute to the travel demand management goals of the Hyannis Growth Incentive Zone.
 - B. Phase II use of the Property shall consist of:
 - i. Use of any of the westerly most portion of the building, which may constitute between 15,407 square feet and 50,772 square feet of space, as well as 3,085 square feet of mezzanine space, for a use(s) authorized under this Agreement.
 - ii. Completion of the following building and site improvements, subject to approval of the Planning Board and Building Commissioner as required under Paragraph 8 below:
 - a) Improvements to the building façade and building exterior in compliance with Design and Infrastructure Plan standards;
 - b) Interior parking lot landscape improvements, including the addition of parking lot islands, planted in compliance with § 240-53 (E);

- c) Parking spaces and drive aisles in compliance with zoning regulations;
- d) Improvements to site lighting in compliance with Paragraph 16 herein;
- e) Any improvements necessary to ensure adequate and safe circulation between 90 High School Road Extension and 67 Winter Street;
- f) Other site modifications as deemed necessary by the Planning Board upon the advice of the Building Commissioner and Site Plan Review Committee to ensure public health and safety, including safe access for fire-fighting and emergency rescue vehicles.

Said improvements shall be completed prior to the first Certificate of Occupancy issued in Phase II.

6. To offset the impacts of increased development in the Hyannis GIZ, the applicant is proposing substantial on-site mitigation of the existing, underutilized site. The applicant shall make initial improvements specified in Paragraph 5A prior to June 30, 2011 or October 15, 2011 as specified on the attached Landscape Phasing Plan agreed to on January 13, 2011. In Phase II, the Applicant shall make improvements specified in Paragraph 5B, which will be further delineated by the Planning Board, pursuant to Paragraph 9 below.
7. The indoor storage and service of boats on the Property will retain an estimated six to ten (6-10) year-round jobs in the Town of Barnstable.
8. Upon identification of a building tenant(s), the Building Commissioner shall determine if the proposed use is authorized under the terms of this Agreement. The Building Commissioner may solicit the advice of the Planning Board prior to making such determination.
9. Upon identification of an authorized Phase II building tenant, the Applicant shall submit plans for site and building improvements required under Phase II of this Agreement. Landscape plans shall be signed and sealed by a Massachusetts certified landscape architect. Plans shall be reviewed and approved by the Planning Board and Site Plan Review Committee prior to issuance of a building permit. Plans shall also be found to be consistent with the Design and Infrastructure Plan by the Director of the Growth Management Department or designee.
10. Any expansion or intensification of the pre-existing Auto Body Repair or Vehicle Liner uses shall constitute a substantial modification of this agreement and require review pursuant to Section 168-10.
11. The parties agree that the attached parking schedule adequately shows that, for uses proposed under Phase I as defined in this Agreement, there is sufficient parking on site for those uses. As the Developer commences uses beyond Phase I, the Building Commissioner shall review the proposed use(s) to ensure adequate parking is provided on site.
12. Should the Building Commissioner find that uses authorized under this Agreement produce parking demands in excess of the number spaces provided on site or require other zoning relief, an amendment to this Regulatory Agreement, pursuant to the terms of Section 168-10, shall be required to permit such uses.
13. The Applicant shall maintain a dense, year-round landscape screen along the frontage of Stevens Street across from residential property. The Applicant shall establish a landscape buffer on the Property in Phase I. The landscape buffer shall be located entirely on the Property, between the two curb cuts on Stevens Street, and shall be at least five (5) feet in depth. The Applicant shall complete improvements as shown the Landscape Plan entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Peter Hansen Landscape Design, dated December 22, 2010 and shall install improvements as specified in Paragraph 15 herein.
14. For Phase I and Phase II landscape improvements, the Applicant shall provide surety for maintenance and replacement of dead or dying landscape material shown on the approved plans. The surety provided shall be 150% of the value of the landscape materials and shall be held until the landscape improvements are installed according to the plan entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Hansen Landscape Design,

dated December 22, 2010 as determined by the Building Commissioner. Should the Developer fail to install the landscape improvements within two years from the date of this agreement the Town shall use the surety to install the landscape improvements. Said surety shall be in a form and content acceptable to the Town Attorney and the Town Treasurer's office. Surety for Phase I improvements shall be submitted prior to June 30, 2011 and surety for Phase II improvements shall be submitted prior to the first Certificate of Occupancy. Prior to October 15, 2011, the applicant shall execute a temporary license, in a form acceptable to the Town Attorney, which allows the town to enter the premises for the purpose of replacing dead or dying landscape material as described herein.

