



# Town of Barnstable Town Council

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## **TOWN COUNCIL MEETING AGENDA November 17, 2011 7:00 PM**

Councilors:

Frederick Chirigotis  
President

Janice L. Barton  
Vice President

Richard G. Barry  
Ann B. Canedy

James H. Crocker, Jr.  
Dr. 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:

- 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)**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
  - A. OLD BUSINESS**
  - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

**NEXT REGULAR MEETING: December 1, 2011**

<b>ITEM NO.</b>	<b>INDEX TITLE</b>	<b>PAGE</b>
<b>A. OLD BUSINESS</b>		
2012-028	Amendment to the Administrative Code relative to the Hyannis Water Board <b>(Second reading)</b> .....	3 – 4
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2012-032	Allocation of tax levy FY12-residential exemption <b>(Public hearing) (Roll-call)</b> .....	7 - 8
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2012-034	Amendment to the General Code, Chapter 76 – Schedule of Fees <b>(Public hearing) (Roll-call)</b> .....	11 -14
<b>B. NEW BUSINESS</b>		
2012-035	Amending the Zoning Ordinance, Chapter 240, Article II <b>(Refer to the planning board for public hearing)</b> .....	15 - 16
2012-036	Appropriation of \$375,000 for park revitalization of Ridgewood Park, located on Hyannis on 0 Linden and 0 Maple Streets <b>(Refer to public hearing 12/01/11)</b> .....	17 - 18
2012-037	Appropriation of \$432,954 for park revitalization of open space located on 182 Pleasant Street, Hyannis <b>(Refer to public hearing 12/01/11)</b> .....	19 - 20
2012-038	Transfer order -- \$198,000 pursuant to the Temporary Repair to Private Roads Program for Trout Brook and Furlong Way in Cotuit; repaid with 100% betterment assessments <b>(May be acted upon)</b> .....	21 – 22
2012-039	Acceptance of a gift of two parcels of land for open space and recreation on Nyes Neck Road, Centerville <b>(May be acted upon)</b> .....	23 - 24
2012-040	Appropriation of \$150,000 from CPC Fund Reserve for open space acquisition of 1.17 acres along Marstons Mills Herring Run <b>(Refer to public hearing 12/01/11)</b> .....	25 – 26
2012-041	Resolve on the appropriation of \$321,000 for the acquisition of the conservation restriction under Town Council Agenda Item 2008-112 <b>(May be acted upon)</b> .....	27 - 28
2012-042	Authorizing the town manager to accept a deed of three parcels in lieu of tax foreclosure, to meet a land acquisition requirement for any future Phase II dredging <b>(May be acted upon)</b> .....	29 – 30
2012-043	Petitioning the Commonwealth –A Special Act relative to borrowing, terms of financing, and apportionment of betterments and assessments on sewer projects <b>(May be acted upon)</b> .....	31–32
2012-044	Acceptance of a grant award for up to \$1,000 for the costs of installation of four electric charging stations from the Massachusetts Department of Environmental Resources <b>(May be acted upon)</b> .....	33 - 34

**Approve Minutes** —March 17, 2011 executive session, September 22, 2011, October 20, 2011, and November 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.

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

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

**A. OLD BUSINESS (Second reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-028**

**INTRO: 10/20/11, 11/03/11, 11/17/11**

**2012-028 AMENDING THE ADMINISTRATIVE CODE FOR THE HYANNIS WATER BOARD**

**ORDERED**, that Section 241-38.A. of the Administrative Code relating to the Hyannis Water Board is hereby amended by striking out in the second sentence therein the words “resident” and “with at least one of these members being a resident of the area served by the Hyannis Water System,” so Section 241-38, A., would read as follows:

“A. There is hereby established a Hyannis Water Board, which shall consist of five members who are ratepayers of Hyannis Water, the water supply operation administered by and through the Water Supply Division of the Department of Public Works, appointed by the Town Manager for three-year overlapping terms. Two members of said Board will be owners of Hyannis business property located in Hyannis Water, served by the Hyannis Water System, and three members of said Board shall be residents of Hyannis in the area served by Hyannis Water. Said Board shall be responsible for the oversight of the Water Supply Division of the Department of Public Works and shall have the authority, subject to the authority and responsibility of the Town Manager and the Town Council under the charter, to:”

**SPONSOR:** Interim Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-028**

**INTRO: 10/20/11, 11/03/11, 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Interim Town Manager  
**DATE:** October 11, 2011  
**SUBJECT:** Amend the Administrative Code for the Hyannis Water Board

**RATIONALE:** After repeated attempts, the Water Board has been unable to find a member who is both a resident and a business owner and whose schedule allows consistent attendance at the Board Meetings. This change would keep the requirement that the members own a business in the area served by the Hyannis Water District but that person need not live in the district.

The Hyannis Water Board and the Greater Hyannis Civic Association is in support of this change.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-031**  
**INTRO: 11/03/11, 11/17/11**

**2012-031 ALLOCATION OF TAX LEVY FY12 – TAX FACTOR**

**RESOLVED**, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the fiscal year 2012.

**SPONSOR:** Interim Town Manager Thomas K. Lynch

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM# 2012-031**  
**INTRO: 11/03/11, 11/17/11**

**TO:** Town Council  
**FROM:** Town of Barnstable Board of Assessors  
**DATE:** October 25, 2011  
**SUBJECT:** Allocation of Tax Levy FY12 – Tax Factor

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The residential factor commonly referred to as the “Split Tax Rate” allows the Town Council to create separate tax rates; one for residential property owners and a separate one for commercial, industrial and personal property owners, (CIP owners). Under a residential “Factor of 1”, all property owners would pay taxes at the same rate per \$1,000 of valuation. The single tax rate for FY2012 is \$7.59. The maximum permissible shift would increase the CIP tax rate by 150%, a CIP factor of 1.5. If the maximum 1.5 shift is adopted by the Council, the corresponding rate for the residential class would be \$7.10, while the CIP rate would rise to \$11.39. This means if the maximum shift is adopted that the average residential property owner would pay 6.5 percent less in taxes and all CIP property owners would pay 150 percent more in taxes. At a CIP factor of 1.25, the residential tax rate would be \$7.34 (3.3% less) and the CIP tax rate would be \$9.49 (125% more). Since 2007, the Town Council’s policy has been to select a Residential Factor of “1”. Please see tax factor information handouts provided prior to the meeting.

Board of Assessors recommends a tax factor of 1.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-032**  
**INTRO: 11/03/11, 11/17/11**

**2012-032 ALLOCATION OF TAX LEVY FY12 – RESIDENTIAL EXEMPTION**

**RESOLVED**, that the Town Council hereby votes to adopt a Residential Exemption percentage of 20% for fiscal year 2012.

**SPONSOR:** Interim Town Manager Thomas K. Lynch

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM# 2012-032**  
**INTRO: 11/03/11, 11/17/11**

**TO:** Town Council  
**FROM:** Town of Barnstable Board of Assessors  
**DATE:** October 25, 2011  
**SUBJECT:** Allocation of Tax Levy FY12 – Residential Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor, a Residential Exemption, and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The Town Council can choose to adopt a “residential exemption”. The maximum exemption allowed is 20% of the average assessed value of all Class One (or Residential) parcels. This exemption would be applied to residential parcels, which are qualified as the principal residence of the taxpayer. Principal residence is a taxpayer’s domicile, that is, their fixed place of habitation, permanent home, and legal residence, as used for federal and state income tax purposes. This option shifts property taxes between residential taxpayers only and does not affect the CIP class of taxpayers. If the full 20% exemption amount is adopted, residential taxpayers whose principal residence is in the Town of Barnstable will receive a tax reduction as long as their property assessment is approximately less than \$900,690 (\$88,785 tax value exemption for FY12) and the residential tax rate for all taxpayers rises from \$7.59 to \$8.42. The tax savings these property owners realize will be shifted to all non-resident property owners and residential property owners whose assessments are greater than \$900,690. At the 10% level of exemption (\$44,393 tax value exemption for FY12), the “break-even” valuation is \$908,350 and the tax rate rises from \$7.59 to \$7.98. Under this option, property tax savings are greater as the assessed value of the property declines and the percentage exemption adopted increases. See the tax factor informational handouts provided prior to the meeting for analysis. The town council has voted to adopt a 20% residential exemption for the past 5 fiscal years.

Board of Assessors recommends that the residential exemption not be adopted.



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

**BARNSTABLE TOWN COUNCIL**

**ITEM#: 2012-033**  
**INTRO: 11/03/11, 11/17/11**

**2012-033 ALLOCATION OF TAX LEVY FY12 – SMALL COMMERCIAL EXEMPTION**

**RESOLVED**, that the Town Council hereby votes not to adopt a Small Commercial Exemption for fiscal year 2012.

**SPONSOR:** Interim Town Manager Thomas K. Lynch

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM NO.: 2012-033**  
**INTRO.: 11/03/11, 11/17/11**

**TO:** Town Council  
**FROM:** Town of Barnstable Board of Assessors  
**DATE:** October 25, 2011  
**SUBJECT:** Allocation of Tax Levy FY12 – Small Commercial Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the allocation of local property taxes by the adoption of a Residential Factor, a Residential Exemption, and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes.

The Town Council has the option of granting up to a 10% exemption to the owner of commercial property, which is occupied by qualified small businesses. This option shifts property taxes between commercial and industrial property owners only. It does not impact residential or personal property taxpayers. Qualifying property must be commercial, assessed under \$1,000,000 and be totally occupied by businesses with less than 10 employees. In the prior 5 fiscal years, the Town council voted not to adopt the small business exemption.

Board of Assessors recommends that the small commercial exemption not be adopted.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-034**

**INTRO: 11/03/11, 11/17/11**

**2012-034 ORDINANCE AMENDMENT CHAPTER 76, CODE OF BARNSTABLE, SETTING THE SCHEDULE OF FEES TO BE IN EFFECT IN THE TOWN OF BARNSTABLE**

**ORDERED:** That Chapter 76 of the General Code of the Town of Barnstable is hereby amended by deleting the current Chapter 76 language and replacing it with the following language.

**SCHEDULE OF FEES**

Article II. Schedule of Parking Fines. [Adopted 5-6-2004 by Order No. 2004-077]

§ 1-7 Parking fines in effect.

The following Schedule of Parking Fines shall be in effect in the Town of Barnstable:

Type of Violation	Amount of Fine
Handicap .....	\$100.00
Fire Lane .....	\$50.00
Fire Hydrant .....	\$50.00
Overtime .....	\$25.00
Meter .....	\$25.00
Other Parking Violations .....	\$25.00
Vehicle with expired inspection sticker .....	\$50.00
Vehicle with expired registration plate or decal .....	\$50.00

§76-4 Miscellaneous licenses and permits.  
[Amended 3-4-2010 by Order No. 2010-071]

MGL c/Section	Description	Fee
101§ 33	Temporary License .....	\$10.00
138 §30A	License for pharmacist to sell alcoholic beverages.....	\$2,000.00
140 § 2	License for inns and restaurants.....	\$100.00
40§ 21B	License to serve nonalcoholic beverages .....	\$100.00
140 §32B	License for mobile home parks.....	\$50.00
140§ 32B	License for motels.....	\$50.00
140§ 34	License for lodging house 10 guests or less.....	\$75.00
140§ 34	License for lodging house more than 10 guests.....	\$125.00
140 §49	License for vehicle for sale of food .....	\$250.00
140§ 56A	License for shooting gallery.....	\$250.00
140 §59	Auto Dealer License .....	\$150.00
	License for Karaoke (open mike).....	\$100.00
140§177A	License for automatic amusement devices.....	\$100.00
140 §183A	Entertainment annual seven day live .....	\$275.00
140 §183A	Entertainment annual seven day non-live .....	\$75.00
140§ 183A	Entertainment daily (not for profit).....	\$25.00
	Entertainment daily (for profit).....	\$50.00
	..... (Including Sunday)	

§76-4 Miscellaneous licenses and permits (Continued).

MGL c/Section	Description	Fee
140§1851	License for fortune-tellers.....	\$250.00
140§192	License for rental boats (freshwater) .....	\$100.00
	License to store hazardous materials .....	\$100.00
	Septic system inspection filing .....	\$25.00
	Board of Health request for variance .....	\$85.00

**SPONSOR:** Interim Town Manager, Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

## BARNSTABLE TOWN COUNCIL

**ITEM# 2012-034**  
**INTRO: 11/03/11, 11/17/11**

### SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Interim Town Manager  
**THROUGH:** Thomas F. Geiler, Director Regulatory Services Department  
**DATE:** October 25, 2011  
**SUBJECT:** Fee Schedule Change

**BACKGROUND:** Chapter 76 of the General Code of the Town of Barnstable contains the schedule of fees established by the Town Council. The fees contained therein are primarily fees for parking and licenses or permits associated with commercial or business activities. The council has maintained a policy of 100% cost of service recovery rate for several years.

**ANALYSIS:** Changes in laws and regulations as well as changes in technology affect the procedures and the policies governing the licensing and inspection process. This revision is an attempt to bring the fees closer to achieving the council goal of 100% cost recovery. In some cases, this is not possible. Some permits carry state imposed maximums that prevent the town from achieving 100% cost recovery. This proposal identifies fees that no longer reflect 100% cost recovery and adjusts the fees to remove discrepancies. Increases proposed represent modest increases or in some instances no increase but a combining of two or more permits into one where permit seekers could apply with a single application rather multiple applications. The parking regulations are new. A fine of \$50 would be assessed when vehicles are found with an expired safety inspection sticker or an expired registration. While these are also criminal offences and enforced by the police department, more and more communities are dealing with this issue through parking regulations as well. Parking staff are dealing with vehicles up close every day.

