



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA June 17, 2010 7:00 PM

Councillors:

Frederick Chirigotis
President

James H. Crocker
Vice President

Richard G. Barry
Janice L. Barton
Ann B. Canedy
Debra S. Dagwan
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
John T. Norman
Tom Rugo
James M. Tinsley

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

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

NEXT MEETING: July 15, 2010

A. OLD BUSINESS

2010-148	Appointment to a board/committee/commission (Second reading) (May be acted upon)	3
2010-149	Appropriation - \$639,381 for Community Preservation Set Asides for community preservation committee administrative expenses (Public hearing) (Roll-call)	4 - 5
2010-150	Appropriation for FY11 debt service \$2,947,748 community preservation committee (Public hearing) (Roll-call)	6 -7
2010-151	Appropriation & transfer \$1,024,146 for the replacement of the Barnstable High School track and athletic field (Public hearing) (Roll-call)	8 - 9
2010-154	Amend Chapter 240 of the Zoning Ordinance-Sign Regulations (Public hearing) (Roll-call, 2/3)	10 - 14
2010-155	Amend zoning ordinance – adding Marstons Mills Village District (Public hearing) (Roll-call, 2/3)	15 - 22

A. NEW BUSINESS

2010-156	Acceptance of a \$25,000 pricing/price verification grant from the Massachusetts Office of Consumer Affairs, Division of Standards (May be acted upon)	23 - 24
2010-157	Reappointments to a board/committee/commission (First reading)	25 - 27

Minutes — May 20, 2010, June 3, 2010 and June 10, 2010

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 (Second Reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-148
INTRO: 06/03/10, 06/17/10

2010-148 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED, that the Town appoint the following individuals to a multiple-member board/committee/commission:

HOUSING COMMITTEE

Janet M. Daly, 68 Center Street, Unit 12, Hyannis, as member to a term expiring 6/30/13

COUNCIL ON AGING

Nancy Wilder Boudreau, 29 Curry Lane, Osterville, as an associate member to a term expiring 6/30/11

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-149

INTRO: 06/03/10, 06/17/10

**2010-149 APPROPRIATION-\$639,381 OF COMMUNITY PRESERVATION FUND
RESERVE SET-ASIDES FOR CPC ADMINISTRATIVE EXPENSES**

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2011, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: Two Hundred Thirteen Thousand One Hundred and Twenty Seven and No/100 (\$213,127.00) Dollars for open space; Two Hundred Thirteen Thousand One Hundred and Twenty Seven and No/100 (\$213,127.00) Dollars for historic resources; Two Hundred Thirteen Thousand One Hundred and Twenty Seven and No/100 (\$213,127.00) Dollars for community housing; and that the sum of One Hundred Thousand and No/100 (\$100,000.00) Dollars be appropriated from the annual revenues of the Community Preservation Fund to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment, consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

SPONSOR: Town Manager John C. Klimm, at the request of the Community Preservation Committee

<u>DATE</u>	<u>ACTION TAKEN</u>
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-149
INTRO: 06/03/10, 06/17/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: April 27, 2010
SUBJECT: FY11 Community Preservation Fund Reserve Set-Asides and Appropriation for Community Preservation Committee Administrative Expenses

BACKGROUND AND ANALYSIS: The CPA Committee has met and requested that we make reservations of annual estimated revenues for the three programs under the Community Preservation Fund and an appropriation for the purposes of financing the operating costs of the community preservation program.

FISCAL IMPACT: This is a reservation and appropriation from the Community Preservation Fund and has no adverse impact on the general fund. The total estimated FY 2011 revenue for the Community Preservation Fund and reservations have been estimated as follows:

FY 2011 Estimated Surtax	\$ 2,763,142
FY 2011 Estimated state match (32% of FY10 surtax billings)	<u>\$ 862,640</u>
Total estimated FY 2011 revenue	\$ 3,625,782
FY 2011 revenue dedicated to debt service	(\$2,886,401)
FY 2011 revenue dedicated to program administration	<u>(\$100,000)</u>
Balance available for program areas	\$ 639,383
Reserve for open space	\$213,127
Reserve for historic preservation	\$213,127
Reserve for community housing	<u>\$213,127</u>
Total reservations	\$639,381

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-150

INTRO: 06/03/10, 06/17/10

**2010-150 APPROPRIATION \$2,947,748 FY11 COMMUNITY PRESERVATION FUND
DEBT SERVICE**

ORDERED, That the Town Council hereby appropriate \$2,947,748 for the purpose of paying the FY11 Community Preservation Fund debt service requirements, and to meet such appropriation, that \$2,886,401 be provided from current year revenues of the Community Preservation Fund and that \$61,347 be provided from surplus funds reserved for the open space program within the Community Preservation Fund.

SPONSOR: Town Manager John C. Klimm

<u>DATE</u>	<u>ACTION TAKEN</u>
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-150
INTRO: 06/03/10, 06/17/10

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
DATE: May 19, 2010
SUBJECT: Appropriation Order for FY 2011 Community Preservation Fund Debt Service

BACKGROUND: Part of the annual budget process includes an appropriation from the Community Preservation Fund to pay for the annual debt service associated with bonds issued under the program including those that were issued under the former Landbank Program.

ANALYSIS: The debt service requirements for FY 2011 for the Community Preservation Fund (CPF) are \$2,947,748. The estimated surtax revenue for the CPF in FY 2011 to be billed is \$2,763,142. The difference of \$184,606 will be covered by the fund balance brought forward from the Landbank Program as recommended by the Community Preservation Committee (\$61,346) and the estimated receipts from the State matching program (\$123,260).

FISCAL IMPACT: There is no impact to the General Fund budget as a result of this appropriation. This appropriation will be provided from current year estimated receipts in the Community Preservation Fund and a portion of the fund balance generated under the Landbank Program that is reserved for the open space program.

TOWN MANAGER RECOMMENDATION: The Town Manager requests favorable action by the Town Council.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-151

INTRO: 06/03/10, 06/17/10

2010-151 APPROPRIATION & TRANSFER - \$1,024,146 FOR THE REPLACEMENT OF BARNSTABLE HIGH SCHOOL TRACK AND ATHLETIC FIELD

ORDERED: That the sum of \$1,024,146 be appropriated for replacement of the Barnstable High School track and athletic field; and that to meet this appropriation, the sum of \$1,024,146 be transferred from the sale of real estate account where the proceeds from the sale of the Grade 5 School building are held in accordance with state law.

SPONSORS: Town Manager John C. Klimm, Councilors Janice Barton, Deb Dagwan, Tom Rugo, and James Tinsley at the request of the School Committee.

<u>DATE</u>	<u>ACTION TAKEN</u>
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-151

INTRO: 06/03/10, 06/17/10

SUMMARY

DATE: May 24, 2010
TO: Town Council
FROM: School Committee
THROUGH: Town Manager John C. Klimm, Councilors Janice Barton, Deb Dagwan, Tom Rugo, and James Tinsley

BACKGROUND: The former Grade 5 School was sold in 2005 for \$3,000,000. The proceeds (less expenses of the sale) are held in an account to be used for school capital improvements and for facilities improvements. Under General Laws Chapter 44, Section 63, the proceeds may lawfully be used for any purpose for which the Town is authorized to incur debt for a period of five years or more. This would include the replacement of the track and athletic field at Barnstable High School.

The School Committee has requested that the Town Council authorize the expenditure of \$1,024,146 from the Grade 5 School sales proceeds account for replacement of the track and athletic field at Barnstable High School. The Town Council previously authorized an expenditure of \$80,000 from the account for design services for this project.

RATIONALE: The current athletic track is approximately twenty-five years old and is in such disrepair that the safety of students and community members is at risk. Numerous repairs to the current track have been implemented over the years and we have exhausted all options other than a completely new track. The existing field has also been the focus of numerous repair and renovation projects. Constant efforts at reseeding, slice seeding, and loaming have yielded only temporary improvements.

In essence we are at the point of needing to completely replace the existing track and field in order to provide safe, suitable, and Massachusetts Interscholastic Athletic Association regulation conforming facilities for our students. These facilities are utilized by seven athletic teams, the music department, the administration for high school graduation, and both year round and seasonal residents.

Replacing the field with artificial turf will eliminate the need for constant field upgrades and repairs. In addition, the MIAA (Massachusetts Interscholastic Athletic Association) is considering denying league track events due to concern for student safety. The high school track and field area is vital to the complete curriculum of our students. The reconstructed field would address a number of issues regarding field availability for the multiple athletic programs at Barnstable High School. Soccer, lacrosse, football, field hockey, and field events will all be able to capitalize on the new field.

In addition, the facility is also used extensively by the music department. Marching band and color guard events are consistently scheduled on this area. The proposal is submitted recognizing that athletics and music are integral to the overall profile of a well-rounded student. We have students who excel in these areas and who receive scholarships to colleges as a result of their experiences in high school.

Finally, the impact of this improvement on the greater community cannot be diminished. Constituents from all villages utilize the track for fitness experienced from sun up to sun down. Running groups utilize the facility as well as seniors. An enhanced track will allow for greater community use and ensure user safety.

FINANCIAL IMPACT: The account holding the proceeds of the sale of the Grade 5 School has a current balance of \$1,235,989. The account will decrease by this appropriation. As the appropriation will be funded by a transfer from that account, there will be no impact on the general fund.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-154

INTRO: 06/03/10, 06/17/10

2010-154 AMEND C. 240 OF THE ZONING ORDINANCE – SIGN REGULATIONS

Section 1

ORDERED, that Chapter 240, The Zoning Ordinance of the Town of Barnstable, Article VII, Sign Regulations be amended by adding the following:

§ 240-60 **Definitions** is hereby amended by adding the following definitions and inserting them where they appear alphabetically within the existing definitions:

Business Hardship Location Sign: A temporary portable sign allowed for businesses in hardship locations to identify and/or direct patrons to their business. Business hardship locations are locations where the front facade and entrance of the business is more than 10 feet from the front façade of abutting buildings or any business location in the HVB that is not on Main Street.

Business Trade Figure or Symbol: A three dimensional representation of a business that is used to indicate the type of merchandise or services offered by the business. Business trade figures are not counted towards the amount of signage allowed.

Trade Figure or Symbol Example -
Butcher Shop



Open/Closed Sign: A business in the HVB may display a sign indicating whether it is open or closed. Open/Closed sign are not counted towards the amount of signage allowed.

Trade Flag: Any sign consisting of lightweight fabric that is affixed to a pole displaying letters, designs or icons exemplary of the business displaying the flag. Such images shall be consistent with the historical heritage and character of Hyannis. Trade flags are not counted towards the amount of signage allowed.

Section 2

ORDERED, that Chapter 240, The Zoning Ordinance of the Town of Barnstable, Article VII, Sign Regulations be amended by adding the following:

§ 240-61. **A. Prohibited Signs** is hereby amended by adding the following language shown in bold face type:

A. Any sign, all or any portion of which is set in motion by movement, including pennants, banner or flags, **with the exception of Trade Flags in the HVB** and except official flags of nations or administrative or political subdivisions thereof.

B. Any sign which incorporates any flashing, moving or intermittent lighting. **Such signs include LED (Light Emitting Diode) signs; LED Border Tube signs including any sign that incorporates or consists solely of a LED border tube lighting system; and simulated neon signs which are extremely bright backlit signs using fluorescent lamps and neon colored inks or translucent vinyl for lettering and display.**

H. Any portable sign, **with the exception of Business Hardship Location Signs in the HVB,** including any sign displayed on a stored vehicle, except for temporary political signs.

Section 3

ORDERED, that Chapter 240, The Zoning Ordinance of the Town of Barnstable, Article VII, Sign Regulations be amended by adding the following:

§ 240-71 Signs HVB District is hereby amended by inserting the following:

E. Open/Closed Sign, Business Trade Figure or Symbol, Trade Flag or Business Hardship Location Signs: Subject to § 240-85 Permit required; identification stickers.