15. The Phase I landscape improvements shall be made according to the plan entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Peter Hansen Landscape Design, dated December 22, 2010, and installed according to the attached Landscaping Phasing Plan agreed to on January 13, 2011. The Applicant shall make those improvements shown in yellow on the Landscaping Phasing Plan no later than June 30, 2011 and all other landscaping improvements shown on the Plan no later than October 15, 2011. The Applicant shall work with the Town Department of Public Works with respect to the timing of landscaping along the Stevens Street portion of the Property where existing, healthy arborvitaes are currently planted. Should the Stevens Street reconstruction necessitate removal of the healthy arborvitaes, the Applicant shall reestablish the landscape screen as soon as feasible on the Property, as determined by the Building Commissioner in consultation with the Department of Public Works. The Applicant shall remove the dead, diseased, or dying arborvitaes and reestablish a landscape screen on the Property in this location, as shown on the plan, prior to June 30, 2011.
16. Exterior site and building lighting shall be compliant with the requirements of the Downtown Hyannis Design and Infrastructure Plan and the Cape Cod Commission standards for Exterior Lighting Design, as cited in Technical Bulletin 95-001. All lighting shall be located on the site and full cut-off fixtures shall be utilized to ensure light or glare does not impact neighboring properties.
17. In Phase I, access and egress to the parcel at 90 High School Road shall not be permitted from the parcel at 67 Winter Street. Any future modification of existing curb cuts on Winter Street shall require Site Plan Review and, if applicable, a Road Opening Permit from the Department of Public Works. The applicant shall be responsible for the cost and construction of a new ADA compliant sidewalk along Winter Street should access/egress modifications commence.
18. Changes to the building in Phase II may include expansion of the height and width of four existing overhead doors on the south side of the Property, and may include the installation of one new overhead door also on the south side of the Property. Changes shall be found to be consistent with the Design and Infrastructure Plan, as approved by the Director of Growth Management or designee.
19. All dumpsters and trash containers shall be screened in conformance with the requirements of § 240-24.1.10, § 240-103, and all other applicable standards.
20. Trash or recycling collection shall not occur between the hours of 8 p.m. and 7 a.m., seven days a week.
21. There shall be no commercial deliveries between the hours of 10 p.m. and 7 a.m., seven days a week.
22. Should an Automobile Dealership use commence, signs shall be erected on High School Road and Stevens Street prohibiting idling between 10 p.m. and 7 a.m., seven days a week. The applicant shall be responsible for the cost of the signage and its installation.
23. Upon commencement of a use in Phase II, the Applicant shall remove the two car ramps from the Property. The car ramps shall be removed prior to issuance of the first Certificate of Occupancy in Phase II.
24. All new signage shall be in compliance with the zoning regulations and the Design and Infrastructure Plan and will require permits from the Building Division.
25. Use of paints containing tributyltin or other organotin compounds is prohibited on the Property.

26. All of the terms, conditions, and obligations contained in this Regulatory Agreement shall be binding on any successor or assignee of the Applicant.
27. This Regulatory Agreement shall be transferable to a person or entity other than the Applicant with prior written notice to the Planning Board and the Town Manager. However, no such notice to the Town shall be effective unless it includes a written acknowledgement by the person or entity to whom the Property is transferred that they have read this Regulatory Agreement, and any amendments thereto, and they agree to be bound by all the terms and conditions set forth therein.
28. Uses authorized in Phase I as defined herein shall commence immediately upon the effective date of this Agreement. If uses authorized under Phase II have not commenced within five (5) years from the effective date of this Agreement, the Applicant shall appear before the Planning Board to review this Agreement and progress made towards completing the redevelopment actions outlined in Paragraph 5(B). The duration of this Agreement shall be ten (10) years from the effective date of this agreement.
29. In addition to the Principal Permitted uses allowed in the OM Office/Multifamily Residential District § 240-24.1.6.A.1, this Agreement provides for the following additional uses on the Property:
 - A. Continued nonconforming use of a Class I Automobile Dealership, with sales and service and repair, including auto body repair, parts storage, and car wash;
(Note: Accessory retail and office space shall conform to § 240-24.1.6 (2) - Permitted accessory uses: Accessory retail uses shall not exceed 1,500 square feet and shall be directly related to a principal permitted use.)
 - B. Continued nonconforming use of an Auto Body Repair and Vehicle liner uses (expansion, however, is prohibited.);
 - C. Educational facility;
 - D. Indoor storage and service of boats;
(Note accessory retail and office space shall conform to § 240-24.1.6 (2) - Permitted accessory uses: Accessory retail uses shall not exceed 1,500 square feet and directly related to a principal permitted use.)
 - E. Retail and mixed use of retail and office; and
 - F. Food retail and sales with delivery, including a public market and/or specialty food markets.

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 _____, 2011.

 Town of Barnstable
 By: John C. Klimm
 Barnstable Town Manager

 HSR Realty Trust
 By: Wayne Kurker, Trustee

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-086
INTRO: 03/17/11

TO: Town Council
FROM: Michael D. Ford, Esq. Attorney for Wayne Kurker
DATE: March 7, 2011
SUBJECT: Regulatory Agreement for Realty Trust, Wayne Kurker, Trustee for Property at 90 High School Road Extension and 67 Winter Street, Hyannis, MA

BACKGROUND: The proposed Regulatory Agreement has been negotiated between the Planning Board (with the assistance of the Growth Management Staff) and the Applicant, and has been the subject at two (2) Planning Board public hearings, at the conclusion of which the Planning Board voted 4-1 to recommend the Regulatory Agreement to the Council.

RATIONALE: Mr. Kurker, as Trustee, has proposed a Regulatory Agreement providing for a phased flexible use of the property located at 90 High School Road Extension and 67 Winter Street in the Village of Hyannis. Currently, the property consists of approximately 3.79 acres, is improved with parking and an existing commercial building totaling 53,857 square feet.

The property is located in the Office/Multifamily (OM) and Aquifer Protection (AP) Zoning Districts and is also located within the Hyannis Growth Incentive Zone (GIZ). The last use of the building was as an automobile dealership. The Regulatory Agreement provides flexibility in the future use of the property for a variety of uses, including automobile dealership with sales and service, automobile repairs, retail, office, food retail sales with delivery, including a farm market, and the indoor storage and service of boats.

The Phase I (immediate) proposed use of the property is for a combination of indoor storage and service of boats from Mr. Kurker's existing business at Hyannis Marina, together with the existing auto body and liner businesses. The Planning Board has held two public hearings and has voted to recommend the Regulatory Agreement to the Council for their consideration and approval. No new construction is proposed, but the Agreement requires, as a condition of the Phase I use, implementation of an upgraded landscaping plan for the entire property.

Subsequent Phases require review by the Town of the façade of the building and the parking lot configuration, all in accordance with the Design and Infrastructure Plan (DIP) of the Town. The proposed uses of the property is expected to permit Hyannis Marina to perform much-needed indoor storage and service of boats, which will contribute to the preservation of at least six (6) full-time jobs at the current marina.

A two-thirds vote of the Council authorizing the Manager to execute the Regulatory Agreement is required, as certain proposed uses are not within the list of permitted uses in the OM zoning district.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-087
INTRO: 03/17/11**

2011-087 RE-SUBMIT PETITION- SPECIAL ACT FOR INFRASTRUCTURE EXPANSION PROGRAM

ORDERED: that the Town Manager re-submit a petition to the General Court of the Commonwealth for a Special Act to establish a sewer construction fund in the Town of Barnstable and authorizing the allocation to the sewer construction fund of receipts from the meals tax under M.G.L. c. 64L, § 2(a) and hotel/motel tax rates in excess of 4% under M.G.L. c. 64G, §3A.

“AN ACT ESTABLISHING A SEWER CONSTRUCTION FUND FOR THE TOWN OF BARNSTABLE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by authority of the same, as follows.

SECTION 1. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Barnstable is hereby authorized to establish a Sewer Construction Fund to receive revenue under section three A of chapter sixty-four G of the General Laws, in the manner set forth in section two, and may appropriate monies in said fund for sewer construction.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the amount of the excise collected under section two A of chapter sixty-four L of the General Laws by the town of Barnstable beginning with fiscal year two thousand and eleven shall be credited to the Sewer Construction Fund without further appropriation.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the amount of the excise based on rates in excess of 4% collected under section three A of chapter sixty-four G of the General Laws by the town of Barnstable beginning with fiscal year two thousand and eleven shall be credited to the Sewer Construction Fund without further appropriation.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, any interest shall be added to and become part of the Sewer Construction Fund. The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

SECTION 5. This act shall take effect upon its passage.”

SPONSOR: Council Vice President Janice Barton

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read item	
___ Rationale	
___ Council discussion	
___ Move/vote	

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-087
INTRO: 03/17/11

TO: Town Council
DATE: March 8, 2011
SUBJECT: Re-Submission of Special Act for Sewer Construction Financing

The Town Council voted in the affirmative on the bifurcated Item 2010-158, amended, to submit a petition to the General Court of the Commonwealth authorizing a Special Act to establish a sewer construction fund and authorizing the receipts from meals tax under MGL c64L, §2(a) and hotel/motel tax rates in excess of 4% under MGL c. 64G, §A.

Because both the Senate and House of Representatives did not have the opportunity to vote within the 2010 session, the Town Council must vote a resolve authorizing the Town Manager to re-submit the petition.

**B. NEW BUSINESS (Refer to joint public hearing with planning board 04/07/11)
(Roll-call, 2/3)**

BARNSTABLE TOWN COUNCIL

ITEM# 2011-088

INTRO: 03/17/11

2011-088 AMEND ZONING ORDINANCE--UPDATED FLOODPLAIN REGULATION

Order that Chapter 240, Article III District Regulations, § 240-34 Flood Area Provisions of the Zoning Ordinance be amended as follows:

Section 1:

The title of the section and first paragraph are to be replaced with the following:

§ 240-34. Floodplain Zones

Permits for new construction, alteration of structures, or other development (any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations), in all special flood hazard areas within the Town of Barnstable designated as Zone A, AE, AO, AH, V, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, shall be subject to the regulations herein. The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Barnstable are panel numbers: 25001C0532, 25001C0533, 25001C0534, 25001C0537, 25001C0539, 25001C0541, 25001C0542, 25001C0543, 25001C0544, 25001C0551, 25001C0552, 25001C0553, 25001C0554, 25001C0556, 25001C0557, 25001C0558, 25001C0559, 25001C0561, 25001C0562, 25001C0563, 25001C0564, 25001C0566, 25001C0567, 25001C0568, 25001C0569, 25001C0752, 25001C0754, 25001C0756, 25001C0757, 25001C0776 and 25001C0777, dated June 16, 2011. The exact boundaries of the district may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated June 16, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner and Department of Public Works.

Section 2:

Paragraph C is to be replaced with the following revised paragraph:

- C. Any new construction or substantial improvement to be undertaken within floodplain zones shall be in accordance with Massachusetts State Building Code, CMR 780. The Building Commissioner shall review all proposed development within floodplain zones to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law and shall obtain and maintain records of elevation and flood proofing levels for new construction or substantial improvement within the floodplain zones.

Section 3:

Paragraph E is to be replaced with the following revised paragraph:

- E. All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is lesser, shall include within such proposals base flood elevation data within unnumbered A zones.

And:

This amendment shall take effect on June 15, 2011 or as soon as possible thereafter.

SPONSOR: Council Vice President Janice L. Barton

BARNSTABLE TOWN COUNCIL

ITEM# 2011-088
INTRO: 03/17/11

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Director
DATE: March 7, 2011
SUBJECT: Amendment to § 240-34.Flood Area Provisions of the Zoning Ordinance

BACKGROUND/ANALYSIS/RATIONALE: The revised Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) will take effect on June 16, 2011. For Town of Barnstable residents to continue eligibility in the National Flood Insurance Program (NFIP) the Town is required to update its flood area provisions in its Zoning Ordinance to reflect the latest update.

The three proposed changes reflect updates to the existing Flood Area Provisions now found in the Ordinance.

Section 1 revises the first paragraph to provide references to the updated Flood Insurance Rate Map (FIRM) and the designed flood zones affected. It also re-titles § 240-34 to 'Floodplain Zones' for consistency with FEMA terminology.

Section 2 updates current State Building Code references,

Section 3 requires base flood elevation data be included in subdivisions and larger developments within unnumbered A zones as now required by FEMA.

STAFF ASSISTANCE: Art Traczyk, Design and Regulatory Review Planner
Elizabeth S. Jenkins, Principal Planner

B. NEW BUSINESS (Refer to public hearing 04/07/11) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-089

INTRO: 03/17/11

**2011-089 APPROPRIATE \$27,846 TO FY11 POLICE BUDGET FROM ABAONDONED
PROPERTY RECEIPTS**

ORDERED:

That the sum of \$27,846 be appropriated for the purpose of funding the fiscal year 2011 Barnstable Police Department operating expense budget and to meet this appropriation that \$27,846 be used from abandoned property collected by the Barnstable Police Department.

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

SUMMARY

ITEM# 2011-089
INTRO: 03/17/11

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: March 09, 2011
SUBJECT: Appropriation Order of \$27,846 from abandoned property for funding FY11 Barnstable Police Department operating expense budget.

