



Town of Barnstable Town Council

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MEETING AGENDA TOWN HALL HEARING ROOM February 25, 2016 7:00 PM

Councillors:

Jessica Rapp Grassetti
President
Precinct 7

Eric R. Steinhilber
Vice President
Precinct 2

John G. Flores
Precinct 1

Paul Hebert
Precinct 3

Frederick Chirigotis
Precinct 4

James H. Crocker
Precinct 5

William Crocker, Jr.
Precinct 6

Debra S. Dagwan
Precinct 8

James M. Tinsley
Precinct 9

Sara Cushing
Precinct 10

Philip N. Wallace
Precinct 11

John T. Norman
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator:
Cynthia A. Lovell

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. TOWN MANAGER COMMUNICATIONS**
- 7. ACT ON MINUTES (Including Executive Session)**
- 8. COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements**
- 9. ORDERS OF THE DAY**
 - A. Old Business**
 - B. New Business**
- 10. ADJOURNMENT**

NEXT REGULAR MEETING: March 3, 2016

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A. OLD BUSINESS

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Approve Minutes – February 11, 2016

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 (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2016-074
INTRO: 02/11/16, 02/25/16**

**2016-074 AMENDING THE ADMINISTRATIVE CODE, CHAPTER 241, ARTICLE III,
MULTIPLE MEMBER APPOINTIVE ORGANIZATIONS: CHAPTER 241-9
COUNCIL ON AGING**

ORDERED: That the General Ordinances of the Code of the Town of Barnstable, Chapter 241-9A, Council on Aging, Term of Office, be amended by striking out the number thirteen (13) in the first sentence therein and by substituting in its place the number nine (9).

So that §241-9A as amended shall read as follows:

241-9 Council on Aging

Term of office: There shall be a Council on Aging consisting of three member classifications: nine (9) regular members, one (1) alternate member, and two (2) associate members. The alternate member may serve on committees and will have voting rights at meetings if there is an absence of a regular member. Associate members may serve on committees, but have no voting privileges if a regular member is absent.

SPONSOR: Councilor Sara Cushing – Precinct 10

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2016-074
INTRO: 2/11/16, 02/25/16

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: February 11, 2016
SUBJECT: Amending the Administrative Code, Chapter 241, Article III, Multiple Member Appointive Organizations: Chapter 241-9 Council On Aging

BACKGROUND: The Council on Aging (COA) is a multiple member appointed advisory board under the authority of the Town Council. The purpose of the COA is to advocate for and meet the needs of the elderly residents of the Town of Barnstable. They work collaboratively with the Director and staff of the Senior Services Division, as well as the Friends of the Barnstable Council on Aging.

RATIONALE: The COA's current membership is thirteen (13) regular members, one (1) alternate member, and two (2) associate members. The board members recently undertook the process of updating their bylaws and due to the ongoing lack of engagement on the board and difficulty in attaining a quorum, they are recommending that the number of regular members be reduced to nine (9) so as to produce a more active and robust board. The alternate and associate positions will remain as is. At their January 20, 2016 meeting, the board voted unanimously to approve the recommendation and is now moving this request forward to the Town Council to amend the administrative code to reflect this change in membership.

FISCAL IMPACT: None

STAFF ASSISTANCE: Ruth Weil, Town Attorney; Lynne Poyant, Director of Community Services;
Madeline Noonan, Director of Senior Services

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2016-075
INTRO: 02/11/16, 02/25/16**

2016-075 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$85,000.00 FROM THE COMMUNITY PRESERVATION FUND FOR HISTORIC PRESEVATION AND RESTORATION OF THE OLDE COLONIAL COURTHOUSE, ROUTE 6A (MAIN STREET) AND RENDEZVOUS LANE, BARNSTABLE

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c 44B, the sum of Eighty-Five Thousand and NO/100 (\$85,000.00) Dollars be appropriated for the preservation and restoration of the Olde Colonial Courthouse, located at 3046 Main Street (Route 6A) and Rendezvous Lane, Barnstable; and that to fund this appropriation, the amount of \$11,267 be transferred from the amount set aside for historic preservation in the Community Preservation Fund and the sum of \$73,733 be transferred from the undesignated funds in the Community Preservation Fund. Preservation and rehabilitation methods include roof, gutters, siding, foundation, electrical system, porch and chimney repairs and removal; to be secured by an historic preservation restriction; that the Town Manager is authorized to expend the amounts appropriated for the stated purposes contingent on the awarding of a Massachusetts Cultural Council grant in the matching amount of \$85,000.00 representing the other 50% of a project total of \$170,000.00; and that the Town Manager is authorized to obtain, execute and record a historic preservation restriction on behalf of the town.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2016-075
INTRO: 02/11/16, 02/25/16

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: February 11, 2016
SUBJECT: Historic Preservation of Olde Colonial Courthouse, 3046 Main Street, Barnstable

BACKGROUND: The Community Preservation Committee voted on January 25, 2016 to support a funding request from Tales of Cape Cod in the amount of \$85,000 for historic preservation and restoration of the Olde Colonial Courthouse located at 3046 Main Street, Barnstable representing 50% of the total cost of Phase 1 work. This request for historic CPA funds is reliant on the awarding of a Massachusetts Cultural Council grant representing the other 50% of the total and the required match for the State grant. A Historic Structure Report was completed in January 2015 and based upon the findings and recommendations a multi-phased program to restore and preserve the Olde Colonial Courthouse has been developed. The Old Colonial Courthouse is a “contributing property” in both the Barnstable Village Historic District and the Olde King’s Highway Historic District. The building was constructed between 1763 and 1774 as a Colonial Courthouse. Following the Revolutionary War, it became the Courthouse for the Superior Court of Barnstable County. In 1842 the building was sold to the Third Baptist Church of Barnstable and was renovated into a house of worship retaining the same footprint, foundation, and most of the original framing materials, until 1972 when Tales of Cape Cod acquired it. The past events that have occurred in this building are of historical significance, and the current use of the building for lectures, meetings, and private events contributes to the character of the community. Phase 1 work includes roof repair, gutters and leaders, siding and trim, foundation repair, electrical system upgrade, basement entry gable, repair/replacement of porches and stairs and the removal of an exterior brick chimney that is no longer used.

FISCAL IMPACT: There is no impact to the general fund. All funds are drawn from the Community Preservation Fund.

TOWN MANAGER RECOMMENDATION: Thomas K. Lynch, Town Manager

VOLUNTEER ASSISTANCE: Community Preservation Committee

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2016-076
INTRO: 02/11/16, 02/25/16**

2016-076 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$15,000 FROM THE BISMORE PARK SPECIAL REVENUE FUND FOR MAINTENANCE REPAIRS TO THE SHANTY BOARDWALK AT BISMORE PARK

ORDERED: That the sum of \$15,000 be appropriated for the purpose of funding maintenance repairs and related costs for Bismore Park; and to meet this appropriation, that \$15,000 be transferred from the Bismore Park Special Revenue Fund.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>02/11/16</u>	<u>Refer to Public hearing 02/25/16</u>
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2016-076

INTRO: 02/11/16, 02/25/16

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Jo Anne Miller Buntich, Growth Management Director
DATE: February 11, 2016
SUBJECT: Appropriation and transfer order in the amount of \$15,000 from the Bismore Park Special Revenue Fund for maintenance repairs to the Shanty Boardwalk at Bismore Park

BACKGROUND: Growth Management Department, working with the Building Commissioner and Department of Public Works (DPW) Structures & Grounds Foreman Brian Lauzon, has identified necessary repairs to the shanty boardwalk and the shanties themselves. Over the ten years of its use, the boardwalk has sustained wear and tear and now presents some tripping hazards and weakened areas along its length. The Building Commissioner is confident that the repairs specified by DPW Structures & Grounds will fully address the maintenance issues which include tripping hazards. The shanty buildings need some bracing on the underside of the floors as recommended by the Building Commissioner.

The Shanty artist incubator program has continued to grow over its ten year span. The more than 500 Shanty artists have attracted over 850,000 visitors and reported more than \$1,700,000 in receipts in that time. Several artists have gone on to open their own retail outlets

This budget is based on estimates from DPW Structures and includes specified materials, landscape repair after construction, and labor costs. Our goal is to complete these repairs before the May 13th opening of the 2016 Shanty season.

FISCAL IMPACT: The Bismore Park Special Revenue Fund has sufficient resources to fund these repairs which follow the fund purpose. The current balance in the account is \$ 388,000. Gross revenue generated from Bismore parking meter receipts in fiscal year 2015 was \$300,000.

TOWN MANAGER RECOMMENDATION: Thomas K. Lynch, Town Manager recommends approval of this fund transfer.

STAFF ASSISTANCE: Melissa Hersh, Growth Management Department, Arts & Culture Coordinator, Economic Development Program; Tom Perry, Building Commissioner; Brian Lauzon, General Foremen, DPW Structures & Grounds

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM NO# 2015-077
INTRO: 02/25/16**

**2015-077 AMEND THE GENERAL CODE OF THE TOWN OF BARNSTABLE
CHAPTER 1-7 SETTING THE SCHEDULE OF CONSUMER AFFAIRS FEE
SCHEDULE CHANGES TO BE IN EFFECT IN THE TOWN OF BARNSTABLE**

ORDERED: That Chapter 1-7 of the General Code of the Town of Barnstable is hereby amended by deleting the current Chapter 1-7 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; amended in its entirety 1-5-2012 by Order No. 2012-034]

§ 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	\$100.00
Fire Hydrant	\$100.00
Overtime	\$40.00
Meter	\$40.00
Other Parking Violations	\$40.00
Vehicle with expired inspection sticker	\$50.00
Vehicle with expired registration plate or decal	\$50.00

That Chapter 76-3 of the General Code of the Town of Barnstable is hereby amended by deleting the current Chapter 76-3 language and replacing it with the following language.

§ 76-3Weights and Measures Annual Fees (MGL c. 98, § 56).

[Amended 3-4-2010 by Order No. 2010-071; 1-17-2013 by Order No. 2013-064]

Description	Fee Per Device	
	1 to 3	4 or more
Scale with capacity over 10,000 pounds	\$275.00	\$250.00
Scale with capacity 5,000 to 10,000 pounds	\$145.00	\$120.00
Scale with capacity 100 to 5,000 pounds	\$90.00	\$80.00
Scale with capacity less than 100 pounds	\$60.00	\$55.00
Weights (each)	\$10.00	\$8.00
Liquid measures	\$40.00	\$40.00
Liquid measure meters	-----	-----
Lubricant meters	\$60.00	\$55.00
Motor fuel meters	\$60.00	\$55.00
Vehicle tank meters	\$120.00	\$110.00
Vehicle tank meter gravity	\$185.00	\$160.00
Bulk storage tank meter	\$185.00	\$160.00
Mechanical pumps, each stop	\$15.00	\$15.00
Taxi meters (semiannually)	\$60.00	\$55.00
Commercial odometer - hub odometer	\$60.00	\$65.00
Leather measure	\$185.00	\$160.00
Dry measure, one bushel or less	\$95.00	\$95.00
Dry measure, more than one bushel	\$130.00	\$130.00
Counting device	\$35.00	\$35.00
All other measuring devices	\$135.00	\$135.00
Rope, wire or chain measuring devices	\$35.00	\$30.00

Description	Fee Per Device	
	1 to 3	4 or more
Re-inspection fee (after official rejection)	\$100.00	\$100.00
Reverse vending machines		
Bottle and can redemption inspection		
Disposable test material supplied by inspector	\$35.00	\$30.00
Disposable test material supplied by store	\$20.00	\$15.00
Automatic electronic check-out systems		
3 or less cash registers (per inspection)	\$95.00	
4 to 11 cash registers (per inspection)	\$180.00	
12 or more cash registers (per inspection)	\$300.00	
Adjustment Fee	\$25.00	\$25.00
Legal Ad Fee	\$75.00	\$75.00
Inspection/Fines	\$10 per additional month after 120 days late	\$10 per additional month after 120 days late

That Chapter 76-4 of the General Code of the Town of Barnstable is hereby amended by deleting the current Chapter 76-4 language and replacing it with the following language.

§ 76-4Licenses.

[Amended 3-4-2010 by Order No. 2010-071; 1-5-2012 by Order No. 2012-034; 1-17-2013 by Order No. 2013-064; 11-7-2013 by Order No. .2014-034]

MGL c./Section	Description	Fee
40, § 22	Taxicabs/limos (Town Manager)	\$50.00
100, § 2	Auctioneer, Annual (Town Manager)	\$15.00
100, § 2	Auctioneer, Temporary (Town Manager)	\$10.00
101, § 33	Temporary license to sell for charitable purposes	\$10.00
101, § 33	Temporary license to sell for charitable purposes	\$10.00
138, § 12	Club, All Alcohol	\$2,225.00
138, § 12	Club, Wine & Malt	\$1,725.00
138, § 12	Common Victualer, all alcohol	\$3,050.00
138, § 12	Common Victualer, Wine & Malt	\$1,950.00
138, § 12	Inn holder, All Alcohol	\$3,550.00
138, § 12	Inn holder, Wine & Malt	\$2,450.00
138, § 12	General On Premise, All Alcohol	\$3,900.00
138, § 12	General On Premise, Wine & Malt	\$3,400.00
138, § 12	Annual General On Premise - Art Gallery, Wine & Malt	\$750.00
138, § 12	Seasonal General On Premise - Art Gallery, Wine & Malt	\$1,000.00
138, § 12	Farmer-brewery pouring	\$3,050.00
138, § 14	One-day, All Alcohol	\$90.00
138, § 14	One-day, Wine & Malt	\$40.00
138, § 14	One-day, beer only/wine only	\$35.00
138, § 15	Package store, All Alcohol	\$3,025.00
138, § 15	Package store, Wine & Malt	\$1,950.00

MGL c./Section	Description	Fee
138, § 30A	Pharmacist to sell alcoholic beverages	\$2,000.00
140, § 2	Inns and Restaurants (Common Victuallers)	\$100.00
140, § 21B	Nonalcoholic beverages	\$100.00
140, § 32B	Mobile home parks	\$50.00
140, § 32B	Motels	\$50.00
140, § 34	Lodging House	
	10 guests or fewer	\$75.00
	More than 10 guests	\$125.00
140, § 49	License for vehicle for sale of food	\$250.00
140, § 54	Junk dealer (Secondhand Dealer)	\$50.00
140, § 56	Private Parking Lot (per space) (Town Manager)	\$14.00
140, § 56A	Shooting Gallery	\$100.00
140, § 59	Auto Dealer	\$150.00
140, § 177	Pool Table (each)	\$75.00
140, § 177A	Automatic Amusement Devices (each)	\$100.00
140, § 181	Live Theatre (Theatrical Exhibitions)	\$100.00
140, § 183A	Karaoke	\$100.00
140, § 183A	Entertainment	
	Annual, Seven-day live	\$275.00
	Annual, Seven-day non-live	\$75.00
	One Day, Not-for-profit	\$25.00

