



Town Council Meeting
May 4, 2023



A quorum being duly present, President Matthew Levesque called the May 4, 2023, Town Council meeting to order at 7:03 PM.

An announcement was made by President Levesque regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: Nikolas Atsalis, Kristine Clark, Jennifer Cullum, Paul Cusack, Jessica Rapp Grasseti, Matthew Levesque, Betty Ludtke, Jeffrey Mendes, Paul Neary (6:08 PM), Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber.

The Pledge of Allegiance was led by President Levesque followed by a moment of silence.

PUBLIC COMMENT:

(In-person)

Jim Dannhauser urged the Councilors to vote for Item #2023-180 as it is very important to the village of Cotuit. The Prudential Committee would like the transfer of the property, leaving the recreational assets with the town.

Jaci Barton agrees with the previous speaker, happy to be here, hope you will support this endeavor, it is very important to Cotuit.

(Zoom)

No One

COUNCIL RESPONSE TO PUBLIC COMMENT:

(Ludtke) Thanked the speakers; a great example of a positive productive way of working with the town (Rapp Grasseti) Thanked the speakers and the staff that worked together, I will support this item. Close public comment

TOWN MANAGER'S COMMUNICATIONS: (Levesque) The Town Manager's report has been prerecorded and the written form will be available to all on the Town Manager's page on the website. (Exhibit A)

1. Update on Budget Action Calendar
2. Great Streets Downtown Hyannis
3. Prohibiting discharge of radioactive wastewater from Cape Cod Bay
4. Cape Cod Community College property
5. Proposed regulatory changes to Title 5
6. Update of Local Comprehensive Plan

Councilor questions and comments:

(Starr) Asked Mr. Ells for a quick overview of the Green Burial process (Ells) this is a modification to our current cemetery regulations, will have a hearing on Wednesday the 11th. (Schnepf) On the opioid settlement what are the plans for spending the money we have received, would like to see outreach to the public to all that might have an interest, to determine how these funds are used (Ells) Finance

Director Mark Milne is working on this project (Milne) Scheduled a meeting with staff, public safety officials, health officials, procurement officials, finance officials and the Town Attorney to discuss the process we will use; we will listen to the community (Schnepp) please reach out to the Human Services Committee they would be a good source for that meeting.

ACT ON PUBLIC SESSION MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of April 27, 2023 as presented.

VOTE: PASSES 12 YES, 1 Abstention (Steinhilber)

COMMUNICATIONS from elected officials, boards committees, and staff, commission reports, (Clark) Message from Land Acquisition Preservation Committee is sponsoring a walking weekend, the information can be access on the town website (Levesque) Millbilly breakfast this Sunday, the deal of the century, and to MM scholarship fund (Schnepp) Take out is available

Update from District Attorney Galibois, Cape and Islands District Attorney's office:

Today is my 4th month on the job, appointed Jessica Alumbaugh, the first woman to hold the post of 1st Assistant District Attorney.

- We began a Diversity Equity and Inclusion Committee.
- Developing a Mental Health Court session which allows health professionals to work with the struggling defendants
- Started to collect data, to ensure we are treating every case equally.

2023-126 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 04/27/2023, 05/04/2023

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Mid Cape Cultural Council:** Barbara Hersey, as a regular member, to a term expiring 06/2025; **Shellfish Committee:** Paul Hendricks Jr., as a professional fisheries trained member, to a term expiring 06/2024; **Youth Commission:** Sophia Machnik, as a student member, to a term expiring 06/2024; Daniel Gomes, as a student member, to a term expiring 06/2024

VOTE: PASSES UNANIMOUS

2023-180 AUTHORIZATION TO CONVEY 8.1 +/- ACRES OF THE PROPERTY LOCATED AT 140 OLD OYSTER ROAD, IN THE VILLAGE OF COTUIT, MA, TO THE COTUIT FIRE DISTRICT FOR NOMINAL CONSIDERATION OF ONE DOLLAR AND NO CENTS (\$1.00) AND APPROVAL AND AUTHORIZATION OF A CONSERVATION RESTRICTION ON THE REMAINING 5.4 +/- ACRES OF SAID PROPERTY TO BE HELD BY THE COTUIT FIRE DISTRICT FOR CONSERVATION, RECREATION, AQUIFER RECHARGE AREA AND WATER PROTECTION PURPOSES INTRO: 04/27/2023, 05/04/2023

David Anthony, Director of Asset Management gave the rationale, utilizing a power point presentation (Exhibit B)

Upon a motion duly made and seconded it was

WHEREAS, the 13.5 acre parcel located at 140 Old Oyster Road in the Village of Cotuit in the Town of Barnstable, as shown on Town of Barnstable Assessor's Map 021, Parcel 008, is under the charge, custody and control of the Town Manager; and

WHEREAS, on April 10, 2023, the Town sought and received endorsement of the Town Planning Board that approval under the Subdivision Control Law was not required to divide said 13.5 acre parcel into two lots of 8.1 +/- acres and 5.4 +/- acres, referred to hereinafter as Lot A and Parcel B, respectively, as shown on a plan of land entitled, "Approval Not Required Plan of Land at 140 Old Oyster Road in Barnstable (Cotuit) MA (Barnstable County) prepared for: Town of Barnstable

Department of Public Works, prepared by: JC Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538, Scale 1" = 60' October 14, 2022" (the "ANR Plan") attached hereto; and

WHEREAS, on April 11, 2023, the Town Manager declared that Lot A was no longer required for the public purposes of the Town and was surplus to the Town's needs and so informed the Town Council; and

WHEREAS, the Cotuit Fire District seeks to acquire Lot A due to its location within a wellhead protection area and directly up gradient from one of the Fire District's primary drinking water wells; and

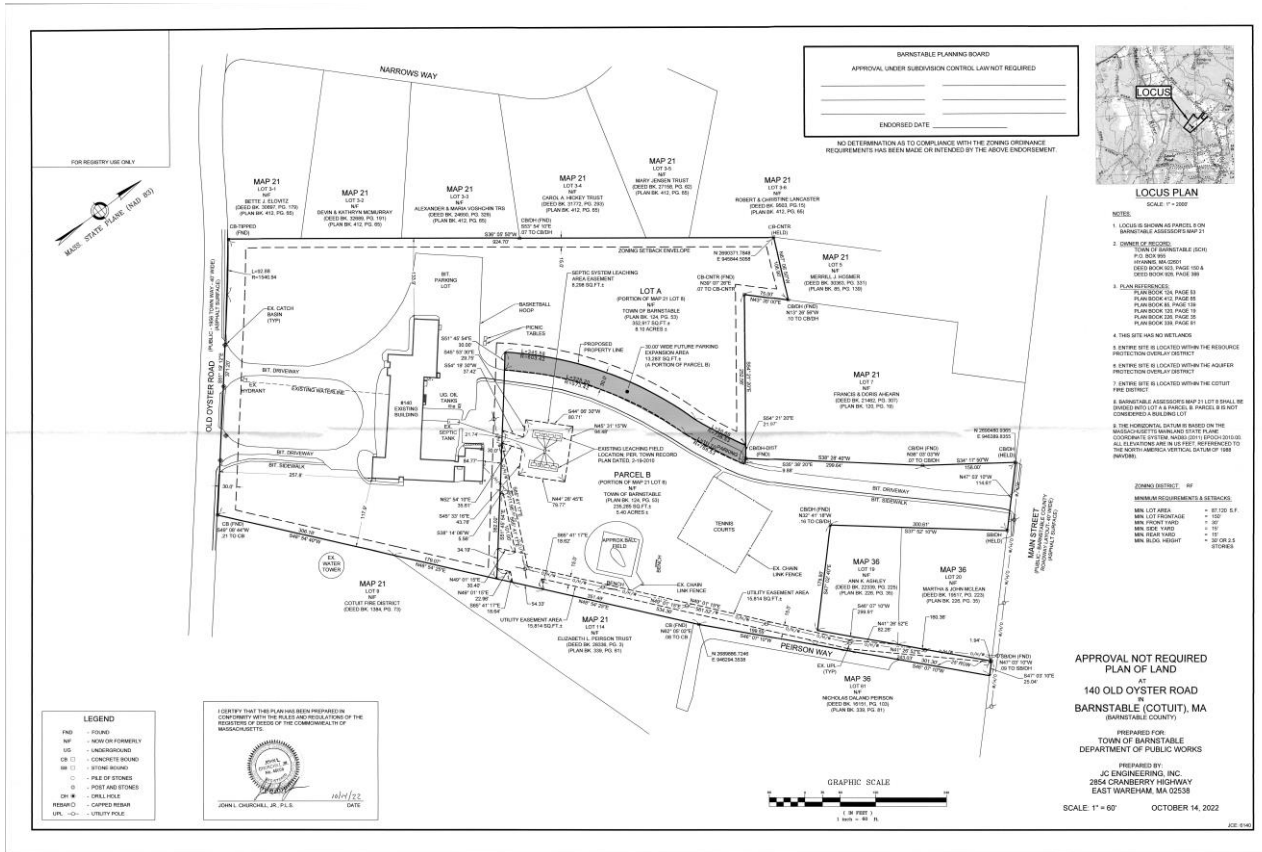
WHEREAS, the Town Manager seeks authorization to convey Lot A by deed to the Cotuit Fire District for the nominal consideration of One Dollar and No Cents (\$1.00); and

WHEREAS, the Town Manager seeks Town Council approval of a Conservation Restriction to be placed on Parcel B to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and watershed protection purposes;

NOW, THEREFORE, BE IT ORDERED:

That the Town Council does hereby declare available for disposition and approve and authorize the conveyance by deed of Lot A, 8.1 +/- acres as shown on the ANR Plan, including the building thereon, as is, where is, without warranty or any further obligation incumbent upon the Town, to the Cotuit Fire District for the nominal consideration of One Dollar and No Cents (\$1.00); and further authorizes the Town Manager to execute, receive, deliver and record any written instrument necessary to effectuate such conveyance; and

Subject to the conveyance authorized by Paragraph 1 hereof, and pursuant to the provisions of M.G.L. c. 184, sections 31-33, the Conservation Restriction statute, the Town Council does hereby approve and authorize the Town Council President to sign on behalf of the Town Council a Conservation Restriction on Parcel B, 5.4 +/- acres as shown on the ANR Plan, said Restriction to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and watershed protection purposes. Said Restriction is subject to approval of the Massachusetts Secretary of Energy and Environmental Affairs, and shall be substantially in the form attached hereto. It is further ordered that the Town Manager is authorized to execute, receive, deliver and record any written instruments necessary to effectuate the purposes set forth herein.



**COTUIT SCHOOL LAND CONSERVATION RESTRICTION
BARNSTABLE, MA**

Grantor: TOWN OF BARNSTABLE
 Grantee: Cotuit Fire District
 Property Address: 140 Old Oyster Road, Cotuit, MA
 Grantor's Title: Book 923 Page 150 in Barnstable County Registry of Deeds

CONSERVATION RESTRICTION

TOWN OF BARNSTABLE, a Massachusetts municipal corporation with a principal place of business at Town Hall, 367 Main Street, Hyannis, Barnstable County, Massachusetts, 02601-3907, acting by and through its Town Council, an attested copy of whose vote is attached hereto as Exhibit C, its successors and assigns holding any interest in the Premises as hereinafter defined, ("Grantor"), for nominal consideration paid by the COTUIT FIRE DISTRICT, a Massachusetts municipal corporation duly-organized pursuant to Chapter 328 of the Acts of 1926, with a principal place of business at 64 High Street, Cotuit, Massachusetts 02635, acting by and through its Prudential Committee, ("District/Grantee"), pursuant to authority granted by vote of the District on Article ___ of the Cotuit Fire District Annual Meeting held on May 31, 2023, an attested copy of which vote is attached hereto as Exhibit D,

GRANTS WITH QUITCLAIM COVENANTS to the COTUIT FIRE DISTRICT and to its successors and permitted assigns, with quitclaim covenants, a Conservation Restriction, pursuant to Sections, 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, to be held and exercised in perpetuity as provided in Section I. Purposes herein exclusively for conservation, recreation, aquifer recharge area and watershed protection purposes, including under Mass. Const. Amend. Art. 97, the following described perpetual CONSERVATION RESTRICTION ("Restriction"), on a parcel of unregistered land totaling approximately ____ [5.5+] acres, located at 140 Old Oyster Road in the Village of Cotuit, Town

of Barnstable, County of Barnstable, Commonwealth of Massachusetts, said parcel being described in Exhibit A and shown on Exhibit B both of which are attached hereto, said parcel hereinafter referred to as the "Premises." The Grantor and Grantee, their successors and assigns, are bound by and subject to the terms and conditions of this Restriction.

The conveyance of this Restriction is made pursuant to the vote of the Barnstable Town Council, at a duly called meeting held on _____ 2023, on Agenda Item 2023-_____, to authorize the Town to grant this Restriction on the Premises in compliance with the provisions set forth herein. A copy of the Town Council Order is attached hereto as Exhibit C.

The District acquires this Restriction subject to the approval of the Department of Environmental Protection ("DEP") pursuant to Massachusetts General Laws Chapter 40, Section 41 of the District's monitoring and enforcement powers as provided in section M owing to the fact that the Premises is located within the Zone II to Well Station #3 of the District. The Town and the District also acquire this Restriction subject to the approval of the Secretary of Energy and Environmental Affairs ("EEA") pursuant to Massachusetts General Laws Chapter 184, Section 32 over the entire premises.

DEP approval is required before the Premises located within the DEP-approved Zone II can be transferred to a different ownership or control, or before the Premises located within the Zone II can be changed to a different use.

I. PURPOSE: This Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws. The purpose of this Restriction is to assure that, while allowing public access for passive and active recreational use and enjoyment of the open space and natural resources and permitting the other uses described in Paragraph B herein, and to the extent permitted by applicable law, the Premises will be preserved for conservation, aquifer, recharge area and watershed protection purposes, and be maintained in perpetuity, substantially in a scenic and open condition and to prevent any use of the Premises that would materially impair or interfere with the conservation values and aquifer recharge area and watershed protection values thereof. This Restriction will yield a significant public benefit because the Premises' protection will advance the following policies and objectives.

A. The Drinking Water Program of the Massachusetts Department of Environmental Protection ("DEP") approves Zone II areas of contribution, wellhead protection areas determined by hydro-geologic modeling that are important for protecting the recharge area around aquifer, recharge area and groundwater resources.

B. In 1999, the Cape Cod Commission completed its Priority Land Acquisition Assessment Project (PLAAP) for the Massachusetts Department of Environmental Protection under a Section 604(b) grant. The PLAAP in effect serves as the water assets plan for the Cotuit Fire District, and, in fact, probably is more specific than a typical community assets plan. This PLAAP report refined a Capewide inventory conducted by the U.S. Geological Survey in 1994 that had identified only five percent of the Cape's land mass as potentially suitable for future wellfield creation.

C. In July 1991 the Barnstable Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a Regional Policy Plan, amended in 1996, 2002 and 2009, which provided, inter alia (references are to the 2009 Plan):

Wildlife and Plant Habitat Goal to "prevent loss or degradation of critical wildlife and plant habitat...and to maintain existing populations and species diversity" (WPH1); stating that "renewed commitment to protect the most ecologically sensitive undeveloped lands through land acquisition and other permanent conservation measures is also warranted;"

Open Space and Recreation Goal to "preserve and enhance the availability of open space that provides wildlife habitat...and protects the region's natural resources and character" (OS1) with a

recommended Town Action of working with “local land conservation organizations to identify, acquire by fee simple or conservation restriction, and manage open space to meet projected community needs.