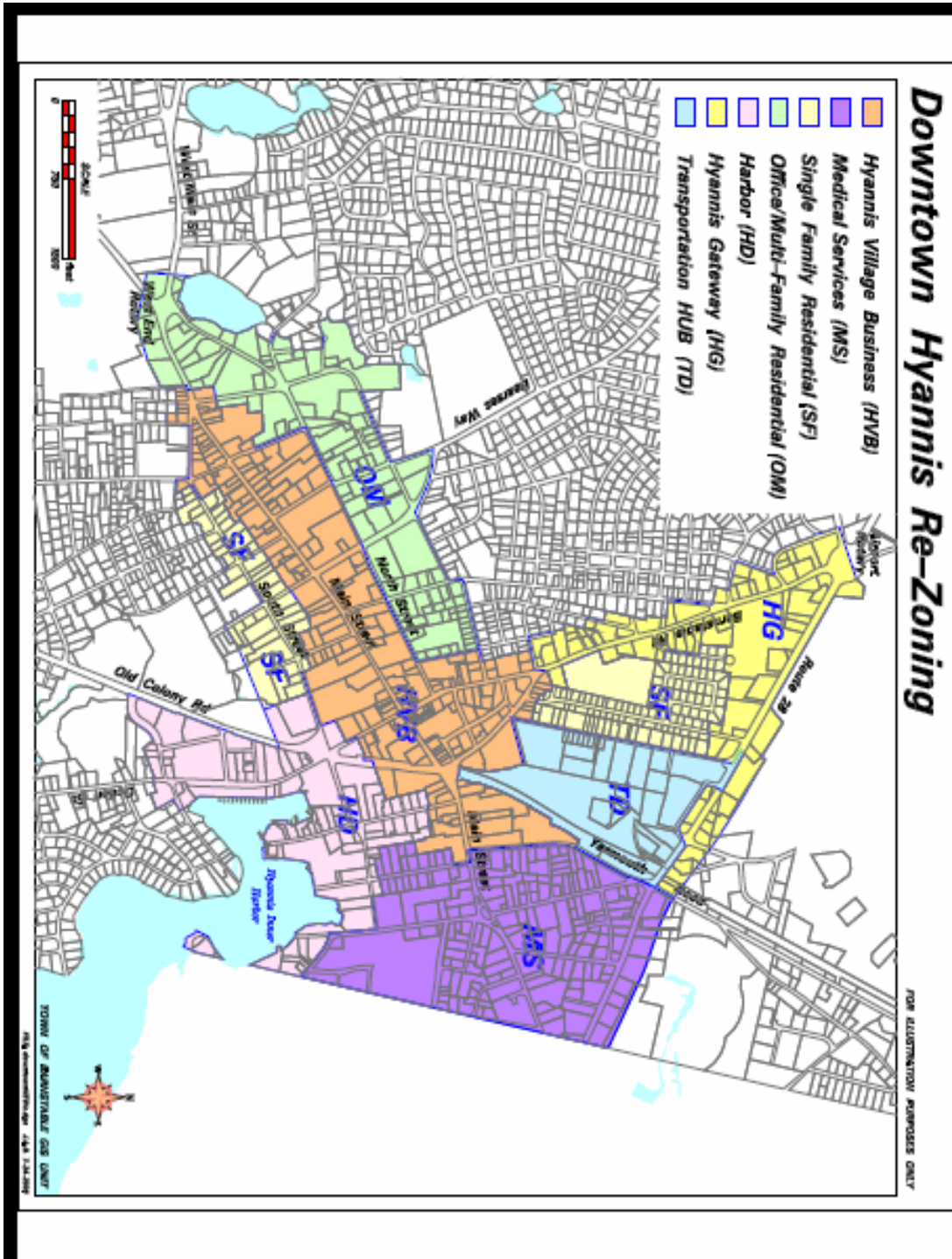
1. **Trade Flag:** A business may display a trade flag to identify and/or direct patrons to their business provided that the following standards are met:
 - a. The Trade Flag is attached, at a public entrance, to the building façade in which the business is located.
 - b. Only one (1) Trade Flag per business establishment is permitted per building façade as may abut any street.
 - c. A Trade Flag may not be used in conjunction with an Open/Closed sign or Business Trade Figure.
 - d. The dimensions of any Trade Flag shall not exceed three (3) feet x five (5) feet.
2. **Open/Closed Sign.** A business may display a sign to identify and/or direct patrons to their business provided that the following standards are met:
 - a. The Open/Closed Sign is attached, at the public entrance, to a façade of the building in which the business is located. This sign shall be located in a display window or door.
 - b. Only one (1) Open/Closed Sign per business establishment is permitted per frontage area.
 - c. An Open/Closed Sign may not be used in conjunction with a Trade Flag or Business Trade Figure or Symbol.
 - d. The dimensions of any Open/Closed Sign shall not exceed 22" by 14".
3. **Business Trade Figure or Symbol:** A business may use a three dimensional representation of their business providing the following criteria are met:
 - a. The Business Trade Figure or Symbol is placed at the public entrance immediately abutting the building front or is affixed to the front façade of the building in which the business is located.
 - b. The Business Trade Figure or Symbol represents the business and or its services and is based on historic trade representations.
 - c. Only one (1) Business Trade Figure or Symbol per business establishment is permitted.
 - d. Business Trade Figure or Symbol may not be used in conjunction with an Open/Closed sign or a Trade Flag.
 - e. The dimensions of any Business Trade Figure or Symbol shall not exceed two (2) feet x (4) four feet.

- f. Business Trade Figure or Symbol shall be secured as necessary so that it does not create nuisance or hazard under any conditions to pedestrians, motorists or business patrons.
 - g. Business Trade Figure or Symbol shall not obstruct safe passage or impeded accessibility on the sidewalk and shall not obstruct views to another business or business sign.
 - h. Proof shall be submitted demonstrating to the satisfaction of the Building Commissioner that explicit written permission has been given by the owner of the property proposed for locating the Trade Figure or Symbol.
- 4. Business Hardship Location Sign:** These signs are allowed in the HVB District, provided that a special permit is obtained from the Planning Board subject to the provisions of § 240-125C herein and subject to the following criteria and performance standards:
- a. One (1) Business Hardship Location Sign is permitted per business and may be placed on the sidewalk leading to the business entrance.
 - b. Business Hardship Location Sign dimensions shall not exceed two (2) feet by three (3) feet.
 - c. Business Hardship Location Signs shall be secured as necessary so that it does not create nuisance or hazard under any conditions to pedestrians, motorists or business patrons.
 - d. Business Hardship Location Signs shall not obstruct safe passage or impeded accessibility on the sidewalk and shall not obstruct views to another business or business sign.
 - e. All Business Hardship Location Signs shall be professionally made, professionally painted and well- maintained. Hand lettered signs shall not incorporate informal, irregular hand lettering
 - f. Lights, banners, flags or similar objects shall not be placed on or adjacent to Business Hardship Location Signs. Business Hardship Location Signs shall not be illuminated.
 - g. All Business Hardship Location Signs shall be removed at the close of business each day. Business Hardship Location Signs shall not be displayed outside of business hours.
 - h. Proof shall be submitted demonstrating to the satisfaction of the Planning Board and the Building Commissioner that explicit written permission has been given by the owner of the property proposed for locating the sign.
 - i. Where the Business Hardship Location Sign is proposed on town property, the following additional criteria and performance standards shall be met:
 - 1. Proof of receipt of a license from the Town Manager or his designee for the sign at the proposed location;
 - 2. Proof of insurance consistent with the issued license shall be provided to the Planning Board and the Building Commissioner prior to putting in place any approved sign.