**FISCAL IMPACT:** It is anticipated that adoption of this amended fee schedule would have a positive impact on the town's financial position. Failure to adopt the amended schedule will result in reduced revenue in FY 13. Reduced revenue will require the town reduce expenditures to balance the budget. Reduced revenues will almost certainly result in reduced services. Reduced services may result in additional lost revenue from fees associated with the reduced services.

Our goal is to continue to increase our efficiency and effectiveness. We cannot do that without appropriate resources. Fees for service are an important resource.

**See current fee/proposed fee comparison chart on page 14**

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of this order.

#### **STAFF ASSISTANCE:**

Tracey Smith, Administrative Assistant, Consumer Affairs Division  
Richard V. Scali, Consumer Affairs Supervisor  
Thomas F. Geiler, Director Regulatory Services

**COMPARISON: CURRENT FEE AND PROPOSED FEE**

Article II. Schedule of Parking Fines. [Adopted 5-6-2004 by Order No. 2004-077]

§ 1-7 Parking fines in effect.

	Current Fee	Proposed Fee
Vehicle with expired inspection sticker .....	0.00	\$50.00
Vehicle with expired registration plate or decal .....	0.00	\$50.00
<u>All others no change</u>		

§76-4 Miscellaneous licenses and permits.

[Amended 3-4-2010 by Order No. 2010-071]

	Current Fee	Proposed Fee
140§ 34 License for lodging house 10 guests or less.....	\$50.00.....	\$75.00
140§ 34 License for lodging house more than 10 guests.....	\$50.00.....	\$125.00
140 §183A License for Karaoke (open mike).....	0.00.....	\$100.00
.....		(Including Sunday)
140 §183A Entertainment annual seven day live .....	\$250.00.....	\$275.00
.....		(Including Sunday)
140 §183A Entertainment annual seven day non-live .....	\$50.00.....	\$75.00
.....		(Including Sunday)
140§ 183A Entertainment daily (for profit).....	\$25.00.....	\$50.00
.....		(Including Sunday)
<u>All others -- no change</u>		

**B. NEW BUSINESS (Refer to planning board for public hearing)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-035  
INTRO: 11/17/11**

**2012-035 AMENDING THE ZONING ORDINANCE, CHAPTER 240, ARTICLE II**

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

By amending the official zoning map of the Town of Barnstable titled “ZONING MAP OF THE TOWN OF BARNSTABLE, MA,” adopted September 1, 1998 as amended through September 8, 2011, by expanding the B, Business Zoning District as it affects Parcel 274, Map 040-001 off Attucks Lane in Barnstable, rezoning portions of this property from Residence G and IND to Business for the entirety of the parcel. This proposed expansion of the Business Zoning District is shown on maps entitled “Proposed Amendment to the Town Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001; Proposed Amendment to the Barnstable Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001; Proposed Amendment to the Hyannis Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001 dated October 18, 2011 as prepared by the GIS Unit.

**SPONSOR:** Councilor Ann Canedy

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-035**  
**INTRO: 11/17/11**

### **SUMMARY**

**ANALYSIS/RATIONALE:** This is an amendment to the Zoning Map that extends the B (“Business”) Business District (as described in Section 240-25 of the Zoning Ordinance) to an additional portion of property on Attucks Lane near the intersection of Phinney’s Lane that currently hosts BJ’s Wholesale Club.

The property owner, through Attorney John Kenney, requests this change to allow the entire parcel to be regulated under one zoning district.

It appears the original district boundaries may have been drawn to satisfy a dimensional offset from the roadways. Relating the zoning district to the parcel boundary is the more recent practice and one that better suits site development.



**B. NEW BUSINESS (Refer to public hearing 12/1/11) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-036  
INTRO: 11/17/11**

**2012-036 APPROPRIATION--\$375,000 FOR PARK REVITALIZATION OF RIDGEWOOD PARK IN HYANNIS: 0 LINDEN AND 0 MAPLE STREETS**

**ORDERED:** That the 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 dedicated under M.G.L Chapter 45 Section 3; that in order to meet this appropriation, the sum of three hundred seventy five thousand (\$375,000.00) Dollars shall be transferred from available funds, 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; and that the Town Manager is authorized to contract for and expend the amount appropriated and accept any gifts and grants in relation thereto. The appropriation shall become effective upon award of the grant.

**SPONSOR:** Councilor Dr. Debra Dagwan and Councilor James M. Tinsley

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-036**

**INTRO: 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Jo Anne Miller Buntich, GMD Director  
**DATE:** November 8, 2011  
**SUBJECT:** Ridgewood Park Improvements

**BACKGROUND:** 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 Town Council set aside the entire amount. 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.

**B. NEW BUSINESS (Refer to public hearing 12/1/11) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-037  
INTRO: 11/17/11**

**2012-037 APPROPRIATION - \$432,954 FOR PARK REVITALIZATION, OF OPEN SPACE -- 182 PLEASANT STREET IN HYANNIS, MAP 326 PARCEL 131**

**ORDERED:** That the sum of \$432,954 be appropriated for the purpose of the revitalization of open space land located at 182 Pleasant Street, Hyannis, MA on parcel 131 of map 326 for dedication to M.G.L Chapter 45 Section 3; and in order to meet this appropriation, that the sum of \$199,159.00 shall be transferred from available funds, subject to the reimbursement of up to \$233,795.00 (54% of project costs) from the proceeds of the PARC (Parkland Acquisitions and Renovations for Communities) grant; and that the Town Manager is authorized to contract for and expend the amount appropriated and accept any gifts and grants in relation thereto. The appropriation shall become effective upon award of the grant.

**SPONSOR:** Councilor James M. Tinsley

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-037**  
**INTRO: 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Jo Anne Miller Buntich, GMD Director  
**DATE:** November 8, 2011  
**SUBJECT:** Pleasant Street Dock Park Improvements

**BACKGROUND:** Improvements to the parcel located at the end of Pleasant Street in Hyannis adjacent to the newly improved dock, has been a part of the vision to extend the “Walkway to the Sea” for several years. Working with the Harbor Master’s Office, Steamship Authority and Commercial Fishermen, through formal and informal discussions, a design concept has been developed for project funding from the state PARC (Parkland Acquisitions & Renovations for Communities) grant opportunity. These improvements support and encourage public access while sustaining the unique location for the commercial fishing industry. Once funding is secured, the design will be finalized with Town departments.

The PARC grant allows 54% reimbursement to the Town. The grant application requires that the Town Council set aside the entire amount. 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.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-038  
INTRO: 11/17/11**

**2012-038 TRANSFER \$198,000—PURSUANT TO THE TEMPORARY REPAIR TO PRIVATE ROADS PROGRAM (100% BETTERMENT): TROUT BROOK & FURLONG WAY IN COTUIT**

That the Town Council hereby transfers the sum of \$198,000.00 from the remaining balance in Town Council Order 2008-019 for the purpose of making temporary repairs to Trout Brook and Furlong Way, Cotuit within the Town of Barnstable pursuant to the temporary repair to private roads program and the Town Manager is authorized to contract for and expend the funds made available for this purpose and that betterments be assessed, and the Town Manager is further authorized to accept any grants and/or gifts in relation thereto.

**SPONSOR:** Councilor Richard G. Barry and Interim Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2012-038**  
**INTRO: 11/17/11**

## SUMMARY

**TO:** Town Council  
**FROM:** Interim Town Manager Thomas K. Lynch  
**DATE:** November 8, 2011  
**THROUGH:** Mark Ells, DPW Director  
**SUBJECT:** Trout Brook and Furlong Way, Cotuit

**BACKGROUND:** The successful passage of Chapter 174 of the Acts of 1994 by the State Legislature of Home Rule legislation authorized the Town to borrow an amount not to exceed \$10 million for repairs to private roads. The Town Council has instituted a Temporary Roads Program, which was reviewed by the Roads Committee and was submitted to be approved by the Department of Public Works Commission in December of 2005. Under this Program the abutters to roads being repaired can be charged betterment assessments for 100% of the actual costs of repairs which they can elect to pay in one lump sum or over a period of 20 years (with interest) none of these roads will be taken by the Town of Barnstable and will remain private roads. Since the inception of the program, \$4.55 million has been borrowed with betterments assessed to all property owners. There are now two private roads in which a majority of the property abutters has expressed interest in repairing – Trout Brook and Furlong Way, Cotuit.

The proposed work is to clean existing catch basins, install new drainage, and repair and repave all road surfaces.

The cost of improvements: \$198,000, cost per 34 abutters, not to exceed \$6,000.00

**FISCAL IMPACT:** There is no cost to the Town, as all costs paid by betterments assessed to the abutters.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends that the Town Council approve the action proposed by this order.

**BOARD AND COMMISSION ACTION:** The Public Works Commission supports this Order.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-039  
INTRO: 11/17/11**

**2012-039 ACCEPTANCE OF A GIFT OF TWO PARCELS FOR OPEN SPACE & RECREATIONAL PURPOSES ON NYES NECK ROAD, CENTERVILLE**

**ORDERED:** That the Town Council does hereby accept with appreciation a gift of land located at 15 Nyes Neck Road East, Centerville (Map 233, Parcel 026-001) and a gift of land located at 175 Nyes Neck Road, Centerville (Map 233, Parcel 002-006), a total of 0.99 acres, for Open Space and Recreation purposes under the Community Preservation Act from the Robert M. Jones family.

**SPONSOR:** Interim Town Manager, Thomas K. Lynch, 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# 2012-039**  
**INTRO: 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** November 8, 2011  
**SUBJECT:** Nyes Neck Road—gift of land

**BACKGROUND:** The Community Preservation Committee (CPC) met on Monday June 20, 2011 and unanimously recommended to the Town Council, through the Interim Town Manager to accept a gift of 0.47 acres of land located at 15 Nyes Neck Road East, Centerville, MA (Map 233, Parcel 026-001) and 0.25 acres of land located at 175 Nyes Neck Road, Centerville, MA (Map 233, Parcel 002-006), for Open Space and Recreational purposes under the Community Preservation Act.

**RATIONALE:** The Robert M. Jones family approached the Town offering a gift of two parcels of land located on Nyes Neck Road East and Nyes Neck Road in Centerville. The land will be held under municipal ownership and overseen by the CPC specifically for active or passive recreational use by residents of the Town of Barnstable, including, without limitation, small boating, fishing, swimming, kayaking, and picnicking.



**B. NEW BUSINESS (Refer to public hearing 12/1/11) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-040  
INTRO: 11/17/11**

**2012-040 APPROPRIATION--\$150,000 FROM CPC FUND RESERVE FOR OPEN SPACE  
ACQUISITION OF 1.17 ACRES ALONG MARSTONS MILLS HERRING RUN**

**ORDERED:** That pursuant to the provisions of G. L.c. 44B, the sum of One Hundred Fifty Thousand and No/100 (\$150,000.00) Dollars be appropriated for the acquisition of an interest in land consisting of a Conservation Restriction on 1.17 acres of land along the Marstons Mills Herring Run located at 60 Flume Ave, Marstons Mills, MA shown on Assessor's Map as Map 061 Parcel 009; and to fund this appropriation \$150,000.00 be transferred from the amount set aside for Open Space and Recreation in the Community Preservation Fund; that the Interim Town Manager is authorized to contract for and expend the amount appropriated for this acquisition as recommended by the Community Preservation Committee and Interim Town Manager; and that the interest acquired be secured by a Conservation Restriction in favor of the Town.

**SPONSOR:** Councilor Janice L. Barton at the request of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-040**  
**INTRO: 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** November 8, 2011  
**SUBJECT:** Acquiring 1.17 acres for open space and recreation purposes

**BACKGROUND:** The Community Preservation Committee (CPC) met on Monday September 26, 2011 and unanimously voted to recommend to the Town Council, through the Interim Town Manager, to support the appropriation of funds requested by the Barnstable Land Trust (BLT) in the amount of \$150,000.00 for the purpose of acquiring 1.17 acres of land along the Marstons Mills Herring Run located at 60 Flume Ave, Marstons Mills, MA.

**RATIONALE:** Barnstable Land Trust (BLT) has negotiated the purchase of a buildable lot on the Marstons Mills River herring run and Middle Pond for \$300,000. BLT is requesting Community Preservation Act funding towards half of the purchase price of the parcel. BLT would own the land subject to a conservation restriction held by the Community Preservation Committee.

The well-wooded and densely vegetated parcel slopes gently down to the outlet stream draining Middle Pond. Both Mystic Lake and Middle Pond drain south to North Bay and Nantucket Sound via the herring run and the Marstons Mills River. This parcel abuts wetlands along the eastern bank of the head of this narrow, shallow river. All of the river's migrating blue-black herring and alewives pass by this point to spawn in the ponds.

Public access is from Flume Avenue, where a dirt and gravel drive enters the property with an 8' wide trail leading down to a clearing by Middle Pond. BLT will allow the clearing to re-vegetate naturally, while maintaining a narrower trail to the pond. The existing trail connects to a trail network on adjoining Town-owned open space protecting the herring run flume.

The Acquisition of this parcel will protect freshwater wetlands, the Marstons Mills River herring run, and the quality of the public water supply; enhance adjoining Town conservation lands; preserve important wildlife habitat; provide a scenic view of Middle Pond and the headwaters of the Marstons Mills River; encourage passive recreation opportunities; and provide Town access for maintenance of the herring run.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-041  
INTRO: 11/17/11**

**2012-041 RESOLVE ON THE EXPENDITURE OF \$321,000 FOR THE CONSERVATION RESTRICTION APPROPRIATED UNDER AGENDA ITEM 2008-112**

**RESOLVED:** That the expenditure of the appropriation under Town Council Order 2008-112 for \$321,000, passed on March 27, 2008 for acquisition of a conservation restriction of 9.8 acres of Cobb Trust property, with an address of 755 Independence Drive, Hyannis, be and henceforth, is no longer subject to an agreement with the Department of Fisheries and Wildlife for use of other lands to support the Town bikeway.

