

**SPECIAL TOWN MEETING
MONDAY, DECEMBER 11, 2006**

The Special Town Meeting of the Inhabitants of the Town of Carver was held on Monday, December 11, 2006 at the Carver High School Auditorium at 7:00 P.M. pursuant to a Warrant of the Board of Selectmen, dated November 23, 2006. The meeting was called to order at 7:30 P.M. by the Moderator, John S. Murray, there being a quorum 150 present. The total registered voters at this time were 289. The counters were as follows: Marilyn Downing, Paul McDonald, Victoria-Grace Nocera, and Vincent Nocera. The following Articles were voted on:

Article 1. Upon motion duly made and seconded and motion made by William Sinclair, Industrial Development Committee (IDC), it was a 2/3 vote (Yes 270 – No 2) for the Town to authorize the Board of Selectmen to acquire the fee simple or other interest in land by purchase, gift, eminent domain or otherwise and to accept the deed to the Town of Carver of a fee simple interest or less for 241 acres of land, more or less, in the Town of Carver located north of Route 44 being a portion of the property described in the deed recorded in Plymouth County Registry of Deeds in Book 22682 Page 53 and shown on the Carver Assessors' Maps as Plat 26, Lot 14-N; Plat 27, Lot 2-N; Plat 27, Lot 3-0; Plat 28, Lot 5-0; Plat 29, Lot 1-N; Plat 29, Lot 1-NW; and Plat 29, Lot 1-B2 as follows:

Parcel 1 to be acquired \$1,500,000 for open space and recreation purposes pursuant to the Community Preservation Program to be held under the care, custody, control and management of the Conservation Commission, and to authorize the Board of Selectmen to convey a permanent deed restriction or restrictions, in accordance with G.L. c. 44B §12, meeting the requirements of G. L. c. 184 §§ 31-33; provided that the Town shall reserve rights of way for access for the benefit of Parcel 2 over Parcel 1 for purposes for which public ways are used, and provide further that the Board of Selectmen may relocate such rights of access within Parcels 1 and 2 as it determines to be in the Town's best interests;

Parcel 2 to be acquired for public water supply purposes under G.L. c. 40 §38, said land or interest therein to be managed by the Board of Selectmen, and further, to authorize the Board of Selectmen to enter into all agreements, accept grants and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase and to grant a perpetual conservation restriction to a nonprofit, charitable corporation or foundation pursuant to G.L.c. 184 Sections 31-33;

and to fund \$1,500,000 for the acquisition of Parcel 1 including site development and engineering costs, and other costs incidental and related thereto, to transfer and/or borrow from the Community Preservation Fund the sum of \$1,000,000 pursuant to G.L. c. 44B §11 or any other enabling authority;

and to fund \$5,500,000 for the acquisition of Parcel 2 including site development, engineering costs, and construction, and any other costs incidental and related thereto, to appropriate the sum of \$ 7,000,000, that to meet said appropriation, the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said sum, and to issue bonds and notes therefore pursuant to the provisions of G.L. c. 44 §§ 7 or 8.

Selectmen recommended: 5-0
IDC recommended: 6-0
Finance Committee 0-4-0 against

Article 2. Upon motion duly made and seconded and motion made by James Grimes, Selectmen, it was Unanimously Voted for the Town to transfer from available funds in the treasury the sum of Twenty Six Thousand One Hundred Fifty-Two Dollars and Eighty Cents (\$26,152.80) to pay the following unpaid bills under the provisions of Chapter 240, § 7 of the Acts of 1989.

Kopelman & Paige	14,488.71
Attorney William H. Solomon	1,960.00
John W. Kennedy Co. (Gasboy)	291.50
Norfolk Ram Group (Landfill)	5,023.10
N-Star (Streetlighting)	4,174.10
American Lifeguard Products	215.39

Selectmen recommended: 5-0
Finance Committee: 4-0

Article 3. Upon motion duly made and seconded and motion made by James Grimes, Selectmen, it was So-Passed by Majority Vote for the Town to transfer from Free Cash to Planning Board Salaries, Nine Thousand Nine Hundred Thirteen Dollars and fifty- three cents (\$9,913.53) and Seven Thousand (\$7,000.00) Dollars from Animal Control Expense to Animal Control Salaries, recommended by the Board of Selectmen to supplement specific budget line items appropriated at the 2006 Annual Town Meeting.

Selectmen recommended: 5-0
Finance Committee: no recommendation

Article 4. Upon motion duly made and seconded and motion made by Stephen Romano, Treasurer/Tax Collector, it was Unanimously voted for the Town to transfer from The Community Preservation Act account, or any other available funds the sum of Six Thousand (\$6,000.00) Dollars to pay for the software needed to bill and collect the Community Preservation Tax.

Selectmen recommended: 5-0
Finance Committee: 4-0

Article 5. Upon motion duly made and seconded and motion made by Stephen Romano, Treasurer/Tax Collector, it was Unanimously Voted for the Town to transfer from Free Cash the sum of Three Thousand, Nine Hundred and Sixty-Six (\$3,966.00) Dollars to pay for Pitney Bowes DM 500 Digital Automatic Mail System to replace the current machine that is being recalled by the Postal Service on December 31, 2006.

Selectmen recommended: 5-0
Finance Committee: 4-0

Article 6. Upon motion duly made and seconded and motion made by James Grimes, Selectmen, it was So-Passed by Majority Vote for the Town To see if the Town to transfer from Free Cash the amount of One Hundred Thousand (\$100,000.00) Dollars to fund the 53rd payroll for FY 2007.

Selectmen recommended: 5-0
Finance Committee: 3-0-1

Article 7. Upon motion duly made and seconded and motion made by James Grimes, Selectmen, it was Unanimously Voted for the Town to adjust the salaries of full time elected officials to accommodate the 53rd payroll for FY 2007.

Selectmen recommended: 5-0
Finance Committee: 4-0

Article 8. Upon motion duly made and seconded and motion to amend by Bryan Lauzon, Chairman, Planning Board, it was Unanimously Voted for the Town to amend the Carver Zoning Bylaws by adding new language under Article III General Regulations, 3600 Environmental Controls, as follows:

3650. WIND ENERGY FACILITIES (WEF)

3651. Purpose. The purpose of this section is to provide for the development and use of wind power as an alternative energy source, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.

3652. Applicability. Any application to erect a structure that utilizes energy from wind shall comply with this section.

3653. Definitions.

1. Wind Energy Facility (WEF): All equipment, machinery and structures utilized in connection with wind-generated energy production and generation, including accessory transmission, distribution, collection, storage or supply systems whether underground, on the surface, or overhead and other equipment or byproducts in connection therewith and the sale of the energy produced thereby, including but not limited to, wind turbine (rotor, electrical generator and tower) and accessory anemometers (wind measuring equipment), transformers, substation, power lines, control and maintenance facilities, site access and service roads.
2. Commercial Wind Energy Facility (CWEF): A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity greater than 10.1 kW, located in a designated commercial district.
 - a. WEF located in commercial districts by commercial entities with a rated capacity of not more than 10.1 kW shall be permitted as residential.
 - b. WEF serving neighborhoods or multiple residences are encouraged however; proposals shall be permitted as a CWEF, allowed in residential districts.
3. Residential Wind Energy Facility (RWEF): A wind energy conversion system consisting of a wind turbine, and associated control or conversion electronics, which has a rated capacity of not more than 10.1 kW, located on a single lot, intended as an accessory use in a designated residential district or in connection with any residential use in a designated commercial district or in connection to any agricultural use in any zoning district.
4. Wind Turbine: A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower without guy wires.

3654. Special Permit Granting Authority. The Planning Board is hereby established as the Special Permit Granting Authority (SPGA) in connection with construction of Wind Energy Facilities (WEF).

- a. The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw (unless waived) and is consistent with the applicable criteria for granting special permits.

3655. Development Requirements. The following requirements apply to all Wind Energy Facilities (WEF).

1. Proposed WEF shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.
2. Applicants shall provide a complete description of CWEF including technical, economic, environmental, and other reasons for the proposed location, height and design.
3. RWEF shall be limited to one (1) tower per lot or on contiguous lots held in common ownership. This number may be exceeded as part of the special permit process if the applicant can demonstrate that additional number is needed and that the additional benefits of the additional towers does not create any adverse impacts, as outlined in this bylaw.
4. Tower height.
 - a. CWEF: Height limited by special permit. The SPGA shall make a finding that the height proposed is necessary for adequate operation of the CWEF.
 - b. RWEF: Maximum height ninety (90) feet. This height may be exceeded as part of the special permit process if the applicant can demonstrate that additional height is needed and that the additional benefits of the height does not create any adverse impacts, as outlined in this bylaw.
5. Monopole towers are the only type of support allowed.
6. Height Calculation. Overall height of the wind turbine shall be measured from the land in its natural state prior to grading or filling to the highest point reached by any part of the wind turbine.
7. Setbacks. The minimum setback for the wind turbine shall be maintained equal to the overall engineered designed height plus ten (10) feet from all boundaries of the site on which the WEF is located.
 - a. No part of the WEF support structure may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.
 - b. WEF shall be setback a distance of four times the overall blade radius from access easements and above ground utility lines.

- c. The Planning Board may reduce setbacks distances for the WEF with the permission of the abutting property owner(s) together with an easement, as recorded at the Plymouth County Registry of Deeds, depicting such agreement.

- 8. Wetlands. No part of a WEF shall be located within the jurisdiction of the Carver Conservation Commission unless a determination is made by the Conservation Commission.

- 9. Noise. The WEF and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). If deemed necessary by the SPGA, an analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
 - a. Manufacturer's specifications may be accepted when in the opinion of the Planning Board the information provided satisfies the above requirements.
 - b. Upon written notification of a complaint of excessive noise, the Inspector of Buildings/Chief Zoning Enforcement Officer or his designee, herein after referred to, as the Enforcing Person shall record the filing of such complaint. The Enforcing Person shall promptly investigate. If noise levels are determined to be excessive, the Enforcing Person shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence.
 - c. If the noise levels are found to have exceeded allowable limits the Enforcing Person shall notify in writing the owner of the property to correct the violation. If the noise violation is not remedied within 30 days the CWF shall remain inactive until the noise violation is remedied which may include relocation or removal at the owner's expense.
 - d. If determined that allowable limits have not been exceeded, notice in writing shall be provided to the person who has filed such complaint and the owner of the property stating that no further action is required, all within fourteen (14) days of the receipt of the request. Any person aggrieved by the decision may appeal said decision to the Board of Appeals in accordance with Section 5200 of this Bylaw. Any such appeal must be filed within (30) days after the receipt of the decision of the Chief Zoning Enforcement Officer or Enforcement Officer.

10. Shadowing/Flicker. The WEF shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
11. Prevention of Access. The applicant/owner shall ensure that all related components of the CWEF are protected from unlawful access.
12. Visual Impact. The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WEF components. All components of the WEF and its support structure shall be painted plain non-reflective muted colors without graphics or other decoration.
13. Lighting. If lighting is proposed (other than required FAA lights) the applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and twenty-five (25) beyond the property lines. The plan shall also indicate the locations and types of luminaries proposed.
14. Provisions for inspection and maintenance must be submitted.

3656. Procedural Requirements.

1. Site Plan. A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WEF, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines, existing and proposed vegetation, and any other significant features or appurtenances. Any portion of this section may be waived if in the opinion of the Planning Board the materials submitted are sufficient for the Board to make a decision.
2. Telecommunications. CWEF may include telecommunication antennas provided they comply with Section 4600 of this bylaw. The telecommunications carrier shall be named as the co-applicant. Co-applications are encouraged.
3. Compliance with Massachusetts State Building Code. Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a licensed professional engineer shall also be submitted. (Manufacturer specifications may be suitable at the discretion of the Inspector of Building)

4. Compliance with FAA Regulations. WEF must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
5. Compliance with National Electric Code. Building permit applications for WEF shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
6. Utility Notification. No WEF shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. Abandonment: A WEF shall be considered to be abandoned if it is not operated for a period of two years, or if it is designated a safety hazard by the Inspector of Buildings. Once a WEF is designated as abandoned, the owner shall be required to physically remove the WEF within 90 days of written notice. "Physically remove" shall include, but not be limited to:
 - a. Removal of WEF, any equipment shelters and security barriers from the subject property.
 - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - c. Restoring the location of the WEF to its natural condition, except that any landscaping and grading shall remain in the after-condition.
8. Modifications. All modifications (excluding repairs, maintenance, and equipment upgrades to existing structures and/or equipment) to a WEF made after issuance of the Special Permit shall require approval by the SPGA.
9. Professional Fees. The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be the expense of the applicant through the review and inspection fees.
10. The submittals and permits of this Section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law

3657. Security.

1. Requirement. In conjunction with the above special permit approval process the Planning Board may require the posting of a bond or other security to assure

satisfactory fulfillment of the above, in such sum and in accordance with such conditions as the Board may determine necessary.

2. Exception. The Board need not require security where there is full assurance of compliance with the above special permit.
3. Amount. The amount of security required shall not exceed either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is the greater.

Selectmen recommended: 5-0
Finance Committee: No Action
Planning Board: 5-0
Industrial Dev. Committee: 6-0

Upon motion duly made and seconded and motion made by John S. Murray, Moderator, it was Unanimously Voted to adjourn the meeting at 9:00pm

A true record. Attest:

Jean F. McGillicuddy
Town Clerk, CMC/CMMC