



Town of Barnstable Town Council

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

MEETING AGENDA TOWN HALL HEARING ROOM September 19, 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**

Original posted on 9/17/19@2:30PM.
Updated on 9/18/19@ 9:30AM to add
Items 2020-032 and 2020-033. Also
to add Rory C. O'Hanlon, Legislative
Director, Deputy Director of Policy,
Executive Office of Housing and
Economic Development

Housing Choice Bill Workshop

Elizabeth Jenkins, Director, Planning and Development
Ruth Weil, Senior Counsel
**Rory C. O'Hanlon, Legislative Director, Deputy Director of
Policy, Executive Office of Housing and Economic
Development**

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: October 3, 2019

EXECUTIVE SESSION: The Town Council may vote to go into Executive Session under G.L. c. 30A §21(a)(6), to consider the purchase, exchange lease or value of real property located at Joint Base Cape Cod in Bourne upon the declaration of the Chair that a discussion in open session may have a detrimental effect on the Town Council's negotiating position.

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2020-026	Appropriation and Loan Order in the amount of \$283,900.00 for the purpose of acquiring real property consisting of approximately .65 acres of land (65/100), more or less, in Barnstable shown on Assessors Map 209 as Parcel 019 to be associated with the construction of new sewer infrastructure (Public Hearing)(Roll Call 2/3 vote)	10-11
2020-025	Appropriation and Loan Order in the amount of \$549,000.00 for the purpose of acquiring real property consisting of approximately .32 acres of land (32/100), more or less, in Barnstable shown on Assessors Map 208 as Parcel 048 to be associated with the construction of a new sewer infrastructure (Public Hearing)(Roll Call 2/3 vote)	12-13
B. NEW BUSINESS		
2020-028	Resolve acceptance of revised Conservation Restriction to be held by Conservation Commission 200 Communication Way, Barnstable, Map 314, Parcel 036 (May be acted upon) (Roll Call Majority vote)	14-16
2020-029	Amendment of the Zoning map of the Town of Barnstable, MA to amend and expand the Ground-Mounted Solar Photovoltaic Overlay District to include Parcels 013004, 013005, and 013052 (Refer to Planning Board)	17-18
2020-030	Appropriation and Loan Order in the amount of \$800,000 for the Route 28 East sewer expansion and Pump Station (Refer to Public Hearing 10/03/19)	19-20
2020-031	Resolve to request that the Cape’s Legislative Delegation support H. 3507, an act to promote housing choices (May be acted upon) (Roll Call Majority vote)	21-23
2020-032	Resolve Authorizing the Town of Barnstable to participate in the Massachusetts Commercial Property Assessed Clean Energy Program (Pace Massachusetts) (May be acted upon) (Roll Call Majority vote)	24-26

2020-033 Appointments to a Board/ Committee/ Commission: **Golf Committee:** Ken Morey, 1111 Santuit-Newtown Road, Cotuit, MA as a regular member to a term expiring 06/30/22; **Sandy Neck Board:** Hank Farnham, 127 Coachman Lane, West Barnstable, MA as a regular member at large to a term expiring 06/30/21; **Youth Commission:** Lily Atwell, c/o Hyannis Youth and Community Center, 141 Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/20; Nina Barrette, c/o Hyannis Youth and Community Center, 141 Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/20; Brenden Dowling, c/o Hyannis Youth and Community Center, 141 Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/20 **(First Reading) (Refer to Second Reading 10/03/19)**..... 27

Approve Minutes –September 5, 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 (Public Hearing) (Roll Call 2/3)

BARNSTABLE TOWN COUNCIL

ITEM #2020-018
INTRO: 09/05/19, 09/19/19

2020-018 APPROPRIATION AND TRANSFER ORDER OF \$330,400 FOR THE TOWN-WIDE REAL ESTATE REVALUATION UPDATE

ORDERED: That the sum of **\$330,400** be appropriated and transferred from the Town’s Stabilization Fund for the purpose of funding the town’s real estate revaluation project

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>09/05/19</u>	<u>Refer to Public Hearing 09/19/19</u>

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM #2020-018

INTRO: 09/05/19, 09/19/19

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Edward O'Neil, Director of Assessing
DATE: September 5, 2019
SUBJECT: Appropriation and Transfer Order in the amount of **\$330,400** for the Fiscal Year 2021 Real Property Revaluation

BACKGROUND: The Town of Barnstable is required by State law to update the valuation of all real and personal property every five years. The town's next required 5 year revaluation is due for the Fiscal Year 2021 tax year and the work necessary to perform the revaluation will begin in Fiscal Year 2020.

The prior requirement was every three years but the Bureau of Local Assessment of the DOR (Department of Revenue) has changed the cycle to every 5 years as part of the Municipal Modernization Act. The revaluation work will be conducted by contracting with an outside vendor. The town issued an RFP (Request for Proposal) for this work in accordance with Chapter 30B procurement laws and one proposal was received from Vison Government Solutions. Several other potential contractors were contacted directly via email after the limited response but no other company submitted a response. This was not a surprise to the Town as it uses Vision Appraisal Systems for its mass appraisal database and this type of work is commonly performed by the same company whose database the municipality is utilizing.

ANALYSIS: Over the past couple of years, the Assessing Division has undergone reorganization in anticipation that this work would need to be conducted by an outside contractor. The change in law requiring it to be performed once every five years offered an opportunity to re-examine how the Town would conduct the periodically required town-wide revaluation. Previously, all work was performed in-house and the Assessing office had 11 full-time equivalents (FTE). The office now has 8 FTEs resulting in an annual reduction in salaries and associated benefits of approximately \$170,000. The cost of having an outside contractor perform the work will be required once every five years and is not an annual expense. Over a 5 year period the estimated savings to the Town by conducting this work with an outside contractor is estimated to exceed \$500,000.

FISCAL IMPACT: It is proposed that the funding for this project be provided with a transfer from the Capital Trust Fund which has a balance of \$18 million. It is anticipated that by the end of Fiscal Year 2020 this amount can be replenished with a transfer from the Town's excess overlay account. Every year when the town sets the tax rate an amount must be set aside in the overlay account to provide for abatements and exemptions on property taxes. The balance in this account at the close of fiscal year 2019 was \$2,332,023 which is more than sufficient to cover any remaining abatements that may be awarded for the fiscal year 2019 tax levy. The town must first lien any prior year unpaid real estate taxes before releasing the excess overlay which will take place over the next several months.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends approval of this appropriation and transfer order.

STAFF ASSISTANCE: Edward O'Neil, Director of Assessing; Mark A. Milne, CPA Director of Finance

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-022

INTRO: 09/05/19, 09/19/19

**2020-022 ACCEPTANCE OF SEWER EASEMENT FOR 100 MERCHANTS WAY,
HYANNIS, MA**

RESOLVED: That the Town Manager is authorized to accept, execute, deliver and record on behalf of the Town an exclusive permanent right and easement from Cape Cod Aggregates Corp. to install, inspect, operate, maintain, change the size of, replace and repair a utility sewer and associated pipes, mains, manholes, equipment, other sewer infrastructure and appurtenances thereto, on, over and under Merchants Way and Business Lane in Hyannis to be held under the care, custody and control of the Department of Public Works,

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>09/05/19</u>	<u>Refer to Second Reading 09/19/19</u>
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-022

INTRO: 09/05/19, 09/19/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Dan Santos, P.E., Director, Department of Public Works
DATE: September 05, 2019
SUBJECT: Acceptance of Sewer Easement for 100 Merchants Way, Hyannis, MA

BACKGROUND: As part of a project funded by a MassWorks grant, the Town of Barnstable plans to install sewer infrastructure within Merchant's Way and Business Lane within Independence Park, which are both private roads. Consequently, the Town has sought easements from the adjacent property owner, Cape Cod Aggregates, to allow the sewer infrastructure to be installed within the private roadway. The Town intends to start construction this fall.

FISCAL IMPACT: This easement will be acquired at no cost to the Town.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends approval of this easement.

STAFF ASSISTANCE: Dan Santos, P.E., Director, Department of Public Works

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-024
INTRO: 09/05/19, 09/19/19

2020-024 SUPPLEMENTAL APPROPRIATION ORDER IN THE AMOUNT OF \$15,000 FOR THE FISCAL YEAR 2020 PLANNING & DEVELOPMENT DEPARTMENT OPERATING BUDGET

ORDERED: That the sum of **\$15,000** be appropriated for the purpose of funding the Fiscal Year 2020 Planning and Development Department Operating Budget; and that this sum be added to the **\$2,130,304** appropriated under Town Council Order **2019-164** resulting in a total Fiscal Year 2020 operating budget of **\$2,145,304**

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>09/05/19</u>	<u>Refer to Public Hearing 09/19/19</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-024

INTRO: 09/05/19, 09/19/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Barnstable Economic Development Task Force
DATE: September 05, 2019
SUBJECT: Supplemental Appropriation Order in the amount of **\$15,000** for the Fiscal Year 2020 Planning and Development Department Operating Budget

BACKGROUND: The Regulatory Services Building at 200 Main Street was envisioned as a “one stop shop” for customers who need to obtain permits from various Town departments. This customer convenience continues to be the primary strength of the building’s physical and organizational structure. One of the most prominent challenges for the business community has been the lack of a primary point of contact within the building. Both established and new businesses are left to guess what department can answer their questions and too often have no guidance if they need further clarification or help with a permitting issue. The complexity of the permitting environment can be a tremendous challenge for businesses large and small and navigating requirements across various divisions and departments can be frustrating and time consuming, and, at worst, can dissuade investment in Barnstable. The Planning & Development Department has a part-time “Site Plan Review Coordinator” position in the budget, which is currently vacant.

