



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA October 7, 2021 7:00 PM

Councillors:

Matthew Levesque
President
Precinct 10

Paula Schnepf
Vice President
Precinct 12

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Nikolas Atsalis
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grassetti
Precinct 7

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Jennifer L. Cullum
Precinct 13

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

Administrative
Assistant:
Kelly Crahan
Kelly.Crahan@town.barnstable.ma.us

The October 7, 2021 Town Council Meeting of the Barnstable Town Council shall be conducted remotely and shall be physically closed to the public. Alternative public access shall be provided as set forth below.

1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 live stream: <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Remote Participation: Real-time public comment may be addressed to the Barnstable Town Council utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://zoom.us/j/99499224779> Meeting ID: 994 9922 4779
US Toll-free 1-888 475 4499

3. Written Comments may be submitted to:
https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS

7. ACT ON MINUTES (Including Executive Session)

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

9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

EXECUTIVE SESSION

The Town Council may enter Executive Session pursuant to G.L. c. 30A, sec. 21(a) (3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect

on the litigating position of the Town and Town Council. Specifically, the Council will discuss a lawsuit filed against the Town by TJA Clean Energy, LLC regarding claims relating to the solar energy provisions of G.L. c. 40A, sec. 3.

ADJOURNMENT

NEXT REGULAR MEETING: October 21, 2021

ITEM NO.	INDEX TITLE	PAGE
A.	OLD BUSINESS (NONE)	
B.	NEW BUSINESS	
2022-023	Appointments to a Board/Committee/Commission: Council on Aging: Lucinda Loring, as a regular member to a term expiring 06/2024; Disability Commission: Brian Freeman, as a regular member to a term expiring 06/2024; John Lundborn, as a regular member to a term expiring 06/2023; Hyannis Main Street Waterfront Historic District Commission: Mark Despotopulos, as a regular member to a term expiring 06/2023; Planning Board: Tim O’Neill, as a regular member to a term expiring 06/2022 (First Reading) (Refer to Second Reading 10/21/2021)	5
2022-024	Reappointments to a Board/Committee/Commission: Disability Commission: Paula Breagy as a regular member to a term expiring 06/2022 (First Reading) (Refer to Second Reading 10/21/2021)	6
2022-025	Amending the Administrative Code, Chapter 241, Article III, Multiple-Member Appointive Organization, Section § 241-21, Board of Health (First Reading) (Refer to Second Reading 10/21/2021)	7-8
2022-026	Authorization to expend a Fiscal Year 2022 State 911 Department Emergency Medical Dispatch (EMD) Grant award in the amount of \$20,566.86 from the Commonwealth of Massachusetts Executive Office of Public Safety and Security (May be acted upon) (Roll Call Majority)	9-10
2022-027	Authorization to expend a Fiscal Year 2022 Municipal Road Safety Grant (MRS) award in the amount of \$49,997.00 from the Executive Office of Public Safety and Security, Highway Safety Division (May be acted upon) (Roll Call Majority)	11-12
2022-028	Authorization to expend a Coastal Zone Management (CZM) Fiscal Year 2022 Coastal Pollutant Remediation (CPR) Grant in the amount of \$126,915.00 from the Commonwealth of Massachusetts (May be acted upon) (Roll Call Majority)	13-14
2022-029	Authorization to expend a Fiscal Year 2022 Commonwealth of Massachusetts Executive Office of Technology Services and Security Grant in the amount of \$62,779.94 for Radio Replacements in the Marine and Environmental Affairs Department (May be acted upon) (Roll Call Majority)	15-16
2022-030	Authorization to expend a Fiscal Year 2022 Seaport Economic Council Grant from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development in the amount of \$256,800 for design and permitting of the Hyannis Harbor Dredging (May be acted upon) (Roll Call Majority)	17-18
2022-031	Authorization to expend a Fiscal Year 2022 Seaport Economic Council Infrastructure Grant from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development in the amount of \$465,600 for design and permitting of the Bismore Park Marina Improvements (May be acted upon) (Roll Call Majority)	19-20
2022-032	Resolve authorizing the Town Manager to execute a First Amendment to the Host Community Agreement between the Town of Barnstable and Vineyard Wind, LLC, Dated October 3, 2018, and to execute a Second Host Community Agreement with Vineyard Wind, LLC for the project currently pending before the Commonwealth of Massachusetts, Department of Public Utilities in D.P.U. 20-56 and 20-57 and with the Energy Facilities Siting Board in EFSB-20-01 (First Reading) (Refer to Second Reading 10/21/2021)	21-22

2022-033	Adoption of the 2020 Town of Barnstable Precinct Map (May be acted upon) (Roll Call Majority)	23-25
2022-034	Amending the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning by expanding the Ground-Mounted Solar Photovoltaic Overlay District to include the property located at 810 Wakeby Road, Marstons Mills (Assessors' Map 013 Parcels 004, 005, 052) and by requiring a special permit for large-scale Ground-Mounted Solar Photovoltaic Installations located within any Residential District located within the Overlay District (First Reading) (Refer to Planning Board)	26-33

Approve Minutes: September 16, 2021

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it so votes, the Council may go into execute session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

B. NEW BUSINESS (First Reading) (Refer to Second Reading 10/21/2021)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-023
INTRO: 10/07/2021**

2022-023 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Council on Aging:** Lucinda Loring, as a regular member to a term expiring 06/2024; **Disability Commission:** Brian Freeman, as a regular member to a term expiring 06/2024; John Lundborn, as a regular member to a term expiring 06/2023; **Hyannis Main Street Waterfront Historic District Commission:** Mark Despotopulos, as a regular member to a term expiring 06/2023; **Planning Board:** Tim O'Neill, as a regular member to a term expiring 06/2022

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (First Reading) (Refer to Second Reading 10/21/2021)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-024
INTRO: 10/07/2021**

2022-024 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Disability Commission:** Paula Breagy as a regular member to a term expiring 06/2022

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (First Reading) (Refer to Second Reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-025
INTRO: 10/07/2021**

2022-025 AMENDING THE ADMINISTRATIVE CODE, CHAPTER 241, ARTICLE III, MULTIPLE-MEMBER APPOINTIVE ORGANIZATION, § 241-21 BOARD OF HEALTH

ORDERED: That pursuant to Section 5-1 of the Town of Barnstable Home Rule Charter, the Administrative Code, Chapter 241, Article III, Multiple-Member Appointive Organization, § 241-21 Board of Health, Section A, is hereby amended by striking out “three” in the first sentence and inserting “five” in its place.

So that § 241-21 A., as amended, shall read as follows:

“A. Term of office. There shall be a Board of Health consisting of five regular members, one of whom shall be a physician, plus one alternate member. The alternate member shall have voting rights at meetings if there is an absence of a regular member.”

SPONSOR: Appointments Committee Members

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2022-025
INTRO: 10/07/2021

TO: Town Council
FROM: Appointment Committee Members
THROUGH: John Norman, Chair, Board of Health
DATE: October 7, 2021
SUBJECT: Amending the Administrative Code, Chapter 241, Article III, Multiple-Member Appointive Organization, Section § 241-21, Board of Health

This proposed amendment to the Administrative Code increases the number of members of the Board of Health from three to five.

FISCAL IMPACT: None

STAFF SUPPORT: Appointments Committee members

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-026
INTRO: 10/07/2021**

2022-026 AUTHORIZATION TO EXPEND A FISCAL YEAR 2022 STATE 911 DEPARTMENT EMERGENCY MEDICAL DISPATCH GRANT IN THE AMOUNT OF \$20,566.86 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

RESOLVED: That the Town Council hereby authorizes to expend a Fiscal Year 2022 State 911 Department Emergency Medical Dispatch Grant in the amount of **\$20,566.86** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security for the purpose of funding costs associated with emergency dispatch operations, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-026
INTRO: 10/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: October 7, 2021
SUBJECT: Authorization to expend a Fiscal Year 2022 State 911 Department Emergency Medical Dispatch (EMD) Grant award in the amount of **\$20,566.86** from the Commonwealth of Massachusetts Executive Office of Public Safety and Security

BACKGROUND: This grant will fund an annual software maintenance contract with PowerPhone in the amount of \$319.60; an annual EMD medical director contract with Cape & Islands Emergency Medical Services in the amount of \$6,500; and the costs of 160 hours of overtime to complete quality assurance oversight and call review as required by State 911 in the amount of \$13,747.26. The total value of the grant is \$20,566.86.

ANALYSIS: Acceptance of this grant will enable the department to fulfill their obligations as a primary Public Safety Answering Point (PSAP) relative to the performance of Emergency Medical Dispatch, as mandated by State 911.

FISCAL IMPACT: This is a reimbursement grant for all contract costs and overtime. The town must expend the funds upfront and subsequently submit for reimbursement. The elimination of this source of grant funding would have a direct impact on future General Fund budgets, as the cost would still remain a mandatory recurring operational expense and therefore would have to be replaced with general fund revenue. All costs associated with this grant contract must be completed by June 30, 2022.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: Matthew K. Sonnabend, Chief of Police; Anne Spillane, Finance and Support Services Director; Lena Bevilacqua, Administrative Assistant to Investigative Services / Police Grant Coordinator

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-027
INTRO: 10/07/2021**

2022-027 AUTHORIZATION TO EXPEND A FISCAL YEAR 2021 MUNICIPAL ROAD SAFETY GRANT IN THE AMOUNT OF \$49,997.00 FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

RESOLVED: That the Town Council does hereby authorize to expend a Fiscal Year 2022 Municipal Road Safety Grant in the amount of **\$49,997.00** from the Commonwealth Executive Office of Public Safety and Security, Highway Safety Division for the purpose of funding the cost of traffic enforcement mobilizations, equipment and driver education for minors, and that the Town Manager be authorized to contract for and expend the grant funds for the purposes set forth herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-027
INTRO: 10/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: October 7, 2021
SUBJECT: Authorization to expend a Fiscal Year 2022 Municipal Road Safety Grant (MRS) award in the amount of **\$49,997.00** from the Executive Office of Public Safety and Security, Highway Safety Division

BACKGROUND: The Department applied for and was awarded this grant in the amount of \$49,997.00. This funding will enable the Traffic Division to participate in five traffic mobilizations designed to target specific areas of concern with motorists as follows:

1. Winter Impaired Driving Focus (December - 2021)
2. Distracted Driving (April 2022)
3. Click It or Ticket (May 2022)
4. Summer Speed (June 2022)
5. Summer Impaired Driving Focus (August 2022 – September 2022)

This grant helps to raise awareness of both traffic safety challenges involving drinking and driving, distracted driving, and seatbelt usage. This grant also incorporates traffic enforcement equipment that is needed by the traffic division, as well as distracted driver and drunk driver education to junior high and high school student. This MRS grant will also fund the new Child Passenger Seat Safety (CPS) Program.

GRANT DETAIL: \$38,114.00 of this grant award is allocated entirely to traffic enforcement, \$2,659.00 will be allocated to an electronic solar powered speed sign, and \$3,240.00 will be allocated for pedestrian and bicycle safety enforcement and safety. \$5,984.00 will be allocated for non-enforcement CPS activities and training and driver education for minors using a distracted driver Mat, Flyers, and a drinking and driving mat.

ANALYSIS: Acceptance of this grant will assist the Department in the continuance of these important traffic safety mobilizations.

FISCAL IMPACT: This grant funds the overtime costs of conducting the five mobilizations, equipment, educational materials, training, and community events. There is no required match and the overtime costs, equipment, and materials of the grant will be reimbursed following the completion of each mobilization and submission of payment for materials and equipment.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-028
INTRO: 10/07/2021**

2022-028 AUTHORIZATION TO EXPEND A FISCAL YEAR 2022 COASTAL POLLUTANT REMEDIATION GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF COASTAL ZONE MANAGEMENT IN THE AMOUNT OF \$126,915 FOR CONSTRUCTION OF STORMWATER IMPROVEMENTS ON RIVER ROAD IN MARSTONS MILLS

RESOLVED: That the Town Council does hereby authorize to expend a Fiscal Year 2022 Coastal Pollutant Remediation Grant in the amount of **\$126,915** from the Commonwealth of Massachusetts, Department of Coastal Zone Management for the purpose of constructing stormwater improvements along River Road in Marstons Mills, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-028
INTRO: 10/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director, Department of Public Works
DATE: October 7, 2021
SUBJECT: Authorization to expend a Coastal Zone Management (CZM) Fiscal Year 2022 Coastal Pollutant Remediation (CPR) Grant in the amount of **\$126,915.00** from the Commonwealth of Massachusetts

BACKGROUND: The Town of Barnstable was awarded a **\$126,915.00** Coastal Pollutant Remediation grant from the Commonwealth of Massachusetts. Coastal Zone Management (CZM) is an inter-agency initiative of the Commonwealth lead by the Executive Office of Energy and Environmental Affairs. CZM seeks to improve water quality of the coastal waterways by implementing pollutant remediation projects throughout the Commonwealth.

ANALYSIS: This grant award supports bidding and construction costs associated with the construction of a series of three (3) vegetated, bio filtration swales along River Road in Marstons Mills. This project is a continuation of the Town's efforts to improve stormwater quality within the Three Bays watershed. The grant funds apply to the Town of Barnstable's share of the construction costs. Design and permitting was already completed as part the SNEP 19 Grant received by the Town.

FISCAL IMPACT: As a result of this grant, the project will be completed at no cost to the Town. The funding match required for this grant program is met through previously awarded SNEP Grant funds already received by and accepted by the Town, and in-kind services.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

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

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-029
INTRO: 10/07/2021**

**2022-029 AUTHORIZATION TO EXPEND A FISCAL YEAR 2022
COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF
TECHNOLOGY SERVICES AND SECURITY GRANT IN THE AMOUNT
OF \$62,779.94 FOR RADIO REPLACEMENTS IN THE MARINE AND
ENVIRONMENTAL AFFAIRS DEPARTMENT**

RESOLVED: That the Town Council does hereby authorize to expend a Fiscal Year 2022 Commonwealth of Massachusetts Interoperable Radio System (CoMIRS) Radio Upgrade Grant from the Commonwealth of Massachusetts, Executive Office of Technology Services and Security in the amount of **\$62,779.94** for the replacement of 12 portable and 14 mobile radios and the associated programming and installation costs in the Marine and Environmental Affairs Department, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-029
INTRO: 10/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Derek Lawson, Director, Marine and Environmental Affairs Department
DATE: October 7, 2021
SUBJECT: Authorization to expend a Fiscal Year 2022 Commonwealth of Massachusetts Executive Office of Technology Services and Security Grant in the amount of **\$62,779.94** for Radio Replacements in the Marine and Environmental Affairs Department

BACKGROUND: The Marine and Environmental Affairs Department has been awarded a CoMIRS Radio Upgrade Program grant in the amount of \$62,779.94. The award summary is as follows:

Grant award for the purchase of 12 portable radios: \$25,534.80
Grant award for the purchase of 14 mobile radios: \$31,745.14
Programming allowance for portables not to exceed: \$600.00
Programming allowance for mobile radios not to exceed: \$700.00
Installation allowance for mobiles not to exceed: \$4,200.00

Total Grant Award: \$62,779.94

ANALYSIS: The acceptance of this grant will allow the Marine and Environmental Affairs Department to upgrade antiquated equipment and allow staff to continue to communicate with other first responder agencies.

FISCAL IMPACT: The CoMIRS Radio Upgrade Program grant award will cover the significant cost of needed radio upgrades, allowing a savings in the Marine and Environmental Affairs General Fund Budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: Brian Taylor, Harbormaster; Jarod Smoller, Assistant Harbormaster.

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-030
INTRO: 10/07/2021**

2022-030 AUTHORIZATION TO EXPEND A FISCAL YEAR 2022 SEAPORT ECONOMIC COUNCIL GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT IN THE AMOUNT OF \$256,800 FOR DESIGN AND PERMITTING OF THE HYANNIS HARBOR DREDGING

RESOLVED: That the Town Council does hereby authorize to expend a Fiscal Year 2022 Seaport Economic Council grant from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development in the amount of **\$256,800** for the design and permitting of the Hyannis Harbor Dredging Project, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-030
INTRO: 10/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director, Department of Public Works
DATE: October 7, 2021
SUBJECT: Authorization to expend a Fiscal Year 2022 Seaport Economic Council Grant from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development in the amount of **\$256,800** for design and permitting of the Hyannis Harbor dredging

BACKGROUND: The Town's Comprehensive Dredge Plan recommends regular maintenance of the Town controlled navigational channels, including the Town boat basins and channels in Hyannis Harbor. The Plan provides recommended dredge intervals based upon historical dredging occurrences, which informs planning of the Town's dredging needs. In addition, the Town is planning a replacement of the Bismore Park Bulkhead and associated docks and slips. The docks and slips are located within the Bismore Park Pier Basin, which is accessed via the adjacent Town Channel.

ANALYSIS: Both the Bismore Park Pier Basin and the adjacent Town Channel are due for improvement dredging. It is recommended that the improvement dredging be closely coordinated with the proposed infrastructure improvements in order to present a holistic improvement for the users of the waterfront and to realize potential cost savings. Engineering and permitting is anticipated to take approximately 18 to 24 months, with construction targeted in 2024.

FISCAL IMPACT: This grant will fund the 80% of the anticipated design and permitting costs associated with the dredging of the Hyannis Inner Harbor. The Town's required match will be funded by an existing capital appropriation. An appropriation for the construction phase of the project will be brought forward as the next step. Grant funding for the construction phase will also be pursued.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

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

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-031
INTRO: 10/07/2021**

2022-031 AUTHORIZATION TO EXPEND A FISCAL YEAR 2022 SEAPORT ECONOMIC COUNCIL INFRASTRUCTURE GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT IN THE AMOUNT OF \$465,600 FOR DESIGN AND PERMITTING OF THE BISMORE PARK MARINA IMPROVEMENTS

RESOLVED: That the Town Council does hereby authorize to expend a Fiscal Year 2022 Seaport Economic Council Infrastructure Grant from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development in the amount of **\$465,600** for the design and permitting of the Bismore Park Marina Improvements Project, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2022-031
INTRO: 10/07/2021

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director, Department of Public Works
DATE: October 7, 2021
SUBJECT: Authorization to expend a Fiscal Year 2022 Seaport Economic Council Infrastructure Grant from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development in the amount of **\$465,600** for design and permitting of the Bismore Park Marina Improvements

BACKGROUND: A condition assessment of the Bismore Park bulkhead was performed in 2018 which recommends permitting for replacement of the bulkhead to begin in 2022. In response, Town Staff has proceeded with planning efforts for the replacement of the bulkhead, including other associated improvements such as improvements to the adjacent docks and slips, pedestrian safety improvements, loading and offloading improvements, and associated dredging. The planning efforts are now ready to advance to design and permitting. The Town Council approved a capital improvement project (2021-101) to fund the design and permitting of the bulkhead replacement. Town Staff prepared a Seaport Economic Council Infrastructure Grant for the purposes of funding the majority of the design and permitting costs.

ANALYSIS: On September 9, 2021, the Seaport Economic Council voted to award the Town a Seaport Economic Council Infrastructure Grant in the amount of \$465,600 for the design and permitting of the Bismore Park Marina Improvements Project. The project goals are to improve public safety and accessibility, enhance user experience, replace aging infrastructure, and increase resiliency. These goals will be achieved by completing the following objectives: 1) construct a new bulkhead; 2) construct new docks and slips; 3) evaluate separation of pedestrians and commercial fishing offloading areas while providing opportunities for visitors to safely view those operations; 4) evaluation reconfiguration passenger loading areas and sidewalks. Engineering and permitting is anticipated to take approximately 18 to 24 months, with construction targeted in 2024.

FISCAL IMPACT: This grant will fund 80% of the anticipated design and permitting costs associated with the Bismore Park Marina Improvements Project. The Town's required match will be funded by an existing capital appropriation funded by the Marina Enterprise Fund (2021-101). An appropriation for the construction phase of the project will be brought forward upon completion of design and permitting. Grant funding for the construction phase will also be pursued.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

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

B. NEW BUSINESS (First Reading) (Refer to Second Reading 10/21/2021)

BARNSTABLE TOWN COUNCIL

**ITEM#2022-032
INTRO: 10/07/21**

2022-032 RESOLVE AUTHORIZING THE TOWN MANAGER TO EXECUTE A FIRST AMENDMENT TO THE HOST COMMUNITY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND VINEYARD WIND, LLC, DATED OCTOBER 3, 2018, AND TO EXECUTE A SECOND HOST COMMUNITY AGREEMENT WITH VINEYARD WIND, LLC FOR THE PROJECT CURRENTLY PENDING BEFORE THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF PUBLIC UTILITIES IN D.P.U 20-56 AND 20-57 AND WITH THE ENERGY FACILITIES SITING BOARD IN EFSB-20-01

RESOLVED: That the Town Council approves the execution and delivery by the Town Manager of a First Amended Host Community Agreement between the Town of Barnstable and Vineyard Wind, LLC, amending the Host Community Agreement between the Town and Vineyard Wind, LLC, dated October 3, 2018, substantially in the form of the draft agreement on file with the Office of the Town Council; and further approves the execution and delivery by the Town Manager of a second Host Community Agreement between the Town of Barnstable and Vineyard Wind, LLC, substantially in the form of the draft agreement on file with the Office of the Town Council, for the Vineyard Wind Project which is currently pending before the Commonwealth’s Department of Public Utilities in D.P.U. 20-56 and 20-57 and with the Energy Facilities Siting Board in EFSB 20-01.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM#2022-032
INTRO: 10/07/21

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Charles S. McLaughlin, Jr., Senior Town Attorney
DATE: October 7, 2021
SUBJECT: Resolve authorizing the Town Manager to execute a First Amendment to the Host Community Agreement between the Town of Barnstable and Vineyard Wind, LLC, Dated October 3, 2018, and to execute a Second Host Community Agreement with Vineyard Wind, LLC for the project currently pending before the Commonwealth of Massachusetts, Department of Public Utilities in D.P.U. 20-56 and 20-57 and with the Energy Facilities Siting Board in EFSB-20-01

BACKGROUND: The Town and Vineyard Wind LLC (“VW”) executed a Host Community Agreement (“HCA”) in October 2018. HCA contemplated two phases of projects, both of which involved landings at Covell’s Beach. Since 2018, a number of matters have developed and need to be documented. For example, Vineyard Wind agreed to join with the Town in a joint construction project whereby installation of VW’s duct bank and the Town’s new sewer installation would proceed simultaneously side by side. VW and the Town also agreed subsequently on safety protocols to contain any spillage of hazardous materials at its proposed electrical substation. And, although the initial HCA contemplated 2 phases, VW current proposal is to bring the Phase 2 cables ashore at Craigville Beach via a route that had not been discussed during the development of the initial HCA. Because VW is now in the process of assigning its rights under the HCA to a new, wholly-owned LLC, and for the purpose of clarifying the rights and obligations of what will be three parties for two separate projects, a separate HCA has been created for the Phase II, Craigville project (“HCA II”). As authorized by the Town Council, the Town Manager has negotiated amendments to the HCA and has negotiated the terms of the new HCA II to fully reflect the understandings, undertakings, and obligations of the parties. This resolution will authorize the Town Manager to execute the amended HCA and the new HCA II. The latest draft of the amended HCA and HCA II is on file with the Town Council Office in hard copy and electronically and a final copy will be posted in advance of a second reading.

FISCAL IMPACT: The fiscal impact is a combination of a host fee, personal property tax, construction improvements of parking lots, roadways and utilities where impacted by the proposed landing and utility installation, and other mitigation as defined in the agreements.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, supports this item.

STAFF SUPPORT: Legal Department

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

BARNSTABLE TOWN COUNCIL

**ITEM#2022-033
INTRO: 10/07/21**

2022-033 ADOPTION OF THE 2020 TOWN OF BARNSTABLE PRECINCT MAP

ORDERED: That the Town Council hereby approves the 2020 Re-precincting Map prepared for the Town of Barnstable through the courtesy of William F. Galvin, Secretary of the Commonwealth and Census Liaison, as presented to the Town Council at this meeting; and requests that the Town Clerk forward said map, a physical boundary description of each precinct, population figures for each precinct, a list of census block numbers for each precinct, and a certified copy of this vote to the Local Election Districts Review Commission for approval.

SPONSOR: Ann Quirk, Town Clerk

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM#2022-033
INTRO: 10/07/21

TO: Town Council
FROM: Ann Quirk, Town Clerk
DATE: October 7, 2021
SUBJECT: Adoption of the 2020 Town of Barnstable Precinct Map

RATIONALE: Every ten (10) years all cities and towns must re-precinct their communities based on the numbers gathered through the Federal Census. The map that has been presented with this item reflects the gain in population in the Town of Barnstable from 45,193 at the 2010 census to 48,916 at the 2020 census.

The thirteen (13) Precinct maps have some boundary changes, but for the most part protect the integrity of the existing Precincts. The changes that have taken place must be made to give each precinct a population that is equal to the others with a differentiation at the most of 5% and maintaining the thirteen (13) Precincts.

Since all cities and towns must submit their new precinct maps to the Local Election Districts Review Commission before the end of October, it is imperative that action be taken on this item as soon as possible. We are mandated to re-precinct, produce a map and submit it for approval.

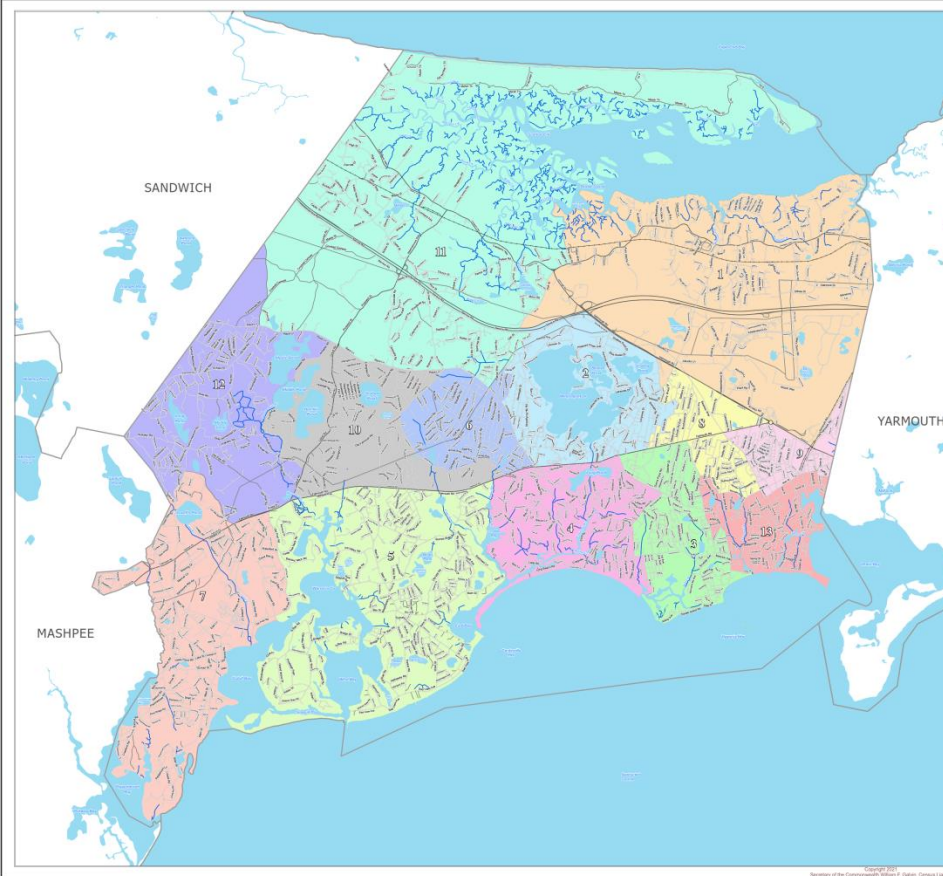
Once approved, the map will be in effect for the 2022 Elections.

STAFF SUPPORT: Ann Quirk, Town Clerk

Town of Barnstable



Map Prepared for the Town of Barnstable
 Courtesy of William F. Galvin, Census Liaison
 Secretary of the Commonwealth



2020 Population -- 48,916

Minimum 5%	Target Population	Maximum 5%
3,575	3,763	3,951

Precinct Boundaries Barnstable

Precinct	2020 Population	Variance
1	3,685	-2.07
2	3,828	1.73
3	3,937	4.92
4	3,786	0.61
5	3,664	-2.63
6	3,628	-3.59
7	3,721	-1.12
8	3,913	3.99
9	3,686	-2.05
10	3,689	-1.97
11	3,817	1.44
12	3,720	-1.14
13	3,842	2.10

Population is based on the official U.S. 2020 Census block-level data.
 Boundaries effective December 31, 2021

Legend

- Municipal Boundary
- Geographical Features**
- Major Road
- Local Road
- Railroad
- Other Municipal Features
- Streams, Rivers
- Coastal Water, Lakes, Ponds, Major Rivers



B. NEW BUSINESS (First Reading) (Refer to Planning Board)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-034
INTRO: 10/07/2021**

2022-034 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, CHAPTER 240 ZONING BY EXPANDING THE GROUND-MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT TO INCLUDE THE PROPERTY LOCATED AT 810 WAKEBY ROAD, MARSTONS MILLS (ASSESSORS' MAP 013 PARCELS 004, 005, 052) AND BY REQUIRING A SPECIAL PERMIT FOR LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS LOCATED WITHIN ANY RESIDENTIAL DISTRICT LOCATED WITHIN THE OVERLAY DISTRICT

ORDERED: That the 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 to include the parcels shown on Assessors' Map 013 as Parcels 004, 005, and 052 as shown on the 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"

Each dated October 1, 2021, as prepared by the Town of Barnstable Geographical Information System (GIS) Unit.

SECTION 2

- (1) By amending the definition of **AS-OF-RIGHT-SITING** in Section D of Article V, Section 240-44.2, Ground-Mounted Solar Photovoltaic Overlay District, by deleting the first sentence and inserting the following new sentence in place thereof:
"The ground-mounted solar photovoltaic installation may proceed without the need for a special permit, variance, amendment, waiver or other local discretionary approval, except that a special permit shall be required when located in a residential zoning district."
- (2) By inserting the following definition of **HAZARDOUS PRODUCT** in said Section D immediately after the definition of **GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION**:
"HAZARDOUS PRODUCT

Any chemical or combination of chemicals which, in any form, is listed by trade name, chemical name, formula or otherwise as a product which is a hazard to public drinking water supplies if concentrations beyond a certain level are achieved therein. ‘Hazardous product’ shall also include any product for which there is any listing, declaration, or announcement in any form issued by the United States Environmental Agency, the Massachusetts Department of Environmental Protection, or by any other government agency having direct or indirect jurisdiction over public water supplies that such product is such a hazard or is a product known as an “emerging contaminant” suspected as being capable of being a carcinogen.”

SECTION 3

By amending Subsection (1) of Section E of Article V, Section 240-44.2 by adding the following sentence to the end of such subsection:

“Any ground-mounted, large-scale solar photovoltaic installation with 250 kw or larger of rated nameplate capacity located in a residential zoning district shall also be required to obtain a special permit from the Planning Board in accordance with Subsection (3).”

SECTION 4

By further amending Section E of Article V, Section 240-44.2 by adding the following new Subsection (3):

“(3) Special Permit Provisions.

A Special Permit shall be granted by the Planning Board if the Planning Board determines the following criteria have been met.

- (a) Site Plan Approval in accordance with subsections (1) and (2).
- (b) Adequate measures to contain and suppress noise and sound as deemed appropriate by the Planning Board, including, but not limited to, minimum 75-foot setback from all residential abutter property lines to the Ground-Mounted Solar Photovoltaic Installation.
- (c) Vegetative and/or hardscape screening with coniferous planting and earth berms of sufficient height, as determined by the Building Commissioner, to screen adjoining residential properties from the Ground-Mounted Solar Photovoltaic Installation.
- (d) Federal Aviation Administration (FAA) approval of Solar Glare Study, if such a study is deemed necessary by the FAA.
- (e) Cape Cod Commission approval as required.
- (f) Full disclosure of all hazardous products proposed to be used at any time at a project site shall be provided in writing to the Planning Board with the Special Permit application; no application for a special permit shall be considered complete until such disclosure is submitted to the Planning Board. No such hazardous materials shall be deployed or used at any time at a project site without approval of the Special Permit by the Planning Board.
- (g) Use, storage and containment of hazardous materials shall comply with all Federal, State, Regional, and local codes and regulations, including building, fire, and health codes.
- (h) Compliance with any other criteria found by the Planning Board as necessary to protect the public health, safety or welfare, which may include, without limitation, the revocation of any prior permits and previous uses that benefit the project site.”

SECTION 5

By amending Section I of Article V, Section 240-44.2 by deleting Section I in its entirety and inserting the following new Section I in its place:

“I. Dimensional requirements. Ground-mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s), except that any ground-mounted, large-scale solar photovoltaic installation with 250 kw or larger of rated nameplate capacity located in a residential zoning district shall maintain a minimum 75-foot setback from all abutting residential property lines to contain noise as sound, as required by Subsection (3) (b).”

SECTION 6

By amending Section L of Article V, Section 240-44.2 by adding the following subsections after subsection 2(c):

- “(3) Federal Aviation Administration (FAA) approval of Solar Glare Study is required, if such a Study is deemed necessary by the FAA.
- (4) The project proponent shall provide full disclosure of all hazardous products proposed to be used at any time at a project site shall be provided in writing to the Building Commissioner with the Site Plan Review application; no application for Site Plan Review shall be considered complete until such disclosure is submitted to the Building Commissioner. No such hazardous materials shall be deployed or used at any time at a project site without Site Plan approval.
- (5) Use, storage and containment of hazardous materials shall comply with all Federal, State, Regional, and local codes and regulations, including building, fire, and health codes.
- (6) The project shall demonstrate compliance with any other criteria found by the Building Commissioner as necessary to protect the public health, safety or welfare, which may include, without limitation, the revocation of any prior permits and previous uses that benefit the project site.”

SPONSOR: Mark S. Ells, Town Manager

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2022-034
INTRO: 10/07/2021

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director, Planning & Development Department;
Charles S. McLaughlin, Jr., Senior Town Attorney
DATE: October 7, 2021
SUBJECT: Amending the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning by expanding the Ground-Mounted Solar Photovoltaic Overlay District to include the property located at 810 Wakeby Road, Marstons Mills (Assessors' Map 013 Parcels 004, 005, 052) and by requiring a special permit for large-scale Ground-Mounted Solar Photovoltaic installations located within any residential district located within the overlay district

BACKGROUND: Since 1975, Section 3 of Massachusetts General Laws, Chapter 40A, the state Zoning Act, has allowed solar projects as of right in all zoning districts, subject only to regulations to protect public health, safety, and welfare. It reads:

No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

In 2010, pursuant to the state Green Communities Act, the Town created a Ground-Mounted Solar Photovoltaic Overlay District (Section 240-44.2 of the Town Code), which governs where large-scale solar projects may be constructed in the Town.

PROPOSED ZONING AMENDMENT: TJA Clean Energy is now seeking to construct a solar energy project at 810 Wakeby Road in a residential district that is not within the Ground-Mounted Solar Photovoltaic Overlay District. TJA claims that the Town's Overlay District is unduly restrictive and not in compliance with M.G.L Chapter 40A and has filed a lawsuit seeking a permanent injunction ordering the Town to issue a building permit to TJA for the project. A similar lawsuit involving the Town of Waltham resulted in a decision by the Land Court that the Town of Waltham was not in compliance with M.G.L Chapter 40A, and that case is now pending in the Appeals Court.

To resolve the lawsuit involving TJA's proposed project, a zoning amendment is proposed, narrowly tailored to apply only to the three parcels at 810 Wakeby Road. The proposed zoning amendment creates a special permit process that would allow the TJA project to proceed after ensuring that public health, safety and welfare issues are addressed. Under the proposed zoning amendment, the Planning Board would be designated as the body to administer the special permit process in order to provide for public notice and input on these issues. For TJA to receive a special permit, it would have to meet specified criteria, including the revocation of all other existing permits for the property. The proposed zoning amendment identifies a number of issues that TJA must address in public before the Planning Board and standards that it must meet. If TJA is able to meet all of those standards, as determined by the Planning Board, it would be entitled to receive a special permit.

FISCAL IMPACT: The proposed zoning amendment, if adopted, would avoid protracted litigation and expense.

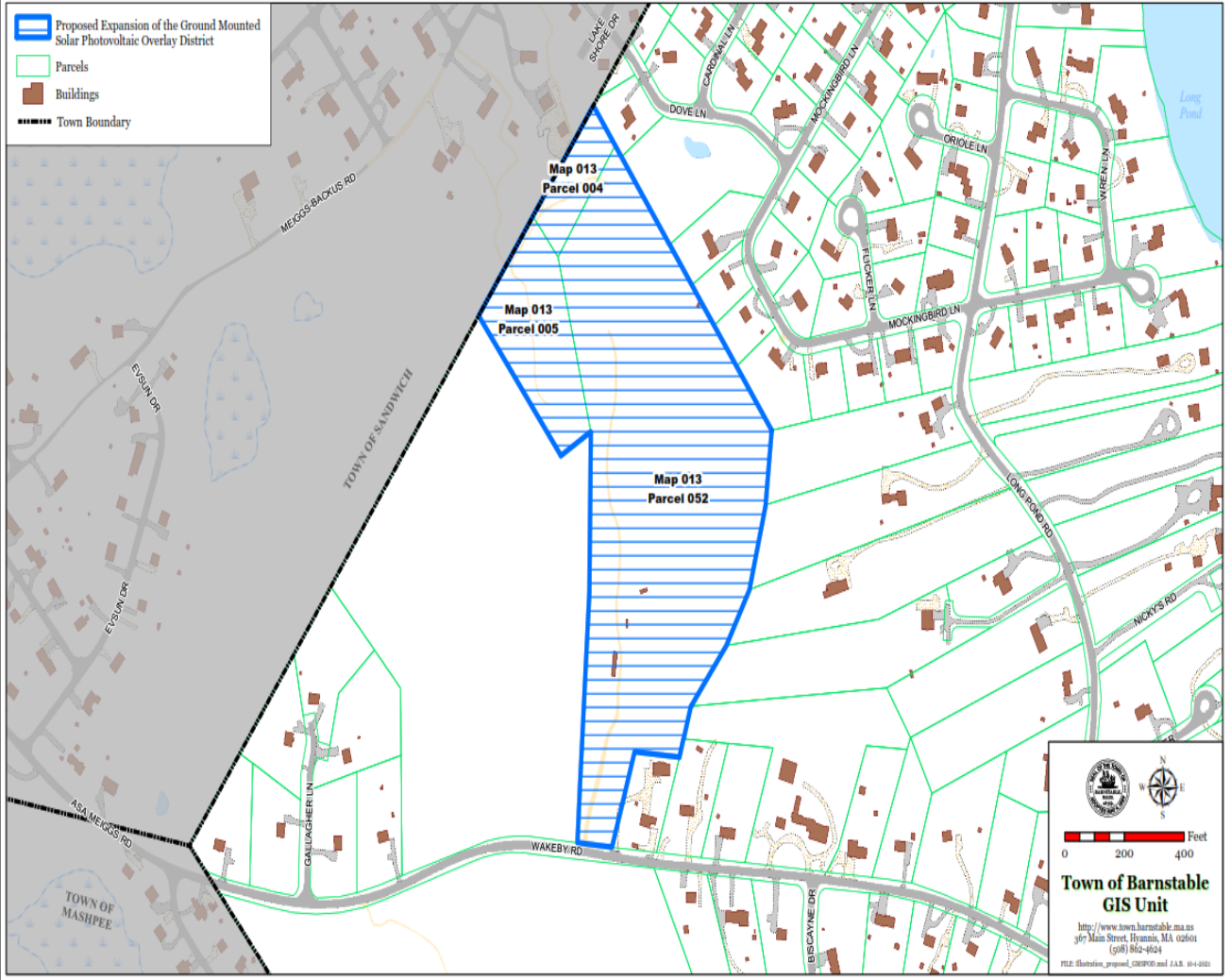
TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, supports this item.

STAFF SUPPORT: Planning & Development Department; Legal Department



PROPOSED AMENDMENT to the TOWN ZONING MAP
Expanding the GROUND MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT in Marstons Mills

October 1, 2021

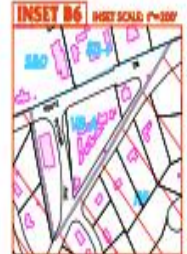
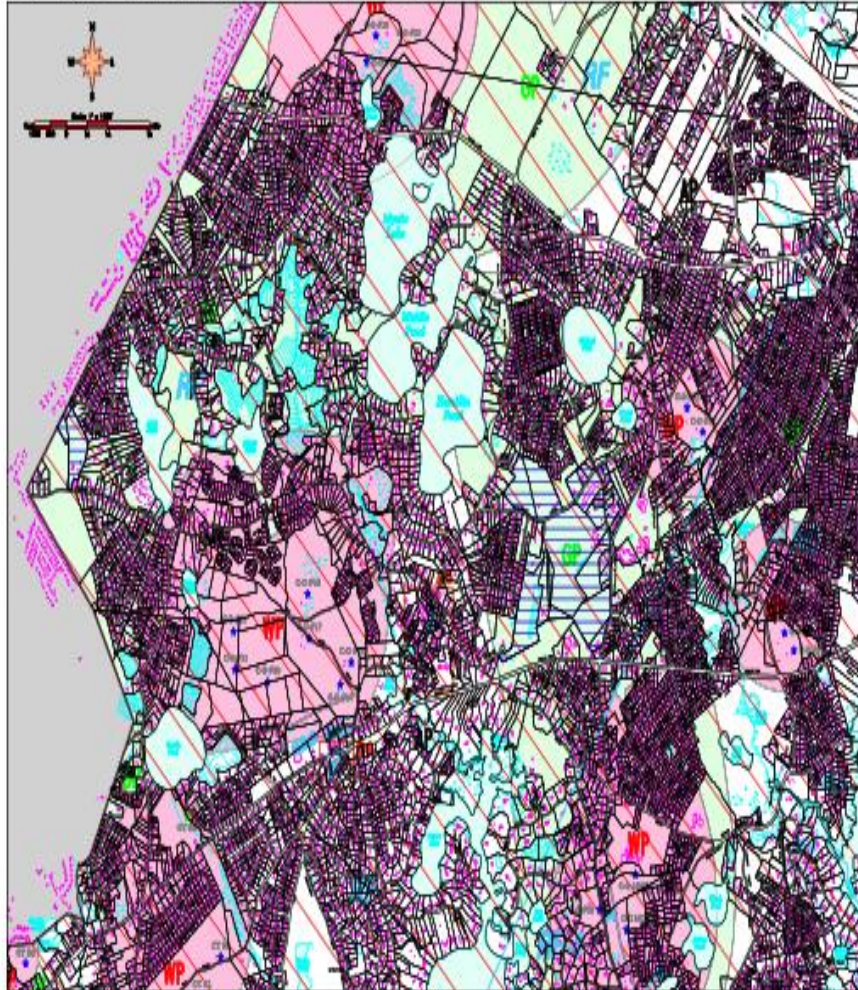




PROPOSED AMENDMENT to the MARSTONS MILLS ZONING MAP
expanding the GROUND MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT

02/08/2011, 1:00:11

MARSTONS MILLS - SHEET 6 OF 7



Map Legend			
	Existing District		Existing Public Well Site
	Wildland Protection Overlay District		Proposed Public Well Site
	Groundwater Protection Overlay District		Proposed Public Well Site
	Angular Protection Overlay District		Parcel Line (PT/REI)
	Adult Use Overlay District		Building
	Dunes & Flats Overlay District		Railroad Track
	Future Grade II Reformed Planned Unit Development Overlay District		Town Boundary Line
	Marshall Services Overlay District		Marsh Area
	Resource Protection Overlay District		Stream / Edge-of-Water
	Shopping Center Redevelopment Overlay District		
	Senior Center Redevelopment Overlay District		
	Incremental Shellfish Area and Shellfish Harvest District & Flats Overlay District		
	Ground Mounted Solar Photovoltaic Overlay District		

