



Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601

508.862.4738 • 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us

Councilors:

Frederick Chirigotis
President

Janice L. Barton
Vice President

Richard G. Barry
Ann B. Canedy
James H. Crocker
Debra S. Dagwan
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
John T. Norman
Tom Rugo
James M. Tinsley

Acting Administrator:
Barbara A. Ford

Administrative
Assistant:

TOWN COUNCIL MEETING AGENDA June 16, 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 (Includes Executive Session)**
 - **Town Council Executive Session Review Committee Report**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
 - **WORKSHOP WITH THE TOWN COUNCIL SOLAR SUB-COMMITTEE**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT REGULAR MEETING: July 14, 2011

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

A. OLD BUSINESS

2011-130	Acceptance of a \$1,500 grant from Mass Department of Environmental Protection to purchase recycling bins (May be acted upon)	3 - 4
2011-131	Acceptance of a \$7,500 grant from Mass Department of Environmental Protection to implement the goals for outlining needed capital improvements (May be acted upon)	5 - 6
2011-142	Appropriation - \$2,861,253 for Community Preservation Fund FY12 debt service (Public hearing) (Roll-call)	7 - 8
2011-143	Appropriate and reserve Set-asides from Community Preservation Fund \$781,252 for FY12 administrative expenses (Public hearing) (Roll-call)	9 - 10
2011-144	Order for an inquiry per the Charter, Section 2-10 and Council Rule 14 (Second reading)	11 - 12

B. NEW BUSINESS

2011-145	Authorizing the Town Manager to negotiate further and execute a project development agreement with CVEC, Inc. (First reading)	13 - 15
2011-146	Appropriate from Community Preservation Fund \$1,680,500 to acquire property on 21 Railway Bluffs, Hyannis, for open space and recreation (Refer to public hearing 07/14/11) (Roll-call)	16 – 17
2011-147	Appropriate - \$375,000 for park revitalization of Ridgewood Park, Hyannis (Refer to public hearing 07/16/11) (Roll-call)	18 - 20
2011-148	Order Authorizing the Town Manager to execute a substantial amendment to the regulatory agreement – 89 Lewis Bay, LLC (May be acted upon) (Roll-call, 2/3)	21 - 22

Approve Minutes — May 19, 2011 and June 2, 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.

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

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# 2011-130

INTRO: 05/05/11, 05/19/11, 06/02/11, 06/16/11

2011-130 ACCEPTANCE OF A \$1,500 MASS DEPT. OF ENVIRONMENTAL PROTECTION GRANT TO PURCHASE RECYCLING BINS

RESOLVED, that the Town Council hereby accepts a grant award in the amount of \$1,500.00 from the Massachusetts Department of Environmental Protection for the purchase of recycling bins and that the Town Manager is authorized to expend the grant monies for the purpose specified therein.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-130

INTRO: 05/05/11, 05/19/11, 06/02/11, 06/16/11

SUMMARY

TO: Town Council
VIA: John C. Klimm, Town Manager
FROM: Mark S. Ells, Director, Department of Public Works
DATE: April 25, 2011

BACKGROUND: The Department of Public Works Solid Waste Division has been awarded a \$1,500 grant from the Massachusetts Department of Environmental Protection. These funds will be used to market and promote the Sustainable Materials Recovery Program (SMRP) through a municipal grant for recycling, composting, reuse, and source reduction activities.

ANALYSIS: The acceptance of this grant will allow the Department of Public Works to continue to promote municipal recycling programs at the Town's Solid Waste Transfer Station.

FISCAL IMPACT: Matching funds are required for this award and are available in the operating budget of the Solid Waste Division.

TOWN MANAGER RECOMMENDATION

Town Manager John C. Klimm recommends acceptance of this grant.

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-131

INTRO: 05/05/11, 05/19/11, 06/02/11, 06/16/11

2011-131 ACCEPTANCE OF A \$7,500 MASS DEPT. OF ENVIRONMENTAL PROTECTION GRANT TO IMPLEMENT MASS DEP GOALS IN CIP

RESOLVED, that the Town Council hereby accept a grant award in the amount of \$7,500.00 from the Massachusetts Department of Environmental Protection. The funds will be used to implement MassDEP goals for outlining needed capital improvements over a twenty year time horizon at the Water Supply Division, and that the Town Manager is authorized to expend the grant monies for the purpose specified therein.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-131

INTRO: 05/05/11, 05/19/11, 06/02/11, 06/16/11

SUMMARY

TO: Town Council
VIA: John C. Klimm, Town Manager
FROM: Mark S. Ells, Director, Department of Public Works
DATE: April 25, 2011

BACKGROUND: The Department of Public Works Water Supply Division has been awarded a \$7,500 grant from the Massachusetts Department of Environmental Protection, using funds made available from set aside monies from the Massachusetts Drinking Water State Revolving Fund program. These funds will be used to implement MassDEP goals for outlining needed capital improvements over a twenty year time horizon. Completion of this CIP document will allow the public water system to define short and long term needs to continue to meet public health standards and provide efficient water works system operations and delivery to customers.

ANALYSIS: The acceptance of this grant will allow the Hyannis Water Supply Division to continue to its on-going work developing a capital improvement project plan for the Hyannis Water System.

FISCAL IMPACT: The total project cost of \$10,000 is required for this award. The Town's Water Supply Division's match of \$2,500 will be with in-kind services in support of this effort.

TOWN MANAGER RECOMMENDATION

Town Manager John C. Klimm recommends acceptance of this grant.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-142

INTRO: 06/02/11, 06/16/11

**2011-142 APPROPRIATION OF \$2,861,253 FOR COMMUNITY PRESERVATION FUND
FY12 DEBT SERVICE**

ORDERED: That the Town Council hereby appropriate \$2,861,253 for the purpose of paying the FY12 Community Preservation Fund debt service requirements, and to meet such appropriation, that \$2,748,759 be provided from current year revenues of the Community Preservation Fund and that \$112,494 be provided from surplus funds reserved for the historic program within the Community Preservation Fund.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-142
INTRO: 06/02/11, 06/16/11

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
DATE: May 20, 2011
SUBJECT: Appropriation Order for FY 2012 Community Preservation Fund Debt Service

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

ANALYSIS: The debt service requirements for the FY 2012 Community Preservation Fund (CPF) are \$2,861,253. This is comprised of \$2,748,759 for land acquisitions and \$112,494 for historic preservation projects. The entire land acquisition debt of \$2,748,759 is provided from the estimated FY12 surtax (\$2,837,852). The historic preservation loan payments will be provided from the unreserved fund balance of the historic preservation program.

FISCAL IMPACT: There is no impact to the General Fund budget as a result of this appropriation. This appropriation will be provided from current year estimated receipts in the Community Preservation Fund and the unreserved fund balance of the historic preservation program. The projected fund balance by program area prior to the closing of fiscal year 2011 is as follows:

	Program Designations			Undesignated	Estimated
	Community Housing	Historic Preservation	Open Space		FY12 Estimated Revenue
Unreserved Fund Balance Forward From FY11 (as of May 3rd, 2011)	\$ 53,832	\$ 236,866	\$ 1,795,415	\$ 2,996,765	\$ -
Estimated surtax revenue FY 2012					2,837,852
Estimated state match FY 2012					692,159
FY12 debt service		(112,494)			(2,748,759)
FY12 administrative expenses					(100,000)
FY12 reservations	227,084	227,084	227,084	-	(681,252)
Unreserved Fund Balance Available For Appropriation	\$ 280,916	\$ 351,456	\$ 2,022,499	\$ 2,996,765	
					\$ 0

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-143

INTRO: 06/02/11, 06/16/11

2011-143 APPROPRIATE AND RESERVE SET-ASIDES FROM COMMUNITY PRESERVATION FUND \$781,252 FOR FY12 EXPENDITURES

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2012, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: Two Hundred Twenty Seven Thousand and Eighty Four Dollars and No/100 (\$227,084) for open space; Two Hundred Twenty Seven Thousand and Eighty Four Dollars and No/100 (\$227,084) for historic resources; Two Hundred Twenty Seven Thousand and Eighty Four Dollars and No/100 (\$227,084) for community housing; and that the sum of One Hundred Thousand and No/100 (\$100,000.00) Dollars be appropriated from the annual revenues of the Community Preservation Fund to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment, consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-143
INTRO: 06/02/11, 06/16/11

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
DATE: May 20, 2011
SUBJECT: Appropriation Order for FY 2012 Community Preservation Fund Debt Service

SUBJECT: FY12 Community Preservation Fund Reserve Set-Asides and Appropriation for Community Preservation Committee Administrative Expenses

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

FISCAL IMPACT: This is a reservation and appropriation from the Community Preservation Fund and has no adverse impact on the general fund. The total estimated FY 2012 revenue for the Community Preservation Fund and reservations have been estimated as follows:

FY 2012 Estimated Surtax	\$2,837,852
FY 2012 Estimated state match (25% of FY11 surtax billings)	<u>\$692,159</u>
Total estimated FY 2012 revenue	\$3,530,011
FY 2012 revenue committed to debt service	(\$2,748,759)
FY 2011 revenue dedicated to program administration.....	<u>(\$100,000)</u>
Balance available for program areas.....	\$681,252
Reserve for open space	\$227,084
Reserve for historic preservation	\$227,084
Reserve for community housing	<u>\$227,084</u>
Total reservations.....	\$681,252

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

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-144
INTRO: 06/02/11, 06/16/11

2011-144 INQUIRY PER THE CHARTER, SECTION 2-10 AND COUNCIL RULE 14

ORDERED: That the Town Council under its authority vested in the Charter, Section 2-10 and in Rule 14 of the Council Rules authorized an inquiry into all matters pertaining to the resignation of an employee.

SPONSOR: Town Councilor J. Gregory Milne

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-144
INTRO: 06/02/11, 06/16/11

SUMMARY

TO: Town Council
FROM: Councilor J. Gregory Milne
DATE: May 26, 2011
SUBJECT: An order for an inquiry under the Charter Section 2-10 & Council Rule 14

RATIONALE: This motion is intended to utilize the inquiry provision of the Charter and Council Rules. This decision to conduct an inquiry seeks to create complete transparency. The inquiry must be completed within 60 days as stated in Council Rule 14.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-145
INTRO: 06/16/11**

2011-145 AUTHORIZING THE TOWN MANAGER TO FURTHER NEGOTIATE AND TO EXECUTE A PROJECT DEVELOPMENT AGREEMENT WITH CVEC, INC.

RESOLVED, that the Solar Sub-Committee of the Barnstable Town Council recommends that the Town Council authorize the Town Manager to further negotiate and execute a Project Development Agreement and a Net-metered Power Sales Agreement with the Cape and Vineyard Electric Cooperative, Inc. with respect to a solar P.V. array at the Barnstable landfill.

SPONSOR: Town Council Solar Sub-committee: Councilors Janice L. Barton, Ann B. Canedy, James H. Crocker, J. Gregory Milne, and John T. Norman

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-145
INTRO: 06/16/11

SUMMARY

TO: Town Council
FROM: Town Council Solar-subcommittee
DATE: June 6, 2011

BACKGROUND: On Thursday May 26th, the Town Council Solar Sub-Committee voted to support authorizing the town manager to conclude negotiations and execute a Project Development Agreement (PDA) and Net-metered Power Sales Agreement (PSA) with the Cape and Vineyard Electric Cooperative, Inc. (CVEC), with respect to a solar P.V. array at the Barnstable landfill.

For more than a decade it has been town council policy to promote the development of renewable energy generation at appropriate municipal locations around the town. This 4 megawatt, ground-mounted solar P.V. array together with the solar/wind project at the Barnstable Water Pollution Control Facility will produce approximately 50% of the town's municipal electric load.

PROJECT DESCRIPTION: Barnstable's capped landfill will be one of 8 proposed sites in 6 CVEC member Towns on Cape Cod and Martha's Vineyard.

The town and CVEC are including a private partner/developer in the deal because the financial incentives available to a private developer, such as production tax credits and accelerated depreciation, which make the proposed project economically viable, are not available to the town or CVEC.

In total, the 16.118 MW PV project is expected to produce 19,946,100 kWhs in the first year; enough energy to power close to 3,000 Cape and Vineyard homes. Barnstable's portion of the project will be 3.998 megawatts, producing approximately 5,117,400 kWhs annually. The energy produced from the total project represents 26% of the Cape & Vineyard municipal load and 1.1% of the total energy load for all electric customers on the Cape & Vineyard. The total project will offset approximately 15,000 metric tons of carbon dioxide emissions annually, which is the equivalent of taking 3,056 automobiles off the road.

The structure of the CVEC proposal is as follows: the town will lease a portion of the capped landfill to CVEC for a 20-year period governed by a management agreement; CVEC contracts with the developer to finance, build, own and operate the facility under a Management Services Agreement. CVEC will buy the power from the developer, and then sell the power to the town at the developer fixed base price of 6.9 cents per kWh. The town will pay the fixed price and receive the net-metering credit from CVEC, with the town's monthly revenue being the difference between the price of power and the net-metering credit.

CVEC selected American Capital Energy, Inc. (ACE) from 8 vendor bids that were submitted through a competitive bidding process conducted by CVEC in the Fall of 2010 because ACE's proposal brings the most benefits to CVEC members. ACE is a Massachusetts company with headquarters in North Chelmsford, MA. Founded in 2005, the company has installed more than 35 large-scale PV projects in nine states. ACE will be working with the engineering firm Weston & Sampson, which is the industry leader in the permitting and design of landfill closures and post closure re-use. As part of the contract negotiations, ACE committed to advertise locally for installation and/or maintenance subcontractors to install the solar PV systems. Under this contract, at the time of construction, ACE will be building the largest solar PV facility in New England.

Approximately 14,275 solar panels will be arrayed on top of the landfill, occupying some 17 acres of land. The project's estimated annual savings for Barnstable will be over \$275,000 per year, with total revenues for the town over the course of the 20-year contract exceeding \$5 million.

SUB-COMMITTEE PROCESS: Since early January, the Sub-committee has met 11 times to consider the extraordinarily complex details of the proposed project. During this time the sub-committee worked very hard at learning the mechanics of how such a large-scale photovoltaic solar energy project would work. As well, several members of the sub-committee attended a number of CVEC meetings to meet the potential project developers and ask questions at the executive sessions where interviews were conducted with all three of the developer finalists. The sub-committee listened, learned and dissected the proposed contract terms between CVEC and the town, and between CVEC and the winning project bidder, American Capital Energy (ACE).

Throughout the process, the sub-committee was ably assisted at every phase of its deliberations by the town's counsel, Kevin Batt, it's well-respected Cape-based energy consultant, Scott Ridley, and staff, Richard Elrick, Energy Coordinator, Charlie McLaughlin, the town's attorney and CVEC representative (and CVEC president), and David Anthony, the town's Chief Procurement Officer.

In particular, and most beneficially for the town, the persistence of the subcommittee resulted in CVEC agreeing to allow the towns to receive 100% of the projects' benefit rather than the 90% that had originally been proposed.

PROJECT BENEFITS:

- Of all the potential development options, moving forward with CVEC is the most conservative, and therefore the safest for the town.
- The negotiated contract will provide the town estimated annual revenue starting in year one of \$278,386 based on a Guaranteed Annual Output (GAO) (actual revenues may likely be greater as the P.V. system's performance is expected to be greater than the GAO).
- The Cape Light Compact paid for the procurement costs of the project's development.
- The town will receive a fixed power base price of 6.9 cents per kWh for 20 years, which is below current and projected future power costs.
- Because of contract protections, and because the procurement was and contract management will be handled by CVEC, the town's upside is substantial, with very little risk.
- The town will be receiving a monthly revenue stream.
- Because of the economies of scale for such a large project, the town will be receiving a better power purchase price than it would likely receive if it weren't partnering with CVEC.
- The town will have a right of first purchase to buy the project from the developer at an agreed upon price at intervals of 7, 10, 12 and 15 years.
- Locating a solar project on top of the town's capped landfill is a way to turn an un-productive parcel into a productive one.
- Proceeding now with CVEC is a way to guarantee the town's place in the queue to access the maximum net-metering benefit that is required to ensure that the project is profitable for the town.

CONCLUSION: For all of the above reasons the Solar Sub-Committee strongly urges the town council to support this important project and authorize the town manager to execute the required Project Development Agreement and Net-metered Power Sales Agreement.

J. Gregory Milne, Chair
Town Council Solar Sub-Committee

B. NEW BUSINESS (Refer to public hearing 07/14/11) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-146

INTRO: 06/16/11

2011-146 APPROPRIATE FROM COMMUNITY PRESERVATION FUND, \$1,680,500 TO ACQUIRE PROPERTY ON 21 RAILWAY BLUFFS, HYANNIS FOR OPEN SPACE & RECREATION

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum not to exceed the amount of One Million Six Hundred Eighty Thousand and Five Hundred (\$1,680,500.00) and No/100 Dollars be appropriated and transferred from the amount set aside under the Community Preservation Fund on August 21, 2008 under agenda item number 2008-161; and to meet that appropriation, the sum of One Million Five Hundred Seventy Five Thousand (\$1,575,000.00) and No/100 Dollars be appropriated from the Open Space portion of the Community Preservation Fund; and the sum of One Hundred Five Thousand Five Hundred (\$105,500.00) and No/100 Dollars be appropriated from the Undesignated portion of the Community Preservation Fund for the acquisition of the property located at 21 Railway Bluffs, Hyannis for Open Space and Recreational purposes as shown on Barnstable Assessors Map 326 Parcel 133 lot 001 and Map 326 Parcel 132, and as further shown on Yarmouth Assessors Map 28, Parcel 8, and that the Town Manager through the Community Preservation Committee is authorized to contract for and expend the amount appropriated for the purpose of acquiring and creating such open space.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-146
INTRO: 06/16/11