ANALYSIS: The Permit Coordinator position is requested to enhance interdepartmental and external coordination of permitting activities in support of commercial and housing development. This position would serve as the primary staff liaison to properly guide applicants seeking permits, licenses, approvals or decisions from multiple regulatory divisions and boards/committees, providing an enhanced level of customer service for applicants of all scales. The Permit Coordinator would administer the Town’s Site Plan Review process, providing support to the Committee regarding applications and compliance with conditions of approval.

A Permit Coordinator should be the primary point of contact for all commercial permit activity. This person would act as a facilitator, bringing key people within various divisions and departments together to discuss regulatory challenges facing businesses when necessary. The Permit Coordinator may not know the nuances of every regulation administered at 200 Main Street, but can ensure customers receive informed and timely feedback from the appropriate person in the appropriate department.

FISCAL IMPACT: The vacant part-time Site-Plan Review Coordinator position will be converted to this new full-time Permit Coordinator position with an estimated annual salary of \$73,700. The fiscal year 2020 operating budget included \$34,952 of funding for the part-time position. Using this funding and an estimated start date of November 1st for the new Permit Coordinator position an additional \$15,000 of funding will be needed for the Fiscal Year 2020 Operating Budget. Funding will be provided by raising the estimated revenue the town will receive in State aid in Fiscal Year 2020.

STAFF ASSISTANCE: Elizabeth Jenkins, Director, Planning and Development; Mark A. Milne, CPA, Director of Finance

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-026
INTRO: 09/05/19, 09/19/19**

2020-026 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$283,900.00 FOR THE PURPOSE OF ACQUIRING REAL PROPERTY CONSISTING OF APPROXIMATELY .65 ACRES OF LAND (65/100), MORE OR LESS, IN BARNSTABLE SHOWN ON ASSESSORS MAP 209 AS PARCEL 019 TO BE ASSOCIATED WITH THE CONSTRUCTION OF NEW SEWER INFRASTRUCTURE

ORDERED: 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, infrastructure, and related purposes a parcel of land located at 1456 Falmouth Road, Route 28, Barnstable (Centerville) Massachusetts, described as Town of Barnstable Assessors' Map 209, Parcel 019 described in a deed recorded with Barnstable County Registry of Deeds in Book 7120, Page 285, that the sum of \$283,900.00 be appropriated for the purpose of funding this acquisition, including the payment of costs incidental or related thereto, and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$283,900.00**, under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and that the Town Manager is authorized to accept any grants or gifts in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>09/05/19</u>	<u>Refer to Public Hearing 09/19/19</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-026
INTRO: 09/05/19, 09/19/19

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: September 05, 2019
SUBJECT: Purchase or eminent domain land taking: Sewer Construction

BACKGROUND: The Town is proceeding with plans to install sewers and related infrastructure in Centerville. The owners of a parcel located at 1456 Falmouth Road, Route 28, Centerville have listed it for sale and Town Engineers have identified its location on Route 28 as an ideal location in the area to support location of underground pumping facilities in the Route 28 corridor. Having this particular site available will significantly aid in the design process for the vital infrastructure that can now be placed on this lot.

Direct negotiations with the property owners produced an Agreement for Damages in Eminent Domain Taking in the amount **\$278,900.00**. This comprehensive agreement has been executed by both the Owners and the Town, subject to Town Council Approval. It is anticipated that an Order of Taking will be recorded by November 8, 2019 whereupon title would transfer to the Town.

The total anticipated cost for this land acquisition, including associated expenses, is \$283,900.00.

ANALYSIS: The acquisition of a parcel of land located at 1456 Falmouth Road, Route 28, Barnstable (Centerville) Massachusetts, is essential to the anticipated Centerville sewer project. The acquisition of this parcel by eminent domain taking has been thoroughly discussed with the owners and their counsel and they have agreed to the comprehensive resolution of their prospective claim for eminent domain damages. Utilizing the eminent domain procedure will assure clear title to the property and allow engineering staff to include this parcel in definitive sewer construction planning at a cost consistent with current market conditions.

FISCAL IMPACT: Funding for the land acquisition will be provided from the issuance of a bond. There will be no fiscal impact to the fiscal year 2020 operating budget as a result of this action. The first loan payment on the bond will occur in the fiscal year 2021 operating budget. The annual loan payment will be provided from the revenue generated within the Sewer Construction and Private Way Maintenance and Improvement Fund and will be included in the fiscal year 2021 operating budget appropriations.