**SPONSOR:** Interim Town Manager Thomas K. Lynch at the request of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-041**  
**INTRO: 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** November 8, 2011  
**SUBJECT:** Acquisition of land on Map 332, Parcel 010-002

**BACKGROUND:** The Community Preservation Committee (CPC) met on Monday October 24, 2011 and unanimously voted to recommend to the Town Council, through the Interim Town Manager, that the Town Council votes to remove the Conservation Restriction language from Council Order 2008-112.

**RATIONALE:** The Conservation Restriction acquisition was appropriated subject to an agreement with the Department of Fisheries and Wildlife for an easement and the use of other lands in order to support the town bikeway project. At this time, there has not been an agreement between the Town of Barnstable and the Department of Fisheries and Wildlife and in order to continue with the project, the Community Preservation Committee would like to see the Conservation Restriction language removed in order to acquire the property outright for bikeway mitigation.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-042  
INTRO: 11/17/11**

**2012-042 AUTHORIZE THE TOWN MANAGER TO ACCEPT A DEED OF 3 PARCELS ABUTTING STEWART'S CREEK RESTORATION PROJECT IN LIEU OF TAX FORECLOSURE**

**RESOLVED:** That the Interim Town Manager is authorized to accept a deed in lieu of tax foreclosure pursuant to M.G.L. Ch. 60, s. 77C, for three vacant parcels of land situated in the Town of Barnstable located at 0 Studley Road, 0 Ocean Avenue, and 160 Ocean Avenue, in the Town of Barnstable, Village of Hyannis, Commonwealth of Massachusetts, consisting of approximately 0.88, 0.39 and 0.72 acres respectively, and bounded and described in the Quitclaim Deed dated August 22, 2011 executed by Martha Watkins Curry to the Town of Barnstable, and to record said deed at the Barnstable Registry of Deeds.

**SPONSOR:** Councilor J. Gregory Milne and Interim Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2012-042**  
**INTRO: 11/17/11**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Interim Town Manager  
**THROUGH:** Thomas F. Geiler, Director, Regulatory Services Department  
**DATE:** Oct. 25, 2011  
**SUBJECT:** Acceptance of Parcels of Land – Stewart’s Creek

**BACKGROUND:** Subject parcels are situated in and abutting Stewart’s Creek at the proposed restoration project locus. The acceptance of these parcels completes in advance the land acquisition requirement of the Army Corps for any future Phase II dredging.

**ANALYSIS:** The parcels consist both entirely or predominately of marsh, providing an important buffer and lending to the greenway aesthetics of the Creek. The parcels abut existing conservation land.

**FISCAL IMPACT:** The parcels, assessed for \$37,700, \$9,400 and \$10,600 respectively are presently in tax title with back taxes accumulating to \$23,457. The parcels would be deeded in lieu of taxes owed. Given that the parcels are marshland, there’s little likelihood of the taxes being paid in future. Obtaining them as proposed would avoid Town expending \$3,000 to bring them through tax title.

**TOWN MANAGER RECOMMENDATION:** The Interim Town Manager recommends favorable action.

**STAFF ASSISTANCE:** R. Gatewood

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-043  
INTRO: 11/17/11**

**2012-043 PETITIONING THE COMMONWEALTH—A SPECIAL ACT RELATIVE TO BORROWING, TERMS, & APPORTIONMENT OF BETTERMENTS & ASSESSMENTS - SEWER PROJECTS**

**RESOLVED**, that the Town Manager submit a petition to the Great and General Court of the Commonwealth for a Special Act to establish the term and apportionment of betterments and assessments for sewer projects beginning April 7, 2011.

“AN ACT RELATIVE TO BORROWING FOR AND THE TERM AND APPORTIONMENT OF BETTERMENTS AND ASSESSMENTS FOR SEWER PROJECTS IN 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 any general or special law to the contrary, the following procedures shall apply in the Town of Barnstable to assessments pursuant to chapters 80 or 83 of the General Laws for making and repairing sewers within the Town of Barnstable.

(a) At any time before the completion by the assessors of the valuation list for the year in which assessments for making and repairing sewers will first appear on the annual tax bill, the board of assessors may, and at the request of the owner of the land assessed shall, apportion all such assessments or unpaid balances thereof into such number of equal portions, not exceeding thirty years or the useful life of the main drains and common sewers as approved by the department of environmental protection, whichever is less, as is determined by said board or as is requested by the owner of land, but no one of such portions shall be less than five dollars.

(b) Assessments made in accordance with subsection (a) may be determined by the board of assessors so that the principle and interest combined for each portion of all assessments and unpaid balances shall be as nearly equal as practicable.

(c) The annual portion adopted by the board of assessors pursuant to subsection (a) shall be billed and collected at the election of the town on quarterly, semi-annual or a single tax bill or bills, as the board of assessors shall determine.

Section 2: This act shall take effect upon its passage and apply to all betterments and assessments made after April 7, 2011.

**SPONSOR:** Interim Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read Item	
___ Rationale	
___ Council Discussion	
___ Move/Vote	

# BARNSTABLE TOWN COUNCIL

**ITEM# 2012-043**  
**INTRO: 11/17/11**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Interim Town Manager  
**DATE:** November 9, 2011  
**SUBJECT:** An Act relative to the term and apportionment of betterment assessments for sewer projects in the Town of Barnstable

**RATIONALE:** As the Town has begun the process of expanding sewer connections into various areas of town, it is desirable to provide additional financial assistance to homeowners to make the cost more affordable. Current state law limits the Town the amount of and flexibility of financial assistance it can currently provide and this item seeks special legislation to expand these options.

Table 1 illustrates the currently allowed amortization schedule using the preliminary assessment for the Stewart's Creek project. Assuming the maximum allowed amortization period of 20 years the first year payment would be approximately \$751. This method uses a fixed annual principal payment and the total annual payment declines every year as the interest costs go down.

Table 2 illustrates the option to extend the amortization to 30 years. Extending the amortization period to 30 years, results in a decrease in the first year's payment to \$612 from \$751. The total interest cost incurred will increase because of the longer amortization period.

Table 3 illustrates the option to amortize the assessment using a fixed annual payment amortization method similar to how a mortgage is amortized. This amortization method results in a first year payment of \$482, which is \$269 less than the currently allowed amortization calculation in year 1. The total interest cost incurred will be more under this method as the principal balance is paid down at a slower rate. Additionally, the annual payment will be more by year 13 under this method than the method illustrated in Table 2 because of the slower pay-down of principal.



**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-044  
INTRO: 11/17/11**

**2012-044 ACCEPTANCE GRANT--UP TO \$1000 FOR INSTALLATION COSTS OF 4 ELECTRIC CHARGING STATIONS FROM MA DEPT. OF ENVIRONMENTAL RESOURCES**

**RESOLVED**, that the Town Council hereby accept a grant award of four electric vehicle charging stations and an amount up to \$1,000 for the installation costs of each charging station from the Massachusetts Department of Environmental Resources, and that the Town Manager is authorized to expend the grant monies for the purpose specified therein.

**SPONSOR:** Interim Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-044**  
**INTRO: 11/17/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Richard Elrick, Energy Coordinator  
**THROUGH:** Thomas K. Lynch, Interim Town Manager  
**DATE:** November 8, 2011  
**SUBJECT:** Acceptance of DOER E.V. Charging Station Grant

**BACKGROUND:** Based on a Massachusetts Department of Energy Resources grant application submitted in December of 2010, Barnstable was awarded four (4) Electric Vehicle (EV) Charging Stations, plus \$1,000 each towards the installation costs of the charging stations.

Barnstable was one of 25 cities and towns across the Commonwealth that received 105 charging stations as part of the grant award. Nantucket and Falmouth also received charging stations.

For more than a decade, it has been the policy of the town to reduce its reliance on fossil fuel-based energy, implement energy conservation measures, and increase the use of renewable energy, not only for the municipal and school sectors, but also for the town's residents and businesses. The goal of this policy has always been two-fold: To be "greener" for a healthier environment, and to reduce, or at least to control, some of the volatility of energy costs.

With the transportation sector responsible for over 26 percent of greenhouse gases produced in Massachusetts, electric vehicle technology, while still in its infancy, presents a significant opportunity to reduce green house gas emissions.

**ANALYSIS:** The acceptance of this grant, and the installation of four EV charging stations in Barnstable, will allow the Town to continue to promote its "Green" energy goals, as well as the use of electric vehicles. The four locations selected for the charging stations are: the High School, Town Hall, the North Street Comfort Station, and the Barnstable County Complex.

**FISCAL IMPACT:** While no matching funds are required for this award, the town is required to cover the EV charging station installation costs that exceed of \$1,000. It is expected that the EV Charging Station locations chosen by the town will not require installation costs in excess of the \$1,000 grant award amount.