



Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601

Office 508.862.4738 • Fax 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us

MEETING AGENDA TOWN HALL HEARING ROOM September 07, 2017 7:00 PM

Original posted on 9/5/17@ 11:21am.
Updated on 9/6/17 to add the
Rationale to Item # 2018-027

Councilors:

Eric R. Steinhilber
President
Precinct 2

James H. Crocker Jr.
Vice President
Precinct 5

John G. Flores
Precinct 1

Paul Hebert
Precinct 3

Frederick Chirigotis
Precinct 4

William Crocker, Jr.
Precinct 6

Jessica Rapp
Grassetti
Precinct 7

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

Administrator:

Cynthia A. Lovell

Administrative

Assistant:

Kelly Crahan

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**

9. ORDERS OF THE DAY

A. Old Business

B. New Business

10. ADJOURNMENT

NEXT REGULAR MEETING: September 28, 2017

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Approve Minutes –August 17, 2017

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 (Public Hearing) (Roll call)

BARNSTABLE TOWN COUNCIL

ITEM # 2018-019
INTRO: 08/17/17, 09/07/17

2018-019 APPROPRIATION ORDER IN THE AMOUNT OF \$200,000.00 COMMUNITY PRESERVATION FUNDS FOR COMMUNITY HOUSING SUPPORT

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c 44B, the sum of Two Hundred Thousand and No/100 (\$200,000.00) Dollars be appropriated and transferred from the amount set aside for Community Housing in the Community Preservation Fund; and that the Town Manager is authorized to expend the amounts appropriated to continue support of the Accessory Affordable Apartment Community Preservation Act (CPA) Loan Program originally funded by appropriation of **\$200,000.00** on February 28, 2013 under agenda item number **2013-072** which has been fully expended and execute, deliver, accept and record any documents for the purposes authorized herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>08/17/17</u>	<u>Refer to Public Hearing 09/07/17</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-019
INTRO: 08/17/17, 09/07/17

SUMMARY

TO: Town Council
THROUGH: Mark S. Ells, Town Manager
FROM: Community Preservation Committee
DATE: August 17, 2017
SUBJECT: Appropriation order in the amount of **\$200,000.00** Community Preservation Funds for Community Housing Support

BACKGROUND: The Planning & Development Housing Coordinator and Town Manager are seeking approval from the Town Council through the Town Manager for Community Preservation Act (CPA) Community Housing funds in the amount of \$200,000. This funding request is to replenish the now depleted funds for the Accessory Affordable Apartment (AAA) CPA Loan Program originally was funded in 2014. Continuation of this existing project will provide loans of up to \$20,000 to eligible homeowners to create new affordable accessory apartment rental units. A small amount of the funds will be used for administration of the program. Affordable rental housing is the number one priority need in the Town's Housing Production Plan and the AAA Program provides the type of housing that is most needed. Because this is an existing program, these units can be created in a relatively short time frame for a low subsidy investment by the Town. The Town's existing accessory apartment program has permitted approximately 200 units of affordable rental housing which serve households whose income is less than 80% of the median income. The funds are secured by a loan agreement, mortgage and promissory note and are repayable upon sale of the house or loss of the affordable unit. The units are monitored annually to ensure program compliance.

FISCAL IMPACT: This appropriation has no impact on the general fund since the entire amount is appropriated and transferred from the community preservation fund.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends this appropriation.

STAFF ASSISTANCE: Community Preservation Committee

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

BARNSTABLE TOWN COUNCIL

ITEM# 2018-020
INTRO: 08/17/17, 09/07/17

2018-020 APPROPRIATION ORDER IN THE AMOUNT OF \$84,284.00 COMMUNITY PRESERVATION FUNDS FOR RESTORATION WORK TO THE BURGESS HOUSE AND BARN, 559 RT. 149, MARSTONS MILLS, MA

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G. L. c 44B, the sum of Eighty-Four Thousand Two Hundred Eighty-Four and NO/100 (**\$84,284.00**) be appropriated and transferred from the amount set aside for historic preservation in the Community Preservation Fund and that the Department of Public Works is authorized to contract for and expend the appropriation made available for preservation, rehabilitation and restoration work on the historic resource consisting of the Burgess House and Barn buildings, 559 Route 149, Marstons Mills, including the restoration of existing windows, foundation work, replacement of gutters and downspouts, replication wood picket fence, American Disability Act (ADA) walks and building access, and lighting.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>08/17/17</u>	<u>Refer to Public Hearing 09/07/17</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-020

INTRO: 08/17/17, 09/07/17

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Community Preservation Committee
DATE: August 17, 2017
SUBJECT: Appropriation Order in the amount of **\$84,284.00** Community Preservation Funds for restoration work to the Burgess House and Barn, 559 Rt. 149, Marstons Mills, Ma Map 079, Parcel 015

BACKGROUND: The Department of Public Works (DPW) Town Architect is seeking approval from the Town Council through the Town Manager for Community Preservation Acts (CPA) Historic Preservation funds in the amount of **\$84,284**. This funding request is for hard and soft costs associated with Phase III restoration work on the Burgess House and Barn located at 559 Route 149, Marstons Mills. A significant amount of work previously completed by DPW in-house has reduced the amount of funding needed from other sources. Phase III work includes the restoration of existing windows, foundation work, replacement of gutters and downspouts, replication wood picket fence, American Disability Act (ADA) walks and building access, and lighting. The Burgess House also known as (a.k.a) Harvey Hinckley House was constructed in 1823 and is an example of a Federal Cape style building. The property is located on the designated scenic road of Route 149 and abuts Town-owned open space land. The property is cataloged with the Massachusetts Historical Commission and has received a Determination of Significant Building by the Barnstable Historical Commission for its association with the architectural and cultural history of the area. Once restoration is complete, the property will be used as the village community center for Marstons Mills. Preservation of this property is critical to preserving the rural character of Marstons Mills.

FISCAL IMPACT: This Appropriation has no impact on the General Fund since the entire amount is appropriated and transferred from the Community Preservation Fund.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager,

STAFF ASSISTANCE: Community Preservation Committee

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-021
INTRO: 08/17/17, 09/07/17

2018-021 APPROPRIATION ORDER IN THE AMOUNT OF \$78,024.00 COMMUNITY PRESERVATION FUNDS, FOR STURGIS LIBRARY PRESERVATION OF THE HISTORIC BARNSTABLE PATRIOT NEWSPAPER

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the sum of Seventy-Eight Thousand Twenty-Four and NO/100 (**\$78,024.00**) dollars be appropriated and transferred from the amount set aside for historic preservation in the Community Preservation Fund, and that the Town Manager is authorized to expend the amount appropriated Community Preservation Commission for the purpose of preserving the historic Barnstable Patriot Newspaper by digitizing the remaining copies held by the Sturgis Library to be bound by restrictions, easements or other security for public benefit.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>08/17/17</u>	<u>Refer to Public Hearing 09/07/17</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-021
INTRO: 08/17/17, 09/07/17

SUMMARY

TO: Town Council
FROM: Town Manager on Behalf of Community Preservation Committee
DATE: August 17, 2017
SUBJECT: Appropriation Order in the amount of **\$78,024.00** Community Preservation Funds, for Sturgis Library preservation of the historic Barnstable Patriot newspaper

BACKGROUND: The Sturgis Library is seeking approval from the Town Council through the Town Manager for CPA Historic Preservation funds in the amount of \$78,024. This funding request is for a local newspaper digitization project that is planned in partnership with the Dennis and Yarmouth Libraries and Community Preservation Committees and represents a one-third portion of the total estimated cost of \$234,073 to digitize the *Register* and the *Barnstable Patriot* newspapers. Twenty thousand dollars was appropriated on May 3, 2007, agenda item number 2007-117, to digitize and index the first 100 years of the *Barnstable Patriot*, which was established in 1830. The *Register*, established in 1836, has not been digitized and archives are only available on microfilm at the Yarmouth Port Library

ANALYSIS: The project, unanimously supported by CPC at their July 24, 2017 meeting, is to digitize the remainder of the *Barnstable Patriot* newspaper archives from years 1931 to date, and the *Register* in its entirety. The two newspapers complement each other and provide historical information, including social and cultural news, as well as vital records, real estate transactions, obituaries, photographs, opinions and more to researchers, students, authors, genealogists, historians, and others. The benefits of a digital archive, employing Olive Software, is that the newspaper archives are fully searchable and available to the public online for researching, printing, saving, e-mailing or sharing on social media.

FISCAL IMPACT: This appropriation has no impact on the general fund since the entire amount is appropriated and transferred from the community preservation fund.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends this appropriation.

STAFF ASSISTANCE: Community Preservation Committee

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM #2018-023
INTRO: 08/17/17, 09/07/17

2018-023 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Cultural Council:** Lynne Belifore, 291 River Road, Marstons Mills as a regular member to a term expiring 06/30/20; **Human Services Committee:** Deborah Krau, 10 Pram Road, Hyannis as a regular member to a term expiring 06/30/19; **Planning Board:** Jeffrey Swartz, 132 Scudder Bay Circle, Centerville, as a regular member to a term expiring 06/30/20; **Youth Commission:** Sean Dowling, c/o Hyannis Youth and Community Center, Hyannis as a regular member to a term expiring 06/30/18;

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>08/17/17</u>	<u>First Reading</u>
_____	_____
_____	_____
_____	_____
_____	_____

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

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM #2018-024
INTRO: 08/17/17, 09/07/17

2018-024 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Community Preservation Committee:** Terry Duenas as a regular member to a term expiring 6/30/20; **Comprehensive Financial Advisory Committee:** Ralph Krau a regular member to a term expiring 6/30/20; **Library Committee:** Lili Seely as a regular member to a term expiring 6/30/18; **Zoning Board of Appeals:** David Hirsch as a regular member to a term expiring 6/30/20;

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>0817/17</u>	<u>First Reading</u>
_____	_____

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

B. NEW BUSINESS (Refer to Public Hearing 9/28/17)

BARNSTABLE TOWN COUNCIL

**ITEM# 2018-025
INTRO: 09/07/17**

2018-025 REPEAL OF CHAPTER 115 OF THE GENERAL ORDINANCES, HOURS OF OPERATION OF BUSINESSES

ORDERED: That the Town Council amends the General Ordinances of the Town of Barnstable by repealing Chapter 115, Hours of Operation of Businesses.

SPONSOR: Eric R. Steinhilber, Town Council Precinct 2

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2018-026
INTRO: 09/07/2017**

**2018-026 RESOLVE ACCEPTANCE OF TWO EASEMENTS FOR BEARSE ROAD
WIDENING AND PUBLIC SIDEWALK, HYANNIS**

RESOLVED: That the Town Council on behalf of the Town accepts the grant of two easements as shown on the attached plan, one for widening Bearse Road by three feet and the other for a sidewalk along the airport rotary; and that the Town Manager is authorized to execute, receive, deliver and record any written instruments for the stated purpose.

SPONSOR: Councilor James Tinsley, Precinct 9

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2018-026
INTRO: 09/07/2017

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Daniel Santos, Director, Department of Public Works
DATE: September 9, 2017
SUBJECT: Acceptance of Easements for Bearse Road Widening and Public Sidewalk

BACKGROUND: This easement acceptance is requested in connection with the redevelopment of property at the Airport Rotary and Barnstable Road with a CVS Pharmacy and Citizens Bank. This project was permitted through a Regulatory Agreement, executed by the Town Manager upon an affirmative vote of the Town Council on September 15, 2016. The Regulatory Agreement was approved with the condition that the Bearse Road approach to Falmouth Road/Route 28 be widened to accommodate separate right and left turn lanes. The approved project also includes a sidewalk connecting Route 28 to Barnstable Road along the Airport Rotary on private property.

ANALYSIS: Acceptance of the road widening easement will allow for an approximately 3 foot strip of land to be used as a public right-of-way for the purpose of operating and maintaining a public road. The acceptance of the sidewalk easement will allow for a public sidewalk for pedestrian travel. The property owner will be responsible for maintenance and repair of the sidewalk.

STAFF ASSISTANCE: Attorney David Houghton; Daniel Santos, Director, Department of Public Works; Elizabeth Jenkins, Director, Planning and Development

B. NEW BUSINESS (Refer to the Planning Board)

BARNSTABLE TOWN COUNCIL

**ITEM# 2018-027
INTRO: 09/07/17**

**2018-027 AMENDING CHAPTER 240-16.1 OF THE ZONING ORDINANCE
MULTIFAMILY AFFORDABLE HOUSING (MAH) RESIDENTIAL DISTRICT**

ORDERED:

Section 1.

That Section 240-16.1D of the Zoning Ordinance (Bulk regulations) is hereby amended by striking out footnote “1” and renumbering footnote “2” as footnote “1”.

So as revised Section 240-16.1D shall read as follows:

D.

Bulk regulations

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Setbacks (feet)			Yard Rear	Maximum Building Height ¹ (feet)
				Front	Side	Rear		
MAH	87,120	200	—	60	30	30	30	

NOTES:

¹Height shall be measured from the grade plane to the plate.

Section 2.

That Section 240-16.1E of the Zoning Ordinance (Density requirements) is hereby amended by striking out the existing Section 240-16.1E and substituting in place thereof the following

“E.

Density requirements- The total number of residential units allowable within a multifamily affordable housing development shall not exceed 16 per acre of upland. “

Section 3.

That Section 240.16.1F of the Zoning Ordinance is hereby amended as follows:

By striking out the parenthetical phrase at the end of the second sentence of Section 240.16.1F(6) “(with the exception that development under this section providing off-site inclusionary

housing in conjunction with a senior continuing care retirement community shall not be required to provide services offered within the senior continuing care facility).”

By striking out the second sentence in Section 240.16.1F (8) which reads: “When the multifamily affordable housing development is proposed to satisfy the inclusionary requirements for a senior continuing care retirement community, phasing shall be as determined by the SPGA”

By striking out the word “Affordable” before “Housing Inventory” in Section 240.16.1F (10) and substituting in its place the phrase “DHCD Subsidized”.

By striking out Section 240.16.1F (7) and Section 240.16.1F (11) and renumbering the remaining paragraphs.

So as revised Section 240-16.1F shall read as follows:

“F.

Affordable units- At least 25% of the dwelling units shall be affordable units, subject to the following conditions:

(1)

All affordable units shall remain affordable, as defined herein, in perpetuity. A use restriction shall assure this condition. The use restriction shall be structured to survive any and all foreclosures.

(2)

The continuing enforcement of the use restriction through subsequent resale of the affordable units shall be the subject of a monitoring agreement.

(3)

The use restriction and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP), and guidelines promulgated thereunder. The use restriction and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.

(4)

The affordable unit shall conform to all Department of Housing and Community Development (DHCD) standards that must be met to qualify these units for inclusion in the DHCD Subsidized Housing Inventory (SHI).

(5)

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

(6)

Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units. It is the intent of this section that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units.

(7)

Affordable units shall obtain occupancy permits issued at the rate of one affordable unit for every four market rate units.

(8)

In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result of this computation shall be the number of affordable units required to be built within the MAHD.

Affordable units shall only be located within any development permitted under this provision. This standard is not subject to variance.

(9)

No occupancy permit shall be granted unless the affordable dwelling units have been approved by the DHCD as eligible for the DHCD Subsidized Housing Inventory under the Local Initiative Program (LIP) Guidelines.”

Section 4.

By striking out in Section 240.16.1I (Definitions), the definition of NURSING OR CONVALESCENT HOME in its entirety

SPONSOR: Eric R. Steinhilber, Town Council President, Precinct 2

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2018-027
INTRO: 09/07/17

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Attorney Ron Jansson, Barnstable
DATE: September 7, 2017
SUBJECT: Amending Chapter 240-16.1 of the Zoning Ordinance Multifamily Affordable Housing (MAH) Residential District

BACKGROUND: In 2008, the Town created the Multifamily Affordable Housing Development Overlay District for the purposes of creating off-site inclusionary affordable housing in conjunction with a proposed continuing care retirement community. To date, the proposed zoning district has never been utilized for affordable housing due to conditions under the existing zoning ordinance making it economically infeasible to develop such housing, including the requirement that a former nursing home had to be repurposed into affordable housing together with the requirement that all units on site had to be “affordable” in order to take advantage of the maximum density allowed. It is believed that these conditions have significantly impeded the ability to develop affordable housing within the so called Massachusetts Affordable Housing (MAH) Residential District Overlay and that the removal of such will significantly increase the potentiality for developing such overlay sites into much needed affordable housing.

ASSISTANCE: Attorney Ron Jansson, Barnstable