STAFF ASSISTANCE: Mark A. Milne, CPA, Director of Finance; Daniel W. Santos, P.E., Director, Department of Public Works; Attorney Charles McLaughlin, Legal; David Anthony, Director of Property and Risk Management

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-025
INTRO: 09/05/19, 09/19/19**

2020-025 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$549,000.00 FOR THE PURPOSE OF ACQUIRING REAL PROPERTY CONSISTING OF APPROXIMATELY .32 ACRES OF LAND (32/100), MORE OR LESS, IN BARNSTABLE SHOWN ON ASSESSORS MAP 208 AS PARCEL 048 TO BE ASSOCIATED WITH THE CONSTRUCTION OF A NEW SEWER INFRASTRUCTURE

ORDERED: 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, infrastructure, and related purposes a parcel of land located at 310 Main Street, Barnstable (Centerville) Massachusetts, described as Town of Barnstable Assessors' Map 208, Parcel 048 described in a deed recorded with Barnstable County Registry of Deeds in Book 27508, Page 175, that the sum of **\$549,000.00** be appropriated for the purpose of funding this acquisition, including the payment of costs incidental or related thereto, and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$549,000.00**, under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and that the Town Manager is authorized to accept any grants or gifts in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>09/05/19</u>	<u>Refer to Public Hearing 09/19/19</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-025
INTRO: 09/05/19, 09/19/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Dan Santos, P.E., Director, Department of Public Works
DATE: September 05, 2019
SUBJECT: Appropriation and Loan Order in the amount of **\$549,000.00** for the purpose of acquiring real property consisting of approximately .32 acres of land (32/100), more or less, in Barnstable shown on Assessors Map 208 as Parcel 048 to be associated with the construction of a new sewer infrastructure

BACKGROUND: The Town is proceeding with plans to install sewers and related infrastructure in Centerville. The owners of a parcel located at 310 Main Street, Centerville have listed it for sale and Town Engineers have identified its topography as the ideal low point in the area to support location of underground pumping facilities. Having this site available will significantly reduce the need for and cost of infrastructure improvements that would otherwise be required to support sewers in the village.

Direct negotiations with the property owners produced an Agreement for Damages in Eminent Domain Taking in the amount \$544,000.00. This comprehensive agreement has been executed by both the Owners and the Town, subject to Town Council Approval. It is anticipated that an Order of Taking will be recorded by November 8, 2019 whereupon title would transfer to the Town.

The total anticipated cost for this land acquisition, including associated expenses, is \$549,000.00.

ANALYSIS: The acquisition of a parcel of land located at 310 Main Street, Barnstable (Centerville), Massachusetts, is essential to the anticipated Centerville sewer project. The acquisition of this parcel by eminent domain taking has been thoroughly discussed with the owners and their counsel and they have agreed to the comprehensive resolution of their prospective claim for eminent domain damages. Utilizing the eminent domain procedure will assure clear title to the property and allow engineering staff to include this parcel in definitive sewer construction planning at a cost consistent with current market conditions.

FISCAL IMPACT: Funding for the land acquisition will be provided from the issuance of a bond. There will be no fiscal impact to the fiscal year 2020 operating budget as a result of this action. The first loan payment on the bond will occur in the fiscal year 2021 operating budget. The annual loan payment will be provided from the revenue generated within the Sewer Construction and Private Way Maintenance and Improvement Fund and will be included in the fiscal year 2021 operating budget appropriations.

STAFF ASSISTANCE: Mark A. Milne, CPA, Director of Finance; Dan Santos, P.E., Director, Department of Public Works; Attorney Charles McLaughlin, Legal; David Anthony, Director of Property and Risk Management

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-028
INTRO: 09/19/19**

2020-028 RESOLVE ACCEPTANCE OF REVISED CONSERVATION RESTRICTION TO BE HELD BY CONSERVATION COMMISSION 200 COMMUNICATION WAY BARNSTABLE MAP 314, PARCEL 036

RESOLVED: That the Town Council on behalf of the Town gratefully accepts the revised grant of the conservation restriction from GS Barnstable Land Owner, LLC pursuant to that certain Amended and Restated Development Agreement by and between the Cape Cod Commission and The Lyndon Paul Lorusso Charitable Foundation of 2002, and Greystar GP II, LLC, dated as of December 1, 2016, to be held by the Conservation Commission in the name of the Town pursuant to the provisions of G. L. c. 40 § 8C in the form approved by the Conservation Commission, Land Acquisition and Preservation Committee, and Town Manager, subject to execution by the Secretary of the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs; and that the President and Town Manager are authorized to execute, receive, deliver and record any written instruments for the stated purpose.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-028

INTRO: 09/19/19

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director, Department of Public Works
DATE: September 19, 2019
SUBJECT: Resolve acceptance of revised Conservation Restriction to be held by Conservation Commission 200 Communication Way, Barnstable, Map 314, Parcel 036