MGL c./Section	Description	Fee
	One Day, For-profit	\$50.00
140, § 1851	Fortune-tellers	\$250.00
140, § 186	Carousel	\$75.00
140, § 192	Rental boats (freshwater)	\$100.00
148, § 13	Storage of hazardous materials (Town Manager)	\$100.00
	Septic system inspection fee (Health)	\$25.00
	Board of Health request for variance	\$95.00
	Application fee licenses and permits	\$100.00
	Bad check fee	\$25.00
	Annual/Seasonal License Late fee	\$100.00
	Special Event late filing fee	\$25.00
	Operating an establishment without valid license	Double the Total Cost of Fees
	Operating a special event without valid license	Double the Total Cost of Fees

Comparison: Current Fee- Proposed Fee

Article II: Schedule of Parking Fines

[Adopted 5-6-2004 by Order No. 2004-077; amended in its entirety 1-5-2012 by Order No. 2012-034]
 § 1-7 Parking fines in effect.

TYPE OF VIOLATION	EXISTING	PROPOSED
Fire Lane	\$50.00	\$100.00
Fire Hydrant	\$25.00	\$100.00
Overtime	\$25.00	\$40.00
Meter	\$25.00	\$40.00
Other Parking Violations	\$25.00	\$40.00

All others no change

§ 76-3Weights and Measures Annual Fees (MGL c. 98, § 56).

[Amended 3-4-2010 by Order No. 2010-071; 1-17-2013 by Order No. 2013-064]

FEE	EXISTING	PROPOSED
Adjustment Fee	\$0	\$25
Inspection/Fines Late Payment Fee	\$0	\$10 per additional month after 120 days late
Legal Ad Fee	\$0	\$75

All others no change

§76-4 Miscellaneous licenses and permits.

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

FEE	EXISTING	PROPOSED
Legal ad	\$0	\$75
Private parking lots	\$8/space	\$14/space
Innholder, Wine & Malt	\$0	\$2,450
General on Premise, Wine & Malt	\$0	\$3,400
Club, Wine & Malt	\$0	\$1,725

General On Premise Art gallery, Annual Wine & Malt	\$0	\$750
General On Premise Art gallery, Seasonal Wine & Malt	\$0	\$1,000
Operating an establishment without valid license	\$0	Double the Total Cost of Fees
Operating a special event without valid license	\$0	Double the Total Cost of Fees
Special event late filing fee	\$0	\$25

All others no change

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Council discussion
- _____ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM NO# 2015-077
INTRO: 02/25/16

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Richard V. Scali, Director Regulatory Services Department
DATE: February 25, 2016
SUBJECT: Consumer Affairs Fee Schedule Changes

BACKGROUND: Chapter 1-7, Article II & Chapter 76-6 of the General Ordinance contains the schedule of fees established by the Town Council. The fees contained therein are primarily fees for 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. The fee schedule was last changed in June 2012 and in March of 2010.

ANALYSIS: Changes in laws and regulations as well as changes in technology impact the procedures and policies governing the licensing and inspection process. Increasing personnel and administrative costs associated with processing permit applications as well as required inspectional functions. 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.

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 FY17. 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 continually increase our efficiency and effectiveness. We cannot do that without appropriate resources. Fees for service are an important resource.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this fee change.

STAFF ASSISTANCE: Richard V. Scali, Director of Regulatory Services
Elizabeth Hartsgrove, Consumer Affairs Supervisor

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2016-078
INTRO: 02/25/16**

2016-078 ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$24,850.00 FROM THE STANTON FOUNDATION FOR DESIGN AND PERMITTING FOR A NEW DOG PARK LOCATED AT HATHAWAY’S POND HYANNIS

ORDERED, that the Town Council hereby accepts a grant award in the amount of \$24,850.00 from the Stanton Foundation for the design and permitting of a new dog park at Hathaway's Pond and that the Town Manager is authorized to expend the grant monies for the purpose specified therein.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2016-078
INTRO: 02/25/16

SUMMARY

TO: Town Council
THROUGH: Thomas K. Lynch, Town Manager
FROM: Daniel W. Santos, P.E., DPW Director
DATE: February 25, 2016
SUBJECT: Acceptance of a grant in the amount of \$24,850.00 from the Stanton Foundation for design and permitting for a new dog park located at Hathaway's Pond, Hyannis

BACKGROUND: The acceptance of this grant will allow the Department of Public Works to proceed with the procurement of architectural landscape design services for this project. The Dog Committee has provided \$5,000 for preliminary design and application work by DPW. Construction funds will be sought through the Stanton Foundation at the completion of the design.

FISCAL IMPACT: There is no grantee cost share or match requirement. The Department of Public Works has been awarded a \$24,850.00 grant from the Stanton Foundation. These funds will be used to procure landscape architectural services for design, cost estimating, bid assistance and contract administration services required for a new dog park. A local group of residents has promoted such a park and has the support of the Town for this park.

TOWN MANAGER RECOMMENDATION: Thomas K. Lynch, Town Manager recommends acceptance of this grant.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2016-079
INTRO: 02/25/16**

**2016-079 APPROVING THE APPOINTMENT OF THE TOWN COUNCIL
ADMINISTRATIVE ASSISTANT, KELLY CRAHAN**

RESOLVED: Approving the appointment of the Administrative Assistant for the Town Council, Kelly Crahan, in accordance with the Town’s compensation plan for a Grade 8, Step 1

SPONSOR: Cynthia A. Lovell, Administrator/ Town Council

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2016-080
INTRO: 02/25/2016**

**2016-080 AUTHORIZATION OF A TAX FINANCING AGREEMENT FOR THE
PROPERTY LOCATED AT 867 IYANNOUGH ROAD, HYANNIS, MAP 294,
PARCEL 017**

RESOLVED: That the Town Council hereby approves for the property within the Barnstable County Economic Target Area (ETA) located substantially in the form as presented to the Town Council and the Tax Increment Financing Plan pursuant to GL c. 40, §59. And further, the Town Council authorizes the Town Manager to submit the TIF Agreement and Tax Increment Financing Plan pursuant to GL c. 40, §59 to the Massachusetts Economic Assistance Coordinating Council (EACC) as described in the TIF Agreement and to take such other actions as may be necessary to obtain approval the TIF Agreement and he Tax Increment Financing Plan and to implement the TIF Agreement.

SPONSOR: Council Vice President Eric Steinhilber and Councilor Phillip Wallace

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2016-080
INTRO: 02/25/2016

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Director Growth Management
DATE: February 25, 2016
SUBJECT: Authorization of a Tax Financing Agreement for the property located at 867 Iyannough Road, Hyannis, Map 294, Parcel 017

RATIONALE: This Tax Increment Financing (TIF) Agreement is between the Town of Barnstable, RSA Realty, Inc. (Lessor) and K Hyannis Hospitality (applicant) and must also be approved by the Economic Assistance Coordinating Council (EACC). TIF agreements are authorized by GL c. 40, §59 which allows the Town to enter into this Agreement with the property owner and the operating business to support new development that produces new jobs through investment in structures and/or equipment. The TIF Agreement does not abate existing property taxes. It exempts a percentage of the increase in valuation resulting from the new investment for the period described in the Agreement

The TIF Agreement is a contract between the municipality, the property owner and the job creating business whereby each party agrees to undertake certain actions for the benefit of the other in order to achieve the common goal of having the business locate or expand within the Town and receive the local benefits available to it as a Certified Project. The TIF Agreement sets forth the amount of the tax exemption and the duration of the benefits, and describes the responsibilities of the business towards the municipality that has made these benefits available.

The applicants worked with the Town to develop this Agreement through the Town Council TIF Committee. The Growth Management Department initiated and coordinated this process at the applicant's request. An agreement on the TIF financing structure was reached between the applicant and the TIF Committee. The TIF committee members of the Town Council, at their meeting on February 11, 2016 voted to recommend this matter to the full Council for their action.

FISCAL IMPACT: By approving this TIF agreement the Town agrees to forgo the collection of a total of \$335,559 in net tax gain an incremental reduction of 70% over a period of 20 years in return for the creation of 24 year round management, skilled, and unskilled full time jobs and 14 part-time jobs created within one year of the project opening; the investment of \$17,240,800 in to land and building acquisition, new construction, and equipping the site and building for the project – a 126 room Fairfield Inn & Suite.

STAFF ASSISTANCE: Mark Milne, Finance Director; Ruth J. Weil, Town Attorney;
Charles McLaughlin, Assistant Town Attorney; Jeff Rudziak, Assessor
Jo Anne Miller Buntich, Director Growth Management.

EDIP Local Incentive Only Application Exhibit 1: Local Incentive Valuation

FY	Municipal Tax Rate Per Thousand	Incremental Assessed Value	Projected Annual RE Property Tax Bill for Incremental Assessed Value	TIF/STA Yearly Exemption %	Exempted Annual RE Property Taxes	Exempted Annual Personal Property Taxes	Total Yearly Value of Local Tax Incentives
2018	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2019	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2020	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2021	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2022	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2023	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2024	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2025	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2026	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2027	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2028	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2029	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2030	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2031	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2032	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2033	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2034	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2035	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2036	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
2037	\$8.41	\$2,850,000.00	\$23,968.50	70%	\$16,777.95	\$0.00	\$16,777.95
				TOTALS	\$335,559.00	\$0.00	\$335,559.00

Note: In Massachusetts, Proposition 2½ operates at the level of a municipality’s total tax levy. Due to Proposition 2½, it is impossible to make reliable projections for individual parcels, whose taxes may increase much more or much less than the municipality’s

TAX INCREMENT FINANCING AGREEMENT

BY AND BETWEEN

THE TOWN OF BARNSTABLE,

RSA REALTY, INC.

AND

K HYANNIS HOSPITALITY, LLC

THIS AGREEMENT is made this day of February ____, 2016, by and between the TOWN OF BARNSTABLE, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, having a principal place of business at Town Hall, 367 Main Street, Hyannis, MA 02601 (hereinafter referred to as the "TOWN"), RSA REALTY, INC., a Massachusetts corporation, having a principal place of business at 11 Thissell Street, #3, Prides Crossing, MA 01968 ("LESSOR") and K HYANNIS HOSPITALITY, LLC, a Connecticut limited liability company, having a principal place of business at 342 North Main Street, Suite 200, West Hartford, CT 06117 ("APPLICANT").

WITNESSETH

WHEREAS, the SITE is located in Hyannis, Massachusetts. Hyannis is a village of the Town of Barnstable which is a member of the Barnstable County Economic Target Area ("ETA") as certified by the Massachusetts Economic Assistance Coordinating Council ("EACC");

WHEREAS, the APPLICANT is the ground lessee of certain land and the owner of the buildings located at 867 Iyannough Road (Route 132), Hyannis, Massachusetts ("SITE") and shown as the land described in Barnstable Assessors' records Map 294, Parcel 017, all as shown on the map in the attached Exhibit A, together with any buildings and improvements thereof;

WHEREAS, the APPLICANT ground leased the land and purchased the improvements described in Exhibit A from LESSOR, the existing building containing approximately 41,404 s/f. The planned capital improvements include an increase in the number of rooms from ninety-nine (99) to one hundred twenty-five (125), a reduction in the overall building footprint of two thousand five hundred and fifty-seven (2,557) square feet, the elimination of a curb cut on Route 132, enhanced landscaping along Route 132, and a major refurbishment of existing rooms and facilities of the hotel, which is scheduled to open in May, 2016 (the "CERTIFIED PROJECT");

WHEREAS, the construction portion of the CERTIFIED PROJECT requires approximately fifty (50) full time skilled and unskilled construction personnel, and the APPLICANT is committed to employing construction personnel from the ETA when feasible.;

WHEREAS, the CERTIFIED PROJECT, when completed and fully operational, will employ approximately twenty-four (24) permanent full-time employees, including three (3) managers, eleven (11) skilled employees, and ten (10) unskilled personnel during the off-peak season. It is also anticipated that the CERTIFIED PROJECT will employ approximately thirty-eight (38) full-time employees during the peak season (May 1 – October 31), and will represent an investment of at least

seventeen million two hundred forty thousand eight hundred dollars (\$17,240,800.00) (including land and building acquisition) in the CERTIFIED PROJECT;

WHEREAS, the LESSOR is seeking a Tax Increment Financing Exemption from the TOWN (the "EXEMPTION") in order to benefit the APPLICANT, in accordance with the Massachusetts Economic SITE Incentive Program (the "EDIP") and Chapter 23A of the Massachusetts General Laws;

WHEREAS, the assessed valuation of the SITE for Fiscal Year 2016 is \$4,091,900;

WHEREAS, the TOWN strongly supports increased economic activity at the SITE to provide additional jobs for residents of the TOWN, the ETA and Massachusetts and to expand commercial, retail and industrial activity within the TOWN, and to develop a healthy economic and strong tax base;

WHEREAS, the CERTIFIED PROJECT will further the economic SITE goals and the criteria established for the ETA;

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration each to the other paid, receipt of which is hereby acknowledged, the parties hereby agree as follows:

A. TAX INCREMENT FINANCING EXEMPTION

1. The TOWN, as authorized by vote of its Town Council passed on _____, 2016, hereby enters into this Tax Increment Financing Agreement (the "AGREEMENT") with the APPLICANT for the CERTIFIED PROJECT.
2. The EXEMPTION is hereby granted by the TOWN to the APPLICANT in accordance with Chapter 23A, Section 3E; Chapter 40, Section 59; and Chapter 59, Section 5 of the Massachusetts General Laws. The EXEMPTION shall be for the period of twenty (20) years (the "EXEMPTION PERIOD"), commencing with Fiscal Year 2018 (which begins July 1, 2017) and ending with Fiscal Year 2037 (which ends June 30, 2037) and shall provide a percentage EXEMPTION from taxation, as described in the table below, on the increased value of the SITE. The EXEMPTION shall be calculated and remain unchallenged for each fiscal year as follows:

YEAR	FISCAL YEAR	TAX EXEMPTION
1	2018 (7/1/2017 – 6/30/2018)	70% of the increase in valuation
2	2019 (7/1/2018 – 6/30/2019)	70% of the increase in valuation
3	2020 (7/1/2019 – 6/30/2020)	70% of the increase in valuation
4	2021 (7/1/2020 – 6/30/2021)	70% of the increase in valuation
5	2022 (7/1/2021 – 6/30/2022)	70% of the increase in valuation
6	2023 (7/1/2022 – 6/30/2023)	70% of the increase in valuation
7	2024 (7/1/2023 – 6/30/2024)	70% of the increase in valuation
8	2025 (7/1/2024 – 6/30/2025)	70% of the increase in valuation
9	2026 (7/1/2025 – 6/30/2026)	70% of the increase in valuation
10	2027 (7/1/2026 – 6/30/2027)	70% of the increase in valuation
11	2028 (7/1/2027 – 6/30/2028)	70% of the increase in valuation
12	2029 (7/1/2028 – 6/30/2029)	70% of the increase in valuation
13	2030 (7/1/2029 – 6/30/2030)	70% of the increase in valuation

14	2031 (7/1/2030 – 6/30/2031)	70% of the increase in valuation
15	2032 (7/1/2031 – 6/30/2032)	70% of the increase in valuation
16	2033 (7/1/2032 – 6/30/2033)	70% of the increase in valuation
17	2034 (7/1/2033 – 6/30/2034)	70% of the increase in valuation
18	2035 (7/1/2034 – 6/30/2035)	70% of the increase in valuation
19	2036 (7/1/2035 – 6/30/2036)	70% of the increase in valuation
20	2037 (7/1/2036 – 6/30/2037)	70% of the increase in valuation

3.The EXEMPTION formula for the CERTIFIED PROJECT will be calculated as prescribed by the Massachusetts General Laws Chapter 40, Section 59 and in 760 CMR 22.00. The EXEMPTION formula shall apply to the incremental difference in the assessed valuation of the SITE between the base valuation in the base year, which shall be Fiscal Year 2016, and the increase in assessed valuation of the SITE for twenty (20) years.

4.The base valuation of \$4,091,900 for FY 2016 is the assessed value of the SITE in the fiscal year immediately prior to the fiscal year in which the property becomes eligible for the EXEMPTION.

B. CONDITIONS

The EXEMPTION granted to the APPLICANT by the TOWN hereby is in consideration of the APPLICANT'S commitments stated hereafter as follows:

1. To employ at least twenty-four (24) year-round management, skilled and unskilled personnel and an additional fourteen (14) personnel during the peak times of May 1 to October 31 within one year from the date of the CERTIFIED PROJECT opening on the SITE;
2. To invest at least approximately seventeen million two hundred forty thousand eight hundred dollars (\$17,240,800.00) in land/building acquisition, new construction and equipping the SITE for the CERTIFIED PROJECT as described in the CERTIFIED PROJECT APPLICATION which is scheduled to be placed in use by the end of Fiscal Year 2016;
3. To cooperate with the TOWN, the local Office of the Massachusetts Department of Labor and Workforce Development and other agencies, as appropriate, in seeking to fill job vacancies as they develop, and operate a job outreach program whereby Barnstable and other ETA residents are made aware of job opportunities at the CERTIFIED PROJECT, including advertising in the local newspapers encouraging such residents to apply for employment any time advertisements are otherwise placed for employment at the SITE and hire properly qualified Barnstable and ETA residents on a priority basis consistent with any applicable laws;
4. To submit the official EDIP annual reports on job creation, job retention and new investments at the SITE to the TOWN, and the EACC by September 30th of each year during the EXEMPTION PERIOD, or as otherwise required by the EDIP. The annual report shall be the reports required to be filed pursuant to the EDIP;
5. To pay all taxes owed the TOWN relating to the premises in a timely fashion; and

6. To permit the TOWN, through its Town Manager, or the Town Manager's designee, to manage, administer, monitor and enforce this AGREEMENT;

C. ADDITIONAL PROVISIONS

1. The APPLICANT agrees that the TOWN has the right to petition to the EACC to decertify the project and revoke this AGREEMENT if the TOWN, acting through its Town Council, determines that the APPLICANT has failed in any material way to meet any of the obligations as set forth in this AGREEMENT. Upon decertification by the EACC, the TOWN shall discontinue the EXEMPTION benefits described above, commencing with the fiscal year immediately following the year for which the APPLICANT has so failed to meet its obligations. Prior to filing any such petition for de-certification, however, the TOWN shall give the APPLICANT written notice of the alleged defaults and an opportunity to be heard at a public hearing on the matter. If the TOWN is satisfied that the APPLICANT has made a good faith effort to meet its obligations under this AGREEMENT, the parties will attempt to negotiate a mutually acceptable and reasonable resolution, which may result in amendments to the terms of the AGREEMENT, prior to the TOWN filing a de-certification petition.
2. The APPLICANT shall give the TOWN thirty (30) days written notice prior to any proposed substantial change in the use of, or transfer of title to the SITE. Said notice shall be given to the TOWN at the address listed above. The TOWN shall not, except as required by law, disclose any information provided by the APPLICANT regarding the proposed change in the use of, or proposed disposition of the SITE by the APPLICANT.
3. Pursuant to 760 CMR 22.05 (8) (d), this AGREEMENT shall be binding upon all parties to it, and be binding upon the APPLICANT and their successors and assigns, and shall inure to the benefit of affiliates of the APPLICANT and their successors and assigns so long as the CERTIFIED PROJECT has not been de-certified by the EACC. If the APPLICANT decides to sell or lease the SITE, respectively, the APPLICANT shall give the TOWN at least thirty (30) days written notice of said sale or lease. Said notice shall be given to the Town Manager at the above address.
4. The CERTIFIED PROJECT becomes eligible for the EXEMPTION according to the terms described above, on the July 1st following the date on which the EACC approves the TIF Plan pursuant to which this AGREEMENT is executed, as provided in 760 CMR 22.05 (4)(d).
5. If any provision of this AGREEMENT shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of this AGREEMENT shall be deemed to be amended to the minimum extent necessary to provide to the TOWN and the APPLICANT substantially the benefits set forth in this AGREEMENT.
6. All notices permitted or required under the provisions of the AGREEMENT shall be in writing, and shall be sent by registered or certified mail, postage prepaid, or shall be delivered by private express carrier to the addresses listed above or at such other address as may be specified by a party in writing and served upon the other in accordance with this section.
7. If and to the extent that any party is prevented from performing its obligations hereunder by an event of force majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the parties instead shall negotiate in good faith with respect

to appropriate modifications to the terms hereof. For purposes of the AGREEMENT, the term force majeure shall mean any supervening cause beyond the reasonable control of the affected party, including without limitation requirement of statute or regulation; addition of any court, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to regulatory authority, or public authority having jurisdiction; acts of God, fire, earthquake, floods, procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws or orders of governmental or military authorities, denial of, refusal to grant or appeals of any permit, approval or action of any public or quasi public authority, official, agency or subdivision and any litigation relating thereto, or any other cause similar to the foregoing, not within the control of such party obligated to perform such obligation.

8. Failure by the APPLICANT to perform any term or provision of this AGREEMENT shall not constitute a default under this AGREEMENT unless APPLICANT fails to commence to cure, correct or remedy such failure within thirty (30) days of the receipt of written notice of such failure from the TOWN to the APPLICANT and thereafter fails to complete such cure, correction or remedy within ninety (90) days of the receipt of such written notice, or, with respect to defaults which cannot be remedied within such ninety (90) day period, within such additional period of time as is required to reasonable remedy such default, provided APPLICANT exercises due diligence in the remedying of such default. Notwithstanding the foregoing, any late payments of property taxes due under this AGREEMENT shall be subject to the same interest and penalty charges that would otherwise be levied in case of a failure to timely pay property taxes.
9. After receiving written notice from any person, firm or other entity, that such party holds a mortgage which includes as part or all of the mortgaged premises, any part of the SITE, the TOWN shall, so long as such mortgage is outstanding, be required to give to such holder the same notice as is required to be given to APPLICANT under the terms of this AGREEMENT, but such notice may be given by the TOWN to APPLICANT and such holder concurrently. It is further agreed that such holder shall have the same opportunity to cure any default as is available to APPLICANT and that such holder shall have forty five (45) days more to cure any such default than would be available to APPLICANT under the provisions of this AGREEMENT. In addition, so long as any such holder, within seventy five (75) days of receiving any such notice from the TOWN, shall commence proceedings for foreclosure of any such mortgage and shall, in the meantime, keep and perform or cause to be kept and performed all the obligations of APPLICANT, or shall undertake to cure any default under or failure of APPLICANT to satisfy any condition of this AGREEMENT, to the extent that any such actions can be performed or undertaken by a party proceeding under foreclosure under applicable law, no default or failure of any condition shall exist under this AGREEMENT.
10. Notwithstanding the foregoing, any late payments of property taxes due under this AGREEMENT shall be subject to the same interest and penalty charges that would otherwise be levied in case of a failure to timely pay property taxes.

WITNESSETH the execution and delivery of this AGREEMENT by the TOWN OF BARNSTABLE and K HYANNIS HOSPITALITY LLC, as an instrument under seal as of the date first above written.

THE TOWN OF BARNSTABLE

K Hyannis Hospitality, LLC

By its Manager: JCSK Properties Corporation

By: _____
Town Manager

By: _____
James Wakim, Executive Vice President

RSA Realty, Inc.

By: _____
Robert S. Agnello, President

Exhibits:
Exhibit A-Map of SITE