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: May 16, 2011
SUBJECT: Rationale, Open Space Acquisition Coleman Property, Map 326 Parcel 133 Lot 001 and Map 326, Parcel 132, Yarmouth Assessors Map 28, Parcel 8

BACKGROUND: The Community Preservation Committee (CPC) met on Monday May 9, 2011 and recommended the approval of the acquisition of 21 Railway Bluffs, Hyannis and a small portion of land in Yarmouth in the amount of \$1,575,000.00. Also included in the recommendation is to approve an additional \$105,500 to cover closing costs, title insurance, demolition of the structure, landscaping and parking and a new access drive for a total CPA fund request of \$1,680,500.00.

RATIONALE: The parcel located at 21 Railway Bluffs, Hyannis consists of approximately nine-tenths (.90) acres of land and is located on the banks of the Hyannis Inner Harbor. The acquisition of this parcel will be dedicated to Open Space and Recreation. In order to offset the cost of the acquisition to the Town, the CPC requested that the Town pursue all available grants in order to reduce the cost to the Town. In addition, the CPC recommended that the Town Manager and Town Council consider a request to designate a portion of fees from the marina enterprise account associated with the Railway Bluff acquisition to be returned to the Community Preservation Committee as a partial cost reimbursement for this project. The third and final component of the recommendation is that there will be a 2 year tenancy for one of the current owners that will commence at the time of the property acquisition. The amount of \$1,295,415 will be taken from the Open Space set asides and \$385,085 will be taken from the Undesignated fund set asides.

B. NEW BUSINESS (Refer to public hearing 07/14/11) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-147
INTRO: 06/16/11**

**2011-147 APPROPRIATION OF \$375,000 FOR PARK REVITALIZATION,
RIDGEWOOD PARK IN HYANNIS**

ORDERED: That sum of \$375,000 is appropriated for the purpose of the revitalization of park land located at 0 Linden and 0 Maple Streets in Hyannis otherwise known as Ridgewood Park; that in order to meet this appropriation, the sum of three hundred seventy five thousand (\$375,000.00) Dollars is to be appropriated, subject to reimbursement of up to \$204,000.00 (54% of project costs) from the proceeds of the PARC (Parkland Acquisitions and Renovations for Communities) grant to be accepted; and that the Town Manager is authorized to contract for and expend the amount appropriated and accept any gifts and grants in relation thereto.

SPONSOR: Councilors Debra S. Dagwan and James M. Tinsley

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

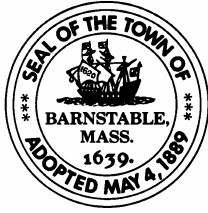
ITEM# 2011-147
INTRO: 06/16/11

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, GMD Director
DATE: June 7, 2011
SUBJECT: Ridgewood Park Improvements

Improvements to Ridgewood Park located between Linden, Locust, Mulberry and Oak Streets in the “tree streets” neighborhood in Hyannis has been the subject of a process spanning several years. Working with the Recreation Commission and the park neighbors through formal and informal discussions, a design concept has been developed for project funding. These modest improvements incorporate toward low maintenance design. Once funding is secured, the design will be finalized with Town departments and the park neighbors.

The PARC grant allows 54% reimbursement to the Town. The grant application requires that the entire amount be set aside by the Town Council. Once the project is awarded the PARC grant reimbursements will be requisitioned as the project moves toward completion. Once funding is in place early in the fall of 2011, we would anticipate project completion by the end of June 2012.



Town of Barnstable Planning Board

www.town.barnstable.ma.us/growthmanagement



Jo Anne Miller Buntich
Director

TO: Town Council
FROM: Planning Board
DATE: May 6, 2011
SUBJECT: Proposed Regulatory Agreement Substantial Amendment
Lewis Bay Court formerly Greenery Development, LLC

Following is a proposed Substantial Amendment to the Regulatory Agreement between the Town of Barnstable and Lewis Bay Court, LLC formerly Greenery Development, LLC.

The Developer proposes to modify the existing Regulatory Agreement to eliminate the following mitigation requirements in the 2007 agreement (excerpted):

WHEREAS, in addition to the improvements cited above, the Developer has agreed to provide financial mitigation to offset project impacts ...

4. In addition to the rehabilitation of the existing structure and parking area and the reduction in impacts from the former nursing home use, mitigation offered by the Developer includes but is not limited to:
 - \$250,000 toward improvements within the layout of South Street in Hyannis;
 - \$150,000 toward improvements for the benefit of the Barnstable Department of Public Works, Water Supply Division;
 - \$34,421 toward improvements within the layout of School Street in Hyannis;

A counter offer to the applicant's proposed substantial amendment was discussed by the Planning Board and the applicant over the course of two public hearings held on January 10 and January 24, 2011 and additional informal discussions held on November 8 and 22, 2010 and March 15, 2011. The counter offer amendment, as described in the Town Council Order, was recommended by a majority vote of the Board on March 15, 2011.

Should the Town Council approve this Substantial Amendment to the Regulatory Agreement, it would then be endorsed by the Town Manager and recorded at the Registry of Deeds.

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-148
INTRO: 06/16/11**

2011-148 ORDER AUTHORIZING THE TOWN MANAGER TO EXECUTE A SUBSTANTIAL AMENDMENT TO THE REGULATORY AGREEMENT- 89 LEWIS BAY, LLC

AMENDMENT # 2 TO REGULATORY AGREEMENT
89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS

This modification to a regulatory agreement (“Agreement”) is entered by and between the developer, 89 Lewis Bay, LLC (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___ day of _____, 2011 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS the Developer has undergone at least two public hearings on the Agreement amendment application and received a majority vote from the Planning Board approving the following substantial amendment on March 15, 2011;

WHEREAS the Developer has undergone a public hearing on the Agreement amendment application before the Town Council and received a majority vote approving the application on _____, 2011;

WHEREAS, the 2007 Regulatory Agreement including the February 2011 Amendment #1 remains in full force and effect except as modified herein;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows: that the regulatory agreement dated July 22, 2007 and recorded at the Barnstable Registry of Deeds, Book #22250, Page 286 be amended as follows

1. Paragraph #4 of the 2007 Regulatory Agreement shall be amended as follows:
 - \$150,000 towards streetscape improvements within the layout of South Street;
 - \$150,000 towards improvements of public water supply infrastructure on School Street through the Department of Public Works, Water Supply Division;
 - \$30,000 towards pedestrian improvements within the layout of School StreetThese funds shall be paid to the Town over a ten (10) year period, the first payment due one year from the date of this Modification and where no payment shall be less than 10% of the total of the amounts above.

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

89 Lewis Bay LLC
By: Charles F. Doe
Principal

SPONSOR: Councilor Richard Barry

BARNSTABLE TOWN COUNCIL

ITEM# 2011-148
INTRO: 06/16/11

SUMMARY

TO: Town Council
FROM: Planning Board
DATE: March 23, 2011
SUBJECT: Proposed modification of Regulatory Agreement
Property: 89 Lewis Bay Road and 42 South Street, Applicant 89 Lewis Bay LLC

ANALYSIS/RATIONALE: The 2007 Regulatory Agreement allowed for the renovation of the subject Property, which consisted of a main building located at 89 Lewis Bay Road, which is was formerly used as a nursing home and allowed for the demolition of two dilapidated residential structures, located at 42 South Street. The main building has been renovated to include. Forty-two (42) residential condominiums, constructed on the second and third floors and within the newly constructed fourth floor. The 2011 Regulatory Agreement Amendment allowed 10,000 SF of the first floor to be used for a for profit educational use, a culinary arts school.

The 2007 agreement contained the following provisions (excerpted):

...WHEREAS, in addition to the improvements cited above, the Developer has agreed to provide financial mitigation to offset project impacts as set forth below:

4. In addition to the rehabilitation of the existing structure and parking area and the reduction in impacts from the former nursing home use, mitigation offered by the Developer includes but is not limited to:

\$250,000 toward improvements within the layout of South Street in Hyannis;

\$150,000 toward improvements for the benefit of the Barnstable Department of Public Works, Water Supply Division;

\$34,421 toward improvements within the layout of School Street in Hyannis;

The applicant proposed to entirely eliminate this provision citing unexpected financial obligations incurred to move the stalled project forward.

After conducting negotiations with the applicant that included a reduction in the amount of mitigation and the offer to allow payment over time the Planning Board at their meeting on March 15, 2011, by a 4-1, margin voted to send their counter offer recommendation for amendment, included in this order, to Town Council for further action.