



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

TOWN COUNCIL MEETING AGENDA

March 16, 2023

7:00 PM

Councillors:

Matthew Levesque
President
Precinct 10

Jennifer Cullum
Vice President
Precinct 13

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Betty Ludtke
Precinct 3

Nikolas Atsalis
Precinct 4

Paul Cusack
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grasseti
Precinct 7

Jeffrey Mendes
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Paula Schnepf
Precinct 12

Administrator:
Cynthia A. Lovell
Cynthia.Lovell@
town.barnstable.ma.us

The March 16, 2023 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 live stream on the Town of Barnstable's website:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to:

https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/82270640308>

Meeting ID: 822 7064 0308 US Toll-free 888 475 4499

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS

- Cape Cod Commission 2022 Year in Review by Kristy Senatori, Executive Director

7. ACT ON PUBLIC SESSION MINUTES

8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

- Summary of Town of Barnstable Communications Survey by Lynne Poyant, Director

9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

10. ADJOURNMENT

NEXT REGULAR MEETING: April 06, 2023

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2023-133	Appropriation Order in the amount of \$22,700 for the purpose of acquiring the fee in Mother's Park Road by eminent domain for sewer and water and general municipal purposes (Public Hearing) (Roll Call) (Majority Vote)	4-6
2023-139	Order approving an Amendment to the 1992, 1995 and 1997 agreements between the Town and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (May be acted upon) (Majority Vote)	7-8
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B. NEW BUSINESS		
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2023-144	Appropriation and Transfer Order in the amount of \$300,000 from Community Preservation Funds for the restoration and preservation of the Unitarian Church of Barnstable, 3330 Main Street, Barnstable, MA (Refer to Public Hearing 04/06/2023)	18-19
2023-145	Order Amending Article II, Sewer Assessments, Chapter 184 Sewers and Water of the General Ordinances (Refer to Public Hearing 04/06/2023)	20-23

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed 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 as 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, it may be continued to a future meeting, and with proper notice.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-133

INTRO: 02/02/2023, 03/16/2023

2023-133 APPROPRIATION ORDER IN THE AMOUNT OF \$22,700 FOR THE PURPOSE OF ACQUIRING THE FEE IN MOTHER’S PARK ROAD BY EMINENT DOMAIN FOR SEWER AND WATER AND GENERAL MUNICIPAL PURPOSES

ORDERED: Provided that the Town Council has first voted to abandon Mother’s Park Road as a public way, the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under Chapter 79 of the General Laws of Massachusetts, or otherwise acquire for sewer and water and general municipal purposes the fee through, under, across, and on Mother’s Park Road, Centerville, as more fully shown on a plan to be filed in the office of the Town Council, for the installation, operation, maintenance, repair, relocation, and replacement of sewer and water lines and infrastructure for the same and for all purposes for which such infrastructure is commonly used in the Town of Barnstable, and that to fund the same, that **\$22,700** be provided from the reserves in the Sewer Construction and Private Way Improvement Special Revenue Fund, and that the Town Manager is authorized to contract for and expend said appropriation for such purposes and accept any gifts or grants in relation thereto. Any trees, buildings, and other structures located within said roads are not included in this Order and the owners of the same may have a period of up to sixty (60) days after the recording of the Order of Taking to remove the same.

The names and addresses of the owners of said interests taken and their mortgagees as far as can be ascertained by the Town are as set forth on Exhibit A attached hereto, along with any awards, if any, for damages sustained by said owners.

Betterments will be assessed for the associated sewer and water improvements made by the Town of Barnstable.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>02/02/2023</u>	<u>Refer to Public Hearing 03/16/2023</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-133

INTRO: 02/02/2023, 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, Director, Department of Public Works;
DATE: February 02, 2023
SUBJECT: Appropriation Order in the amount of **\$22,700** for the purpose of acquiring the fee in Mother's Park Road by eminent domain for sewer and water and general municipal purposes

BACKGROUND: The Town is proceeding with plans to install sewers and related infrastructure in Centerville. These proposed taking of the fee in Mother's Park Road will enable the Town to install an underground sewer pump station in the former roadway as a vital component of the Town's approved Comprehensive Wastewater Management Plan.

The Town also contemplates making alterations to Mother's Park to correct severe turning and sightline deficiencies at the intersection of Craigville Beach Road. Article 97 of the Amendments to the State Constitution requires the Town to substitute land to replace that removed from the current configuration of Mother's Park. The taking of this land will allow the Town to add significant square footage to Mother's Park in excess of that actually removed for the safety improvements.

FISCAL IMPACT: Funding will be provided from the existing reserves in the Sewer Construction and Private Way Improvement Fund.

TOWN MANAGER RECOMMENDATION: Mark S Ells, Town Manager, requests favorable action by the Town Council.

STAFF ASSISTANCE: Karen L. Nober, Town Attorney; Charles S. McLaughlin, Senior Town Attorney; Griffin Beaudoin, Town Engineer; Daniel W. Santos, Director, Department of Public Works; Shane Brenner, Town Surveyor

		EXHIBIT A		
Owner	Street	Side of Street	Area	Damages
	Address		Discontinued	
Town of Barnstable		West of the center line of Mother's Park Road	7316 square feet	\$0
Barbara F. MacBride surviving Trustee of the Barbara F. MacBride Revocable Trust under Declaration of Trust dated February 2011 recorded with said Registry of Deeds in Book 25248, Page 328	15 Long Pond Circle, Centerville	East of the center line of Mother's Park Road as shown on Plan	1067 square feet	\$2,200.00
Richard J. Cohen and Shelly Cohen, individually and as Co-Trustees of the Cohen Revocable Trust	25 Long Pond Circle, Centerville	East of the center line of Mother's Park Road as shown on Plan	4046 square feet	\$8,500.00
Thomas L. Boduch and Karen J. Boduch	43 Long Pond Circle, Centerville	East of the center line of Mother's Park Road as shown on Plan	4904 square feet	\$10,300.00
Robert Dannemann and Stephanie Dannemann	47 Long Pond Circle, Centerville	East of the center line of Mother's Park Road as shown on Plan	819 square feet	\$1,700.00

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-139

INTRO: 03/02/2023, 03/16/2023

2023-139 ORDER APPROVING AN AMENDMENT TO THE 1992, 1995 AND 1997 AGREEMENTS BETWEEN THE TOWN AND THE WOODS HOLE, MARTHA’S VINEYARD AND NANTUCKET STEAMSHIP AUTHORITY

ORDERED: That the Town Council does hereby authorize the Town Manager to negotiate and execute an Amendment to the July 16, 1992 Agreement, the February 27, 1995 Memorandum of Understanding Relative to the Agreement dated as of July 16, 1992, and the November 6, 1997 Amendment to the Agreements Dated July 16, 1992 and February 27, 1995, between the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority (the “SSA”) and the Town of Barnstable (“Town”) (collectively, the “Agreements”), to increase the permitted maximum overall length of any of the SSA’s vessels to two hundred forty-five feet (245’); provided that the execution of such Amendment shall be contingent on said Amendment expressly including language in which the Town and the SSA agree to work collaboratively to consolidate the Agreements and the Amendment authorized herein into one new agreement which would supersede and replace those separate agreements (the “Superseding Agreement”). Such consolidation would be for administrative convenience only to reflect in one document the current terms and conditions of those individual agreements and to remove outdated, expired, and/or superseded language. The Town Manager is hereby authorized to negotiate and execute the Superseding Agreement as described herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>03/02/2023</u>	<u>Refer to Second Reading 03/16/2023</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-139
INTRO: 03/02/2023, 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Andrew Clyburn, Assistant Town Manager
DATE: March 02, 2023
SUBJECT: Order approving an Amendment to the 1992, 1995 and 1997 agreements between the Town and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority

BACKGROUND: LENGTH OF AUTHORITY VESSELS: The Steamship Authority and the Town entered into a 1992 agreement relating to the expansion of the Authority's Hyannis terminal, its operations, and other mitigation measures at the site, which agreement was subsequently amended by agreements entered into in 1995 and 1997. One of the 1992 contract provisions required the Authority to limit the maximum length of its vessels using the Hyannis facility to a maximum of 230 feet. The limit on length was intended to provide for safe turning and maneuverability in the Hyannis Inner Harbor so as not to endanger small craft in the crowded area. The 1995 agreement provided that freight vessel length shall not exceed 185 feet, and the 1997 agreement increased the freight vessel length to a maximum of 235 feet, which was the then-current length of the Authority's passenger/vehicle ferries.

The Authority now requests approval to extend the maximum length of Authority vessels to 245 feet. The requested change was presented to and unanimously recommended by both Marine & Environmental Affairs staff and the Town's Waterways Committee. The current Authority vessels are twin screw and have no bow or stern thrusters. The Authority's three new vessels, all identical, will each have two bow thrusters and one stern thruster, in addition to their twin screws. They will be highly maneuverable and will be able to maintain fixed position over a GPS-determined spot. With the added capability, the vessels will be much safer to operate within Hyannis-area waterways.

CONSOLIDATION OF MULTIPLE AGREEMENTS: The content of the three agreements when read together is somewhat outdated and confusing. Therefore, the Parties have agreed in principle that they should work collaboratively to consolidate the agreements into a single document that will not affect the substantive rights of the parties but that will restate and reaffirm their respective substantive rights and obligations. The requested vote affirms the Parties' obligation to undertake and complete this task in good faith. The vote also authorizes the Town Manager to execute the consolidated agreement when the re-write is complete.

FISCAL IMPACT: None

STAFF ASSISTANCE: Andrew Clyburn, Assistant Town Manager; Derek Lawson, Director, MEA; Brian Taylor, Harbormaster; Griffin Beaudoin, Town Engineer; Karen L. Nober, Town Attorney; Charles McLaughlin, Senior Counsel

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-140

INTRO: 03/02/2023, 03/16/2023

2023-140 APPROPRIATION ORDER IN THE AMOUNT OF \$34,500 FOR BURIAL EQUIPMENT FOR THE DEPARTMENT OF PUBLIC WORKS CEMETERY PROGRAM

ORDERED: That the sum of **\$34,500** be appropriated for the Department of Public Works Structures & Grounds Division Cemetery Program for the purpose of purchasing burial equipment used by Town staff to maintain cemeteries and perform interments in Town cemeteries, and to meet such Appropriation, that **\$34,500** be provided from the Town’s Sale of Cemetery Lots Special Revenue Fund.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>03/02/2023</u>	<u>Refer to Public Hearing 03/16/2023</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-140
INTRO: 03/02/2023, 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: March 02, 2023
SUBJECT: Appropriation Order in the amount of **\$34,500** for burial equipment for Department of Public Works Cemetery Program

BACKGROUND: The Town of Barnstable Structures & Grounds' Cemetery Program is requesting **\$34,500** from the Sale of Cemetery Lots Special Revenue Fund used for the purpose of purchasing burial equipment. The funds will be used for the replacement of a 2015 Cam Superline 8-ton split deck trailer that has a trade value of \$3,000. The trailer is regularly used in the day-to-day interment operations hauling excavation equipment. This trailer will be replaced with a new 2023 Cam Superline 8-ton split deck trailer. Additionally, we are requesting funds to purchase a new 5-ton Cam dump trailer to be used to haul spoils and backfill materials to and from full grave burials. The acquisition of this dump trailer will better facilitate the opening of closing of graves located in hard to access areas of cemeteries. Similarly, the Cemetery Program often has multiple opening and closings occurring simultaneously. The addition of a dump trailer will enable cemetery staff to complete the burial process proficiently. The Cemetery Section is requesting the funds to purchase a new grading bucket for the excavator. A grading bucket has a straight edge with no teeth and a flat surface, making it suitable for smoothing out soil and aggregates, backfilling, sloping, loading materials and cleaning out graves. With the inclusion of the new Green Burial Section at Mosswood Cemetery, Structures & Grounds is requesting the funds to purchase a traditional wooden funeral cart. In accordance with Green Burial services, wooden funeral carts are utilized in moving the casket from the hearse to the unpaved natural grave sites. The traditional funeral cart, or bier, allows families the opportunity to participate in the burial process. We will also be replacing miscellaneous graveside equipment that is showing excessive wear due to day to day operations. The purchasing of this equipment will maintain levels of services and improve efficiencies in burial processes.

ANALYSIS: As part of the Town's long range plan for the periodic replacement of equipment used for the maintenance of cemeteries and interment services, receipts from the sale of cemetery lots are credited to a Special Revenue Fund in accordance with Massachusetts General Finance Laws. The cost of this equipment can be solely covered by this dedicated cemetery revenue fund.

The equipment for which these transferred funds would fund includes:

• (1) 2023 Cam Superline 8-Ton Split Deck Trailer	\$ 18,500.00
• (1) 2023 Cam 5-Ton 6'x10' Dump Trailer	\$ 11,000.00
• Grading Bucket	\$ 2,000.00
• Green Burial Funeral Cart	\$ 5,000.00
• Miscellaneous graveside equipment	\$ 1,000.00
• (Less) Trade-In Allowance	
(1) 2015 Cam Superline 8-Ton Split Deck Trailer	\$ (3,000.00)
• Total	<u>\$ 34,500.00</u>

FISCAL IMPACT: In accordance with the Massachusetts General Laws, the Town maintains a Special Revenue Fund to which the receipts from the sale of cemetery lots are credited. Subsequently, these receipts may be

appropriated for the cost of maintaining and improving the Town's cemeteries. This account currently has a balance of \$211,605.33. There is no fiscal impact on the General Fund Operating Budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends that the Town Council approve this Appropriation Order.

STAFF ASSISTANCE: Joseph J. Marshall, Supervisor, Structures & Grounds Division; Michael Engelsen, Foreman, Cemetery Section

B. NEW BUSINESS (Refer to Public Hearing 04/06/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-141
INTRO: 03/16/2023**

**2023-141 APPROPRIATION ORDER IN THE AMOUNT OF \$65,000 FOR THE
DEPARTMENT OF COMMUNITY SERVICES GOLF ENTERPRISE FUND
OPERATING EXPENSES**

ORDERED: That the sum of **\$65,000** be appropriated for the Department of Community Services Golf Enterprise Fund Fiscal Year 2023 Operating Expenses, and to meet such appropriation, that **\$65,000** be provided from the Golf Enterprise Fund Reserves.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-141
INTRO: 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Chris Gonnella, Interim Director of Community Services
DATE: March 16, 2023
SUBJECT: Appropriation Order in the amount of **\$65,000** for the Department of Community Services Golf Enterprise Fund Operating Expenses

BACKGROUND: During the extreme cold weather events of February 03, 2023, a pipe burst in the Hyannis Golf Course clubhouse resulting in substantial water damage to the building. Due to the water damage loss at the Hyannis Golf Course clubhouse an insurance claim has been submitted which includes a deductible of **\$25,000**.

We are also requesting an additional **\$40,000** in funds to cover higher than anticipated credit card processing fees for the current fiscal year. These elevated costs are a result of increased credit card usage and increased activity throughout the Golf Division.

ANALYSIS: The current operating budget cannot accommodate the unexpected \$25,000 insurance deductible and would reduce required operating budget items. The Golf Division has experienced increase revenues, and credit card usage is up 33% (from 60% to 80% of user fees) in the last five years.

FISCAL IMPACT: The Golf Enterprise Fund Reserve balance was recently certified at \$2,326,507. Approval of utilizing our reserve funds to cover these expenses will allow golf course operations to avoid cutting other, unrelated operating lines that are crucial in continuing to provide the level of conditions and customer service that is expected of our facilities and employees. The Golf Division has requested an additional \$40,000 Decision Package for fiscal year 2024 to accommodate the increased credit card fees.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends that the Town Council approve this appropriation order after the required public hearing.

STAFF ASSISTANCE: Jesse Schechtman, Director of Golf

B. NEW BUSINESS (Refer to Public Hearing 04/06/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-142
INTRO: 03/16/2023**

2023-142 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$195,000 FROM THE COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR THE COMPLETION OF THE CAPE COD RAIL TRAIL PHASE 3 ENGINEERING SERVICES

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of One Hundred and Ninety Five Thousand Dollars (**\$195,000**) be appropriated and transferred from the amount set aside for Open Space/Recreation within the Community Preservation Fund for the purpose of funding the completion of the Cape Cod Rail Trail Phase 3 Engineering Services. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-142
INTRO: 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: March 16, 2023
SUBJECT: Appropriation and Transfer Order in the amount of **\$195,000** from the Community Preservation Open Space/Recreation Funds for the completion of the Cape Cod Rail Trail Phase 3 Engineering Services

