



WARRANT

For

Special Town Meeting

July 5, 2016

7:00 p.m.

Hamilton-Wenham Regional High School
Auditorium

Please note: This Warrant should be brought to Town Meeting. The appendix to the Warrant is available at Town Hall, on-line at www.hamiltonma.gov, and will be available at Town Meeting.

Town By-Laws

CHAPTER II

RULES AND PROCEDURE OF TOWN MEETINGS

SECTION 1. All articles in the warrant shall be taken up in the order of their arrangement, unless otherwise decided by a two-thirds vote, except that unanimous consent shall be required for inclusion of an Article in a "Consent Motion" group of Articles that will be taken up by the meeting for voting on the group.

SECTION 2. In case of motions to amend, or to fill out blanks, the one expressing the largest sum or the longest time shall be put first, and an affirmative vote thereon shall be a negative vote on any smaller sum or shorter time.

SECTION 3. The report of a committee shall be deemed properly before a meeting if a request for its acceptance is included in an article of the warrant and a copy is published in the Special Report or is filed with the Town Clerk fifteen days prior to the meeting. A vote to accept a final report shall discharge the committee but shall not be equivalent to a vote to carry out its recommendations. A vote on recommendations included in a committee report shall only be in order under an article to that effect in the warrant. A vote to accept a report of progress shall continue the committee under its original authority unless otherwise specified.

SECTION 4. If an article of the Warrant has once been acted upon and disposed of, it shall not be again considered at the meeting except by a two-thirds vote.

SECTION 5. No money shall be appropriated to or from the Stabilization Fund except by a 2/3 vote at a Town Meeting.

SECTION 6. Only registered voters of the Town shall be admitted and entitled to vote at any Annual or Special meeting provided that upon prior request the Moderator may admit to the meeting persons who are not registered voters and in his discretion may permit them to speak on a subject. Any person so permitted to speak at a meeting shall announce his full name and address to the meeting.

SECTION 7. Motions at Town Meeting shall be made orally, but the Moderator may require any motion also to be submitted in writing. Unless otherwise directed thereby the Moderator shall appoint all committees created by the vote of the Town.

SECTION 8. The conduct of all Town Meetings not prescribed by law or by the foregoing rules shall be determined by the rules of practice contained in Town Meeting Time, A Handbook of Parliamentary Law, Second Edition.

SECTION 9. On matters requiring a two-thirds vote, either by statute or these By-Laws, a count need not be taken and the vote need not be recorded unless the vote declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15.



ESSEX, SS

TO THE CONSTABLE OF THE TOWN OF HAMILTON:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Hamilton qualified to vote in election and town affairs, to meet at the Hamilton-Wenham Regional High School in said town, on Monday, the fifth day of July, in the year Two Thousand Sixteen (July 5, 2016) at seven o'clock in the evening (7:00 p.m.), then and there to act on the following article.

SECTION 1: REPORTS AND PROCEDURES

<p>ARTICLE 2016/7 1-1</p> <p><i>Reports</i></p>	<p>To hear the report of the Planning Board with regard to the Citizens' Petition of Article 3-1. The Town will take action on this report in the vote on the motion under Article 3-1.</p>
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SECTION 2: FINANCIAL ACTIONS

<p>None</p>	
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SECTION 3: PLANNING /ZONING ACTIONS

<p>ARTICLE 2016/7 3-1</p> <p><i>Citizens' Petition – Transfer Site Plan Review to Planning Board</i></p>	<p>“To see if the town will amend the by-law to change the site plan review responsibility from the ZBA to the Planning Board as delineated in Appendix K attached.”</p> <p>[The proposed by-law is on file with the Town Clerk and set forth in Appendix K of the 2016 Special Town Meeting Warrant Book.]</p> <p>The Board of Selectmen The Finance and Advisory Committee</p>
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2016/7 1-1	Planning Board	
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	None	
SECTION 3	PLANNING / ZONING ACTIONS	
2016/7 3-1	Citizens' Petition – Transfer Site Plan Review to Planning Board	
SECTION 4	TOWN BY-LAW AMENDMENTS	
	None	
SECTION 5	OTHER APPROPRIATIONS AND ACTIONS	
	None	
SECTION 6	CLOSING FINANCIAL ACTIONS	
	None	

Please note: The warrant and appendix are also available at the Town Hall, on-line @ www.hamiltonma.gov and at the meeting.

