



The Town of Barnstable

Town Council

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Secretary:
Cheryl A. Phillips

TOWN COUNCIL AGENDA

March 1, 2007

7:00 PM

1. **ROLL CALL**
 2. **PLEDGE OF ALLEGIANCE**
 3. **MOMENT OF SILENCE**
 - **SCHOOL BASED HEALTH PROCLAMATION**
 - **FIRE DISTRICT STUDY COMMITTEE**
 4. **PUBLIC COMMENT (May be limited to 2 minutes)**
 5. **COUNCIL RESPONSE TO PUBLIC COMMENT**
 6. **ACT ON MINUTES**
 7. **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
 - A) Cape Cod Commission
 - B) Council Review Committee Report
 8. **ORDERS OF THE DAY**
 - A. OLD BUSINESS
 - B. NEW BUSINESS
 9. **TOWN MANAGER COMMUNICATIONS**
 10. **ADJOURNMENT**
- NEXT MEETING MARCH 15TH.**
-

**INDEX
TITLE**

ITEM NO.

PAGE

A. OLD BUSINESS

- 2007-082** - Town of Barnstable Zoning Ordinance for Land-Based Wind Energy Conversion
(**Joint Public Hearing With Planning Board May Be Acted Upon**) (**Roll Call 2/3**). 3 - 8
- 2007-083** - To See If Town Council Will Vote To Amend The Zoning Ordinance To Extend The
Boundary of The Hyannis Gateway Zoning District (**Joint Public Hearing With
Planning Board May Be Acted Upon**) (**Roll Call 2/3**).....9 - 10
- 2007-084** - Appointments (**Second Reading**) 11

B. NEW BUSINESS

- 2007-086** - Acceptance of a FY 2007 Statewide Emergency Telecommunications Board Training
Grant Award in the Amount of \$24,300.00 from the Executive Office of Public
Safety.12 - 13
- 2007-087** - Acceptance of a FY 2007 Grant From the Massachusetts Cultural Council's John &
Abigail Adams Grant Program in the Amount of \$50,000.(**May Be Acted Upon**).. 14 - 15

Minutes of Barnstable Town Council Meeting of February 15, 2007.

Please Note: It is possible, if it so votes, the Council may go into executive session.
The council may act on items in a different order than they appear on this agenda.

**A. OLD BUSINESS (Joint Public Hearing With Planning Board March 1st)
(Roll Call 2/3)**

BARNSTABLE TOWN COUNCIL

<p>2007-082 TOWN OF BARNSTABLE ZONING ORDINANCE FOR LAND-BASED WIND ENERGY CONVERSION INTRO.: 02/01/07; 03/01/07</p>

240-44.1 Land-Based Wind Energy Conversion Facilities (WECFs)

240-44.1.1 Purpose and Intent

It is the express purpose of this ordinance to accommodate distributed generation/wind energy conversion facilities in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the facilities. The ordinance enables the review of wind energy conversion facilities by the town's Zoning Board of Appeals, clarifying the criteria for siting such a facility. This ordinance is intended to be used in conjunction with other regulations adopted by the town, including historic district regulations, site plan review and other local ordinances designed to encourage appropriate land use and environmental protection.

240-44.1.2 Definitions

Clear area: The distance from the lowest point of the blade tip to the ground.

Height: Height is measured from the grade at the base of the tower to the top of the fixed tower (moveable blades are not included).

Special Permit Granting Authority (SPGA): Shall be the Zoning Board of Appeals.

Wind Energy Conversion Facility (WECF): All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.

Wind Monitoring or Meteorological ("test" or "met") Towers: Tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

Wind turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft.

240-44.1.3 District Regulations

240-44.1.3.1 Use Regulations

All wind energy conversion facilities or wind monitoring towers shall require a building permit and may be permitted only as an accessory use to permitted uses in all zoning districts.

