

# The Town of Barnstable

## Town Council

367 Main Street, Village of Hyannis, Barnstable, MA 02601  
508-862-4602 • FAX: 508-790-6226 • Email: andersoj@capecod.net

Councilors:

Jacalyn A. Barton,  
President

Audrey M. Loughnane,  
Vice President

Gary C. Blazis

John E. Boyle

Gary R. Brown

Richard W. Clark

Richard D. Elrick

Ann Jane Eshbaugh

Joseph R. Pino

Royden C. Richardson

Gloria W. Rudman

Administrative  
Assistant:

John P. Anderson

## TOWN COUNCIL AGENDA

### July 15, 1999

### **Roll Call**

### **7:00PM**

#### **Act on Minutes (6/17/99 & 6/24/99)**

1. *Public Hearings: 99-158, 99-165, 99-166, 99-169, 99-170*

**Joint Public Hearing with Planning Board: 99-160**

2. *Public Comment-Public Comment is also encouraged at the end of the meeting*

3. *Council Response to Public Comment*

4. *Communications from Elected Officials, Boards, Commissions and Staff*

5. *Correspondence*

6. *President/Vice President Communications*

7. *Town Manager Communication*

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### **OLD BUSINESS**

**PAGE #**

#### **These three items may be adopted**

8. **99-140 REPORT OF PLANNING BOARD SD-1 ZONING** 21

**ORDINANCE AMENDMENT ORDERED:** To amend the Official Zoning Map by the creation of the SD-I Service and Distribution District, (along Rt. 28 in Marstons Mills) and by inserting a new Section 3-3.8 SD-1 Service and Distribution District..

9. **99-158 APPROPRIATION AND LOAN ORDER -** 27

**TEMPORARY REPAIRS TO PRIVATE WAYS ORDERED** That the sum of **\$700,000** be raised and appropriated for the purpose of making temporary repairs to private ways within the town in accordance with General Ordinance, Chapter III, Article XXXI of the town, and that to meet this Appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$700,000**, that the Town Manager is authorized to contract for and expend the Appropriation made available for this purpose, and that the Town Manager is further authorized to accept any grants or gifts and assess betterment's, in relation thereto. **(Public Hearing)**

10. **99-159B APPOINTMENTS RESOLVED** That the Barnstable 29  
Town Council does hereby appoint and reappoint persons to the following multiple member boards: Registrar of Voters

11. **99-160 ZONING ORDINANCE AMENDMENT ORDERED** That 30

**Chapter III, Article III of the Town of Barnstable Ordinances is hereby amended by deleting the existing Section 2-4, Unrestricted Uses, and inserting a new section, 2-4 Exempt Uses, as follows: 2-4 Exempt Uses** The following uses and structures are permitted in all zoning districts: Municipal and water supply uses. Municipal recreation use, including recreational activities conducted on town-owned land under the terms of a lease approved by Town Council. In the case of such a lease, any improvements or changes to such town-owned land shall be subject to the approval review of a committee of five (5) residents appointed by the Town Manager or Town Council, at least two (2) of whom shall be from the precinct in which the land is located. The use of land or structures exempt from the use provisions of the Zoning Ordinance pursuant to MGL Ch 40A, Section 3, and any other statute...**(Joint Public Hearing)**

**These five items may be adopted**

- 12. 99-165 EASEMENT ORDER, ENTERPRISE ROAD, HYANNIS** 34  
**ORDERED** That the Town of Barnstable accept the layout and definition of the portion of Enterprise Road, Hyannis between the end of the existing Town layout and Iyannough road / Route 132 as shown on a plan of land entitled "TOWN OF BARNSTABLE PLAN SHOWING LAYOUT OF ENTERPRISE ROAD (HYANNIS) AS LAID OUT BY THE TOWN MANAGER ACTING UNDER CHAPTER II, ARTICLE VIII, SECTION 2 GENERAL ORDINANCES", Dated March 31, 1999, Scale: 1"=40', which plan is on file in the Town clerk's Office; and further to authorize the Town Manager to take by eminent domain EASEMENTS for highway purposes over parcels 1 through 7 as shown on said plan for the sum of one dollar (\$1.00) therefor. **(Public Hearing)**
- 13. 99-166 EASEMENT ORDER, INDEPENDENCE DRIVE, HYANNIS** 36  
**ORDERED** That the Town of Barnstable accept the layout and definition of the portion of Independence Drive, Hyannis between Iyannough Road / Route 132 and Kidds Hill Road as shown on a plan of land entitled "TOWN OF BARNSTABLE PLAN SHOWING LAYOUT OF INDEPENDENCE DRIVE (HYANNIS) AS LAID OUT BY THE TOWN MANAGER ACTING UNDER CHAPTER II, ARTICLE VIII, SECTION 2 GENERAL ORDINANCES AS MADE BY THE D.P.W ENGINEERING DIVISION", Dated April 2, 1999, Scale: 1"=40' (three sheets), which plan is on file in the Town Clerk's Office; and further to authorize the Town Manager to take by purchase, gift or eminent domain EASEMENTS for highway purposes over parcels 1 through 16 as shown on said plan for the sum of one dollar (\$1.00) therefor. **(Public Hearing)**
- 14. 99-168 APPOINTMENTS RESOLVED** 38  
That the Barnstable Town Council does hereby appoint and reappoint persons to the following multiple member boards: Cotuit Santuit Historic District Architect.

15. **99-169 APPROPRIATION AND TRANSFER ORDER FROM THE AIRPORT RESERVE ACCOUNT FOR LAND ACQUISITION OF FORMER SHELL GAS STATION IN HYANNIS ORDERED** 39  
 That the sum of \$315,000 be appropriated for the purpose and related costs of acquiring a parcel of land for the Airport located at 499 Lyannough Road, Hyannis, consisting of 15,681 square feet more or less and which is shown as Lot 29 on the Town of Barnstable Assessors Map 311 and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow \$315,000 and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and be authorized to accept any grants or gifts in relation thereto. **(Public Hearing)**
16. **99-170 APPROPRIATION AND LOAN ORDER FOR LAND ACQUISITION OF HERRING RUN AT INDIAN LAKES DEVELOPMENT TRUST, LOTS 1, 2, 4A and 5A, IN MARSTONS MILLS ORDERED** 40  
 That the Town Manager be authorized to acquire by purchase for any of the purposes specified in Chapter 293 of the Acts of 1998, four parcels of land located in Marstons Mills and shown as Lots 1, 2, 4A and 5A on a plan of land recorded with the Barnstable Registry of Deeds in Plan Book 541, Page 73, and to meet this appropriation the Town Treasurer, with the approval of the Town Manager, is authorized to borrow the sum of \$703,500.00, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, and to accept any grants or gifts in relation thereto. **(Public Hearing)**

## **NEW BUSINESS**

### **These two items may be adopted**

17. **2000-001 DIRECTION TO THE HOUSING COMMITTEE TO DEVELOP LOCAL LEGISLATION REQUIRING LANDLORDS TO MAKE PERIODIC INSPECTIONS OF THEIR PROPERTY TO ASCERTAIN THAT THE MINIMUM STANDARDS OF FITNESS FOR HUMAN HABITATION ARE BEING MET THEREIN RESOLVED** 42  
 That the Town Council hereby directs the Housing Committee to prepare and submit for enactment by the Council a draft ordinance requiring owners of residential rental property to inspect the exterior of said property no less frequently than every three months; simultaneously with said inspection, the owner to request permission of the tenant to inspect the interior of the property, and if permission is granted, inspect the same. The Housing Committee shall submit the draft by September 1, 1999.
18. **2000-002 ACCEPTANCE OF A GRANT FOR “THREE-BAYS CRAB PREDATION REDUCTION” FROM BARNSTABLE COUNTY, EXECUTED BY THE CAPE COD COOPERATIVE EXTENSION AND THE SOUTHEASTERN MASSACHUSETTS AQUACULTURE CENTER RESOLVED** 43  
 That the Town Council hereby approves the acceptance of a grant for

FY 2000 in the amount of \$2,550.00 from Barnstable County for the purpose of trapping crabs, being shellfish predators, in the Three-Bay area of Barnstable.

**This item should be referred to a public hearing 8/19/99**

- 19. 2000-003 APPROPRIATION AND LOAN ORDER LAND ACQUISITION OF 12.47 ACRES IN CENTERVILLE ORDERED** That the Town Manager be authorized to acquire by purchase for any of the purposes specified in chapter 293 of the Acts of 1998, three parcels of land located at 511 Old Stage Road, consisting of 12.47 acres more or less and which are shown as Lots 144, 166 and 167 on the Town of Barnstable Assessors Map 190 and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow \$295,000 for the purchase and an additional \$2,500 for related costs, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and accept any grants or gifts in relation thereto.

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## **PUBLIC COMMENT**

## **GENERAL DISCUSSION**

*Adjournment*

***Please be advised that the full text of the Council Agenda is available for review in the offices of the Town Council, Town Clerk and each Village Library.***

*The full agenda is now available on the World Wide Web at:  
**[www.barnstable-patriot.com](http://www.barnstable-patriot.com)***

**BARNSTABLE TOWN COUNCIL MINUTES**  
**June 17, 1999**

A quorum being duly present, Town Council President, Jacalyn Barton, called the regular meeting of the Barnstable Town Council to order at 7:00 p.m., on June 17, 1999, in the hearing room of Barnstable Town Hall, 367 Main Street, Hyannis, MA.

**PRESENT:** Jacalyn Barton, Gary Blazis, John Boyle, Gary Brown, Richard Clark, Richard Elrick, Ann Jane Eshbaugh, Audrey Loughnane, Joseph Pino, Royden Richardson and Gloria W. Rudman.

**PUBLIC HEARINGS:** Upon motion duly made and seconded it was voted to go into a public hearing for the purpose of hearing 99-145, 99-151, 99-152 and 99-154..

VOTE: 11 yes

99-145 Mr. Tinsley gave an overview, no public comment.

99-151 Eugenia Fortes, Hyannis, too much money. Gary Brown, where is the money coming from – Land Bank!

Three possibilities for funding this parcel.

Gary Lopez, not out of million dollars.

Lynne Poyant, HACC strongly support the acquisition of this property.

Hank Farnham, support acquisition of this open space and the blight on this sight.

HYRATE supports this.

Cynthia Cole, supports both parcel purchases.

Kay Strojny, Chairman of the Airport Commission, stated that a motion was made at the Airport Commission which passed unanimously to offer to buy the Shell Station out of Airport Surplus monies, look forward to working with the planning department and a landscaping plan for the area, vital gateway to area.

99-154, Lindsey Counsel, Chair of Land Bank Committee, a great purchase.

Close public hearings VOTE: 11 Yes

**PUBLIC COMMENT**

Lynne Poyant, Patrick Princi, Class President and Connie Ippolito, Centerville, all graduates of the BPD Citizens academy. Thank the officers involved, and provide overview of Citizens Police Academy.

Rick Presbry, WB, HAC President, support item 99-156.

Gary Lopez, reviewed the charter with us.

Eugenia Fortes, Hyannis, what is the total amount on the tax rate in November for land bank, Mary Dunn, Sr. Center and school override?

Tom Lynch, Housing authority, in favor of 99-143, exhibit A.

Lynne Poyant outlined the activities for the weekend for the parade, etc.

### **COUNCIL RESPONSE TO PUBLIC COMMENT**

Councilor Elrick: tax rate ?.

Councilor Brown: Hyannis is not the slum.

Communications from Boards and Commissions – Kay Strojny the Airport Commission, demolish property on the former Sullivan Property.

Councilor Clark- does the parking lot have any exit onto Rt. 132. No

Councilor Brown: applaud the Airport Commission for taking this property.

Councilor Loughnane: new Barnstable committee quiet on land bank purchases.

Conant is 20 Acres.

Councilor Blazis friends of Barnstable Schools, over \$5,000.

Leisure Lady, council has not granted anything. What a great business they were going to be, they are suing us, question the business, and starts suing me.

President Communication: Cape Cod Commission did accept the discretionary referral and the mandatory referral on the Leisure Lady issues.

### **OLD BUSINESS**

#### **99-143A GENERAL ORDINANCE AMENDMENT - INCLUSIONARY AFFORDABLE HOUSING REQUIREMENTS-**

Proposed Amendment new section 11.0 Appeals as a friendly amendment

11.0 Appeals

Any applicant for a division of land or building permit set forth in Section 3.0 may appeal the fee determination made by the Planning Board or the Building Commissioner to the Barnstable Housing Committee. The appeal shall be specific as to rationale, shall recommend an alternate calculation based on the facts of the appeal, and shall be passed on one or more of the following criteria:

11.1 A mistake or error in the calculation of land or building value;

11.2 Special circumstances as to the physical or environmental conditions of the site that result in an excessive fee for this particular proposal;

The application of this ordinance makes the development of any lot or parcel of land uneconomic or without a reasonable alternative use.

Boyle, no time line. Housing

Councilor Loughnane: clarify the appeal process.

Laura Shufelt, 20 days to file an appeal, fair amount of time, unusually high amount, Housing committee does have openings and are looking for folks from all walks of life.

Councilor Rudman: support of this ordinance, Smith - there are constitutional questions that surround this area, but no where is it unconstitutional.

Councilor Clark: there is compensation where land is taken??

John McGarrahan: when a property owner has ten acres for housing, one of those lots is devoted to affordable housing. The one lot is transferred to the town or a non profit agency. Developer gets paid for this piece of land. Paid for the value of the lot for an affordable house.

Councilor Clark: refer to specifically section 2.5, any restriction shall survive any bankruptcy, and any further nullification. When the house/property, is sold to the affordable house buyer, deed restriction, that property stay in affordable housing inventory, we require that we be able to buy that house at the amount of mtg., foreclosed. A lot of affordable houses, are lost, processed for bankruptcy.

Councilor Clark: meeting with members of housing committee, # of houses being lost - - we don't want that to happen again. Learning from that case. All we are saying is that a deed restriction is placed upon property.

Right to approve second mortgage, not allow a second mortgage to push house beyond affordability. Would not be allowed in these documents.

Councilor Clark: the scenario you are painting would create a bureaucracy, we are trying to make it simpler. No problem.

John McGarrahan Fees, of 10%, nexus of that house, the construction of that house, puts us a % behind the 10% affordable housing.

Councilor Loughnane: when we voted for the action plan that is what we were voted on. Consistently units, one unit of affordable housing, subdivide.

When we were discussing this at the workshop last year, the one in ten rule. Could not limit to just developments of 10 or more, we tried to deal with the situation when we are dealing with smaller pieces of land. Less than ten try to get funds from smaller units for ten together to get an affordable house.

John McGarrahan, one in ten rule is a mathematical linkage, are there other ways to do this, broad based endeavors, we do not fall further behind.

Councilor Eshbaugh: we are never ever going to meet 10%, we would like to be able to say that we won't fall any farther behind. Turn out at 4%. The council said we want u to add an inclusionary part in the program. Those people who are building in future. It is going to fall on some more than others.

Councilor Rudman: it seems to me what they tried to develop here is to be able to afford an affordable home. When u look at it, the developer is getting a reduced the whole asking price. It does not seem unreasonable to see that the smaller units would be paying some sort of fee. I think it is right, the timing is right, we are quibbling about what is fair and is not fair, some of them we don't like, it is a great method. If we find in time it is not fair, we can add an amendment later on. It is a very good start. This is a very important step to take at this time.

Councilor Richardson: we are not without experience in taking fees for things. Fees are extracted for a lot of reasons and could be divided more fairly. People have to make sacrifices. We don't want to make it any worse than it is.

Councilor Boyle: Time line, in no way delay the project.  
Postpone for a short period of time.

Town Attorney and committee came back with a new section 4.7 attached. No objections on the new amendment. Previous amendment withdrawn

Councilor Clark: Development agreement – not a complicated process.

Councilor Blazis: congratulate councilor Richardson

### **ITEM 99-143A AMENDMENT**

#### **Add new section 4.7 as follows:**

#### **4.7 Appeals**

An applicant who is dissatisfied for the following reasons with the fee determination made by the Planning Board under Section 4.1 or the Building Commissioner under Section 4.3 may appeal said determination as follows:

Within ten days after paying the fee, the applicant shall appeal in writing to the Town Manager based upon one of the following specific criteria:

- a. A mistake or error in the calculation of the land or building value;
- b. Special circumstance relating to the physical or environmental conditions of the site that result in an excessive fee for this particular proposal;
- c. The application of this ordinance makes the development of any lot or parcel of land uneconomic or without a reasonable alternative.

The Town Manager shall forthwith designate a hearing officer who shall hold a hearing and make a written determination within 21 days of the filing of the appeal. if the hearing officer determines that the fee is excessive, a rebate shall be made forthwith. Work on the project may proceed notwithstanding the filing of the appeal. The main motion with the amendment was approved on a Roll Call VOTE: 8 yes 3 no(Clark, Boyle, Loughnane) with amendment.

### **99-073A REPORT OF PLANNING BOARD ZONING ORDINANCE AMENDMENT OPEN SPACE ORDERED**

That Chapter III, Article III of the Town of Barnstable Ordinances is hereby amended by striking the existing section 3-1.7, Open Space Residential Development Provisions, and inserting a new Section 3-1.7 Open Space Residential Development as follows: 3-1.7 Open Space Residential Development 1) Purpose: This section has been established to permit a variation in development styles with efficient provision of roads and utilities; and to provide for the public interest by the preservation of open space in perpetuity, for protection of both natural resources and visual character of the land. ...

par. #6 - typo - on 3rd line take the word "hundred" out - it should read fifteen thousand.

Councilor Loughnane - Friendly Amendment - Page 26, item b, top of page may to shall.  
**VOTE: 9 Yes, 2 no (Boyle, Clark, RCV) as printed with the two changes.**

**99-145 LAYOUT AND DEFINITION OF TRAFFIC LIGHT EASEMENTS ORDERED**

That the Town of Barnstable accept the layout and definition of traffic light easements at North Street/Winter Street, North Street/High School Road Extension and North Street/Bassett Lane, Hyannis (three sheets) as shown on plans of land entitled "TOWN OF BARNSTABLE PLAN SHOWING TRAFFIC LIGHT EASEMENTS HYANNIS, BARNSTABLE (BARNSTABLE COUNTY) MA DATE: MARCH 19, 1999 SCALE:1"=20' " which plans are on file with the Town Clerk's Office; and further to authorize the Town Manager to take by purchase, gift or eminent domain EASEMENTS for traffic light purposes over Parcels 1 through 12 as shown on said plans and to appropriate the sum of \$1.00 Dollar per parcel therefor.(PUBLIC HEARING)

**Vote: 8 yes 3 absent RCV(Boyle, Loughnane, and Blazis out of room)**

**99-151 APPROPRIATION AND LOAN ORDER FOR LAND BANK PURCHASE APPRAISAL SERVICES ORDERED**

That the Town Manager be authorized to contract for and expend funds for the purpose of conducting appraisal services in the consideration of land bank purchases as recommended by the Open Space Committee, as specified in chapter 293 of the Acts of 1998, and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow up to \$100,000 for said services. (PUBLIC HEARING)

**Vote: 10 yes 1 Absent (Loughnane)**

**99-152 APPROPRIATION AND LOAN ORDER LAND ACQUISITION OF FORMER SHELL GAS STATION IN HYANNIS ORDERED**

That the Town Manager be authorized to acquire by purchase for any of the purposes specified in chapter 293 of the Acts of 1998, a parcel of land located AT 499 Iyannough Road, Hyannis, consisting of 15,681 square feet more or less and which is shown as Lot 29 on the Town of Barnstable Assessors Map 311 and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow \$315,000 for the purchase and related costs, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose. (PUBLIC HEARING)

Councilor Pino wanted to ask questions of the Land Bank Committee Chair, he started his questioning and was ruled out of order, challenged the chair vote was 6 yes to support chair

**Vote: Postpone to 6/24/99**

**APPROPRIATION AND LOAN ORDER LAND ACQUISITION OF FENNEY PROPERTY IN BARNSTABLE ORDERED**

That the Town Manager be authorized to acquire by purchase for any of the purposes specified in chapter 293 of the Acts of 1998, a parcel of land located behind the Barnstable West Barnstable School, consisting of 9 acres more or less and which is shown as Lot 006 on the Town of Barnstable Assessors Map 256 and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow \$37,000 and expend up to

\$100,000 in grant funds from the County's Cape Cod Pathways program for the purchase and related costs for a total purchase price of \$135,000, and \$2,000 related costs. The Town Manager is authorized to contract for and expend the appropriation made available for this purpose. Further that the Town Manager is authorized to accept any gifts or grants in relation thereto. (PUBLIC HEARING)

**Vote: 11 yes rcv approved**

## **NEW BUSINESS**

These two items may be adopted

**99-156 SUPPORT FOR CONTINUED HUD RENTAL SUBSIDIES FOR AFFORDABLE HOUSING RESOLVED** That the Town Council hereby directs the Town Manager and the Town Council President to write a letter to the U. S. Department of Housing and Urban Development requesting that its proposal to reduce housing subsidies for low-income renters on Cape Cod not be implemented; with copies of said letter being sent to Representative William Delahunt and Senators Edward Kennedy and John Kerry.