D. In 2000, the Town of Barnstable voted to establish a Resource Protection Overlay District to reduce nitrogen loading to groundwater, surface water and coastal embayments to prevent deterioration of water quality, destruction of bottom habitat, loss of fin fish and shell fish habitat, and other adverse environmental and economic impacts; and,

E. The Town of Barnstable adopted wellhead protection regulations, mapping the entire Town as falling under one of three Groundwater Protection Overlay Districts, shown on the Town’s Official Zoning Map: the Aquifer Protection (AP) District is the entire town because it is part of the Cape Cod Sole Source Aquifer; the Groundwater Protection (GP) District is similar to the State’s Zone II, but future proven well sites were also included so the area of protection is larger than the Zone II; and the Wellhead Protection (WP) District, which is within the five-year time of travel, and is a subset within the GP District.

F. In 2008, the Town of Barnstable established a Saltwater Estuary Protection Overlay District to mitigate the adverse impact to saltwater, nitrogen-impaired estuaries from the subsurface discharge of sewage effluent; and this Conservation Restriction meets the following requirements:

G. Consistency with Clearly Delineated Town of Barnstable Conservation Policy. Protection of the Premises will further the Town of Barnstable’s documented goals regarding conservation land; The Town outlined its conservation goals in its Open Space and Recreational Plan (1984, amended 1987, 1998, 2005, 2010, 2018), identifying goals, policies, and actions to guide conservation efforts, among them the goal of preserving “quality open spaces throughout the Town which protect and enhance its visual heritage.” Additional objectives include (references are to the 2018 Plan):

1) "Preservation of open space for protection of drinking water resources, and for protection of other natural, historic and scenic resources is a community-wide priority; and 2) Protection of open space should continue to be an integral component of the Town's efforts." (p. 6)

To achieve this vision, the Plan sets several goals for the town including: 1) "To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities and community character, and 2) “Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, [and] preserve historic, scenic and cultural resources...” (pp. 10-11).

Additionally, the Barnstable Town Council’s Strategic Plan adopted on November 19, 2020 identified the goal to conserve and protect significant natural and historic resources for visual quality, outdoor recreation, public access, wildlife habitat, and cultural history.

Moreover, in 1981, the Town of Barnstable adopted a Conservation Restriction Program consisting of policies and guidelines, in particular an Open Space Policy, approved by the Board of Selectmen, Assessors, and Conservation Commission, which encourages the use of conservation restrictions in perpetuity to protect natural resources in accordance with the purposes of the Open Space and Recreation Plan, and which further specified that purposes of a conservation restriction could include the following:

- preserve scenic view;
- protect groundwater quality for drinking purposes;
- preserve open space;
- to protect a trail;
- preserve important natural habitats of fish, wildlife or plants; and,
- limit or prevent construction on land of natural resource value.

H. Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: protect the land for outdoor recreation by the general public; preserve an existing public water supply; reserve the land for education regarding the natural world; protect wildlife habitats; and it would contribute to the preservation of open space because it is proximate to several other parcels already conserved.

I. Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, soil and water resource quality, watershed, and scenic values (collectively “conservation values”) of great importance to the Grantee and the people of Barnstable and the Commonwealth of Massachusetts.

WHEREAS, preservation of the Premises satisfies each of these enumerated objectives because the Premises:

consists of approximately 5 acres of cultivated playing fields and fringing woodland;
lies wholly within a DEP Zone II Area of Contribution to Cotuit Fire District Well #3;
was rated as a priority tract for acquisition or protection through the PLAAP work;
completely is within a Significant Natural Resources Area for wellhead protection and as potential aquifer, recharge area and watershed area, and is completely within a Resource Protection Area of the Land Use Vision Map for the Town of Barnstable;
is completely within the Town of Barnstable Resource Protection Overlay District;
is partially within the Town of Barnstable Groundwater Protection and Wellhead Protection Overlay Districts;
is completely within the Town of Barnstable Saltwater Estuary Protection District;
abuts and connects with an existing greenbelt of open space owned by the Grantor and Grantee;
will continue to provide passive and active public recreation opportunities to complement the nearby active recreation at Lowell Park;
will protect the quality of the nearby marine Cotuit Bay Estuary;
will preserve the scenic character of the area off historic Main Street;
will be open to the public for conservation and recreation purposes; and,
is a substantial contributing element to the overall scenic and historic character of the area by being maintained predominantly in an open condition; and,

WHEREAS, accordingly, the Premises possess significant open, natural, and scenic values (collectively, "conservation values") of great importance to Grantees and the people of Barnstable and the Commonwealth of Massachusetts; and,

WHEREAS, the Town of Barnstable has in recent years come under increasing pressure for development, and such development can destroy or otherwise severely impact the open character, natural resources, and scenic beauty of the area; and,

WHEREAS, District consists of a body corporate that is qualified to hold restrictions in perpetuity; and,

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, Grantor and Grantee voluntarily agree that the CONSERVATION RESTRICTION described herein is an appropriate means to achieve the community’s open space, aquifer, recharge area and watershed protection goals and objectives.

The terms of this Restriction are as follows:

II. PROHIBITED ACTIVITIES: In order to carry out the purposes set forth in Article I above, the Grantor covenants for itself and its legal representatives, mortgagees, successors and assigns that the

Premises will at all times be held, used and conveyed subject to and not in violation of this Restriction. The Grantor shall refrain from and will not permit any activity which shall be inconsistent with the aforesaid purposes of this Restriction or which materially impairs water quality, soil conservation, wildlife conservation, scenic landscape protection or which is otherwise wasteful of the natural resources of the Premises.

Subject to the exceptions set forth in Article III below, prohibited activities shall include, but shall not be limited to, the following:

Construction or placing of any building, residential dwelling, mobile home, swimming pool, billboard, or other advertising display, landing strip or pad, roadway, asphalt or concrete pavement, antenna, utility pole, tower, wind turbine, solar array, aboveground or underground storage tank, dog park or any other temporary or permanent structure or facility on, under or above the Premises.

Placing, storing or dumping of equipment, mobile home, trailer, automotive vehicle or parts, soil, rock, sand, stumps, slash, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, radioactive waste, or hazardous waste or other substance or material whatsoever.

Mining, excavation, dredging or removal of any loam, peat, gravel, soil, sand, rock or other mineral substance, or natural deposit from the Premises or otherwise making topographical changes to the Premises.

Pollution, alteration, depletion, diversion, channelization, damming, draining, or extraction of surface water, natural water courses, marshes, potential or certified vernal pools, subsurface water, or any other water bodies.

Removal, destruction or cutting of trees, grasses, shrubs or other natural vegetation, including cutting for firewood or commercial harvesting and lumbering activities.

Introduction of species of animals or plants that are not native to Barnstable County, as defined by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, by Bruce A. Sorrie and Paul Somers, published by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program (1999) or as amended or contained in a similar professionally acceptable publication available in the future.

Use of motorized or power-driven recreational vehicles of any kind, including without limitation snowmobiles, motorbikes or all-terrain vehicles off of established roadways.

Camping, hunting, owing to state safety setbacks, or trapping unless for a proven nuisance to wildlife.

Conveyance of a part or portion of the Premises alone or division or subdivision of the Premises or use or assignment of the dimensions, area or acreage of the Premises for purposes of subdivision or development of unrestricted land whether or not such land is owned by the Grantor, its successors and assigns. (Conveyance of the Premises in its entirety shall be permitted.)

Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or wildlife habitat.

The excavation of landscape features on the Premises with the intent of collecting or otherwise removing archaeological artifacts (prehistoric and/or historic) except by formal approval of the Massachusetts Historic Commission (MHC) through submission, with the concurrence of the Grantee,

of a project notification form (PNF) in accordance with Section 27C of Chapter 9 of the Massachusetts General Laws, and associated regulations, as amended.

Subdivision or conveyance of a part or portion of the Premises, it being intended to keep the Premises in single ownership.

No portion of the Premises may be used towards any building, septic system or other development requirements on any other parcel outside the Premises.

Any commercial, residential, industrial or other municipal uses.

Any other use of the Premises or activity which is inconsistent with the purpose of this Restriction or which would materially impair its conservation values, or which is prohibited by federal, state or local law or regulation.

III. PERMITTED ACTIVITIES AND RESERVED RIGHTS: The Grantor reserves the right to conduct or permit the following activities on the Premises, but only if such uses and activities do not materially impair the conservation values and are not inconsistent with the purposes of this Restriction:

Use, maintenance, expansion and replacement in situ of the existing passive and active recreational facilities on the Premises, including two (2) fenced and surfaced tennis/pickleball courts; youth baseball field with backstop, dugouts, storage sheds and benches; and playing field, including unpaved parking areas along their periphery which may be expanded to support the recreational activities with the permission of the Grantee ;

With Grantee's written approval, delivered by vote of the Prudential Committee of the Cotuit Fire District, not to be unreasonably withheld, the installation, use and maintenance of new open-air recreational facilities, including playground, fitness course and tot lot, basketball court, and the like, and new or redesigned walking trails in the forest.

Measures, such as the installation of fencing and signage, taken in order to prevent unauthorized vehicle entry and dumping, vandalism or other acts destructive to the Premises.

With the prior approval of the Grantee, measures taken in order to protect landform stability (i.e, to maintain a naturally occurring feature on the land's surface, e.g., bank or hill from erosion.)

The use of the Premises for passive recreational activities such as hiking, snowshoeing, cross-country skiing, nature study or research, and other like activities, including access by motorized wheelchairs or other disabled assistance devices.

The maintenance, upgrade, rebuilding and use of the existing paved way, and trails on the Premises substantially in their present location and condition, and with the prior approval of the Grantee, the relocation, or construction of new trails, provided that all applicable federal, state, regional and local approvals are obtained in advance, and that any relocated trails or new trails are no wider than eight (8) feet. Both parties retain the right to relocate the existing paved ways to accommodate future development uses of adjacent parcel. The Grantee reserves the right to improve any paved ways to allow fire trucks to pass safely.

The maintenance of turf without the use of chemical fertilizers, herbicides and pesticides consistent with the town of Barnstable's Recreation turf policy, as updated from time to time, and with the approval of the grantee for this location.

The erection and maintenance of signs identifying ownership of the Premises, the property boundaries, the Premises' status as a conservation/recreation reservation, the restrictions on the use of the

Premises, the identity or location of trails, areas of interest, natural features or other characteristics of the Premises, or for providing other like information.

Minimal cutting or removal of trees, shrubs and other vegetation and planting of native trees, shrubs and other vegetation to maintain or improve the conservation and recreation values protected by this Restriction; to prevent threat of injury or damage to persons or property; to prevent or mitigate pest infestation, blight or disease; to control, manage or eradicate non-native or invasive species not native to the field or forest; or to improve or protect wildlife habitat.

Selective trimming and pruning of trees and brush necessary to preserve access to the existing power lines and power poles, for as long as the poles are installed and in use, on the premises, is allowed as would be trimming around existing recreational fields, fences, tennis courts and parking areas. This is allowed only to the extent necessary to preserve these improvements and activities.

The use of motorized vehicles (1) by the Grantor as reasonably necessary to carry out activities permitted under this Restriction, (2) for access by Grantee for purposes set forth in Article VI, below, and (3) for access by police, fire, emergency, public works, or other governmental personnel carrying out their official duties. The use of motorized vehicles for the purposes described herein shall be limited to the existing trails or those trails that may be approved and installed pursuant to Article III.D. Notwithstanding the foregoing, the use of motorized vehicles for recreational purposes, such as dirt bikes, all-terrain vehicles, off-highway vehicles, and the like, is not permitted except on existing or relocated ways.

Archaeological investigations consisting of site inspections and subsurface excavations subject to and in accordance with an Archaeological Field Investigation Permit issued by the State Archaeologist under G.L. c. 9, §26A, and associated regulations, and Grantee's written approval in accordance with Article IV, below.

In accordance with a state-approved wastewater management plan, the right to construct, maintain and use one (1) sewage treatment pump station and associated utilities, but not to treat or discharge any effluent on-site.

Such other non-prohibited activities or uses of the Premises may be permitted with the prior approval of the Grantee provided that the Grantee has made a finding, such finding to be documented in writing and kept on file at the office of the Grantee, that such activities are consistent with the Reserved Rights, do not impair the conservation values and purposes of this Conservation Restriction, and, where feasible, result in a net gain in conservation value of the Premises.

Notwithstanding the foregoing permitted activities, any proposed modifications to the landscape, including but not limited to the creation of trails, management of vegetation and wetland resources, and installation of signage and educational kiosks, shall not be undertaken if they disturb, remove, damage or destroy archaeological resources or artifacts on the Premises.

The exercise of any right or obligation reserved by the Grantor under this Article III shall be in compliance with all applicable federal, state and local law. The inclusion of any reserved right in this Article III requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position on whether such permit should be issued.

IV. NOTICE AND APPROVAL:

A. Whenever notice to or approval by Grantee is required under the provisions of this Restriction, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit

the Grantee to make an informed judgment as to its consistency with the purposes of this Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Restriction.

B. Failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute approval by the Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after sixty (60) days in the notice, provided the requested activity is not expressly prohibited hereunder and the activity will not materially impair the purposes of this Restriction. This Article IV.B shall not apply to Article III. I. or Article III.J, in which cases failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute denial by the Grantee of the request as submitted.

In the event the activity proposed is necessary to address an emergency situation, either to avert environmental degradation, ecological damage or risk to public health and safety, Grantee shall respond forthwith.

V. LEGAL REMEDIES OF THE GRANTEE; WAIVER:

The rights hereby granted shall include the right to enforce this Restriction by appropriate legal proceedings including obtaining injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of, it being agreed that the Grantee may have no adequate remedy at law, and shall be in addition to and not in limitation of any other rights and remedies available to the Grantee for the enforcement of this Restriction.

Notwithstanding the foregoing, Grantee agrees to provide written notice to Grantor of any violation of this Restriction and to cooperate for a reasonable period of time, not to exceed sixty (60) days, to allow Grantor to remedy the violation, prior to resorting to legal or equitable means in resolving issues concerning alleged violations provided Grantor has ceased objectionable actions and is making a good faith effort to remedy the violation and Grantee reasonably determines there is no ongoing diminution of the conservation values of the Restriction.

The Grantor and its successors and assigns shall each be liable under this section for any such violations of this Restriction as may exist during their respective periods of ownership of the Premises. Any new owner may be held responsible for any continuing violations existing during his or her period of ownership.

By acceptance of this Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or their agents.

If Grantee prevails in any action to enforce the terms of this Restriction, the Grantor or Grantor's heirs, successors and assigns, as the case may be, shall reimburse the Grantee for all reasonable costs and expenses, including reasonable attorney's fees, incurred in enforcing this Restriction or in taking reasonable measures to remedy or abate any violation thereof. If Grantor prevails in any action brought by Grantee to enforce the terms of this Restriction, the Grantee or its heirs, successors and assigns, as the case may be, shall, to the extent allowed by law, reimburse the Grantor for all reasonable costs and expenses, including attorney's fees, incurred in defending such action to enforce this Restriction, provided the Grantee's action is deemed by the court or by other competent authority to be unreasonable or arbitrary and capricious.

Enforcement of the terms of this Restriction shall be at the discretion of the Grantee. Any election or forbearance by the Grantee as to manner and timing of its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights

VI. GRANTEE'S RIGHT OF ACCESS; INSPECTION:

The Restriction hereby conveyed does not grant to the Grantee any right to enter upon the Premises except at reasonable times and in a reasonable manner for the following purposes:

To perform a survey of boundary lines;

To inspect the Premises to determine compliance within provisions of this Restriction;

To enter the Premises with or without the presence of an employee or employees of the Grantor for the purpose of taking any and all actions with respect to the Premises, at Grantor's cost, as may be necessary or appropriate to remedy or abate or enforce any violation hereof provided that Grantee first give Grantor notice of the violation, and upon failure of the Grantor to cure the violation within sixty (60) days of receiving said notice, Grantee then gives Grantor further written notice of its intention to enter the Premises to take such actions at least fifteen (15) days following the date of such further written notice. The requirements for providing notice to the Grantor prior to entering the Premises shall not apply in emergency situations where delayed action may result in irreparable harm to the Premises.

The Restriction hereby conveyed includes the grant of the right to the general public to enter upon the Premises, and to use the Premises and the trails thereon for the purposes set forth in Article III above.

The Grantee may, with written approval from the Grantor, access the property to perform the following activities:

The pruning and trimming of trees or removal of fallen trees or branches that hinder or threaten the power lines or poles currently in place, so long as any damage caused by equipment to the playing fields or surrounding area is repaired back to the pre entry standards.

The maintenance, repair, expansion, removal or replacement of the existing septic leach field located on the premises

The replacement, relocation or removal of power lines and power poles.

VII. ACTS BEYOND GRANTOR'S CONTROL: Nothing contained in this Restriction shall be construed to entitle the Grantee to bring any action against the Grantor for any injury or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm, natural erosion or from any prudent action taken by the Grantor under emergency conditions to abate, prevent, or mitigate significant injury to or alteration of the Premises resulting from such natural causes. The parties to this Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it desirable that the Premises be restored, the parties will cooperate in attempting to restore the Premises, if feasible.

VIII. DURATION, BINDING EFFECT, RELEASE AND RECORDATION: The burdens of this Restriction shall run with the Premises IN PERPETUITY, and shall be enforceable against the Grantor and the Grantor's successors and assigns holding any interest in the Premises. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Restriction. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instrument upon reasonable request.

IX. ASSIGNMENT: The benefits of this Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, their successors and assigns, except when all of the following conditions are met:

The assignee is a "qualified organization" as defined in Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, including, without limitation, a government entity;

The assignee is required to hold this Restriction and enforce its terms for conservation purposes;

The assignee is not an owner of the fee in the Premises;

The assignment complies with the provisions required by Article 97 of the amendments to the Constitution of the Commonwealth of Massachusetts, if applicable;

The Grantee shall notify the Grantor in writing at least thirty (30) days before assigning this Restriction and the Grantor shall have thirty (30) days from the date of such notice to approve the assignment in writing, which approval shall not be unreasonably withheld. Failure of the Grantor to respond to the notice of assignment within thirty (30) days shall be deemed approval thereof.

No such assignment of the right to enforce the Restriction shall diminish the rights or benefits held by the Grantee or its successors pursuant to this Restriction, and the Grantee shall retain the equivalent right to enforce this Restriction.

X. ESTOPPEL CERTIFICATES: Upon request by the Grantor, the Grantee shall, within twenty (20) days, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Restriction, and which otherwise evidences the status of this Restriction as may be requested by the Grantor.

XI. SUBSEQUENT TRANSFERS: The Grantor agrees to incorporate the terms of this Restriction, in full or by reference, in any deed or other legal instrument by which Grantor conveys or transfers any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. The Grantor further agrees to notify the Grantee in writing at least thirty (30) days before conveying or transferring the Premises, or any part thereof or interest therein, including a leasehold interest. Any transfer shall comply with Article 97 of the amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

XII. TERMINATION OF RIGHTS AND OBLIGATIONS: Notwithstanding anything to the contrary contained herein, the rights and obligations under this Restriction of any party holding an interest in the Premises, terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to the transfer, and liability for the transfer itself if the transfer is a violation of this Restriction, shall survive the transfer.

XIII. AMENDMENT: If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, the Grantor and the Grantee may by mutual consent amend this Restriction provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General laws of Massachusetts. Any amendments to this Restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation values. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if

applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Barnstable County Registry of Deeds.

XIV. EXTINGUISHMENT:

If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Article XV.B, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

Proceeds. Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is equal to five percent (5%) of the fair market value of the unrestricted Premises. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds resulting from an extinguishment or other release of this Restriction will be distributed only after complying with the terms of any gift, grant, or other funding requirements, including any requirements of the CPA, if applicable.

Grantor/Grantee Cooperation Regarding Public Action. Whenever all or part of the Premises or any interest therein is taken by public authority other than Grantor under power of eminent domain or other act of other public authority, then the Grantor and Grantee shall cooperate in recovering full value or all direct and consequential damages resulting from such action.

All related expenses incurred by the Grantor and Grantee under this section shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Article XV.B., after complying with the terms of any law, gift, grant, or funding requirements, including any requirements of the CPA. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

XV. NONMERGER: Grantee agrees that it will not take title to any part of the Premises without having first assigned this Restriction, pursuant to Article X, to a non-fee holder to ensure that merger does not occur and that this Restriction continues to be enforceable by a non-fee owner.

XVI. SEVERABILITY: If any court of competent jurisdiction shall hold that any section or provision of this Restriction is unenforceable, the remainder of this Restriction shall not be affected.

XVII. MISCELLANEOUS PROVISIONS:

A. Controlling Law: The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction: Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to affect the purposes of this Restriction and the policies and purposes of Sections 31- 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Restriction that would render the provision

valid shall be favored over any interpretation that would render it invalid.

- C. Entire Agreement: This instrument sets forth the entire agreement of the parties with respect To the Restriction and supercedes all prior discussions, negotiations, understandings, or agreements related to the Restriction, all of which are merged herein.
- D. Joint Obligation: The obligations imposed by this Restriction upon the parties that together comprise the "Grantor" and "Grantee" shall be joint and several.
- E. Pre-existing Public Rights. Approval of this Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.
- F. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Town of Barnstable, c/o Town Manager
367 Main Street, Hyannis MA 02601

To Grantee: Cotuit Fire District, Prudential Committee
PO Box 1475
Cotuit, MA 02635

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties

- G. Subordination: The Grantor shall record at the Barnstable County Registry of Deeds simultaneously with this Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, reference assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.
- H. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction of interpretation.

XIII. EFFECTIVE DATE: This Restriction shall be recorded in a timely manner. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Restriction is recorded in the official records of the Barnstable County Registry of Deeds, after all signatures required by Massachusetts General Law, Chapter 184, Section 32 have been affixed hereto.

Attached hereto and incorporated herein are the following:

Signatures:

Grantor and Approvals – Town of Barnstable: Town of Barnstable Town Council & Town Manager
Grantee Acceptance – Cotuit Fire District, Board of Water Commissioners

Approval: Secretary of Energy and Environmental Affairs

Exhibits:

- A. Description of the Premises
- B. Reduced Copy of Recorded Plan of the Premises
- C. Town Council Order
- D. Cotuit Fire District Vote

APPROVAL OF THE GRANT

TOWN OF BARNSTABLE
TOWN COUNCIL

At a public meeting duly held on _____2023, the Town Council of the Town of Barnstable, Massachusetts, voted to approve and grant the foregoing Conservation Restriction to the Cotuit Fire District, pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and hereby grants the foregoing Conservation Restriction.

TOWN COUNCIL PRESIDENT: _____
Matthew Levesque

Barnstable, ss COMMONWEALTH OF MASSACHUSETTS

On the _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the President of the Town Council of the Town of Barnstable; that he is duly authorized to act on behalf the Town Council; and he acknowledged the foregoing instrument to be the free act and deed of Town of Barnstable Town Council.

Notary Public
My Commission Expires:

APPROVAL OF TOWN MANAGER

I, Mark S. Ells, as Town Manager of the Town of Barnstable, Massachusetts, hereby approve the foregoing Conservation Restriction to Cotuit Fire District, pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF BARNSTABLE
TOWN MANAGER:

Mark S. Ells

Barnstable, ss

On the _____ day of _____, 2023, before me, the undersigned notary public, personally appeared

Mark S. Ells, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the Town Manager of the Town of Barnstable; that he is duly authorized to act on behalf the Town of Barnstable and he acknowledged the foregoing instrument to be his free act and deed.

Notary Public
My Commission Expires

ACCEPTANCE OF GRANT by COTUIT FIRE DISTRICT

At a public meeting duly held on _____, 2023, the Board of Water Commissioners of the Cotuit Fire District, acting pursuant to the authority granted under Article ____ of the Annual District Meeting held on May 31, 2023, voted to accept the above Conservation Restriction from the Town of Barnstable.

By: Prudential Committee

COTUIT FIRE DISTRICT

Print Name

Print Name

Print Name

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ____ day of _____, 2023, before me, the undersigned Notary Public, personally appeared _____, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Cotuit Fire District.

Notary Public
My commission expires:

APPROVAL BY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

The undersigned, Commissioner, Massachusetts Department of Environmental Protection of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Cotuit Fire District, acting by and through its Water Commissioners, has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: _____, 2023 _____

Commissioner

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Commissioner of MassDEP.

Notary Public
My Commission Expires:

APPROVAL BY
SECRETARY OF EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Cotuit Fire District, acting by and through its Water Commissioners, has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: _____, 2023 _____, Secretary
Executive Office of Energy
and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this ___ day of ___, 2023, personally appeared the above-named _____, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that s/he signed it voluntarily for its stated purpose as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts.

Notary Public
My commission expires:

CONSERVATION RESTRICTION
on land owned by
TOWN OF BARNSTABLE
in Cotuit (Barnstable), Massachusetts

EXHIBIT A

Description of the Premises

The Premises is shown on a plan entitled “_____” (to be inserted)

A reduced copy of the CR Plan is attached hereto as Exhibit B.

Street Address: 140 Old Oyster Road, Cotuit, MA.

For Grantor’s title, see Deed recorded in the Barnstable County Registry of Deeds in Book
_____ Page ____.

Cotuit Elementary School, 140 Old Oyster Road, Cotuit, Map 021 Parcel 008



Councilor questions and comments:

(Clark) Congratulations to the staff and the Cotuit Fire District to get this done (Ludtke) Why a non-pervious parking lot, wouldn't you want area to be pervious to get more flow (Anthony) this is the way to bring in more parking without asphalt, it is gravel parking (Ludtke) what about the septic system is that from the 1950's (Anthony) there is a large containment tank, and a leach field; one of the provisions allow the Fire District to maintain or remove the leach field. It can

stay right where it is (Cullum) Worthwhile project, what is the appraisal value of the property? (Anthony) 1million 95 thousand, but it comes with a 950 thousand liability; someone has to take down the building (Schnepp) Huge commitment for the Cotuit Fire District will they be using the building? (Anthony) not sure of the Fire District's ideas (Rapp Grassetti) at the Cotuit Fire District Annual meeting at the end of May there will be a vote to ratify; thank you; the Cotuit residents are very passionate about this property, this is the right thing to do, it is important for the village. My only request going forward, is that the attention be brought back to the recreation area, bring back the playground.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepp, Shaughnessy, Starr, Steinhilber

Break-return 8:48

Jump to 2023-127

2023-127 APPROPRIATION ORDER IN THE AMOUNT OF \$90,000 FOR THE PURPOSE OF FUNDING A FLOATING TREATMENT WETLAND PILOT STUDY FOR LONG POND MARSTONS MILLS INTRO: 05/04/2023

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$90,000** be appropriated for the purposes of funding a floating treatment wetland pilot study for Long Pond Marstons Mills, including the payment of costs incidental or related thereto; and that to meet such appropriation that **\$90,000** be provided from the General Fund Reserves, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: TO A PUBLIC HEARING ON 5-18-2023 - UNANIMOUS

Jump to 2023-181

2023-181 TRANSFER ORDER IN THE AMOUNT OF \$59,320 FROM THE MARINE AND ENVIRONMENTAL AFFAIRS AND ADMINISTRATIVE SERVICES DEPARTMENTS FISCAL YEAR 2023 PERSONNEL BUDGETS TO THE FISCAL YEAR 2023 MARINE AND ENVIRONMENTAL AFFAIRS FISCAL YEAR 2023 OPERATING CAPITAL BUDGET FOR THE PURPOSE OF FUNDING THE ACQUISITION OF A HARBORMASTER VEHICLE INTRO: 05/04/2023

Derek Lawson Director of Marine and Environmental Affairs gave the rationale

Councilor questions and comments:

(Cusack) Are electric vehicles part of the approach of purchasing new vehicles (Lawson) Electric vehicles for the size truck we use is very expensive, we go through the Department of Public Works for purchasing equipment (Ells) We do look at the fleet we have and the types of vehicles available, it goes through an evaluation process with David Anthony we try to keep a fleet that is safe functional.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$40,000** from the Fiscal Year 2023 Marine and Environmental Affairs Department General Fund Personnel Budget and **\$19,320** from the Fiscal Year 2023 Administrative Services Department Personnel Budget to the Fiscal Year 2023 Marine and Environmental Affairs Department General Fund Operating Capital Budget for the purpose of funding the acquisition of a Harbormaster vehicle.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-182 TRANSFER ORDER IN THE AMOUNT OF \$428,700 FROM FISCAL YEAR 2023 DEPARTMENT OF PUBLIC WORKS GENERAL FUND PERSONNEL BUDGETS TO FISCAL YEAR 2023 DEPARTMENT OF PUBLIC WORKS OPERATING EXPENSE AND OPERATING CAPITAL BUDGETS FOR THE PURPOSE OF FUNDING OUTSIDE PROFESSIONAL SERVICES, EQUIPMENT, SUPPLIES AND MATERIALS INTRO: 05/04/2023

Dan Santos, Director of Public Works gave the rationale

Councilor questions and comments:

(Ludtke) mention you have vacancies, how many vacancies (Santos) I don't have the exact number it fluctuates, many are in the seasonal positions (Ludtke) So you are going to wipe out money so you can't hire for a year (Santos) No, this is just the amount we have available (Ludtke) so you still have money available (Santos) Yes (Ludtke) The forensic examination of the Maher Wells (Santos) to find out who is responsible for the contamination, every chemical has component parts. You do the forensics, you get the fingerprints, then what do you do go to the police? (Santos) there are studies that have been underway, we know a lot of the fingerprints from the airport. We know that the water that starts in the vicinity of the fire training academy flows towards the Maher wells. (Schnepf) Follow up the total amount of unspent salaries how does that compare to last year (Santos) it is a little more this year (Starr) trying to hire the engineers for the Comprehensive Wastewater Management Plan (CWMP), are we competitive with other towns? (Santos) we are, but there are lots of positions in the private sector, that pay better and have better benefits (Starr) what can we do to help? (Santos) that would be up to the management. (Levesque) During our leadership meetings we are discussing what we need to do to retain employees (Ells) All of these requests for transfer, these are savings from having a position vacated; our staff is running organization wide at about 10% vacancy that is higher than normal; our seasonal temporary positions is higher, challenges of housing available, higher cost of living here, we need to be competitive. Internally discussing the vacant positions how we are going to meet the needs; salary, benefits, how can town council help us on this, you already are, you recognize this challenge. The 50/50 benefits come up with new hires and with those who leave; we will be coming back to you as it comes down to money; it involves school and municipality. (Cullum) we have the most professional staff, we may have to look at this as we go forward, the way the marketplace is now. Do we give retention interviews? (Ells) Bill Cole does that on exit interviews to gather factual information to retain the best people. (Cullum) many reasons why people are leaving a position (Ells) Certainly part of what we will be preparing for the next time we talk about this.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$428,700** from the Fiscal Year 2023 Department of Public Works General Fund Personnel Budget to the Fiscal Year 2023 Department of Public Works General Fund Operating Expense and Operating Capital Budgets for the purpose of funding outside professional services, equipment, supplies and materials.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-183 TRANSFER ORDER IN THE TOTAL AMOUNT OF \$51,000 FROM THE FISCAL YEAR 2023 ADMINISTRATIVE SERVICES DEPARTMENT PERSONNEL BUDGET TO THE FISCAL YEAR 2023 ADMINISTRATIVE SERVICES DEPARTMENT OPERATING EXPENSE BUDGET AND OPERATING CAPITAL BUDGET FOR THE PURPOSE OF FUNDING DIVERSITY, EQUITY AND INCLUSION TRAINING AND DIAGNOSTICS AND PURCHASING FURNITURE IN THE TAX COLLECTIONS OFFICE INTRO: 05/04/2023

Finance Director, Mark Milne gave the rationale

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorizes the Town Manager to Transfer **\$51,000** from the Fiscal Year 2023 Administrative Services Department Personnel Budget to the Fiscal Year 2023 Administrative Services Department Operating Expense Budget and Operating Capital Budget for the purpose of funding Diversity, Equity and Inclusion training and diagnostics and purchasing new office furniture and fixtures in the Tax Collections office.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-184 TRANSFER ORDER IN THE AMOUNT OF \$22,000 FROM THE PLANNING AND DEVELOPMENT DEPARTMENT FISCAL YEAR 2023 PERSONNEL BUDGET TO THE FISCAL YEAR 2023 PLANNING AND DEVELOPMENT OPERATING EXPENSE BUDGET FOR THE PURPOSE OF FUNDING THE REPLACEMENT OF BUOYS IN ASELTON PARK INTRO: 05/04/2023

Director of Planning and Development, Elizabeth Jenkins gave the rationale

Councilor questions and comments:

(Schnepf) Displays in the harbor about the blue economy did they ever go up (Jenkins) Yes; it was region wide effort to promote (Starr) communicate changes in water quality status?

(Jenkins) colors were meant to show water quality status, we would like to have a sign to direct attention to the water quality and the towns efforts (Starr) would be different colors? (Jenkins) Same colors

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorize the Town Manager to Transfer **\$22,000** from the Fiscal Year 2023 Planning and Development Personnel Budget to the Fiscal Year 2023 Planning and Development Operating Expense Budget for the purpose of replacing the public art buoys in Aselton Park.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-185 TRANSFER ORDER IN THE AMOUNT OF \$76,607 FROM THE BARNSTABLE POLICE DEPARTMENT FISCAL YEAR 2023 PERSONNEL BUDGET TO THE FISCAL YEAR 2023 POLICE DEPARTMENT OPERATING EXPENSE BUDGET FOR THE PURPOSE OF FUNDING TRAINING EXPENSES AND EXPENSES ASSOCIATED WITH OFFICER WELLNESS INTRO: 05/04/2023

Chief Sonnabend gave the rationale

Councilor questions and comments:

(Ludtke) are you going to be in the evaluation Mark Ells for recruitment, because of the civil service requirements (Sonnabend) there is a background process, many aspect to this process, this is a separate process from a municipal job.(Ludtke) is this something the Council can help with to eliminate civil service (Ells) Yes it is being addressed, it is not part of the core discussion of the market competitiveness, however, we will be bringing in the discussion of the civil service to the Town Council, it will take time. (Rapp Grassetti) there is also the proximity to the place of employment, employees of the Barnstable Police department you have to be within so many miles to be a police officer (Sonnabend) yes we are looking at that as well

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$76,607** from the Fiscal Year 2023 Police Department General Fund Personnel Budget to the Fiscal Year 2023 Police Department General Fund Operating Expense Budget for the purpose of funding expenses related to required training and the officer wellness programs

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-186 TRANSFER ORDER IN THE TOTAL AMOUNT OF \$91,825 FROM FISCAL YEAR 2023 PERSONNEL BUDGETS TO FISCAL YEAR 2023 OPERATING EXPENSE BUDGETS IN THE COMMUNITY SERVICES DEPARTMENT FOR THE PURPOSE OF FUNDING OUTSIDE PROFESSIONAL SERVICES, EQUIPMENT, SUPPLIES AND MATERIALS INTRO: 05/04/2023

Interim Community Services Director, Chris Gonnella gave the rationale

Councilor questions and comments:

(Ludtke) Credit card machines are just awful, that will be nice to replace those (Starr) both rinks are going to open all summer (Gonnella) Yes

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby authorizes a Fiscal Year 2023 budget transfer for the Community Services Department in the total amount of **\$91,825** from the Fiscal Year 2023 Community Services Department Personnel Budgets in the amounts set forth below to the Fiscal Year 2023 Community Services Department Operating Expense Budgets for the purpose of funding outside professional services, equipment, supplies and materials.

	Transfer From Fiscal Year 2023 Personnel Budget:			
	Community Services General Fund	HYCC Enterprise Fund	Golf Enterprise Fund	Total
Transfer to:				
Community Services General Fund Operating Expenses	\$30,225			\$30,225
Community Services HYCC Enterprise Fund Operating Expenses		\$11,000		\$11,000
Community Services Golf Enterprise Fund Operating Expenses			\$50,600	\$50,600

Totals	\$30,225	\$11,000	\$50,600	\$91,825
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VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-187 APPROPRIATION ORDER IN THE AMOUNT OF \$86,758 FOR THE PURPOSE OF FUNDING THE ACQUISITION OF EQUIPMENT TO ASSIST WITH THE IMPLEMENTATION OF THE GREENING THE GATEWAY CITIES PROGRAM AND AUTHORIZATION TO EXPEND A FISCAL YEAR 2024-2026 EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS GREENING THE GATEWAY CITIES PROGRAM GRANT IN THE AMOUNT OF \$1,800,000 INTRO: 05/04/2023

Upon a motion duly made and seconded it was

RESOLVED: That the amount of **\$86,758** be appropriated for the purpose of funding the acquisition of equipment to assist with the implementation of the grant awarded under the Greening the Gateway Cities Program, and to fund this appropriation that **\$86,758** be provided from the General Fund Reserves, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and a grant in the amount of **\$1,800,000** from the Executive Office of Energy and Environmental Affairs Greening the Gateway Cities Program for the purpose of planting 2,400 trees within an established planting zone.

VOTE: TO PUBLIC HEARING ON 5/18/2023-UNANIMOUS

2023-111 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$400,000 FOR THE PURPOSE OF FUNDING THE COBB ASTRO PARK EXTERIOR INSULATION FINISH SYSTEM (EIFS) REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation

Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Ludtke) was it a poor installation or just the nature of the finish, will it be a different finish
(Lambros) yes it is a different finish.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$400,000** be appropriated for the purpose of funding the Cobb Astro Park Exterior Insulation Finish System (EIFS) Replacement project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$400,000** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary,

Schnepf, Shaughnessy, Starr, Steinhilber

2023-112 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,000,000 FOR THE PURPOSE OF FUNDING THE CAMPUS-WIDE DOOR AND WINDOW REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation

Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments

(Schnepf) Do you have a schedule of which school and windows that need to be replaced

(Lambros) yes we have a list (Schnepf) some of the windows have been closed due to safety

(Lambros) yes some of the windows were closed for safety

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$1,000,000** be appropriated for the purpose of funding the Campus-wide Door and Window Replacement project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,000,000** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-113 APPROPRIATION ORDER THE AMOUNT OF \$350,000 FOR THE PURPOSE OF FUNDING THE CAMPUS-WIDE PAVING AND SIDEWALK REPAIR PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation

Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments

(Rapp Grassetto) is that a drainage problem or a paving problem? (Lambros) Yes the paving will include drainage (Ludtke) Sidewalk repairs will there be curb repair (Lambros) Yes, where

needed (Ludtke) why do we use granite curbs (Lambros) Granite curbs (Ludtke) why do we use granite curbs (Lambros) I will get back to you on that (Ells) from public works days, there are

three different substances used for curbing; all are for safety reasons. Granite is a permanent installation (Levesque) how do you prioritize the schools, 4th and 5th grade school gets lots of

traffic (Lambros) campus wide we have a list as we cannot do all the schools this year (Atsalis)

Bay Lane is approving the parking area part of this project (Lambros) Yes

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$350,000** be appropriated for the purpose of funding the Campus-wide Paving and Sidewalk Repair Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to fund this appropriation that **\$350,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-114 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$500,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL CULINARY ARTS KITCHEN IMPROVEMENTS PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation

Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments

(Clark) Thank you and good luck with the grant funding looks very promising (Levesque) agrees with Clark, addresses the needs cape wide (Cullum) great program to grow, opportunity to take ServSafe, is there an inclination to get the food truck (Ahern) it is fully permitted more to come (Starr) gas stoves without hoods are you going to put in induction hoods (Lambros) at this time there would be induction and hoods (Ludtke) is this kitchen as robust as the tech school, is this an equivalent program (Lambros) can speak to the Cape Cod Tech School it is a commercial kitchen like the Cape Cod Community College (Ahern) we are looking at getting more funding from the state to expand it (Cullum) your program is a one year program of culinary arts (Ahern) there is a sequence (Levesque) Chapter 74 that is vocational monies; however that is commendable to go after that money, sometimes you might get push back, that is so important, making a move that is not easy to do, appreciate that.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$500,000** be appropriated for the purpose of funding the Barnstable High School Culinary Arts Kitchen Improvements project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$500,000** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-115 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE CAMPUS-WIDE MECHANICAL UPGRADES PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments

(Neary) These projects have to get done in the off season, can all this be done before the next school year (Lambros) Yes, and this will give us about 8 to 10 weeks to get this done

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$250,000** be appropriated for the purpose of funding the Campus-wide Mechanical Upgrades Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to fund this appropriation that **\$250,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-116 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE KNIGHT HALL CHILLER REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$250,000** be appropriated for the purpose of funding the Knight Hall Chiller Replacement Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$250,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-117 APPROPRIATION ORDER IN THE AMOUNT OF \$1,000,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL PHASE II SOFTBALL FIELD UPGRADE PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Rapp Grassetti) what did we appropriate for phase one (Lambros) Don't low the original the final was 5.7 for phase one, this is for all sports fields (Ludtke) Value engineering process between real turf and artificial turf, how are you going to inform your decision (Lambros) Cost and maintenance, we get 80 hours of play between maintenance on turf, for grass we get about 40 hours, we will take all things into consideration (Ludtke) is there an ideal orientation for the field based on the sun (Lambros) afternoon sun will be considered (Starr) will there be lights (Lambros) not in this project. (Levesque) The orientation of the sun is important, appreciate safety is going to be a consideration. (Atsalis) Recall one of the reasons turf was selected was turf is easier to maintain, the machine that you have for the football field will that also be for the multipurpose field, and eventually for the new softball field. (Lambros) Yes (Atsalis) infield should not face west, sure you are taking this into consideration (Lambros) yes (Atsalis) Practice football fields are those part of the subsequent phases (Lambros) Yes (Cullum) Thank you for answering the questions about the Babe Ruth field.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$1,000,000** be appropriated for the purpose of funding the Barnstable High School Phase II Softball Field Upgrade Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$1,000,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-118 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$750,000 FOR THE PURPOSE OF FUNDING THE WEST VILLAGES ELEMENTARY CARPET REMOVAL PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Superintendent of Schools, Sara Ahern and Facilities Director, Michael Lambros gave the rationale utilizing a power point presentation

Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Rapp Grassetti) the original money was not spent on the roof, (Lambros) it was not used (Starr) the contingency fund is that because you don't know which product you are going to use (Lambros) Yes

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$750,000** be appropriated for the purpose of funding the West Villages Elementary Carpet Removal project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$441,549** be transferred from the remaining available balance in Town Council order 2019-101, and that **\$239,605** be transferred from the remaining available balance in Town Council order 2019-102, and that **\$68,846** be provided from the General Fund reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-119 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,015,864 FOR THE PURPOSE OF FUNDING THE HVAC UPGRADES TO THE AIRPORT TERMINAL AND TOWER PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Airport Manager, Katie Servis gave the rationale utilizing a power point presentation (Exhibit C) Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Schnepf) have we used all of the Cares Act monies (Servis) Yes we have used the money on various projects (Rapp Grassetto) What are the fund reserves (Servis) Just over 8 million (Cullum) Concerns about 11 years for HVAC, (Servis) I agree with you, it was a catastrophic fail, we got the lowest bidder, we do not want to repeat that. (Cusack) The systems are separate between the tower systems and the HVAC (Servis) we have space heaters and remote air conditioning units within the next couple of weeks

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$1,015,864** be appropriated for the purpose of funding the HVAC Upgrades to the Airport Terminal and Tower Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$50,793** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$965,071** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetto, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-120 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$525,000 FOR THE PURPOSE OF FUNDING THE MASTER PLAN UPDATES PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Airport Manager, Katie Servis gave the rationale utilizing a power point presentation Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Ludtke) Went to a meeting at the airport, very professionally done, had a tour of the airport, very impressed with Katie

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$525,000** be appropriated for the purpose of funding the Master

Plan Updates Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$26,250** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$498,750** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore; 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-121 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$689,000 FOR THE PURPOSE OF FUNDING THE SECURITY CAMERA UPGRADES PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Airport Manager, Katie Servis gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$689,000** be appropriated for the purpose of funding the Security Camera Upgrades Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$34,450** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$654,550** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-122 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$383,000 FOR THE PURPOSE OF FUNDING THE REPLACEMENT OF SNOW REMOVAL EQUIPMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Airport Manager, Katie Servis gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$383,000** be appropriated for the purpose of funding the

Replacement of Snow Removal Equipment Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$19,150** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$363,850** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

<p>2023-123 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,120,580 FOR THE PURPOSE OF FUNDING THE SNOW REMOVAL EQUIPMENT STORAGE FACILITY PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023</p>
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Airport Manager, Katie Servis gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Clark) happy to see that the funding is 100% covered but if estimate doesn't match, how will you find the money if it is not covered (Servis) we will go back, and do an assessment of small medium or large, to see what will fit.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$1,120,580** be appropriated for the purpose of funding the Snow Removal Equipment Storage Facility Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,120,580** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

2023-124 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$505,000 FOR THE PURPOSE OF FUNDING THE ELECTRIC AIRCRAFT SUPPORT VEHICLE AND CHARGING STATION PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Airport Manager, Katie Servis gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Shaughnessy) Just wanted to clarify, we read into the record a different amount, and I think this is great that you got that grant (Starr) Some kind of battery system (Servis) Yes, Mildred's is a great spot, the planning will identify the best area.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$505,000** be appropriated for the purpose of funding the Electric Aircraft Support Vehicle and charging Station Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$25,250** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$479,750** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepp, Shaughnessy, Starr, Steinhilber

2023-125 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$355,000 FOR THE PURPOSE OF FUNDING THE JET A FUEL STORAGE TANK PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN INTRO: 04/06/2023, 04/27/2023, 05/04/2023

Airport Manager, Katie Servis gave the rationale utilizing a power point presentation
Open public hearing seeing no one, no one on zoom, close public hearing

Councilor questions and comments:

(Ludtke) who are you selling the fuel to at this time (Servis) Corporate aircraft, Jet Blue and private aircraft that comes to our facility.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$355,000** be appropriated for the purpose of funding the Jet A Fuel Storage Tank Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$71,000** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$284,000** under and pursuant to M.G.L. c. 44, §§7 or 8, 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 such 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 Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

VOTE: PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grasseti, Levesque, Ludtke, Mendes, Neary, Schnepp, Shaughnessy, Starr, Steinhilber

VOTED TO ADJOURN:

VOTE: PASSES UNANIMOUS

Adjourned at 10:13 PM

Respectfully submitted,

Ann Quirk
Town Clerk

NEXT MEETING: May 18, 2023

Exhibits

- A Town Manager Update
- B Cotuit School Land Disposition
- C Airport