

Town of Barnstable Town Council

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MEETING AGENDA TOWN HALL HEARING ROOM February 28, 2019 7:00 PM

Councillors:

James H. Crocker Jr.
President
Precinct 5

John G. Flores
Vice President
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Britt Beedenbender
Precinct 4

Paul C. Neary
Precinct 6

Jessica Rapp Grassetti
Precinct 7

Debra S. Dagwan
Precinct 8

James M. Tinsley
Precinct 9

Matthew Levesque
Precinct 10

Philip N. Wallace
Precinct 11

Paula Schnepf
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator:

Cynthia A. Lovell

Administrative

Assistant:

Kelly Crahan

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

NEXT REGULAR MEETING: March 7, 2019

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A. OLD BUSINESS

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Approve Minutes –February 7, 2019

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 (Roll call) (2/3 Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2019-042

INTRO: 11/01/2018, 11/15/18, 12/06/18, 01/17/19, 02/07/19, 02/28/19

2019-042 AMENDING CHAPTER 240, ARTICLE III, OF THE ZONING ORDINANCES TO EXPAND THE HIGHWAY BUSINESS DISTRICT

ORDERED: That Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

Section 1.

By amending Article II, Section 6, The Zoning Map of the Town of Barnstable, Massachusetts, is hereby amended by expanding the Highway Business (HB) District as shown on the maps entitled:

- “Proposed Amendment to the Town Zoning Map Expanding the Highway Business District in Centerville and Hyannis”
- “Proposed Amendment to the Centerville Zoning Map Expanding the Highway Business District in Centerville and Hyannis”
- “Proposed Amendment to the Hyannis Zoning Map Expanding the Highway Business District in Centerville and Hyannis”
- “Proposed Amendment to the Osterville Zoning Map Expanding the Highway Business District in Centerville and Hyannis.”

all dated October 26, 2018, as prepared by the Town of Barnstable GIS Unit.

Section 2

That Chapter 240, Article III, § 240-26 "Highway Office" of the Zoning Ordinance is hereby deleted.

Section 3

That Chapter 240, Article II, § 240-5 "Establishment of Districts" of the Zoning Ordinance is hereby amended by striking the Office Districts section and the associated “Highway Office District.”

SPONSORS: Zoning & Regulatory Committee members

DATE	ACTION TAKEN
<u>11/01/18</u>	<u>Refer to Joint Public Hearing with the Planning Board on 11/15/18</u>
<u>11/15/18</u>	<u>Opened and Continued to a Joint Public Hearing with the Planning Board 12/06/18</u>
<u>12/06/18</u>	<u>Public Hearing closed/ Continued to 01/17/19</u>
<u>01/17/19</u>	<u>Continued to 02/07/19</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2019-042

INTRO: 11/01/2018, 11/15/18, 12/06/18, 01/17/19, 02/07/19, 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Town Council Zoning & Regulatory Committee
DATE: November 1, 2018
SUBJECT: Amending Chapter 240, Article III, of the Zoning Ordinances to Expand the Highway Business District

RATIONALE: This proposed amendment to Highway Business District boundaries would expand the commercial zoning in areas along the Route 28 corridor, the West Main Street corridor and around the West End Rotary in the Villages of Centerville and Hyannis. The areas to be rezoned feature preexisting nonconforming uses; zoning district boundaries that do not match parcel boundaries; and/or other locations where infill development potential may exist.

This map amendment is presented concurrently with proposed comprehensive changes to the Highway Business District. This amendment would rezone the entirety of the land area currently zoned HO Highway Office to Highway Business, and thus the HO District is proposed to be repealed with this amendment.

The proposed amendments to the district boundary received a favorable recommendation from the Town Council Zoning and Regulatory Subcommittee members in attendance at the meeting on October 18, 2018 listed as sponsors herein.

STAFF ASSISTANCE: Elizabeth Jenkins, Director of Planning & Development

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

BARNSTABLE TOWN COUNCIL

**ITEM #2019-087
INTRO: 02/07/19, 02/28/19**

**2019-087 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE
AMOUNT OF \$765,000 FOR THE FISCAL YEAR 2019 AIRPORT OPERATING
BUDGET**

ORDERED: That the sum of **\$765,000** be appropriated for the purpose of funding Fiscal Year 2019 Airport Operating expenses, and that to meet this appropriation, that **\$765,000** be transferred from the Airport Enterprise Fund Reserves.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>02/07/19</u>	<u>Refer to Public Hearing 02/28/19</u>

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

BARNSTABLE TOWN COUNCIL

ITEM #2019-087
INTRO: 02/07/19, 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Katie R. Servis, Airport Manager
DATE: February 07, 2019
SUBJECT: Supplemental Appropriation and Transfer Order in the amount of 765,000 for the Fiscal Year 2019 Airport Enterprise Fund Operating Budget

SUMMARY: The Airport is requesting that the sum of \$765,000 be appropriated for the purpose of funding various Airport operating expenses as follows:

- \$750,000 for Aviation Jet Fuel; and
- \$15,000 for Legal Fees.

Fuel: Barnstable Municipal Airport is requesting an increase in the FY2019 Operating Expense Budget funds to cover the cost of jet fuel purchases through the end of the 2019 fiscal year. There are two major factors associated with the need to increase the FY2019 Operating Expense Budget funds to cover the cost of jet fuel purchases; they include:

- Increases in the jet fuel price per gallon actual cost; and
- Increase in the projected fuel sales being sold.

Increases in the jet fuel price per gallon actual cost

When projecting fuel sales for Fiscal Year 2019, the airport calculated the projected budget based upon an average purchase price of \$2.45 per gallon with the anticipation of selling 765,000 gallons for a total budget of \$1,874,250 to cover the cost of fuel purchases for resale.

The regular retail price of jet fuel at Barnstable Municipal Airport is based upon the PLATTS New York Harbor Jet Barge Mean Previous Week wholesale price. Because prices fluctuate daily, these prices reflect the best industry-driven price and are the methodology used for setting fuel rates. The retail price of a gallon of fuel reflects the costs and profits (or losses) of producing and delivering the product to customers. Four main components contribute to the retail price of a gallon of fuel:

- The cost of oil purchased by refineries
- Refining costs and profits
- Distribution, marketing, and retail station costs and profits
- Taxes (federal, state, county, and local government)

The relative share of these components in the retail price of a gallon of fuel varies over time and by the region of the country where it is sold. Because of these fluctuations it is sometimes hard to predict the needs from one fiscal year to the next. A snapshot of the average fuel purchase price per gallon since Fiscal Year 2013 indicates the volatile market.

Fiscal Year	Average Price Per Gallon	Fiscal Year	Average Price Per Gallon	Fiscal Year	Average Price Per Gallon
FY2013	\$3.64/gallon	FY2016	\$1.94/gallon	FY2019 (projected)	\$2.45/gallon
FY2014	\$3.56/gallon	FY2017	\$2.08/gallon		
FY2015	\$2.83/gallon	FY2018	\$2.35/gallon		

Since July 2018 (the start of the Fiscal Year 2019), the actual average price per gallon was closer to \$2.80. Using this “actual” cost of \$2.80 per gallon with the continued anticipation of selling 765,000 gallons would require the budget to be increased by just under \$270,000 ($\$2.80 \times 765,000 \text{ gallons} = \$2,142,000 - \$1,874,250 \{\text{budgeted}\} = \$267,750$). However, this only tells half the story as the Airport has nearly surpassed the total fiscal year projected fuel sales sold in 1st and 2nd quarter of FY19.

Increase in the projected fuel sales being sold.

The Airport tracks year-over-year and month-over-month the average fuel loads purchased and sold. This tracking allows us to identify the number of fuel loads typically needed year-over-year and month-over-month and is used for forecasting purposes. As you can see from the tables below, our highest months for fuel purchased and sold is June, July and August. Within the 1st and 2nd quarters of FY19, the Airport had already purchased over 84% of the total projected fuel need for the fiscal year (or 645,869 gallons as of 1/29/2019 of the 765,000 gallons projected). In FY2018 the Airport had already purchased over 76% of the total projected fuel need for the fiscal year. This is not uncommon, however, the Airport has seen an increase in gallons purchased and sold when comparing FY18 to FY19. See the tables below.

GALLONS PURCHASED				GALLONS SOLD			
MONTH	FY2018	FY2019	FY 19 vs FY18	MONTH	FY2018	FY2019	FY 19 vs FY18
JULY	178,428	178,281	-147	JULY	173,267	179,701	6,434
AUGUST	168,591	197,546	28,955	AUGUST	155,978	195,709	39,731
SEPTEMBER	89,561	99,250	9,689	SEPTEMBER	91,271	101,600	10,329
OCTOBER	59,698	59,942	244	OCTOBER	50,997	56,450	5,453
NOVEMBER	50,308	50,279	-29	NOVEMBER	41,860	44,071	2,211
DECEMBER	20,270	30,233	9,963	DECEMBER	26,269	34,541	8,272
JANUARY*	20,248	30,338	10,090	JANUARY*	16,770	24,992	8,222
FEBRUARY	20,224		-20,224	FEBRUARY	18,307		-18,307
MARCH	20,188		-20,188	MARCH	17,400		-17,400
APRIL	30,182		-30,182	APRIL	33,667		-33,667
MAY	49,895		-49,895	MAY	51,220		-51,220
JUNE	117,382			JUNE	126,589		
TOTALS	824,975	645,869	-179,106	TOTALS	803,595	637,064	-166,531

* Depicts a partial month and not the actual full month of gallons sold for January 2019. January may be higher in FY19 than identified here.

From February through June, we historically have purchased 25-27 fuel loads. The historic average purchase of fuel is outlined below.

ANALYSIS OF HISTORICAL GALLONS SOLD/MONTH			
MONTH	Average Load Purchased/Month	Average Gallons/Load	Total Gallons/Month
FEBRUARY	3	9,900	29,700
MARCH	3	9,900	29,700
APRIL	3	9,900	29,700
MAY	5	9,900	49,500
JUNE	12	9,900	118,800
TOTALS	26	645,869	257,400

Using the average historical fuel load purchases for February through June and maintaining the actual average price per gallon of \$2.80, the analysis would indicate that an additional 257,400 gallons at a price of \$720,720 is necessary to meet the shortfall in available funds for jet fuel purchases for the remainder of the year. See table below.

ANALYSIS OF HISTORICAL GALLONS PURCHASED				ANALYSIS OF FUNDS NEEDED TO COVER SHORTFALL
MONTH	Average Load Purchased/Month	Average Gallons/Load	Total Gallons/Month	Average Price/Load @ \$2.80/gallon multiplied by the average load purchased per month
FEBRUARY	3	9,900	29,700	\$83,160
MARCH	3	9,900	29,700	\$83,160
APRIL	3	9,900	29,700	\$83,160
MAY	5	9,900	49,500	\$138,600
JUNE	12	9,900	118,800	\$332,640
TOTALS	26	645,869	257,400	\$720,720

Because the Airport has most recently experienced the sale of more fuel in the 1st and 2nd quarters of Fiscal Year 2019, it would be prudent to include an additional 4 load buffer for a total of 30 loads to be purchased before the end of the fiscal year. The table below identifies the budget analysis and funding request.

<i>Jet Fuel Purchase Analysis (Numbers as of 1/29/2019)</i>	
Original Appropriation	\$1,874,250.00
Year to Date Expended	\$1,789,681.71
Encumbered Funds/Requisition	\$79,765.84
Available Budget	\$84,568.29
Total Unencumbered	\$4,802.45
Loads needed for remainder of year (includes 4 load buffer)	30
Estimated Cost per Load (assumed \$2.80/gallon)	\$27,720.00
Estimated Total Cost	\$831,600.00
Available Budget	\$84,568.29
Funds Potentially Needed	\$747,031.71
Funding Increase Request	\$750,000.00

Legal Fees

Following the commencement of the Fiscal Year 2019 budgetary cycle, the Barnstable Municipal Airport continues to use outside counsel. When able and depending on the topic the Airport will consult with the Town's Legal Department; however, there are a number of instances when the advice and guidance of experts well versed in aviation law are necessary.

Over the past few years, the Airport's legal fees have fluctuated and the need has been dependent on the topics at hand. For instance in Fiscal Year 2017, the Airport incurred additional fees associated with the bankruptcy of Island Airlines and the Airport's request to recoup lease fees and other airport related charges unpaid at the time of the company's filing. During FY2018 the evaluation of the presence of perflouroalkyl substances (PFAS) in soil and groundwater on and off airport property and the Request for Proposal (RFP) development for the K-mart parcel, property owned and managed by the Barnstable Municipal Airport, increased outside counsel fees.

It was assumed after Fiscal Year 2018 that legal fees may return to the average fee incurred in past years (between \$35,000 and \$45,000). The original appropriation of \$45,069 for legal assistance may result in a shortfall for Fiscal Year 2019 as the Airport anticipates that legal fees will continue to accrue for the remainder of fiscal year. To date (July – December 2018), the Airport has expended \$27,360.70 of the \$45,069 budgeted with \$17,708.30

of the budget remaining. It is anticipated that over the next several months legal fees will be incurred as agreements and leases are negotiated with WS Landing at Hyannis LLC, the recipient and awardee for development of the CapeTown Plaza (aka KMART Plaza). Additionally, the Airport has a number of older leases that are set to expire plus assistance with implementing standards set forth by the Federal Aviation Administration (FAA) that will need to be addressed.

As such, the Fiscal Year 2019 budget projections may cause a shortfall in available funds for legal fees for the remainder of the year and our budget for Fiscal Year 2019 may be inadequate to meet current demand; therefore, the Barnstable Municipal Airport is requesting an additional \$15,000 to cover legal fees for Fiscal Year 2019. This number was derived from looking at the average monthly fee incurred over the past three years, which equals approximately \$5,000 per month. The table below identifies the budget analysis and funding request.

Legal Fees	
Numbers as of 1/29/2019	
Original Appropriation	\$45,069.00
Year to Date Expended	\$27,360.70
Encumbered Funds/Requisition	\$17,708.30
Available Budget	\$17,708.30
Total Unencumbered	\$0.00
Estimated need for remainder of year (\$5,000/month January - June)	\$30,000.00
Available Budget	\$17,708.30
Funds Potentially Needed	\$12,291.70
Funding Increase Request	\$15,000.00

Any funds remaining at the end of the Fiscal Year will be returned to the Airport Enterprise Reserve Fund. It is therefore requested that to meet this appropriation, \$765,000 be transferred from available funds within the Airport Enterprise Reserve Fund.

FISCAL IMPACT: Sales of jet fuel will replenish the Airport’s reserves used to fund the \$750,000 appropriation for fuel. Legal fees will not be replenished. The airport’s share for this appropriation will be provided from the airport’s reserve fund, which has a balance of \$3,525,181 as of July 1, 2018.

STAFF ASSISTANCE: Katie R. Servis, Airport Manager, Mark A. Milne, Director of Finance

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

BARNSTABLE TOWN COUNCIL

ITEM # 2019-088
INTRO: 02/07/19, 02/28/19

2019-088 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND 720 MAIN RESIDENCES, LLC, FOR PROPERTY LOCATED AT 720 MAIN STREET, HYANNIS, MA

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 720 MAIN RESIDENCES, LLC, for the property 720 Main Street, Hyannis, 1.13 ± acres, shown on Town of Barnstable Assessor’s Map 308 as Parcel 003, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 30351, Page 192 (“the Property”); and permitting the redevelopment of the Property and granting the requested zoning relief. The Developer desires to develop the Property pursuant to this Regulatory Agreement.

REGULATORY AGREEMENT

720 MAIN STREET, HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the developer, **720 MAIN RESIDENCES, LLC**, a Massachusetts limited liability company (“Developer”) and the **TOWN OF BARNSTABLE** (“Town”), a municipal corporation, on this ___ day of _____, 201__ pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, this Agreement shall establish the permitted uses, densities, and traffic within the Development (as hereafter defined), the duration of the agreement, and any other terms or conditions mutually agreed upon between Developer and the Town;

WHEREAS, this Agreement shall vest land use development rights in the property for the duration of the 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 Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, Developer is the buyer under a purchase a sale agreement entitled “Agreement for Sale and Purchase of Property” dated May 26, 2017 of the property at 720 Main Street, Hyannis, Massachusetts shown on Town of Barnstable Assessor’s Map 308 as Parcel 003, consisting of 49,249 ± square feet (1.13 ± acres), referred to herein as “the Property”;

WHEREAS, Developer is willing to commit itself to use of the Property in accordance with this Agreement and desires to have a reasonable amount of flexibility to do so and therefore considers this Agreement to be in its best interests;

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to use of the Property;

WHEREAS, the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS, Developer has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS, the Development is located in the Downtown 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, as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02 Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Development 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, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02, establishing revised development thresholds within the GIZ, under which this development may proceed and Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, prior to applying for approval of this Agreement, the Development was reviewed by the Town of Barnstable Site Plan Review Committee on June 7, 2018 (SPR 016-18) and the Site Plan Review Committee voted to find the development proposal approvable subject to the grant of a Regulatory Agreement and other conditions as stated in its letter dated June 11, 2018 (the "Site Plan Approval Letter");

WHEREAS, the Property is currently improved only with curb cuts off Main Street and North Street with frontage on both, and existing paved internal driveways and parking areas and subsurface drainage and sewer structures;

WHEREAS, Developer proposes to: retain and improve the existing improvements located on the Property, including undertaking and completing improvements, reconfigurations and additions to existing paved parking areas and driveways, landscaping, subsurface drainage structures, including a significant addition, reconfiguration and improvement to the design and functionality of the Town drainage collection system located in Main Street and Town-owned property at 725 Main Street, Hyannis, which is adjacent to, and across the street from, the Property, as depicted on plans submitted to and reviewed by the Town, Town sewer lines and tie-ins, and Town domestic and fire suppression water supply lines and tie-ins and other utility tie-ins to service the property and to redevelop the property substantially by constructing a mixed-use building consisting of 40 residential units to be offered for rent as moderately priced, workforce housing consisting of 1, 2 and 3 bedroom units and 1 office unit, with parking located both off-site and on-site, a portion of which will be located under the building at ground level, together with related landscaping and other site improvements as depicted on the plans submitted herewith;

WHEREAS, Developer will require zoning relief to allow for construction of the structures and improvements described above to redevelop the property all as shown on the plans submitted with its application for approval of the within Agreement and as further defined in paragraphs numbered 1 and 2 below;

WHEREAS, the project is consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan's goals of: creating livable neighborhoods for year round residents; creating housing opportunities for persons and households of all income levels; enhancing pedestrian access; promoting traffic reduction and alternate transportation modes; and promoting private investment in buildings and structures that support appropriate economic development;

WHEREAS, this Agreement will result in the following community benefits to the Town

a. 40 moderately priced, workforce residential housing units located within walking distance to the businesses, restaurants, cafes and shops located in and near the downtown Main Street area and the area designated in and by the Town and the Cape Cod Commission for growth and redevelopment known as the Growth Incentive Zone will be added to the housing stock of the Town;

b. blight will be reduced in the neighborhood as this commercial site that has sat vacant for ten plus years will be redeveloped to provide needed moderately-priced residential housing offered for rent;

c. Developer will upgrade, reconfigure and improve the Town stormwater drainage collection system to increase its capacity and functionality in Main Street adjacent to and south of the property, upgrading the existing system components in Main Street and at 725 Main Street to the outfall thereon as depicted on plans submitted to and approved by the Town; and

d. the Town's property tax revenue will increase.

WHEREAS, Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on _____; and

WHEREAS, Developer has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____;

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

1. The Developer proposes to redevelop and maintain the property as follows:

a. The Developer proposes to retain and improve the existing improvements located on the Property, including undertaking and completing improvements, reconfigurations and additions to existing paved parking areas and driveways, landscaping, subsurface drainage structures, including a significant addition, reconfiguration and improvement to the design and functionality of the Town stormwater collection system located in Main Street adjacent to the Property and at 725 Main Street, across the street from the property as depicted on plans submitted to and reviewed by the Town, Town sewer lines and tie-ins, and Town domestic and fire suppression water supply lines and tie-ins and other utility tie-ins to service the property and to redevelop the property substantially by constructing a mixed-use building consisting of 40 residential units to be offered for rent as moderately priced, workforce housing consisting of 1, 2 and 3 bedroom units and 1 office unit, with parking located both off-site and on-site, a portion of which will be located under the building at ground level, together with related landscaping, retaining walls and other site improvements as depicted on the plans submitted herewith;

The Gross Square Footage of the proposed four-story, mixed-use building is 62,003 square feet, with a no less than 40 and not more than 44 spaces (2 ADA accessible) parking area under on the ground floor with general space comprised of entries, hallways, lobby, trash collection room, and sprinkler and utility rooms; 1,306 gross square feet committed to office use located on the ground floor and 43,912 gross square feet committed to residential use with a total of 40 residential units, consisting of 19 one-bedroom units (47%); 6 one-bedroom plus den units (15%); 11 two-bedroom units (28%); and 4 three-bedroom units (10%) comprising a total bedroom count of 59 bedrooms;

b. The Developer agrees to redevelop and maintain the Property in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made a part of this Regulatory Agreement by reference:

i. "720 Main Residences Redevelopment" 8 Sheets, dated February 20, 2018, previously revised June 25, 2018, last revised Nov. 29, 2018 as to Sheet C-101 'Grading and Drainage Plan' only

(one sheet) prepared by BSC Group, West Yarmouth, MA for Williams Building Company, Inc., West Yarmouth, MA;

ii. “Fire Truck Access Plan” dated Feb. 28, 2018 prepared by BSC Group, West Yarmouth, MA for Williams Building Company, Inc., West Yarmouth, MA; and

iii. Floor and Elevation Plans entitled: “720 Main Residences, Hyannis, MA,” 14 sheets, dated February 19, 2018 prepared by MTD Architects, Salem, MA.

2. The Developer agrees to comply with the conditions in the aforesaid Site Plan Approval Letter dated June 11, 2018 (SPR 016-18), a copy of which is attached hereto and incorporated by reference herein;
3. Mixed-use development with a total floor area greater than 20,000 square feet is a permitted principal use by special permit under Section 240-24.1.6 OM Office/Multi-family Residential District Subsection B.(1)(b);
4. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of 5 years from the effective date of the Agreement, provided, however, that prior to the expiration of said 5 year period Developer may request an eighteen month extension to obtain development permits. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. In addition, if and as exigent or necessary, Developer may request additional extensions, not to exceed in the aggregate 10 years from the effective date of the Agreement, plus one 12 month extension thereafter to obtain development permits, if and as necessary, requested and granted;
5. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained:
 - a) Final elevations and material selections, including exterior siding, shall be provided to the Planning & Development Department and a determination of consistency with the Design and Infrastructure Plan shall be made by the Director of the Planning & Development Department prior to the building permit stage.
6. Rental restrictions. Developer’s minimum lease term of rental units shall be twelve (12) months. Sublease of rental units, if permitted by the Developer, shall be for a minimum term of ninety (90) days. The lease documents shall be reviewed by the Town Attorney for consistency with the conditions of this Agreement prior to issuance of the first Certificate of Occupancy;
7. Each residential unit shall have at least one dedicated parking space, designated by signage and/or surface paint. The total number of parking spaces provided for the Property is 79 (4 of which shall be ADA compliant) with 64 provided on-site (no less than 40 and no more than 44 of which shall be sheltered, located under the structure, access to which shall be restricted to residents of the units by operational gate with passcode or remote operated access) and 15 provided off-site by existing grant of easement benefitting the property recorded in Book 5496, Page 38 and shown on Plan Bk. 428, Page 9 and the total exceeds the number of spaces required by the Town of Barnstable Zoning Ordinance. A copy of any modification of said easement shall be filed with the Planning and Development Department;
8. The developer shall provide bike racks and or bike storage on the Property;
9. All plumbing fixtures in the new units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
10. Construction and demolition debris shall be removed from the Property and shall be reused or recycled to the maximum extent possible;

11. All landscaping within the development shall be low-water use and shall minimize the use of fertilizers and pesticides;

12. Letter of Credit. Prior to the issuance of any foundation building permit, Developer will provide a Letter of Credit or cash in an amount to be approved by the Planning Board or its designee, said Letter of Credit or cash to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said Letter of Credit or cash shall be released by the Planning Board to Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of Developer. The terms of the Letter of Credit are subject to review and approval by the Town of Barnstable Town Attorney;

13. This Agreement will result in the following benefits to the Town:

- a. 40 moderately priced, workforce residential housing units located within walking distance to the businesses, restaurants, cafes and shops located in and near the downtown Main Street area and the area designated in and by the Town and the Cape Cod Commission for growth and redevelopment known as the Growth Incentive Zone will be added to the housing stock of the Town;
- b. blight will be reduced in the neighborhood as this commercial site that has sat vacant for ten plus years will be redeveloped to provide needed moderately-priced residential housing offered for rent;
- c. Developer will upgrade, reconfigure and improve the Town stormwater collection system to increase its capacity and functionality in Main Street adjacent to and south of the property, upgrading the existing system components in Main Street and at 725 Main Street to the outfall thereon as depicted on plans submitted to and approved by the Town; and
- d. the Town's property tax revenue will increase.

14. a. The Developer shall participate in, and be in full compliance with, the affordability restrictions and requirements of MassHousing's Workforce Housing Initiative, or similar alternative financing and subsidy program or combination of programs, which, among other guidelines and requirements targets individuals and families with incomes of between 61% to 120% of Area Median Income (AMI); ensures workforce housing units are deed restricted as affordable; and requires 20% of units at the development must be deed restricted and affordable for households earning at or below 80% of AMI.

b. Notwithstanding anything to the contrary in the previous paragraph, 14(a), any alternative financing and subsidy scenarios other than participation in MassHousing's Workforce Housing Initiative that result in deed restricted unit affordability equal to or greater than that provided by MassHousing's Workforce Housing Initiative as described above shall be reviewed and approved by the Director of Planning & Development for compliance with this agreement. The Town reserves the right to determine that any alternative to paragraph 14(a) above constitutes an amendment of this agreement pursuant to Chapter 168 of the Code of the Town of Barnstable.

c. If Developer's application for participation in such state or federal financial assistance initiative or program that carries with it a requirement of establishing deed restricted affordable and workforce housing affordability is denied or is discontinued or becomes unavailable such that applying therefor would be impossible or futile, then, in that case, Chapter 9, Article I Inclusionary Affordable Housing Requirements – Section 9-4-D requiring at least 10% of residential units constructed to be dedicated by deed restriction to affordable housing units shall not be waived and Developer shall be required to comply therewith, subject to the following requirements:

1. Four (4) of the units in the proposed new development shall be dedicated as an affordable housing unit in perpetuity and shall be eligible for inclusion on the State's subsidized Housing inventory 760 CMR 56, as follows:
2. The four units shall only be rented to qualified households with an income of not more than sixty-five (65%) percent of Area Medium Income for the Town of Barnstable (as determined by

HUD) and priced so as to be affordable and not exceed a monthly housing cost of 30% of such households' annual income, including rent and utilities;

3. In order to protect the perpetuity of the affordable units, an Affordable Housing Restriction such as the one for the Commonwealth of Massachusetts Department of Housing and Community Development Local Initiative Program shall be prepared by the applicant and reviewed and approved by the Town Attorney's office and recorded as the senior encumbrance at time of recording of this agreement;

4. The Town reserves the right to determine that any alternative to subparagraphs (a) and (b) constitutes an amendment of this agreement pursuant to Chapter 168 of the Code of the Town of Barnstable.

d. Prior to issuance of the first Certificate of Occupancy, proof of the recording of the required affordable housing restriction(s) shall be provided to the Building Commissioner.

15. Developer agrees that 30 days prior to any change of ownership of the Property that written notice shall be sent to the Planning Board, Town Council, and Town Manager and further agrees, that all terms and conditions of this regulatory agreement and any amendments thereto, shall be binding on any successive owner of the Property;

16. The Town hereby grants waivers from the following Zoning Ordinance sections:

a. Section 240-24.1.6 OM Office/Multi-family Residential District

B.(1)(b.) The requirement of obtaining a special permit for mixed use developments with a total floor area greater than 20,000 square feet is waived to permit mixed use development with a total of 62,003 gross square feet as proposed;

b. Section 240-24.1.6 C. Dimensional, bulk and other requirements:

- Minimum Front Yard Setback of 20 feet is waived to allow a Front Yard Setback of 7.1± feet from Main Street.
- Front yard landscaped set back of 10 feet is waived to allow a Front Yard Setback of 7.1± feet from Main Street
- Maximum Building Height of 40 feet is waived to allow a Maximum Building Height of 49 feet and 2 inches to the average height of the highest roof plane that also has the highest ridgeline.
- Number of stories limitation of three stories is waived to allow four stories.
- Maximum lot coverage of 80% is waived to allow lot coverage of 87.3%
- Maximum F.A.R. of 1.0 is waived to allow F.A.R. of 1.26.

d. Section 240-24.1.11 Site Development Standards.

-(A.)(4) (a) –(e) Parking computation and parking lot design standards and landscaping provisions are waived to permit the proposed number, configuration and design of the parking area and parking are landscaping as shown on the plans submitted.

-(A.)(5)(a)-(f) Landscaping provisions are waived to permit the proposed landscaping as shown on the plans submitted;

e. Section 240-52 Design and Screening Standards

- Subsections B. is waived to permit stormwater runoff to not be contained on site and to migrate off the premises into existing and Developer upgraded catch basins adjacent to the Property and into the Town stormwater collection system, to be upgraded by Developer according to the plans submitted and approved by the Town. All plans for stormwater runoff shall be reviewed and approved by the Director of the Department of Public Works prior to initiating any work within the public way or Town-owned property at 725 Main Street. Sufficient upgrades to the stormwater collection system shall result from completion of improvements as agreed to in a Memorandum of Understanding between the Developer and the Town setting forth required conditions for the Town to accept proposed stormwater collection system upgrades. The Developer must file a Notice of Intent on behalf of the Town of Barnstable in order to upgrade the stormwater collection system at 725 Main Street and receive an Order of Conditions from the Town of Barnstable Conservation Commission prior to initiating any work within the public way and on Town-owned property at 725 Main Street, complying with any associated restrictions. ; and

f. Section 240-53 Landscape Requirements for parking lots

-Subsections B. thru F. are waived to permit the proposed configuration and design of the parking area landscaping as shown on the plans submitted

15. General Ordinances. The Town hereby conditionally grants a waiver from Chapter 9, Article I Inclusionary Affordable Housing Requirements – Section 9-4-D subject to the provisions of paragraph 14 above.
16. Changes to the approved Redevelopment Plans referenced in Condition No. 1 shall require an amendment to this agreement under either §168-5 or §168-10 of the Barnstable Code, as determined by the Town.
17. Upon completion of all work, Developer shall cause a registered engineer or land surveyor to submit as-built plans accompanied by 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. This document shall be submitted prior to the issuance of the final certificate of occupancy;
18. The development allowed in this permit shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added without compliance with §168-10 of the Barnstable Code.

