



# Town of Barnstable Town Council

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Councilors:

Frederick Chirigotis  
President

Harold E. Tobey  
Vice President

Richard G. Barry  
Janice L. Barton  
Ann B. Canedy  
James H. Crocker, Jr.  
Leah C. Curtis  
Henry C. Farnham  
Janet S. Joakim  
J. Gregory Milne  
James F. Munafo, Jr.  
Tom Rugo  
James M. Tinsley, Jr.

Administrator:  
Donald M. Grissom

Administrative  
Assistant:  
Barbara A. Ford

## **TOWN COUNCIL MEETING AGENDA October 15, 2009 7:00 PM**

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
  - **Joint workshop with the School Committee**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
  - A. OLD BUSINESS**
  - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

**NEXT MEETING: November 5<sup>th</sup>**

**A. OLD BUSINESS**

2010-016	Appropriation & transfer \$137,500 from Community Preservation Fund set aside for open space <b>(Public hearing continued) (Roll-call)</b> .....	3 – 4
2010-035	Extending the expiration of the temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District <b>(Refer to joint public hearing with planning board 10/15/09) (Roll-call, 2/3)</b> .....	5 - 6

**B. NEW BUSINESS**

2010-038	Acceptance of a \$2,600 Barnstable County Land Management grant for phase II seeding conservation property <b>(May be acted upon)</b> .....	7 – 8
2010-039	An order to reduce the FY10 operating budget <b>(May be acted upon)</b> .....	9 - 10
2010-040	Confirming approval of a contract extension with Town personnel <b>(May be acted upon)</b> .....	11
2010-041	Transfer order for repairs to the Barnstable High School building <b>(Refer to public hearing 11/05/09)</b> .....	12 – 13
2010-042	Authorization vote to submit a Statement of Interest to the Massachusetts School Building Authority for the Horace Mann Public Charter School <b>(May be acted upon)</b> .....	14 – 15

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Minutes – October 1, 2009

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**Please Note:**

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.

**A. OLD BUSINESS (Public hearing continued) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-016**

**INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09, 10/15/09**

**2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET ASIDE FOR OPEN SPACE**

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B, the sum of One hundred thirty seven thousand five hundred dollars and no/100 (\$137,500.00) be appropriated and transferred from the amount set aside for Open Space in the Community Preservation Fund on June 18, 2009 under agenda item 2009-129; and that the Growth Management Department is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager for the acquisition of a conservation restriction on 1.05 acres of land located at 671 Main Street, Cotuit, MA., Map / Parcel 036/015.

**SPONSOR:** Town Manager John C. Klimm upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM# 2010-016**

**INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09, 10/15/09**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** July 27, 2009  
**SUBJECT:** Rationale: Bay Point, LLC – Conservation Restriction

**BACKGROUND:** The Community Preservation Committee (CPC) met on July 20, 2009, and recommends that the town support this funding request for the Open Space Conservation Restriction on 1.05 acres of land located at 671 Main Street, Cotuit, Map / Parcel 036/015, in an amount not to exceed \$137,500 and shall be appropriated and transferred from the Community Preservation Funds.

**RATIONALE:** The project goal is to secure a conservation restriction (CR) for a combined sum of \$275,000, of which the Cotuit Water District will share the cost with the town – each will contribute \$137,500.

In the agreement with the developers in return for the purchase of the conservation restriction extensive portions of the property will be restricted from any development. The remaining project will be dramatically reduced in size and density. The developer will physically set off the conservation restriction property with fencing, landscaping and signage at Cotuit Water District's direction. The Town's Growth Management Department will have design and landscaping approval rights. An enhanced Bioclere septic system or its equivalent will be installed and will be subject to extensive regulation and examination requirements that will be reflected in a comprehensive set of documents via order of Housing Appeals Committee, Condominium documents and Board of Health Order.

Barnstable's character will be preserved by protection of nitrate loading and injection of pathogens into ground water near a public water supply wellhead; increased affordable housing opportunities and protection of land.

Cost sharing with the Cotuit Water District and co-management of the CR with Cotuit Water District will assure strict compliance with the terms of settlement and maximize protection of the wellhead. Monitoring costs will initially be paid by the developer and later assumed by the condominium association as an encumbrance on the fee monitoring well installation costs will be paid by the developer to Cotuit Water District, which will install the wells to its specifications. Either Cotuit Water District or the Town, acting through the Board of Health, will have authority to act upon any reported threat to the wellhead or to groundwater.

**STAFF ASSISTANCE:** Theresa M. Santos, Growth Management Department

**A. OLD BUSINESS (Joint public hearing with planning board) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-035  
INTRO: 10/01/09, 10/15/09**

**2010-035 EXTENDING THE TIME THAT THE TEMPORARY RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT SHALL REMAIN IN EFFECT UNTIL MAY 3, 2010**

**ORDERED that:**

The period of time that the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District established under Section 240-37.1 of the Code of the Town of Barnstable shall remain in effect is hereby extended until May 3, 2010.

**SPONSOR:** Town Councilor Richard G. Barry

DATE ACTION TAKEN

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-035**  
**INTRO: 10/01/09, 10/15/09**

## **SUMMARY**

**TO:** Barnstable Town Council  
**FROM:** Councilor Richard Barry  
**DATE:** September 21, 2009  
**RE:** Recreational Shellfish Area and Shellfish Relay Area-extend temporary moratorium

**BACKGROUND:** The Coastal Resources Management Committee (CRMC) was created by Town Council action to address the issues raised during the 2007 discussion on the Recreational Shellfish and Shellfish Relay Overlay District zoning ordinance hearings. They began their work after the 30 day appeal period for the temporary moratorium action as soon as the committee was constituted. This group led by the Chair, Bob Jones has met twice a month since May 28, 2008 and are nearly completed with their task to update the 1990 Camp Dresser McKee Coastal Resources Management Plan which includes the Three Bays, East Bay and the Centerville River coastal areas. This plan will include strategies for addressing coastal use issues including any recommended local legislation. This is the process set in place when the dock and pier moratorium was imposed.

The CRMC will have the final copy of the updated plan to the Council in November. The CRMC has requested a Town Council workshop acknowledging scheduling constraints during November and December which may put a workshop off until January.

The current moratorium expires on November 3, 2009. The additional time is necessary to complete Management Plan review and allow for any time sensitive recommendations to be implemented.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-038  
INTRO: 10/15/09**

**2010-038 GRANT ACCEPTANCE - \$2,600 FOR PHASE II SEEDING OF CONSERVATION LAND**

**RESOLVED**, that the Town Council hereby accepts a Barnstable County Land Management Grant in the amount of \$2,600 to seed two acres of Conservation property, known as Bridge Creek Conservation Area, located behind the West Barnstable Fire Station.

**SPONSOR:** Town Manager John C. Klimm

DATE	ACTION TAKEN
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_____	_____
<input type="checkbox"/> Read item	
<input type="checkbox"/> Council discussion	
<input type="checkbox"/> Move/vote	

# BARNSTABLE TOWN COUNCIL

**ITEM# 2010-038**

**INTRO: 10/15/09**

## SUMMARY

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Thomas F. Geiler, Regulatory Services Department Director  
**DATE:** October 6, 2009  
**SUBJECT:** Acceptance of a Barnstable County Land Management Program Grant

**BACKGROUND:** Barnstable County Land Management (BCLM) grant funding, in the amount of \$2,600.00, has been secured for phase II of a grassland restoration project at Bridge Creek Conservation Area in West Barnstable. In 2008 grant funds were used to remove invasive vegetation on two acres, directly behind the West Barnstable Fire Station, phase I of the project. The grant funds for phase II will provide funding for seeding the area with warm season grasses to supplement the plant cover in the field. Grasses will include switch-grass, little bluestem, big blue stem, and Indian grass.

**ANALYSIS:** Barnstable County Land Management grant funding provides the town with a cost-effective means to develop and implement management actions that restore and maintain the ecological integrity, productivity, and biological diversity on parcels managed by the Conservation Commission. The BCLM grant is intended to provide incentive funds for broader public and private sector investment in land management.

**FISCAL IMPACT:** There will be no monetary impact on the Town. The Town's match will be provided through in-kind services, thanks to the Chief Maruca, of the West Barnstable Fire Department, and David Crary of the National Seashore, who will supervise a control burn to prepare the area for seeding.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends favorable action.

**BOARD AND COMMISSION ACTION:** A Land management plan approved by the Conservation Commission in 1996, highlights habitat protection and improvement where it clearly states, "Habitat protection and improvement goals are to maintain a variety of habitats in Bridge Creek. In general where clearing or abandoned fields existed in the recent past, ensure that they do not succeed to forest."

**STAFF ASSISTANCE:** Darcy Karle, Conservation Division



**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-039**  
**INTRO: 10/15/09**

**2010-039 ORDER TO REDUCE THE FY10 OPERATING BUDGET**

**ORDERED:** That the Town's FY 2010 Other Requirements budget approved under council order 2009-124 be reduced by \$290,328 for a new total of \$27,606,386.

**SPONSOR:** John C. Klimm, Town Manager

DATE	ACTION TAKEN
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<input type="checkbox"/> Read item	
<input type="checkbox"/> Council discussion	
<input type="checkbox"/> Move/vote	

# BARNSTABLE TOWN COUNCIL

**ITEM# 2010-039**  
**INTRO: 10/15/09**

## SUMMARY

**TO:** Town Council  
**FROM:** Town Manager John C. Klimm  
**DATE:** September 28, 2009  
**SUBJECT:** Reduction in FY10 budget

**RATIONALE:** The final FY 2010 “Cherry Sheets” were issued in late June after the adoption of the Town’s FY 2010 budget. Named for the cherry colored paper on which it was originally printed, the Cherry Sheet is the official notification by the Commissioner of Revenue to municipalities of estimated state aid to be paid and charges to be assessed over the next fiscal year. Due to the late issuance of the cherry sheets the Town used estimated state receipts and charges that were actually more conservative than the ones provided from state officials; based on legislative action taken as of April 2009, to prepare a proposed budget for fiscal year 2010.

The final Cherry Sheet resulted in additional reductions in state receipts and additional charges in state assessments. The result was a net reduction in state receipts of \$290,328. In order to balance the fiscal year 2010 general fund operating budget the Town will have to reduce its operating expenses by another \$290,328.

It is proposed that the reduction to the budget be made in the appropriation for other requirements that was made under council order 2009-124. This appropriation is comprised of budget items including debt service, employee benefits, property and casualty insurance, libraries, assessments and transfers to the Capital Trust Fund. The reduction can be absorbed here due to the restructuring of the Town’s June 2009 bond issue.

The approved budget plan included an appropriation for principal and interest on a long-term bond issue planned for June 2009 that included several municipal and school building renovation projects. After the submission and adoption of the FY 2010 budget the decision was made to replace the long-term bond issue with a short-term issue. This decision was made for several reasons including:

1. Selling short-term notes allow the Town to avoid paying principal in FY 2010. The uncertainty of the state budget and its impact on the Town’s budget was unknown and this would provide us with a strategy to absorb some; if not all, of any additional state aid reductions that may occur.
2. The notes amounted to \$1,907,744, which is relatively small compared to the costs of issuing bonds.
3. The notes could be issued with the plan to combine with other debt authorization and permanently financed when the aggregate amount is more economical to issue, relative to the costs of issuance.
4. Long-term rates are expected to remain low given the state of economy. The Town should not miss any opportunity to lock in bonds at low rates when the time is right.
5. Short-term rates were extremely low.

**STAFF ASSISTANCE:** Mark Milne, Finance Director and Debra Blanchette, Treasurer

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-040  
INTRO: 10/15/09**

**2010-040 RESOLVE OF THE TOWN MANAGER'S APPOINTMENT OF POLICE CHIEF**

**RESOLVED**, that the Town Council confirms its approval of the following contracts with Town personnel:

An extension to the contract with Police Chief Paul MacDonald from October 1, 2009 until October 1, 2012 at the request of the Town Manager.

**SPONSOR:** Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read item	
___ Council discussion	
___ Move/vote	

**B. NEW BUSINESS (Refer to public hearing 11/05/09)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-041  
INTRO: 10/15/09**

**2010-041 TRANSFER ORDER FOR THE BARNSTABLE HIGH SCHOOL FIELD HOUSE**

**ORDERED:** That the balance remaining in the appropriation for the repairs to the Barnstable Horace Mann Charter School roof project of \$132,510 under council order 2005-085 be transferred to the appropriation for the repairs to the Barnstable High School field house under council order 2009-095.

**SPONSOR:** Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2010-041**  
**INTRO: 10/15/09**

## SUMMARY

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Patricia Grenier, Superintendent of Schools  
**DATE:** October 7, 2009  
**SUBJECT:** Transfer of Unexpended Bond Proceeds for the High School Athletic Field House Roof

**BACKGROUND:** Council Order 2005-085 included an appropriation and loan order of \$910,000 to repair the roof at the Barnstable Horace Mann Charter School located in the village of Marstons Mills. The work was completed in fiscal year 2009 at a total cost of \$777,490 resulting in a balance remaining of \$132,510. This item requests that the town transfer these unexpended bond proceeds to repair the roof at the High School Athletic Field House.

Leaks are occurring in several locations at the BHS field house causing water damage to the structure and interior of the building. Upon a full inspection by the School Department's designer, Gale Associates, we are faced with repairs to the roof and replacing defective flashing amounting to \$188,500. This item requests that the remaining funds from the Barnstable Horace Mann Charter School roof repair project of \$132,510 be made available so we can complete this project. The cost of the project will be supplemented with funds approved for field house repairs included in the FY10 capital improvement program.

**FISCAL IMPACT:** If the unexpended bond proceeds are not transferred to this project they will remain available for the original purpose until such time that the council redirects them with future council action for another project. As these are unexpended bond proceeds it is important to note that the funds should be expended immediately to reduce the town's exposure for possible arbitrage rebate.

When the town issues bonds for capital projects certain requirements to spend the bond proceeds must be met to avoid a potential arbitrage liability. The strict definition of arbitrage is borrowing in one market and investing in another. Municipalities have the ability to borrow in the tax exempt market and invest the bond proceeds in the taxable market. When this occurs and the taxable investment yield on the proceeds exceeds the yield of the tax exempt bond issue, a rebate or repayment of arbitrage profits is due to the United States through the Internal Revenue Service. There are some exceptions to rebate and they are generally connected with spending bond proceeds quickly. When this occurs, the rules allow the issuer to retain all arbitrage profits. Generally, if the bond proceeds are spent within 24 months of the issue date, arbitrage can be avoided. Potential arbitrage liabilities come into play after this 24 month period if investment income exceeds interest expense on the bond issue. This requested transfer would avoid the potential of creating any such liability as it would provide for the expenditure of the remaining bond proceeds in the town's treasury.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of this request.

**C. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-042  
INTRO: 10/15/09**

**2010-042 AUTHORIZING STATEMENT OF INTEREST – HORACE MANN PUBLIC  
CHARTER SCHOOL FACILITY**

**RESOLVED**, that having convened in an open meeting on October 15, 2009 the Town Council of the Town of Barnstable, in accordance with its charter, by-laws, and ordinances authorizes the Superintendent of Schools to submit to the Massachusetts School Building Authority the Statement of Interest dated October 13, 2009 for the Barnstable Community Horace Mann Charter Public School, formerly known as the Hyannis East Elementary School, 165 Bearses Way, Hyannis, MA which describes and explains the following deficiencies and the priority category(s) for which the Town of Barnstable may be invited to apply to the Massachusetts School Building Authority in the future:

**Priority 5:** Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility.

And hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Town to filing an application for funding with the Massachusetts School Building Authority.

**SPONSOR:** Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____
<input type="checkbox"/> Read item	
<input type="checkbox"/> Council discussion	
<input type="checkbox"/> Move/vote	

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2010-042**  
**INTRO: 10/15/09**

## **SUMMARY**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**THROUGH:** Patricia B. Grenier, Superintendent of Schools  
**DATE:** October 7, 2009  
**SUBJECT:** School Building Authority – Statement of Interest Approval

**RATIONALE:** Each year in October the Massachusetts School Building Authority requires school departments to submit updated Statements of Interest for building projects. These projects may fall into one of three categories; new build, renovation and addition, or replacement, renovation or modernization of school facilities systems such as heating and ventilation. As in past years, we are requesting that the prioritized focus of our Statement of Interest be the Hyannis East facility or what is currently the Barnstable Community Horace Mann Charter Public School. We are specifically focusing on a replacement and modernization of the entire heating system. An approved Council Order 2008-110 provided funds for a boiler replacement. Based on the public support for maintaining the school at 165 Bearses Way, Hyannis, we are now recommending a comprehensive replacement.

The current heating system is nearly 60 years old and has been assessed as vulnerable. It is important to note that the system still relies on #4 heating oil. The problem with #4 heating oil is that it is more expensive than #2 heating oil, availability is getting more difficult, and it requires more complex equipment to run. In an effort to maintain this structure as a viable school for the ongoing future, this renovation is critical. An engineering study has been ordered; the results of which will be received by the School Committee in late October.

Submission of this Statement of Interest to the Massachusetts School Building Authority is a first step in asking them to validate our perceived need for funding reimbursement. In addition, it allows us to receive their support and attention toward our facility needs.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of this request.