

Select Board Members Present:

Joseph Michaud-Chairman
Nathalie L. Dias-Vice Chairwoman
William J. Trimble

Lara H. Stone
Michael P. Watson

The Chairman opened the Public Meeting at 5:30 p.m.

The Chairman polled the Board for a roll call vote to convene into Executive Session Pursuant to M.G.L. Ch. 39 Sec 23B: Selectman Trimble, yes; Selectwoman Stone, yes; Selectman Watson, yes; Vice-Chairwoman Dias, yes; Chairman Michaud, yes.

The Chairman reconvened the meeting at 6:30 p.m. on January 4, 2010 in room 304.

Board members signed the **warrant(s)** for the following bills from various departments in the amounts of:

\$ 904,487.74	PR25	\$ 443,101.09	PD1025	\$ 152,567.67	D1026
\$ 73,144.69	P1026	\$ 1,831,686.05	T1026	\$ 921,704.63	PR26
\$ 447,225.95	PD1026	\$ 284,567.44	S1027	\$ 32,925.79	T1027

6:30/Application of Applebee's d/b/a Applebee's Grill and Bar for a Change of Manager.

Ericka Madden was present for the Application of Applebee's.

After a motion was made by Selectman Michael Watson and seconded by Selectwoman Lara Stone, it was voted unanimously to approve the Application of Applebee's d/b/a Applebee's Grill and Bar for a Change of Manager.

6:35/Continued Public Hearing on the Application of the Alternative Energy Committee requesting a Special Permit for Two Wind Turbines on Chase Rd.

Ron DiPippo, Chairman of the Alternative Energy, read into the record. At the request of Town Counsel, I want to clarify that several requirements of the Land-Based Commercial Wind Turbine By-law will be satisfied through the Procurement process in that the detailed specifications in the Request for Proposals will include the following conditions:

1. All equipment necessary for monitoring and operating the WECFs are to be secured within the wind turbine tower or base.

2. The wind turbines will not be lighted on a continuous basis except as required by the Federal Aviation Administration (“FAA”).
3. Lighting of equipment structures and any other facilities on site (except that lighting required by the FAA) will be shielded from abutting properties.
4. The WECFs will be free of all company logos, advertising and similar promotional markings.
5. Signs on the facilities will be limited to those needed to warn of any dangers and to educational signs providing information on the technology.
6. All signs will comply with the requirements of the Town’s sign regulations.

The Board heard again from many neighbors. Some complained about the noise and the flicker effect caused by the rotating blades; public safety; the height of the towers; and their location near a residential district.

The following Motion was made by Vice-Chairman Nathalie Dias and seconded by Selectman Michael Watson:

MOTION

Moved that:

Based on the documents incorporated into the record and the testimony provided by the Applicant and its representatives and consultants and by others who attended the hearings, the Select Board makes the following findings:

1. The proposed Wind Energy Conversion Facilities (“WECFs”) constitute a development of wind resources in a manner consistent with preserving the environmental quality of the Town.
2. The proposed WECFs accommodate distributed generation, commercial-size WECFs while minimizing any adverse, visual, safety or environmental impacts.
3. The Applicant submitted documentation of the legal right to install and use of the proposed facility and provided proof of control over the clear areas.
4. The WECFs comply with the height setback, and Clear Area standards set forth in Section 34.303.
5. The proposed WECFs are not detrimental to the adjacent land uses and do not pose a hazard to the general health, safety or welfare of the community.

6. The Application has minimized the impact of the visual character of the surrounding neighborhoods and the community by providing that the WECFs shall be a non-reflective color that blends with the surroundings.
7. All equipment necessary for monitoring and operating the WECFs are to be secured within the wind turbine tower or base.
8. The wind turbines will not be lighted on a continuous basis except as required by the Federal Aviation Administration ("FAA").
9. Lighting of equipment structures and any other facilities on site (except that lighting required by the FAA) will be shielded from abutting properties.
10. The WECFs will be free of all company logos, advertising and similar promotional markings.
11. Signs on the facilities will be limited to those needed to warn of any dangers and to educational signs providing information on the technology.
12. All signs will comply with the requirements of the Town's sign regulations.
13. The proposed WECFs conform to the Massachusetts noise regulation 310 CMR 7.10 and the Noise Level Policy established by the Massachusetts Department of Environmental Protection, specifically, that the ambient sound level, measured at the property line of the facility or at the nearest inhabited building, will not be increased by more than 10 decibels due to the sound from the facility during its operating hours.
14. The WECFs are to be sited in a manner consistent with all applicable local and state wetlands regulations as set forth in the condition to be stated below.
15. The WECFs are designed to minimize land clearing and fragmentation of open space areas and avoid permanently protected open space.
16. The WECFs are sited in a manner that does not have significant negative impacts on rare species in the vicinity.
17. The WECFs are sited to make use of previously developed areas. (Alternatively, it is not possible to site the WECFs to make use of previously developed areas).
18. The storm water run-off and erosion control is to be managed in a manner consistent with all applicable state and local regulations.

19. The WECFs are sited in a manner that does not result in significant shadowing or flicker impacts; and the proponent has satisfied the burden of demonstrating that any shadowing or flicker effect will not have significant or adverse impact and that this was demonstrated through the use of computer modeling and simulation of the seasonal variations of the shadows and flicker effects.
20. It has been demonstrated by the Applicant that no hazardous materials or waste shall be discharged on the site and the WECFs are designed to prevent unauthorized access.
21. It has been demonstrated that all electrical connections from the WECF, including any associated substations, to the grid shall be made via underground conduits.

and further moved that:

Based upon these findings, the Select Board grants the requested Special Permit in accordance with the Applicant's application and materials submitted in association herewith, and subject to the following conditions:

1. The WECFs shall be sited in a manner consistent with all local and state wetlands regulations and this grant of special permit is specifically conditioned upon all necessary approvals by the Conservation Commission and the Department of Environmental Protection.
2. An enclosed containment area shall be designed for full containment of at least 110 percent of the volume of the hydraulic fluid.
3. The WECFs shall each have a fire suppression system in its nacelle (with specifications to be approved by the Select Board by a majority vote).
4. This grant of Special Permit is conditioned upon all necessary approvals by the Federal Aviation Administration and the Massachusetts Aeronautics Commission. If the Federal Aviation Administration and/or the Massachusetts Aeronautics Commission approve WECFs with tower heights less than 100 meters, then this grant of Special Permit shall apply to WECFs with the maximum tower heights approved by the Federal Aviation Administration and the Massachusetts Aeronautics Commission
5. Any and all Requests for Proposals issued for the construction of the WECF shall include, and the WECFs shall comply with, the requirements that:
 - a. All equipment necessary for monitoring and operating the WECFs are to be secured within the wind turbine tower or base;

- b. The wind turbines will not be lighted on a continuous basis except as required by the Federal Aviation Administration (“FAA”);
 - c. Lighting of equipment structures and any other facilities on site (except that lighting required by the FAA) will be shielded from abutting properties;
 - d. The WECFs will be free of all company logos, advertising and similar promotional markings;
 - e. Signs on the facilities will be limited to those needed to warn of any dangers and to educational signs providing information on the technology; and
 - f. All signs will comply with the requirements of the Town’s sign regulations.
6. The Town shall maintain an escrow account to cover costs, including those for repair and/or removal of the WECFs, in amount of 10 percent of the Town’s net proceeds until the account reaches \$500,000.00. Thereafter the account shall be retained at \$500,000.00 (adjusted for inflation?). This condition is specifically conditioned upon the Department of Revenue approving such an escrow account. If the Department of Revenue does not approve such an account, then this condition shall be rendered inapplicable.
 7. The Alternative Energy Committee shall provide the Select Board with options for liability insurance for the WECFs prior to the commencement of construction. The Select Board will take up the issue of insurance coverage within ninety-days after submission of the options and shall decide by a majority vote which of the options, if any to purchase. The issue of insurance shall be addressed annually by the Select Board.
 8. The Select Board, by a majority vote, shall adopt an Emergency Response Plan to address procedures and responsibilities, including trading requirements, for construction activities, routine turbine maintenance, and contingencies for response to a catastrophic turbine failure or other emergency.
 9. The WECFs shall each contain a Safety Descent Device which allows workers to propel down the exterior of the tower as an emergency back-up descent procedure to the standard interior descent procedure.
 10. A procedure shall be adopted as follows to address medical conditions allegedly caused by the flicker effect of a WECF or WECFs to a resident of the Town of Dartmouth, Massachusetts (“Town”) whose real property is within the area of flicker effect of the WECF(s):
 - A. The resident claiming a significant flicker effect-related medical issue (“Applicant”) must present an application to the Executive Administrator of the Town consisting of documentation of ownership of a parcel located within the area of flicker effect of a WECF or WECFs, and affirmative

medical evidence in the form of a medical report from a treating physician (“Applicant’s physician”) that:

1. Describes the medical condition or conditions at issue; and
 2. Attributes a direct causal relationship between that condition or conditions and the flicker effect;
- B. The Executive Administrator shall have ninety (90) days to review the application and thereafter notify the Applicant of the Town’s decision to either accept or dispute the application, said response to be delivered in hand or by first class or certified mail. Failure to provide a response within the allotted time limit shall constitute acceptance of the application by implication. The Town shall act upon an accepted application in the manner prescribed in Section E.
- C. If the Executive Administrator notifies the Applicant that the Town is disputing the application, the Town shall conduct its own medical evaluation of the Applicant using a physician chosen by the Executive Administrator for that purpose (“Town’s physician”). Failure by the Applicant to accede to this evaluation shall constitute a voluntary withdrawal of the application.
- D. If the Town’s physician agrees with the conclusion of the medical report contained in the application, the application shall be deemed accepted by the Town, and the Town shall act upon that application in the manner prescribed in Section E. If the Town’s physician disagrees with the conclusions of the medical report contained in the application, the Applicant’s physician and the Town’s physician shall be required to agree upon a third physician to conduct a medical evaluation of the Applicant, the cost for which shall be born equally by the Applicant and the Town. If the third physician agrees with the medical assertions of the application, then the Town must accept the application and act upon it as provided in Section E. If the third physician agrees with the medical conclusions of the Town’s physician, then the Executive Administrator must deny the application.
- E. If the Executive Administrator accepts the application, or if the Town, after the conclusion of the procedures promulgated in Sections A through D, is required to do so, then the Town shall take all necessary actions to eliminate the flicker effect upon the real property at issue in the application. At the option of the Executive Administrator, the Town may undertake this obligation by:
1. Placing improvements, at no financial cost to the Applicant, upon the real property at issue, including, but not limited to, adding shades or landscaping barriers;

2. Taking, at no financial cost to the Applicant, any other non-medically related mitigation of the flicker effect upon the real property at issue; or
3. Programming the WECF(s) at issue to shut down during the periods in which the flicker effect at issue is created.

Provided that the Applicant's failure to cooperate in any action taken by the Town pursuant to Subsections 1 or 2 shall constitute a voluntary withdrawal of the application. Provided further that if the Applicant affirmatively demonstrates, using the multi-step medical evaluation procedures found in Sections A through D, that the steps taken by the Town pursuant Subsections 1 and 2 are insufficient to eliminate the medical issues created by the flicker effect, then the Town shall be required to act under Subsection 3.

- F. Whenever the Town has mitigated the flicker effect through action taken pursuant to Subsections E(3) the Executive Administrator may, but is not required to, revisit the continued viability of the application once every two years using the procedures listed in Sections C and D. Both the continued existence of the relevant medical issue(s) and the continued causal relationship to the flicker effect may be reviewed in this process. Should the results of this review contravene the original basis for acting according to Subsection E(3), then the programmed shut downs of the WECF(s) for the Applicant shall be discontinued.

After a motion was made by Vice-Chairperson Nathalie Dias and seconded by Selectman Michael Watson, the Select Board voted unanimously to open the floor for discussion on the Motion.

A motion was made by Selectman Michael Watson, and seconded by Selectman William Trimble, to amend the Motion to make the grant of the Special Permit conditioned upon and subject to the adoption of an ice detection system and standard operating procedure acceptable to the Select Board as to be presented by the Alternative Energy Committee. The Select Board unanimously voted to amend the Motion as moved.

A motion was made by Selectman William Trimble, and seconded by Vice-Chairperson Nathalie Dias, to amend the Motion, as it relates to Finding No. 17, to make a finding that the WECFs are sited to make use of previously developed areas and to make a finding that it is not possible to site the WECFs to make use of previously developed areas. The Select Board unanimously voted to amend the Motion and make the findings as moved.

A motion was made by Selectman Michael Watson, and seconded by Selectwoman Lara Stone, to amend the Motion to include the language which specifically makes Condition #6 conditioned upon the Massachusetts Department of Revenue approving of such an escrow account and to adjust the \$500,000.00 escrow account for inflation. The Select Board unanimously voted to amend the Motion as moved.

A motion was made by Selectman William Trimble, and seconded by Vice-Chairperson Nathalie Dias, to amend the Motion to make the grant of the Special Permit conditioned upon and subject to the Town maintaining an Operating and Maintenance Contract to perform the manufacturer's recommended preventative maintenance regime and perform corrective maintenance as needed during the period the Wind Turbines are operated. The Select Board unanimously voted to amend the Motion as moved.

Vice-Chairperson Nathalie Dias moved the Motion, as amended, which was seconded by Selectwoman Lara Stone. The Select Board unanimously voted to grant the requested Special Permit in accordance with the Applicant's application and materials submitted in association therewith, based upon the Select Board's findings, and subject to the previously discussed conditions.

New Business:

Board to review Warrant Articles for Town Meeting.

The Chairman read the Articles for the Special Town Meeting for January 26, 2010.

- 1.) Design and Construction of Wind Turbine.
- 2.) Zoning By-Law-Village Business District.
- 3.) Acceptance of MA General Laws-Chapter 32B, Section 18-Contributory Group general or Blanket Insurance for persons in the service of counties, cities, towns and districts, and their dependents.

Town Meeting Compliance Calendar.

The Executive Administrator informed the Board that this is the compliance calendar for Town Meeting that will be followed.

Board to sign Warrant for posting of Town Meeting.

The Board signed the Warrant for posting of Town Meeting.

Sundry License Renewals.

Common Victualler

New York Bagel
Dartmouth Indoor Tennis
Metro Pizza

Motor Agent Class I

Colonial Honda of Dartmouth
Minutemen Harley-Davidson

Class II

Elite Auto Sales
AI-Auto
Brooke & Rileigh's Used Cars

Class II

Charles Davis Auto Truck Salvage

After a motion was made by Selectman William Trimble and seconded by Selectman Michael Watson, it was voted unanimously to approve the above Sundry License Renewals.

Board to vote to set the Finance Director/Treasurer's Bond at \$200,000.

After a motion was made by Vice-Chairperson Nathalie Dias and seconded by Selectman William Trimble, it was voted unanimously to vote to set the Finance Director/Treasurer's Bond at \$200,000.

Vice-Chairwoman Nathalie Dias informed the Board that they need to vote on a Procurement Officer, with the recent retirement of Edward Iacaponi.

After a motion was made by Vice-Chairwoman Nathalie Dias and seconded by Selectman Michael Watson, it was voted unanimously to appoint David G. Cressman as the Procurement Officer.

Old Business:

Minutes:

Minutes of December 14, 2009.

After a motion was made by Selectman Michael Watson and seconded by Selectwoman Lara Stone, it was voted unanimously to approve the minutes of December 14, 2009.

Announcements:

Campaign Finance training seminar on January 14, 2010 at 6:00 p.m.

With no further business to be discussed the Chairperson declared the regular meeting adjourned.

Attest:

David G. Cressman, Executive Administrator

Transcribed by: Linda Torres