



Town of Barnstable Town Council

367 Main Street, 2nd floor,
James H. Crocker, Jr. Hearing Room
Village of Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail: council@town.barnstable.ma.us

MEETING AGENDA

July 16, 2020

7:00 PM

Councilors:

Paul Hebert
President
Precinct 3

Jessica Rapp Grasseti
Vice President
Precinct 7

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Britt Beedenbender
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Matthew Levesque
Precinct 10

Kristine Clark
Precinct 11

Paula Schnepf
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator:
Cynthia A. Lovell

Administrative
Assistant:
Kelly Crahan

The July 16, 2020 meeting of the Barnstable Town Council shall be physically closed to the public to avoid group congregation.

Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/?channel=1>
2. Real-time public comment can be addressed to the Barnstable Town Council utilizing the Zoom link or telephone number and access code for remote access below.

Join Zoom Meeting <https://zoom.us/j/95345591101> Meeting ID: 953 4559 1101

888 475 4499 US Toll-free Meeting ID: 953 4559 1101

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. MOMENT OF SILENCE
4. PUBLIC COMMENT (For Public Comment please call **508-862-4610**)
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
 - WORKSHOP ON STATUS OF VINEYARD WIND PHASE I PROJECT
9. ORDERS OF THE DAY
 - A. Old Business
 - B. New Business

10. ADJOURNMENT

NEXT REGULAR MEETING: August 20, 2020

ITEM NO.	INDEX TITLE	PAGE
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A. OLD BUSINESS

2020-189	Appropriation and Loan Order in the amount of \$129,400 pursuant to Temporary Repairs Program for certain private ways regarding Nyes Neck Road, Centerville, MA (Public Hearing) (Roll Call 2/3)	3-4
2020-190	Supplemental Appropriation and Transfer Order in the amount of \$212,700.00 for the Fiscal Year 2020 Airport Enterprise Fund Capital Budget (Public Hearing)(Roll Call Majority)	5-7
2020-192	Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties (Public Hearing) (Roll Call Majority)	8-16
2020-194	Supplemental Appropriation and Transfer Order in the amount of \$277,600 for the Fiscal Year 2020 Airport Enterprise Fund Capital Budget (Public Hearing)(Roll Call Majority)	17-18

B. NEW BUSINESS

2021-001	Resolve allowing Mark S. Ells, Town Manager to continue teaching at Cape Cod Community College Under Section 8 of the Town Manager Contract (May be acted upon) (Roll Call Majority)	19
2021-002	Acceptance of Fiscal Year 2020 Grant in the amount of \$6,000 for the Pedestrian and Bicycle Safety Enforcement and Equipment (May be acted upon) (Roll Call Majority)	20-21
2021-003	Appropriation and Transfer Order in the amount of \$300,000 of Community Preservation Funds for the creation of two (2) moderate-income deed-restricted two-bedroom apartments at 255 Main Street Hyannis, MA (Refer to Public Hearing 08/20/2020)	22-23
2021-004	Resolve to accept the grant of a sidewalk easement from Victory Chapel for new sidewalk in Merchants Way (May be acted upon) (Roll Call Majority)	24-25
2021-005	Resolve to accept the grant of a sewer main, pump station and force main easement from Cape Cod Five Cents Savings Bank (May be acted upon) (Roll Call Majority)	26-27

Approve Minutes; June 25, 2020

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 2/3)

BARNSTABLE TOWN COUNCIL

ITEM # 2020-189
INTRO: 06/04/2020, 07/16/2020

2020-189 APPROPRIATION AND LOAN ORDER of \$129,400 PURSUANT TO TEMPORARY REPAIRS PROGRAM FOR CERTAIN PRIVATE WAYS REGARDING NYES NECK ROAD, CENTERVILLE, MA

ORDERED: That the sum of **\$129,400** be appropriated for the purpose of making temporary repairs to Nyes Neck Road in Centerville, a private road within the Town of Barnstable, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, be authorized to borrow \$129,400 under and pursuant to Chapter 174 of the Acts of 1994, as amended by Chapter 350 of the Acts of 2014 or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, § 20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes, and for these purposes assess betterments in accordance with M.G.L. c. 80, and further that the Town Manager is authorized to accept any grants or gifts in relation thereto.