BACKGROUND: At the January 23, 2023 Community Preservation Committee meeting, the eight Committee members present voted unanimously to recommend to the Town Council, through the Town Manager, the Department of Public Works' request as presented for **\$195,000** in Community Preservation Act Open Space/Recreation Funds to complete the required remaining Phase 3 design, permitting, bid phase and construction engineering tasks for the 100% design phase that is in-progress. This project is on the state's Transportation Improvement Projects (TIP) list for construction in 2024-2026 and it is critical for the Town to fund the remaining scope of services as soon as possible to keep the project on track. Matching funds in the amount of \$12,259,819 have been committed by Mass DOT for construction of Phase 3 in Barnstable and Yarmouth. Once constructed, Phase 3 of the Cape Cod Rail Trail will extend to the west approximately four miles from Old Town House Road in Yarmouth to Mary Dunn Road in Barnstable.

ANALYSIS: This project is essential to the state and regional vision of a continuous shared use path from the Cape Cod Canal to Provincetown. The trail will also serve local needs for commuting, recreation and tourism.

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, recommends approval of the Appropriation and Transfer Order.

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

B. NEW BUSINESS (Refer to Public Hearing 04/06/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-143
INTRO: 03/16/2023**

2023-143 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$300,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR THE PURPOSE OF FUNDING CAPE COD RAIL TRAIL, PHASE 4 – PRE-25% DESIGN SERVICES

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of **\$300,000** be appropriated and transferred from the amount set aside for Open Space/Recreation within the Community Preservation Fund for the purpose of funding Cape Cod Rail Trail, Phase 4 – Pre-25% Design Services. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-143
INTRO: 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: March 16, 2023
SUBJECT: Appropriation and Transfer Order in the amount of **\$300,000** in Community Preservation Open Space/Recreation Funds for the purpose of funding Cape Cod Rail Trail, Phase 4 – Pre-25% Design Services

BACKGROUND: At the January 23, 2023 Community Preservation Committee meeting, the eight Committee members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager, the Department of Public Works' request as presented for **\$300,000** in Community Preservation Act Open Space/Recreation Funds for Pre-25% Design Services for Phase 4 of the Cape Cod Rail Trail project. This funding request represents a portion of the \$800,000 needed to complete the Pre-25% Design Services for Phase 4 which when completed will be submitted to MassDOT with a request for a commitment of State Transportation Improvement Project (TIP) funds for future construction. Matching funds will be provided by the award of a \$500,000 Mass Trails grant. Once constructed, this Phase 4 will extend the Cape Cod Rail Trail westward approximately 10 miles from Mary Dunn Road in Barnstable to the Barnstable/Sandwich town line.

ANALYSIS: This project is essential to the state and regional vision of a continuous shared use path from the Cape Cod Canal to Provincetown. The trail will also serve local needs for commuting, recreation and tourism.

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, recommends approval of the Appropriation and Transfer Order.

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

B. NEW BUSINESS (Refer to Public Hearing 04/06/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-144
INTRO: 03/16/2023**

2023-144 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$300,000 FROM COMMUNITY PRESERVATION FUNDS FOR THE RESTORATION AND PRESERVATION OF THE UNITARIAN CHURCH OF BARNSTABLE, 3330 MAIN STREET, BARNSTABLE, MA

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of Three Hundred Thousand Dollars (**\$300,000**) be appropriated for the purpose of funding the restoration and preservation of the Unitarian Church of Barnstable located at 3330 Main Street, Barnstable, MA, Assessors Map 299, Parcel 041, and to fund this appropriation that **\$261,000** be transferred from the amount set aside for Historic Preservation within the Community Preservation Fund and **\$39,000** be transferred from the Undesignated Fund Balance within the Community Preservation Fund. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-144
INTRO: 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: March 16, 2023
SUBJECT: Appropriation and Transfer Order in the amount of **\$300,000** from Community Preservation Funds for the Restoration and Preservation of the Unitarian Church of Barnstable, 3330 Main Street, Barnstable, MA