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

Dated this _____ day of _____, 2019.

Town of Barnstable Developer, 720 Main Residences, LLC
By:By:



**Town of Barnstable
Building Department Services**

**Brian Florence, CBO
Building Commissioner**

200 Main Street, Hyannis, MA 02601
www.town.barnstable.ma.us



Office: 508-862-4038

Fax: 508-790-6230

June 11, 2018

Handwritten: 6/11/18

Attorney Dan Crendon III
Crendon & Earley, P.A.
1436 Iyannough Road, Suite 1
Hyannis, MA 02601

RE: Site Plan Review #016-18 720 Main Residences, LLC - REGULATORY AGREEMENT
720 Main Street, Hyannis Map 308, Parcel 003

Proposal: Site improvements proposed to redevelop vacant former site of the "Hyport Brewing Co." restaurant into a mixed-use building consisting of 40 residential units to be offered for rent as moderately priced, workforce housing consisting of 1, 2 and 3 bedroom units and 1 office unit, with parking located off-site and on-site, a portion of which will be located under the building at ground level, together with related landscaping and other site improvements.

Dear Attorney Crendon:

At the formal site plan review meeting held June 7, 2018, the Site Plan Review Committee found the above proposal to be approvable subject to the following:

- Approval is based upon and must be substantially constructed in accordance with plans entitled "720 Main Residences Redevelopment" 8 Sheets, dated February 20, 2018, last revised June 6, 2018 to reflect revised drainage system (final approval is required for drainage); "Fire Truck Access Plan" dated February 28, 2018; all prepared by BSC Group, West Yarmouth, MA for Williams Building Company, Inc. West Yarmouth. Also, floor and elevation plans entitled "720 Main Residences, Hyannis MA", 14 Sheets, dated February 19, 2018 prepared by MTD Architects, Salem, MA.
- The granting of Regulatory Agreement waivers will be required for the following: Height/# of stories limitation; front yard setback; landscape/parking lot requirements and setback; impervious lot coverage; requirement for retention of all drainage on site; and, reduction of required parking spaces. Contact: Elizabeth Jenkins, Director, Planning & Development. Tel: 508-862-4678.
- Perpetual "Parking Easement (A)", Book 5496, Page 38, and shown on Plan Bk 428, Page 9 providing 15 parking spaces offsite on the adjacent lot to the east, Map 308, Parcel 007, with the condition as stated in the easement, "that there shall be no overnight parking on the premises".
- Approval is contingent upon provision of an acceptable storm water/drainage plan and calculations and a capital improvement agreement. Contact: Amanda Ruggiero, Assistant Town Engineer. Tel: 508-790-6400 Ext 4933.

- A Road Opening permit must be obtained from DPW and restoration of the granite curbing and sidewalk will be required. .
- A photometric plan is required to be provided and approved by the Assistant Town Engineer, DPW Dept. prior to the building permit stage, with review and approval by the Planning & Development Director for aesthetic compliance with the DIP (Design Infrastructure Plan).
- A Sewer Modification Permit will be required for new construction.
- The domestic service line for the abutting property is located on this parcel and must be preserved
- An easement to the Town for maintenance of the water lines will be required
- Addressing will need to be coordinated with DPW and receive Hyannis FD approval. Contact: Matt Sumner, DPW Tel: 508-790-6400 Ext. 4942.
- Once the landscape plan has been finalized, consultation with Hyannis FD will be required for location of the fire service line, hydrant and FDC. Contact: Deputy Chief Dean Melanson, Hyannis FD. Tel: 508-775-1300..
- Fire safety sprinklers are required to be installed with standpipes in both staircases. Consultation with Hyannis FD regarding available pressure and sizing of the standpipes is required prior to the building permit stage.
- Proposed parking garage requires CO detection alarms to be installed. Consultation and approval of the Hyannis FD will be required at the building permit stage.
- Consultation with Hyannis FD to ensure the adequacy of the existing 6" fire main is recommended by the Hyannis Water Department Supervisor.
- A permit from the Health Department is required for removal of the existing abandoned grease trap. Contact: Health Department Tel: 508-862-4644.
- Rental units will require registration and inspection by the Health Department annually.
- Maintenance of trash disposal areas, including chutes leading to the internal dedicated trash room, as well as adequate frequency of trash pickup service is required.
- A Notice of Intent is required to be filed with the Conservation Commission for storm water management/intermittent drainage stream and conditions of same complied with. Contact: Darcy Karle, Conservation Administrator, Tel: 508-862-4041.

Applicant must obtain all other applicable permits, licenses and approvals required.

Upon completion of all work, a registered engineer or land surveyor shall submit a certified "as built" site plan and 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 (Zoning Section 240-105 (G)). This document shall be submitted prior to the issuance of the final certificate of occupancy.

Sincerely,



Ellen M. Swiniarski
Site Plan Review Coordinator

CC: Brian Florence, Building Commissioner, SPR Chairman
Elizabeth Jenkins, Director of Planning & Development
Deputy Chief Dean Melanson, Hyannis FD
Amanda Ruggiero, Assistant Town Engineer, DPW
Hans Keijser, DPW Water Dept
Planning Board
Health Department.

LIMITED LIABILITY COMPANY SIGNATORY AUTHORITY

1. I, the undersigned, being a manager of **720 MAIN RESIDENCES, LLC** a limited liability company (LLC) hereby certify as to the contents of this form for the purpose of signing a between **720 MAIN RESIDENCES, LLC** and the Town of Barnstable.

2. The LLC is organized under the laws of the Commonwealth of Massachusetts.

3. The LLC is managed by **(check one)** a M a n a g e r or by its M e m b e r s (attach operating agreement provisions).

4. I hereby certify that each of the following individual(s), including foreign corporation(s) is:
- duly authorized to execute and deliver this contract, agreement, and/or other legally binding documents relating to any contract and/or agreement on behalf of the LLC;
 - duly authorized to do and perform all acts and things necessary or appropriate to carry out the terms of this contract or agreement on behalf of the LLC; and
 - that no resolution, vote, or other document or action is necessary to establish such authority.

<u>Name</u>	<u>Title</u>

5. **IF A FOREIGN CORPORATION:** I hereby certify that I comply with the provisions of Massachusetts General Laws, Chapter 30, Section 39L and Chapter 156D as they relate to Foreign Corporations.
(check one) Not Applicable I comply and am registered and in good standing with the Massachusetts Secretary of State.

6. I am attaching a certified certificate of good standing from Commonwealth of Massachusetts.

Signed under the pains and penalties of perjury this ___ day of _____

6. **Signature:** _____

Printed Name: _____

Printed Title: _____

Date: _____

NOTARIZATION: Need State and county of execution heading

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

Notary Public
My commission expires: _____

DATE

ACTION TAKEN

02/07/19

Refer to Planning Board

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

BARNSTABLE TOWN COUNCIL

ITEM # 2019-088
INTRO: 02/07/19, 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Planning & Development Director on behalf of 720 Main Residences, LLC
DATE: February 7, 2019
SUBJECT: Authorizing the Town Manager to execute a Regulatory Agreement between the Town of Barnstable and 720 Main Residences, LLC, for property located at 720 Main Street, Hyannis, MA to redevelop 720 Main Street, Hyannis with 40 Units of Workforce Housing

RATIONALE: Developer, 720 Main Residences, LLC (principal owner: Timothy C. Williams), which entity has standing to proceed as buyer under an agreement entitled “Agreement for Sale and Purchase of Property” dated May 26, 2017 of the property located at and commonly known as 720 Main Street, Hyannis, Massachusetts shown on Town of Barnstable Assessor’s Map 308 as Parcel 003, consisting of 49,249 ± square feet (1.13 ± acres), which property is located within the Downtown Hyannis Growth Incentive Zone (GIZ), has filed an application to enter into a Regulatory Agreement with the Town of Barnstable under Chapter 168 and Chapter 240 of the Barnstable Code to redevelop said property by constructing a single 4-story structure consisting of forty (40) one, two and three bedroom units to be offered for rent as moderately priced, workforce residential housing.

Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on Dec. 10, 2018.

The development 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, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02, establishing revised development thresholds within the GIZ, under which this development may proceed and developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same.

Developer has received approvals as follows: Site Plan Review, Conservation Commission and Planning Board. A separate Notice of Intent is pending for review by the Conservation Commission for issuance of a separate Order of Conditions for work proposed to be completed to upgrade the Town stormwater drainage collection system at property located across the street at 725 Main Street, Hyannis and owned by the Town of Barnstable.

The development is consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan’s goals of: creating livable neighborhoods for year round residents; creating housing opportunities for persons and households of all income levels; enhancing pedestrian access; promoting traffic reduction and alternate transportation modes; and promoting private investment in buildings and structures that support appropriate economic development;

Approval of this Regulatory Agreement will result in the following community benefits to the Town: creation of 40 moderately-priced, workforce residential housing units located within walking distance to the businesses, restaurants, cafes and shops located in and near the downtown Main Street area; blight will be reduced in the neighborhood as this commercial site has sat vacant for more than ten years; the developer has committed to upgrading, reconfiguring and improving the Town stormwater drainage collection system to increase its capacity and functionality in Main Street and at 725 Main Street adjacent to and south of the property by upgrading the existing system components to the outfall located at 725 Main Street; and the development will increase the Town’s property tax revenue base.

STAFF SUPPORT: Elizabeth Jenkins, Planning & Development Director

A. OLD BUSINESS (Public Hearing) (Roll Call 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2019-092
INTRO: 02/07/19, 02/28/19

2019-092 AMENDMENT OF THE ZONING MAP OF THE TOWN OF BARNSTABLE MASSACHUSETTS TO AMEND AND EXPAND THE RESIDENCE C DISTRICT TO INCLUDE THE ENTIRETY OF PARCEL 116/014

ORDERED: That Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending Article II, Section 6, The Zoning Map of the Town of Barnstable Massachusetts is hereby amended to rezone property from the Marine Business A-2 Zoning District to the Residence C Zoning District to the as shown on maps entitled;

- “Proposed Amendment to the Town Zoning Map expanding the Residence C District in Osterville” and
- “Proposed Amendment to the Osterville Zoning Map expanding the Residence C District in Osterville” and

Dated February 7, 2019 as prepared by the Town of Barnstable GIS (Geographical Information System) Unit

SPONSOR: Council President James H. Crocker, Jr., Councilor Precinct 5

DATE	ACTION TAKEN
<u>02/07/19</u>	<u>Refer to Public Hearing 02/28/19</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2019-092

INTRO: 02/07/19, 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director, Planning & Development Department
DATE: February 7, 2019
SUBJECT: Zoning amendment to amend and expand the Residence C District to include the entirety of Parcel 116/014.

RATIONALE: The property at 306 West Road, identified on the Assessor's Map 116 as Parcel 014, includes portions of both the Residence C (RC) District, supporting single-family residential use in Osterville and Centerville, and the Marine Business A-2 (MB-A2) District, supporting established marine uses around the North Bay Channel in Osterville.

ANALYSIS: The approximately 2900 sq. ft. portion of the 306 West Bay Road within the MB-A2 District includes a building that once functioned as a boat shed for the adjacent Crosby Yacht Yard, until being sold to an adjacent property owner in 1951.

BACKGROUND: In 1998, the premise was conveyed again and the building was renovated to be a guesthouse accessory to the single family dwelling at 306 West Bay Road.

The proposed zoning map amendment will expand the Residence C District to include the entirety of 306 West Bay Road, consistent with the property's use for over twenty years.

STAFF SUPPORT: Elizabeth Jenkins, Director, Planning & Development Department

B. NEW BUSINESS (Refer to Public Hearing 03/21/19)

BARNSTABLE TOWN COUNCIL

**ITEM # 2018-151
INTRO: 02/28/19**

**2019-151 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$80,000
FOR BURIAL EQUIPMENT FOR THE DEPARTMENT OF PUBLIC WORKS
CEMETERY PROGRAM**

ORDERED: that the sum of **\$80,000** be appropriated for the Structures & Grounds 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 **\$80,000** be transferred from the Town's Sale of Cemetery Lots Special Revenue Fund

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-151
INTRO: 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: February 28, 2019
SUBJECT: Appropriation and Transfer Order in the amount of **\$80,000** for burial equipment for the Department of Public Works cemetery program

BACKGROUND: The Town of Barnstable Structures and Grounds' Cemetery program is requesting the transfer of \$80,000 from the cemetery lots special revenue fund used for the purpose of purchasing burial equipment. The funds will be used for the replacement of a 2005 Chevy 5500 dump truck that has over 70,000 miles with a trade in value of \$12,000.00. Now that this truck is 14 years old and was used for towing, snow plowing and hauling grave spoils it is showing its age. We would replace this truck with a new Chevy 5500. Additionally we are requesting funds to purchase (1) new Frigid Imperial Lowering Device used to lower caskets at funerals services. The cemetery program presently has 2 older lowering devices. These funds will also be used to refurbish one lowering device and another will be used for parts. We will also be replacing miscellaneous graveside equipment that is showing excessive wear due to day to day operations. The purchase of this equipment will improve efficiencies for grave openings and keep our interment equipment and cemetery truck in serviceable condition.

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 pay includes:

- | | |
|--|-----------------|
| • (1) 2019 Chevy Silverado Model CK56403 Med Duty
4WD Reg Cab, 5500 Dump truck with plow. | \$87,500 |
| • (1) Casket lowering device Imperial SS Device | \$3,000 |
| • Refurbish (1) Frigid Imperial Lowering Device. | \$1,000 |
| • miscellaneous graveside equipment | \$500.00 |
| • (less) 2005 Chevy 5500 Dump Trade in | -\$12,000 |
| • Total | \$80,000 |

FISCAL IMPACT: In accordance with Massachusetts General Finance 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 \$166,580.00. There is no fiscal impact on General Fund operating budget

TOWN MANAGER RECOMMENDATION

The Town Manager recommends that the Town Council approve this appropriation order after the required public hearing.