SPONSOR: Councilor James M. Tinsley

BARNSTABLE TOWN COUNCIL

ITEM# 2010-154
INTRO: 06/03/10, 06/17/10



BARNSTABLE TOWN COUNCIL

ITEM# 2010-154
INTRO: 06/03/10, 06/17/10

SUMMARY

TO: Town Council
FROM: Planning Board
DATE: April 26, 2010
SUBJECT: Amend Zoning Ordinance, Article VII. Sign Regulations §240-60, 240-61 and 240-71

BACKGROUND: After a through discussion of requests from the Hyannis Main Street Business Improvement District and the Hyannis Main Street and Waterfront Historic District, the Planning Board proposes the following amendments to the Sign Regulations. These amendments are only applicable to the Hyannis Village Business (HVB) zoning district

Section 1

§ 240-60 **Definitions** is hereby amended by adding definitions for Business Hardship Location Sign, Business Trade Figure or Symbol, Open/Closed Sign and Trade Flag which are proposed to be allowed under § 3 of this order.

Section 2

§ 240-61. **A. Prohibited Signs** is hereby amended by adding language that allows the signs proposed in § 3 and also further clarifies the prohibition on illuminated sign to better address new technologies.

Section 3

§ 240-71 **Signs HVB District** is hereby amended by inserting the following allowances for four types of signs:

Business Hardship Location Sign – proposed for businesses that do not have the same access to street and sidewalk frontage as other businesses.

Business Trade Figure or Symbol – proposed to allow an additional method of attracting patrons to businesses.

Open/Closed Sign – proposed to allow businesses to more clearly communicate hours of operation.

Trade Flag- proposed to allow an additional method of attracting patrons to businesses.

ANALYSIS: These amendments allow additional signage to business enterprises in the Hyannis Village Business District in Downtown Hyannis. These amendments address requests that have come forward during strained economic conditions and should help businesses attract additional patrons and trade.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-155

INTRO: 06/03/10, 06/17/10

**2010-155 AMEND ZONING ORDINANCE CHAPTER 240, ARTICLE III -
ADDING MARSTONS MILLS VILLAGE DISTRICT (MMVD)**

That Chapter 240, Article III of the Zoning Ordinance is hereby amended as follows:

Section 1:

Adopts a new Section 240-24.2 titled Marstons Mills Village District (MMVD)

Section 2:

Amends the Zoning Map to rezone the VB-A Zoning District located near the intersection of Route 149, River Road and Main Street in the Village of Marstons Mills to MMVD and RF as shown on the map (to be entered once official map is created)

Section 3:

Amends Section 240-5, Establishment of Districts by adding “MMVD – Marstons Mills Village District” to the listing of Commercial Districts.

Section 4:

Amends Section 240-67 that now reads “Signs in the CVD, OM, HG, TD, VB-A, and VB-B District” to read “§ 240-67 Signs in the CVD, OM, HG, TD, VB-A, VB-B, and MMV Districts”

Section 5:

Amends Section 240-125.B (1) (e) Use Variances, to read:

“Use Variances: To authorize variances for uses in accordance with the provisions of this ordinance provided, however, that no such variances shall be granted within; three hundred (300) feet of the major arteries known as Route 28, Route 132, Route 149 and West Main Street, within the Marstons Mills Village District (MMVD) and within 300’ of the MMVD boundary.

Section 1:

To amend the Zoning Ordinance of the Town of Barnstable, Chapter 240 of the General Ordinances of the Code of the Town of Barnstable, Article III, District Regulations by adding a new Section 240-24.2, Marstons Mills Village Zoning District, to read as follows:

§ 240-24.2. Marstons Mills Village Zoning District

A. Principal Permitted Uses. The following uses are permitted in the Marstons Mills Village Zoning District (MMVD). Uses not expressly allowed are prohibited.

1. Professional or business office
2. Medical or dental office
3. Branch office of a bank or credit union, excluding drive through banking
4. Small scale retail
5. Small scale food service
6. Mixed use development where the building footprint does not exceed 5,000 SF and total gross floor area does not exceed 10,000 SF with retail or office use on the first floor, residential apartment units above not to exceed 4 apartment units.
7. Bed and breakfast within an owner-occupied single-family residential structure subject to the provisions of § 240-11C (6) except Subsections (b) [1] and [2]. No more than six (6) total rooms

2010-155 (Continued)

shall be rented to not more than 12 total guests at any one time. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests.

8. Single family residential dwelling (detached)

B. Accessory Uses. In addition to Article V Accessory Uses herein, the following uses are also permitted as accessory uses in the MMV District.

1. Apartment incidental to a non-residential use.
2. Automated banking facilities (ATM) within a principal building or a walk up ATM facility located in a side or rear yard.

C. Conditional Uses. The following uses are permitted as conditional uses in the MMV District, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and the specific standards for such conditional uses as required in this section:

1. Mixed use development in excess of that permitted as of right above provided;
 - a. The building footprint does not exceed 5,000 SF and total gross floor area of the building does not exceed 13,300 SF,
 - b. Retail or office use on the first floor with residential apartment units above,
 - c. The number of residential apartment units does not exceed 7,
 - d. Effluent from the on-site septic system for the mixed use development complies fully with all Board of Health regulations without relief or variances from the Board of Health nitrogen standard for this area, and
 - e. The location of the mixed use development is appropriate and compatible with abutting uses and supports abutting uses.
2. Health clubs.
3. Artist's lofts.
4. Art galleries.
5. Museums.
6. Performing arts facilities.
7. Educational institutions.
8. Bed-and-breakfast inns within an owner occupied structure that exceed the provisions of Accessory Uses permitting provided the on-site septic system complies fully with all current Board of Health regulations.
9. Not for profit fraternal or social organizations.