BACKGROUND: In FY10 we paid \$2.06 per gallon for gasoline (including tax) and in FY11, we are currently paying \$2.60 per gallon. Over the past few years, we have endeavored to reduce our gas consumption, by deploying bicycle patrols, foot patrols, motorcycles, less random patrols and more directed patrols in conjunction with the use of more gas-efficient vehicles. In FY10, we budgeted \$183,500 in our gasoline line and spent \$160,488.58, a difference of \$23,011, which was used to pay shortfalls in the budget in other areas such as marine-related items and especially to help fund the emergency replacement of a failed computer server. Conversely, in FY11, based on an assumption of similar gas usage we will need at least \$202,553 and \$183,500 is allocated for gas in the FY11 budget – a deficit of \$19,053. Additionally, we anticipate that we will have a shortage of monies in our training supplies for ammunition and marine-related supplies totaling \$8,000. We have no monies remaining after encumbrances for unexpected expenses, for example if a major item fails in one of the police cruisers, such as a transmission. The appropriate budget allocation for gas has been difficult to predict in the past few years due to sharp fluctuations, however we expect that the price will be significantly higher in FY12.

ANALYSIS: The abandoned property became available to the police department as a result the arduous task of culling through closed and adjudicated cases dating as far back as the 1980's docket-by-docket and making notification via certified mailings and newspaper postings to attempt to return the property back to their owners. Under abandoned property laws if no response is made to claim the property after legal notice has been made, it is relinquished to the police department.

FISCAL IMPACT: The Barnstable Police Department has identified a funding source for this supplemental appropriation resulting in no fiscal impact on the fiscal year 2011 general fund operating budget.

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

STAFF ASSISTANCE: Chief Paul MacDonald
Anne Spillane

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-090
INTRO: 03/17/11**

2011-090 ACCEPTANCE-\$10,000 EXECUTIVE OFFICE OF PUBLIC SAFETY & SECURITY GRANT

RESOLVED: That the Town Council hereby accepts an Underage Alcohol Enforcement Grant in the amount of \$10,000 from the Executive Office of Public Safety and Security, Highway Safety Division.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-090
INTRO: 03/17/11

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul MacDonald, Chief of Police
DATE: March 10, 2011
SUBJECT: Acceptance of an Underage Alcohol Enforcement Grant award in the amount of \$10,000 from the EOPSS-Highway Safety Division

BACKGROUND: Due to Cape Cod, and more specifically the Village of Hyannis, being a popular summer vacation destination for both older teens, young adults and young/college-age seasonal workers coupled with a large number of licensed liquor establishments within a small geographic radius there is historically an increased chance that these young individuals under the age of 21 will be attempting to obtain alcohol at either a bar or other establishment and /or at a liquor store. Unfortunately, drinking of alcoholic beverages is a popular activity for this age group, especially as they frequently have the mentality that they are “on vacation” or that they are “away from home” and therefore exhibit behavior that they might not otherwise be as easily able to exhibit if they were at home with a parent or other adults supervising them. This grant will enable the department to conduct sting operations, compliance checks, party patrols and monitor liquor store activity.

ANALYSIS: Acceptance of this grant will assist the Department in providing this safety program, which is especially important is preventing motor vehicle injuries and fatalities involving person under 21.

GRANT DETAIL: 10,000 of the grant will be directed towards overtime for enforcement hours for compliance checks, sting operations, cops in shops and surveillance patrols.

FISCAL IMPACT: This grant will supplement the currently allocated funds. There is a required match that will be satisfied using currently allocated department resources and in-kind matches.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Chief Paul B. MacDonald

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-091
INTRO: 03/17/11**

2011-091 ACCEPTANCE OF A \$17,000 EMERGENCY MANAGEMENT PERFORMANCE GRANT

RESOLVED: That the Town Council hereby accepts an Emergency Management Performance Grant in the amount of \$17,000.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-091
INTRO: 03/17/11

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul MacDonald, Chief of Police
DATE: March 10, 2011
SUBJECT: Acceptance of an Emergency Management Performance Grant from the Executive Office of Public Safety and Security - Massachusetts Emergency Management Agency in the amount of \$17,000

BACKGROUND: This grant is awarded to the Barnstable Police Department, because the Chief of Police is the designated Emergency Manager and the department is the designated Emergency Management Agency for the Town of Barnstable. These funds will be used to purchase 7 portable radios, which will enhance the department's ability to interface with all facets involved with emergency management with the Town of Barnstable including the five fire department, emergency shelters, other police and fire departments in the region, Barnstable County and the Massachusetts State Police. The radios will meet all criteria for optimum interoperability.

ANALYSIS: Acceptance of this grant will assist the Department in updating and replacing portable radios utilized in community emergency management.

GRANT DETAIL: \$17,000 of the grant will be directed towards the purchase of 7 portable radios.

FISCAL IMPACT: This grant is a reimbursement grant. There is a 100% required match that will be satisfied using currently allocated department resources and in-kind matches.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Chief Paul B. MacDonald
Anne E. Spillane