



# The Town of Barnstable

## Town Council

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### TOWN COUNCIL AGENDA

**August 19, 2004**

**6:00 PM**

Councilors:

Gary R. Brown,  
President

Henry C. Farnham  
Vice President

Richard G. Barry  
Janice L. Barton  
Ann B. Canedy  
James H. Crocker, Jr.  
Leah C. Curtis  
Janet Joakim  
J. Gregory Milne  
James F. Munafo, Jr.  
Royden C. Richardson  
Tom Rugo  
Harold E. Tobey

Administrative  
Assistant:  
Donald M. Grissom

Town Council  
Secretary:  
Cheryl A. Phillips

- 1. ROLL CALL**
  - 2. PLEDGE OF ALLEGIANCE**
  - 3. MOMENT OF SILENCE**
  - 4. PUBLIC COMMENT**
  - 5. ACT ON MINUTES**
  - 6. COUNCIL RESPONSE TO PUBLIC COMMENT**
  - 7. COMMUNICATIONS FROM ELECTED OFFICIALS,  
BOARDS, COMMISSIONS AND STAFF,  
CORRESPONDENCE, ANNOUNCEMENTS AND  
COMMITTEE REPORTS**
  - 8. PRESIDENT/VICE PRESIDENT COMMUNICATIONS**
  - 9. TOWN MANAGER COMMUNICATIONS**
  - 10. ORDERS OF THE DAY**
    - A. OLD BUSINESS**
    - B. NEW BUSINESS**
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**Minutes** from Barnstable Town Council meeting July 15, 2004

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**A. OLD BUSINESS (Public Hearing May Be Acted Upon)(Roll Call – 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2004-109 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$250,000.00  
FOR THE PURPOSE OF ACQUIRING 13.43 ACRES MORE OR LESS IN  
MARSTONS MILLS, ASSESSORS MAP 58, PARCEL 12  
INTRO.: 06/03/04; 07/15/04; 08/19/04**

**ORDERED:** that the Town Council hereby authorizes the Town Manager to purchase or otherwise acquire for the purposes set forth in chapter 293 of the Acts of 1998 as amended by section 211 of chapter 127 of the Acts of 1999, land and interests in land in the Town of Barnstable (Marstons Mills) further described in a deed recorded in the Barnstable County Registry of Deeds in Book 5695, Page 293, together with appurtenant rights of record, subject, however, to a reserved life estate with right of reverter; appropriates the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00) Dollars for said acquisition or taking and related costs; authorizes the Town Manager to contract for and expend said appropriation for such purposes and accept any gifts or grants in relation thereto; to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00) Dollars for said acquisition and related costs; provided, however, that a purchase and sales agreement and fundraising is completed by June 30, 2005.

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

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**AGENDA ITEM SUMMARY  
2004-109**

**TO:** Barnstable Town Council  
**FROM:** Lindsey B. Counsell, Chair, Open Space Committee  
**DATE:** August 10, 2004  
**RE:** Appropriation and Loan Order in the Amount of \$250,000.00 for the Purpose of Acquiring 13.43 Acres More or Less in Marstons Mills, Assessors Map 58, Parcel 12

**BACKGROUND AND ANALYSIS:** These two adjacent properties represent a unique opportunity to protect a significant amount of open space in the virtual heart of a village center. This land fits perfectly many of the criteria that the Open Space Committee uses to rank properties for initial consideration and eventual recommendation to acquire. These include Protection of Groundwater and Public Water Supply, Public Access to Water, Wildlife Habitat Protection, Protection of Inland Water Bodies, Economically Advantageous, Level of Development Pressure, Linkages to Other Open Space, Protection of Community Character, Passage Recreation Values and Strong Community Support. The following is a further description of those values and how they fit these parcels.

- ❖ **Groundwater Protection:**  
This land directly abuts the COMM Hayden well fields. While groundwater flow is away from the well-heads and towards the Mill Pond on some of the land the potential for well pollution is significant. Keeping this land in open space will insure that no unintentional contaminants are introduced in the vicinity of the public water supply.
- ❖ **Public Access to Water:**  
These parcels have frontage on the Mill Pond and the Marstons Mills River. This access will be critical if any dredging or shoreline enhancement is contemplated to improve the water quality of the Mill Pond. Formerly this pond was ideal trout habitat and it still supports an active herring run.
- ❖ **Wildlife Habitat Protection:**  
Wildlife has been seen using this green corridor for many years. Deer, fox the occasional coyote are regularly spotted. Many raptors hunt the area as well as songbirds, ducks, geese and muted swans. The Mill Pond is a favorite spot for bird watchers as this fresh water-body is a stopping off point for many waterfowl on their annual migration.
- ❖ **Protection of Inland Water Bodies:**  
The development of these parcels would significantly impact the already degraded Mill Pond. Any increase in the introduction of more anthropogenic pollution would be devastating to the Mill Pond. Any increase in nitrogen from septic systems, lawns and gardens or domestic animals would severely impact an already overloaded ecosystem.

- ❖ **Economically Advantageous:**  
Partnering with the Barnstable Land Trust and undertaking local fundraising is a very important way to protect valuable land as we move into the post Land Bank era. Initiatives that involve this type of cooperation continue to be a priority of the Barnstable Town Council.
- ❖ **Level of Development Pressure:**  
Unless this property is purchased as open space in the very near future this land will likely be rapidly developed as single family homes and as a worst case into a high density 40B development.
- ❖ **Linkages to Other Open Space:**  
This land directly links existing Land Bank lands, land owned by the Barnstable Land Trust, and COMM water district lands. This is the largest tract of open land in the central southwestern portion of the town.
- ❖ **Protection of Community Character:**  
The vista across the Mill Pond onto these parcels is perhaps one of the most identifiable views in the village of Marstons Mills if not the town. The loss of this historic vista would be another view shed vanished if this property is lost to development.
- ❖ **Passive Recreation Values:**  
The nature of these properties lends themselves to passive recreation such as walking or hiking. Many neighbors from the subdivisions to the north walk Old Shore Road, an ancient way that crosses the property, down to the shopping plaza to the west. Access by vehicle should be limited as dumping in the area occurs regularly. A control gate with a small parking area at Old Post Road would best serve this site.
- ❖ **Strong Community Support:**  
Many people support the purchase of this land. Most people recognize what will be lost in the values mentioned about if this land is developed. The measure of that support will be seen in how the community steps forward in the fundraising aspect of this project.

As these points show there is significant value in protecting this land, it will be up to the citizens of the area to fund the remaining portion of this acquisition that will be the test of how valuable this land is to the people. By providing the seed money to get this project started the Barnstable Town Council is giving the citizens a chance to decide if this is an important enough project to support.

**FISCAL IMPACT:** The Town's portion of the acquisition cost is suggested to be appropriated using a portion of the remaining Land Bank funds, resulting in no adverse impact on the general fund.

**A. OLD BUSINESS (Public Hearing May Be Acted Upon)(Roll Call – 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2004-110 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$250,000.00  
FOR THE PURPOSE OF ACQUIRING 10.2 ACRES MORE OR LESS IN  
MARSTONS MILLS, ASSESSORS MAP 58, PARCELS 11-1-7, 19 AND 20  
AND MAP 59 PARCEL 14  
INTRO.: 06/03/04; 07/15/04; 08/19/04**

**ORDERED:** that the Town Council hereby authorizes the Town Manager to purchase or otherwise acquire for the purposes set forth in chapter 293 of the Acts of 1998 as amended by section 211 of chapter 127 of the Acts of 1999, land and interests in land in the Town of Barnstable (Marstons Mills) further described as Lots 1-7 on plan of land recorded in the Barnstable County Registry of Deeds in Plan Book 464, Page 17 and deeds recorded in Book 13128, Pages 60 and 62, together with appurtenant rights of record and the fees in streets and ways shown on said plan; appropriates the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00) Dollars for said acquisition or taking and related costs; authorizes the Town Manager to contract for and expend said appropriation for such purposes and accept any gifts or grants in relation thereto; to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00) Dollars for said acquisition and related costs; provided, however, that a purchase and sales agreement and fundraising is completed by June 30, 2005.

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

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**AGENDA ITEM SUMMARY  
2004-110**

**TO:** Barnstable Town Council  
**FROM:** Lindsey B. Counsel, Chair, Open Space Committee  
**DATE:** August 10, 2004  
**RE:** Appropriation and Loan Order in the Amount of \$250,000.00 for the Purpose of Acquiring 10.2 Acres More or Less in Marstons Mills, Assessors Map 58, Parcels 11-1-7, 19 and 20 Map 59 Parcel 14

**BACKGROUND AND ANALYSIS:** These two adjacent properties represent a unique opportunity to protect a significant amount of open space in the virtual heart of a village center. This land fits perfectly many of the criteria that the Open Space Committee uses to rank properties for initial consideration and eventual recommendation to acquire. These include Protection of Groundwater and Public Water Supply, Public Access to Water, Wildlife Habitat Protection, Protection of Inland Water Bodies, Economically Advantageous, Level of Development Pressure, Linkages to Other Open Space, Protection of Community Character, Passage Recreation Values and Strong Community Support. The following is a further description of those values and how they fit these parcels.

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This land directly abuts the COMM Hayden well fields. While groundwater flow is away from the well-heads and towards the Mill Pond on some of the land the potential for well pollution is significant. Keeping this land in open space will insure that no unintentional contaminants are introduced in the vicinity of the public water supply.
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- ❖ **Wildlife Habitat Protection:**  
Wildlife has been seen using this green corridor for many years. Deer, fox the occasional coyote are regularly spotted. Many raptors hunt the area as well as songbirds, ducks, geese and muted swans. The Mill Pond is a favorite spot for bird watchers as this fresh water-body is a stopping off point for many waterfowl on their annual migration.
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The nature of these properties lends themselves to passive recreation such as walking or hiking. Many neighbors from the subdivisions to the north walk Old Shore Road, an ancient way that crosses the property, down to the shopping plaza to the west. Access by vehicle should be limited as dumping in the area occurs regularly. A control gate with a small parking area at Old Post Road would best serve this site.
- ❖ **Strong Community Support:**  
Many people support the purchase of this land. Most people recognize what will be lost in the values mentioned about if this land is developed. The measure of that support will be seen in how the community steps forward in the fundraising aspect of this project.

As these points show there is significant value in protecting this land, it will be up to the citizens of the area to fund the remaining portion of this acquisition that will be the test of how valuable this land is to the people. By providing the seed money to get this project started the Barnstable Town Council is giving the citizens a chance to decide if this is an important enough project to support.

**FISCAL IMPACT:** The Town's portion of the acquisition cost is suggested to be appropriated using a portion of the remaining Land Bank funds, resulting in no adverse impact on the general fund.

**A. OLD BUSINESS (Joint Public Hearing May Be Acted Upon)(Roll Call – 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2004-113 AMEND THE ZONING ORDINANCE BY ADDING THE FOLLOWING PROVISION TO THE RC-1 RESIDENTIAL C-1 ZONING DISTRICT AS A NEW SUB-SECTION 3-1, 4 (4)(B), AS FOLLOWS  
INTRO.: 06/17/04; 07/15/04; 08/19/04**

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

**That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by adding the following provision to the RC-1, Residential C-1 Zoning District as a new sub-section 3-1.4(4)B, as follows:**

“B) Private Initiated Affordable Housing Developments: A Private Initiated Affordable Housing Developments (PI-AHD) on seven (7) acres or more subject to the provisions of Section 3-1.8 and in full compliance with the standards set forth therein.”

**SPONSOR:** Town Councilor Gary R. Brown

**DATE**

**ACTION TAKEN**

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**AGENDA ITEM SUMMARY  
2004-113**

**TO:** Town Council  
**THROUGH:** Thomas Broadrick, AICP, Planning Director  
**DATE:** June 10, 2004  
**SUBJECT:** RC-1, Residential C-1 Zoning District as a new sub-section 3-1.4(4)B

**BACKGROUND:** This area of the Town has recently been of interest as a result of proposed Chapter 40B developments that the Town, Developer and neighbors have worked together creatively to develop a novel solution addressing the needs of affordable housing in keeping with the neighborhood's established development patterns and the density of development.

This solution is in the form of a Private Initiative Affordable Housing Development. Many proposed Chapter 40B affordable housing proposals have not been in keeping with the neighborhood's established development patterns in terms of housing types and density. This Private Initiated Affordable Housing Development provision is crafted to assure that future development will respect the established density of the neighborhood's, encourage single-family dwellings on individual lots, and provide for affordable housing.

With respect to issue of groundwater, the subject site is located within the same groundwater recharge area of the existing Town's Wastewater Treatment Facility. Regardless of whether the wastewater from a higher density development is disposed of on-site or at the treatment plant, the effect in terms of the amount of wastewater disposed with respect to the mounding effect on the aquifer, would be the same. This rezoning effort would require those smaller lots to connect to the town's wastewater Treatment Facility and it will assure a level of treatment that cannot be achieved by individual on-site Title 5 septic disposal systems. Over the long run with the off-site effluent disposal plan in place and operating, the added effluent will eventually be disposed of outside the aquifer area.

**SUMMARY OF DISTRICT CHANGE:** Allows for Private Initiated Affordable Housing Developments on seven (7) acres or more subject to the provisions of a new Section 3-1.8.

**FISCAL IMPACT:** there is a no impact to the town budget of these revisions.

**STAFF ASSISTANCE:** Arthur Traczyk, Principal Planner

**A. OLD BUSINESS (Joint Public Hearing May Be Acted Upon)(Roll Call – 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2004-114 AMEND THE ZONING ORDINANCE BY ADDING THE FOLLOWING NEW SPECIAL DISTRICT PROVISION SECTION 3-1.8, PRIVATE INITIATED AFFORDABLE HOUSING DEVELOPMENT  
INTRO.: 06/17/04; 07/15/04; 08/19/04**

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

**That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by adding the following new special district provision Section 3-1.8, Private Initiated Affordable Housing Development that shall read as follows:**

**“3-1.8 Private Initiated Affordable Housing Development**

**1. Purpose.** The purpose of this Section is to authorize by special permit privately initiated affordable housing by for-profit organizations that;

A) Provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types; and

B) Authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide housing for persons of low or moderate income.

**2. Definitions.**

A) Affordable Unit: A dwelling unit reserved in perpetuity for ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in 760 CMR 45.03(4), in order that such Affordable Units shall be included in the DHCD Subsidized Housing Inventory.

B) Applicant - The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a Private Initiated Affordable Housing Development (PI-AHD), hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed PI-AHD, or have authority from the owner(s) to act for the owner (s) or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

C) Bedroom - A separate room within a dwelling unit intended for, or which customarily could be used for, sleeping.

D) Private Initiated Affordable Housing Development (PI-AHD) – A development of single-family residential dwellings (detached), including required Affordable Units, and permissible accessory structures on seven (7) acres or more authorized by special permit from the Planning Board as set forth herein.

**3. Application.** An application for a special permit for a PI-AHD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the following:

A) Information pertaining to any association which the Applicant proposes to form for the private management of the PI-AHD.

B) Copies of all proposed documents as required for the subdivision, including architectural rendering and layouts of proposed homes to be built and landscaping plans<sup>1</sup>.

C) Copies of proposed deed restrictions and monitoring agreements, drafted consistent with all requirements of 760 CMR 45 Local Initiative Program (LIP) and guidelines promulgated there under assuring the affordable units remain affordable in perpetuity, and assure the resale of Affordable Units at the restricted price, and providing a right of first refusal in favor of the Town.

**4. Standards.** In order to be eligible for consideration for a special permit, the proposed PI-AHD shall meet all of the following standards:

A) Qualifying Area. The site shall be located entirely within the RC-1 Zoning District and shall contain at least seven (7) contiguous upland acres.

B) Compliance with Applicable Regulations & Standards:

a) In the case of a subdivision, all plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.

b) In the case of multiple single-family residential dwellings (detached) on a single lot, all plans and development shall comply with applicable standards of the Zoning Ordinance including Site Plan Review.

C) Wastewater: All dwellings within the PI-AHD shall be connected to the municipal Wastewater Treatment Facility when the site is located in a Groundwater Protection Overlay District.

D) Lot Shape Factor: The numerical lot shape factor as required in Section 2-3.4 of the Zoning Ordinances shall not apply. However no pan-handled lot shall be created to a depth greater than two (2) lots from the principal way.

E) Bulk Regulations – For all lots and building within the PI-AHD the following Bulk Regulations shall apply:

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<sup>1</sup> This was added with respect to the discussion on aesthetics and zoning.

	MIN. LOT AREA SQ.FT.	MIN. LOT FRONTAGE IN FT.	MIN. LOT WIDTH IN FT.	MINIMUM YARD SETBACKS IN FT. <sup>(3)</sup>			MAXIMUM BLDG. HEIGHT IN FT.
				FRONT	SIDE	REAR	
	10,000 <sup>(1)</sup>	20	75 <sup>(2)</sup>	15 <sup>(4)</sup>	10 <sup>(5)</sup>	20 <sup>(5)</sup>	30*

\* Or two and one-half (2-1/2) stories whichever is lesser.

(1) As an alternative to individual lots, more than one single family dwelling may be constructed on a lot provided that the area of any such lot shall contain not less than ten thousand (10000) square feet of contiguous upland for each single family dwelling constructed. When more than one single family dwelling is constructed on a lot said dwelling shall be at least thirty (30) feet apart.

(2) The Planning Board may grant a waiver to the Lot Width requirement to individual lots located on a cul-de-sac provided that the grant of the waiver will result in a proper alignment of the home to the street.

(3) Accessory Structures that requires a building permit shall be required to conform to all setback requirements.

(4) Accessory garages, whether attached or detached, shall be required to be setback a minimum of twenty (20) feet from the front yard setback

(5) The Planning Board may require a planted buffer area within any required rear or side yard setback area.

F) Parking: A minimum of one (1) on-site parking space per dwelling unit shall be provided.

G) Phasing: The applicant, as part of the application for subdivision approval, may propose a phasing plan identifying the number of building permits requested to be issued in each year of the phasing plan. The Planning Board, upon a finding of good cause, may vary the provisions of Section 4.9 (5) (a)-(b) and (6)(b)(i)-(iii) herein and allow for the allocation to the applicant of the number of building permits proposed in the phasing plan or any different number that the Planning Board deems appropriate, provided that at the time of the granting of the special permit, that the determined number of building permits are available and that no more than ¼ of each year's allocation under Section 4.9 (5)(a) and (b) shall be allocated to the applicant. Every permit allocated to the applicant by the Planning Board shall be included as part of the yearly building permit allocations under Section 4.9 (5)(a)-(b). There shall be no extension of a Building Permit granted under a phasing plan and any unused and/or expired permits shall be credited back as part of the adjustments under Section 4.9 (5) (d) for the next calendar year.

**5. Affordable Units.** At least 20% of the dwelling units shall be Affordable Units, subject to the following conditions:

A) The Affordable Unit shall be affordable in perpetuity. A Deed Rider shall assure this condition. The Deed Rider shall be structured to survive any and all foreclosures.

B) The continuing enforcement of the Deed Rider through subsequent resale of the Affordable Units shall be the subject of a Monitoring Agreement.

C) The Deed Rider and the Monitoring Agreement shall be drafted in compliance with 760 CMR 45.00 (Local Initiative Program and guidelines promulgated thereunder. The Deed Rider and the Monitoring Agreement shall be subject to review and approval by the Planning Board and approved as to form by Town Counsel prior to the issuance of a certificate of occupancy for any dwelling unit.

D) The Affordable Unit shall conform to the standards of the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory.

E) A right of first refusal upon the transfer of such Affordable Units shall be granted to the Town or its designee for a period not less than 120 days after notice thereof.

F) The Affordable Units shall not be segregated within the PI-AHD, nor shall the habitable area of the Affordable Units differ substantially and be distinguishable in appearance from the habitable area of the market rate dwelling units as viewed from the street.

G) The Affordable Units shall be constructed, and occupancy permits issued at the rate of one (1) Affordable Unit for every four market rate units.

H) In computing the number of required Affordable Units, any fraction of a unit shall be rounded down, and the result shall be the number of Affordable Units to be built within the PI-AHD and not off site.

**6. Decision.** The Planning Board may grant a special permit for a PI-AHD where it makes the following findings:

A) The proposed PI-AHD complies with all applicable Subdivision Rules and Regulations, the Zoning Ordinances and/or Site Plan Review as the case may be, and the requirements of this section except as they may be waived by the Board;

B) The proposed PI-AHD provides Affordable Units consistent with the requirements set forth herein;

C) The proposed PI-AHD does not cause substantial detriment to the neighborhood.

**7. Relation to Other Requirements.** The submittals and special permit required herein shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance.”

**SPONSOR:** Town Councilor Gary R. Brown

**DATE**

**ACTION TAKEN**

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**AGENDA ITEM SUMMARY  
2004-114**

**TO:** Town Council  
**THROUGH:** Thomas Broadrick, AICP, Planning Director  
**DATE:** June 10, 2004  
**SUBJECT:** RC-1 Residential C-1 Zoning District new sub-section 3-1.8

**BACKGROUND:** This area of the Town has recently been of interest as a result of proposed Chapter 40B developments that the Town, Developer and neighbors have worked together creatively to develop a novel solution addressing the needs of affordable housing in keeping with the neighborhood's established development patterns and the density of development.

This solution is in the form of a Private Initiative Affordable Housing Development. Many proposed Chapter 40B affordable housing proposals have not been in keeping with the neighborhood's established development patterns in terms of housing types and density. This Private Initiated Affordable Housing Development provision is crafted to assure that future development will respect the established density of the neighborhood's, encourage single-family dwellings on individual lots, and provide for affordable housing.

With respect to issue of groundwater, the subject site is located within the same groundwater recharge area of the existing Town's Wastewater Treatment Facility. Regardless of whether the wastewater from a higher density development is disposed of on-site or at the treatment plant, the effect in terms of the amount of wastewater disposed with respect to the mounding effect on the aquifer, would be the same. This rezoning effort would require those smaller lots to connect to the town's wastewater Treatment Facility and it will assure a level of treatment that cannot be achieved by individual on-site Title 5 septic disposal systems. Over the long run with the off-site effluent disposal plan in place and operating, the added effluent will eventually be disposed of outside the aquifer area.

**SUMMARY OF DISTRICT CHANGE:** A new special district provision Section 3-1.8, Private Initiated Affordable Housing Development will be inserted to provide for the authorization by special permit for privately initiated affordable housing by for-profit organizations that provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types and authorizes an increase in the permissible density of housing in a proposed development, provided that the applicant provide housing for persons of low or moderate income.

**FISCAL IMPACT:** there is a no impact to the town budget of these revisions.

**STAFF ASSISTANCE:** Arthur Traczyk, Principal Planner

**A. OLD BUSINESS (Joint Public Hearing May Be Acted Upon)(Roll Call – 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2004-115 AMEND THE ZONING MAP BOUNDARY LINE OF THE RESIDENTIAL  
C1 ZONING DISTRICT AND THE B BUSINESS ZONING DISTRICT  
IN HYANNIS  
INTRO.: 06/17/04; 07/15/04; 08/19/04**

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE  
MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

That Chapter III, Article III of the Ordinances, the Zoning Ordinance, Section 2-2.1 is hereby amended by adopting a Zoning Map revision to reconfigure the boundary line of the Residential C-1 Zoning District and the B Business Zoning District in Hyannis as shown on maps on file with the Town Clerk entitled “Zoning Map of the Town of Barnstable, Massachusetts, Index Map”, identified as “Proposed Amendment to Reconfigure the Boundary Line Between Residence C-1 Zoning District and the B Business Zoning District in Hyannis” File Copy Date; June 9, 2004, and “Zoning Map of the Town of Barnstable, Massachusetts, Hyannis, Sheet 3 of 7”, identified as “Proposed Amendment to Reconfigure the Boundary Line Between Residence C-1 Zoning District and the B Business Zoning District in Hyannis” File Copy Date; June 9, 2004.

**SPONSOR:** Town Councilor Gary R. Brown

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**AGENDA ITEM SUMMARY  
2004-115**

**TO:** Town Council  
**THROUGH:** Thomas Broadrick, AICP, Planning Director  
**DATE:** June 10, 2004  
**SUBJECT:** Zoning Map revision to reconfigure the boundary line of the Residential C-1 Zoning District and the B Business Zoning District in RC-1 Residential C-1 Zoning District new sub-section 3-1.8

**BACKGROUND:** This area of the Town has recently been of interest as a result of proposed Chapter 40B developments that the Town, Developer and neighbors have worked together creatively to develop a novel solution addressing the needs of affordable housing in keeping with the neighborhood's established development patterns and the density of development.

This solution is in the form of a Private Initiative Affordable Housing Development. Many proposed Chapter 40B affordable housing proposals have not been in keeping with the neighborhood's established development patterns in terms of housing types and density. This Private Initiated Affordable Housing Development provision is crafted to assure that future development will respect the established density of the neighborhood's, encourage single-family dwellings on individual lots, and provide for affordable housing.

With respect to issue of groundwater, the subject site is located within the same groundwater recharge area of the existing Town's Wastewater Treatment Facility. Regardless of whether the wastewater from a higher density development is disposed of on-site or at the treatment plant, the effect in terms of the amount of wastewater disposed with respect to the mounding effect on the aquifer, would be the same. This rezoning effort would require those smaller lots to connect to the town's wastewater Treatment Facility and it will assure a level of treatment that cannot be achieved by individual on-site Title 5 septic disposal systems. Over the long run with the off-site effluent disposal plan in place and operating, the added effluent will eventually be disposed of outside the aquifer area.

**SUMMARY OF DISTRICT CHANGE:** The Zoning Map is changed by reconfiguring the boundary line of the Residential C-1 Zoning District and the B Business Zoning District in Hyannis to include that B Business Zone in the new C-1 Zoning District.

**FISCAL IMPACT:** There is no impact to the town budget of these revisions.

**STAFF ASSISTANCE:** Arthur Traczyk, Principal Planner

**A. OLD BUSINESS (Public Hearing May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

<p><b>2004-118 GENERAL AMENDMENT – REGULATORY AGREEMENT</b> <b>INTRO.: 06/17/04; 07/15/04; 08/19/04</b></p>
-----------------------------------------------------------------------------------------------------------------

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

**That Chapter III, of the Ordinances, the General Ordinance, be amended by adding at the end thereof the following new section, designated in appropriated sequence:**

**“Section #XXX Regulatory Agreements”**

01.0 Purpose and Intent; Authority; Boundary; Single-Family Residence Exception:

It is the purpose and intent of this ordinance to enable the Town of Barnstable to enter into Development Agreements (hereinafter “Regulatory Agreements”) in the Downtown Implementation District of Hyannis, generally described on the attached map, dated DATE, entitled TITLE.

The Town of Barnstable adopts this ordinance under the Home Rule Authority of Article 89 of the amendments to the Massachusetts Constitution, the provisions of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, and Chapter D, Development Agreement Regulations, Code of Cape Cod Commission Regulations of General Application.

This ordinance shall apply within the Downtown Implementation District, shown on the attached map.

02.0 Definitions: In this Ordinance, the following words have the meanings indicated:

02.1 Regulatory Agreement: A contract entered into between the Commission and/ or the Town of Barnstable and a holder of property development rights, the principal purpose of which is to negotiate and to establish the development regulations that will apply to the subject property during the term of the agreement and to establish the conditions to which the development will be subject including, without limitation, a schedule of impact fees and/or transfer development rights.

02.2 Town of Barnstable: The municipality where the proposed development is located. The Town Manager, or his or her designee, shall be authorized to execute, on behalf of the Town of Barnstable, a Regulatory Agreement, subject to the procedural requirements set forth below.

02.3 Qualified Applicant: A person who has a majority legal or equitable interest in the real property which is the subject of the Regulatory Agreement. A Qualified Applicant may be represented by an authorized agent.

03.0 Authority: Notwithstanding provisions to the contrary, the Town of Barnstable is hereby authorized to enter into a Regulatory Agreement with a Qualified Applicant within the Downtown Implementation District, provided the following conditions are met:

03.1 The Town's Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan and said certification has not been revoked;

03.2 The Town has adopted the enabling regulation contained in Sections 01.0 through Section 10.0, herein.

04.0 Parties to Regulatory Agreements:

04.1 A Regulatory Agreement may be executed by and between a Qualified Applicant and:

04.1.1 the Cape Cod Commission; or

04.1.2 the Cape Cod Commission and the Town of Barnstable; or

04.1.3 the Cape Cod Commission and the Town of Barnstable and with a state agency or agencies; or

04.1.4 The Town of Barnstable; or

04.1.5 The Town of Barnstable and a state agency or agencies.

05.0 Negotiation and Execution of Regulatory Agreements:

05.1 Negotiation of the elements of a Regulatory Agreement between authorized parties (Section 04.0) and a Qualified Applicant shall follow all pertinent rules of due process currently required for public meetings, public hearings, and ratification of board and council decisions.

05.2 Negotiation of the elements of a Regulatory Agreement between authorized parties (Section 04.0) and a Qualified Applicant shall be led by the Planning Board or its designee, and may include representatives from other municipal boards, departments and commissions where said joint participation will assist the negotiation process. The Barnstable Housing Committee shall review all Regulatory Agreements subject to Barnstable General Ordinances, Article LXIII, Inclusionary Affordable Housing Requirements.

05.3 No Regulatory Agreement may be executed by the Town Manager prior to an affirmative, majority vote by the Planning Board and the Town Council recommending the execution of the Regulatory Agreement. When a waiver from zoning is allowed under the negotiated Regulatory Agreement, there shall be a two-thirds vote of the Town Council recommending execution of the Regulatory Agreement.

05.4 The Town Manager may make minor amendments to the Regulatory Agreement recommended by the Planning Board and approved by the Town Council and execute said Regulatory Agreement as amended, provided that such amendments do not alter the use, intensity or mitigation stipulations of the Regulatory Agreement. However, in no instance may the Town Manager make substantial amendments to the Regulatory Agreement recommended by the Planning Board and approved by the Town Council without first receiving written concurrence from the Planning Board and the Town Council and Qualified Applicant that said substantial amendments are agreed to.

05.5 The Town Manager or his/her designee shall be authorized to execute, on behalf of the town, a Regulatory Agreement. Prior to executing said Regulatory Agreement, the Town Manager shall obtain a majority vote of the town council to authorize the execution, unless the Regulatory Agreement authorizes a waiver from the Barnstable Zoning Ordinance in which case the Town Manager shall obtain a two-thirds majority vote of the town council to authorize the execution. The Town Manager shall, within seven (7) days of the town council vote authorizing the execution of the Regulatory Agreement, cause said Regulatory Agreement to be so executed and forward the same to the Qualified Applicant by certified, return receipt mail. Within twenty-one (21) days of the date said Regulatory Agreement has been mailed by the Town Manager, the Qualified Applicant shall execute the agreement and return either by certified mail or hand delivery, the fully executed Regulatory Agreement.

#### 06.0 Elements of Regulatory Agreements:

06.1 Proffers by a Qualified Applicant: A Regulatory Agreement may include, but is not limited to, the provisions whereby a Qualified Applicant agrees to provide certain benefits which contribute to one or more of the following:

06.1.1 infrastructure;

06.1.2 public capital facilities;

06.1.3 land dedication and/ or preservation;

06.1.4 affordable housing, either on or off-site;

06.1.5 employment opportunities;

06.1.6 community facilities;

06.1.7 recreational facilities;

06.1.8 any other benefit intended to serve the proposed development, municipality or county, including site design standards to ensure preservation of community character and natural resources.

06.2 Proffers by the Town of Barnstable: A Regulatory Agreement may include the provisions whereby the Town of Barnstable agrees to provide certain protection from future changes in

applicable local regulations and assistance in streamlining the local regulatory approval process. Streamlining may include, where not in conflict with existing local, state or federal law, holding of joint hearings, coordination of permit applications and, where possible, accelerated review of permit approvals. A Regulatory Agreement may also provide for extensions of time within which development approvals under state, regional and local laws may be extended to coincide with the expiration of the Regulatory Agreement established in Section 09.0, below. When the Cape Cod Commission is not a party to the Regulatory Agreement, the land use development rights shall not vest with respect to Cape Cod Commission regulations and designations and the property shall be subject to subsequent changes in the Commission's regulations and designations.

07.0 Procedural Requirements for Regulatory Agreements Where the Cape Cod Commission is a Party to the Agreement:

07.1 Where the Cape Cod Commission is to be a party to a Regulatory Agreement, a Qualified Applicant shall complete a Regulatory Agreement Application Form and comply with the specific requirements set forth in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised.

07.2 Where the Cape Cod Commission is to be a party to a Regulatory Agreement, the procedural requirements established in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall be followed and no such Regulatory Agreement shall be valid unless and until the requirements of said Section 5 of Chapter D have been complied with in full.

08.0 Procedural Requirements for Regulatory Agreements Where the Cape Cod Commission is Not a Party to the Agreement:

08.1 Where the Cape Cod Commission is not to be a party to a Regulatory Agreement, a Qualified Applicant shall complete a Regulatory Agreement Application Form. The Regulatory Agreement Application Form shall include:

(a) A fully completed Development of Regional Impact Application Form, including a certified list of abutters;

(b) A legal description of the land subject to the agreement and the names of its legal and equitable owners;

(c) The proposed duration of the agreement;

(d) The development uses currently permitted on the land, and development uses proposed on the land including population densities, and building densities and height;

(e) A description of public facilities that will service the development, including who shall provide such facilities, the date any new facilities will be constructed, and a schedule to assure public facilities adequate to serve the development are available concurrent with the impacts of the development;

(f) A description of any reservation or dedication of land for public purposes;

(g) A description of all local development permits approved or needed to be approved for the development of the land;

(h) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the Qualified Applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;

(i) A Final Environmental Impact Report, certified as adequate by the Secretary of Environmental Affairs, if required under sections 61-62h of chapter 30 of the general laws;

(j) Additional data and analysis necessary to assess the impact of the proposed development, as determined by the Town of Barnstable.

08.2 All Qualified Applicants seeking to enter into a Regulatory Agreement without the Cape Cod Commission as a party shall submit the proposed development to the Cape Cod Commission for a Jurisdictional Determination. If the Cape Cod Commission determines that the proposed development is not a Development of Regional Impact, then the Qualified Applicant may pursue a Regulatory Agreement without the Cape Cod Commission as a party. If the Cape Cod Commission determines that the proposed development is a Development of Regional Impact, then the Cape Cod Commission must be a party to the Regulatory Agreement, in which case, the provisions of Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall apply. If the Commission determines that the proposed development is not a Development of Regional Impact, then the provisions of Sections 08.3 through 08.9 below, shall apply.

08.3 The Town of Barnstable shall assume the responsibility for overseeing the Regulatory Agreement process. The Town of Barnstable shall hold a public hearing after receipt of a fully completed application from a Qualified Applicant for consideration of a proposed Regulatory Agreement. The Town of Barnstable shall hold at least one public hearing. The public hearing regarding review of a Regulatory Agreement shall not exceed ninety (90) days, unless extended by mutual agreement of the parties. Failure to close the public hearing within ninety (90) days shall not result in a constructive grant of the proposed development.

08.4 The Town of Barnstable shall provide notice of the public hearing to consider a Regulatory Agreement by publication as required by Sections 5(a) and (d) of the Cape Cod Commission Act and shall also provide notice to the Cape Cod Commission at least fourteen (14) days prior to such hearing.

08.5 The qualified applicant shall bear the cost of providing notice of the public hearing to consider the proposed Regulatory Agreement.

08.6 The Town of Barnstable shall review proposed Regulatory Agreements for their consistency with the Cape Cod Commission Act and with the Regional Policy Plan and the Barnstable Local Comprehensive Plan. The Town of Barnstable shall obtain a determination from

the Cape Cod Commission or its designee that a proposed Regulatory Agreement is consistent with the Act, the Regional Policy Plan, and the Barnstable Local Comprehensive Plan prior to executing a Regulatory Agreement.

08.7 The Town of Barnstable shall file its Regulatory Agreement with the Clerk of the Cape Cod Commission and with the Barnstable Town Clerk. Notices of Regulatory Agreements shall be published in a newspaper of general circulation in the Town of Barnstable, including a brief summary of the contents of the Regulatory Agreement and a statement that copies of the Regulatory Agreement are available for public inspection at the Barnstable Town Clerk's office during normal business hours. In addition, the Town of Barnstable shall provide the Cape Cod Commission with a summary of the Regulatory Agreement which the Cape Cod Commission shall publish in its official publication pursuant to section 5(i) of the Cape Cod Commission Act.

08.8 Regulatory Agreements shall be issued in a form suitable for recording in the Barnstable County Registry of Deeds. The Town of Barnstable shall record the Regulatory Agreement in the Barnstable County Registry of Deeds and shall submit proof of such recording to the Town Clerk and the Cape Cod Commission Clerk within 14 days of such recording. The qualified applicant shall bear the expense of recording.

08.9 The cost for filing and processing of each Regulatory Agreement shall be as established by the Town Manager. Said filing and processing fees shall be reviewed and if appropriate, revised annually.

#### 09.0 Limitations on Regulatory Agreements:

09.1 Nothing in this ordinance may be construed to permit a municipality to require a Qualified Applicant to enter into a Regulatory Agreement.

09.2. A Regulatory Agreement will commence and terminate as agreed by the parties, in writing, except as otherwise provided in this Section. Where the Cape Cod Commission is not a party, a Regulatory Agreement shall not exceed ten (10) years, however, provisions in the Regulatory Agreement pertaining to the preservation of open space and park areas, and agreement to pay for maintenance of utilities and other infrastructure may exceed such ten-year limitation. Where the Cape Cod Commission is a party, a Regulatory Agreement may extend for a longer period of time than that noted above, as set forth in Section 7 of the Code of Cape Cod Commission Regulations of General Application, as revised.

09.3 A Regulatory Agreement may not be used to prevent the Town of Barnstable or other governmental agency from requiring a Qualified Applicant to comply with the laws, rules and regulations and policies enacted after the date of the Regulatory Agreement, if the Town of Barnstable or governmental agency determines that the imposition and compliance with the newly effective laws and regulations is essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction.

#### 10.0 Amendments and Rescission:

10.1 Where the Cape Cod Commission is not a party to the Regulatory Agreement, any party to the agreement may petition the Town of Barnstable to amend or rescind the Regulatory Agreement. The petitioning party shall provide notice to all parties to the agreement and to the Cape Cod Commission of its intention to amend or rescind the agreement by providing such parties and the Cape Cod Commission with a copy of the petition seeking such amendment or rescission. When the Town of Barnstable initiates an amendment or rescission, it shall provide notice, in writing, to all other parties to the agreement and to the Cape Cod Commission. The process for amendment or rescission shall follow the procedures for adoption outlined above.

10.2 When the Cape Cod Commission is a party to the Regulatory Agreement, any other party to the Regulatory Agreement may petition the Commission to amend or rescind the Regulatory Agreement. Such petition shall be made in writing, on a form provided by the Cape Cod Commission. The petitioning party shall provide notice to all parties to the Regulatory Agreement and to the Commission of its intention to amend or rescind the agreement by providing such parties and the Commission with a copy of the petition seeking such amendment or rescission. When the Commission initiates an amendment or rescission, it shall provide notice, in writing, to all other parties to the agreement. The process for amendment or rescission shall follow the procedures for adoption outlined above.

11.0 Enforcement:

11.1 A Regulatory Agreement is a binding contract which is enforceable in law or equity by a Massachusetts court of competent jurisdiction.

12.0 Severability:

12.1 If any provision of this ordinance is held invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this ordinance shall not affect the validity of the remainder of the Barnstable Ordinances.

12.2 To the extent that a conflict of interest exists between this ordinance and other ordinances of the Town of Barnstable, the more restrictive provisions shall apply.

**SPONSOR:** Councilor Gary R. Brown

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**AGENDA ITEM SUMMARY  
2004-118**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**THROUGH:** Thomas Broadrick, AICP, Planning Director  
**DATE:** June 10, 2004  
**SUBJECT:** General Ordinances Amendment – Regulatory Agreement

**BACKGROUND:** The Regulatory Agreement ordinance is a general ordinance, not a zoning ordinance and is designed to allow the Town of Barnstable to enter into regulatory agreements with individual developers with or without Cape Cod Commission involvement depending on the nature of the particular project proposed.

The single-family dwelling exception in section 1.0. is limited to the exception of existing homes occupied by the owner or owner's Family Members as a primary residence. This ensures that no single family residence that is owner occupied or family member occupied could be used for the purposes of this Regulatory Agreement. No developer could use this Regulatory Agreement to affect any single family dwelling as long as it is owner/family occupied.

The Regulatory Agreement provides for the use of land as negotiated by the Planning Board and the project proponent with input from all boards and commissions with any jurisdiction over the project. In addition, the Planning Board has the authority to seek input from any board or commission it deems necessary to fulfill its review of such a proposed project.

Use of the Regulatory Agreement is limited to the Downtown Implementation District as noted on the map dated November 3, 2003 and entitled "Downtown Implementation District" attached.

**Summary of General Ordinance Changes:** As the Regulatory Agreement itself is not a zoning ordinance but rather a tool to allow the Town of Barnstable and developers to enter into an agreement as to how the land will be used, it is not necessary to amend the zoning ordinance. However, once Planning Board and the applicant have entered into the Regulatory Agreement and have negotiated and have determined the zoning relief necessary to allow the project to be fulfilled, the final Regulatory Agreement will have to be approved by the Town Council and if zoning relief is requested, the vote will require a two-thirds majority.

As noted through out the text of the Regulatory Agreement, the Planning Board negotiates the agreement on behalf of the Town of Barnstable, the Town Council must approve the agreement, and finally the Town Manager executes the agreement.

**FISCAL IMPACT:** There is no impact to the town budget of these revisions.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends that the proposed Ordinance be adopted after all issues raised at the Public Hearing have been satisfactorily addressed.

**STAFF ASSISTANCE:** Thomas A. Broadrick, AICP, Planning Director  
Kevin Shea, Director of Community and Economic Development

**A. OLD BUSINESS (SECOND READING)**

**BARNSTABLE TOWN COUNCIL**

**2004-127 APPOINTMENTS**

**INTRO.: 07/15/04; 08/19/04**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**AIRPORT COMMISSION**

Robert L. O'Brien, 41 Deacon Court, Barnstable, MA 02630 term to expire 06/30/2006

**BOARD OF ASSESSORS**

Alan Donheiser, PO Box 213, Cotuit, MA 02635 term to expire 06/30/2007

**PUBLIC WORKS COMMISSION**

Paul J. Cannif, 106 Hayes Road, Centerville, MA 02632 term to expire 06/30/2005

**SPONSOR:** Town Councilor Royden C. Richardson

**DATE**

**ACTION TAKEN**

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**A. OLD BUSINESS (Joint Public Hearing May Be Acted Upon)(Roll Call – 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2004-128 FORMER GRADE 5 SCHOOL PLANNED UNIT DEVELOPMENT  
DISTRICT, ZONING AMENDMENT  
INTRO.: 7/15/04**

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE  
MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

**That Chapter III, Article III of the Ordinances is hereby amended by adding a new Section  
3-8 as follows:**

**3-8 FORMER GRADE 5 SCHOOL PLANNED UNIT DEVELOPMENT  
OVERLAY DISTRICT**

**3-8.1 Purpose:** The purpose of the Former Grade 5 School Planned Unit Development District is to encourage flexibility in the design and development of land within the District in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities and public spaces; and to preserve the natural and scenic qualities of open areas.

This development district is intended to permit diversification in the location of structures and uses and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy of buildings and facilities.

**3-8.2 Procedure:** The owner or owners or lessees of tracts of land consisting of five (5) acres or more in the Former Grade 5 School Planned Unit Development Overlay District may submit to the Planning Board a request for a Special Permit to allow for a plan of development and use of such tracts meeting the requirements set forth below:

a) The Planning Board shall be the Special Permit Granting Authority and shall follow the procedures for issuing special permits as provided for in Section 5-3.3 herein specifically substituting the words 'Planning Board' for the words 'Zoning Board of Appeals'.

b) Lot area and lot frontage requirements may be reduced provided the overall density is not reduced and yard requirements need only be applied in relationship to the tract boundaries.

c) Bulk Regulations shall be as follows:

Zoning District	Min. lot area sq. ft.	Min lot frontage in ft.	Min. lot width in ft.	Minimum yard setbacks in ft. FRONT SIDE REAR			Maximum bldg height in ft.	Max Lot Coverage as % of Lot Area
FG-5 PUD	43,560	20	--	10	0*	0*	38	100**

\* A Fifty (50) foot minimum side and rear yard shall be required when abutting a residential district.

\*\* Less any required setback.

d) More than one building is permitted on tracts held by one owner or in common ownership.

e) A site plan in accordance with the Town of Barnstable Site Plan Review regulations indicating the planned location of buildings and their use, off-street parking areas, driveways, easements, walks, the location, type and height of walls, and the extent of landscaping or other treatment for the protection of adjacent properties is required.

f) Copy of any deed restrictions intended to be recorded shall be submitted.

**3-8.3 Permitted Uses with issuance of Special Permit for Planned Unit**

**Development:** The permitted uses shall include: residential uses such as garden apartments, town houses, multi-family housing; office uses such as medical and professional offices; assisted living developments; museum uses; recreational uses; open space uses; private educational uses; higher educational uses; and mixed use developments incorporating any of the above.

**3-8.4 Standards for Reviewing and Approving Planned Unit Developments:**

Before any action on any of the plans for a Planned Unit Development, a site plan and any supplemental plans shall be submitted to the Planning Board for study and review. The Planning Board shall report its recommendations for approval or disapproval, together with the reasons therefore and any additional requirements within twenty (20) days of receipt of a site plan. Reasonable requirements may be recommended by the Planning Board for the protection of adjoining residential property.

The Planning Board shall approve the planned unit development only if it finds that the planned unit development satisfies all of the following standards:

a) General Standards

1. The Planned Unit Development shall be consistent with the Town of Barnstable Comprehensive Plan

2. The Planned Unit Development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas
3. The Planned Unit Development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the site

b) Design Standards

1. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses
2. Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development
3. Treatment of the sides and rear of all buildings within the Planned Unit Development shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings
4. The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate, to provide separate levels of access
5. All buildings shall be arranged as to avoid undue exposure to concentrated loading or parking facilities where ever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings
6. All buildings shall be arranged as to be accessible to emergency vehicles

c) Landscape Design Standards

1. Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design
2. Primary landscape treatment shall consist of shrubs, ground cover, and street trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town of Barnstable's environment.

d) Circulation System Design Standards

1. There shall be an adequate safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space
2. Road, pedestrian walks and open space shall be designed as an integral part of an overall site design. They shall be properly related to existing and proposed buildings, and appropriately landscaped
3. There shall be an adequate amount, in a suitable location, of pedestrian walks and landscaped spaces to discourage pedestrian use of vehicular ways and

parking spaces and to separate pedestrian walks and public transportation loading places from general vehicular circulation facilities

4. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic
5. Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to street, parking areas and adjacent buildings
6. The location and design of pedestrian walks should emphasize desirable views of new and existing development in the area
7. Encourage the maximum separation of private automobiles and service vehicles through the use of separate service lanes
8. Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function

e) Parking and Loading Design Standards

1. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars
2. Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design
3. Any above grade loading facility should be screened from public view to the extent necessary to eliminate unsightliness
4. Outdoor storage shall not be permitted

**AND ORDERED:**

**SECTION 2**

And by amending Section 2-2. Identification of Zoning Map to create a new overlay district entitled "Former Grade 5 School Planned Unit Development Overlay District" as shown on maps on file with the Town Clerk entitled "Zoning Map of the Town of Barnstable, MA, Index Sheet" and "Sheet 3 of 7 Hyannis Proposed Amendment to add a Plan Unit Development Overlay District", both maps file copy date July 27<sup>th</sup>, 2004.

**SPONSOR:** John Klimm, Town Manager

**DATE**

**ACTION TAKEN**

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\_\_\_\_\_

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**AGENDA ITEM SUMMARY**  
**2004-128**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**THROUGH:** Thomas Broadrick, AICP, Planning Director  
**DATE:** July 15, 2004  
**SUBJECT:** Former Grade 5 School Planned Unit Development Overlay District  
Zoning Change

**BACKGROUND:** The locus is approximately 22 acres and consists of the grounds of the former Barnstable High School/Grade 5 School as shown on a plan of land entitled “Plan of Land in Barnstable (Hyannis) MA as made by the DPW Engineering Division Survey Section” dated June 10, 2004.

A new overlay district is proposed to allow for the following uses: residential uses such as garden apartments, town houses, multi-family housing; office uses such as medical and professional offices; assisted living developments; museum uses; recreational uses; open space uses; private educational uses; higher educational uses; and mixed use developments incorporating any of the above.

The Zoning map has been re-drawn to show the new ‘Former Grade 5 School Planned Unit Development Overlay District’ in the Hyannis area south of South Street, and a large-scale insert map of the Hyannis area districts has been modified as well. Map revisions have been worked out with GIS and Planning.

**SUMMARY OF DISTRICT CHANGE:** A revision to the Hyannis Village zoning districts is needed, particularly for an overlay on the parcel of land shown as Map 326 Parcel 001 at 120 High School Road on the south side of South Street, where the map for Hyannis shows the RC-1 zoning district extending to include said parcel. A larger scale insert for the downtown districts has been modified to reflect such change.

In order for a proposed project to move forward on this parcel of land, the referenced parcel must be re-zoned. The anticipated use of the referenced parcel can be allowed through the use of a “Planned Unit Overlay District” planning and zoning tool.

The proposed zoning change creates a new Planned Unit Overlay District as Section 3-8 to be inserted after the other two overlay districts, i.e. 3-6 Shopping Center Overlay District and 3-7 Adult Use Overlay District. The new Planned Unit Overlay District will be entitled “Former Grade 5 School Planned Unit Overly District” and will allow for residential uses such as garden apartments, town houses, multi-family housing; office uses such as medical and professional offices; assisted living developments; museum uses; recreational uses; open space uses; private educational uses; higher educational uses; and mixed use developments incorporating any of the above.

**FISCAL IMPACT:** There is a positive impact on the town budget with these revisions as the sale of this property will bring revenue to the town.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends that the proposed text and map change be adopted after all issues raised at the Public Hearing have been satisfactorily addressed.

**STAFF ASSISTANCE:** James Benoit, GIS Director  
Kevin Shea, Community and Economic Development Director  
David Anthony, Chief Procurement Officer

**A. OLD BUSINESS (Public Hearing May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

**2004-129 APPROPRIATION AND LOAN ORDER - COMMUNITY SEPTIC  
MANAGEMENT PROGRAM  
INTRO: 07/15/04; 08/19/04**

**ORDERED:** that \$200,000 is appropriated for the purpose of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements between the Board of Health and residential property owners, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Town Manager is authorized to borrow \$200,000 and issue bonds or notes therefore under M.G.L.c.111, & 127B1/2 and/or Chapter 29C of the General Laws, that project and financing costs shall be repaid by the property owners, in accordance with those agreements, but such bonds or notes shall be general obligations of the Town, that the Treasurer with the approval of the Town Manager is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the projects or for the financing thereof, that the Town Manager or the Treasurer is authorized to enter into a project regulatory agreement with the Department of Environmental Protection and that the Town Manager is authorized to expend all funds available for the projects and to take any other action necessary to carry out the projects.

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

<b>DATE</b>	<b>ACTION TAKEN</b>
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**AGENDA ITEM SUMMARY**  
**2004-129**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**THROUGH:** Thomas F. Geiler, Director of Regulatory Services  
**DATE:** May 6, 2004  
**SUBJECT:** Appropriation Loan Order Request/ Community Septic Management Program

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**BACKGROUND:** during December 1998, the Town Council appropriated \$200,000 for the purpose of providing financial assistance to homeowners with failing septic systems. From February 23, 1999 until March 16, 2000, a total of fifty (50) residents of Barnstable were able to replace or repair their failed septic system components due to this program. On August 17, 2000, another \$200,000 was appropriated by the Town Council. Thirty –nine (39) additional septic systems were repaired or replaced with this funding. For a third time, sometime during December 2001, another \$200,000 was appropriated resulting in another 32 septic systems being replaced or repaired. During June of 2003, another \$200,000 was appropriated resulting in twenty-nine septic system upgrade projects funded.

The Town of Barnstable currently holds the record for the most septic systems repaired by this program. A total of 143 septic systems were replaced and repaired; this represents more repairs to septic systems than any other city or town in the Commonwealth.

Due to expenditures of the total amount allocated, there is no financial assistance available to the residents of Barnstable at this time.

**ANALYSIS:** Additional funding remains available through the Open Space Bond Bill designed to assist homeowners with failing septic systems. The Law originally appropriated \$30 million to the Department of Environmental Protection (DEP) to assist homeowners. DEP used the appropriation to fund loans through the Massachusetts Water Pollution Trust. The fund continues to provide a permanent state/local administered revolving funds to assist income-eligible homeowners in financing necessary septic system repairs and replacements.

Funding for the program is in the form of a zero-interest loan from the Massachusetts Water Pollution Trust to the Town of Barnstable which must be repaid over a period of 20 years. To receive a loan from the Massachusetts Water Pollution Trust, the Town of Barnstable must execute a loan agreement with the Trust and issue local government obligations (bonds) to secure the loan.

Loans from the Massachusetts Water Pollution Trust to the Town of Barnstable are be used to provide loans to homeowners. To be eligible, a homeowner's family income cannot exceed \$150,000 per year, unless otherwise approved by DEP.

Loans from the Town to the homeowner will have an interest rate of 5%. A homeowner's loan will be repaid to the Town through the homeowner's real estate tax bill via a betterment

assessment under M.G.L. C. 111 s. 127 B1/2. A “municipal lien” may be obtained on the homeowner’s property if repayments are not made on time.

**FISCAL IMPACT:** during repayment by the homeowner to the Town, additional administrative funds will become available from the interest portion of the repayment. The Town may also elect to charge the homeowner an application fee for any other incurred costs. The Town is responsible for repaying the Water Pollution Abatement Trust, at zero interest, within twenty years.

**TOWN MANAGER RECOMMENDATION:** the Town Manager recommends that the Town Council approve this Appropriation Loan Order.

**BOARD AND COMMISSION ACTION:** the Board of Health supports this request.

**STAFF ASSISTANCE:** Thomas McKean, RS, CHO

**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

**2005-001 APPOINTMENTS**  
**INTRO.: 08/19/04**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**AIRPORT COMMISSION**

Anthony J. Balsamo, PO Box 922, Centerville, MA 02632 term to expire 06/30/2006

**BOARD OF HEALTH**

Dr. Wayne Miller, PO Box 711, West Barnstable, MA 02668 term to expire 06/30/2007

**SPONSOR:** Town Councilor Royden C. Richardson

**DATE**

**ACTION TAKEN**

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**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2005-002 ACCEPTANCE OF A UNITED STATES DEPARTMENT OF EDUCATION  
GRANT AWARD FROM THE FUND FOR THE IMPROVEMENT OF  
EDUCATION (FIE) PROGRAM IN THE AMOUNT OF \$ 993,499.00  
INTRO.: 08/19/04**

**RESOLVED:** that the Town Council hereby accept a United States Department of Education Grant award from the Fund of Improvement Education (FIE) Program in the amount of \$ 993,499.00 for the purpose of funding educational and recreational programs for the youth of Barnstable.

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

<b>DATE</b>	<b>ACTION TAKEN</b>
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**AGENDA ITEM SUMMARY**  
**2005-002**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** David Curley, Director of Recreation  
**DATE:** March 18, 2004  
**SUBJECT:** Acceptance of a U.S. Department of Education Grant Award

**BACKGROUND:** The Town of Barnstable Recreation Division is committed to providing leisure opportunities to improve the quality of life in our community through exceptional programs and services. Many of the recreation programs are held at the town and school facilities. The Barnstable Public Schools supports the recreational and educational opportunities in which the recreation division affords the students of Barnstable. The Recreation Division program responds to the needs of our community, most specifically the challenges associated with high rates of poverty; the inability of working families to provide safe, secure quality supervision and constructive activities for school-aged children. After school programs, sports and recreational activities have always played an important role in the development of the children and young adults of Barnstable. In this difficult economy, the Barnstable Recreation Division is called upon to play a more significant role in maturing our young people physically, emotionally, and socially.

The U.S. Education Grant Award will support the Barnstable Recreation's effort of fulfilling community needs by purchasing the necessary recreational and educational equipment for the Division. It should be noted that many of the purchases will be directly benefiting the existing Youth Center Program housed at the Kennedy Memorial Skating Rink.

**ANALYSIS:** Recognizing the great demand placed upon Recreation, the Division, Community Leaders, and the local non-profit Barnstable Youth Hockey Association have directed their efforts in a financial campaign to raise dollars for a possible Recreation Complex. Through the efforts of attorney Patrick Butler, a non-profit foundation was established. The newly formed foundation is committed to raise five million dollars in hope of constructing a major recreational complex to replace the existing Kennedy Rink. The complex will consist of: a major youth center, the Barnstable Recreation Administrative offices, and two ice surfaces. The Foundation approached Senator Edward Kennedy for assistance. The Senator was indeed successful as the Town of Barnstable received approval of a Congressional Earmark Award (U.S. Education Dept.) in the amount of **\$ 993, 499.00** for the purpose of the Barnstable Recreation Division to support educational and recreational programs for our Town's youth. The dollars must be expended in the next two years. The FIE grant will enable the Recreation Division to enhance their existing overall program at this time. Much of the equipment purchases at this time will also be used in the new recreation complex. It should be noted that the grant funds are deemed to be discretionary, meaning they are not fully guaranteed. Therefore, starting to expend the grant monies is critical.

Enrichment and safety are the prime goals of all activities. Barnstable Recreation strives to advance the academic, educational, and physical skill attainment of all participants while providing a safe and drug free environment. Through this grant, all of our participating children will truly benefit.

**FISCAL IMPACT:** Approximately \$230,000 of these grant funds can be used to offset recreational program personnel costs that are part of the Recreation Division's FY 2005 and FY 2006 General Fund budget. Since these costs will be funded through the grant instead, a corresponding amount of money can then be appropriated to the Town's Capital Trust Fund to help offset the cost of constructing a new youth center. The balance of the grant; \$763,000; will be used to purchase supplies and equipment. The \$14 million cost estimate for the new youth center includes costs for outfitting the facility with various equipment such as computer labs, sound systems, scoreboards, etc. These funds will be used to offset this portion of the construction costs. If the matching fund raising efforts do not materialize, the existing facility can still benefit from these funds as much of the outdated equipment can be replaced with new items. Any unexpended grant funds will revert to the granting agency.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends acceptance of this grant.

**BOARD/COMMITTEE ACTION:** The Recreation Commission unanimously supports grant acceptance.

**STAFF ASSISTANCE:** David Curley, Recreation Director

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2005-003 APPROVAL OF SECTION 298 OF CHAPTER 149 OF THE ACTS OF 2004,  
COMMUNITY PRESERVATION ACT AS MODIFIED  
INTRO.: 08/19/04**

**RESOLVED:** Section 298 of chapter 149 of the Acts of 2004, the “Massachusetts Community Preservation Act,” as modified by said section 298, is hereby approved, and the Secretary of the Commonwealth is hereby requested to place an appropriate question on the ballot for the November 2, 2004 state election to ascertain the will of the voters of the Town as to their approval of the same.

**SPONSOR:** Town Councilor Janet Joakim

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**AGENDA ITEM SUMMARY  
2005-003**

**TO:** Town Council  
**FROM:** Land Bank Committee through John Klimm  
**DATE:** August 11, 2004  
**SUBJECT:** Community Preservation Act (CPA)

**BACKGROUND:**

This legislation was adopted as part of the State's Fiscal Year 2005 budget and will allow any town, which has a Cape Cod Open Space Land Acquisition Program to adopt the provisions set forth in Sections 3 to 7 inclusive of Chapter 44B of the General Laws otherwise known as the Community Preservation Act (CPA). This measure needs to be adopted through a town ballot question which will read:

“Shall the Town of Barnstable adopt section \_\_\_\_ of Chapter \_\_\_\_ of the acts of 2004, as approved by the Town Council, a summary of which appears below?”

“Acceptance of section \_\_\_\_ of Chapter \_\_\_\_ of the Acts of 2004 means the Community Preservation Act shall effectively replace the Cape Cod Open Space Land Acquisition Program. There shall be no additional excise on real property levied, other than the current 3 percent levied for the provisions of the Cape Cod Open Space Land Acquisition Program. Acceptance of this section shall allow the community to access state matching funds of up to 100 percent of the excise on real property currently levied, which was previously unavailable to the town.”

This will not create an additional tax for those towns which are currently part of the Cape Cod Land Bank

## B. NEW BUSINESS (FIRST READING)

### BARNSTABLE TOWN COUNCIL

**2005-004 CHAPTER III OF THE ORDINANCES IS HEREBY AMENDED BY  
STRIKING OUT ARTICLE XXXV AND INSERTING IN PLACE  
AMENDED ARTICLE XXV  
INTRO.: 08/19/04**

**ORDERED:** that Chapter III of the Ordinances is hereby amended by striking out Article XXXV and inserting in place thereof the following:

#### **ARTICLE XXXV. REGULATION OF ROLLER SKATING AND SKATE BOARDING IN CONGESTED AREAS AND CERTAIN MOTORIZED VEHICLES ON PUBLIC WAYS AND SIDEWALKS IN THE TOWN.**

##### Section 1.

No person shall roller skate or skate board on public sidewalks in congested areas of Town.

##### Section 2.

No person shall roller skate or skate board in public ways in congested areas of Town.

##### Section 3.

No person shall operate a motorized bicycle as defined in section 1 of Chapter 90 of the General Laws, on any public way or sidewalk of the town.

##### Section 4.

The Town Manager shall adopt rules and regulations to preserve and promote the public safety, consistent with this article, governing the use and rental of roller skates and/or skate boards and/or motorized bicycles within the Town. Such regulations shall become effective when filed with the Town Clerk and published in a newspaper having general circulation within the Town, and may include, but need not be limited to designation of the areas in which, or the times or seasons during which, roller skating is prohibited, and may prohibit roller skating and/or skate boarding on Town property in congested areas which is not part of a public way or sidewalk and/or use of motorized bicycles in any area of the Town.

##### Section 5.

Whoever violates the provisions of this article shall be punished by a fine not to exceed fifty dollars (\$50.00).

##### Section 6.

The provisions of this article are severable. IF any provisions of the article or the application thereof to any person or circumstance is held unconstitutional or invalid by any authority of competent jurisdiction, the application of such provisions to any other person or circumstances or the application of the remaining provisions of this article shall not be impaired.

**SPONSOR:** Town Councilor Gary R. Brown

**DATE**

**ACTION TAKEN**

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**AGENDA ITEM SUMMARY**  
**2005-004**

**TO:** Town Council  
**FROM:** Gary R. Brown  
**SUBJECT:** Motorized Scooters  
**DATE:** August 12, 2004

**BACKGROUND/RATIONALE:** This item would prohibit the use of motorized scooters on sidewalks and regulate the use of same on public streets. One may be punished by a fine not to exceed fifty dollars (\$50.00) for violation of this regulation.

This is being introduced due to an increasing number of motorized scooters and mini-motorbikes on the streets which has triggered complaints.

There is concern that the presence of these vehicles on the streets and sidewalks pose a hazard to pedestrians as well as motorists that cannot see the small, low-profile vehicles.

**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

**2005-005 AMENDMENT TO ADMINISTRATIVE CODE LIMITING SERVICE TO NOT MORE THAN FOUR CONSECUTIVE TERMS  
INTRO.: 08/19/04**

**ORDERED:**

**SECTION 1.** Section 1.03 of Part II of the Administrative Code is hereby amended by adding the following new paragraph at the end thereof:

“Service on multiple member boards shall be limited as provided in section 1.10.”

**SECTION 2.** Section 1.10 of said Part II of the Administrative Code is hereby amended by adding the following new paragraph at the end thereof:

“Service on multiple member boards shall be limited to not more than four (4) three (3) year consecutive full terms. If there is no qualified candidate for replacement a member whose term is expiring may be considered for reappointment by the Appointment Committee.”

**SPONSOR:** Town Councilor Janet Joakim and Town Councilor Royden Richardson

**DATE**

**ACTION TAKEN**

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**AGENDA ITEM SUMMARY**  
**2005-005**

**TO:** Town Council  
**FROM:** Councilor Janet Joakim  
**DATE:** August 19, 2004  
**SUBJECT:** Term limits for Board and Commission Members

**BACKGROUND/RATIONALE:** This is in response to public interest in ensuring that boards and commissions have a certain amount of turnover (i.e., new members) after a prescribed period of time.

The three (3) term limit recommended for boards and commissions is the same as for members of the Town Council.

**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

<p><b>2005-007 CONSOLIDATION OF SCHOOL AND MUNICIPAL FINANCE</b> <b>INTRO.: 08/19/04</b></p>
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**RESOLVE:**

That the Town Council endorse the memorandum of understanding for the consolidation of School and Municipal Finance as written and approved by the School Committee August 10, 2004 and hereby does consolidate the same pursuant to Chapter 71 Section 37M of the Massachusetts General Laws.

**SPONSOR:** Councilor Janice Barton and Councilor Joakim

**DATE**

**ACTION TAKEN**

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**AGENDA ITEM SUMMARY**  
**2005-007**

**TO:** Town Council  
**FROM:** Councilor Janice Barton and Councilor Janet Joakim  
**DATE:** August 12, 2004  
**RE:** Consolidation of School and Municipal Finance

**BACKGROUND/RATIONALE:** the purpose of 2005-007 is to provide an agreed upon framework—consistent with the memorandum of understanding—to begin the consolidation of certain financial functions and services currently being performed and delivered separately by Barnstable’s municipal finance and school finance departments. This consolidation is permitted by Chapter 71 Section 37M of the Massachusetts General Laws. In agreeing to this Memorandum, both legislative bodies are acknowledging that consolidation with its anticipated benefits is a desirable goal to pursue. It is further acknowledged that the unequivocal support from both elected bodies as well as municipal and school management is required for this effort to succeed.

Both legislative bodies agree to the following:

1. That the consolidated financial services to be provided are as outlined in The Plan.
2. That the following services will not be provided by the consolidated finance operations.
  - (a) Supervision of the school transportation program
  - (b) Supervision of the school lunch program
  - (c) Supervision of the school grounds and facilities staff
  - (d) Supervision of the Medicaid billing staff
3. That municipal and school management meet weekly to review progress in the implementation of The Plan. In the early meetings, a review process will be developed to measure progress toward intended outcomes. The Town Council and School Committee will be kept apprised of progress on a regular basis and be consulted on any substantive changes recommended for The Plan. It is understood that the Estimated Completion Dates for the items listed on Page 9 of The Plan may, from time to time need to be revised.
4. That for this consolidation process to be successful, both the municipal and school operations must provide free and unimpeded access to all information; financial, procedural, and otherwise, relevant to the consolidation. Staff for both the municipal and school finance operations are expected to work together in a professional manner and to do all that they can to assure that this effort succeeds. Both municipal and school managers tasked with implementing this consolidation plan will be mindful of each organization’s chain of command and organizational structure during this transition process.

5. That the success of this initiative will depend, in large measure, on the creation of a site-based, financial support team staffed at multiple municipal and school locations. These team members will require in-house systems training sufficient for them to comfortably and confidently perform their duties. Whenever possible, these positions will be staffed by personnel currently located at these sites and currently doing similar or comparable work. Follow on training will be provided as needed. It is anticipated that consolidation will involve the phased in implementation of on-site processing. For example, it is not practical to expect the payroll, accounts payable, and cash receipts data entry and administrative processing functions to be de-centralized simultaneously. Training, therefore, will be matched to the de-centralization schedule.
6. That these site-based financial support team members will be supported by financial support team members at the central finance office. Whenever possible, these positions will be filled by existing, qualified staff already involved in the payroll, accounts payable, and/or cash receipts functions for the municipal and the school finance operations. Extensive in-house training will be provided to allow these existing staff the opportunity to enhance their skills. This training will provide a method to measure level of achievement. We acknowledge that, given the streamlined nature of the consolidated central finance office, there is likelihood that not all current staff interested in working for this consolidated organization can be placed. The availability of training, however, will not be predicated on this. All interested staff will have the same access to this training.
7. That to consolidate financial operations, entirely new positions will need to be created, other positions will be redefined and reclassified, and some positions will be eliminated. These personnel changes are outlined on Page 4 of The Plan and are subject to revision.
8. That this consolidation process involves budgetary considerations and that:
  - (a) In FY05, the new Assistant Finance Director's salary will be charged to the now defunct School Business Manager's position. This new position will be funded entirely through the consolidated finance division budget in FY06.
  - (b) As the consolidation process progresses and personnel changes are implemented, the unexpended salaries associated currently in the school budget to fund the 1 supervisory and 4 clerical positions listed in The Plan on Page 10 under the heading "Current School Positions", will be available to help fund personnel changes required by consolidation as well as the unexpended funds allocated to Health Insurance and Medicare Tax on the following line. The unexpended funds in the FY05 school operating expense budget, (also listed on Page 10 of The Plan) will be available to help fund the consolidation process. These expenses will be funded from the consolidated finance operation in FY06.
  - (c) Recognizing that the consolidated financial operation concept currently has reduced 4 positions from the existing level, every effort should be made by

management and the legislative bodies not to make further reductions to this division should personnel reductions be required in FY06 in order to establish a balanced budget. Further reductions to staffing levels could defeat the purpose of this plan.

9. That a portion of the consolidated finance operation will be allocated to net school spending in determining the school district's compliance with net school spending requirements. The allocation will be based on the total school department related expenditures as a percentage of total expenditures for all town operations including General Fund, Special Revenue Fund, Capital Project Fund, Enterprise Fund, Trust Funds, and Agency Funds.
10. That both the School Committee and the Town Council support the concept of consolidating human resources and benefits administration for both municipal and school operations. A consolidation plan such as the one addressing the consolidation of financial operations has not yet been developed. This agreement authorizes the development of such a plan recognizing that said plan will require a collaborative effort by both the municipal and the school human resources/benefits administration departments.
11. That it is prudent to have in place a policy to terminate this agreement should either party to this agreement wish to do so. It must be noted that both parties to this agreement are moving forward with the unqualified expectation and confidence that this initiative will succeed. Nevertheless, unforeseen circumstances or events over time may lead to dissatisfaction with the results. With this in mind, both parties agree that should a reversal of consolidation be deemed necessary by either party an orderly reversal is of paramount importance. It is agreed, therefore, that either party wishing to terminate this agreement will provide, in writing to the other, a notice of intent at least six months prior to the start of the next fiscal year. Both parties will then be committed to working together diligently and faithfully to effect this change in the least disruptive fashion possible. It is also agreed that should said termination take place any and all funding associated with staff and operating expenses that were transferred shall be reinstated back to the school department.
12. That this Memorandum of Understanding is subject to review and revision as needed.

**11. PUBLIC COMMENT**

**12. ADJOURNMENT**

**NEXT MEETING IS SEPTEMBER 2ND.**