D. Special Permit Standards. In addition to the standards for the grant of a special permit set forth in § 240-125C, the grant of any special permit within the MMVD requires findings to support that the development meets one or more of the following criteria:

- (a) The development maintains or improves pedestrian access and outdoor public spaces;
- (b) The development contributes to the historic character of the Marstons Mills Village area;
- (c) The development eliminates or minimizes curb cuts and driveways on Route 149 and River Road;

E. Bulk Regulations

		Minimum Yard Setbacks				
Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Front ⁴ (feet)	Side (feet) ¹	Rear (feet) ¹	Maximum Building Height (feet)	Maximum Coverage by Structures as a % of Lot Area ³
10,000	20	10	0	0	30 ²	20%

Notes:

1. A minimum 30 feet side or rear yard setback is required where lot boundaries abut a residential district.
2. Or two and one half stories, whichever is less, and except that;
 - The Maximum Building Height may be increased to 36 feet when the roof pitch is at least 6 in 12.
 - Accessory rooftop equipment may extend to 36 feet provided that it is set back from all exterior wall(s) by at least 10 feet, and is enclosed or screened with materials compatible with the building, and the equipment and screening are not visible from the ground. Accessory equipment shall not exceed 20% of the roof area.
3. 30% of the total upland area of the lot shall remain pervious and may contain landscaping, tree plantings, mulch or natural vegetation including the requirements of 240-53.
4. Front yard Landscape Setback from the road lot line shall be 10 feet. Existing trees and shrubs shall be retained within the road right of way and within the required Front Yard Landscaped Setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the Front Yard Landscaped Setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three (3.0) inches, shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives, and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any Site Plan approved pursuant to Article IX herein.

F. Special Permit for Dimensional Relief. The SPGA may provide relief from minimum yard setbacks where the boundary does not abut a residential district, facade length requirements or ground floor window requirements when such relief is consistent with this section and § 240-125C.

G. Non-Conforming Use limitations. Within the MMVD the change of a non-conforming use to another non-conforming use is prohibited notwithstanding the provisions of Section 240-94.A. A nonconforming use shall only be permitted to change to a Principal Permitted Use as of right or to a Conditional Use as provided for by the grant of a special permit pursuant to Section 240-24.2.C and D herein.

H. Corporate Branding - Buildings, colors, signage, architectural features, text, symbols, graphics, other attention getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation is prohibited. All structures and sites shall be designed to include architectural and design elements that are consistent with the MMVD architectural composition, character, and historic context. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. The Town will work with applicants to adapt critical functional features of prototype plans to their sites, but will not accept standard plans, building forms, elevations, materials, or colors that do not relate to the site, adjacent development or Marstons Mills community character.

I. Design Guidelines. Within the MMVD the following design guidelines shall apply to all new buildings and structures and/or expansions and alteration to existing buildings and structures as follows:

1. Façade and Roof Standards
 - (a) Facade length. Buildings or portions of a building with a mass over 50 feet wide must divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.

2010-155 (Continued)

- (b) Roof pitch. Roof pitch for new structures and additions to existing structures shall be within the range of roof pitches found on the main roofs of existing structures within the MMVD. Flat roofs may extend up to 20 linear feet only in combination with other pitched roof elements by right or, if greater than 20 feet with other pitched roof elements, through a special permit.
 - (c) Roofline variation. Roofline variation is achieved by visually and physically changing roof direction or off-setting roof peaks and ridgelines, both horizontally and vertically. The roofline shall be varied on all elevations visible from a street, parking area, or public space. Individual segments of the roofline shall not extend more than 30' in width measured horizontally.
2. Ground floor windows. Religious institutions are exempt from ground floor window requirements.
- (a) All new nonresidential development or redevelopment shall provide ground floor windows for facades facing the street, including windows that allow views into working areas or lobbies, pedestrian entrances, or display windows. The glazing pattern shall be aligned in regular and traditional patterns found within the MMVD.
 - (b) In new and redeveloped non-residential structures windows that block two-way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows along street facades.
 - (c) In new and redeveloped non-residential structures, any wall that is within 30 feet of the street shall contain at least 20% of the ground floor wall area facing the street in display areas, windows, or doorways. Blank walls, including walls that do not include display areas, windows, architectural features, and/or doorways, are prohibited.
3. All structures within the MMVD shall utilize at least four (4) of the following design features:
- Gables
 - Offsets on the building face or roof of at least two inches
 - Gable dormers
 - Cupolas or other appropriate roof elements
 - Covered porch or recessed entry area
 - Window shutters
 - Horizontal lap siding
 - Wood Shingles
4. Divided light windows Metal-sided buildings are prohibited within the Marstons Mills Village District.
5. Drive-through and drive-up windows are prohibited within the Marstons Mills Village District.
6. The design of all structures, and materials selected for their exterior surfaces, will utilize scale, color and materials that enhance and promulgate the traditional small-scale village character currently found in the MMVD.
7. Signs: In addition to compliance with Article VII, Sign Regulations, the following restrictions shall also apply to all signs in the MMVD.
- (a) Internally illuminated signs, halo and backlit signs are prohibited in the MMVD.
 - (b) Business identity, either by awnings, accent bands, paint or other applied color schemes, signage, decorative roof details or materials should not be the dominant architectural feature.
- H. **Site Development Standards.** In addition to Article IX, Site Plan Review and Article VI, Off-Street Parking the following additional requirements shall apply within the MMVD.
- 1. Loading docks. Loading docks shall be screened from Route 149, River Road and Main Street with landscaping or fencing materials of an appropriate scale.
 - 2. To the greatest extent feasible, all new parking areas shall be located to the side and rear of the building. Parking is not permitted in the required front yard setback with the exception of parking required by ADA compliance as determined by the Building Commissioner.
 - 3. Curb cuts and driveways.

2010-155 (Continued)

- (a) Shared driveways and parking area interconnections are strongly encouraged. No more than one curb cut on Route 149, River Road and Main Street shall be allowed for any lot. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Route 149, River Road and Main Street within 200 feet of any intersection.
- (b) Driveways shall not exceed the width required by Site Plan Review

4. Lighting.

- (a) All developments shall use full cutoff light fixtures for exterior lighting in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
- (b) Flood, area and up lighting is prohibited.

J. Definitions. The following terms are defined for the purpose of the MMVD and shall not be construed to apply to other regulations

Apartment - One or more rooms with private bath and kitchen facilities comprising an independent self-contained rental dwelling unit (a unit not owned in fee simple) located in a building where the principal use is nonresidential.

