



Town of Barnstable Town Council Agenda

367 Main Street, 2nd floor,
James H. Crocker, Jr. Hearing Room
Village of Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail: council@town.barnstable.ma.us

FOR SPECIAL TOWN COUNCIL MEETINGS ON JUNE 25, 2020 and JUNE 26, 2020, EACH BEGINNING AT 6:00 PM, AS ANNOUNCED ON 06/18/2020 BY THE TOWN COUNCIL PRESIDENT

Councillors:

Paul Hebert
President
Precinct 3

Jessica Rapp Grassetto
Vice President
Precinct 7

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Britt Beedenbender
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Matthew Levesque
Precinct 10

Kristine Clark
Precinct 11

Paula Schnepf
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator:
Cynthia A. Lovell

Administrative
Assistant:
Kelly Crahan

The June 25, 2020 meeting of the Barnstable Town Council shall be physically closed to the public to avoid group congregation.

Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>
2. Real-time public comment can be addressed to the Barnstable Town Council utilizing the Zoom link or telephone number and access code for remote access below.

Join Zoom Meeting <https://zoom.us/j/91073578392> Meeting ID: 910 7357 8392

1-888 475 4499 US Toll-free Meeting ID: 910 7357 8392

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. MOMENT OF SILENCE
4. PUBLIC COMMENT (For Public Comment please call **508-862-4610**)
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 announcement
9. ORDERS OF THE DAY
 - A. Old Business
 - B. New Business
10. ADJOURNMENT

NEXT REGULAR MEETING: July 16, 2020

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Recreation Program Fund \$525,000
Shellfish Propagation Fund \$200,000
Consumer Protection Fund \$600,000
Geographical Information Technology Fund \$10,000
Arts and Culture Program Fund \$50,000
Asset Management Fund \$500,000
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Approve Minutes; June 18, 2020

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) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-156

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

INSPECTIONAL SERVICES DEPARTMENT

2020-156 APPROPRIATION ORDER IN THE AMOUNT OF \$2,164,880 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 INSPECTIONAL SERVICES DEPARTMENT BUDGET

ORDERED: That the sum of **\$2,164,880** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Inspectional Services Department Budget, and to meet such appropriation, that **\$2,164,880** be raised from current year revenue as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-157

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

DEPARTMENT OF PUBLIC WORKS GENERAL FUND BUDGET

2020-157 APPROPRIATION ORDER IN THE AMOUNT OF \$10,103,252 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 DEPARTMENT OF PUBLIC WORKS GENERAL FUND BUDGET

ORDERED: That the sum of **\$10,103,252** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Department of Public Works General Fund budget, and to meet such appropriation, that **\$10,022,892** be raised from current year revenue, **\$55,360** be transferred from the Embarkation Fee Special Revenue Fund and **\$25,000** be transferred from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-158

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

DEPARTMENT OF PUBLIC WORKS SOLID WASTE ENTERPRISE FUND

2020-158 APPROPRIATION ORDER IN THE AMOUNT OF \$3,577,403 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 DEPARTMENT OF PUBLIC WORKS SOLID WASTE ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$3,577,403** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Department of Public Works Solid Waste Enterprise Fund budget, and to meet such appropriation that **\$3,081,725** be raised from the Enterprise Fund Revenues, and that **\$495,678** be transferred from the Solid Waste Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-159

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

**DEPARTMENT OF PUBLIC WORKS WATER POLLUTION CONTROL
ENTERPRISE FUND**

**2020-159 APPROPRIATION ORDER IN THE AMOUNT OF \$4,590,439 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 DEPARTMENT
OF PUBLIC WORKS WATER POLLUTION CONTROL ENTERPRISE FUND
BUDGET**

ORDERED: That the sum of **\$4,590,439** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Department of Public Works Water Pollution Control Enterprise Fund Budget, and to meet such appropriation that **\$4,590,439** be raised from the Enterprise Fund Revenues, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-160

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

DEPARTMENT OF PUBLIC WORKS WATER SUPPLY ENTERPRISE FUND

2020-160 APPROPRIATION ORDER IN THE AMOUNT OF \$7,865,088 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 DEPARTMENT OF PUBLIC WORKS WATER SUPPLY ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$7,865,088** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Department of Public Works Water Supply Enterprise Fund budget, and to meet such appropriation that **\$7,101,271** be raised from the Enterprise Fund revenues, that **\$500,000** be transferred from the Comprehensive Water Management Stabilization Fund, and that **\$263,817** be transferred from the Water Enterprise Fund reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-161

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

TOWN COUNCIL DEPARTMENT

2020-161 APPROPRIATION ORDER IN THE AMOUNT OF \$286,659 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 TOWN COUNCIL BUDGET

ORDERED: That the sum of **\$286,659** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Town Council Budget and to meet such appropriation, that **\$277,847** be raised from current year revenue, that **\$8,812** be transferred from the General Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-162

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

TOWN MANAGER DEPARTMENT

2020-162 APPROPRIATION ORDER IN THE AMOUNT OF \$873,142 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 TOWN MANAGER BUDGET

ORDERED: That the sum of **\$873,142** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Town Manager Budget as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>006/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>
<u>6/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-163

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

PUBLIC, EDUCATION & GOVERNMENT ACCESS CHANNELS ENTERPRISE FUND

2020-163 APPROPRIATION ORDER IN THE AMOUNT OF \$841,030 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 PUBLIC, EDUCATION AND GOVERNMENT (PEG) ACCESS CHANNELS ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$841,030** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Public, Education and Government (PEG) Access Channels Enterprise Fund Budget, and to meet such appropriation that **\$823,000** be raised from the Enterprise Fund revenues, and that **\$18,030** be transferred from the PEG Enterprise Fund reserves.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-164

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

ADMINISTRATIVE SERVICES DEPARTMENT

2020-164 APPROPRIATION ORDER IN THE AMOUNT OF \$6,239,788 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 ADMINISTRATIVE SERVICES DEPARTMENT BUDGET

ORDERED: That the sum of **\$6,239,788** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Administrative Services Department Budget, and to meet such appropriation, that **\$6,172,053** be raised from current year revenue, and that **\$67,735** be transferred from the General Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-165
INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

TOWN COUNCIL RESERVE FUND

2020-165 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2021 RESERVE

ORDERED: That the sum of **\$250,000** be appropriated for the purpose of funding the Town's Fiscal Year 2021 Reserve Fund and that the sum of **\$250,000** be transferred from the General Fund Reserves.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-166

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

OTHER REQUIREMENTS BUDGET

2020-166 APPROPRIATION ORDER IN THE AMOUNT OF \$50,994,976 FOR THE PURPOSE OF FUNDING THE TOWN’S FISCAL YEAR 2021 OTHER REQUIREMENTS BUDGET

ORDERED: That the sum of **\$50,994,976** be appropriated for the purpose of funding the Town’s Fiscal Year 2021 Other Requirements Budget, and to meet such appropriation, that **\$44,100,1128** be raised from current year revenue, that **\$230,000** be transferred from the Pension Reserve Trust Fund, that **\$6,567,324** be transferred from the Capital Trust Fund, that **\$44,640** be transferred from the Embarkation Fee Special Revenue Fund, that **\$52,900** be transferred from the Bismore Park Special Revenue Fund, and that the following sums be transferred from the Town’s Enterprise Funds for the purpose of reimbursing administrative, employee benefit and insurance costs budgeted within the General Fund:

Water Pollution Control	\$517,837
Solid Waste	\$426,584
Water Supply	\$192,837
Airport	\$726,408
Golf Course	\$477,240
Marinas	\$70,961
Sandy Neck	\$116,606
HYCC	\$332,922
PEG	\$82,542

And further, that the sum of **\$1,593,648** be transferred from the General Fund Reserves all for the purpose of funding the Town’s Fiscal Year 2021 General Fund Budget as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-167

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

COMMUNITY PRESERVATION FUND ADMINISTRATION EXPENSES AND FISCAL YEAR 2021 PROGRAM SET-ASIDES

2020-167 APPROPRIATION ORDER IN THE AMOUNT OF 2,500,499 FOR THE FISCAL YEAR COMMUNITY PRESERVATION FUND FISCAL YEAR 2021 SET-ASIDES

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year beginning July 1, 2020, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: **\$423,253** for Open Space and Recreation; **\$423,253** for Historic Resources; **\$423,253** for Community Housing; **\$1,030,740** for a Budget Reserve, and that the sum of **\$200,000** be appropriated from the Annual Revenues of the Community Preservation Fund for the Administrative Expenses of the Community Preservation Committee, to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-168
INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

COMMUNITY PRESERVATION FUND FISCAL YEAR 2021 DEBT SERVICE

2020-168 APPROPRIATION ORDER IN THE AMOUNT OF \$1,820,347 FOR THE PURPOSE OF PAYING THE FISCAL YEAR 2021 COMMUNITY PRESERVATION FUND DEBT SERVICE REQUIREMENTS

ORDERED: That the Town Council hereby appropriates **\$1,820,347** For the purpose of paying the Fiscal Year 2021 Community Preservation Fund Debt Service Requirements, and to meet such appropriation, that **\$1,732,028** be provided from current year revenues of the Community Preservation Fund and that **\$88,319** be provided from the reserve for the Historic Preservation Program within the Community Preservation Fund.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-169

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

**COMPREHENSIVE WATER MANAGEMENT AND PRIVATE WAY IMPROVEMENT FUND
FISCAL YEAR 2021 OPERATING BUDGET**

**2020-169 APPROPRIATION ORDER IN THE AMOUNT OF \$585,264 FOR THE
PURPOSE OF PAYING THE FISCAL YEAR 2021 COMPREHENSIVE WATER
MANAGEMENT AND PRIVATE WAY IMPROVEMENT FUND DEBT
SERVICE REQUIREMENTS**

ORDERED: That the Town Council hereby appropriate **\$585,264** for the purpose of paying the Fiscal Year 2021 Comprehensive Water Management and Private Way Improvement Fund Debt Service Requirements, and to meet such appropriation, that **\$585,264** be provided from the current year revenues of the Comprehensive Water Management and Private Way Fund.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-170

INTRO: 05/21/2020, 06/04/2020, 06/18/2020, 06/25/2020

FISCAL YEAR 2021 REVOLVING FUND SPENDING LIMITS

2020-170 RESOLVED: That the Town Council hereby authorizes the following spending limitations for Fiscal Year 2021 Revolving Funds:

Senior Services Classroom Education Fund	\$100,000
Recreation Program Fund	\$525,000
Shellfish Propagation Fund	\$200,000
Consumer Protection Fund	\$600,000
Geographical Information Technology Fund	\$10,000
Arts and Culture Program Fund	\$50,000
Asset Management Fund	\$500,000

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>05/21/2020</u>	<u>Refer to Public Hearing 06/04/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>
<u>06/04/2020</u>	<u>Continue to a Public Hearing on 06/18/2020</u>

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-185

INTRO: 06/04/2020, 06/18/2020, 06/25/2020

2020-185 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND AIRVIEW, LLC

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 Airview, LLC, for the properties at 451 and 467 Iyannough Road/Route 28, Hyannis, Massachusetts, and shown on Town of Barnstable Assessor's Map 311 as Parcels 027, 081 and 082, respectively, consisting of approximately 2.108 acres of land, and which are more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 28116, Page 008 (collectively, the "Property"), with the Property having access to Barnstable Road via an easement over the parcel of land located at 400 Barnstable Road, Hyannis; and permitting the redevelopment of the Property and granting the requested zoning relief and approval under Chapter 115 of the Code pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT

AIRVIEW, LLC

**451 AND 467 IYANNOUGH ROAD,
HYANNIS, MA 02601**

This regulatory agreement ("Agreement") is entered into by and between the applicant, **Airview, LLC** (the "Applicant" and/or "Developer"), a Massachusetts limited liability company with a mailing address of 297 North Street, 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 _____, 2020, 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, densities, signage, and traffic 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, pursuant to section 168-3 of the Code of the Town of Barnstable, the Town of Barnstable is authorized to enter into a regulatory agreement with a qualified applicant within the Downtown Implementation District as the Town's Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan and said

certification has not been revoked, and the Town has adopted the enabling regulation contained in §§ 168-1 through 168-10;

WHEREAS, the Applicant owns the properties known as and numbered 451 and 467 Iyannough Road, Hyannis, which are shown on Barnstable Assessor's Map 311, as Parcels 027, 081 and 082 respectively, and which are more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 28116, Page 008 (hereafter, collectively, the "Property");

WHEREAS, each of the three parcels which combined comprise the Property, as described in the preceding paragraph, were developed with commercial structures, which were recently demolished, as follows: (i.) 451 Iyannough Road- a one story building consisting of approximately 8,624 square feet, formerly used as a restaurant with a seating capacity of 274; and (ii.) 467 Iyannough Road- a one story building containing approximately 8,422 square feet used as a VFW Post;

WHEREAS, the Property borders Iyannough Road (Route 28) to the north and has access to Barnstable Road to the west via an easement over the parcel of land located at 400 Barnstable Road, Hyannis, and the existing development on the Property has three large curb cuts with undefined circulation onto Route 28;

WHEREAS, the Property consists of approximately 2.108 acres of land and is located in the Hyannis Gateway (HG) zoning district and the Groundwater Protection (GP) and Wellhead Protection (WP) overlay districts;

WHEREAS, the Applicant has commenced development of the Property by demolishing the two existing structures, which collectively contained a total gross floor area of approximately 17,046 square feet, and proposes to combine the existing lots into one lot, and construct a one-story retail pharmacy building with a drive through lane with a gross floor area of approximately 10,000 square feet, and an approximately 6,000 square foot building reserved for a future retail use, together with numerous site improvements, including a significant reduction in curb-cuts, increased landscaping, new parking, pedestrian and site amenities, and new storm-water drainage, all as shown on the plans submitted and attached hereto as **Exhibit A** (hereafter, the "Redevelopment Plans," and such proposed site work, new buildings and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment");

WHEREAS, the Redevelopment is consistent with the Town of Barnstable's Design and Infrastructure Plan in that the proposed project provides a sidewalk along Route 28; reduces curb cuts along Route 28 and provides access from Barnstable Road; the scale, placement, materials, design, and details of the proposed buildings comply with the Design and Infrastructure Plan guidelines; and the project provides the infrastructure necessary to support the project.

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 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 originally approved by the Cape Cod Commission by decision dated April 6, 2006 and re-designated by decision dated April 19, 2018, and as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11, and 18-11, 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;

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 July 2, 2019, and Developer shall submit final plans consistent with the terms and conditions contained in this Agreement to the Building Commissioner to determine whether any modifications to the Site Plan Review approval are necessary prior to any building permits being issued for the Redevelopment;

WHEREAS, the Applicant submitted a "Traffic Assessment Memorandum" dated September 19, 2019, as supplemented by a "Transportation Memorandum" Responses to Comments and Questions From Town of Barnstable dated August 16, 2019 performed by VHB;

WHEREAS, the Redevelopment proposal has undergone four public hearings on the Agreement application and received an affirmative unanimous vote from the Planning Board on April 27, 2020;

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 _____, 2020;

WHEREAS, this Agreement authorizes only the uses, intensity of uses, dimensions and signage specified herein. 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. Description of Existing and Proposed Conditions:

A. Existing Conditions

The Property was previously developed with two (2) structures, each on separate lots, combined totaling approximately 17,046 square feet of development as follows:

- A one-story building consisting of approximately 8,624 square feet, formerly used as a restaurant with a seating capacity of 274.
- A one-story building consisting of approximately 8,422 square feet, used as a VFW Post.
- The Property contains 3 large, poorly defined and, in some cases, undefined curb-cuts on Route 28.
- Based on full occupancy of the previous structures, the existing site traffic generation is 144 trips in the weekday evening peak hour and 150 trips in the Saturday mid-day peak hour.
- Minimal landscaping.
- Total impervious coverage is 78.1%.
- No storm-water treatment facilities; presently, storm-water now causes sheet flow run-off into the roadways.

B. Proposed Redevelopment

The proposed Redevelopment involves combining the Property into one (1) lot, and constructing two (2) buildings collectively totaling 16,000 square feet of development as follows:

- A one-story building containing an approximately 10,000 square foot retail pharmacy with a drive up pharmacy pick up window.
- A one-story building with a gross floor area of approximately 6,000 square feet reserved for a future retail and/or office use.
- Combining and reconfiguring the three existing curb-cuts onto Route 28 into two consolidated entrances with defined geometry meeting Town and State access standards. Each curb cut is configured to allow right-in/right out only turns.
- A limited movement right-in/right-out only curb cut on Barnstable Road.
- Significant landscaping and vegetation improvements.
- Reduction of impervious coverage to 74.5%.
- Architectural and site design in accordance with the Design and Infrastructure Plan.
- Construction of sidewalks within the Property for pedestrian circulation through the site.
- Construction of a new 6-foot wide sidewalk along the frontage of Route 28 in accordance with the future planned widening of the Route 28 travel lanes along the site frontage.
- Storm-water management system incorporating low impact design measures to retain and pre-treat all storm-water run-off on-site.
- Two free-standing signs with sign panels, one for each tenant, which total 24 square feet per sign, together with building and directional

signage. One free-standing sign is to be located along Iyannough Road and one is to be located along Barnstable Road.

- A total of 80 paved parking spaces.
- The Developer agrees to construct the Redevelopment on the Property in accordance with the Redevelopment Plans which are submitted herewith and which are entitled as follows:

a. "Proposed Redevelopment Project 451 and 467 Iyannaough Road, Hyannis, Massachusetts dated April 9, 2019, revised on May 28, 2019, revised August 8, 2019, revised October 17, 2019, revised December 6, 2019, revised January 2, 2020, revised February 14, 2020, last revised February 28, 2020 (unless otherwise noted), consisting of 12 pages, as follows:

- i. Cover Sheet, Sheet C0.0;
- ii. Legend and General Notes Plan, Sheet C1.0;
- iii. Existing Conditions Plan, Sheet C2.0;
- iv. Layout and Dimension Plan, Sheet C3.0;

v. Delivery Truck Turning Template Plan, Sheet C3.2;

- vi. Tower Truck Turning Template Plan, Sheet C3.3;
- vii. Grading and Drainage Plan, Sheet C4.0;
- viii. Utilities Plan, Sheet C5.0;
- ix. Details Plan, Sheet C6.0;
- x. Details Plan, Sheet C6.1;
- xi. Details Plan, Sheet C6.2;

a. Landscape Plans as follows:

- i. Sheet L1 dated January 6, 2020 revised February 19, 2020

Landscape Planting Plan prepared by Hawk Design, Inc.

- ii. Sheet D1 dated January 6, 2020 revised February 19, 2020

Planting Notes prepared by Hawk Design, Inc.

- iii. Sheet D2 dated January 6, 2020 revised February 19, 2020

Planting Details prepared by Hawk Design, Inc.

c. Building A: "Proposed Floor Plan Walgreen's 451 Iyannough Road, Hyannis, MA Project 19002 dated November 15, 2019, revised February 28, 2020" consisting of one page, Sheet SK-100.01; "Proposed North & East Elevations Walgreen's 451 Iyannough Road, Hyannis, MA Project 19002 dated November 15, 2019, revised February 28, 2020" consisting of one page, Sheet SK-101.01; and "Proposed South & West Elevations Walgreen's 451 Iyannough Road, Hyannis, MA Project 19002 dated November 15, 2019, revised February 28, 2020" consisting of one page, Sheet SK-102.01.

d. Building B: "First Floor Plan Holly Management & Supply Corp. 451 & 467 Iyannough Road, Hyannis, MA Project No. 19025 dated December 5th, 2019" consisting of one page, Sheet A – 100.00; and "Exterior Elevations Holly Management & Supply Corp. 451 & 467 Iyannough Road, Hyannis, MA Project No. 19025 dated December 5, 2019" consisting of two pages, sheet A – 400.00, and A-410.00, Filename Bld B Black Awning19025_A-400.00-Exterior Elevations (Note: Developer shall have the option to use a combination of cedar shingles and clapboard on the South elevation of Building B. If Developer so elects, Developer must first obtain written approval of the elevations for shingles/clapboard from the Director of the Planning and Development Department).

e. "17258 Hyannis, MA Preliminary Exterior Signage dated 3/17/2020" consisting of nine pages (including this page) as follows:

Exterior Signage;

- i. Title Page – 17528 Hyannis, MA
- ii. Site Plan – showing proposed signage locations;
- iii. Proposed West and South Elevations;
- iv. Proposed North and East Elevations;
- v. Walgreens Script Sign;
- vi. Corner W Sign;
- vii. Drive Thru Canopy Signage;
- viii. Monument Sign;
- ix. Directional Sign.

2. The Redevelopment provides, without limitation, the following multi-modal transportation, economic, place-making, site design, traffic safety, and community benefits:

- a. Redevelopment and significantly improved aesthetics at a gateway property into the Hyannis Growth Incentive Zone.
- b. Substantial reduction in the number of curb-cuts servicing the Property.
- c. Substantially increased landscaping and reduction in impervious surfaces from 78.1% existing impervious coverage to 74.5% impervious coverage under proposed conditions.
- d. Construction of a sidewalk along the Property's Route 28 frontage in accordance with the future planned widening of Route 28 travel lanes along the site frontage.
- e. Safe and well marked interior pedestrian connections within the Property between the two proposed buildings.
- f. Exterior site lighting improvements, including use of LED lights.
- h. Improved storm-water drainage management on-site with low impact design measures, including landscaped bio-infiltration drainage areas. New storm- water system will eliminate storm-water sheet run-off into adjacent roadways.
- i. New underground utility connections for Redevelopment eliminating existing overhead services for the Property.
- j. Removing the existing 6-inch public water main along the frontage of Route 28 and the two existing domestic service lines all the way to the main line and replacing them with two new two-inch domestic lines (one for each building) and two new fire service lines (one for each building).
- k. Installation of two new fire hydrants to service the surrounding community in accordance with locations identified by the Hyannis Fire Department and Water District.

3. Outdoor storage is prohibited including storage in trailers, containers, trucks or other storage units. This prohibition shall be prominently noted on the final approved site plans.
4. 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.
5. Prior to issuance of a building permit, the Developer shall provide evidence to the Building Commissioner of an agreement with the Town which provides that during the Term of this Regulatory Agreement, the Walgreen's Pharmacy identified as one of the tenants of the

Redevelopment shall in accordance with Section 168-6(A) of Chapter 168 of the Code of the Town of Barnstable, provide the following benefits to the Town: (i) a listing of all sites at which hypodermic syringes, needles, and medical sharps can be disposed of in Barnstable County, to be made available to each customer visiting the Walgreen's Pharmacy at the Property as well as the display of such listing at the registers within the Walgreen's Pharmacy operated at the Property, and (ii) health educational assistance to the community in accordance with the programs developed and offered by Walgreen's Pharmacy from time to time.

6. All mortgagee(s) holding good and valid mortgage(s) against the Property have executed document(s) effectively subordinating the provisions of their mortgage(s) to this Agreement, which subordination agreement(s) shall be approved by the Town Attorney and recorded contemporaneously with this Agreement.
7. Prior to the issuance of the first building permit, the Developer shall provide a letter of credit, or cash escrow in an amount approved by the Planning and Development Director, said letter of credit or cash escrow to be expended to replace landscape materials if such replacement becomes necessary because of the failure of Developer or its tenants to do so. An "acceptable" letter of credit is a letter of credit issued by a bank incorporated in the Commonwealth of Massachusetts or currently licensed to do business in the Commonwealth, and having at the time of issue of the letter of credit an S&P Rating of "BBB+" or better and/or a Bankrate.com rating of 4-star or better. Further, an acceptable letter of credit shall be approved as to issuer by the Treasurer of the Town of Barnstable and as to form by the Office of the Town Attorney. Any unexpended portion of said letter of credit or cash escrow shall be released by the Planning Board to the Developer or its successor(s), as directed by the Developer, after three years from the date of the landscape installation, such date to be determined by the Building Commissioner, upon the request of the Developer.
8. Developer is responsible for obtaining all applicable permits and licenses.
9. No Certificate of Occupancy shall be issued until all conditions of this Agreement have been met and Design and Infrastructure Plan approval has been issued.
10. This Agreement is transferable to a person or entity other than the Applicant (hereafter, the "Transferee") with prior written notice to the Town Manager and contingent upon the Applicant being in compliance with all the requirements of this Agreement. However, no such notice to the Town shall be effective unless it includes a written acknowledgement by the Transferee that they have read this Regulatory Agreement, and any amendments thereto, and they agree to be bound by the terms and conditions set forth herein, in which event after such assignment the transferor shall be relieved of liability from and after the date of transfer. Upon receipt of such written notice of transfer, and subject to a determination by the Town Manager that that the Applicant is in compliance with all the then applicable requirements of the Agreement, the Transferee and the Town Manager shall execute a minor amendment of this Regulatory Agreement acknowledging the Transferee is a signatory of this Regulatory Agreement, agreeing to be bound by the terms and conditions set forth herein, and any subsequent amendments hereto, and assuming liability as of the date of transfer. No Planning Board or Town Council approval is required for such a minor amendment acknowledging such a transfer in ownership.
11. The development rights granted hereunder shall be exercised and development permits needed to commence construction may be obtained hereunder for a period of five years from the effective

date of this Agreement, provided, however, that prior to the expiration of said five year period, the Developer may request one six month extension to obtain development permits necessary to commence construction. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed two years from receipt of necessary development permits. In the event that this Agreement and/or any necessary development permits for the Project are appealed, the timeframes set forth in this section shall be tolled for the length of any such appeals. The Developer estimates that construction will commence on or about Spring 2020 and will be completed on or about Winter 2020.

12. Construction and demolition debris from the Project shall be removed and reused or recycled to the maximum extent possible.

13. No uses shall use, store, generate, treat or dispose of hazardous waste or hazardous materials and shall not generate hazardous waste as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353, except in compliance with all applicable laws.

14. To the extent that the Redevelopment Plans referenced in this Agreement do not depict all the findings and conditions set forth in this Agreement, revised plans and/or notations shall be provided in the final site plan. The Redevelopment shall remain in substantial conformance with the Site Plan Review approval dated July 2, 2019 and all conditions thereof and any modifications thereto as reflected in the final approved site plan.

15. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Barnstable Code Section 240-104(G)). This document shall be submitted before the issuance of the final certificate of occupancy.

16. The term of this Agreement shall be five (5) years from the effective date of the Agreement (herein, 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.

17. The Town hereby grants the following waivers from the Town of Barnstable Zoning Ordinance for the Redevelopment, as requested by the Developer:

- a. Section 240-24.1.8(B)(1)(a), Special Permit for Non-Residential Development with total gross floor area greater than 10,000 square feet.
 - i. Applicant proposes 6,000 square foot reserved retail and/or office space, and 10,000 square foot retail pharmacy.
- b. Section 240-24.1.8(B)(3), Special Permit for retail uses that increase the number of vehicle trips per day and/or increase peak hour vehicle trips.
 - ii. Proposed retail pharmacy and 6,000 square foot reserved retail and/or office space area will result in increase of vehicle trips.
- c. Section 240-24.1.8(C) (1), Front yard landscape setback from Route 28 of 60 feet.
 - iii. Proposed landscape setback from Route 28 is 10.00 feet, but represents a substantial improvement as

compared to existing conditions, (zero feet).

d. Section 240-24.1.8(C)(2)(a), Special Permit for new vehicular access/change in use that increases vehicle trips per day and/or peak hour roadway use for existing curb cuts on Route 28.

iv. Proposed retail uses will result in increase of vehicle trips.

e. Section 240-24.1.8(C)(2)(d), Location of Parking

v. Proposed two rows of parking in front of Building B from Route 28 frontage.

f. Section 240-24.1.8(C)(2)(e), Transit improvement incentives.

vi. Applicant proposes a reduction in required parking from 82 spaces to 80 spaces as project significantly reduces the width of existing curb cuts in a manner that improves the through flow of traffic on Route 28.

g. Section 240-24. 1.11(A)(3), Drive-through windows.

vii. Redevelopment proposes one drive through window for retail pharmacy.

h. Section 240-24.1.11(A)(4)(a)[1] and Section 240-56, Schedule of Parking Spaces.

viii. Redevelopment proposes 80 parking spaces and Ordinance requires 82 parking spaces.

i. Section 240-24.1.11(A)(4)(c)[1], Parking Design Standards.

Parking areas shall be located to the rear of a building.

ix. Proposed project has one row of parking in front of Building A and two rows of parking in front of Building B.

j. Section 240-35(F)(3) and (4), GP Overlay District.

x. Redevelopment proposes impervious coverage of 74.5% (Ordinance provides for 50% maximum, but existing impervious coverage is 78.1%).

ix. Existing and proposed natural state is 0% (30% minimum required).

k. Section 240-35(G)(3) and (4), WP Overlay District.

xi. Redevelopment proposed impervious coverage of 74.5% (Ordinance provides for 50% maximum, but existing impervious coverage is 78.1%).

xii. Existing and proposed natural state is 0% (30% minimum required).

l. Sections 240-24.1.11(A)(6); 240-67(A),(B), and (C), and 240-65 (A)-(I), Signage.

xiii. Section 240-67(B) limits the maximum square footage of all signs to the lesser of 50 square feet or 10% of the building face. Excluding directional drive thru signage, the total square footage of signage for Building A (proposed pharmacy) is 134.16 square feet and the total square footage of signage for Building B (proposed retail space) is 100 square feet.

xiv. Section 240-67(C) limits the maximum size of any freestanding sign to 10 square feet except that the Building Commissioner can grant up to 24 square feet. The project proposes two freestanding signs each totaling 24 square feet.

xv. Section 240-65(A) limits each business to a total of two signs. Building A (proposed pharmacy) proposes 5 signs (three building signs and one panel on each of the two freestanding pylon signs). Building B (retail space) proposes four signs (a panel on each of

the freestanding pylon signs for each location) with additional signage to be determined.

xvi. Section 240-65(d) allows one freestanding sign per business, which may not exceed half of the allowable size as permitted. The project proposes two freestanding signs each of which exceeds the allowable size.

xvii. Section 240-75 allows for directional or safety signs provided such signs do not exceed one square foot in area, nor be more than three feet high. No more than four such signs are allowed per site. Building A proposes the following directional/safety signs:

Drive Thru Canopy Sign 1.75 sq.ft.
Drive Thru Directional Sign 3.00 sq.ft.
Drive Thru Clearance Sign 1.67 sq.ft.
Drive Thru Exit Sign 1.75 sq.ft.

m. Section 240-65 and 240-67 Signs in the HG District.

xviii. Redevelopment proposes two free-standing signs – one along Route 28 and one along Barnstable Road. The Ordinance allows for only one free-standing sign per business.

18. In addition to the foregoing waivers/relief from the Zoning Ordinance, this Agreement also waives the requirement for a public hearing before the Town Manager pursuant to Chapter 115-2 of the Code (Hours of Operation of Businesses) and authorizes issuance of a permit to allow the proposed pharmacy drive-up window to remain open twenty-four hours a day. Said permit may be revoked by the Town pursuant to the process set forth in Chapter 115-2 of the Code.

20. Commencing on the date of issuance of an Occupancy Permit for Building B and ending on the 5th anniversary of said issuance, the Applicant or any owner of said premises shall not enter into a lease, or otherwise occupy any portion of Building B without first obtaining written approval from the Director of Planning and Development for the Town of Barnstable. The Applicant or owner of the property shall submit a written request for approval of a tenant/occupant to the Director of Planning and Development. The written request shall contain the name of the tenant/occupant; the amount of square footage to be occupied; the type of use; number of employees; and hours of operation. If the use is one which is listed as a permitted principal use or a principal accessory use in the HG Hyannis Gateway Zoning District, the Director of Planning and Development shall issue a letter to the Applicant/owner approving the tenancy or occupancy within ten (10) days of receipt of the written request for approval. If the use triggers a need for a special permit or other zoning relief, the Director of Planning and Development shall, within said ten (10) day timeframe, issue a letter directing the Applicant or owner to make application to the Planning Board for appropriate relief.

21. The failure of this agreement to address a particular permit, condition, term, or restrictions shall not relieve the qualified applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;

22. This regulatory agreement may not be used to prevent the Town of Barnstable or other governmental agency from requiring the qualified applicant to comply with the laws, rules and regulations and policies enacted after the date of the regulatory agreement, if the Town of Barnstable or governmental agency determines that the imposition of and compliance with the newly effective laws and regulations are essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction.

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

Applicant:Town of Barnstable:
Signature:Signature:
Print:Print:
Date:Date:

PROPERTY DESCRIPTION

The land, together with the buildings thereon, situated in Barnstable (Hyannis), Barnstable County, Commonwealth of Massachusetts, consisting of two parcels, bounded and described as follows:

Parcel I

A certain parcel of land with the buildings thereon situated in Barnstable (Hyannis), Barnstable County, Commonwealth of Massachusetts, bounded and described as follows:

NORTHERLYbyIyannough Road - Route 28, a public way, as shown on a plan hereinafter mentioned, 175.90 feet;

EASTERLYbyland now or formerly of Henry Murphy, et ali, as shown on said plan, 202.99 feet;

SOUTHERLYbyland now or formerly of Allan F. Jones, as shown on said plan, by two courses, 96.24 feet and 49.34 feet, respectively; and

WESTERLYbyParcel II described below, as shown on said plan, 247.96 feet.

The above described parcel contains 34,450 square feet of land, more or less, according to said plan.

The above described premises are shown on a plan entitled "Plan of Land in Hyannis - Barnstable - Mass. for Armands Restaurant, Scale: 1 IN = 40 FT, Date: 3 July 1958, Charles N. Savery, Co., Engineers & Surveyors, Cotuit- Falmouth Mass., Plan No. 75839," which said plan is recorded with the Barnstable County Registry of Deeds in Plan Book 144, Page 85.

Property Address: 451 Iyannough Road - Route 28, Hyannis, Massachusetts.

Parcel II

A certain parcel of land with the buildings thereon situated in Barnstable (Hyannis), Barnstable County, Commonwealth of Massachusetts, bounded and described as follows:

NORTHERLYbyRoute 28, a public way, as shown on a plan hereinafter mentioned, 150.00 feet;

EASTERLY by other land of the Town of Barnstable Cobb Trust as shown on said plan, 248.47 feet, being Parcel I described above;

SOUTHERLY by land now or formerly of Allan F. Jones as shown on said plan, 231.98 feet;

WESTERLY by land now or formerly of N. W. Kalat and M. H. Segel, Trustees, as shown on said plan, 236.98 feet;

NORTHERLY by other land of the Town of Barnstable Cobb Trust as shown on said plan, 100.00 feet; and

WESTERLY by said Cobb Trust land as shown on said plan, 107.97 feet.

The above described parcel contains 1.34 acres of land, more or less, according to said plan.

The above described premises are shown on a plan entitled "Town of Barnstable Plan of a portion of a Cobb Lot in Hyannis (Barn's) Mass. to be conveyed to the Dennis F. Thomas Post No. 2578 Veterans Of Foreign Wars Building Association, Inc., Engineering Section D. P. W., Scale: 1 in. = 30 ft., Date: Aug. 18, 1982," and recorded with the Barnstable County Registry of Deeds in Plan Book 368, Page 97.

Property Address: 467 Iyannough Road – Route 28, Hyannis, Massachusetts 02601.

For title to Parcels and II see deed recorded in the Barnstable County Registry of Deeds in Book 28116, Page 008.

ASSENT TO REGULATORY AGREEMENT

The undersigned, Airview, LLC, a Massachusetts limited liability company, of 297 North Street, Hyannis, Massachusetts 02601, the owner of property in Hyannis, Barnstable County, Massachusetts, described in a Deed recorded in Book 28116, Page 008, does hereby consent to the recording of a Regulatory Agreement by and between Airview, LLC, a Massachusetts limited liability company and the Town of Barnstable dated _____, 20___. Airview, LLC further agrees to be bound by the terms and conditions contained in said Regulatory Agreement.

Executed this ___ day of _____, 2020.

Applicant:

Signature:

Print:

Date:

EXHIBIT A: REDEVELOPMENT PLANS

SPONSOR: Debra S. Dagwan, Councilor, Precinct 8

DATE	ACTION TAKEN
<u>06/04/2020</u>	<u>Refer to a Public Hearing on 06/18/2020</u>
<u>06/18/2020</u>	<u>Continue to a Public Hearing on 06/25/2020</u>

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

BARNSTABLE TOWN COUNCIL

ITEM #2020-189

INTRO: 06/04/2020, 06/18/2020, 06/25/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director of Planning & Development
SUBJECT: Regulatory Agreement Airview, LLC – Pharmacy with drive through and Retail and/or Office Building

BACKGROUND: The proposed Regulatory Agreement has been negotiated between the Planning Board (with assistance of Planning & Development Staff, and with input from the Town Engineer, Hyannis Fire Department, and the Town Attorney) and the Applicant, and has been the subject at four Planning Board hearings, at the conclusion of which the Planning Board voted unanimously (6-0 vote) to recommend the Regulatory Agreement to the Town Council.

RATIONALE: Airview, LLC, the Applicant in the proposed Regulatory Agreement, purchased the three developed properties known as and numbered 451 and 467 Iyannough Road in Hyannis on April 30, 2014. These three properties, which collectively comprise the subject property under the Regulatory Agreement, total 2.108 acres of land, which were developed with approximately 17,046 square feet of commercial uses that included a restaurant with a seating capacity of 274 and a VFW Post. The existing development contains three large curb cuts with undefined circulation onto Iyannough Road. The existing site is nonconforming as to dimension, contains minimal landscaping, is approximately 78% impervious, and contains no on-site storm-water treatment facilities.

The subject property is within the Hyannis Gateway (HG) zoning district and the Groundwater Protection (GP) and Wellhead Protection (WP) overlay districts. It is also located within the Growth Incentive Zone (GIZ).

The Applicant proposes to make a substantial investment in the subject property by redeveloping and improving this gateway location. The proposed Regulatory Agreement authorizes the redevelopment of the property by combining the existing three (3) lots into one (1) lot and constructing an approximately 10,000 square foot retail pharmacy with a drive up pharmacy window and an approximately 6,000 square foot building for use as a future retail and/or office location. Numerous site improvements are proposed including combining and reconfiguring the three existing curb cuts onto Iyannough Road into two consolidated entrances with defined geometry meeting Town and State access standards. Each curb cut will be configured to allow right-in/right-out only turns. Pedestrian and site amenities, new storm-water drainage, and significantly increased landscaping are proposed.

Because the Applicant requests zoning relief for the proposed redevelopment, a two-thirds vote of the Town Council is needed to approve the proposed Regulatory Agreement. In addition to the requested zoning relief, the Regulatory Agreement also authorizes the proposed pharmacy drive-up window to remain open twenty-four hours a day pursuant to Chapter 115 of the Code.

FISCAL IMPACT: The fiscal impact is positive.

B. NEW BUSINESS (Refer to Public Hearing 07/16/ 2020)

BARNSTABLE TOWN COUNCIL

**ITEM 2020-194
INTRO: 06/25/20**

2020-194 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$277,600 FOR THE FISCAL YEAR 2020 AIRPORT CAPITAL BUDGET FOR THE PURPOSE OF FUNDING AIRPORT CAPITAL IMPROVEMENT PROJECTS FOR MITIGATION OF PER AND POLYFLUOROALKYL SUBSTANCES (PFAS) AND 1,4-DIOXANE

ORDERED: That the sum of **\$277,600** be appropriated for the purpose of funding mitigation for the impacts of Per and Polyfluoroalkyl Substances (PFAS) and 1,4-Dioxane in soil and groundwater associated with the use of firefighting foams; and that to meet this appropriation that **\$277,600** be transferred from the Airport Enterprise Fund Reserves; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

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 2020-194
INTRO: 06/25/20

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Katie R. Servis, Airport Manager
DATE: June 15, 2020
SUBJECT: Supplemental Appropriation and Transfer Order in the amount of \$277,600 for the Fiscal Year 2020 Airport Enterprise Fund Capital Budget

BACKGROUND: A total of \$277,600 is requested for mitigation of these compounds at the Airport. The work proposed includes response actions to reduce infiltration of precipitation through PFAS-impacted soil, such as temporarily capping the source areas; excavating and properly disposing of the PFAS-impacted soil; or some equivalent approach.

The Airport initially proposed a temporary soil cap using two layers of 6-mil polyethylene sheeting with one layer being reinforced polyethylene sheeting or a combination of the two. However, site investigations revealed that the addition of asphalt be added in some areas to allow for a permanent cap and thus increased the cost of the project. The original appropriation was for \$100,000 (A.O. 2019-110) and a second appropriation was sought in November 2019 in the amount of \$150,000 (A.O. 2020-052 approved 11/21/2019). *See attached November 2019 request with more detail about the project.*

The airport put the project out to bid on March 27, 2020 with bids due on April 15, 2020. At that time bids were more than double the estimated price of \$250,000. The Airport assumed that the tight construction schedule may have increased the prices; therefore, the Airport cancelled the bid, revised the construction schedule and lengthened the project timeline. The rebid issue date was May 11, 2020 with bids due on June 12, 2020. The revised bid lengthened the construction timeframe and completion due dates, unfortunately, bids still came back higher than estimated.

SUMMARY: Bids received came in higher than what the Airport had set aside in its Fiscal Year 2020 Airport Enterprise Fund Capital Budget for the Mitigation (PFOS Soils) Phase I.

- We were approved for \$250,000.00 (A.O. 2019-110 for \$100,000 approved 4/4/2019 and A.O. 2020-052 for \$150,000 approved 11/21/2019).
- After two bids, the lowest and responsive bidder = \$448,000.00
- Lowest bid plus bid development and admin fees = \$79,600.00
- **Total Project Cost = \$527,600.00**
- **Appropriation is short of need by \$277,600.00**

FISCAL IMPACT: The Airport's net share for this Supplemental Appropriation is \$277,600. The total project share is \$527,600.00 as this project is not eligible for grant funding from The Federal Aviation Administration or the Massachusetts Department of Transportation – Aeronautics Division. The request for this project is that \$277,600 be transferred from the Airport Enterprise Fund reserves. As of July 1, 2019, the Airport Enterprise Fund had \$2,761,211.00 certified in cash reserves.

STAFF ASSISTANCE: Mark A. Milne, Director of Finance

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-195
INTRO: 06/25/2020**

2020-195 RATIFICATION OF VOTE TO APPROPRIATE AND TRANSFER \$400,000 OF COMMUNITY PRESERVATION FUNDS FOR THE CREATION OF FOUR AFFORDABLE RENTAL UNITS LOCATED AT 560 WEST MAIN STREET, HYANNIS, MA

RESOLVED: That the Town Council hereby ratifies and clarifies the vote taken on April 2, 2020, to approve Town Council Order 2020-136 that, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the sum of Four Hundred Thousand Dollars and No/100 (\$400,000.00) be appropriated and transferred from the Undesignated Funds portion of the Community Preservation Fund and that the Town Manager is authorized to contract for and expend the amount appropriated and transferred for the purpose of creating community housing consisting of three (3) affordable deed-restricted residential rental studio apartment restricted at 80% AMI and one (1) studio unit restricted at 65% AMI within a 14 unit apartment redevelopment project called “Mid-Point Apartments” located at 560 West Main Street, Hyannis, with the ability of the units to float, and the 4 affordable studio units are to be held affordable in perpetuity, and that the Town Manager is further authorized to execute, deliver and record documents and restrictions for the stated purpose subject to restrictions as provided in G.L. c. 44B for the stated purpose and the oversight of the Community Preservation Committee.

SPONSOR: Mark S. Ells, Town Manager upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-195
INTRO: 06/25/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: June 25, 2020
SUBJECT: Mid Point Apartments Updated Application – 560 West Main St., Hyannis
Ratification of the Community Preservation Committee’s Clarified Vote
\$400,000 in Community Preservation Unreserved Funds

BACKGROUND: At the June 15, 2020 Community Preservation Committee meeting, the seven members present voted unanimously by roll call vote to accept and recommend to the Town Council through the Town Manager, Mr. Jake Dewey’s updated Application submitted to provide clarification of the previous Community Preservation Committee votes to recommend that was referenced in the Town Council’s vote to appropriate on April 2, 2020 for Town Council Order 2020-136 – Mid Point Apartments. In their review of the updated Application, the Community Preservation Committee incorporated the previous Community Preservation Committee hearings for the Mid Point Apartments Application by reference.

ANALYSIS: The Community Housing Application requesting \$400,000 in Community Preservation Undesignated Funds is in support of the creation of four (4) affordable deed-restricted residential rental studio apartment units within a 14 unit apartment redevelopment project called “Mid-Point Apartments” located at 560 West Main Street, Hyannis. Three (3) studio units will be restricted at 80% AMI, and one (1) studio unit will be restricted at 65% AMI with the ability of the units to float. The 4 affordable studio units are to be held affordable in perpetuity.

FISCAL IMPACT: This appropriation has no impact on the general fund since the entire amount is appropriated and transferred from the community preservation fund.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager

VOLUNTEER STAFF ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee



Town of Barnstable
COMMUNITY PRESERVATION COMMITTEE



www.town.barnstable.ma.us/CommunityPreservation
Email: CommunityPreservationCommittee@town.barnstable.ma.us

Committee Members

Lindsey B. Counsell – Chair • Vacant – Vice Chair • Marilyn Fifield – Historical Commission • Terry Duenas – At Large • Katherine Garofoli – At Large
Stephen Robichaud – Planning Board • Tom Lee – Conservation Commission • James Tenaglia – Recreation Commission • Farley Lewis – At Large
Deborah Converse – Housing Authority • Brit Beedenbender – Town Council Liaison

M E M O R A N D U M

TO: Mark Ells, Town Manager
FROM: Lindsey Counsell, CPC Chairman
CC: Andy Clyburn, Assistant Town Manager
Karen Nober, Town Attorney
Kathleen Connolly, Assistant Town Attorney
Mark Milne, Director of Finance

DATE: June 15, 2020
RE: Community Preservation Committee – Clarified Vote - Town Council Order 2020-136 Mid Point Apartments – Community Housing Updated Application
\$400,000 in Community Preservation Undesignated Funds

Mark:

At the June 15, 2020 Community Preservation Committee meeting, the seven members present voted unanimously by roll call vote to accept and recommend to the Town Council through the Town Manager, Mr. Jake Dewey's updated application submitted to provide clarification of the previous Community Preservation Committee votes referenced in the Town Council's vote to appropriate on April 2, 2020 for Town Council Order 2020-136 – Mid Point Apartments. The Community Preservation Committee incorporated the previous Community Preservation hearings on the Mid Point Apartments Application by reference.

The Community Housing Application requesting \$400,000 in Community Preservation Undesignated Funds is in support of the creation of 4 affordable deed-restricted residential rental studio apartment units within a 14 unit apartment redevelopment project called "Mid-Point Apartments" located at 560 West Main Street, Hyannis. Three (3) studio units will be restricted at 80% Area Median Income (AMI) and one (1) studio unit will be restricted at 65% Area Median Income (AMI) with the ability to float the affordable units. The 4 affordable studio rental units are to be held affordable in perpetuity.

The Committee is requesting your consideration for inclusion on the upcoming Town Council agenda in order to ratify the Community Preservation Committee's clarified vote.

Thank you for your assistance with this project, please contact me if you have any questions.

Best Regards,

Lindsey B. Counsell
Community Preservation Committee Chair