240-44.1.3.1.1 Wind Energy Conversion Facility and Wind Monitoring or Meteorological Towers

The construction of any wind energy conversion facility or wind monitoring/meteorological tower shall be permitted in all zoning districts, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Regulations set forth in Section 240-125C. (unless waived by the SPGA). Any subsequent change or

BARNSTABLE TOWN COUNCIL
2007-082 TOWN OF BARNSTABLE ZONING ORDINANCE
FOR LAND-BASED WIND ENERGY CONVERSION (CONTINUED)
INTRO.: 02/01/07

modification of wind energy equipment shall be subject to review by the Building Commissioner.

240-44.1.3.2 Dimensional Requirements

All wind energy conversion facilities shall comply with the requirements set forth in this section, unless waived by the SPGA as part of the Special Permit review process.

240-44.1.3.2.1 Type: Monopole design only, no guy wires allowed, may not be attached to any structure.

240-44.1.3.2.2 Setback: The base of any WECF shall be set back from any property line or road layout line and/or wetland demarcation line, including cranberry bogs, by not less than one and one half (1½) times the proposed height of the tower if abutting residentially zoned properties and one times (1) the proposed height of the tower if abutting non-residentially zoned properties. The SPGA may allow the setback to be reduced as part of the special permit process if the project proponent can demonstrate that additional height is needed and that the additional benefits of the higher tower outweigh any increased adverse impacts.

240-44.1.4 Special Permit Regulations

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

240-44.1.4.1 General

Proposed wind energy conversion facilities 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.

240-44.1.4.1.1 Economic Benefit

The proponent shall demonstrate through a cost/benefit analysis that the project is economically feasible and sustainable.

240-44.1.4.2 Design Standards

240-44.1.4.2.1 Visual Impact

The proponent shall demonstrate through project siting and proposed mitigation that the wind energy conversion facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, lighting. All electrical conduit shall be underground.

240-44.1.4.2.2 Color

Wind energy conversion facilities shall be painted non-reflective muted colors that blend with the sky, without graphics or other decoration.

240-44.1.4.2.3 Equipment Shelters

All equipment necessary for monitoring and operation of the wind energy conversion facilities should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment

BARNSTABLE TOWN COUNCIL
2007-082 TOWN OF BARNSTABLE ZONING ORDINANCE
FOR LAND-BASED WIND ENERGY CONVERSION (CONTINUED)
INTRO.: 02/01/07

may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure or behind a year-round landscape or vegetated buffer.

240-44.1.4.2.4 Lighting and Signage

- a) Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.
- b) Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties.
- c) No signage allowed.

240-44.1.4.3 **Environmental Standards**

240-44.1.4.3.1 Noise

The wind energy conversion facility and associated equipment shall conform to the standard of ten (10) decibels (DB) above ambient noise level at the property line. The applicant shall provide an analysis prepared by a qualified engineer, to be presented to the SPGA to demonstrate compliance with these noise standards and shall be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

240-44.1.4.3.2 Shadowing/Flicker

Wind energy conversion facilities shall be sited in a manner that does not result in significant shadowing or flicker impacts. The proponent has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

240-44.1.4.3.3 Safety Standards

- a) No hazardous materials or waste shall be discharged on the site of any wind energy conversion facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste.
- b) Climbing access to tower shall be limited by placing climbing apparatus no lower than ten (10) feet from the ground.
- c) The clear area shall be no less than ten (10) feet.
- d) The wind turbine shall conform to FAA Safety Standards, as amended.

240-44.1.4.4 **Abandonment or Discontinuation of Use**

240-44.1.4.4.1 At such time that a wind energy conversion facility is scheduled to be abandoned or discontinued, the applicant will notify the town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

In the event that an applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for 180 days. In the case of a multi-turbine facility, the SPGA shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.

BARNSTABLE TOWN COUNCIL
2007-082 TOWN OF BARNSTABLE ZONING ORDINANCE
FOR LAND-BASED WIND ENERGY CONVERSION (CONTINUED)
INTRO.: 02/01/07

240-44.1.4.4.2 Upon abandonment or discontinuation of use, the owner shall physically remove the wind energy conversion facility within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the operator and at the discretion of the SPGA. "Physically remove" shall include, but not be limited to:

- a) Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property;
- b) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations;
- c) Restoration of the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-condition.

240-44.1.4.4.3 If an applicant fails to remove a wind energy conversion facility in accordance with this section of this bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The SPGA may require the applicant to provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the SPGA's election at the time of construction to cover costs of the removal in the event the town must remove the facility. The amount of such surety shall be equal to 150 percent of the cost of compliance with this section. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for a Cost of Living Adjustment after 10 and 15 years.

240-44.1.4.4.4 Professional Fees

The town may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.

SPONSOR: Ann B. Canedy, Town Councilor

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to open public hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL
AGENDA ITEM SUMMARY
2007-082
INTRO.: 02/01/07

TO: Town Council
FROM: Ann Canedy, Precinct 1 Town Councilor
DATE: January 24, 2007
SUBJECT: Zoning Ordinance for Land-Based Wind Energy Conversion Facilities

BACKGROUND: With the demand for alternative energy sources at an all time high and with the smattering of applications for both residential and commercial wind turbines here on Cape Cod, the Planning Board Subcommittee on Zoning decided to be pro-active in the permitting of Land-Based Wind Energy Conversion Facilities or WECFs. The initial impetus to the Subcommittee was the permitting of two residential wind turbines in the Town of Sandwich. The Sandwich Zoning Board of Appeals was asked to review the application and found they had no clear criteria with which to review an application. A quick read of the Town of Barnstable Zoning Ordinances indicated that neither did Barnstable: while turbines were allowed in residential districts by special permit, no criteria was listed to aid in review.

For over five months the Subcommittee researched WECF bylaws and ordinances in towns both on Cape and off Cape: Bourne, Dracut, Fairhaven, Falmouth, Gloucester, Harwich, Hull, Lynn, Orleans, Salem, Scituate, Westport and Williamstown. The Subcommittee examined model bylaws posted on both the Massachusetts Division of Energy Resources (DOER) and the Cape Cod Commission (CCC) websites. In addition to reviewing the proposal for Cape Cod Community College, several members visited existing wind turbine sites: Town of Hull's turbine near the High School; IBEW turbine off Rte. 93 South Boston; Mass Maritime's turbine in Buzzard's Bay; and Cape Tech's turbine in Harwich. The Subcommittee invited proponents of both small scale residential and large scale commercial turbines to its meetings to learn more about the technology. After reviewing the information, the Subcommittee drafted an ordinance that addresses some of the key issues in siting turbines: height, economic viability, noise, visibility, and abutter impacts related to location.

ANALYSIS: According to the language in the proposed ordinance one would need a parcel of land that would allow the turbine to be 1 and 1/2 times the height of the tower AWAY from any abutting property line. This accomplishes the goal of having the turbine sited toward the middle of the lot and not on the abutter's boundary. Therefore if the tower is 70 feet tall in order to catch the wind, then the tower needs to be located 105 feet away from any property line which translates into a parcel of land at least 210 feet wide plus the width of the tower, possibly 10 more feet, which equals a parcel of land 220 feet wide and 220 feet long which is 48,400 square feet, over an acre of land. A 30 foot tower is not going to be efficient as it will be difficult to catch the wind at such a low height. In Barnstable, the maximum height allowed for a single family home is 30 feet. A 30 foot tower fits on a 10,000 square foot lot (30' height x 1.5 setback factor = 45' x 2 since it has to be 45' from each side of the parcel which equals 90' plus 10' for the base of the tower = 100 x 100 or 10,000 square feet. Similarly a 1/2 acre (square) lot would be restricted to a 50 foot height limit which is right in the middle of the height of most trees, and therefore would not be acceptable. It may not be cost effective to erect such a turbine.

BARNSTABLE TOWN COUNCIL
AGENDA ITEM SUMMARY (CONTINUED)
2007-082
INTRO.: 02/01/07

As a point of reference, the turbine at Cape Cod Tech in Harwich is on a 127 foot tower, the turbine at Upper Cape Tech in Bourne is on an 80 ft. tower.

FISCAL IMPACT: Requiring the demonstration of “economic viability” will provide for turbines that are positively influencing property values which translates into additional property tax revenue and potentially encourages smart business growth in the community, as well as supporting existing business.

BOARD/COMMITTEE/STAFF ASSISTANCE: Planning Board Subcommittee on Zoning, Steve Shuman, Subcommittee Chair

A. OLD BUSINESS (Joint Public Hearing with Planning Board May Be Acted Upon) (Roll Call 2/3)

BARNSTABLE TOWN COUNCIL

**2007-083 TO SEE IF TOWN COUNCIL WILL VOTE TO AMEND THE ZONING ORDINANCE TO EXTEND THE BOUNDARY OF THE HYANNIS GATEWAY ZONING DISTRICT
INTRO.: 02/15/07; 03/01/07**

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:

ORDERED: That Chapter 240, Article II of the Zoning Ordinance, Section 240-6 the Zoning Map, is amended by extending the boundary of the Hyannis Gateway (HG) zoning district within the Hyannis Village Zoning Districts as shown on maps on file with the Town Clerk entitled “Zoning Map of the Town of Barnstable, Massachusetts, Index Map”, and “Sheet 3 of 7, Hyannis”, both maps notated “Proposed Amendment to Modify the HG and RB Zones in Hyannis File Copy Date February 5, 2007” and as shown on “Downtown Hyannis Rezoning Illustration Map Proposed Amendment to Modify the HG and RB Zones in Hyannis” dated 2/6/2007.

SPONSOR: Town Council Vice President Gary R. Brown

DATE	ACTION TAKEN
_____	_____
_____	_____

- Motion to open public hearing
- Rationale
- Public hearing
- Close Public hearing
- Council discussion
- Move/vote

**BARNSTABLE TOWN COUNCIL
AGENDA ITEM SUMMARY
2007-083
INTRO.: 02/01/07**

TO: Town Council
FROM: Town Councilor Gary Brown
DATE: February 6, 2007
SUBJECT: To see if the town council will vote to amend the zoning ordinance to extend the boundary of the Hyannis Gateway Zoning District

RATIONALE: The following amendments have been identified for adoption within the Hyannis Village Zoning Districts.

The first involves a zoning map amendment to include two small existing lots in the Hyannis Gateway (HG) District. The lots proposed for inclusion in the HG District are in total 7,405 square feet and in common ownership with abutting parcels that are currently included in the HG District.

The current line as it exists in relationship to the properties assumes the development of the road called Washington Avenue Extension, designated on Town maps in 1957. Although developed as a road on the other side of Charles Street, this tiny end of it, now referred to as the butt, was never actually created into a road, and the land parceled as lots with addresses on Washington Ave. Ext. and other proposed lots, 36 Pine Court, and 65 Washington Ave. Ext. by the current arbitrary zoning are rendered completely useless.

The required building specs for developing new residences have changed, making it impossible to ever develop these lots into houses, since there is no room for septic installations. Remaining zoned as residential, but in fact surrounded by and essentially extensions of commercial property, the owner's hands are tied.

The third lot in question, 37 Pine Court, has been assimilated into the back yard of 72 Grove Street. It is surrounded by commercial use, and would be more valuable if it were possible to make it available for that use.

A. OLD BUSINESS (SECOND READING)

BARNSTABLE TOWN COUNCIL

2007-084 APPOINTMENTS

INTRO.: 02/15/07; 03/01/07

BOARD OF HEALTH APPOINTMENT:

Junichi Sawayanagi, 1085 Main Street, West Barnstable, MA 02668, term expires 06/30/2009

CONSERVATION COMMISSION APPOINTMENT:

Louise Riemenschneider Foster, 204 Clamshell Cove Rd., Cotuit, MA 02635, term expires 06/30/2007

SPONSORS: Appointments Committee

DATE

ACTION TAKEN

___ Read item

___ Discussion

___ Move/vote

B. NEW BUSINESS (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

**2007-086 ACCEPTANCE OF A FY2007 STATEWIDE EMERGENCY
TELECOMMUNICATIONS BOARD TRAINING GRANT
AWARD IN THE AMOUNT OF \$24,300.00 FROM THE
EXECUTIVE OFFICE OF PUBLIC SAFETY
INTRO.: 03/01/07**

RESOLVED: that the Town Council hereby accepts a FY 2007 Statewide Emergency Telecommunications Board Training Grant award in the amount of \$24,300.00 from the Executive Office of Public Safety.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Discussion
- ___ Move/vote

**BARNSTABLE TOWN COUNCIL
AGENDA ITEM SUMMARY
2007-086
INTRO.: 03/01/07**

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: February 15, 2007

SUBJECT: Acceptance of a FY 2007 Statewide Emergency Telecommunications Board Training Grant award in the amount of \$24,300.00 from the Executive Office of Public Safety.

BACKGROUND: The town has been awarded a Statewide Emergency Telecommunications Board Training Grant award for FY 2007 in the amount of \$24,300.00. The Department applied for, and was awarded, this amount to support the training costs associated with the implementation and conversion to the new Statewide E911 system.

ANALYSIS: Acceptance of this grant will assist the Department in the conversion training of officers and telecommunicators to the new E911 system.

GRANT DETAIL: The \$24,300 grant award will be allocated to two categories: \$6,075.00 towards the overtime costs associated with travel to and from the Bridgewater training site; and \$18,225.00 towards the overtime replacement costs associated with replacing the officers on shift as they attend training.

FISCAL IMPACT: This grant will supplement the currently allocated funds.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Chief Paul B. MacDonald

B. NEW BUSINESS (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

**2007-087 ACCEPTANCE OF A FY 2007 GRANT FROM THE MASSACHUSETTS CULTURAL COUNCIL'S JOHN & ABIGAIL ADAMS GRANT PROGRAM IN THE AMOUNT OF \$50,000.
INTRO: 03/01/07**

RESOLVED: that the Town Council does hereby accept the grant award in the amount of \$50,000 from the Massachusetts Cultural Council's John & Abigail Adams Grant Program.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Discussion
- ___ Move/vote

**BARNSTABLE TOWN COUNCIL
AGENDA ITEM SUMMARY
2007-087
INTRO: 03/01/07**

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Ruth Weil
DATE: February 20, 2007
SUBJECT: Acceptance of a FY 2007 John & Abigail Adams Grant in the amount
Of \$50,000 from the Massachusetts Cultural Council.

BACKGROUND: The Growth Management Department applied for and has been awarded the John & Abigail Adams grant from the Massachusetts Cultural Council in the amount of \$50,000. The grant will supplement the department's effort to foster the creative economy as a centerpiece of the revitalization of downtown Hyannis. This grant will allow the department to hire a full time arts and culture staff person to plan for artist live work space in downtown, to facilitate the siting and development of a performing arts center in Hyannis, and for other activities supporting the existing Harbor Your Arts Programs. In addition, these funds will support a consultant to develop a business model and provide supports for a permanent artists' cooperative in downtown Hyannis.

ANALYSIS: Acceptance of this grant will contribute to our economic development and downtown revitalization efforts through promoting arts and culture.

FISCAL IMPACT: This grant will supplement funds allocated to the Harbor Your Arts (HyA) program. The collaboration between the following partners allowed us to meet the match requirements: The Arts Foundation of Cape Cod, the Main Street Hyannis Business Improvement District, the Guyer Barn Gallery & Arts Center, the Cape Cod Art Association, and the Hyannis Area Chamber of Commerce.

TOWN MANAGER RECOMMENDATION: Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Ruth J. Weil