

**MINUTES OF PLANNING BOARD PUBLIC HEARING OF MAY 10, 2010**  
**Proposed Land Based Municipal Wind Turbine Zoning Bylaw**  
**7:15 p.m., Room #315, Town Office Building, 400 Slocum Road**

**Planning Board Members**

Mr. John V. Sousa, Chairman  
Mr. Joseph E. Toomey, Jr., Vice-Chairman  
Mr. John P. Haran, Clerk  
Mrs. Lorri-Ann Miller  
Mr. Arthur C. Larrivee

**Planning Staff**

Mr. Donald A. Perry, Planning Director  
Mrs. Joyce J. Couture, Planning Aide

The Chairman opened at 7:15 p.m. the public hearing<sup>1</sup> concerning a proposed zoning article which would amend the Dartmouth Zoning By-Laws by creating a new subsection entitled "Section 35 – Land Based Municipal Wind Turbine" to allow Municipal Wind Turbines to be constructed as of right in all districts of the Town provided the proposed Municipal Wind Turbine complies with all Standards set forth in the Bylaw. The proposed article will also amend the existing Section 33 – Residential Wind Turbine By-Law and Section 34 – Land Based Commercial Wind Turbine, by modifying the Purpose within those sections and to generally make Sections 33 and 34 consistent with the new Section 35.

All Planning Board members and Planning staff were present.

A motion was made by Mrs. Miller, seconded by Mr. Toomey, and unanimously voted (5-0), to waive the reading of the legal notice, which appeared in The Chronicle on Wednesday, April 21, 2010, and again on Wednesday, April 28, 2010.

The Planning Director stated that legal notice was sent on April 20, 2010 to SRPEDD/SEED; DHCD Municipal Zoning and Land Use; the Planning Board's of Fall River, Westport, Freetown, Gosnold, and New Bedford; various Town Boards and posted in the Town Office Building. He mentioned that Town Counsel is present this evening to further explain the intent of this proposed bylaw.

Attorney Anthony Savastano, Town Counsel, spoke at length on the purpose and intent of this bylaw. He noted that there is a strong argument to be made that municipal uses should be allowed by right. He gave examples of how other local towns have handled issues similar to Dartmouth. He emphasized this bylaw is more strict than those of other communities and holds the Town of Dartmouth to a higher standard than a private party since municipal uses need to comply with the bylaw; as well as, being subject to funding and approval by Town Meeting. He further pointed out that this bylaw was not written to sneak something through, but rather to avoid lengthy litigation.

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<sup>1</sup> For more information, see minutes of the Planning Board's regular meeting of May 10, 2010

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The following residents of the Town were present and voiced their opinions and concerns:

Sally Brownell, 322 Smith Neck Road  
Lawrence Brownell, 322 Smith Neck Road  
Roseanne O'Connell, 252 Smith Neck Road  
John Brindisi, 242 Smith Neck Road  
Edgar Earle, 294 Smith Neck Road  
Bridget Earle, 294 Smith Neck Road

It was questioned why some of the existing bylaw language under "Purpose" in both the residential and commercial wind turbine bylaws has been deleted and replaced with new wording. Another concern was whether private individuals would be able to lease their land for municipal use. It was pointed out that just because the Chase Road wind turbine was overwhelmingly approved by Town Meeting, proposals in other areas of Town might not get the same support. The adequacy of the setback requirements was also questioned.

Lengthy discussion ensued.

Various Board members, Town Counsel, and the Planning Director responded to the concerns identified.

It was mentioned the "Purpose" section of each bylaw was revised to eliminate non-essential wording.

Town Counsel did note that the Select Board had on their agenda this evening an item to adopt a policy which would require abutter notification on all municipal wind turbine proposals and a public hearing to be held by the Select Board. This would ensure public comment even if the Special Permit requirement were deleted. He also mentioned that the Select Board would be proposing a height amendment on Town Meeting floor.

It was pointed out by the Chairman that this is not a Planning Board bylaw, it is being proposed by the Select Board. He explained that anyone can place a zoning article on the warrant for Town Meeting. Mr. Sousa mentioned that most of the time, new bylaws are proposed by the Planning Board and the Board follows an extensive public review process. Under State statute, all zoning articles must go before the Planning Board to hold a public hearing and make a recommendation to Town Meeting that is why the Planning Board is conducting this hearing tonight.

Mr. Toomey felt it would be a good idea to continue the public hearing in order to give the public an opportunity to give additional comment.

The majority of the Board members felt the public had adequate notice already and the Planning Board had enough information to make a recommendation tonight.

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A motion was made by Mr. Larrivee, duly seconded by Mr. Haran, and so voted (4-1) with Mr. Toomey opposed, to close the public hearing on the proposed zoning amendment at 8:43 p.m. and return to the Planning Board's regular meeting.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide