



Town of Barnstable Town Council

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MEETING AGENDA TOWN HALL HEARING ROOM February 26, 2015 7:00 PM

Councillors:

Jessica Rapp Grassetti
President
Precinct 7

Ann B. Canedy
Vice President
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Frederick Chirigotis
Precinct 4

James H. Crocker
Precinct 5

William Crocker, Jr.
Precinct 6

Debra S. Dagwan
Precinct 8

James M. Tinsley
Precinct 9

Sara Cushing
Precinct 10

Philip N. Wallace
Precinct 11

John T. Norman
Precinct 12

Jennifer L. Cullum
Precinct 13

Acting Administrator
Cynthia A. Lovell

Administrative
Assistant:

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS

7. ACT ON MINUTES (Including Executive Session)

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

- **Brendan Clark, Youth Commission**
- **Rebecca Lawrence, Chair; Cultural Council**
- **Councilor Jennifer Cullum, Chair; Town Manager Review Committee**

8. ORDERS OF THE DAY

- A. Old Business**
- B. New Business**

9. ADJOURNMENT

Amended on
02/24/15 to add
Item # 2015-071

NEXT REGULAR MEETING: March 5, 2015

A. OLD BUSINESS

2015-005	Approval of the change in care, custody, management control and purpose of two parcels of land, namely a \pm 16.3 acre portion of tract 1 of the West Barnstable Conservation are shown on Assessors Map 86 as parcel 1, recorded in Barnstable County Registry of Deeds book 2846, page 129 and a \pm 17 acre parcel shown on Assessors Map 314 as parcel 027001, recorded in Barnstable County Registry of Deeds book 5077, page 300 (Roll call 2/3 vote)	3
2015-006	Petitioning the General Court of the Commonwealth to enact Special Legislation approving the change in care custody, management control and purpose of two parcels of land, namely a \pm 16.3 acre portion of tract 1 of the West Barnstable Conservation as shown on Assessors Map 86 as parcel 1 and a \pm 17 acre parcel shown on Assessors Map 314 as parcel 027001, recorded in Barnstable County Registry of Deeds .. book 5077, page 300 (Roll call 2/3 vote)	4-6
2015-064	Appropriation of \$225,000 in Community Preservation Funds for the acquisition of the town’s share of perpetual conservation restriction with Cotuit Fire District on portion of Assessors Map 36 Parcel 39 (0 Putnam Avenue) and acceptance of gift of easement (Public hearing) (Roll call)	7-8
2015-065	Appropriation of \$300,000 from the General Fund Reserves for the acquisition of 3 acres more or less in Cotuit, portion of Assessors map 36 Parcel 39 (0 Putnam Avenue), for municipal purposes (Public hearing) (Roll call)	9-10
2015-068	Appointments to a Board/Committee/Commission (May be acted upon) OLD KING’S HIGHWAY HISTORIC DISTRICT COMMITTEE David Munsell Jr., 3074 Main Street, Barnstable, MA 02630 as an alternate member to a term expiring 6/30/16	11
2015-070	Appropriation of \$50,000 from the Sandy Neck Enterprise Account Surplus for the Sandy Neck Dune Nourishment Program (Public hearing) (Roll call)	12-13

B. NEW BUSINESS

2015-071	Amend Zoning Ordinance, Article III. District Regulations, § 240-39 Shopping Center Redevelopment Overlay District (SCROD) and amend the zoning map as shown on the map entitled Shopping Center Overlay District Amendment February 20, 2015 (Refer to Planning Board for Public Hearing)	14-17
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EXECUTIVE SESSION:

The Town Council may vote to go into Executive Session under Mass G.L. c. 30A §21(a) (1).to discusses the dismissal of an employee by reason of physical condition.

Approve Minutes – February 5, 2015

Please Note: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda. Persons interested are advised, that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice. Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

A. OLD BUSINESS (Roll call 2/3 vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-005

INTRO: 08/07/14, 09/18/14, 10/16/14, 01/22/15, 02/26/15

2015-005 APPROVAL OF THE CHANGE IN CARE, CUSTODY, MANAGEMENT CONTROL AND PURPOSE OF TWO PARCELS OF LAND, NAMELY A ±16.3 ACRE PORTION OF TRACT I OF THE WEST BARNSTABLE CONSERVATION AREA SHOWN ON ASSESSORS MAP 86 AS PARCEL 1 AND A ±17 ACRE PARCEL SHOWN ON ASSESSORS MAP 314 AS PARCEL 027001

ORDERED: SECTION 1: That, having received notice that the conservation commission determined that the following parcel of land is no longer needed for the purposes set forth in section 8C of chapter 40 of the General Laws of Massachusetts, the care, custody, management and control of said parcel be transferred to the Town Manager to be held for general municipal purposes, namely a 16.3 acre, more or less, portion of Tract I of the West Barnstable Conservation Area having a street address of 875 Service Road shown on Assessors Map 86 as Parcel 1 taken by eminent domain pursuant to chapter 79 for purposes of said section 8C by order dated December 21, 1978 and recorded in the Barnstable County Registry of Deeds Book 2846, Page 129, which said 16.3 acres are further described on plan entitled "Plan of Land in Barnstable (West Barnstable) MA Prepared for the town of Barnstable Prepared By: the Town of Barnstable - D. P. W. Survey Division Date: July 28, 2014 Scale: 1" = 80'" on file with the Town Clerk; and

SECTION 2: That, having received notice that the Town Manager determined that the following parcel of land containing 17 acres, more or less, is no longer needed for general municipal purposes, the care, custody, management and control of said parcel be transferred to the conservation commission to be held for the purposes set forth in section 8C of chapter 40 of the General Laws of Massachusetts, namely the land having a street address of 145 Breed's Hill Road shown on Assessors Map 314 as Parcel 027001 acquired by deed dated May 15, 1986 and recorded in said Registry in Book 5077 Page 300; and

SECTION 3: That the aforesaid transfers take effect upon recording of an instrument or instruments by the Town Manager in the Barnstable County Registry of Deeds following the effective date of legislation enacted by the General Court approving the transfer under section 1 of this order.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>08/07/14</u>	<u>Continued to 09/18/14</u>
<u>09/18/14</u>	<u>Continued to 10/16/14</u>
<u>10/16/14</u>	<u>Continued to 01/22/15</u>
<u>01/22/15</u>	<u>Continued to 02/26/15</u>

- Read Item
- Rationale
- Council Discussion
- Move/Vote

A. OLD BUSINESS (Roll call 2/3 vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-006

INTRO: 08/07/14, 09/18/14, 10/16/14, 01/22/15, 02/26/15

2015-006 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION APPROVING THE CHANGE IN CARE, CUSTODY, MANAGEMENT CONTROL AND PURPOSE OF TWO PARCELS OF LAND, NAMELY A ±16.3 ACRE PORTION OF TRACT I OF THE WEST BARNSTABLE CONSERVATION AREA SHOWN ON ASSESSORS MAP 86 AS PARCEL 1 AND A ±17 ACRE PARCEL SHOWN ON ASSESSORS MAP 314 AS PARCEL 027001

ORDERED: That the Town Manager submits a petition to the General Court of the Commonwealth for a special act approving the change in care, custody, management, control and purpose of two parcels of land in the Town as follows.

“AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO TRANSFER TWO PARCELS OF LAND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1: The conservation commission of the town of Barnstable shall transfer the care, custody, management and control to the Town Manager for general municipal purposes of a certain 16.3 acre portion, more or less, of a larger parcel of land identified on assessors' map 5 as parcel 4, which was acquired by the town and held by the conservation commission for conservation purposes pursuant to section eight “C” of chapter forty of the General Laws and has been declared by the conservation commission to no longer be appropriate to be held by the conservation commission for such purposes. Upon the transfer as provided in Section 3 the Town of Barnstable shall be authorized to use the 16.3 acres, more or less, for general municipal purposes. The 16.3 acres more or less declared surplus in order to be transferred as provided in this section 1 are also shown on a plan entitled “Plan of Land in Barnstable (West Barnstable) MA Prepared for the town of Barnstable Prepared By: the Town of Barnstable -D. P. W. Survey Division Date: July 28, 2014 Scale: 1” = 80’” on file in the office of the town clerk.