BACKGROUND: At a public meeting duly held on May 18, 2017, upon a hearing of Agenda Item 2017-145, the Barnstable Town Council resolved to accept the conservation restriction from GS Barnstable AA Apartments, LLC (predecessor in interest to GS Barnstable Land Owner, LLC) for certain property adjacent to the Everleigh Cape Cod active adult community (the “Conservation Restriction”), to be held by the Conservation Commission in the name of the Town. After such approval, the Conservation Restriction was submitted to the Commonwealth’s Executive Office of Energy and Environmental Affairs (“EOEEA”) department of, which required certain changes, including, specifically:

- In the introductory paragraph, making it clear that the restriction is being granted in connection with the Cape Cod Commission development agreement and is not a gift.
- In Article I:
 - (i) clarifying that area affected by the Conservation Restriction (the “Premises”) is located within an area that significantly contributes to clean drinking water;
 - (ii) including a Baseline Report to indicate the existing conditions of the Premises, which allows the Town to monitor activity to ensure that any ongoing activities do not extend beyond the levels documented in the Baseline Report; and
 - (iii) adopting the EOEEA’s preferred language regarding the need to comply with Article 97 of the Amendments to the Massachusetts Constitution, which governs the conditions to the release of an otherwise perpetual restriction (this change is carried through several places in the document).
- In Article II.A:
 - (i) clarifying that prohibited activities include both subterranean activities and those conducted in the air space above the Premises;
 - (ii) expressly prohibiting the installation of underground storage tanks; and
 - (iii) expanding the protections afforded to water and soil resources.
- In Article 11.B:

- (i) requiring the Town's approval for the creation of a recreational trail;
 - (ii) specifying the materials to be used for trailhead parking area to improve soil and water conservation;
 - (iii) limiting the height of any fence used for trail, parking area, and private property demarcation; and
 - (iv) removing the open-ended reservation of rights for activities consistent with restriction so that only expressly reserved rights are reserved.
- In Article III.A and B, providing clarity on each party's rights in the event that the restriction is extinguished, including disbursement of proceeds and how the proceeds may be used to further conservation purposes.
 - In Article III.C, providing clarity for notice, approval, and self-help procedures to ensure that there is no ambiguity.
 - In Article III.D, strengthening the Town's rights to self-help in the event of an emergency.
 - In Article III.E, (i) clarifying Grantor's role with respect to violations of conservation values by third parties; and (ii) providing protections for the Town in the event hazardous materials are discovered.
 - In Article III.L, clarifying Grantor's responsibility upon a transfer of interest in the Premises to notify subsequent parties of the existence of the restriction.
 - In Article III.O, strengthening non-merger provisions with relation to tax code and Article 97 regarding the release of the restriction.

Given the changes above, the EOEEA has required that Town re-approve the final form of the Conservation Restriction. The final form of the Conservation Restriction was presented to and approved by the Town's Land Acquisition and Preservation Committee on July 8, 2019, and the Conservation Commission on July 16, 2019. Approval of this resolution would approve the final form and authorize the Town Manager and President of the Town Council to execute and deliver all documents necessary to effectuate the Conservation Restriction.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director, Department of Public Works

B. NEW BUSINESS (Refer to the Planning Board)

BARNSTABLE TOWN COUNCIL

**ITEM# 2020-029
INTRO: 09/19/19**

2020-029 AMENDMENT OF THE ZONING MAP OF THE TOWN OF BARNSTABLE MASSACHUSETTS TO AMEND AND EXPAND THE GROUND-MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT TO INCLUDE PARCELS 013004, 013005, AND 013052.

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

SECTION 1

That Chapter 240, Article II, Section 6, The Zoning Map of the Town of Barnstable Massachusetts is hereby amended to expand the Ground-Mounted Solar Photovoltaic Overlay District as shown on maps entitled;

- “Proposed Amendment to the Town Zoning Map Expanding the Ground Mounted Solar Photovoltaic Overlay District In Marstons Mills”
- “Proposed Amendment to the Marstons Mills Zoning Map expanding the Ground Mounted Solar Photovoltaic Overlay District In Marstons Mills”

Dated July 10, 2019 as prepared by the Town of Barnstable GIS (Geographical Information System) Unit.

SPONSOR: Councilor Britt Beedenbender, Precinct 4

DATE	ACTION TAKEN
_____	_____
_____	_____

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close public hearing
- ____ Council discussion
- ____ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2020-029
INTRO: 09/19/19

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Michael J. Ford, Esq. Attorney for TJA Solar through Elizabeth S. Jenkins, Planning & Development Director
DATE: September 19, 2019
SUBJECT: Zoning amendment to expand the Ground-Mounted Solar Photovoltaic Overlay District to include Parcels 013004, 013005, and 013052.

SUMMARY: This proposed amendment to the Ground-Mounted Solar Photovoltaic Overlay District (GMSPOD) would expand the GMSPOD to include 3 parcels of land located at 810 Wakeby Road in the Village of Marstons Mills, shown on Town of Barnstable Assessor Map 013 as Parcels 004, 005, and 052. The proposed area of expansion consists of approximately 19 acres of land previously and approximately 13 acres of which has been substantially disturbed. The site would continue to be located in the underlying RF Zoning District for all other potential uses.

STAFF ASSISTANCE: Elizabeth S. Jenkins, Director, Planning and Develop

B. NEW BUSINESS (Refer To Public Hearing 10/03/19)

BARNSTABLE TOWN COUNCIL

**ITEM #2020-030
INTRO: 09/19/2019**

2019-030 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$800,000 FOR THE ROUTE 28 EAST SEWER EXPANSION AND PUMP STATION

ORDERED: That the sum of **\$800,000.00** be appropriated for the purpose of funding the Route 28 Sewer Expansion and pump station, roadway and utility work including the payment of costs incidental and related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$800,000.00**, under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes; and that the Town Manager may assess betterments in accordance with M.G.L. c. 80, or sewer assessments in accordance with M.G.L. c. 83, and that the interest rate applied to any such betterment or sewer assessment shall equal the rate the Town incurs on the funds borrowed to finance the project, and, further, that the Town Manager is authorized to accept any grants or gifts in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM #2020-030
INTRO: 09/19/2019

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director, Department of Public Works
DATE: September 19, 2019
SUBJECT: Appropriation and Loan order in the amount of **\$800,000.00** for the Route 28 East Sewer Expansion and Pump Station

BACKGROUND: In order to facilitate required sewer expansion to the western portion of the Town as outlined in the Town's Comprehensive Wastewater Management Plan, sewer expansion along Route 28 is necessary. As planning efforts have developed, the Department of Public Works (DPW) identified a need for the design and construction of a booster sewer pump station along the Route 28 corridor which would be capable of conveying significant wastewater from planned future western expansion directly to the Barnstable Water Pollution Control Facility (BWPCF). The Town has identified, and is in the process of purchasing, a property at the intersection of Route 28 and Phinney's Lane with the intention of construction of the aforementioned sewer pump station. This pump station, corresponding sewer force main back to the BWPCF, and potential modifications at BWPCF were not included in the scope of previous sewer expansion project design requests.

ANALYSIS: This project will provide required infrastructure to facilitate the planned western sewer expansion outlined in the Town's Comprehensive Wastewater Management Plan. The project will include the construction of a new sewer pump station, sewer force mains connecting to the BWPCF and potential modifications at BWPCF to accommodate the new force mains. Without proceeding with this project at this time, planned sewer expansion to the western portion of the Town will be delayed.

FISCAL IMPACT: Funding for this project will be provided from a bond issue. Future budgets will include the annual debt service on the bond which will be provided from the Sewer Construction & Private Way Maintenance & Improvement Fund. There is no impact to the Department of Public Work's operating budget..

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends approval of the Appropriation and Loan order.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director, Department of Public Works

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-031
INTRO: 09/19 /2019**

2020-031 RESOLVE TO REQUEST THAT THE CAPE’S LEGISLATIVE DELEGATION SUPPORT H. 3507, AN ACT TO PROMOTE HOUSING CHOICES.

RESOLVED: That the Town Council hereby directs the Town Manager to communicate to the Cape’s legislative delegation that the Town Council supports H. 3507, An Act To Promote Housing Choices and to request that the Cape Delegation votes to support H. 3507.

SPONSOR: Councilor Paula Schnepf, Precinct 12

DATE	ACTION TAKEN
_____	_____
_____	_____

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

HOUSE No. 3507

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
24 BEACON STREET · BOSTON, MA 02133

KARYN POLITO
LIEUTENANT GOVERNOR

February 27, 2019

To the Honorable Senate and House of Representatives,

In December 2017, the Baker-Polito Administration launched the Housing Choice Initiative. This program encourages cities and town to plan and build the additional housing that is vital to the success of our Commonwealth. By providing incentives, rewards and technical assistance to municipalities, the Housing Choice Initiative has put us on a path to produce 135,000 new units of housing by 2025. We are proud that nearly seventy communities have been designated Housing Choice communities and are participating in the program. Last fall we announced \$5 million in capital grants for thirty-one communities to assist them address crucial infrastructure needs to support local housing production efforts.

At the same time that we announced the Housing Choice Initiative, I filed legislation to address a significant barrier to housing production that the state has created. State law bars cities and towns in Massachusetts from adopting changes to zoning laws unless the municipality is able to secure a 2/3 “supermajority” vote of its legislative body. Only a handful of other states have similar requirements. None of our neighbors in New England place this sort of restriction on local decision making. This self-inflicted wound has damaged our ability to build the housing our residents need.

Our bill received widespread, bi-partisan support. Therefore, I am re-filing this legislation in the form in which it was reported favorably by the Joint Committee on Housing as “An Act to Promote Housing Choices.” As was the case with the original bill, this legislation

An Act to Promote Housing Choices (H. 3507)

Massachusetts home prices have increased at the fastest rate in the nation, and metropolitan Boston rent prices rank among the highest in the country. The Commonwealth must build enough diverse housing stock – single family homes, multi-family units, and small apartments – to support our growing economy and to provide our growing population with housing choices. **Massachusetts must find new ways to encourage housing development.**

This new housing production should be concentrated in environmentally sound ways. Massachusetts laws should make it easier to build housing that supports transit-oriented development, revitalizes downtowns, uses existing infrastructure, preserves natural land where possible, and avoids unnecessary environmental impacts. The Baker-Polito Administration's Housing Choice Initiative encourages and rewards municipalities for taking actions that result in housing production. *An Act to Promote Housing Choices* complements the Housing Choice Initiative by lowering barriers to sustainable housing production and adoption of planning and zoning best practices. **At the same time, the legislation respects the role of local decision-making.**

Massachusetts is an extreme outlier in requiring a supermajority vote of its local legislative bodies to change zoning laws, and we are the only state in New England that requires a 2/3 vote to change local zoning. In order to facilitate adoption of zoning best practices and appropriate housing production, *An Act to Promote Housing Choices* lowers the voting threshold to a majority vote for specific best practices.

The following local zoning would require only a majority vote of the local legislative body:

- Reducing dimensional requirements, such as minimum lot sizes, to allow homes to be built closer together.
- Reducing required parking ratios, which can lower the cost of building new housing and accommodate development on a smaller footprint.
- Creating mixed-use zoning in town centers, and creating multi-family and starter home zoning in town centers, near transit, and in other smart locations.
- Adopting "Natural Resource Protection Zoning" and "Open Space Residential Development." These zoning techniques allow the clustering of new development while protecting open space or conservation land.
- Adopting provisions for Transfer of Development Rights (TDR), which protects open space while creating more density in suitable locations.
- Adopting 40R "Smart Growth" zoning, which provides incentives for dense, mixed-use development in town centers, near transit, and in other "smart" locations.
- Allowing accessory dwelling units or "in-law" apartments – small apartments in the same building or on the same lot as an existing home.
- Allowing for increased density through a Special Permit process promoting more flexible development.

This legislation does not mandate that any town adopt these zoning best practices; it simply removes the barrier of having to convince a supermajority of the legislative body to adopt them.

The bill also includes the following provisions:

- For communities that already allow transit oriented multi-family and mixed-used projects by Special Permit, the bill reduces the 2/3 vote for special permit approval to a simple majority for projects with at least 10% affordable units;
- Requires DHCD to annually report on progress made towards the goal of 135,000 new units by 2025 and Housing Choice designations and grants; and
- Allows municipalities to enter into revenue sharing agreements for sites affecting more than one local government.

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-032
INTRO: 09/19/19**

2020-032 RESOLVE AUTHORIZING THE TOWN OF BARNSTABLE TO PARTICIPATE IN THE MASSACHUSETTS COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM (PACE MASSACHUSETTS)

WHEREAS, pursuant to M.G.L. c. 23M (the “PACE Act”) the Commonwealth has established a commercial sustainable energy program known as the Massachusetts Property Assessed Clean Energy Program (“PACE Massachusetts”) to provide a financing mechanism (“PACE financing” to private owners of commercial and industrial properties for certain qualifying commercial energy improvements (“improvements”); and

WHEREAS, pursuant to the PACE Act, PACE Massachusetts is administered by the Massachusetts Development Finance Agency (“MassDevelopment”), in consultation with the Massachusetts Department of Energy Resources; and

WHEREAS, under PACE Massachusetts, the owner of the commercial or industrial property benefitting from the improvements (the “benefitted property”) is required to repay the PACE financing through the payment of a betterment assessment (a “PACE betterment assessment”) placed on such benefitted property by the municipality in which the benefitted property is located; and

WHEREAS, in order for an owner of commercial or industrial property to participate in PACE Massachusetts, Section 2 of the PACE Act requires that the municipality in which such property is located must elect to participate in PACE Massachusetts; and

WHEREAS, the Town of Barnstable (the “Town”) has determined that it is in the best interest of the Municipality to participate in PACE Massachusetts as a “participating municipality”, as provided in the PACE Act, to permit the owners of commercial and industrial properties located in the Municipality to access PACE financing for qualifying commercial energy improvements through PACE Massachusetts;

NOW THEREFORE, BE IT RESOLVED, as follows:

The Town Council of the Town of Barnstable hereby approves the Town’s participation in PACE Massachusetts pursuant to the PACE Act and authorizes the Town Manager to enter into a PACE Massachusetts Municipal Assessment and Assignment Agreement (the “Agreement”) with MassDevelopment, pursuant to which the Municipality will agree to (i) levy PACE betterment assessments and impose PACE betterment assessment liens on benefitted properties located in the Municipality, in the amounts determined by MassDevelopment to be sufficient to repay the PACE financing, (ii) assign the PACE betterment assessment liens to MassDevelopment, which MassDevelopment may in turn assign to the providers of the PACE financing (each a “capital provider”), as collateral for such PACE financing, (iii) include on the property tax bills for the benefitted properties the installment payments necessary to repay the PACE betterment assessments, in the amounts and at the times as determined by MassDevelopment (iv) collect and pay over to MassDevelopment or its designee, the PACE betterment assessment instalment payments as and when collected, and (v) enforce, to the extent required by the Agreement, the PACE betterment assessments

and liens; the Agreement to be substantially in the form presented to this meeting, with such changes, modifications and insertions as the Town Manager may approve as being in the best interest of the Municipality. The Collector Treasurer of the Town of Barnstable or such other Town of Barnstable agency as may be designated in the Agreement is authorized to levy such PACE betterment assessments and impose the PACE betterment assessment liens on behalf of the Town of Barnstable without further authorization by this legislative body.

Notwithstanding any other provision of law to the contrary officers and officials of the Town, including, without limitation, town tax assessors and tax collectors, are not personally liable to MassDevelopment or to any other person for claims, of whatever kind or nature, under or related to PACE Massachusetts, including, without limitation, claims for or related to uncollected PACE betterment assessments. Other than fulfillment of the obligations specified in the Agreement, the town has no liability to the owner of the benefitted property or to any capital provider related to the town's participation in PACE Massachusetts.

SPONSOR: Mark S. Ells, Town Manager

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-032
INTRO: 09/19/19

SUMMARY

TO: Town Council
FROM: Mark S. Eells, Town Manager
THROUGH: Elizabeth S. Jenkins, Director, Planning & Development Department
DATE: September 19, 2019
SUBJECT: MassDevelopment Property Assessed Clean Energy Program (PACE)

BACKGROUND: The Property Assessed Clean Energy Program, or PACE, is an economic development tool administered by MassDevelopment aimed at creating a more competitive environment for attracting and retaining businesses through lower energy costs. PACE is a tax-based financing mechanism for commercial, industrial, and multi-family buildings that enables low-cost, long-term funding for energy improvements such as energy-efficiency upgrades and installation of renewables. To finance improvements, a property owner agrees to a betterment assessment on their property, which repays the financing. This enables owners to undertake more comprehensive energy upgrades with longer payback periods of up to 20 years.

MassDevelopment is the lead program administrator for PACE and the Massachusetts Department of Energy Resources (DOER) approves each project. Financing is provided directly by a private third-party; no public funds are used. The Town's role is to act as the pass-through agent on the betterment assessments.

The Town must opt-in to participating in the PACE program through this one-time majority vote. This program is an incentive to our existing businesses, as it provides for potential reduction of operating costs and increases in property values. The Town benefits through the potential for supporting business growth and retention, as well as the environmental benefits associated with reduced energy consumption.

FISCAL IMPACT: The anticipated fiscal impact to the town is minimal and can be absorbed within current staffing levels and budgets. The cost of recording the lien for any betterment assessments is reimbursable to the town from DOER. The billing and collection of the assessments and subsequent transfer to DOER can be conducted with nominal impact to our operations.

STAFF ASSISTANCE: Elizabeth S. Jenkins, Director, Planning & Development; Mark A. Milne, CPA, Director of Finance

B. NEW BUSINESS (First Reading) (Refer to Second Reading 10/03/19)

BARNSTABLE TOWN COUNCIL

**ITEM # 2020-033
INTRO: 09/19/19**

2020-033 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:

RESOLVED: That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Golf Committee:** Ken Morey, 1111 Santuit-Newtown Road, Cotuit, MA as a regular member to a term expiring 06/30/22; **Sandy Neck Board:** Hank Farnham, 127 Coachman Lane, West Barnstable, MA as a regular member at large to a term expiring 06/30/21; **Youth Commission:** Lily Atwell, c/o Hyannis Youth and Community Center, 141 Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/20; Nina Barrette, c/o Hyannis Youth and Community Center, 141 Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/20; Brenden Dowling, c/o Hyannis Youth and Community Center, 141 Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/20

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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