**Vote: unanimous approval**

**99-157 RENEWAL OF MUTUAL COOPERATION AGREEMENT FOR THE BARNSTABLE COUNTY HOME CONSORTIUM ORDERED** That the Town Council hereby approves the "Mutual Cooperation Agreement of the Barnstable County HOME Consortium under the Cranston-Gonzalez National Affordable Housing Act" in accordance with the provisions of GL c 121B, and further authorize the Town Manager, on behalf of the Town of Barnstable to sign this renewal agreement between Board of County Commissioners of Barnstable County and the Town of Barnstable.

**Vote: 11 yes unanimous approval**

This item should be referred to a public hearing 7/15/99

**99-158 APPROPRIATION AND LOAN ORDER - TEMPORARY REPAIRS TO PRIVATE WAYS ORDERED** That the sum of \$700,000 be raised and appropriated for the purpose of making temporary repairs to private ways within the town in accordance with General Ordinance, Chapter III, Article XXXI of the town, and that to meet this Appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$700,000, that the Town Manager is authorized to contract for and expend the Appropriation made available for this purpose, and that the Town Manager is further authorized to accept any grants or gifts and assess betterment's, in relation thereto.

**Vote: 11 yes to refer.**

This item should be referred to a second reading 6/24/99

**99-159 LATE FILING APPOINTMENTS RESOLVED** That the Barnstable Town Council does hereby appoint and reappoint persons to the following multiple member boards:

Motion to add: Kelly Lyden, Registrar of Voters

Motion to add: Richard Aliberti, Golf Committee

**Vote: 11 yes to refer to 6/24/99**

This item should be referred to a joint public hearing 7/15/99

**99-160 ZONING ORDINANCE AMENDMENT ORDERED** That Chapter III, Article III of the Town of Barnstable Ordinances is hereby amended by deleting the existing Section 2-4, Unrestricted Uses, and inserting a new section, 2-4 Exempt Uses, as follows: 2-4 Exempt Uses The following uses and structures are permitted in all zoning districts: Municipal and water supply uses. Municipal recreation use, including recreational activities conducted on town-owned land under the terms of a lease approved by Town Council. In the case of such a lease, any improvements or changes to such town-owned land shall be subject to the approval review of a committee of five (5) residents appointed by the Town Manager or Town Council, at least two (2) of whom shall be from the precinct in which the land is located. The use of land or structures exempt from the use provisions of the Zoning Ordinance pursuant to MGL Ch 40A, Section 3, and any other statute...

**Vote: 11 yes to refer to 7/15/99**

This item should be referred to a second reading

**99-161 ADMINISTRATIVE CODE AMENDMENT ORDERED GOVERNMENT STUDY COMMITTEE** That the Town Council vote to amend the Administrative Code of the Town of Barnstable, as amended, pursuant to Section 5-1 (a) (1) of the Charter, by deleting SECTION 37.00. GOVERNMENT STUDY COMMITTEE in its entirety.

**Vote: 11 yes to refer to 6/24/99**

**99-162 APPROPRIATION ORDER FOR FY99 BUDGET TRANSFERS ORDERED**

That the Town Council hereby transfer \$360,786 from the anticipated FY99 budget savings to Fund Balance Designated for Subsequent Year's Expenditures (FY 2000), for the purpose of funding the following capital and operating needs,:

**Vote: 10 yes passed**

TM Tinsley, takes umbrage at School Committee letter, this is town transfers in dept budgets of operations.

Richardson: What is our contribution to the schools? More than 6 million increase.

Eugenia's question: Tax rate: \$13.28. \$12.31

Sandy Neck – we are monitoring plovers, 3 chicks have been run over.

**99-163 BUDGET PLANNING FOR FISCAL YEAR 2001 RESOLVED** That the Town Council hereby directs the Town Manager to prepare a report on the Fiscal Year 2000 budget a programmatic basis. Included in this report each department shall order its programs from most important to least important basis in their opinion as a starting point for the Budget process for Fiscal Year 2001.

**VOTE: Unanimous consent.**

PUBLIC COMMENT:

Councilor Comment:

Councilor Pino and Elrick would like to discuss further these issues on land bank.

Councilor Boyle: all three precincts in Hyannis did support the land bank, there is not much open space to buy. They should get there just rewards. More than its share of traffic and most of its jobs, burdened quite a bit. Hyannis should be looked upon in a positive light.

Councilor Brown: anytime u can take blighted land and turn it into open space.  
4:00PM Saturday, VFW parade down Main Street.

Councilor Elrick: not get its fair share of open space.

Councilor Richardson- listen to what the people in Hyannis have to say.

Councilor Loughnane: we get 440k in entitlement funds and we have to spend it in Hyannis. We voted to beautify and maintain the Main Street in Hyannis, Aselton Park, and there is lots to be done, big progress but more to be done.

Upon motion duly made and seconded it was unanimously voted to adjourn.

ADJOURNED: at 9: 45 p.m.

Respectfully submitted,

John P. Anderson  
Administrative Assistant

## BARNSTABLE TOWN COUNCIL MINUTES JUNE 24, 1999

A quorum being duly present, Town Council President, Jacalyn Barton, called the regular meeting of the Barnstable Town Council to order at 7:03 p.m., on June 24, 1999, in the hearing room of Barnstable Town Hall, 367 Main Street, Hyannis, MA.

**PRESENT:** Jacalyn Barton, Gary Blazis, Gary Brown, Richard Clark, Richard Elrick, Ann Jane Eshbaugh, Audrey Loughnane, Joseph Pino, Royden Richardson and Gloria W. Rudman. **Absent:** John Boyle.

A motion was made and seconded to accept the minutes of 6/10/99 as read.

**VOTE: Passes, Unanimous.**

### **PUBLIC COMMENT**

Nestor Silva of Marstons Mills, 1. was concerned about a land purchase which was a blighted piece of commercial land, as a #1 priority. Felt it didn't represent the priorities of those who supported the land bank for open space, water protection, etc. He listed other blighted properties for the board to consider. Hopes it will not become a priority.  
2. Referring to last week's meeting, he felt badly for Councilor Pino when he asked about the \$25,000 reward. Was it taken off the price or did someone pocket it? He asked the chair if the town received the \$25,000 a discount?

Eugenia Fortes of Hyannis, 1. Asked about tax rate at last week's meeting and only got part of the answer. She explained that we will be paying property and fire tax on the fall bill. Also questioned council meetings on days other than first and third Thursdays. 2. She felt badly that Councilor Pino did not get credit for finding the land on which the

senior center was built. Seniors needed the daycare center there. Now the town is going to build it elsewhere. 3. She asked about the sign at the Hinckley building regarding parking for the Cape Cod Hospital. Are we getting paid?

Fred Gibson of Cummaquid, 1. He repeated a suggestion he had made before, regarding a Town of Plymouth ordinance on lighting. He would like Barnstable to consider a similar one. It would be nice to lower the glare on Cape Cod. 2. He suggested stopping the waste of money on the noise task force since nothing is being accomplished.

Gary Lopez 1. He spoke about the court case on school funding. He pointed out that he was the moving force behind it. 2. He referred to Mr. Tinsley's answer to Eugenia on the fall tax rate. 3. He spoke to the SBAB and they have a check waiting to send to the town once they receive the complete paperwork. 4. He addressed a number of other financial issues regarding debt service and how it is applied to the school budget, etc. He felt the town would be collecting twice, once from the SBAB and once from the taxpayers, if it didn't take into account the refund from the SBAB.

### **COUNCIL RESPONSE TO PUBLIC COMMENT**

President Barton responded to the various public concerns. The town is paying \$310,000 for Shell Station plus some other associated costs. No one is getting the reward. It was not part of the agreement; there is no real estate commission either. No reward is being given. The number of council meetings beyond the regular meetings are increased as the need requires. She personally thanked Councilor Pino for finding the beautiful site. She referred some of the other concerns to Mr. Tinsley who responded. The town did negotiate with Cape Cod Hospital for additional parking. They use steamship parking in winter but needed other areas during the summer. They are compensating the town with some value for summer concerts. Tinsley explained what makes up the override charges on the tax bill besides the two schools. Regarding SBAB refunds, the net amount paid by the town is charged to the taxpayers. State reimbursement shows as additional revenue and as an exemption.

Councilor Elrick asked if the state reimbursement was available. The reimbursements are already calculated. When school department completes its final audit of costs, the DOE will release the funds.

Councilor Richardson explained that the town has, as part of its sign ordinance, a section about lighted signs. They cannot exceed so many lumens. He would be interested in seeing Plymouth's ordinance. Town is in the process of rewriting the sign bylaw. He feels it is an issue that has been on people's minds for a long time. There is a need to address a working relationship with Comm. Electric that is more town friendly.

Councilor Elrick shares concerns about the purchase of the Shell Station. These are not the kinds of purchases that will be made on a regular basis. He feels that now the senior center is a reality and we need to look at focusing on teens. He explained that District taxes were not subject to prop 2 ½ and this should concern everyone.

President Barton explained that the Shell Station was the #1 priority of HYRATE, who suggested it to the land bank committee, who presented it to board, who then needed to react.

President Barton recognized Troop 52, May McKensie Troop leader, who were in the audience to observe government at work.

## **COMMUNICATION FROM ELECTED OFFICIALS, ETC.**

Land Bank Committee Discussion, Lindsay Counsel, President, was postponed pending the arrival of the committee,

## **CORRESPONDENCE**

Blazis updated the board on the friends of Barnstable Schools fundraising. The fund is over the \$6,000 mark. Money is coming in slowly, about \$1000 a week. If you haven't sent a check, send it in.

## **PRES/VP COMMUNICATIONS**

Councilor Loughnane asked the town manager regarding closed bathrooms at the beaches. She has had letters on it. Bathrooms are closing at 4:30. People go to the beach early in the AM or in the evening. Closing at 4:30 all season long is too early. Also bathrooms should be open earlier in the season. \$30,000 to fund the extra hours seems like a lot of money but not relative to the town's \$90 M budget. Mr. Tinsley explained that it was no different than the last 40 years. There is a lack of staff until school is out. It was a part of a priority package to fund the shoulder season. It was within the override, which did not pass. He pointed out that this was not revenge. The town has never opened them. Either more staff is needed or it is an overtime issue. They can be opened later in the day and close them later. Town does not have the resources to accommodate everything. We do the most with the money we have. Loughnane thought the parking fees should cover the costs, but they do not. At Sandy Neck the bathrooms will be open to 9 PM.

## **TOWN MANAGER COMMUNICATIONS**

Councilor Brown asked about the one-way parking lot at town hall and will it be corrected? Mr. Tinsley explained it was a matter of getting used to no left turn at the South Street end. They tried to maximize the number of parking spaces and limit the lot to town hall usage for employees and visitors.

## **OLD BUSINESS**

This item was taken out of order.

**99-161 ADMINISTRATIVE CODE AMENDMENT** Upon a motion duly made and seconded it was **ORDERED GOVERNMENT STUDY COMMITTEE** That the Town Council vote to amend the administrative code of the Town of Barnstable, as amended, pursuant to section 5-1 (a) (1) of the charter, by deleting section **S37.00. GOVERNMENT STUDY COMMITTEE** in its entirety.

Councilor Eshbaugh explained why it was on the agenda. She did a survey of the councilors and only 3 were in favor of retaining it. There are two members on it right now. Membership was reduced from nine to seven and now they can't get a quorum. Another reason for disbanding it is the charter commission which will be studying government makes it redundant.

Councilor Elrick felt it was premature; The town has not voted on whether there will be a charter commission. The council needs to study all multiple member boards. You could make the same argument about other boards who are missing members. Problem is lack of focus and leadership from the council. Not appropriate to disassemble the boards piecemeal. If the charter commission doesn't get established, we have eliminated the board. This should be voted down or tabled. Let the charter commission evaluate boards. Opposed.

Councilor Eshbaugh felt this was a committee not required by the charter to have. There were suggestions made by this board that the council adopted.

President Barton asked attorney Smith about the power to disband the committee. He referred to the charter explaining that the council had that power.

Councilor Clark asked Councilor Elrick why he gave up his seat when he was elected. Elrick thought it would give someone else a chance to serve. Elrick asked about membership of other boards. Eshbaugh gave a brief explanation. CFAC and Government Study have the fewest members.

Councilor Pino thought it was a good opportunity to take a committee that had not been given good direction through the administrative code, and give it some better direction by eliminating it, then restructuring it, without being concerned about the charter commission. The current charter lacks a group that evaluates the charter. He supports.

Councilor Rudman is opposed and thinks it is piecemeal. Would rather try to decrease the official number of members and try to keep the committee alive. Feels it should be tabled.

Councilor Richardson felt the committee had an agenda of their own which was not productive. Supports.

Councilor Brown feels all committees are government study committees. There are too many committees in the town; that is why there are not enough to serve. Dick Andres, one of the two members, felt it should be disbanded. Supports.

Councilor Loughnane moved to table the item. Seconded.  
VOTE: 4Y, 6 N, not to be tabled.

A motion was made and seconded to move the previous question, no vote was taken.  
On the item.

**VOTE: 6y, 4n, Passes (roll call)**

**99-159A RE-APPOINTMENTS AND APPOINTMENTS** Upon a motion duly made and seconded it was **RESOLVED** That the Barnstable Town Council does hereby re-appoint and appoint persons to the following multiple member boards:

**Board of Assessors**

Re-appoint: Jerry Gilmore, 83 Dunaskin Road, Centerville; to a term which will expire on 6/30/02.

**Golf Committee**

Appoint: Terry Duenas, 690 Cedar Street, West Barnstable; to a term which will expire on 6/30/02. Or

Richard Aliberti, 126 Troutbrook Road, Cotuit

**Licensing Authority**

Appoint: Martin E. Hoxie, 367 Nottingham Drive, Centerville; to a term which will expire on 6/30/02.

**Registrar of Voters**

Appoint: Thomas J. Roderick, 490 River Road, Marstons Mills; to a term which will expire on 6/30/02.

Or

Kelly K. Lydon, 8 Preakness Way, West Barnstable

**Waterways Committee**

Re-appoint: Robert St. Peter, 381 Willimantic Drive, Marstons Mills; to a term which will expire on 6/30/02.

A motion was made and seconded to approve the appointments with single candidates: Board of Assessors, Licensing Authority, and Waterways Committee.

**VOTE: Passes, Unanimous**

A motion was made and seconded to vote on the Golf Committee appointee.

Terry Duenas received 5 votes

Richard Alberti received 4 votes

Councilor Clark abstained and Terry Duenas was appointed.

A motion was made and seconded to vote on the Registrar of Voters appointee.

Councilor Elrick spoke on the registrar of voters. He explained how the appointments were arrived at from Democratic Town Committee. He asked the council to appoint Kelly Lydon who has put in the most work on the town committee.

Thomas Roderick received 4 votes

Kelly Lydon received 4 votes

Councilor Clark and President Barton abstained.

President Barton asked for resumes. Elrick said there were none. The appointment committee did not ask for resumes. Both Barton and Clark felt they needed more information to make an informed decision.

Councilor Loughnane moved to refer this appointment to July 15. Seconded.

**VOTE: Passes, Unanimous consent.**

President Barton asked for a job description of registrar of voters.

The meeting recessed from 8:17 PM to 8:25 PM.

Land Bank Committee presentation was taken at this time. Seven out of fifteen members were in attendance: Lindsey Counsel, Chairman, Mark Wirtanen, Vice Chairman, Ralph Dagwan, Susan Rohrbach, Chris Murphy, Kris Clark and Hank Farnham. Mr. Counsel gave an overview and described the organizational process the committee went through to evaluate and prioritize parcels, etc. Evaluated parcels which had been nominated by the town and other agencies, Have now begun to look at parcels on their own. Felt it was a good process.

Councilor Elrick asked if any subcommittees had been established. One subcommittee was in place to look at bonding issues with Mr. Tinsley. People have taken on their own areas. Elrick, felt most people were of the opinion that parcels should reduce growth and development and keep open space, etc. How have priorities been developed? The committee established a ranking criteria so they could look at what is available and how it fits into the criteria. Wellhead protection is a first criterion.

President Barton felt that regardless of the ranking system, some properties will fall outside it. Properties that protect a multitude of criteria are primary. It is more difficult in Hyannis to get properties within the criteria because you have to bring back the scenic vistas first, hence the Shell Station.

Councilor Pino asked about discussing an executive session issue once the matter was already public. Attorney Smith said it was fine once the matter was public. Mr. Pino then questioned details of the financing on the Shell station that had been discussed in executive session. President Barton asked attorney Smith about this. Mr. Smith thought Councilor Pino was asking about discussing general subject matter, which is on the table now, but not the details of the executive session, which is not yet in the public spectrum.

Councilor Pino moved to release the minutes. Seconded. Pino was bothered by change in funding from land bank money to airport funding. He felt the support for the shell station took an end run.

Councilor Clark amended the motion to release all minutes related to purchase and sales discussions relating to Items 169 and 170. Councilor Rudman didn't feel the actions in those items had been accomplished. Councilor Clark said the board presently had a purchase and sale on Item 170. Mr. Smith pointed out that in past the president has exercised control over the release of executive session minutes.

President Barton could not determine whether there was anything sensitive in the executive session minutes until they are reread. President Barton will arrange to release minutes on Item 169 and Councilor Loughnane will authorize the release of Item 170 (Barton has a conflict with this parcel).

President Barton suggested moving ahead on agenda in order to go into executive session. Councilor Elrick suggested giving the land bank a few more minutes in open meeting.

Sue Rohrbach ranked urban green space very high and supported the Shell Station purchase. If there were another source of funds for it, that would be good to conserve the land bank money. She would like information on recreation needs in the town. Centerville Civic Association is looking for properties in that area. Mr. Counsel informed the board that Mr. Curley is coming up with a list of needs for parks, ball fields, etc. where land bank funds make a difference.

Councilor Richardson asked if there was a policy regarding obtaining land owned by an unwilling seller and regarding the fair distribution of funds town wide. Centerville and Hyannis have less open space, more population and the greatest need. Mr. Counsel felt the real public process and opportunity for input was in the town council forum; they have not had many people at the committee meetings. President Barton clarified that it was the council's responsibility to parcel out the resources. Right now, the council is working with the willing sellers. Where there are not willing sellers, the council will decide whether to take properties by eminent domain.

Councilor Blazis feels there are too many people. We need to stop the people from coming over the bridge. Maybe land should be taken off the books that could be developed. We don't want more building in the town. It is not about buying the best pieces of land, but buying those parcels that can be stopped from development.

Councilor Loughnane felt it was important to keep the million set aside for land purchases, for parcels that might not be appropriate for funding through the land bank. Keep it for time of need. President Barton pointed out that to acquire "rights" to property would not be appropriate with land bank money. Town money would be useful for such rights.

Councilor Richardson suggested that the housing committee meet with land bank committee to share ideas about various properties whose purchase could be beneficial. Affordable housing might be part of the mix.

Mr. Counsel suggested that landowners contact the land bank committee if they have properties that might be appropriate. President Barton announced that the town council was still looking for a person to help this committee.

Councilor Pino asked each member of the committee to speak: Hank Farnham feels it is important to utilize the land as much as possible. Get the most land to reduce the development and make it useable to the citizens. Kris Clark feels the committee has worked well collaboratively. Ralph Dagwan has taken several seminars and is committed to the group. Various people have offered to help with landscaping of shell station. In Hyannis it is hard to deal with fair market value; buildable lot owner can triple the price of the lot, why should he sell it for a little. Sue Rohrbach needs to have some input as to what is buildable. Chris Murphy wishes there were a longer window to research and decide. Mark Wirtanen feels every single village should receive an equal amount of land bank funds.

## **NEW BUSINESS**

### **99-164 APPROVAL OF A FIVE YEAR CONTRACT FOR TRANSPORTATION SERVICES WITH NORTHSIDE BUS SERVICE**

Upon a motion duly made and seconded it was **ORDERED** That the Town Council hereby approves the award a five year contract to Northside Bus Service for the purpose of providing transportation of students to and from the Barnstable Public Schools, contract effective from FY2000 through FY2004 in the following amounts, payable in 26 equal installments per year:

FY2000	\$1,898,776
FY2001	\$1,925,677
FY2002	\$1,954,677
FY2003	\$1,985,798
FY2004	<u>\$2,026,798</u>
<b>TOTAL</b>	<b>\$9,791,530</b>

Tinsley explained anything over a 3 year lease needs approval. Busing contracts need a longer contract to make it feasible.

**VOTE: Unanimous consent**

**99-165 EASEMENT ORDER, ENTERPRISE ROAD, HYANNIS** Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 15, 1999.

**VOTE: Unanimous consent**

**99-166 EASEMENT ORDER, INDEPENDENCE DRIVE, HYANNIS** Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 15, 1999.

**VOTE: Unanimous consent**

**99-167 ACCEPTANCE OF AN ENDANGERED SPECIES GRANT FROM THE MASSACHUSETTS ENVIRONMENTAL TRUST** Upon a motion duly made and seconded it was **RESOLVED:** That the Town Council hereby supports the acceptance of an Endangered Species Grant for FY 2000 and FY 2001 in the amount of \$20,000.00 from the Massachusetts Environmental Trust for the purpose of funding shorebird

monitoring at Sandy Neck, and that the Town Manager be authorized to expend said funds, and to accept any grants or gifts in relation thereto.

Councilor Clark asked about the impact to boaters. David Curley, Director of Recreation, explained this item. Providing acceptable ways to protect the plovers may result in allowing the designation of additional areas for access. Fatalities are caused by predation and nature; there have been about 6 nests lost – 24 eggs - out of about 32 nests. There is evidence that boaters are having an effect – people eating food may be attracting predators. Clark asked what would happen if you don't accept the grant. By accepting, we hope to insure that some of the beach remains open for people uses. Nests have maintained or increased in number and the goal is to increase the fledge rate. If that occurs, more areas will be able to be opened.

President Barton explained that if we didn't manage the species that are required to be protected, the state might manage it for us. Curley doesn't want the boaters to adversely impact the species.

Councilor Loughnane feels the grant can help provide better protection and the boaters need to be educated. It opens the door to other positive moves down the road.

Councilor Elrick asked about other species monitored. Just plovers.

Councilor Pino can relate to Clark's concerns on boating. Guidelines for whether boats come onto the beach, are trailered in or just stay off the shore are needed. Hopes it will not negatively impact the boating industry. Maybe signs telling boats where not to go instead of using a state grant. Mr. Curley said the grant would help to determine if we can provided additional protection, additional signage etc. Develop practices to protect the species.

Councilor Richardson is concerned about the town's ability to manage the beach thoughtfully. Sounds like it is a good thing. He supports.

**VOTE: Unanimous**

**99-168 APPOINTMENTS COTUIT SANTUIT HISTORIC DISTRICT ARCHITECT** Upon a motion duly made and seconded it was voted to refer this item to a second reading on July 15, 1999.

**VOTE: Unanimous consent**

**99-169 APPROPRIATION AND TRANSFER ORDER FROM THE AIRPORT RESERVE ACCOUNT FOR LAND ACQUISITION OF FORMER SHELL GAS STATION IN HYANNIS** Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 15, 1999.

**VOTE: Unanimous consent**

President Barton turned the chair over to Councilor Loughnane and left the hall.

**99-170 APPROPRIATION AND LOAN ORDER FOR LAND ACQUISITION OF HERRING RUN AT INDIAN LAKES DEVELOPMENT TRUST, LOTS 1, 2, 4A AND 5A, IN MARSTONS MILLS** Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 15, 1999.

Councilor Clark asked the chair to direct the town manager to provide information on this item such as options, etc.

**VOTE: Unanimous**

President Barton returned.

A motion was made and seconded at 9:50 P.M. to go into executive session land acquisition and adjourn directly from that meeting.

**VOTE: Unanimous (roll call)**

Respectfully submitted,

Lucia Fulco  
Assistant Town Clerk

Town of Barnstable  
**Planning Board**

230 South Street, Hyannis, Massachusetts 02601  
(508) 790-6289 Fax (508) 790-6288

June 25, 1999

Jacalyn Barton, President  
Barnstable Town Council  
Town Hall  
Hyannis 02601

**Re: Planning Board recommendation, Zoning Amendment  
TC # 99-140 SD-1 Zoning District**

Dear President Barton,

A joint public hearing of the Town Council and Planning Board was opened June 3, 1999 and extended to June 10, 1999, on the above referenced zoning amendment. On June 21, at the regular meeting of the Planning Board, the Board voted to recommend to the Town Council that the SD-1 Zoning amendment be adopted as written.

Sincerely

Robert Stahley, Chairman

# BARNSTABLE TOWN COUNCIL

ITEM NO.: 99-140  
INTRO.: 5/5/99

## ZONING ORDINANCE AMENDMENT

### ORDERED SECTION 1

That Chapter III, Article III of the Ordinances is hereby amended by amendment to the Official Zoning Map by the creation of the SD-I Service and Distribution District, map file date May 5, 1999, and by inserting a new Section 3-3.8 SD-1 Service and Distribution District as follows:

#### 3-3.8 SD-1 Service and Distribution District

1. Principal Permitted Uses: the following uses listed in paragraphs A) through I) below are permitted in the SD-1 Service and Distribution District, provided that no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as follows:
  - a) Very Small Quantity Generators.
  - b) Waste oil retention facilities for retailers of motor oil required and operated in compliance with M.G.L. C. 21, S. 52A.
  - c) Oil on site for heating of a structure or to supply an emergency generator.
- A) Medical, dental offices, laboratory services, treatment facilities.
- B) All other business, governmental and professional offices.
- C) Bank.
- D) Personal Service Business including but not limited to the following: barber, beauty shop, dry-cleaning pick-up service, shoe repair, tailor and dressmaker.
- E) Mortuary or funeral home.
- F) Research and development, technological and computer research, software development and data processing including computer operations services.
- G) Publishing and printing establishments.
- H) Boat sales and storage.
- I) Contractor service establishments:
  - a. wholesale sales and distribution of building materials including plumbing, carpentry, lumber, electrical, heating and air conditioning, and other similar service or repair businesses; associated show rooms and sales/display space customarily accessory to such uses; and
  - b. landscaping, construction and site preparation, and other similar service businesses;provided that all outdoor storage of building materials, trucks and landscaping equipment and materials, are screened from view from Rt. 28 and Old Post Road.
2. Accessory Uses: (Reserved for future use)
3. Conditional Uses (Reserved for future use)
  - A. Retail store providing that Zoning Board of Appeals finds that:
    - (a) The proposed business is a low to average volume traffic generator, not to include a high volume traffic generator such as a convenience store. The applicant shall provide the Zoning Board of Appeals with traffic data including a comparison with trip generation rates for different types of retail uses, from the Institute of Transportation Engineers "Trip Generation Manual".

- B. Full service restaurant, subject to the following conditions:
- a) Food is served to customers at tables by waitpersons, except that the Zoning Board of Appeals may permit buffet style dining;
  - b) Approximately 85% of food is consumed on the premises;
  - c) Bar seats or places do not exceed 15% of restaurant seats;
  - d) Entertainment shall be limited to non-amplified dinner music;
  - e) No drive-in or outdoor take-out counter facilities shall be permitted; and
  - f) Access shall be from Industry Road or Old Post Road.

4. Special Permit Uses (Reserved for future use)

5. Bulk Regulations (Dimensional Requirements):

ZONE	MIN.LOT		MIN. YARD			MAX.BLDG/STRUCTURE. HEIGHT	MAX. FLOOR AREA RATIO*	
	AREA	FRONTAGE	FRONT	SIDE	REAR		Retail	All other Uses
SD-1	43,560 sq. ft	150 feet	45	15	20	30 feet#.	.25	.30

# or two stories, whichever is lesser.

\* Floor Area Ratio (FAR) is the ratio of gross building square feet to lot area.

Front Yard Landscaped Setback from the road right of way: 20 feet, 45 feet from Route 28.

Existing trees and shrubs shall be retained within the road right of way and within the required Front Yard Landscaped Setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the Front Yard Landscaped Setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three (3.0) inches, shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives, and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any Site Plan approved pursuant to Section 4-7 herein.

**SECTION 2 ORDERED**

**That Chapter III, Article III of the Town of Barnstable Ordinances is hereby amended by amending Section 2-1, Establishment of District as follows:  
Zoning Ordinance, SECTION 2 GENERAL PROVISIONS**

**2-1 Establishment of Districts**

In order to carry out the purpose of this ordinance, the following districts are hereby established:

**Residential Districts**

- RB** Residence B District
- RB-1** Residence B-1 District
- RC** Residence C District
- RC-1** Residence C-1 District
- RC-2** Residence C-2 District
- RD** Residence D District
- RD-1** Residence D-1 District
- RF** Residence F District
- RF-1** Residence F-1 District

RF-2 Residence F-2 District  
RG Residence G District  
RAH Residence AH District

**Office Districts**

PR Professional Residential District  
HO Highway Office District

**Commercial Districts**

B Business District  
BA Business A District  
BL-B Business Limited B District  
BL-C Business Limited C District  
MB-A Marine Business A District  
MB-B Marine Business B District  
VB-A Village Business A District  
VB-B Village Business B District  
HB Highway Business District  
UB Urban Business District  
S&D Service and Distribution District  
SD-1 Service and Distribution District

**Industrial Districts**

IND LIMITED Industrial Limited District  
IND Industrial District

**Overlay Districts**

GP Groundwater Protection Overlay District  
AP Aquifer Protection Overlay District  
WP Well Protection Overlay District  
Shopping Center Redevelopment Overlay District  
Adult Use Overlay District

**SECTION 3 To amend Section 4-3, signs, as follows:**

4-3.7 Signs in Business, Limited Business, Highway Business, Urban Business, HO Highway Office, S and D Service and Distribution District and the SD-1 Service and Distribution District:

**Sponsor:** Local Comprehensive Plan Implementation Committee

**DATE**

5/6/99  
6/3/99  
6/10/99

**ACTION TAKEN**

refer to joint public hearing on June 3, 1999  
hearing opened and continued to 6/10/99

**AGENDA ITEM SUMMARY  
99-140**

**TO:** Town Council  
**FROM:** Jaci Barton, Chairman  
Local Comprehensive Plan Implementation Committee  
**DATE:** April 29, 1999  
**SUBJECT:** **Zoning map and text amendment, creating the SD-1 Service and Distribution District**

**BACKGROUND**

The Service and Distribution Zoning District was prioritized by the Local Comprehensive Plan, and in turn by the Town Council, as a high priority area for zoning changes. The district as a whole is large, with approximately 60 acres of land, a substantial portion of which is undeveloped. Different strategies were developed for different portions of the overall S and D area. Most recently, the Town Council approved a zoning amendment that changed a portion of the S and D area to RF Single Family Residential to reflect the existing residential development. The area including Friends Market and the vacant land to the west which is being proposed for development by Stop and Shop. No re-zoning is being proposed while this development makes its way through the permitting process with the Cape Cod Commission: this is a very low density proposal.

This version of the re-zoning of the SD-1 area was worked out with several landowners.

**ANALYSIS**

The proposed SD-1 area is located at the east end of the district, where lots are relatively small, approximately one acre in size with frontage on Industry Road, Old Post Road and/or Rt. 28.

Existing development is very mixed, with building materials storage, construction, computer, funeral home, pizza and boat storage uses.

At present the area is just outside a Zone of Contribution (ZOC) to public supply wells however, the construction of additional wells in the Hayden wellfield may result in the ZOC extending south over the S and D area. In the past both the S and D area and the Windmill shopping center on the south side of Rt. 28 were located in a ZOC. For this reason, a prohibition has been placed on the generation of hazardous waste beyond the Very Small Quantity Generator level (maximum accumulation of 25 gallons of liquid and 220 lbs of dry waste). This is a similar level of protection to the existing GP zone. Please note that 'Very Small Quantity Generator' is already defined and described in Section 7 of the Ordinance.

**PROPOSED RE-ZONING**

**EXPLANATION SECTION 2**

**Zoning Ordinance Section 3-3.8, to create the SD-1 District**

The proposed SD-1 Service and Distribution District would permit the following uses **as of right**, subject to no generation of hazardous materials beyond the Very Small Quantity Generator level:

Medical and other offices, funeral home, bank, research and development, and computer related uses, publishing and printing, boat sales and storage, and contractors' service yards.

This list of uses reflects the present type of development in the area, to avoid creating non-conformities. It also provides a much needed area for contractors. Lack of appropriately zoned areas for contractors is resulting in zoning violations in residential districts.

In addition, the following uses would be permitted by **Special Permit** from the Zoning Board of Appeals:

- a. **Retail uses**, excluding high traffic generators such as a convenience store. The reason for this exclusion is that this part of Rt. 28 in 1992 carried approximately 28,000 vehicle trips a day, only slightly lower than Rt. 28 and Rt. 132 in Hyannis. Furthermore, this area of Rt. 28 has only two lanes, and there are lengthy traffic back-ups at the Putnam Avenue/Rt. 28 intersection. Frequent left turns across the flow of on-coming traffic has the potential to create even more back-ups.
- b. **Full service restaurants**. This language is presently in the Ordinance, and is consistent with the expressed desire of Marstons Mills residents for a restaurant. A series of conditions was added to help define a full service restaurant, and to distinguish between this and a fast food restaurant, which should be avoided in this area, because of traffic concerns.

#### **EXPLANATION SECTION 1**

##### **Zoning Ordinance Section 2-1**

Changes to Section 2-1 updates the list of zoning districts created by the Zoning Ordinance, including the Overlay Districts. It is recommended that even if the SD-1 District is not adopted, that the changes to Section 2-1 be adopted, with the removal of the line for the SD-1.

#### **EXPLANATION SECTION 3**

##### **Zoning Ordinance Section 4-3**

Changes to Section 4-3 establishes sign requirements for both the HO Highway Office and SD-1 District. There is no change in the requirements for signs, but simply reflects the change in the zoning district name designation. It is recommended that even if the SD-1 District is not adopted, that the Highway Office District be added to the list of signs in Section 4-3.

#### **FISCAL IMPACT**

There is no direct fiscal impact to the town budget of these zoning changes.

#### **TOWN MANAGER RECOMMENDATION**

The Town Manager recommends adoption of this Ordinance after all issues raised at the public hearing have been satisfactorily addressed.

#### **STAFF ASSISTANCE**

Jacqueline Etsten, Principle Planner, Dominic Modicamore, Associate Planner

### **BARNSTABLE TOWN COUNCIL**

**ITEM NO: 99-158**  
**INTRO.: 6/17/99**

**APPROPRIATION AND LOAN ORDER - TEMPORARY REPAIRS TO PRIVATE WAYS**

**ORDERED:**

That the sum of **\$700,000** be raised and appropriated for the purpose of making temporary repairs to private ways within the town in accordance with General Ordinance, Chapter III, Article XXXI of the town, and that to meet this Appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$700,000**, that the Town Manager is authorized to contract for and expend the Appropriation made available for this purpose, and that the Town Manager is further authorized to accept any grants or gifts and assess betterment's, in relation thereto.

**Sponsor:** Town Manager

See attached Agenda Item Summary

**DATE**

**ACTION TAKEN**

6/17/99

refer to public hearing 7/15/99

**AGENDA ITEM SUMMARY**  
**99-158**

**TO:** Town Council  
**FROM:** James D. Tinsley, Town Manager  
**THROUGH:** Thomas J. Mullen, Superintendent DPW  
**DATE:** June 7, 1999  
**SUBJECT:** Appropriation and Loan Order for Temporary Repairs to Private Ways

**BACKGROUND** With the passage of Appropriation and Loan Order 95-167, \$1,500,000 was made available for the purpose of conducting a temporary repair program for private ways located within the town. This appropriation resulted from the successful passage by both the Town Council and the State legislature of home rule legislation authorizing the town to borrow an amount not to exceed \$10 million for temporary repairs to private roads. Since inception of the program, 66 roads totaling 14.7 miles have been repaired under the program. Pursuant to the Administrative Procedures governing the program, abutters to the roads have been charged betterment assessments for 100 percent of the actual costs of the repairs which they can elect to pay over a period of 10 years. To date the assessment has averaged approximately \$2,020 per abutter.

**ANALYSIS** At the time Appropriation and Loan Order 95-167 was passed, it was estimated that the funding authorization would carry the program through the end of FY 1996 and at that time another authorization would be required. Although the funding lasted longer than originally expected, the program is considered to have been highly successful and reportedly is a model for other towns to follow in resolving the growing problem of deteriorating private roads. The repairs made to many of the roads has saved them from what would otherwise have been total failure in the not too distant future. With approximately 1,050 other private roads remaining, a majority of which require attention, it is important that this program continue to be available to persons dependent on these roads to access their property. Currently, the abutters of two roads, with repair costs totaling approximately \$233,000, are prepared to proceed with repairs as soon as additional funds are approved

**FISCAL IMPACT** The current balance in the account is just under \$37,000. An additional appropriation of \$700,000 will allow the program to continue for upwards several years. As is the case with the original funding authorization, debt service will be repaid through 100 percent betterment assessments

**TOWN MANAGER RECOMMENDATION** The Town Manger recommends that the Town Council approve this Appropriation and Loan Order after the holding of a public hearing.

**STAFF ASSISTANCE:** Robert Burgmann, Town Engineer, Mark Milne, Finance Director and Robert L. O'Brien, Asst. Supt. DPW

**BARNSTABLE TOWN COUNCIL**

**ITEM # : 99 -159B  
INTRO. : 6/17/99**

**RE-APPOINTMENTS AND APPOINTMENTS**

**RESOLVED**

That the Barnstable Town Council does hereby re-appoint and appoint persons to the following multiple member boards:

**Registrar of Voters**

Appoint: Thomas J. Roderick, 490 River Road, Marstons Mills; to a term which will expire on 6/30/02.

Or

Kelly K. Lydon, 8 Preakness Way, West Barnstable

**SPONSOR** : Appts. Committee

**DATE**

**ACTION TAKEN**

6/17/99

refer to second reading with the additions

6/24/99

approved all but Registrar of Voters, refer to 7/15/99

7/15/99

## BARNSTABLE TOWN COUNCIL

ITEM NO: 99-160

INTRO.: 6/17/99

### ZONING ORDINANCE AMENDMENT

**That Chapter III, Article III of the Town of Barnstable Ordinances is hereby amended by deleting the existing Section 2-4, Unrestricted Uses, and inserting a new section, 2-4 Exempt Uses, as follows:**

#### **2-4 Exempt Uses**

The following uses and structures are permitted in all zoning districts:

1. Municipal and water supply uses.
2. Municipal recreation use, including recreational activities conducted on town-owned land under the terms of a lease approved by Town Council. In the case of such a lease, any improvements or changes to such town-owned land shall be subject to the ~~approval~~ review of a committee of five (5) residents appointed by the Town Manager or Town Council, at least two (2) of whom shall be from the precinct in which the land is located.
3. The use of land or structures exempt from the use provisions of the Zoning Ordinance pursuant to MGL Ch 40A, Section 3, and any other statute.
  - A) Where such exempt uses are subject to reasonable regulation of bulk, density and parking regulations by MGL Ch 40A Section 3, reasonable regulation shall be deemed to be: the Bulk Regulations of the Zoning District, except that church steeples may be permitted up to 75 feet in height; Section 4-2, Off-street Parking Regulations; and Section 4-7, Site Plan Review.
  - B) Where the proposed use does not comply with paragraph 3A above, the Zoning Board of Appeals shall by a Modification Permit, modify the Bulk Regulations of the Zoning District and/or the parking requirements of Section 4-2, Off-Street Parking Regulations, where such regulation would substantially diminish or detract from the usefulness of a proposed development, or impair the character of the development so as to affect its intended use, provided that the modification of the Bulk Regulations and/or parking requirements will not create a public safety hazard along the adjacent roadways and will not create a nuisance to other, surrounding properties such that it will impair the use of these properties.
  - C) A Modification Permit shall be subject to the same procedural requirements as a Special Permit, except that approval of the Modification Permit shall require a majority of the members of the Board.
4. Agriculture, horticulture, viticulture, aquaculture and/or floriculture on a parcel of land five (5) acres or less in size, shall be permitted subject to the following requirements in Residential Districts:

- A) Seasonal garden stands for the sale of seasonal fruits, flowers and vegetables shall be permitted, only for the sale of produce grown on the premises.
- B) No person shall be employed on the premises.
- C) No more than one temporary, on-premise sign may be erected, not to exceed two square feet, to be removed during the off-season.
- D) Any structure for agricultural, horticulture, viticulture, aquaculture and/or floriculture use, shall conform to the setbacks of the zoning district, or a minimum of 25 feet, whichever is greater, except that the keeping of horses in a Residential District shall be in compliance with the requirements of that Zoning District.

**To insert a new Definition, Agriculture and related uses, in Section 7 Definitions, in appropriate alphabetical sequence as follows:**

**Agriculture and related Uses:**

The adoption of this Definition is explicitly intended to be a clarification of existing Ordinances and is not intended to be a new restriction.

- a) For the purposes of Section 2-4.3, agriculture, horticulture, floriculture and viticulture on a parcel of land more than five acres subject to statutory exemption pursuant to MGL Ch 40A, Section 3, shall be defined to mean what they mean, under State Statute.
- b) For the purposes of Section 2-4.4, on a parcel of land five acres or less in size, the terms agriculture, horticulture, viticulture, aquaculture or floriculture shall not include: i. the sale of products or plants grown elsewhere; ii. the storage of loam, mulch, gravel, and similar materials, iii. the storage of plants for installation, use or sale elsewhere; iv. the parking, storage or use of heavy equipment; and v. the assembling of crews for the purpose of landscape construction and maintenance at off-site locations.

**Sponsor:** Local Comprehensive Plan Implementation Committee

<u>DATE</u>	<u>ACTION TAKEN</u>
6/17/99	refer to joint public hearing 7/15/99

7/15/99

**AGENDA ITEM SUMMARY**  
**99-160**

**TO:** Town Council  
**FROM:** Jacalyn Barton, Chairman, LCPIC  
**DATE:** May 17, 1999  
**SUBJECT:** Exempt Uses

**BACKGROUND**

This Zoning Ordinance change would clarify and define requirements for uses exempt by State Statute, MGL Ch 40A, Section 3, from the use regulations of the town's Zoning Ordinance.

**ANALYSIS**

Paragraph 1 (Municipal and water supply uses) and 2 (Municipal recreation use) are in the present Ordinance. A small change is proposed to clarify that a committee appointed to advise the Town Manager or Town Council on a proposed recreational lease does not have the power to approve the terms of a lease, but can provide for a review.

MGL Ch 40A, Section 3, exempts a number of uses including religious and non-profit educational uses from conforming with the use requirements of the local Zoning Ordinance. Since this Section of the Zoning Act has changed several times in recent years, it is proposed to reference the uses exempted by Section 3, rather than provide a listing in the Barnstable Ordinance. In this way, the Barnstable Ordinance should remain current without frequent revisions.

Certain uses exempted by the State from local zoning are subject to "*reasonable regulations concerning the bulk and height of structures, and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements*". The Barnstable Ordinance is presently silent on such requirements. A provision has therefore been included to subject such uses to the same dimensional requirements as the Zoning District, with a maximum height of 75 feet for church steeples, and to require such uses to be submitted through Site Plan Review. However, there may be instances where the nature of the intended use is such that strict conformance to the Bulk Regulations of the Zoning District and the parking requirements needs to be modified. A Modification Permit has therefore been inserted to allow the Zoning Board Appeals to waive these requirements, balancing the needs of the proposed use with the town's traditional zoning issues of public safety along adjacent streets, and nearby property impacts. This Modification Permit avoids the need for a variance, and avoids for example, some of the complex legal issues associated with certain uses, especially religious uses. A Modification Permit is the same as a Special Permit except that a simple majority vote is necessary for approval, compared to a two thirds vote for a Special Permit.

Agricultural, horticulture, floriculture, and viticulture uses on parcels greater than five acres are also exempt from zoning use provisions by MGL Ch 40A with a series of complex, and possibly contradictory provisions, which have changed frequently. In Barnstable, an agricultural exemption has been extended to all parcels regardless of size, resulting in litigation with regard to landscape contractors and construction companies claiming agricultural exemptions from zoning in residential districts on small lots. Such uses can result in adverse effects on adjacent residential parcels.

It is therefore proposed that Barnstable adopt the agricultural exemption as authorized by the State, to apply only to parcels greater than five acres. On the larger parcels, such uses will be less of a nuisance to neighboring properties. However, in order to retain traditional garden pursuits including roadside stands for sale of small amounts of produce grown on the premises, a provision has been added to permit these activities on smaller parcels, less than five acres in size, with limitations designed to protect adjacent properties.

The change in language should provide the town with greater control on lands less than five acres in size. The proposed definitions makes a distinction between agriculture and related uses subject to State exemptions from zoning, and the proposed town exemption on parcels less than five acres, to exclude contractors storage yards.

**FISCAL IMPACT**

There is no fiscal impact to the town budget of these proposed zoning amendments, although there may be a beneficial effect of reducing the amount of litigation related to contractors operating on parcels less than five acres in size in residential neighborhoods.

**TOWN MANAGER RECOMMENDATION**

The Town Manager recommends that the amendments be adopted, when all issues raised at the public hearing have been satisfactorily addressed.

**STAFF ASSISTANCE:**

Jacqueline Etsten, Principal Planner, Robert Smith, Town Attorney.

**BARNSTABLE TOWN COUNCIL**

**ITEM NO: 99-165  
INTRO.: 6/24/99**

**EASEMENT ORDER, ENTERPRISE ROAD, HYANNIS**

**ORDERED:**

That the Town of Barnstable accept the layout and definition of the portion of Enterprise Road, Hyannis between the end of the existing Town layout and Iyannough road / Route 132 as shown on a plan of land entitled "TOWN OF BARNSTABLE PLAN SHOWING LAYOUT OF ENTERPRISE ROAD (HYANNIS) AS LAID OUT BY THE TOWN MANAGER ACTING UNDER CHAPTER II, ARTICLE VIII, SECTION 2 GENERAL ORDINANCES", Dated March 31, 1999, Scale: 1"=40', which plan is on file in the Town clerk's Office; and further to authorize the Town Manager to take by eminent domain EASEMENTS for highway purposes over parcels 1 through 7 as shown on said plan for the sum of one dollar (\$1.00) therefor.

**Sponsor:** Town Manager

<u>DATE</u>	<u>ACTION TAKEN</u>
6/24/99	refer to public hearing on 7/15/99
<u>7/15/99</u>	_____

**AGENDA ITEM SUMMARY  
99-165**

**TO:** Town Council  
**FROM:** James D. Tinsley, Town Manager  
**THROUGH:** Thomas J. Mullen, Superintendent DPW  
**DATE:** June 18, 1999  
**SUBJECT:** Enterprise Road Hyannis Easements

**BACKGROUND**

As part of their expansion program, The Cape Cod Mall has constructed an extension of the existing Enterprise Road northerly to Iyannough Road / Route 132 . This will provide for through traffic flow between Bearses way and Iyannough Road / Route 132.

**ANALYSIS**

The new road extension forms an important part of the town's road network. it will expedite the flow of traffic between Falmouth Road / Route 28 and Iyannough Road / Route 132. In order to control the ultimate use and function of the road, it is an important piece to own.

**FISCAL IMPACT**

Because this portion of road is relatively short and is brand new, the taking should have minimal fiscal impact.

**TOWN MANAGER RECOMMENDATION**

The Town Manager recommends that the Town Council approve the action proposed by this order.

**BOARD AND COMMISSION ACTION** N/A

**STAFF ASSISTANCE:** Robert Burgmann, Robert L. O'Brien

**BARNSTABLE TOWN COUNCIL**

**ITEM NO: 99-166  
INTRO.: 6/24/99**

**EASEMENT ORDER, INDEPENDENCE DRIVE, HYANNIS**

**ORDERED:**

That the Town of Barnstable accept the layout and definition of the portion of Independence Drive, Hyannis between Iyannough Road / Route 132 and Kidds Hill Road as shown on a plan of land entitled "TOWN OF BARNSTABLE PLAN SHOWING LAYOUT OF INDEPENDENCE DRIVE (HYANNIS) AS LAID OUT BY THE TOWN MANAGER ACTING UNDER CHAPTER II, ARTICLE VIII, SECTION 2 GENERAL ORDINANCES AS MADE BY THE D.P.W ENGINEERING DIVISION", Dated April 2, 1999, Scale: 1"=40' (three sheets), which plan is on file in the Town Clerk's Office; and further to authorize the Town Manager to take by purchase, gift or eminent domain EASEMENTS for highway purposes over parcels 1 through 16 as shown on said plan for the sum of one dollar (\$1.00) therefor.

**Sponsor:** Town Manager

<u>DATE</u>	<u>ACTION TAKEN</u>
6/24/99	refer to public hearing on 7/15/99
7/15/99	

**AGENDA ITEM SUMMARY  
99-166**

**TO:** Town Council  
**FROM:** James D. Tinsley, Town Manager  
**THROUGH:** Thomas J. Mullen, Superintendent DPW  
**DATE:** June 18, 1999  
**SUBJECT:** Independence Drive, Hyannis Easements

**BACKGROUND**

Independence Drive serves as a major access roadway to the town's industrial area. It connect a series of town roads i.e.. Iyannough Road / Route 132, Kidds Hill Road, Attucks Lane and Hadaway Road. The road is classified as a secondary road within the hierarchy of roads within the town and is an important part of the town's transportation network.

**ANALYSIS**

Because of it's importance to the commercial and industrial well being of the Hyannis area, the road should be the responsibility of the Town to regulate and maintain. In order to do this properly, this section of road should be taken as a town road.

**FISCAL IMPACT**

Because the town already performs many of the maintenance functions, the fiscal impact of taking the portion of Independence Drive from Iyannough Road / Route 132 to Kidds Hill Road will be minimal.

**TOWN MANAGER RECOMMENDATION**

The Town Manager recommends that the Town Council approve the action proposed by this order.

**BOARD AND COMMISSION ACTION** N/A

**STAFF ASSISTANCE:** Robert Burgmann, Robert Smith and Robert L. O'Brien

**BARNSTABLE TOWN COUNCIL**

**ITEM # : 99 -168  
INTRO. : 6/24/99**

**APPOINTMENTS**

**RESOLVED**

That the Barnstable Town Council does hereby re-appoint and appoint persons to the following multiple member boards:

**Cotuit Santuit Historical District**

**Appoint:** As the architect member; Lauren M. Kanzer, 48 Crystal Ridge Road, Cotuit.

**SPONSOR :** Appts. Committee

**DATE**

**ACTION TAKEN**

6/24/99

refer to second reading

7/15/99

**BARNSTABLE TOWN COUNCIL**

**ITEM NO.: 99-169  
INTRO.: 6/24/99**

**APPROPRIATION AND LOAN ORDER AIRPORT LAND PURCHASE OF FORMER SHELL GAS STATION IN HYANNIS**

**ORDERED**

That the sum of \$315,000 be appropriated for the purpose and related costs of acquiring a parcel of land for the Airport located at 499 Lyannough Road, Hyannis, consisting of 15,681 square feet more or less and which is shown as Lot 29 on the Town of Barnstable Assessors Map 311 and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow \$315,000 and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and be authorized to accept any grants or gifts in relation thereto.

**RATIONALE FOR LOAN ORDER:** Airport reserve funds must be certified each year by the Department of Revenue, similar to the town's free cash certification. Once June 30 passes, expenditures cannot be made from Airport reserves until their "free cash" has been certified by DOR for FY2000. In order to move ahead with the purchase of this property, the Council will need to authorize a loan order until such time as their reserves are certified. At that point, the Town Manager will bring forward an order rescinding this order, and replacing it with a direct appropriation and transfer order. This is a procedural issue, as it is anticipated that the Airport will have approximately the same amount of reserve funds available for FY2000 as they have for FY1999.

**SPONSOR:** Town Manager

DATE

ACTION TAKEN

6/24/99

refer to public hearing 7/15/99

7/15/99

**BARNSTABLE TOWN COUNCIL**

**ITEM NO: 99-170  
INTRO.: 6/24/99**

**APPROPRIATION AND LOAN ORDER FOR LAND ACQUISITION OF HERRING  
RUN AT INDIAN LAKES DEVELOPMENT TRUST**

**ORDERED:**

That the Town Manager be authorized to acquire by purchase for any of the purposes specified in Chapter 293 of the Acts of 1998, four parcels of land located in Marstons Mills and shown as Lots 1, 2, 4A and 5A on a plan of land recorded with the Barnstable Registry of Deeds in Plan Book 541, Page 73, and to meet this appropriation the Town Treasurer, with the approval of the Town Manager, is authorized to borrow the sum of \$703,500.00, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, and to accept any grants or gifts in relation thereto.

**Sponsor:** Town Manager

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>6/24/99</u>	<u>refer to public hearing 7/15/99</u>
<u>7/15/99</u>	<u>_____</u>

**AGENDA ITEM SUMMARY  
99-170**

**TO:** Town Council  
**FROM:** James D. Tinsley, Town Manager  
**DATE:** June 22, 1999  
**SUBJECT:** Appropriation and Loan Order for Land Acquisition of Herring Run at Indian Lakes Development Trust

**BACKGROUND**

Under Town Council Item No. 98-044, the Town Council voted to accept a deed to acquire 5.27 acres of open space in Open Space Subdivision Herring Run at Indian Lakes. This is the subdivision bordering the herring run in Marstons Mills, which has been maintained by the town since the 1880s. At the time of Town Council vote, it was acknowledged that there were several lots which were in and around the herring run which were the subject of an appeal pending before the Department of Environmental Protection concerning the applicability of the Rivers Protection Act to the herring run.

**ANALYSIS**

The Administrative Law Judge assigned to the case suggested that the parties attempt to discuss settlement. In the course of settlement negotiations, the Conservation Commission determined that maximum protection for the herring run could be obtained through the acquisition of the subdivision Lots 1, 2, 4A and 5A. That information went to the Land Bank Committee which recommended the acquisition. Based upon the vote of the Land Bank Committee and the timing of the pending proceedings before the DEP, the Town Manager signed a purchase and sales agreement, which also leads to the resolution of all pending litigation before the DEP. (The purchase and sales agreement is contingent upon the vote of the Barnstable Town Council authorizing the purchase of all or a portion of the Seller's land and appropriating funds therefor).

**FISCAL IMPACT**

The Land Bank funds would cover this purchase, together with any donations.

**TOWN MANAGER RECOMMENDATION**

The Town Manager recommends that the Town Council approve the action proposed by this order.

**BOARD AND COMMISSION ACTION** This purchase has been recommended by the Open Space Committee and the Conservation Commission.

**STAFF ASSISTANCE:** Ruth Weil, Assistant Town Attorney

**BARNSTABLE TOWN COUNCIL**

**ITEM NO: 2000-001  
INTRO.: 7/15/99**

**DIRECTION TO THE HOUSING COMMITTEE TO DEVELOP LOCAL LEGISLATION  
REQUIRING LANDLORDS TO MAKE PERIODIC INSPECTIONS OF THEIR  
PROPERTY TO ASCERTAIN THAT THE MINIMUM STANDARDS OF FITNESS FOR  
HUMAN HABITATION ARE BEING MET THEREIN**

**RESOLVED**

That the Town Council hereby directs the Housing Committee to prepare and submit for enactment by the Council a draft ordinance requiring owners of residential rental property to inspect the exterior of said property no less frequently than every three months; simultaneously with said inspection, the owner to request permission of the tenant to inspect the interior of the property, and if permission is granted, inspect the same. The Housing Committee shall submit the draft by September 1, 1999.

**Sponsor:** Councilor Brown

DATE

ACTION TAKEN

7/15/99 \_\_\_\_\_

\_\_\_\_\_  
/ /

**BARNSTABLE TOWN COUNCIL**

**ITEM NO.: 2000-002  
INTRO.: 7/15/99**

**ACCEPTANCE OF A GRANT FOR “THREE-BAYS CRAB PREDATION REDUCTION” FROM BARNSTABLE COUNTY, EXECUTED BY THE CAPE COD COOPERATIVE EXTENSION AND THE SOUTHEASTERN MASSACHUSETTS AQUACULTURE CENTER.**

**RESOLVED**

That the Town Council hereby approves the acceptance of a grant for FY 2000 in the amount of \$2,550.00 from Barnstable County for the purpose of trapping crabs, being shellfish predators, in the Three-Bay area of Barnstable.

**Sponsor:** Town Manager

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>7/15/99</u>	<u></u>

**AGENDA ITEM SUMMARY  
00-002**

**TO:** Town Council  
**FROM:** James D. Tinsley, Town Manager  
**THROUGH:** Tom Geiler, Director, HSES  
**DATE:** July 15, 1999  
**SUBJECT:** Resolve to accept a Three-Bays Crab Predation Reduction Grant from Barnstable County.

**BACKGROUND**

Barnstable County has been working to promote shellfish through its support of the Marine Resource Specialist at the Cooperative Extension and of the Southeastern Massachusetts Aquaculture Center. Through its funding of mini-grants, the County has promoted innovative approaches to shellfish propagation and maintenance.

**ANALYSIS**

As the Natural Resource Division engages in shellfish propagation, it considers the effect of predators on the shellstock that we spend time, energy and money on enhancing. Crabs are the most serious problem predator from Cape Cod to Texas. Our proposal aims to temper the effect of crabs in the Three-Bay area while partnering with all nine aquaculturalists licensed in the Three-Bay area of Barnstable. Through this grant we expect to:

- 1.) get a glimpse of the population distribution of green, blue, hermit, lady, rock and spider crabs of the Three-Bay area;
- 2.) begin to curb the effect of crab predation in that southside water system; and
- 3.) foster collaborative associations with local aquaculturalists for the common goal of maintaining healthy and successful plantings of prime species of shellfish in our Town.

**FISCAL IMPACT**

The FY2000 grant is for \$ 2,550. \$1,912.50 (75% of the grant) will be paid to the town upon receipt of the signed prepared contract. The remaining \$637.50 (25%) will be paid upon the completed project and the final report to the County by March 15, 2000. There will be no financial impact to the Town.

**TOWN MANAGER RECOMMENDATION**

The Town Manager recommends acceptance of the grant.

**BOARD AND COMMISSION ACTION**

None

**STAFF ASSISTANCE**

Doug Kalweit, Supervisor of Natural Resources Division;  
Kris Clark, Shellfish Propagation Technician

**BARNSTABLE TOWN COUNCIL**

**ITEM NO.: 2000-003**

**INTRO.: 7/15/99**

**APPROPRIATION AND LOAN ORDER LAND ACQUISITION OF 12.47 ACRES IN CENTERVILLE**

**ORDERED**

That the Town Manager be authorized to acquire by purchase for any of the purposes specified in chapter 293 of the Acts of 1998, three parcels of land located at 511 Old Stage Road, consisting of 12.47 acres more or less and which are shown as Lots 144, 166 and 167 on the Town of Barnstable Assessors Map 190 and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager is authorized to borrow \$295,000 for the purchase and an additional \$2,500 for related costs, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and accept any grants or gifts in relation thereto.

**SPONSOR:** Town Manager

DATE

ACTION TAKEN

7/15/99

Refer to public hearing 8/19/99

**AGENDA ITEM SUMMARY  
00-003**

**TO:** Town Council  
**FROM:** James Tinsley, CPA, Town Manager  
**DATE:** July 7, 1999  
**SUBJECT:** Appropriation and Loan order Land Acquisition of 12.47 Acres in Centerville

**BACKGROUND**

The property proposed for acquisition under the Land Bank is a series of three parcels consisting of approximately 12.47 acres in the heart of Centerville. With the exception of one single family house, the property is open and includes some high flat areas, as well as some wetlands. Residents of the area have been walking the property for many years, and it is surrounded by homes.

This property was identified as a potential location for recreational fields and facilities, and is one of only a few large tracts of open space available in Centerville. In order to develop the property into fields and other facilities, the town would need to acquire either the sand rights or the entire abutting property owned by the Pyy family. The Town is currently in negotiations for this parcel. However, if terms for the Pyy property are not amenable to the Town, the Town Manager and the Land Bank Committee still recommend acquisition of this property for passive recreation. It is a beautiful and convenient location for walking trails in an area where there is very little open space. The house on the property can still be used by the Recreation Department or another Town Department for a variety of purposes.

**ANALYSIS**

Land Bank funds are suitable for the purchase of this property. The property can be used in two ways, both of which would be an asset to the Village of Centerville. Acquisition of the abutting Pyy parcel or the sand rights from that parcel is not necessary for the residents of the community to enjoy this property.

**FISCAL IMPACT**

The funds needed for this purchase will be generated through the implementation of the Cape Cod Land Bank. The purchase price is \$295,000, and \$2,500 has been added to the appropriation for estimated closing costs. If the whole \$2,500 is not utilized, it will be released back to the Land Bank.

**TOWN MANAGER RECOMMENDATION**

The Town Manager recommends the acquisition of this land, subsequent to the holding of a public hearing.

**STAFF ASSISTANCE**

Mary Jacobs, Assistant Town Manager