Mixed Use Development - Development including at least one residential unit and at least one non-residential use on a single lot or several non-residential uses on a single lot. In the MMVD district for every four (4) apartment units permitted one (1) of those units shall be dedicated as affordable in addition to the provisions of Chapter 9 Inclusionary Affordable Housing Requirements.

Small-Scale Food Service – An establishment where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to corporate branding limitations as described herein. These uses are intended to increase pedestrian traffic.

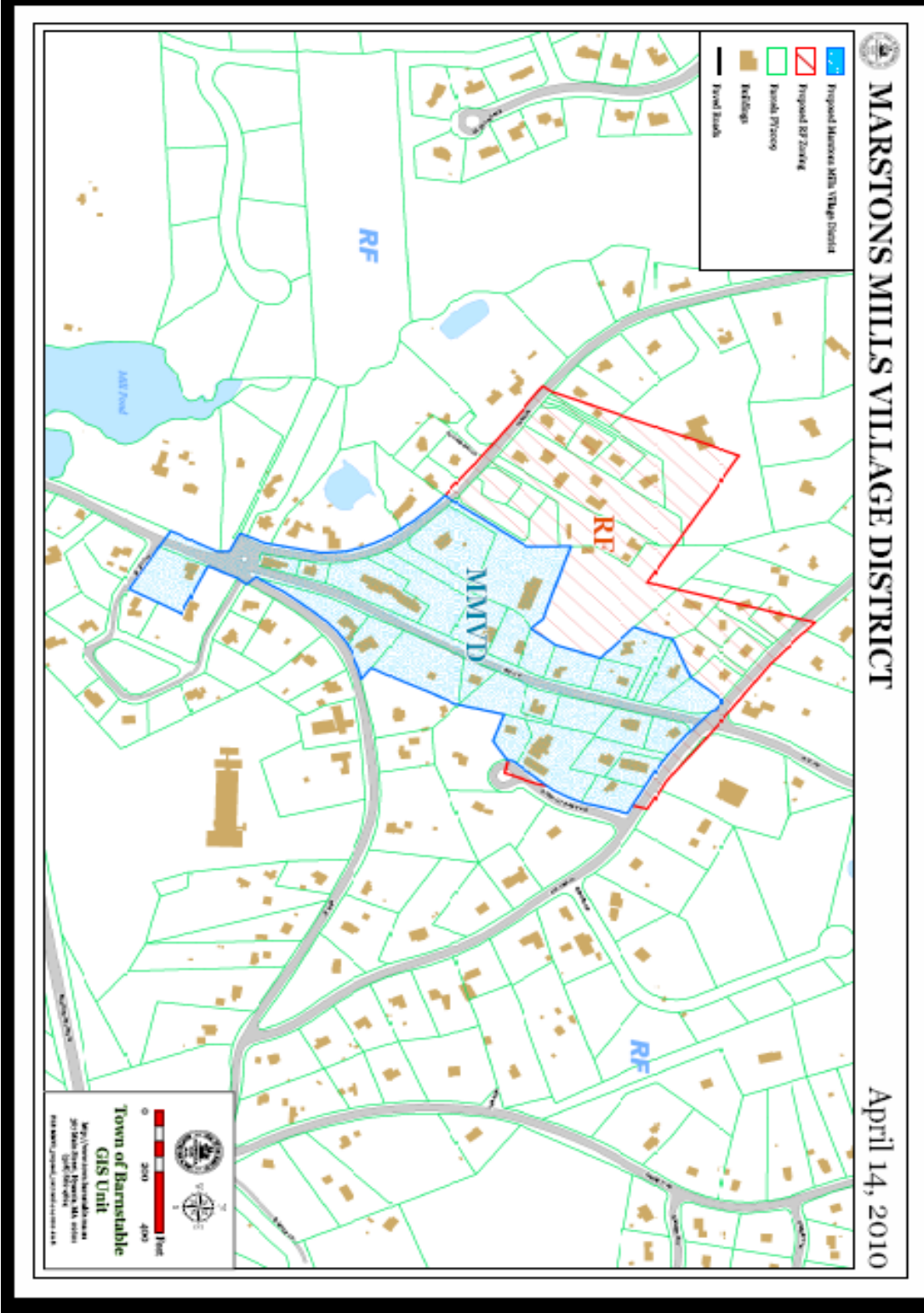
Small-Scale Retail - Small stores and businesses, including but not limited to, corner groceries, artist space, bookstore, galleries and other small retail uses typically found in small New England towns. Small-scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline and oil filling stations, garages for automotive or machine repair. Small scale retail is subject to corporate branding limitations as described herein. These uses are intended to increase pedestrian activity.

