

**ARTICLES OF THE WARRANT**

**FOR THE**

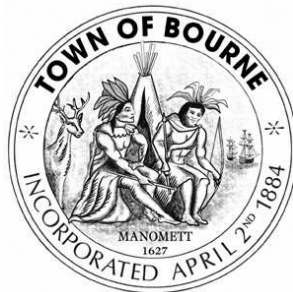
**BOURNE**

**SPECIAL TOWN MEETING**

**Monday, October 26, 2009**

**7:00 P.M.**

**BOURNE HIGH SCHOOL AUDITORIUM**



**ARTICLE 1**

To see if the Town will vote to appropriate a sum of money for the purpose of the payment of *unpaid bills* from a previous fiscal year that are legally unenforceable due to the insufficiency of appropriation, or take any other action in relation thereto.

*Sponsor – Board of Selectmen*

Department	Vendor	Fiscal Year	Amount
Police Department	Falmouth Hospital	2008	370.00
Police Department	Cape Cod Battery, Inc.	2009	101.95

**ARTICLE 2**

To see if the Town will vote to amend action taken under *Article 3 (Annual Budget)* of the 2009 Annual Town Meeting by reducing the amount appropriated for the regular annual expenses of the Town for Fiscal Year 2010 beginning July 1, 2009 through June 30, 2010 or to take any action in relation thereto.

*Sponsor: Board of Selectmen*

**ARTICLE 3**

To see if the Town will vote to amend action taken under *Article 4 (Sewer Budget)* of the 2009 annual Town Meeting, or take any action in relation thereto.

*Sponsor: Board of Selectmen*

**ARTICLE 4**

To see if the Town will vote to amend action taken under *Article 7 (ISWM Budget)* of the 2009 Annual Town Meeting, or take any action in relation thereto.

*Sponsor: Board of Selectmen*

**ARTICLE 5**

To see if the Town will vote to transfer from available funds a sum of money to the following *capital project* and further to rescind the authorization to borrow that capital project, or take any other action in relation thereto.

*Sponsor: Board of Selectmen*

ISWM Excavator

\$230,000.00

**ARTICLE 6:**

To see if the Town will vote to ***amend the Town of Bourne Bylaws*** Article 1.1 Town Meeting Section 1.1.2 ***by deleting said Section in its entirety, and inserting in place thereof the following new*** Section 1.1.2:

***“Section 1.1.2*** Fifty-five (55) registered voters shall constitute a quorum to begin or continue to maintain any session of an annual or a special town meeting.”

Or take any other action in relation thereto.

***Sponsor: Finance Committee***

**ARTICLE 7:**

To see if the Town will vote to appropriate, transfer or borrow a sum of money to repair and resurface ***Homestead Road and Homestead Road Extension*** pursuant to petitions submitted by abutters under Section 3.1.28 of the Town of Bourne By-laws, said funds to be repaid to the Town through betterment assessments to abutters as provided in Section 3.1.28 of the Town of Bourne By-laws, or take any other action in relation thereto.

***Sponsor: Board of Selectmen***

**ARTICLE 8**

To see if the Town will vote to amend the Town of Bourne Bylaws, Article 3.7 Wetland and Natural Resources Protection Wetland Protection by ***deleting Section 3.7.4. (d) and inserting a new Section 3.7.4 (d) as follows,*** or take any other action in relation thereto.

***Sponsor: Conservation Commission***

***(d) Storm Damage Prevention*** means the project must be designed in a manner that ensures the prevention of damage to the Wetland Resource Area and abutting properties caused by, but not limited to, erosion and sedimentation, damage to vegetation, damage to property or buildings, or damage caused by the displacement of water, water-borne debris or water-borne ice. With the exception of “Dinghy Docks”, as defined at Section 15.0 of the Town of Bourne Waterways Rules and Regulations, the Commission shall approve projects in velocity floodzones only after the project engineer certifies in writing that the design of said project complies fully with the first sentence of (d). Projects that fail to gain certification shall be deemed a

threat to the health and safety of Bourne's residents and the proposed project shall be denied by the Commission.

**ARTICLE 9**

To see if the Town will vote to acquire by purchase, gift or eminent domain a parcel of land in Pocasset, approximately 1.37 acres in area, and identified on Town Assessors records as ***Parcel 1, Map 43.1***, as shown on a plan of land on file at the Office of the Town Clerk for the purposes of recreation and conservation, and to appropriate a sum of money for the purposes of this Article and further to authorize the Board of Assessors to utilize the provisions of Chapter 58, Section 8 of Massachusetts General Laws for the purposes of acquiring this parcel of take any other action relative thereto.

***Sponsor: Community Preservation Committee***

**ARTICLE 10**

To see if the Town will vote, upon recommendation of the Community Preservation Committee, to appropriate from the Community Preservation Fund a sum of money for the following Community Preservation Fund purposes: to make certain necessary repairs, renovations and restoration work to the ***Bourne Historic Center*** including costs incidental and related thereto; and further the Historic Commission and the Community Preservation Committee are hereby authorized and directed to take any and all acts necessary to implement this vote, or take any other action relative thereto.

***Sponsor: Historic Commission and the Community Preservation Committee***

**ARTICLE 11**

To see if the Town will vote to transfer from available funds a sum of money for the demolition and removal of a structure(s) situated at ***35 Old Plymouth Road*** in the village of Sagamore of the Town of Bourne, or take any other action relative thereto.

***Sponsor: Board of Selectmen***

**ARTICLE 12**

To see if the Town will vote to amend the Bourne Zoning Bylaw, to ***amend the existing bylaw*** to read as follows or take any other action in relation thereto:

**3460. WIND ENERGY CONVERSION SYSTEMS (WECS).**

**3461. 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.

**3462. Applicability.** Any application to erect a structure that utilizes energy from wind shall comply with this section.

**3463. Definitions.**

**1. Wind Energy Conversion Systems (WECS):** All equipment, machinery and structures utilized in the connection with the conversion of wind to other forms of energy whether commercial or residential.

**2. Commercial Wind Energy System (CWES):** A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, with a rated capacity greater than 10 kW.

**3. Residential Wind Energy System (RWES):** A wind energy conversion system consisting of a single wind turbine, and associated control or conversion electronics, which has a rated capacity of not more than 10 kW, intended as an accessory use in a designated residential district or in connection with any residential use in a designated commercial 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 with or without guy wires.

**5. Fall Zone:** Total height of the wind turbine (including blade assembly) plus 10 feet.

**6. Engineer designed fall zone:** An area designed and designated by a Massachusetts professional licensed structural engineer for a wind turbine that is less than the required fall zone.

**3464. Special Permit Granting Authority:** The Planning Board is hereby established as the Special Permit Granting Authority (SPGA) in connection with construction of Wind Energy Conversion Systems (WECS).

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

**3465. Development Requirements.**

1. Proposed WECS 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 WECS including technical, economic, environmental, and other reasons for the proposed location, height and design.
3. Residential Wind Energy Systems. RWES shall be limited to one (1) one tower per lot or on contiguous lots held in common ownership.
  - a) A single Wind Turbine located in commercial district by commercial entity with a rated capacity of not more than 10 kW may be permitted as residential.
  - b) A single Wind turbine with a rated capacity greater than 10 kW, serving a neighborhood or multiple residences is encouraged however; proposals shall be permitted as a CWES, allowed in residential districts.
4. **Commercial Wind Energy Systems.** CWES may contain multiple towers however subject to the following provisions:
  - a) Projects containing multiple towers must be located on a minimum of ten (10) acres, which may contain several contiguous parcels, though not required to be in single ownership.
  - b) Projects including noncontiguous parcels require that each parcel contain a minimum of ten acres.
  - c) Projects containing land in more than one ownership, shall include each owner of the land as a party to the application and, upon plan approval, subject to its provisions.

**5. Tower height.**

- a) CWES. Height shall be determined by special permit. The SPGA shall make a finding that the height proposed is necessary for adequate operation of the CWES. However, in no case shall the tower height exceed 400 feet.
- b) RWES. Maximum height seventy-five (75) 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 higher wind turbine do not increase any adverse impacts.

**6. Monopole towers** are the preferred type of support.

**7. 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.

**8. Height Restriction.** No WECS located in the flight path as shown on a map entitled “USCG Air Station Cape Cod Emergency Visual Routes in Inclement Weather” Bourne, Massachusetts, dated January 26, 2007 which is attached hereto and made part hereof, shall be erected or altered to a height, which would exceed one hundred (100) feet. WECS erected between 60 to 100 feet within the USCG flight path shall include a fixed warning light.

**9. Setbacks.** (*See figures A and B*) Wind Turbines shall be setback a distance equal to 1.5 times the overall height of the wind turbine from the nearest existing residential structure and the nearest property line. The SPGA may reduce the minimum setback distance as appropriate based on site specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this section and has supplied the SPGA with a certified document designating the engineered fall zone.

The minimum setback for the wind turbine shall be maintained equal to the overall engineer designed fall zone plus ten (10) feet from all boundaries of the site on which the WECS is located, except as specifically waived.

- a) No part of the WECS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.
- b) WECS shall be setback a distance of four times the blade length from ways, drives, access easements, trails, ascertainable paths and above ground utility lines. Based on site-specific considerations if the above are found to be located within the project area, the Planning Board at its discretion may waive this requirement.
- c) The Planning Board may (at their discretion) reduce fall zone setbacks distances for the WECS provided that:
  - i) An easement agreement from the abutting property owner is received, and is recorded along with an easement plan depicting such agreement, or
  - ii) The WECS is located adjacent to permanently protected conservation/ open space providing that such land shall be kept in an open or natural state and not be built upon or developed.

10. **Wetlands.** No part of a WECS shall be located within the jurisdiction of the Bourne Conservation Commission unless issued an Order of Conditions.

11. **Noise.** The WECS and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). 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) Manufacturers 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 WECS shall remain inactive until the noise violation is remedied which may include relocation or removal.
  - 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 1320 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.
12. **Shadowing/Flicker.** The WECS 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.
13. **Prevention of Access.** The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access.
14. **Visual Impact.** The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain non-reflective muted colors without graphics or other decoration.
15. **Electromagnetic interference.** No WECS installation shall cause electromagnetic interference. If interference is established the Inspector of Buildings shall notify in writing the owner of the property to correct

the violation. If the interference is not remedied within 30 days the WECS shall remain inactive until the interference is remedied, which may include relocation or removal.

16. **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.
17. **Vegetation.** Existing vegetation must be shown including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The Planning Board shall also consider the height of vegetation at maturity.
18. **Inspection.** Provisions for inspection and maintenance must be submitted.

#### **3466. Procedural Requirements:**

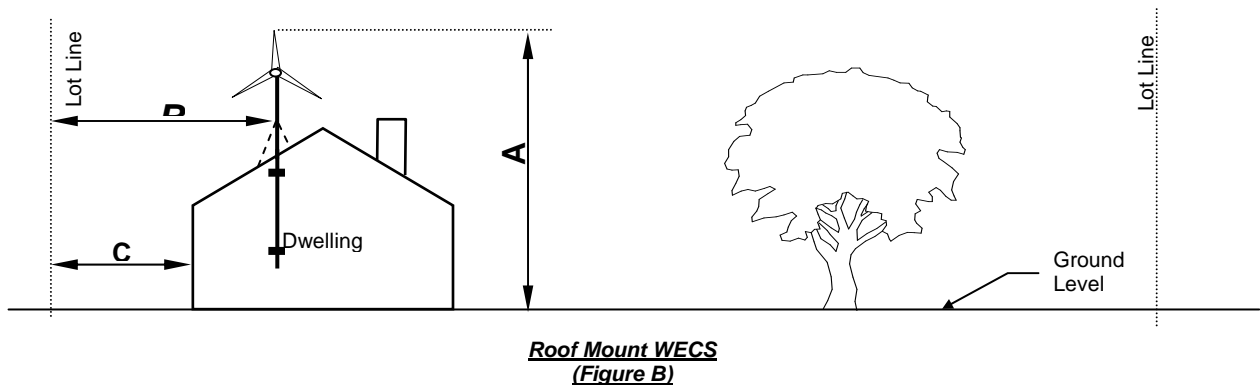
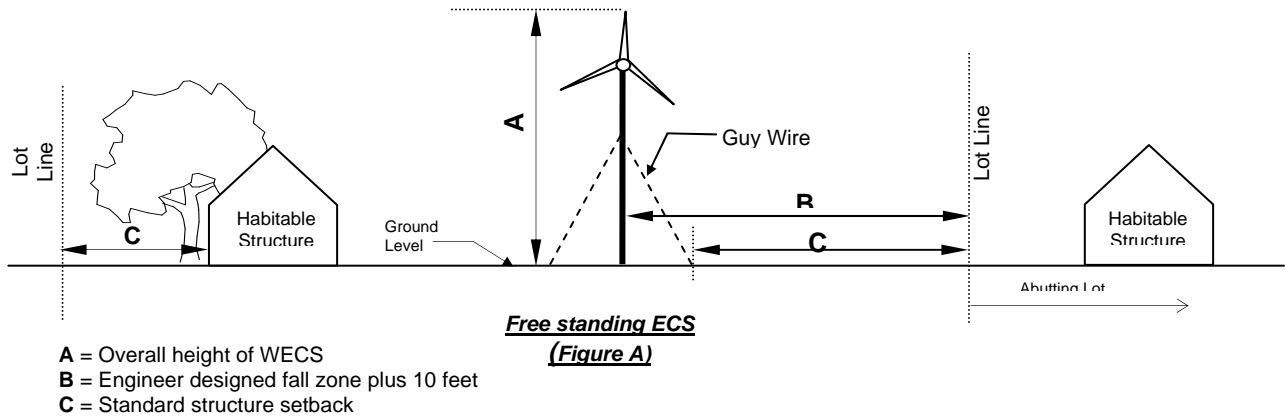
1. **Site Plan.** A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines 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.** CWES may include telecommunication antennas provided they comply with Section 2500 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 and MMR Flight Paths.** WECS must comply with applicable FAA regulations and MMR flight paths as shown on the map referred to in Section 3465(7).
5. **Compliance with National Electric Code.** Building permit applications for WECS 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 WECS 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 WECS 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 WECS is designated as abandoned, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:
  - a) Removal of WECS, 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 WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.
8. **Modifications.** All modifications to a WECS 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.

### 3467. 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 r restoration of affected lands and property if the work is not performed as required, whichever is the greater.



**ARTICLE 13**

To see if the Town will vote to amend the Bourne Zoning Bylaw by replacing *SPR/SP with BA (Board of Appeals) in Sec. 2220* Use Regulation Schedule under Commercial Uses, Retail Sales, Animal Kennels or Animal Hospitals, funeral homes or take any other action in relation thereto:

*Sponsor – Planning Board*

**Current:**

**Sec. 2220 Use Regulation Schedule:**

Animal kennels or animal hospitals, funeral homes	SPR/SP	SPR/SP	SPR/SP	SPR/SP	No
---	--------	--------	--------	--------	----

**Proposed:**

**Sec. 2220 Use Regulation Schedule:**

Animal kennels or animal hospitals, funeral homes	BA	BA	BA	BA	No
---	----	----	----	----	----

**ARTICLE 14**

To see if the Town will vote to authorize the Board of Selectmen to negotiate and execute an *easement*, on terms and conditions deemed to be in the best interest of the Town, with **NSTAR** for the purpose of providing electric service at 120 Main Street, Buzzards Bay, or action in relation thereto.

*Sponsor – Board of Selectmen*

**ARTICLE 15**

To see if the Town will vote to appropriate a sum of money for the purpose of accepting proceeds from *insurance for a loss* at the Fire Department and, to meet this appropriation, to transfer said sum from the insurance recovery fund, or action in relation thereto.

*Sponsor – Board of Selectmen*

**ARTICLE 16**

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, eminent domain, or otherwise or receive by gift certain parcels of land situated on *Mashnee Island, Bourne*, Barnstable County,

Massachusetts, as shown on a plan of land a copy of which is on file at the office of the Town Clerk, for purpose of community preservation as set forth in Massachusetts General Law Chapter 44B (Massachusetts Community Preservation Act) as amended; and to raise and appropriate, borrow or transfer from available funds a sum of money for such acquisition, including costs incidental and related thereto such acquisition; and to further authorize the Board of Selectman and the Open Space Committee to take all acts necessary to implement this vote; said funds are to be expended under the direction of the Community Preservation Committee, or take any other action in relation thereto.

*Sponsor: Board of Selectmen and the Open Space Committee*

**APPROVED: October 6, 2009**

***BOARD OF SELECTMEN***

\_\_\_\_\_  
**John A. Ford, Jr.**

\_\_\_\_\_  
**Stephen F. Mealy**

\_\_\_\_\_  
**Jamie J. Sloniecki**

\_\_\_\_\_  
**Donald J. Pickard**

\_\_\_\_\_  
**Mary Meli**

Barnstable, ss.

Bourne, Massachusetts

By virtue of the Authority vested in me, I have this day posted a true and attested copy of this warrant in the Bourne Veterans' Memorial Community Center, Bourne Town Hall and in all the post offices in the Town of Bourne viz: Buzzards Bay Post Office, Bourne Post Office, Monument Beach Post Office, Pocasset Post Office, Cataumet Post Office, Sagamore Post Office, and the Sagamore Beach Post Office.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Constable

Received in the Town Clerk's Office \_\_\_\_\_