SECTION 2: To ensure a no net loss of lands protected for conservation purposes under section 1, the Town Manager of the town of Barnstable shall transfer the care, custody, management and control to the conservation commission for conservation purposes pursuant to section eight “C” of chapter forty of the General Laws of a certain 17 acre, more or less, parcel of land identified on assessors' map 314 as parcel 027001, which was acquired by the town and held for general municipal purposes and has been declared by the Town Manager to no longer be appropriate to be held by the Town Manager for such purposes. The parcel contains wetland, upland and other significant natural features as well as potential for passive recreational use and is bounded on the Southeast by public water supply land. Upon the transfer as provided in Section 3 the parcel described herein shall be preserved as conservation land in accordance with said section eight “C”. The 17 acres more or less declared surplus in order to be

transferred as provided in this section 2 are further described as Lot 1 on plan of land recorded in the Barnstable County Registry of Deeds in Plan Book 417, Page 18 and was acquired by the Town by deed dated May 15, 1986 and recorded in said Registry in Book 5077 Page 300.

SECTION 3: The Town Manager may execute and record any instruments necessary on behalf of the Town to effectuate the transfers under sections 1 and 2 following passage of this act.

SECTION 4: This act shall take effect upon its passage.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>08/07/14</u>	<u>Continued to 09/18/14</u>
<u>09/18/14</u>	<u>Continued to 10/16/14</u>
<u>10/16/14</u>	<u>Continued to 01/22/15</u>
<u>01/22/15</u>	<u>Continued to 02/26/15</u>

Read Item
 Rationale
 Council Discussion
 Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2015-006

INTRO: 08/07/14, 09/18/14, 10/16/14, 01/22/15, 02/26/15

SUMMARY

TO: Town Council
FROM: Thomas K Lynch, Town Manager
THROUGH: Mark S. Eells, Assistant Town Manager
DATE: January 16, 2015
SUBJECT: Approval of the change in care, custody, management control and purpose of two parcels of land, namely a ±16.3 acre portion of Tract I of the West Barnstable Conservation area shown on assessors map 86 as parcel 1 and a ±17 acre parcel shown on assessors map 314 as parcel 027001

BACKGROUND: On December 11, 2012 the West Barnstable Shooting Range was closed following notification from the Town's insurance carrier that the Town no longer had coverage under its existing policy. The Town commenced a multifaceted process involving the Massachusetts Department of Conservation Services (DCS), Barnstable Conservation Commission, Town staff and Town Council examining all aspects of reopening the shooting range. One issue that arose following a letter from DCS to Barnstable Conservation Commission on September 23, 2013 involved removing the range from 8C jurisdiction. Subsequent meetings between DCS, Barnstable Con Comm. Town staff and Town Council resulted in the Town proceeding with the said removal process. On June 24, 2014 a majority of the Conservation Commission voted in favor of removal of the shooting range from 8C jurisdiction. A Memorandum of Agreement (MOA) between the State and Town, required for removal of the Self-Help grant conditions placed on the West Barnstable Conservation Land at the time of purchase, was developed but not signed by both parties. The reviewing Secretary of Energy and Environmental Affairs (EEA) has departed therefore the documents remains unsigned and subject to further review by EEA. One of the conditions of the MOA included a discretionary referral by the Secretary of EEA for the Town to file an Environmental Notification Forms as specified by the Massachusetts Environmental Policy Act (MEPA) relative to the conversion of Article 97 land held for natural resources purposes. The Town filed the ENF on November 24, 2014 relative to the transfer of Article 97 land and received a determination on December 24, 2014 that no further MEPA review is required. Concurrent with the MEPA review and land exchange discussion, the Town Council authorized an initial environmental assessment at the shooting range in order to develop a plan for the long-range remediation and management of the property. The results on that assessment are expected to be available in early 2015.

ANALYSIS: It was recommended that the Town proceed with the process of removing the shooting range parcel (±16.3 acres) from 8C jurisdiction and the 17 acre parcel be placed under 8C in exchange. This process require an affirmative vote of a majority of the Conservation Commission to relinquish the range parcel (received on June 24, 2014), a 2/3 vote of the Town Council (first reading August 7, 2014), and then sent to the State Legislature for a 2/3 vote to remove the range parcel from 8C purposes. The Town Council would also need to 2/3 vote to change the purpose of the 17 acre parcel Breed's Hill parcel from general municipal purposes to §8C purposes.

FISCAL IMPACT: The fiscal impacts of this action relative to the land exchange are minimal and limited to associated administrative costs. Future costs for operation and management of the shooting range will be determined as additional information becomes available through an ongoing initial environmental assessment of the facility.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends that the Town Council approve the action proposed by this order.

BOARD AND COMMISSION ACTION: None

STAFF ASSISTANCE: Ruth Weil, Town Attorney

A. OLD BUSINESS (Public Hearing) (Roll Call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2015-064
INTRO: 02/05/15, 02/26/15**

2015-064 APPROPRIATION OF \$225,000 IN COMMUNITY PRESERVATION FUNDS FOR THE ACQUISITION OF TOWN’S SHARE OF PERPETUAL CONSERVATION RESTRICTION WITH COTUIT FIRE DISTRICT ON PORTION OF ASSESSORS MAP 36 PARCEL 39 (0 PUTNAM AVENUE) AND ACCEPTANCE OF GIFT OF EASEMENT

ORDERED: That pursuant to the provisions of G. L. c. 44B, the sum of Two hundred twenty-five thousand and No/100 (\$225,000.00) Dollars be appropriated for the acquisition of an interest in land in Cotuit consisting of a conservation restriction held by the Town acting by and through its Conservation Commission by authority of MGL c.40 § 8C and the Cotuit Fire District on 16.045 acres, more or less described as “Area Remaining” on a plan of land entitled “Plan Showing Conservation Restriction in Barnstable (Cotuit MA) prepared for Barnstable Land Trust” prepared by the Town of Barnstable D.P.W. Survey Division, dated January 8, 2015, on file with the Town Clerk, being a portion of Assessors Map 36, Parcel 39 (0 Putnam Avenue); that to meet this appropriation Two hundred twenty-five thousand and No/100 (\$225,000.00) Dollars be transferred from the amount set aside in the Community Preservation Fund for open space and recreation; that the Town Manager is authorized to contract for and expend the amount appropriated for this acquisition as recommended by the Community Preservation Committee in accordance with its terms and conditions, subject, however, to the participation by the Cotuit Fire District as a holder for the same consideration; and further ordered that the gift of an unencumbered easement for passive recreation on existing trails and for daytime parking as shown on said plan be accepted and recorded.

SPONSOR: Town Manager upon recommendation of the Community Preservation Committee.

DATE ACTION TAKEN
02/05/15 Continue to 02/26/15

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close Public Hearing
- ____ Council Discussion
- ____ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2015-064
INTRO: 02/05/15, 02/26/15

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Barnstable Land Trust
DATE: January 14, 2015
SUBJECT: Acquisition of an interest in land in Cotuit consisting of a conservation restriction held by the Town and the Cotuit Fire District

BACKGROUND: The Barnstable Land Trust is seeking \$225,000 from Community Preservation Act funds to help support their “Keep Lowell Park Green!” project which is the acquisition of 19 acres of woodland surrounding the park. Lowell Park currently sits on land donated to the town by the Lowell family and the park now spans 4.78 acres. Expansion of the baseball field through the years has led to an encroachment onto these abutting 19 acres.

RATIONALE: Community Preservation Committee voted unanimously on August 25, 2014 and recommends that the Barnstable Town Council support the request of the Barnstable Land Trust of \$225,000.00 of Community Preservation Act Funds from the Open Space set aside for the acquisition of a Conservation Restriction on 16 acres of land at 0 Putnam Avenue, Cotuit, Map 036 Parcel 039. Due to its proximity to Cotuit Bay, the fate of this land will impact the three bay ecosystem and if developed, the additional lawns and septic systems would adversely affect water quality of both our drinking water and down-gradient estuary by contributing nitrogen loading and other contaminants to the watershed. The funds will be used to purchase a Conservation Restriction over the property for the creation of open space, watershed preservation and public water supply protection and will be held jointly with a restriction previously authorized on May 28, 2014 by the Cotuit Fire District.

The Barnstable Land Trust plans to purchase the entire 19 acres and to protect the ball field, intends to sell the Town in a separate transaction a 100’ buffer around the field consisting of 3 acres. This two-pronged approach will allow for the preservation of not only the woodlands, but also of the as-built baseball field. The goal is to keep the 16 acres in its natural state, allowing for the continued use of existing trails on the property.

Preserving the land will also help to retain the rural character of the village center of Cotuit, protect the green gateway along Putnam Avenue and ensure that Old Post Road extension is never built. This request fulfills several Community Preservation Committee criteria including significant matching funds, and this project has important cost benefits for the town. The acquisition of this Conservation Restriction also will preserve and protect a public water supply well; preserve a scenic landscape and it protects wildlife habitats. Further, this land connects to 800 acres of other open space land already protected and the property will be open to the public for conservation and passive recreation purposes; and this area will provide passive recreation opportunities to complement the adjoining active recreation at Lowell Park.

FISCAL IMPACT: None

TOWN MANAGER RECOMMENDATION: The Town Manager recommends that the Town Council approve the action proposed by this order

STAFF ASSISTANCE: Community Preservation Committee

A. OLD BUSINESS (Public Hearing) (Roll Call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2015-065
INTRO: 02/05/15, 02/26/15**

2015-065 APPROPRIATION OF \$300,000 FROM THE GENERAL FUND RESERVES FOR THE ACQUISITION OF 3 ACRES MORE OR LESS IN COTUIT, PORTION OF ASSESSORS MAP 36 PARCEL 39 (0 PUTNAM AVENUE), FOR MUNICIPAL PURPOSES

ORDERED: That the sum of Three hundred thousand and No/100 (\$300,000.00) Dollars be appropriated and transferred from the General Fund Reserves for the purchase by the Town of the fee simple interest for municipal purposes in 3.021 acres more or less of the land in Cotuit described as “Parcels 1 and 2” on a plan of land entitled “Plan of Land in Barnstable (Cotuit MA) prepared for Barnstable Land Trust” by the Town of Barnstable D.P.W. Survey Division” on file with the Town Clerk, being a portion of Assessors Map 36 Parcel 39 0 Putnam Avenue; and that the Town Manager is authorized to contract for and expend the appropriation for the stated purpose subject to a restriction prohibiting , installation, maintenance and use of lighting fixtures and infrastructure on the premises for the adjacent Lowell Field, and execute and record any written instruments on behalf of the Town.

SPONSOR: Thomas K. Lynch, Town Manager

DATE ACTION TAKEN
02/05/15 Continue to 02/26/15

- _____ Read Item
- _____ Motion to Open Public Hearing
- _____ Rationale
- _____ Public Hearing
- _____ Close Public Hearing
- _____ Council Discussion
- _____ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2015-065
INTRO: 02/05/15, 02/26/15

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Barnstable Land Trust
DATE: January 14, 2015
SUBJECT: Acquisition of approximately 3 acres of land on Putnam Avenue in Cotuit, Assessor's Map 36, Parcel 39 (portion).

This item has been placed on the agenda for the Council's approval of an appropriation of \$300,000 from General Reserves to acquire approximately 3 acres of land surrounding Lowell Park from the Barnstable Land Trust, Inc.

BACKGROUND: Barnstable Land Trust (BLT) has an agreement to purchase the 19 wooded acres that surround the Town-owned Lowell Park, home of the Cotuit Kettleers. The flagpole, part of the leftfield, outfield and right field fence, together with both bullpens are located outside of the current boundaries of land owned by the Town. By purchasing a 100' buffer around the perimeter of the existing Town owned land, the existing as-built field will be protected and allow for the retrieval of foul balls and some future expansion of facilities. Since the Town owns the ballpark, it makes sense for the Town also to own the 3 acres under and immediately around Lowell Park. A plan to divide the 19-acre property into a 16.045-acre parcel and a 3.021-acre parcel has been prepared by the Town of Barnstable DPW. BLT will retain the 16-acre parcel.

ANALYSIS: A survey of the Lowell Parke ball field revealed encroachment onto the private lands owned by the Lowell family (see attachment #1). The Barnstable Land Trust has agreed to sell a buffer zone, comprising three acres around the ball field. This buffer zone would clear up present encroachment issues. The purchase price is \$100,000 per acre, the same price per acre the BLT is paying for the entire parcel. The sale of the three acres by BLT to the Town is conditioned in the agreement that there be no lights erected on these three acres and that there be no other parking lot lighting other than that required by law.

FISCAL IMPACT: The \$300,000 dollars for the purchase of the three acres will come from General Fund Reserves.

TOWN MANAGER RECOMMENDATION: Thomas K. Lynch, Town Manager recommends approval of this item.

STAFF ASSISTANCE: David Houghton, First Assistant Town Attorney, Legal Department, DPW Survey Department

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM # 2015-068
INTRO: 02/05/15, 02/26/15

2015-068 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: that the Town Council appoint the following individuals to a multiple-member board/committee/commission in accordance with Massachusetts General Law, Chapter 220 § Section 1 of the 2007 Acts,

OLD KINGS HIGHWAY HISTORIC DISTRICT COMMITTEE:

David Munsell Jr. 3074 Main Street, Barnstable, MA 02630 as an alternate member to a term expiring 6/30/16

SPONSOR: Carrie Bearse, Chair, Old King’s Highway Historic Committee

DATE	ACTION TAKEN
<u>02/05/15</u>	<u>Second Reading 02/26/15</u>
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move / Vote

A. OLD BUSINESS (Public Hearing) (Roll Call)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-070
INTRO: 02/05/15, 02/26/15

2015-070 APPROPRIATION OF \$50,000 FROM THE SANDY NECK ENTERPRISE ACCOUNT SURPLUS FOR THE SANDY NECK DUNE NOURISHMENT PROGRAM

ORDERED: That the sum of fifty thousand dollars and no/100 (\$50,000.00) be appropriated from the Sandy Neck Enterprise Account Surplus funds for the purpose of funding protective sand placement for additional dune nourishment in front of the Sandy Neck parking lot after major erosion from winter storm Juno.

SPONSOR: Thomas K. Lynch, Town Manager
Ann Canedy, Town Council, Precinct 1
Philip Wallace, Town Council, Precinct 11

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>02/05/15</u>	<u>Continue to 02/26/15</u>

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2015-070
INTRO: 02/05/15, 02/26/15

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: February 2, 2015
SUBJECT: Appropriation Order of \$50,000 for sand nourishment and parking lot stabilization from Sandy Neck Enterprise Account Surplus

BACKGROUND: Over the past few years, Sandy Neck has experienced significant erosion of our beachfront that has jeopardized the integrity of the Sandy Neck parking lots and septic field due to the loss of the protective dune. In 2013 and 2014, we placed a total of 9,800 cubic yards of sand on the dune in front of the parking lots. This was the first phase of a two-phase project that ultimately will involve engineered soft-scape such as bio-degradable coir bags.

Winter storm Juno (1/26/15 – 1/28/15) caused significant damage to the dune and we lost approximately half of the placed sand in front of the upper lot and all the sand in front of the lower lot. Therefore, the integrity of the northeast corner of the parking lot is severely compromised. Our Phase II dune stabilization is in the design and permitting phase and we do not anticipate commencement of the project until the fall of 2015. Therefore, we need funding for the additional placement of sand to insure that the parking lot remains intact through the winter of 2015.

FISCAL IMPACT: Without additional sand placement, we could have significant storm damage to our parking lots, which would be extremely costly to repair.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends the approval of the transfer of these funds.

STAFF ASSISTANCE: Nina Coleman, Sandy Neck Park Manager
Daniel Horn, MEA Director
Mark Milne, Finance Director
Daniel Santos, DPW Director
John Juros, DPW Architect

B. NEW BUSINESS (Refer to the Planning Board for Public Hearing)

BARNSTABLE TOWN COUNCIL

**ITEM# 2015-071
INTRO: 02/26/15**

2015-071 AMEND ZONING ORDINANCE, ARTCILE III. DISTRICT REGULATIONS, § 240-39 SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT (SCROD) AND AMEND THE ZONING MAP AS SHOWN ON THE MAP ENTITLED SHOPPING CENTER OVERLAY DISTRICT AMENDMENT FEBRUARY 20, 2015

ORDERED: Section 1. That the Zoning Ordinance, Article III. District Regulations, Sec.240-39. Shopping Center Redevelopment Overlay District, Section F. Permitted and prohibited uses, is hereby amended as follows:

By adding the following language to the end of Section 240-39.F (2) (f):

“and a drive-through restaurant may be permitted only on that area within the SCROD identified as “Drive-through Restaurant Sub Zone” as shown on the Map entitled Shopping Center Redevelopment Overlay District Amendment dated February 20, 2015 subject to the special permit provisions of sec. 240-39M”

So that as revised subsection (f) shall now read:

“(f) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the Highway Business District, subject to the special permit provisions of Sec. 240-39M, and a drive-through restaurant may be permitted only on that area within the SCROD identified as “Drive-through Restaurant Sub Zone” as shown on the Map entitled Shopping Center Redevelopment Overlay District Amendment dated February 20, 2015 , subject to the special permit provisions of sec. 240-39M.”

Section 2. That the Zoning Ordinance, Article III District Regulations, Sec. 240-39, Shopping Center Redevelopment Overlay District, Section M Special permit provisions, is hereby amended as follows:

By adding the following phrase to the last sentence in Section 240-39.M(1)(a) after the words “drive through-bank”:

“or drive-through restaurant”

So that as revised subsection (a) shall now read in its entirety:

“(a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39M. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a

modification of a special permit issued under this section, approving such use, subject to the provisions of this sec. 240-39M.”

Section 3. That the Zoning Ordinance, Article III District Regulations, Sec. 240-39. Shopping Center Redevelopment Overlay District is hereby amending Section 240-39.G (1) (e) as follows:

By adding the following phrase at the end of subsection (e) [1]:

“except fifty (50) feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as “Drive-through Restaurant Sub Zone”

So that as revised subsection (e) [1] shall now read:

“[1] One hundred feet along Iyannough Road/Route 132 Road except fifty(50) feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as “Drive-through Restaurant Sub Zone”

Section 4. That the Zoning Ordinance, Article III. District Regulations, Sec. 240-39 Shopping Center Redevelopment Overlay District, Section K. Signs in Shopping Center Redevelopment Overlay District, is hereby amended as follows.

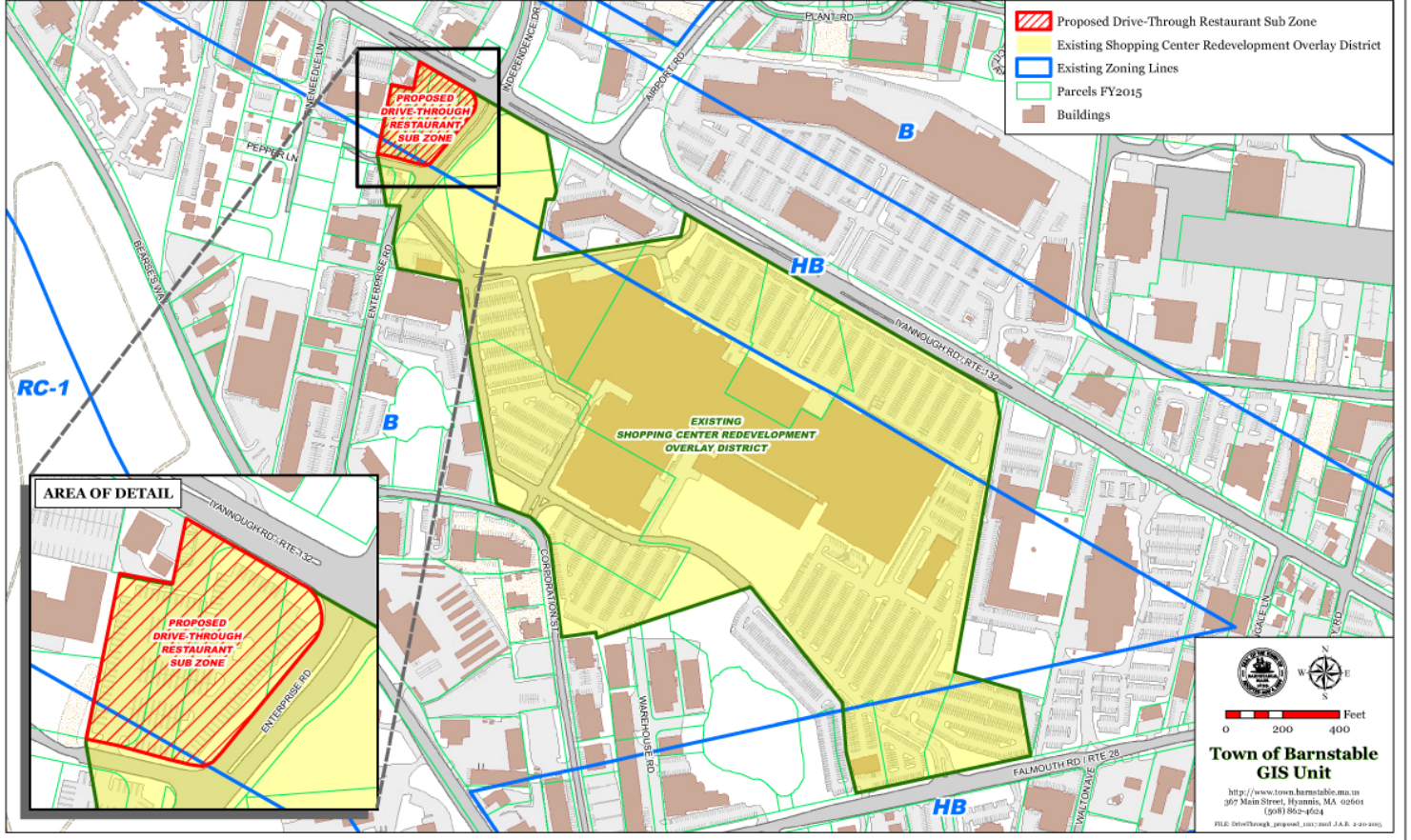
Inserting a new subsection (12) to read as follows:

“(12) In addition to the signs permitted under Section 240-39.K (1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as “Drive-through Restaurant Sub Zone” provided the Maximum height of freestanding signs does not exceed 12 feet above grade and the Maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign.”

And further Under Section K by renumbering existing subsection (12) to “(13)”.

Section 5

That Chapter 240, Article II, Section 6, The Zoning Map of the Town of Barnstable Massachusetts, the Shopping Center Redevelopment Overlay District (SCRDO) is hereby amended to identified that area within the Overlay District as “Drive-through Restaurant Sub Zone” as shown on the Map entitled: “Proposed Shopping Center Redevelopment Overlay District Amendment dated February 20, 2015”



SPONSORS: Councilor Debra Dagwan and Councilor Ann Canedy

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Motion to Open Public Hearing
- _____ Rationale
- _____ Public Hearing
- _____ Close Public Hearing
- _____ Council Discussion
- _____ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2015-071
INTRO: 02/26/15

SUMMARY

TO: Town Council
FROM: Michael J. Ford, Esq. Attorney for Simon Properties
DATE: February 20, 2015
THROUGH: JoAnne Buntich Miller, Director Growth Management
SUBJECT: Zoning Ordinance Amendment and Zoning Map Amendment for the Shopping Center Overlay District

BACKGROUND: This is a proposed amendment to the Zoning Ordinance, Article III District Regulations, Section 240-39. Shopping Center Redevelopment Overlay District (SCROD), to permit a drive – through restaurant in that portion of the SCROD which is located in the Highway Business (HB) portion of the SCROD on Iyannough Road/Rt. 132 west of Enterprise Drive. (see sketch attached to the proposed zoning amendment) The amendment also amends the front yard setback along the effected portion of Iyannough Road/Rt. 132 west of Enterprise Drive to 50 feet and further provides for one freestanding sign for these outlying parcels.

ANALYSIS In 1996, the Zoning Ordinance was amended to add the SCROD so as to permit the redevelopment of the then existing shopping center (Cape Cod Mall), subject to specific regulations, including the issuance of a special permit by the Zoning Board of Appeals under Section 240-39M. Under the SCROD, after the issuance of a special permit, the regulations set forth in the SCROD govern even where they are inconsistent with other requirements of the ordinance.

Accordingly, because the Board of Appeals has issued a special permit for the redevelopment of the Cape Cod Mall, a drive-through restaurant is presently a prohibited use in the SCROD, even though a drive-through restaurant is a use permitted by special permit in the underlying HB District.

RATIONALE Therefore the purpose of this amendment is to permit a drive-through restaurant in so much of the SCROD as is located in the HB District on Iyannough Road west of Enterprise Drive, subject to the issuance of a special permit or to the modification of the special permit issued to redevelop the Cape Cod Mall. Further the adjustment to the front yard setback requirement would insure that the parking in the affected area would be located to the side or rear of the building.

Permitting a drive through restaurant, upon issuance of a special permit, in this HB portion of the SCROD will make the use consistent with the underlying HB District.

STAFF ASSISTANCE: Growth Management Department