SPONSOR: Councilors Jan Barton and John Norman

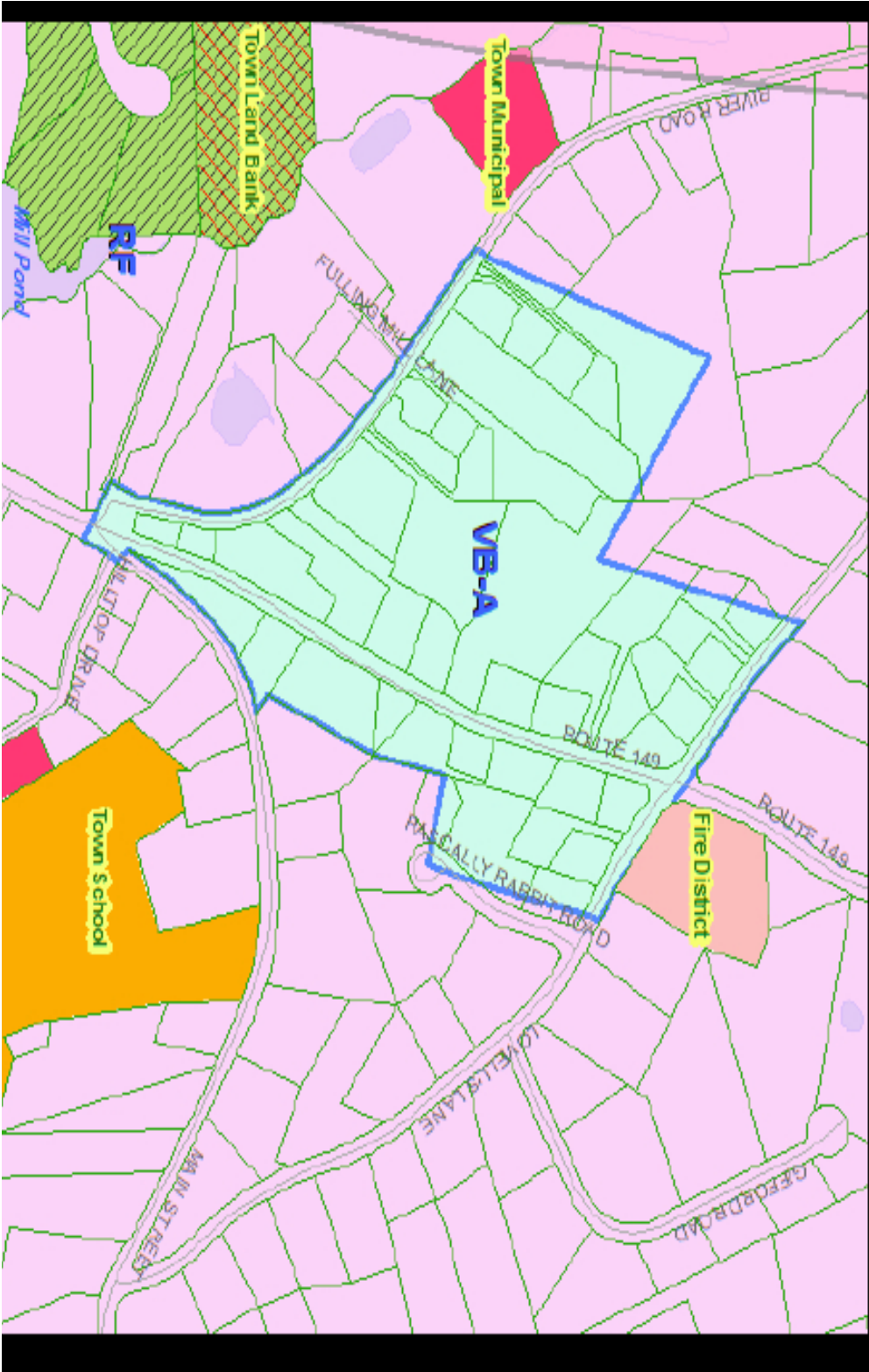
<u>DATE</u>	<u>ACTION TAKEN</u>
_____	_____
_____	_____

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

PROPOSED



EXISTING



BARNSTABLE TOWN COUNCIL

ITEM# 2010-155
INTRO: 06/03/10, 06/17/10

SUMMARY

TO: Town Council
FROM: Planning Board Chair Felicia Penn
THROUGH: Jo Anne Miller Buntich, Growth Management Director
DATE: April 26, 2010
SUBJECT: Marstons Mills Village District

BACKGROUND: This is an amendment to the Zoning Ordinance that rezones the existing VB-A in Marstons Mills to a newly created Marstons Mills Village District Section 240-24.2 and returns the remaining portions of the VB-A to RF Residential use.

In March of 2007, at the request of the village, Growth Management began to work through the Village Association to assist with implementation of the Marstons Mills village plan. The village prioritized the business district VB-A as their #1 priority. The result of many meetings and discussions is presented herein as a change to the business district boundary, returning residentially used land to the surrounding residential zoning and the creation of the Marstons Mills Village District.

ANALYSIS: Adoption of this ordinance creates the Marstons Mills Village District by rezoning portions of the existing VB-A to the MMVD and rezoning the remaining portions of the existing VB-A to the RF district. The village has chosen to include a corporate branding prohibition for the MMVD. This order also amends the zoning map to accommodate these changes, adds the Marstons Mills Village District to the Sign Code and to the special provisions regarding use variances.

RATIONALE: These regulations respond to the issues and concerns and support the vision of the Marstons Mills Village Plan through use character enhancing regulations and design guidelines.

STAFF ASSISTANCE: Jo Anne Miller Buntich, Director
Growth Management Department

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

2010-156
INTRO: 06/17/10

2010-156 ACCEPTANCE OF A PRICING/PRICE VERIFICATION GRANT

RESOLVED: That the Town Council hereby accepts an Item Pricing/Price Verification Grant in the amount of \$25,000 from the Massachusetts Office of Consumer Affairs, Division of Standards, to be expended by the Regulatory Services Department, Consumer Affairs Division, to conduct Item Pricing/Price Verification Inspections throughout Barnstable County utilizing Division of Standards certified staff of the town.

SPONSOR: Town Manager

DATE

ACTION TAKEN

- ___ Read item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-156
INTRO: 06/17/10

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
THROUGH: Thomas F. Geiler, Director Regulatory Services Department
DATE: April 28, 2010
SUBJECT: Item Pricing Grant of \$25,000 Awarded to Town of Barnstable

BACKGROUND: The Commonwealth of Massachusetts Office of Consumer Affairs and Business Regulations, Division of Standards administers an Item Pricing/Price Verification Grant to support accurate pricing within the commonwealth. By administering the grant the Division of Standards encourages the local communities to assist the commonwealth in random inspections of retail stores to ensure pricing accuracy compliance.

ANALYSIS: The Town of Barnstable Regulatory Services Department, Consumer Affairs Division is committed to maintaining a fair and accurate marketplace, free from errors and overcharges. The Item Pricing/Price Verification grant will provide for .5 staff positions to conduct compliance checks in retail stores to ensure accuracy in posted or advertised prices. Inspections and compliance checks utilizing grant funded staff will be conducted throughout Barnstable County to ensure Barnstable merchants do not unfairly carry the burden of compliance costs.

Retail sales through electronic scanning systems in Barnstable County are estimated to be over 2 billion dollars annually. A one per cent error could represent an annual overcharge to consumers of 20 million dollars. Inspections during 2001 identified an average error of 5.78%. Implementation of this program has reduced the error to 2.8% over the last three years. The Item Pricing/Price Verification Grant program is intended to reduce error and level the marketplace playing field.

FISCAL IMPACT: The grant is for \$25,000 and is intended to cover all costs of the program. Acceptance of the grant will have a positive fiscal impact on the town.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends grant acceptance.