SPONSOR: Eric R. Steinhilber, Precinct 2

DATE	ACTION TAKEN
<u>06/04/2020</u>	<u>Refer to Public Hearing 7/16/2020</u>

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

BARNSTABLE TOWN COUNCIL

ITEM # 2020-189

INTRO: 06/04/2020, 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel Santos, P.E., Director, Department of Public Works
DATE: June 04, 2020
SUBJECT: Appropriation and Loan Order in the amount of **\$129,400** Pursuant to Temporary Repairs Program for certain Private Ways regarding Nyes Neck Road, Centerville

BACKGROUND: The successful passage of Chapter 174 of the Acts of 1994 and the passage of House Bills 4409 and 4410 by the State Legislature of Home Rule legislation authorized the Town to expend funds to repair private roads. Under this Program the abutters to roads being repaired can be charged betterment assessments for 100% of the actual costs of repairs which they can elect to pay in one lump sum or over a period of up to 20 years (with interest). None of these roads will be taken by the Town of Barnstable and will remain private roads. A majority of the property abutters to Nyes Neck Road, Centerville have expressed an interest in having repairs made to their private road and 55% of the abutters have signed a Consent and Acknowledgement Agreement for Betterment Assessment. The proposed work includes overlay of the existing roadway pavement and final restoration.

The cost of improvements: Estimated as \$129,400 with a cost per 20 abutters, distributed as 20 full shares, not to exceed \$6,470 per abutter.

FISCAL IMPACT: There is no cost to the Town, as all costs will be covered by betterments assessed on the abutters. The town will issue a bond to cover the cost of the repairs and use the revenue collected from the betterment assessments to make the annual loan repayments on the bond.

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

STAFF ASSISTANCE: Daniel Santos, P.E., Director, Department of Public Works

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

BARNSTABLE TOWN COUNCIL

ITEM #2020-190
INTRO: 6/18/2020 , 07/16/2020

2020-190 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$212,700 FOR THE FISCAL YEAR 2020 AIRPORT CAPITAL BUDGET

ORDERED: That the sum of **\$212,700** be appropriated and added to the original amount of \$220,000 appropriated under Town Council Order 2019-103, for a revised appropriation amount of \$432,700, for the purpose of funding the replacement of Aircraft Rescue and Fire Fighting (ARFF) Equipment - Airport #816 (Rapid Response ARFF Vehicle circa 1999) and that to meet this appropriation, that \$212,700.00 be transferred from the Airport Enterprise Fund reserves; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

DATE	ACTION TAKEN
<u>06/18/2020</u>	<u>Refer to Public Hearing 07/16/2020</u>

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

BARNSTABLE TOWN COUNCIL

ITEM #2020-190
INTRO: 06/18/2020, 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Katie R. Servis, Airport Manager
DATE: June 18, 2020
SUBJECT: Supplemental Appropriation and Transfer Order in the amount of **\$212,700** for the Fiscal Year 2020 Airport Enterprise Fund Capital Budget

SUMMARY: Bids received came in higher than what the Airport had set aside in its Fiscal Year 2020 Airport Enterprise Fund Capital Budget for the Replacement of Aircraft Rescue and Fire Fighting (ARFF) Equipment - Airport #816 (Rapid Response ARFF Vehicle circa 1999).

- We were approved for \$220,000 (Town Council Order 2019-103 approved 4/4/2019).
- The piece of equipment that Federal Aviation Administration (FAA) allows for this size airport is no longer manufactured (and this was unknown until the bid was circulated) so FAA allowed the Airport to purchase the next higher level of vehicle.
- Working with the Town Procurement Officer, we rebid this item with the new specifications.
- Bid results:

Vehicle

Company Name	Bid Result
Rosenbauer Minnesota, LLC	\$306,066.00
Oshkosh Airport Products, LLC	\$360,000.00

Equipment

Company Name	Bid Result
Firematic Supply	\$82,945.00
Industrial Protection Services	\$99,425.00

- Lowest responsive bidder = \$306,066.00 for the vehicle and \$82,945.00 for the fire equipment
- Lowest bid plus bid development and admin fees = **\$432,700.00 total**
- ***Appropriation is short of need by \$212,700.00***

FISCAL IMPACT: The entire project is being funded 100% by the FAA but it is a reimbursable program, therefore the Airport must have the funding in place to conduct the work and request

repayment post work completion. The funds for this appropriation will be provided from the airport's reserve fund, which will be replenished through the FAA grant. The Airport's certified reserve as of July 1, 2019 is \$2,761,211.

STAFF ASSISTANCE: Katie R. Servis, Airport Manager; Mark A. Milne, Director of Finance

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

BARNSTABLE TOWN COUNCIL

ITEM# 2020-192

INTRO: 06/18/2020, 07/16/2020

2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES

SECTION 1. ORDERED that the Code of the Town of Barnstable be amended by adding the following Chapter 190, Short Term Rental Properties, to the General Ordinances:

“CHAPTER 190 SHORT TERM RENTAL PROPERTIES

§ 190-1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town’s housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

§ 190-2 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING COMMISSIONER

The Building Commissioner of the Town of Barnstable or his designee.

COTTAGE COLONY

A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

DWELLING

Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

INSPECTIONAL SERVICES DEPARTMENT

Consisting of Town Building and Health Divisions.

OCCUPANCY

The use or possession of or the right to use or possess a short term rental.

OCCUPANT (GUEST)

Any individual residing overnight in a short term rental.

OPERATOR (HOST)

Any individual operating a short term rental.

OPERATOR'S AGENT

An individual who, on behalf of an operator of a short term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER

Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

PERSON

An individual, partnership, trust or association, with or without transferable shares, joint-stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Barnstable or any of its agencies.

SHORT TERM RENTAL

A residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; and bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506.

§ 190-3 Short Term Rental Registration

A. Registration Required

No Owner shall rent, or offer to rent, any Short Term Rental prior to registering with the Inspectional Services Department. No tenant or lessee of an Owner shall let or sub-let a Short Term Rental under any circumstances.

B. Limits on Number of Registrations per Owner

A maximum of two (2) Short Term Rental registrations shall be issued per Owner; provided that Owners who have short term rentals registered with the Massachusetts Department of Revenue as of April 30, 2020, will be eligible to register those short term rentals with the Inspectional Services Department, notwithstanding the limit of two set forth herein.

C. Compliance

A dwelling used as a Short Term Rental shall be in compliance with the provisions of all state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the Inspectional Services Department prior to occupancy. Operators shall comply with all applicable

federal, state and local laws, ordinances and regulations, including, but not limited to, Chapter 133 Noise, Chapter 353, Art. 1, Storage of Garbage and Refuse, the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

D. Application Required

The Owner of the dwelling shall be required to complete a short term rental registration application, the form and content of which shall be provided by the Inspectional Services Department.

E. Registration Renewal

Short term rental registrations shall be renewed biennially (every two years) after a satisfactory inspection by Inspectional Services and upon payment of the renewal fee.

F. Fees

The fee for a short term rental registration or a renewal of a registration shall be initially set at \$35 and thereafter may be modified by the Town Manager at a fee hearing.

G. Non-Transferability

Short term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

§ 190-4 Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the Short Term Rental for rent.

§ 190-5 Contact Information of Owner, Operator and/or Operator's Agent

- A. An Owner of a Short Term Rental shall provide the Inspectional Services Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short Term Rental Registration in the Town of Barnstable has been issued or for which a Short Term Rental Registration application is pending.
- B. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
- C. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator's Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by Inspectional Services Department, Barnstable Police, or any Fire District to complaints regarding the condition or operation of the Short Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short Term Rental Registration and shall be posted conspicuously within the rental unit.

§ 190-6 Good Neighbor Information

Short term rental registrations will be published to the Inspectional Services page of the Town's website and shall include the contact information required in section 190-5(C) above. The website shall also

include information about these short term rental regulations, and instructions and contact information to file a complaint.

§ 190-7 Posting of Notices

The Town shall provide information to each registered Operator summarizing the regulations for short term rentals. For each Short Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the Application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The Operator shall:

- A. Provide occupants a copy of the provided information; and
- B. Post the information, along with the Short Term Rental Registration, in a conspicuous location within the Short Term Rental.

§ 190-8 Trash Removal

The Short Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent, in addition to compliance with the requirements of Chapter 353, Art. 1, Storage of Garbage and Refuse.

§ 190-9 Occupancy Requirements

Notwithstanding the provisions of Chapter 59-3, the maximum number of Occupants in a Short Term Rental shall be two per bedroom, plus an additional two.

§ 190-10 Smoke Detectors and Carbon Monoxide Alarms

Each Short Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. Operators shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the Short Term Rental Registration. Any detector or alarm found to be defective shall be repaired or replaced forthwith. The Occupant(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the owner of the dwelling and, second, the Inspectional Services Department.

§ 190-11 Keeping of Register

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years and shall be made available upon request to Inspectional Services Department staff, police, or other duly appointed or authorized code compliance staff of the Town of Barnstable.

§ 190-12 Ineligible Units

The following are not eligible to be rented or offered to rent as Short Term Rentals:

1. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
2. Family Apartments or Accessory Affordable Apartments;
3. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short Term Rental;
4. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders;

5. Properties designated as Problem Properties under Chapter 160.

§ 190-13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal or District Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding a Short Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

§ 190-14 Inspections

Short term Rentals shall be subject to reasonable inspections by Town and District inspectional staff (“Inspectors”).

§ 190-15 Complaint Process, Violations

- A. Complaint. A complaint alleging that a Short Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Inspectional Services Department. The complaint must contain the Short Term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- B. Written notice of any violations of this chapter shall be treated as a complaint and may also be given by Inspectors. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- C. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short Term Rental Registration application then on file with the Inspectional Services Department. A written change-of-address notice signed by the Owner/s and delivered to the Inspectional Services Department may be filed at any time.
- D. Review of Complaint. The Commissioner or his designee shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short Term Rental. The Commissioner shall keep records of all complaints received and determinations made.
- E. Offering an Ineligible Unit as a Short Term Rental. Any person who offers a unit as a Short Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short Term Rental.

- F. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short Term Rental without a valid Short Term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- G. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- H. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Inspectional Services Department shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Manager and shall occur no later than three (3) weeks after the date the Inspectional Services Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- I. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Inspectional Services Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- J. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Inspectors.
- K. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

§ 190-16 Registration Suspension, Modification and Revocation

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Inspectional Services Department, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Inspectional Services Department, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

§ 190-17 Judicial Appeals

Any person aggrieved by a final decision of the Hearing Officer and Inspectional Services Department with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

§ 190-18 Penalties

A. Any person who violates any provision of this chapter may be subject to a fine in accordance with the following:

- Warning 1st Offense
- \$100 2nd Offense
- \$200 3rd Offense
- \$300 4th Offense – and each subsequent offense

Each day that a violation exists constitutes a separate offense.

§ 190-19 Enforcement

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

§ 190-20 Regulations

The Inspectional Services Department may adopt regulations, policies and procedures for the implementation of this chapter.

§ 190-21 Severability

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Ordinances, this chapter 190 shall control.”

SECTION 2. **ORDERED** that the Code of the Town of Barnstable, General Ordinances Chapter 170, Rental Properties, be amended as follows:

- A. By adding to § 170-2, Definitions, “Dwelling,” after the words “rooming houses,” the words “except any required to be registered pursuant to § 190-3 Short Term Rental Registration” of Chapter 190 Short Term Rental Properties.
- B. By adding to § 170-2, Definitions, “Licensed Facility,” after the words “registered under this chapter” the words “or Chapter 190 Short Term Rental Properties.”

SPONSOR: Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

DATE	ACTION TAKEN
<u>06/18/2020</u>	<u>Refer to Public Hearing 07/16/2020</u>
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2020-192
INTRO: 06/18/2020, 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Town Council Committee to Review Zoning & Permitting Regulations
DATE: June 18, 2020
SUBJECT: Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties

RATIONALE: This proposed Short Term Rental General Ordinance aims to create enforceable standards for the operation and occupancy of Short Term Rentals that promote the safety of our residents and guests and provide a clear understanding of what is permitted in terms of renting a residential dwelling in the Town of Barnstable. Appropriate regulation of short term rentals will allow for varied accommodations and experiences for visitors, while retaining the quality of life in residential neighborhoods. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short term rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This ordinance defines Short Term Rentals in a manner consistent with the Commonwealth's Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions or dwellings that are rented out in advance for less than 31 days (including weekly rentals).

The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and regulate them by requiring that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize short-term rentals as an allowed use of a residential dwelling.

This item is the proposed general ordinance creating a registration process and associated requirements for the operation of Short Term Rentals. This process is separate and distinct from the current rental registration requirements of Chapter 170 to address the unique aspects of Short Term Rentals. The item establishes that all Short Term Rentals in the Town of Barnstable must be registered with the Inspectional Services Department, with registration renewals due every two years. Upon registration, owners of short term rentals must sign an affidavit attesting to compliance with pertinent health, safety, and other regulations. Registrations are not transferable to new owners. Upon registering, owners must provide their own contact information as well as contact information for someone who is available 24 hours a day and able to respond in-person to the Short Term Rental if necessary.

The proposed general ordinance limits the number of Short Term Rental registrations that may be issued to a single owner, as defined, to two. The intention of this limitation is to reduce the potential that multiple dwellings will be purchased exclusively for Short-Term Rentals use and is a measure to protect

the Town's housing stock from this form of speculative investment. Limits on the number of licenses may incentivize the owners of multiple dwelling units to rent year-round, which can help both housing availability and affordability.

The proposed general ordinance establishes several provisions for Short Term Rentals to address potential health, safety, and community concerns, including measures to keep the public informed of short term rentals registered in their neighborhood. The Town will be obligated to maintain a website with the address of all registered Short Term Rentals and corresponding contact information available for public view. The proposed general ordinance also commits the Town to providing template informational items that make clear the requirements of being both a host and a guest in a Short Term Rental in Barnstable.

There are requirements for regular trash removal and for the installation of smoke detectors and carbon monoxide alarms. Additionally, the proposed general ordinance proposes occupancy restrictions: a maximum of two occupants per bedroom, plus an additional two.

The proposed general ordinance establishes a process for filing complaints with the Inspectional Services Department and for violations, rights to a local hearing before a hearing officer, penalties and fines, and allowance for judicial appeals.

This proposed general ordinance was developed with the assistance of consultant groups who provided background research on Short Term Rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings.

A proposed General Ordinance requires introduction at a first reading before the Council, and must be considered at an advertised public hearing upon second reading, and requires a majority vote for passage.

STAFF ASSISTANCE: M. Andrew Clyburn, Assistant Town Manager, Karen Nober, Town Attorney, Charles McLaughlin, Assistant Town Attorney, Brian Florence, Building Commissioner, Elizabeth Jenkins, Planning & Development Director, Paul Wackrow, Senior Planner, Gloria McPherson, Planning & Economic Development Coordinator

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

BARNSTABLE TOWN COUNCIL

**ITEM 2020-194
INTRO: 06/25/20, 07/16/2020**

2020-194 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$277,600 FOR THE FISCAL YEAR 2020 AIRPORT CAPITAL BUDGET FOR THE PURPOSE OF FUNDING AIRPORT CAPITAL IMPROVEMENT PROJECTS FOR MITIGATION OF PER AND POLYFLUOROALKYL SUBSTANCES (PFAS) AND 1,4-DIOXANE

ORDERED: That the sum of **\$277,600** be appropriated for the purpose of funding mitigation for the impacts of Per and Polyfluoroalkyl Substances (PFAS) and 1,4-Dioxane in soil and groundwater associated with the use of firefighting foams; and that to meet this appropriation that **\$277,600** be transferred from the Airport Enterprise Fund Reserves; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>06/25/2020</u>	<u>Refer to Public Hearing 07/16/2020</u>

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

BARNSTABLE TOWN COUNCIL

ITEM 2020-194
INTRO: 06/25/20, 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Eells, Town Manager
THROUGH: Katie R. Servis, Airport Manager
DATE: June 15, 2020
SUBJECT: Supplemental Appropriation and Transfer Order in the amount of \$277,600 for the Fiscal Year 2020 Airport Enterprise Fund Capital Budget

BACKGROUND: A total of \$277,600 is requested for mitigation of these compounds at the Airport. The work proposed includes response actions to reduce infiltration of precipitation through PFAS-impacted soil, such as temporarily capping the source areas; excavating and properly disposing of the PFAS-impacted soil; or some equivalent approach.

The Airport initially proposed a temporary soil cap using two layers of 6-mil polyethylene sheeting with one layer being reinforced polyethylene sheeting or a combination of the two. However, site investigations revealed that the addition of asphalt be added in some areas to allow for a permanent cap and thus increased the cost of the project. The original appropriation was for \$100,000 (A.O. 2019-110) and a second appropriation was sought in November 2019 in the amount of \$150,000 (A.O. 2020-052 approved 11/21/2019). *See attached November 2019 request with more detail about the project.*

The Airport put the project out to bid on March 27, 2020 with bids due on April 15, 2020. At that time bids were more than double the estimated price of \$250,000. The Airport assumed that the tight construction schedule may have increased the prices; therefore, the Airport cancelled the bid, revised the construction schedule and lengthened the project timeline. The rebid issue date was May 11, 2020 with bids due on June 12, 2020. The revised bid lengthened the construction timeframe and completion due dates, unfortunately, bids still came back higher than estimated.

SUMMARY: Bids received came in higher than what the Airport had set aside in its Fiscal Year 2020 Airport Enterprise Fund Capital Budget for the Mitigation (PFOS Soils) Phase I.

- We were approved for \$250,000 (A.O. 2019-110 for \$100,000 approved 4/4/2019 and A.O. 2020-052 for \$150,000 approved 11/21/2019).
- After two bids, the lowest and responsive bidder = \$448,000.00
- Lowest bid plus bid development and admin fees = \$79,600.00
- **Total Project Cost = \$527,600.00**
- **Appropriation is short of need by \$277,600.00**

FISCAL IMPACT: The Airport's net share for this Supplemental Appropriation is \$277,600. The total project share is \$527,600 as this project is not eligible for grant funding from The Federal Aviation Administration or the Massachusetts Department of Transportation – Aeronautics Division. The request for this project is that \$277,600 be transferred from the Airport Enterprise Fund reserves. As of July 1, 2020, the Airport Enterprise Fund had \$2,761,211.00 certified in cash reserves.

STAFF ASSISTANCE: Mark A. Milne, Director of Finance

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2021-001
INTRO: 07/16/2020**

**2021-001 RESOLVE ALLOWING MARK S. ELLS, TOWN MANAGER TO
CONTINUE TEACHING AT CAPE COD COMMUNITY COLLEGE UNDER
SECTION 8 OF THE TOWN MANAGER CONTRACT**

RESOLVED: That according to Section 8 of the Town Manager Contract Agreement between the Town of Barnstable and Mark S. Ells, the Barnstable Town Council does hereby approve Mark S. Ells to continue teaching at Cape Cod Community College for the period of July 1, 2020 to June 30, 2021.

SPONSOR: Paul Hebert, Town Council President

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM:2021-002
INTRO: 07/16/2020

2021-002 ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$6,000 FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY, OFFICE OF GRANTS AND RESEARCH, HIGHWAY SAFETY DIVISION

RESOLVED: That the Barnstable Town Council does hereby accept the Fiscal Year 2020 Pedestrian and Bicycle Safety Enforcement and Equipment Grant from the executive Office of Public Safety and Security, Office of Grants and Research, Highway Safety Division in the amount of **\$6,000** to be used to develop or enhance effective pedestrian and bicycle enforcement to reduce fatalities and injuries, including an educational component and for the purchase of ninety- five (95) bicycle helmets to be distributed to children in the Barnstable Public Schools, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM: 2021-002
INTRO: 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Anne E. Spillane, Finance & Support Services Director (BPD)
DATE: July 16, 2020
SUBJECT: Acceptance of Fiscal Year 2020 Grant in the amount of **\$6,000** for the Pedestrian and Bicycle Safety Enforcement and Equipment

BACKGROUND: The Barnstable Police Department applied in a competitive application for, and was awarded, the Fiscal Year 2020 Pedestrian and Bicycle Safety Enforcement and Equipment Grant, in the amount of \$6,000. The mission of this grant is to develop or enhance effective pedestrian and bicycle enforcement to reduce fatalities and injuries in these areas. The work of the grant will include targeted enforcements on Main Street in Hyannis and streets around The Cape Cod Mall, for the purpose of increasing compliance with traffic laws by pedestrians, bicycles, and motorists. The grant also includes an educational component directed towards safe and proper street crossing in the areas of the Sturgis Charter School and Barnstable High School. Forty (40) bicycle helmets will also be purchased with a portion of this grant money to be distributed by School Resource Officers working in the Barnstable Public Schools to children who cannot afford to purchase a helmet. Overall, the greatest benefit of this grant will be in raising awareness of these safety concerns with motorists and with pedestrians, which hopefully will have a lasting effect in reducing unsafe behaviors.

ANALYSIS: The acceptance of this grant will allow the Barnstable Police Department to take action on the programs as previously described.

FISCAL IMPACT: This is a reimbursement grant, whereby expenditures are incurred and then a request for reimbursement is submitted. There is no match required.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: Anne E. Spillane, Finance & Support Services Director, Lena A Bevilacqua, Barnstable Police Department

B. NEW BUSINESS (Refer to Public Hearing 08/20/2020)

BARNSTABLE TOWN COUNCIL

**ITEM: 2021-003
INTRO: 07/16/2020**

2021-003 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$300,000 OF COMMUNITY PRESERVATION FUNDS FOR THE CREATION OF TWO (2) MODERATE-INCOME DEED-RESTRICTED TWO-BEDROOM APARTMENTS AT 255 MAIN STREET HYANNIS, MA

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the sum of Three Hundred Thousand Dollars and No/100 (\$300,000.00) be appropriated and transferred from the Undesignated Funds portion of the Community Preservation Fund and that the Town Manager is authorized to contract for and expend the amount appropriated and transferred for the purpose of creating community housing consisting of two (2) moderate income deed-restricted residential rental two-bedroom apartment units to be indexed at 100% Area Median Income (AMI) in perpetuity located within a mixed use redevelopment of an historically significant building at 255 Main Street, Hyannis, and that the Town Manager is further authorized to execute, deliver and record documents and restrictions for the stated purpose subject to restrictions as provided in G.L. c. 44B for the stated purpose and the oversight of the Community Preservation Committee.

SPONSOR: Mark S. Ells, Town Manager upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM: 2021-003
INTRO: 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair Community Preservation Committee
DATE: July 16, 2020
SUBJECT: CapeBuilt 255 Main Street LLC, Community Preservation Application
Community Housing - 255 Main Street, Hyannis – Map 327, Parcel 247
\$300,000 in Community Preservation Unreserved Funds

BACKGROUND: At the June 15, 2020 Community Preservation Committee meeting, the seven members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager, CapeBuilt 255 Main Street LLC's request for \$300,000 in Community Preservation Undesignated funds in support of the creation of two (2) moderate income deed-restricted residential rental two- bedroom apartment units to be indexed at 100% Area Median Income (AMI). The two-bedroom units are located within a mixed use redevelopment of an historically significant building in the East End of Hyannis Main Street. The project is located at 255 Main Street, Hyannis, formally home to the Hyannis Board of Trade, and has received the support of the Hyannis Main Street Business Improvement District Commission and the Hyannis Civic Association. The mixed-use redevelopment includes construction of 8 additional one- bedroom apartments on the second and third floors; and the creation of two 2-bedroom apartments that will be deed restricted at 100% Area Median Income (AMI) in perpetuity. This request for \$300,000 in Community Preservation Undesignated funds represents a portion of the total project budget of \$3,056,628.

ANALYSIS: 255 Main Street, Hyannis is located in the epicenter of three maps, both local and Federal, specifically designated to encourage growth. The project accomplishes two Community Preservation goals: creation of community housing; and preservation of an historic building and is also in line with the housing plan for Hyannis. It should be noted that the redevelopment and preservation of an historic building to include housing, costs nearly twice as much as new construction. Once complete, the project will create much needed workforce, year-round housing for local professionals, and will be a key piece of the economic development plan for the East End.

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

VOLUNTEER STAFF ASSISTANCE: Lindsey Counsell, Chair Community Preservation Committee

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM # 2021-004
INTRO 07/16/2020**

**2021-004 RESOLVE TO ACCEPT THE GRANT OF A SIDEWALK EASEMENT
FROM VICTORY CHAPEL FOR NEW SIDEWALK IN MERCHANTS
WAY, HYANNIS, MA**

RESOLVED: that the Town accept the grant of a perpetual easement to the Town under the care, custody and control of its Department of Public Works for the construction, maintenance, repair and use of a public sidewalk on Merchants Way from Victory Chapel Christian Fellowship Church of Cape Cod, Inc., as shown on a plan prepared by the Department of Public Works Survey Section dated April 23, 2020 and that the Town Manager is authorized to accept, sign deliver and record documents for the purposes set forth herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2021-004
INTRO 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: July 16, 2020
SUBJECT: Acceptance of Sidewalk Easement from Victory Chapel

BACKGROUND: As part of a project funded by a MassWorks grant, the Town of Barnstable intends to install a sidewalk along a portion of Merchants Way, which is a private road.

ANALYSIS: The Department of Public Works is seeking to install a sidewalk along a portion of Merchants Way, which is a private road. As a result, the Town has sought an easement from the adjacent property owner (Victory Chapel) to allow the sidewalk to be constructed along the private roadway.

FINANCIAL IMPACT: This easement will be acquired at no cost to the Town. Additionally, the construction of the sidewalk is being funded by a MassWorks Grant.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (May be acted upon) Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM # 2021-005
INTRO 07/16/2020**

2021-005 RESOLVE TO ACCEPT THE GRANT OF A SEWER MAIN, PUMP STATION AND FORCE MAIN EASEMENT FROM CAPE COD FIVE CENTS SAVINGS BANK

RESOLVED: that the Town accept the grant of a perpetual easement to the Town under the care, custody and control of its Department of Public Works for the construction, maintenance, repair and use of a sewer main, pump station and force main at 1500 Iyannough Road (Route 132) , Hyannis from The Cape Cod Five Cents Savings Bank, as shown on a plan labeled as “Proposed Sewer Easement Area” on the Sewer Easement Plan, Sheet EASE 1.0, dated October 24, 2019, prepared by Baxter Nye Engineering & Surveying, and that the Town Manager is authorized to accept, sign, deliver and record documents for the purposes set forth herein.

SPONSOR: Paul Hebert, Town Council President, Precinct 3

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2021-005
INTRO 07/16/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: July 16, 2019
SUBJECT: Acceptance of Sewer Easements from Cape Cod Five Cents Savings Bank

BACKGROUND: The Town of Barnstable and Cape Cod Five Cents Savings Bank entered into a Memorandum of Understanding whereby Cape Cod Five would build sewer infrastructure (pump station, sewer mains and force mains) necessary for the sanitary sewer needs of their new headquarters at 1500 Iyannough Road and the Town of Barnstable would take over ownership and maintenance of the sewer infrastructure which will be used for future sewer expansion in the region.

ANALYSIS: The easement grants the Town “the exclusive permanent right to install, inspect, operate, maintain, change the size of, renew, replace and repair sewer pump station, force main, and piping (with all appurtenances including frame and covers) as are from time to time needed for the transportation of sewage, and together with the right to enter in connection therewith, all under, over and across” the Cape Cod Five property.

FINANCIAL IMPACT: These easements will be acquired at no cost to the Town.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works