STAFF ASSISTANCE: Stephen Sundelin, Supervisor – Structures & Grounds Division, Daniel St Pierre, Foreman – Cemetery Operations

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2019-152
INTRO: 02/28/19**

**2019-152 ORDER SUPPLEMENTING PRIOR LOAN ORDERS OF THE TOWN TO
ALLOW FOR THE APPLICATION OF PREMIUM RECEIVED TO PROJECT
COSTS**

ORDERED: That the Town votes to supplement each prior order of this Council that authorizes the borrowing of money to pay costs of capital projects to provide that, in accordance with **Chapter 44, Section 20 of the General Laws**, the premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ____ Read Item
- ____ Rationale
- ____ Council Vote

BARNSTABLE TOWN COUNCIL

ITEM # 2019-152
INTRO: 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Mark Milne, Director of Finance
DATE: February 28, 2019
SUBJECT: Order Supplementing Prior Loan Orders of the Town to allow for the application of premium received to project costs

BACKGROUND: The Town sold general obligation bonds (the “Bonds”) on February 6, 2019 for various capital projects. Of the total amount of bond proceeds needed to pay project costs, a \$455,500 portion is for airport purposes (airfield improvements and runway reconstruction & generator replacement). Pursuant to the Municipal Modernization Act that became effective on November 7, 2016, the Town must use bond sale premium to either a) reduce the loan principal at the time of sale or b) appropriate the premium for another capital purpose. In order to save interest costs on the Bonds, the Town opted to use the bond sale premium to reduce the loan principal on the day of the sale. In order for this to occur, the Town must have authorized itself the flexibility to do so which, in the recent past, the Town has practiced by including the appropriate language with respect to the disposition of premiums in the original loan order authorizing the bonds. On August 17, 2017, the Town approved loan order number 2018-008 which authorized borrowing for the airport runway reconstruction and generator replacement. However, the disposition of premium language was not included.

2018-008 was a supplement to the original loan order **2016-090** which was passed prior to the passage of the legislation requiring the inclusion of “premium” language. Also, at the time, the Town expected grant funds to cover the full appropriation. Unfortunately, this was not the case and the Town ultimately had to bond a portion of such costs not covered by grant receipts.

This blanket order is retroactive and applies to all prior bond authorizations, and it will allow the Town to use the bond sale premium to reduce the amount of bonds sold thereby reducing interest costs, as discussed earlier.

STAFF SUPPORT: Mark Milne, Director of Finance

B. NEW BUSINESS (Refer to Public Hearing 03/21/19)

BARNSTABLE TOWN COUNCIL

**ITEM #2019-153
INTRO: 02/28/19**

**2019-153 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDERIN THE
AMOUNT OF \$200,000 FOR THE FISCAL YEAR 2019 AIRPORT CAPITAL
BUDGET**

ORDERED: That the sum of **\$200,000** be appropriated for the purpose of funding various Airport capital improvement projects as follows:

- \$100,000 for Airport Rates & Charges Study
- \$100,000 for Snow Removal Equipment Replacement Vehicles

and that to meet this appropriation, that **\$200,000** 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 Vote

BARNSTABLE TOWN COUNCIL

ITEM #2019-153
INTRO: 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Katie R. Servis, Airport Manager
DATE: February 28, 2018
SUBJECT: Supplemental Appropriation and Transfer Order in the amount of **\$200,000** for the Fiscal Year 2019 Airport Enterprise Fund Capital Budget

SUMMARY: MassDOT has reached out to airports indicating that they have available funding for various projects in Fiscal Year 2019 and are looking to fund eligible projects before the end of fiscal year (June 30, 2019). Airport officials met with MassDOT and the following 2 projects were identified as being eligible for an 80% reimbursement from the MassDOT.

Project	Estimated Cost	MassDOT Share	BMA Share	Funding Source
Airport Rates & Charges Study *	\$100,000	\$80,000	\$20,000	Airport Reserves. The certified reserve as of July 1, 2018 is \$3,525,181 for Barnstable Municipal Airport
Snow Removal Equipment Replacement Vehicles *	\$100,000	\$80,000	\$20,000	Airport Reserves. The certified reserve as of July 1, 2018 is \$3,525,181 for Barnstable Municipal Airport
Totals	\$200,000	\$160,000	\$40,000	

*MassDOT Aeronautics identified project eligibility in December 2018 indicating that they have available funding for various projects in Fiscal Year 2019. Normally the projects are funded entirely by Barnstable Municipal Airport (BMA). By doing these projects now via MassDOT, BMA is saving **\$160,000**.

Airports receive federal funding on a yearly basis through the FAA's Airport Improvement Program (AIP) to help with the safety, security, planning, and infrastructure needs. As a condition of these grants the airport must follow grant assurances and be consistent with the FAA's Policy Regarding Airport Rates and Charges. The FAA Policy states that airports must maintain a fee and rental structure that help make the airport as financially self-sustaining as possible for both aeronautical and non-aeronautical uses. In the fall of 2017, the Airport implemented minor revisions to their fee structure after over 7-years of no change. Airport rates and fees should be analyzed at least annually and increased as necessary to maintain self-sustainability. The Airport is in need of updating its fee structure again and is seeking the assistance of outside consultants to:

- Ensure revenues are adequate to cover costs;
- Ensure revenues can adjust with costs as they change;
- Maintain compliance with FAA revenue policy; and
- Establish Reserve Funds.

Due to fluctuations in the aviation market, and the extreme downturn in passenger enplanements due to the loss of Island Airlines in December 2015, the airport is keen on identifying alternative revenue generation projects and/or refreshing its current revenue stream.

Snow Removal Equipment (SRE) must be maintained regularly and when certain Federal and State approved equipment is eligible for replacement with grant assistance, SRE vehicles and equipment must be evaluated and replaced as necessary. This project is to replace two Chevy Heavy Duty Carrier Vehicles with Plows (Airport Vehicle #30 and 21).

With approximately 1.5 million square feet of pavement, that includes two active runways, several aircraft taxiways and aircraft parking ramps that must be maintained and opened as soon as possible during snow events and to maintain and meet FAA FAR Part 139 airport certification requirements, certain equipment must be available and in good condition to perform as required.

FISCAL IMPACT: The MassDOT will reimburse the Airport a total of \$160,000 for these projects. The reimbursements will replenish the Airport's reserves used to fund this appropriation. The airport's net share for this appropriation is \$40,000 and will be provided from the airport's reserve fund, which has a balance of \$3,525,181 as of July 1, 2018.

STAFF ASSISTANCE: Mark A. Milne, Director of Finance; Katie R. Servis, Airport Manager

B. NEW BUSINESS (Refer to Public Hearing 03/21/19)

BARNSTABLE TOWN COUNCIL

**ITEM # 2019-154
INTRO: 02/28/19**

2019-154 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$44,617 FOR FISCAL YEAR 2019 PUBLIC SAFETY OPERATIONAL AND MAINTENANCE IMPROVEMENTS AT BISMORE PARK

ORDERED: That the sum of **\$44,617** be appropriated for the purpose of funding Fiscal Year 2019 public safety operational and maintenance improvements at Bismore Park; and that to meet this appropriation, that **\$44,617** be transferred from the Bismore Park Special Revenue Fund.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2019-154
INTRO: 02/28/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director of Planning & Development
DATE: February 28, 2019
SUBJECT: Supplemental Appropriation Order of **\$44,617** for the purpose of funding Fiscal Year 2019 public safety operational and maintenance improvements at Bismore Park.

SUMMARY: The Planning & Development, Marine and Environmental Affairs (MEA) and Police Departments are requesting that the sum of \$44,617 be appropriated for the purpose of funding public safety operational and maintenance improvements at Bismore Park parking area and public restrooms as follows:

1.	Bismore Public Safety	\$15,814
	(2) Police Detail (April – June 30, 2019)	\$4,162
	Parking Resource Officer	\$2,652
	Park benches and signage @ Greeter Island for bus waiting seating	\$2,500
	Various Traffic directional/info signage	\$2,000
	MEA Loading Dock Barriers: purchase and installation	\$4,500
2.	Bismore Comfort Station Hosts	\$14,803
	Personnel (April – June 30, 2019)	\$12,803
	Expenses – Supplies	\$2,000
3.	Bismore Projects	\$14,000
	Ralph P. Bismore Heritage Display & Exhibit	\$8,000
	Info Booth – Spanky’s side	\$3,000
	Line and number repainting	\$3,000
	Grand Total FY19 Supplemental Request	\$44,617

ANALYSIS: BISMORE PUBLIC SAFETY

Due to heightened concerns regarding public safety, a meeting was held between Police, MEA and Parking to discuss operations and uses at Bismore Park. The following issues have been identified as contributors towards traffic congestion:

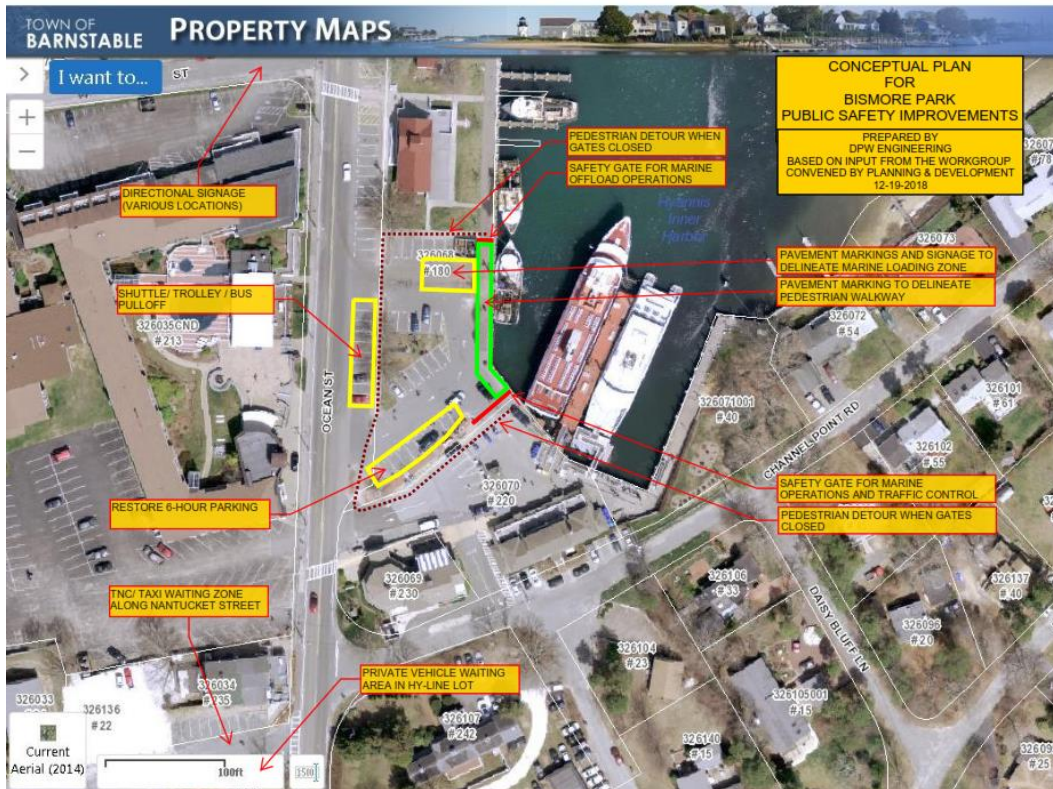
- Fishing fleet operations
- Town property
- Passenger pick-up/drop off
- Tour Bus/School Bus
- Personal vehicles
- Hyline deliveries
- Hyline Shuttle

- operations
- Pedestrians
- RTA Trolley Service
- Taxis
- Ride Share/TNC
- Service

With the exception of marked paid parking spaces for personal vehicles, all of the identified sources listed above are not managed in an organized manner with signage, barriers or other means.

After discussion and examination of options, the team agreed on solutions to rectify the public safety concerns including:

- Add two Police Details,
- Increase the number of dedicated Parking Resource Officers at Bismore,
- Incorporate assistance from Greeters and Harbormaster staff throughout each day to ensure the pedestrians are consistently and orderly directed on Town Property as they travel to and from the ferry terminal,
- Designate a passenger drop-off/pick up location for large capacity passenger vehicles such as trolleys, shuttles, school buses etc.,
- Install loading dock barrier gates and designate a marked area for harbor loading zone, and,
- Designate a ride share and taxi waiting area.



BISMORE COMFORT STATION HOSTS

The Bismore comfort station has enhanced this waterfront area into a year-round destination which provides engaging programming, economic partnerships and a welcoming spots for all genres of visitors to enjoy. As many businesses within this active pedestrian area do not offer restroom facilities for people other than their patrons, it is vital for the Town to ensure dependable, safe and clean comfort stations open to all. Taking into account the variety of visitors this location hosts (families of all ages, small children, pregnant women, seniors, people with health conditions, etc.) having proper, sanitary, accessible and safe restroom facilities will encourage more people to visit, walk, and jog through Bismore knowing that their quality of life and basic human need has been respectfully considered.

Currently the Bismore Assistant Harbormasters attend to the daily maintenance and cleanliness of the Bismore Comfort Station; however this position's primary duties and roles limit their capacity for properly attending to the comfort stations in accordance with the ever growing demands and popularity. Dedicating comfort station attendants will allow current Harbormaster staff to remain successfully focused on their primary duties, demands and expectations.

In addition, enhancing the level of staff availability at the Bismore comfort station will complement already established and successful efforts to increase and improve surveillance to mitigate vandalism, drug use, excessive loitering, and lewd and lascivious behaviors.

BISMORE PROJECTS

1. Ralph P. Bismore Heritage Display & Exhibit

Prior to the start of the 2018 season, the Gateway Greeter program began extensive research on the history of the park's namesake. Who was Ralph P. Bismore, what ways did he contribute towards our community and why was such a prominent public property named after him? The goal of the research was to ensure Greeters were educated in our community legacy and heritage and be able to answer questions related to the park's namesake, which is asked daily.

Through assistance from previous research efforts by former and current town employees, as well as collaboration from genealogist historical documents, photographs, military records and more importantly connections to living relatives were all generated through the Greeter's efforts.

This request will fund the continuation of the Gateway Greeters work: creating an exhibit display in the Welcome Center, and working with the Arts & Cultural Coordinator to develop an outdoor educational heritage display showing key areas where Ralph Bismore lived/worked in community.

2. Info Booth – Spanky's Side

Working with DPW Structures & Grounds, this request will fund the personnel and supply expenses to build a gate attendant booth similar to what is located on the Greeter Island. This booth would provide a seasonal facility necessary to shade the Greeters from extreme direct sunlight as well as broaden their ability to assist with immediate information needs of our visitors/guests at a critical area of customer contact.

3. Line & Number Repainting

From extensive wear and tear on the pavement, parking lines and stall numbers become faded over several years. This request is based upon a two-year rotating schedule to ensure public safety and parking assistance.

FISCAL IMPACT: Funding for this appropriation will be provided from the parking receipts generated in Bismore Park. Parking receipts are credited to a Special Revenue Fund from which appropriations are made to cover the cost of maintaining and improving the Park. The fund has a current available balance of \$480,292. The cost of providing police details and Comfort Station Hosts from July 2019 and after will be part of the Fiscal Year 2020 operating budget request to come forward in the spring.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends this appropriation

STAFF ASSISTANCE: Liz Hartsgrove, Assistant Director of Planning & Development; Dan Horn, Director of Marine & Environmental Affairs; Derek Lawson, Harbormaster Division Supervisor; Mona Solmonte, Parking Program Manager; Officer Therese Gallant and Officer Matt Lounsbury