BACKGROUND: At the January 23, 2023 Community Preservation Committee meeting, the six Committee members present voted unanimously to recommend to the Town Council through the Town Manager, the Unitarian Church of Barnstable's request as presented for **\$261,000** in Community Preservation Historic Preservation Funds and **\$39,000** in Community Preservation Undesignated Funds for the restoration and preservation of the church tower, pavilion and nave. This funding request represents a portion of the total project cost of \$680,225 with matching funds in the amount of \$70,000 to be provided by a Massachusetts Historic Commission Grant and \$310,000 provided through private donations. Deterioration of the church's tower and dome roof has led to active water infiltration causing rot and damage to the structural framing and exterior architectural woodwork. The building has the benefit of a detailed Architectural Assessment report and an existing preservation restriction to the Town of Barnstable. Restoration work will include replacement of the deteriorated copper dome, structural reinforcements to the tower framing, replacement of deteriorated architectural woodwork throughout, re-flashing and weatherproofing the exterior envelope, restoration of the three clocks and weathervane and repainting, replacement of missing urn finials.

ANALYSIS: The circa 1906-07 Unitarian Church of Barnstable is located in the Old King's Highway Regional Historic District and listed on the National Register of Historic Places as both a contributing and individual resource and the State Register of Historic Buildings and was designed by renowned regional architect, Guy Lowell. The building serves as a venue for many formal and informal community groups.

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, recommends approval of the Appropriation and Transfer Order.

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

B. NEW BUSINESS (Refer to Public Hearing 04/06/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-145
INTRO: 03/16/2023**

**2023-145 ORDER AMENDING ARTICLE II, SEWER ASSESSMENTS, CHAPTER 184
SEWERS AND WATER OF THE GENERAL ORDINANCES**

ORDERED: That Article II, Sewer Assessments, Chapter 184 Sewers and Water, of the General Ordinances of the Code of the Town of Barnstable shall be amended as follows:

SECTION 1: By deleting § 184-9.7 in its entirety and inserting the following new § 184-9.7 in its place:

§ 184-9.7. Sewer connection costs.

Property owners must select and contract with a contractor to connect their property to the completed section of sewer. Property owners may elect to privately pay directly to the contractor the entire cost of connection or may choose to enter into an agreement with the Town under which the Town will pay the connection costs upon completion and will then finance and assess 100% of the costs plus interest back to the property owner as an additional and separate sewer assessment. The apportionment of such assessment and the applicable interest rate thereon shall be in accordance with Section 184-9.8 hereof.”

SECTION 2: By amending the heading of § 184-9.9 to insert the words “and suspension” after the word “Deferral” so that it reads: “Deferral and suspension of charges.”

SECTION 3: By further amending § 184-9.9 by deleting in Subsection B the word “assessment” and inserting the words “use charges” in its place.

SECTION 4: By further amending § 184-9.9 by adding the following new Subsections C, D, E, F and G:

- C. In accordance with and subject to the provisions of Section 13B of Chapter 80 of the General Laws, the Town Manager shall, upon the application of the owner of real property on which a sewer assessment has been imposed, if such owner is receiving an exemption from property taxes under clause Forty-first A of Section 5 of Chapter 59 of the General Laws with respect to such property, enter into a deferral and recovery agreement with such owner on behalf of the Town. Any such application shall be filed with the Town Manager within six months after notice of the assessment has been sent. In the case of each such deferral and recovery agreement entered into by the Town Manager and the property owner, the Town Manager shall record in the Barnstable County Registry of Deeds a statement of his or her action which shall constitute a lien upon the land covered by such agreement for such sewer assessment. Such statement shall name the name the owner or owners and shall include a description of the land. The filing fee for any such statement recorded by the Town Manager shall be paid by the owner or owners of such real property.

- D. The provisions of Section 13B of Chapter 80 of the General Laws are hereby accepted by reference as a part of the general ordinances of the Town.
- E. In accordance with and subject to the provisions of Section 5 of Chapter 61 of the General Laws, land classified as forest land under said Chapter 61 is subject to a sewer assessment to such pro rata extent that the service or facility financed by such assessment is used for improving the forest production use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in forest production use and shall become due and payable as of the date when the use of the land is changed. Interest shall be computed from the date of the change in use.
- F. In accordance with and subject to the provisions of Section 18 of Chapter 61A of the General Laws, land classified as agricultural or horticultural under said Chapter 61A, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in agricultural or horticultural use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.
- G. In accordance with and subject to the provisions of Section 13 of Chapter 61B of the General Laws, land classified as recreational under said Chapter 61B, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the recreational capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in classified recreational use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.

SECTION 5: By deleting “§ 184-9.10. Abatements” in its entirety and inserting the following new § 184-9.10 in place thereof:

“§ 184-9.10. Abatements.

- A. Petition for Abatement. The owner of any property on which a sewer assessment has been imposed under this Article II may file with the Town Manager a petition for abatement of such assessment on a form provided by the Department of Public Works within six months of the date of notice of such assessment. The Town Manager shall act on such petition within four months of the date of its filing. If the Town Manager fails to act within that time, the petition is deemed to be denied. The Town Manager shall give written notice to the petitioner of his or her decision within ten days after it has been made. The filing of such petition does not stay the payment of the sewer assessment, which must be paid as assessed. If the abatement petition is allowed, the appropriate refund will be made by the Town in accordance with M.G.L. c. 80, § 5.
- B. Appeal of Denial of Abatement. A property owner who is aggrieved by the refusal of the Town Manager to abate a sewer assessment in whole or in part may, within thirty days after notice of the decision of the Town Manager, file an appeal in the Superior Court pursuant to M.G.L. c. 80, § 7, or, alternatively, appeal such decision within said thirty day period to the Barnstable County Commissioners pursuant to M.G.L. § 10. If the Town Manager fails to act on a petition within four months of the date of its filing, the property owner shall have sixty days after the expiration of such four month period to file an appeal.”

SECTION 6: By adding the following new “§ 184-9.11. Municipal lien”:

§ 184-9.11. Municipal lien.

Deferred Recording Procedure. The provisions of Section 12 of Chapter 80 of the General Laws, with respect to deferring the recording of the required information for sewer assessments authorized by M.G.L. c. 83 until after the project is completed, assessments are made, and bills issued, and then only for those properties where the assessment was not paid in full within the thirty day period for paying without incurring interest, are hereby accepted by reference as a part of the general ordinances of the Town.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2023-145
INTRO: 03/16/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: March 16, 2023
SUBJECT: Order Amending Article II, Sewer Assessments, Chapter 184 Sewers and Water of the General Ordinances

RATIONALE: This Order proposes to amend the Sewer Assessment ordinance approved by the Town Council on July 1, 2021. The proposed amendments make the following corrections and clarifications to the ordinance.

With respect to sewer connection costs, we are clarifying that the property owner is required to enter into a contract for these services with its selected contractor and then has two options with respect to payment. The owner can then either pay the contractor directly for the services or enter into an agreement with the Town under which the Town will pay the contractor and finance and assess 100% of these costs back to the property owner as an additional and separate sewer connection assessment.

With respect to the deferral of charges, the ordinance as currently written, including the acceptance of the provisions of G.L. c. 83, sec. 16G, allows the deferral of sewer use charges and not the deferral of sewer assessment charges. The proposed amendment would leave intact the deferral of sewer use charges and have the Town Council vote to accept the provisions of G.L. c. 80, sec. 13B, which allows for the deferral of sewer assessment charges.

The deferral section has been broadened to also address suspension of charges. As required by G.L. c. 61, 61A and 61B, sewer assessments on properties classified as forest land, agricultural or horticultural land or recreational land must be suspended until such time as there is a change of use for the property. Upon a change in use of the property, the sewer assessment must be paid and interest begins to accrue at that point in time.

The abatement section has been revised to clarify that the Town Manager has 4 months, not 45 days, in which to make a decision on an abatement application, and if, at the end of that 4 month period, he has not made a decision, the abatement request is deemed denied, and the applicant may file an appeal. We also revised the appeal provisions to reflect that an aggrieved property owner has the option to either file an appeal in Superior Court or file an appeal with the Barnstable County Commissioners, as provided by law.

Finally, we added a section in which the Town Council accepts the provisions of G.L. c. 80, sec. 12, which allows the Town to defer the recording of the required information for sewer assessments so that a lien is placed only on those properties where the assessment was not paid in full within thirty days.

FISCAL IMPACT: None

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this proposed amendment to the sewer assessment ordinance.

STAFF SUPPORT: Mark Milne, Director of Finance; Charles McLaughlin, Senior Counsel