STAFF ASSISTANCE:

Tracey Smith, Administrative Assistant to the Director of Regulatory Services
Alex Smith, Weights & Measures Program Manager

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-157
INTRO: 06/17/10**

2010-157 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED, that the Town Council reappoint the following individuals to a multiple-member board/committee/commission:

AGRICULTURAL COMMISSION

Max Kumin, 3826 Main Street, Cummaquid, as a member, to a term expiring 6/30/2013

Leslie Spencer, 151 Main Street, Cotuit, as a member, to a term expiring 6/30/2013

AIRPORT COMMISSION

Michael Dunning, 399 Old Jail Lane, Barnstable, as a member, to a term expiring 6/30/2013

Ronald Pursuitte, 59 Colonial Way, West Barnstable, as a member, to a term expiring 6/30/2013

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Amanda Converse, 558 Lumbert Mill Rd, Centerville, as a member, to a term expiring 6/30/2013

BARNSTABLE HISTORICAL COMMISSION

George Jessop, 863 Bumps River Road, Centerville, as a member (architect representative), to a term expiring 6/30/2013

BARNSTABLE YOUTH COMMISSION

Reid Hall, BHS 744 W. Main Street, Hyannis, as an advisor member, to a term expiring 6/30/2013

Christine Farber, BHS 744 W. Main St., Hyannis, as an advisor member, to a term expiring 6/30/2013

Grace Crowell, BHS 744 W. Main Street, Hyannis, as a member, to a term expiring 6/30/2013

Lauren Logan, BHS 744 W. Main Street, Hyannis, as a member, to a term expiring 6/30/2013

BOARD OF HEALTH

Wayne Miller, 2231 Meetinghouse Way, West Barnstable, as a member, to a term expiring 6/30/2013

COMMUNITY PRESERVATION COMMITTEE

Marilyn Fifield, 49 Colonial Way, Barnstable, a member (Barnstable Historical Commission representative), to a term expiring 6/30/2013

Laura Shufelt, 1696 Osterville-West Barnstable Road, West Barnstable, as a member, to a term expiring 6/30/2013

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Thomas Michael, 170 Buckskin Path, Centerville, as a member, to a term expiring 6/30/2013

William Brower, 890 Santuit-Newtown Road, Marstons Mills, as a member, to a term expiring 6/30/2013

CONSERVATION COMMISSION

F.P. Lee, 1081 Old Putnam Avenue, Osterville, as a member, to a term expiring 6/30/2013
Peter Sampou, 111 Cedar St., West Barnstable, as a member, to a term expiring 6/30/2013
Louise Foster, 204 Clamshell Cove Road, Cotuit, as a member, to a term expiring 6/30/2013

CULTURAL COUNCIL

Sandra Greene, 35 Walnut Street, Hyannis, as a member, to a term expiring 6/30/2013

DISABILITY COMMISSION

Jean Boyle, 24 West Hyannisport Circle, W. Hyannisport, as a member, to a term expiring 6/30/2013
Raffaele Kaddy, 25 Craigville Road, Hyannisport, as a member, to a term expiring 6/30/2013

ELDERLY & DISABLED TAXATION AID COMMITTEE

William Murdoch, Jr., 760 South Main Street, Centerville, as a member, to a term expiring 6/30/2013

HOUSING COMMITTEE

Merrill Blum, 94 Water View Circle, Centerville, as a member, to a term expiring 6/30/2013
Hillary V. Greene, 18 Valley Brook Road, Centerville, as a member, to a term expiring 06/30/2012
Ralph M. Krau, 10 Pram Road, Hyannis, as a member, to a term expiring 06/30/2012

HYANNIS MAIN ST. WATERFRONT HISTORIC DISTRICT COMMISSION

George Jessop, 863 Bumps River Road, Centerville, as an architect representative member, to a term expiring 6/30/2013
William Cronin, 402 South Street, Hyannis, as an alternate member, to a term expiring 6/30/2013
Marina Atsalis, 242 Ocean Street, Hyannis, as a member, to a term expiring 6/30/2013

JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE

Jaci Barton, 87 School St., Cotuit, as a member, to a term expiring 6/30/2013

JFK MEMORIAL TRUST FUND COMMITTEE

Henry Murphy, Jr., 243 South Street, Hyannis, as a member, to a term expiring 6/30/2013
Hugh Findlay, 500 Ocean Street #153, Hyannis, as a member, to a term expiring 6/30/2013

LAND ACQUISITION AND PRESERVATION COMMITTEE

Stephen Farrar, 860 River Rd., Marstons Mills, as a member, to a term expiring 6/30/2013
Laura Cronin, 402 South St., Hyannis, as a member, to a term expiring 6/30/2013

LICENSING AUTHORITY

Paul Sullivan, 209 Longview Drive, Centerville, as a member, to a term expiring 6/30/2013

OLD KING'S HIGHWAY HISTORIC DISTRICT COMMITTEE

George Jessop, 863 Bumps River Road, Centerville, as an architect representative member, to a term expiring 6/30/2013

PERSONNEL ADVISORY BOARD

Stephen Whitmore, 1391 Hyannis Road, Barnstable, as a member, to a term expiring 6/30/2013
Paul Sullivan, 209 Longview Drive, Centerville, as a member, to a term expiring 6/30/2013

PUBLIC WORKS COMMISSION

Allen Morrisey, 69 Country Club Drive, Cummaquid, as a member, to a term expiring 6/30/2013
Albert Baker, 30 Wakeby Road, Marstons Mills, as a member, to a term expiring 6/30/2013

RECREATION COMMISSION

Katherine Pina, 49 Windmill Lane, Cotuit, as a member, to a term expiring 6/30/2013
Joseph O'Brien, 65 Trinity Place, Centerville, as a member, to a term expiring 6/30/2013
Andrew Gauthier, 48 Eastwood Lane, Cotuit, as a member, to a term expiring 6/30/2013

SANDY NECK BOARD

Lynn Heslinga, 1649 Hyannis Rd, Barnstable, as a member, to a term expiring 6/30/2013
William Carey, 171 Harbor Point Road, Cummaquid, as a member, to a term expiring 6/30/2013

SCHOLARSHIP COMMITTEE

Deborah Hill, 70 Fernbrook Lane, Centerville, as a member, to a term expiring 6/30/2013

TRUST FUND ADVISORY COMMITTEE

Linda Gadkowski, 131 Pond View Drive, Centerville, as a member, to a term expiring 6/30/2013
William Murdoch, Jr., 760 South Main Street, Centerville, as a member, to a term expiring 6/30/2013

WATERWAYS COMMITTEE

Frederick Komenda, 65 Elliot Road, Centerville, as a member, to a term expiring 6/30/2013

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
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_____	_____
_____	_____

- ___ Read item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote