



Town of Barnstable Town Council

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Office 508.862.4738 • Fax 508.862.4770
E-mail: council@town.barnstable.ma.us
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MEETING AGENDA TOWN HALL HEARING ROOM October 19, 2017 7:00 PM

Councilors:

Eric R. Steinhilber
President
Precinct 2

James H. Crocker Jr.
Vice President
Precinct 5

John G. Flores
Precinct 1

Paul Hebert
Precinct 3

Frederick Chirigotis
Precinct 4

William Crocker, Jr.
Precinct 6

Jessica Rapp Grassetti
Precinct 7

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

Administrative
Assistant:
Kelly Crahan

Original posted on
10/17/17@10:33am. Updated on
10/18/17 to add Items 2018-034 and
2018-035; Appointments Committee
Presentation regarding Town Manager
Evaluation form

- 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**
 - **Presentation by the Asset Management Committee; Councilor Phil Wallace, Chair; David Anthony, Director of Property and Risk Management; Andrew Clyburn, Assistant Town Manager**
 - **Appointments Committee Members, Councilor John Norman, Chair, Town Manager Evaluation Document**
- 9. ORDERS OF THE DAY**
 - A. Old Business**
 - B. New Business**
- 10. ADJOURNMENT**

NEXT REGULAR MEETING: November 2, 2017

| ITEM NO. | INDEX TITLE | PAGE |
|------------------------|---|-------|
| A. OLD BUSINESS | | |
| 2018-031 | Appropriation and Transfer order in the amount of \$30,000 from the General Fund Reserves, for the design and permitting of a town pier in the Three Bay area (Public Hearing) (Majority Vote) | 3-4 |
| B. NEW BUSINESS | | |
| 2018-032 | Amendment to Regulatory Agreement with Guaranteed Fresh Produce for parking at 30 Iyannough Road, Hyannis, MA accessory to wholesale and retail produce business at 35 Iyannough Road, Hyannis, MA (Public Hearing)(Roll call) (2/3 vote) | 5-11 |
| 2018-033 | Appropriation and Transfer Order in the amount of \$30,000 from the General Fund Reserves to evaluate design and permit a municipal pier in the Barnstable Harbor Area (Refer to Public Hearing 11/02/17) | 12-13 |
| 2018-034 | Appointments to a Board/Committee/Commission: Airport Commission; Joseph Berlandi, Cummaquid, as a regular member term expiring 06/30/18; Disability Commission; Sarah Nicholson, Hyannis, as a regular member to a term expiring 06/30/18 (First Reading) | 14 |
| 2018-035 | Reappointments to a Board/Committee/Commission: Zoning Board of Appeals; Alex Rodolakis as a regular member to a term expiring 06/30/20 (First Reading) | 15 |

Approve Minutes –October 5, 2017

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 (Public Hearing) (Majority vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2018-031
INTRO: 10/05/17, 10/19/17

2018-031 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$30,000 FROM THE GENERAL FUND RESERVES, FOR THE DESIGN AND PERMITTING OF A TOWN PIER IN THE THREE BAY AREA

ORDERED: That the Town Council hereby appropriates and transfers the sum of \$30,000 from the General Fund Reserves, for the purpose of evaluating, designing and permitting a municipal pier located in the Three Bay area; including the payment of costs incidental or related thereto.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-----------------|---|
| <u>10/05/17</u> | <u>Refer to Public Hearing 10/19/17</u> |

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

BARNSTABLE TOWN COUNCIL

ITEM# 2018-031
INTRO: 10/05/17, 10/19/17

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: October 5, 2017
SUBJECT: Appropriation and Transfer Order of \$30,000 from the General Fund Reserves to evaluate design and permit a municipal pier in the Three Bays Area

RATIONALE: Emergency responders have historically had to pay for space along private docks to locate their boats within the three bays area. Our marine services, dredge maintenance program, aquaculture program and comprehensive water management program will benefit from a municipal pier in the three bays area. This appropriation will allow staff to evaluate options to site a municipal pier then proceed to design and permitting of such a facility.

FISCAL IMPACT: Once the pier is designed, a subsequent appropriation request will follow to cover the construction cost of the pier. This appropriation will fund the evaluation, design and permitting costs and is needed to develop the construction and annual maintenance cost estimates. The town's General Fund surplus is estimated to be certified in excess of \$16 million. There is also the opportunity to recover revenues from users of the pier to offset costs of constructing and maintaining the facility.

B. NEW BUSINESS (Public Hearing) (Roll call 2/3 vote)

BARNSTABLE TOWN COUNCIL

**ITEM # 2018-032
INTRO: 10/19/2017**

2018-032 AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO THE REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ADAM WEINER/GUARANTEED FRESH PRODUCE

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the “Code”), to enter into and execute a Regulatory Agreement between the Town of Barnstable and Rockland Trust Company, for the property 765 Main Street, Hyannis, 1.25 acres, shown on Town of Barnstable Assessor’s Map 290 as Parcel 098, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 26821, Page 142 as filed with the Barnstable County Registry District of the Land Court (hereafter, the “Property”); and permitting the redevelopment of the Property and granting the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

AMENDED REGULATORY AGREEMENT

ADAM WEINER/GUARANTEED FRESH PRODUCE
30 & 35 IYANNOUGH ROAD
HYANNIS, MA 02601

This Amended Regulatory Agreement (“Agreement”) is entered into by and between the applicant, Adam Weiner/Guaranteed Fresh Produce (the “Applicant” and/or “Developer”), with a mailing address of 35 Iyannough Road, Hyannis, MA 02601 and the Town of Barnstable (the “Town”), a municipal corporation with a mailing address of 367 Main Street, Hyannis, MA 02601, on this ___ day of _____, 2017, pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapter 168 of the Code of the Town of Barnstable.

WITNESS:

WHEREAS, this Agreement shall establish the following: permitted uses, parking, and setbacks within the proposed Redevelopment (as defined herein), the duration of this Agreement, and any other terms and conditions mutually agreed upon between the Applicant and the Town;

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

WHEREAS, the Applicant owns the property known as and numbered 35 Iyannough Road, Hyannis, MA 02601, which is shown on Barnstable Assessor's Map 343, as Parcel 003, and which is more particularly described in the Certificate of Title No. 186706 recorded with the Barnstable County Land Registration Office (hereafter, the "Property"). The Applicant has a Purchase and Sale Agreement for the purchase of the property at 30 Iyannough Road, Hyannis, MA currently owned by Dmitry Zinov, Trustee, which is shown on Barnstable Assessor's Map 343, as Parcel 015, and which is more particularly described in Certificate of Title No. 184659 recorded with the Barnstable County Land Registration Office.

WHEREAS, the 35 Iyannough Road, Hyannis, parcel is developed with commercial structures, and is the subject of a preexisting Regulatory Agreement between the Town and Guaranteed Fresh Produce, Inc. dated July 23, 2008 and recorded at the Barnstable County Land Registration Office as Document 1096691. The 30 Iyannough Road, Hyannis parcel was a previously developed lot covered almost entirely with asphalt.

WHEREAS, the Applicant purposes to utilize 30 Iyannough Road for truck parking accessory to the produce business located at 35 Iyannough Road as shown on the plans submitted and attached hereto as **Exhibit A** and incorporated by reference: Guaranteed Fresh Produce Site Redevelopment Plans, dated October 9, 2017, eight sheets, (hereafter, the "Redevelopment Plans," and such proposed site work and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment");

WHEREAS, the Redevelopment received unanimous approval from The Barnstable Conservation Commission, on September 19, 2017.

WHEREAS, the Redevelopment is consistent with the Town of Barnstable's Design and Infrastructure Plan;

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

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

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

WHEREAS, the Redevelopment will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Property is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as extended by vote of the Cape Cod Commission on December 3, 2015, and as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

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

WHEREAS, the Redevelopment has undergone formal site plan review and the Town of Barnstable Site Plan Review Committee determined the Redevelopment Plans approvable by decision dated September 7, 2017;

WHEREAS, the Redevelopment proposal has undergone two hearings on the Regulatory Agreement application and received an affirmative majority vote from the Planning Board on September 25, 2017;

WHEREAS, the Redevelopment proposal has undergone a public meeting on the Agreement before the Barnstable Town Council and has received a two-thirds vote approving the Agreement on _____;

WHEREAS, this Agreement authorizes only the use, any other parking lot dimensional requirements are preexisting nonconforming with the proposed construction making said lot more conforming than as presently exists. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Chapter 168-10 of the Code;

NOW, THEREFORE, in consideration of the agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which each of the parties hereby acknowledge to each other, the Applicant and Town do enter into this Agreement, and hereby agree to covenant as follows:

1. The Developer agrees to construct the Redevelopment on the Property in accordance with the Redevelopment Plans which are attached as **Exhibit A** to this Agreement and which are entitled "Guaranteed Fresh Produce Site Re-Development Plans" dated October 10, 2017, drawn and stamped by Baxter Nye Engineering and Surveying, Inc.
 - C0.0 Cover Sheet
 - C1.0 Legend and General Notes
 - C2.0 Existing Conditions Plan
 - C3.0 Layout Plan
 - C4.0 Grading and Drainage Plan
 - C4.1 SWM Details and Notes
 - C5.0 Utility Plan
 - C6.0 Landscape Plan
2. The Town hereby grants the following waivers from the Town of Barnstable Zoning Ordinance for the Redevelopment, as requested by the Developer:
 - a. Section 240-1.9.1 Gateway Medical (GM) Zoning District: Use for accessory parking for 30 Hyannough Road, Hyannis, MA 02601
 - b. Sections 240-53(C) and 240-24.1.11A(4) Landscaping requirements for parking lots.
(*Preexisting nonconforming*)

3. The parking lot permitted herein shall be accessory to the use of 35 Iyannough Road as permitted by the Regulatory Agreement between the Town and Guaranteed Fresh Produce, Inc. dated July 23, 2008 and recorded at the Barnstable County Land Court Registry as Document 1096691. This shall serve as an amendment to that Agreement. The two properties, 30 and 35 Iyannough Road, Hyannis, shall be retained in identical ownership with respect to both fee and nonfee interests.

4. The Redevelopment provides, without limitation, the following site design, traffic safety, and community benefits:
 - a. Revitalization of long standing vacant property; revitalization is anticipated to eliminate or substantially reduce issues associated with blighted property including but not limited to homeless occupation and illicit activity.
 - b. Redevelopments will significantly improve aesthetics at a gateway property into the Gateway Medical Zoning District.
 - c. Substantially improved traffic flow pattern allowing smoother ingress and egress on the property.
 - d. Improved storm-water drainage management on-site with low impact design measures.
 - e. Removal of asphalt within the wetland buffer with re-vegetation of the wetland buffer.

5. This Agreement shall run with the land, and all of the terms, conditions, and obligations contained in this Agreement shall be binding on any successor or assignor of the Applicant.

6. The term of this Agreement shall be ten (10) years from the effective date of the Agreement (hereafter, the "Term"), and the development rights authorized herein must be exercised prior to expiration of the Term or this Agreement shall be null and void. Once the development rights authorized herein have been timely exercised, all terms and conditions of this Agreement shall remain in effect until the Property is no longer used in accordance with the Redevelopment Plans in a manner that requires additional zoning relief. Further, in the event that the Developer, or its successors and/or assigns, proposes to modify the Redevelopment or the Redevelopment Plans in a manner which requires additional zoning relief, an amendment pursuant to Section 168-10 of the Code shall be required.

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

Dated this ___ day of _____, 2017.

TOWN OF BARNSTABLE Adam Weiner/Guaranteed Fresh Produce,

By: _____ By: _____

Name: Mark Ells Town Manager Name: Adam Weiner

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2017, before me, the undersigned notary public, personally appeared Mark Ells, Town Manager of the Town of Barnstable, and proved to me through

satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public
My Commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2017, before me, the undersigned notary public, personally appeared Adam Weiner, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public
My Commission expires: _____

EXHIBIT A: REDEVELOPMENT PLANS

SPONSOR: James M. Tinsley, Councilor Precinct 9

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-032
INTRO: 10/19/2017

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Planning & Development Director; David Lawler, Attorney for Adam Weiner/Guaranteed Fresh Produce
DATE: October 19, 2017
SUBJECT: Amendment to Regulatory Agreement with Guaranteed Fresh Produce for parking at 30 Iyannough Road accessory to wholesale and retail produce business at 35 Iyannough Road

BACKGROUND: The proposed Regulatory Agreement with Guaranteed Fresh Produce would allow the company to use the undeveloped site at 30 Iyannough Road for parking accessory to the wholesale/retail business at 35 Iyannough Road. After a public hearing, the Planning Board unanimously voted to recommend adoption of the proposed Agreement on September 25, 2017. The proposed plans received approval from the Site Plan Review Committee on September 7, 2017 and unanimous approval from the Conservation Commission on September 19, 2017.

The Guaranteed Fresh Produce business was permitted by a Regulatory Agreement dated July 23, 2008 and recorded at the Barnstable County Land Registration Office as Document 1096691. That agreement provided for relief for the use (expanded retail and wholesale and storage operations), setbacks for the preexisting building, parking for the number, length and location of spaces, and natural state/impervious coverage. The 30 Iyannough Road, Hyannis parcel was a previously developed lot covered almost entirely with asphalt.

RATIONALE: Adam Weiner of Guaranteed Fresh Produce, Inc. seeks a Regulatory Agreement for use of an undeveloped parcel at 30 Iyannough Road in connection with the established wholesale and retail produce business across the street at 35 Iyannough Road. The relief being sought is only for use as an accessory parking lot, a use not allowed within the Gateway Medical (GM) Zoning District. As situated the lot presently does not conform to zoning and though the improvements will not bring the lot into full compliance, they will make the lot more conforming. The purpose of the Regulatory Agreement is to provide a more efficient operation for the existing wholesale portion of the business, which provides fruits, vegetables and other food items to restaurants and retail operations both on and off Cape Cod. If approved the accessory parking lot will result in a smoother operation with less congestion on Mederios Road and provide for a safer and more rational parking plan.

The benefits associated with the proposed Regulatory Agreement include but are not necessarily limited to revitalization of 30 Iyannough Road, which presently is a parking lot in disrepair. Moreover, the parking lot pavement is substantially within a wetland 50 foot buffer. The lot is overgrown with invasive species, covered with trash and in the back portion utilized as a homeless camp. If authorized, the proposal would remove a substantial portion of pavement that is located within the 50 foot buffer, remove invasive species to be replaced with plant species as recommended by the Conservation

Commission. The applicant will repave and stripe the lot and install drainage improvements improving both parking efficiency and exit and egress to the business.

Finally, the proposed application has been significantly vetted by town staff, reviewed by Site Plan Review and obtained unanimous approval by both the Barnstable Conservation Commission and the Barnstable Planning Board.

B. NEW BUSINESS (Refer to Public Hearing 11/02/17)

BARNSTABLE TOWN COUNCIL

**oITEM # 2018-033
INTRO: 10/19/17**

2018-033 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$30,000 FROM THE GENERAL FUND RESERVES FOR THE EVALUATION, DESIGN AND PERMITTING OF A TOWN PIER IN THE BARNSTABLE HARBOR AREA

ORDERED: That the Town Council hereby appropriates and transfers the sum of **\$30,000** from the General Fund Reserves, for the purpose of evaluating, designing and permitting a municipal pier located in the Barnstable Harbor area; including the payment of costs incidental or related thereto.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-033
INTRO: 10/19/17

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: October 19, 2017
SUBJECT: Appropriation and Transfer Order of \$30,000 from the General Fund Reserves to evaluate design and permit a municipal pier in the Barnstable Harbor Area

RATIONALE: Our emergency responders, marine services, dredge maintenance program, aquaculture program and comprehensive water management program will benefit from a municipal pier in the Barnstable Harbor area. This appropriation will support staff to evaluate options to site a municipal pier or other appropriate facility then proceed to design and permitting of such a facility.

FISCAL IMPACT: Once the pier is designed, a subsequent appropriation request will follow to cover the construction cost of the pier. This appropriation will fund the evaluation, design and permitting costs and is needed to develop the construction and annual maintenance cost estimates. The town's General Fund surplus is estimated to be certified in excess of \$16 million. There is also the opportunity to recover revenues from users of the pier to offset costs of constructing and maintaining the facility.

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

**ITEM #2018-034
INTRO: 10/19/17**

2018-034 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission;** Joseph Berlandi, Cummaquid, as a regular member to a term expiring 06/30/2018; **Disability Commission;** Sarah Nickerson, Hyannis, as a regular member to a term expiring 06/30/2018.

SPONSOR: Appointments Committee

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

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

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

ITEM #2018-035
INTRO: 10/19/17

2018-035 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Zoning Board of Appeals:** Alex Rodolakis, as a regular member to a term expiring 06/30/20

SPONSOR: Appointments Committee

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

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