SECTION 4: TOWN BY-LAW AMENDMENTS

None	
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SECTION 5: OTHER APPROPRIATIONS AND ACTIONS

None	
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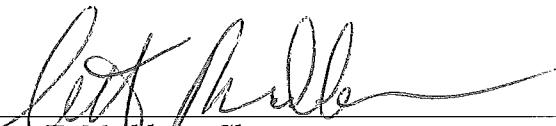
SECTION 6: CLOSING FINANCIAL ACTIONS

None	
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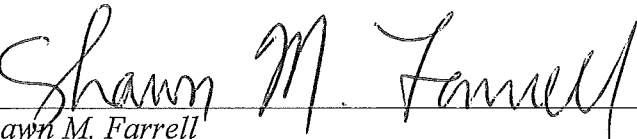
ADJOURNMENT

Given under our hands June 6, 2016

HAMILTON BOARD OF SELECTMEN



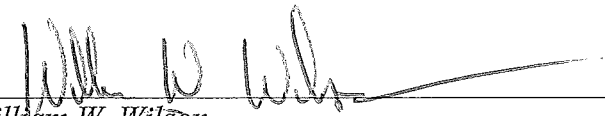
 Scott F. Maddern, Chair



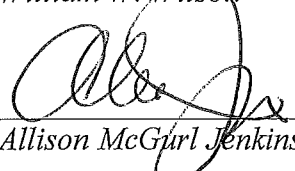
 Shawn M. Farrell



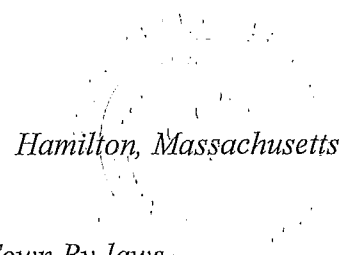
 Jeffrey M. Hubbard



 William W. Wilson



 Allison McGurl Jenkins



Hamilton, Massachusetts

I have this day served this warrant as directed by Chapter 1, Section 1b of the Town By-laws.

Constable  6.10.16

16 May 2016
356 Chebacco Rd.
South Hamilton MA, 01982

Hamilton Board of Selectman
Hamilton MA, 01982

Dear Scott and Selectmen;

Enclosed please find a citizen's petition with appendix. This article would modify the present by-law to transfer the oversight authority for Site Plan Review from the Zoning Board of Appeals to the Planning Board. Because of the importance of this article to the town, the Planning Board has voted to waive the two-year requirement for its resubmission.

I understand the procedure is as follows : The Board of Selectman will have 14 days to review the petition and charge the Planning Board to hold public hearings. At the conclusion of the public hearings, the Planning Board will make a recommendation to the Board of Selectman. The Planning Board and the Selectman will have 65 days in which to complete all requirements and schedule a Special Town Meeting

This article was reviewed and approved by Town Counsel for inclusion in the warrant for the Annual Town Meeting in 2015.

Thank you for your prompt attention to this matter.

Sincerely



William Dery

PETITION FOR A SPECIAL TOWN MEETING

Pursuant to General Laws, Chapter 39, section 10.

TOWN _____

SUBJECT OR SUBJECTS REQUESTED FOR ACTION AT THE MEETING: (To be filled in by petitioners.)
If space is insufficient attach an additional page of description to each petition form before signatures are gathered.)

To see if the town will amend the by-law to change the site plan review responsibility from the ZBA to the Planning Board as delineated in Appendix ~~B~~ attached.

X

SIGNER INFORMATION

INSTRUCTIONS TO SIGNERS

For your signature to be valid, you must be a registered voter in the town named above and your signature should be written substantially as registered.

If you are prevented by physical disability from writing you may authorize some person to write your name and residence in your presence.

SIGNER'S STATEMENT

We, the undersigned, are qualified voters of the Town of _____, and in accordance with the provisions of law request a special town meeting for the purposes stated above.

CHECK	I SIGNATURE to be made in person with name substantially as registered (except in case of physical disability as stated above)	II NOW REGISTERED AT (street, number and apartment number, if any) (city or town will be the same as stated above)	PRECINCT
1	Peter P. Button	416 Highland St. - So. Hamilton MA	
2	J.P. Lawrence Jr.	105 Rock Maple Ave. Hamilton	
3	Susan Lawrence	105 Rock Maple Ave. Hamilton	
4	Jane Nichols	43 Lincoln Ave	
5	Richard V. Harris	31 Bradford Road	
6	Sandra M. Whitman	29 Hamilton Road. Sturbridge	
7	Danold W. Hayward	244 Framington Ave. So. Hamilton	
8	Christine F. O'Neil	93 Woodbury St. S. Hamilton	

ATTENTION VOTERS: Before signing, read signer information on other side.

ATTENTION REGISTRARS: Before certifying signatures, see instructions to registrars below.

city, or town

CHECK	I SIGNATURE be made in person with name substantially as registered (except in case of physical disability as stated on reverse)	II NOW LIVING AT (street, number and apartment number, if any) (city or town will be the same as stated on reverse)	PRECINCT
18	Jacqueline Hodge	222 Cutler Rd	
19	Delia K...	25 Woodbury Street	
20	Ed Blomquist	25 Woodbury St	
21	Mike Liso	908 Bay Road	
22	EMILY HUNT	38 Lorenzo Ave	
23	Emily Hunt	39 Lorenzo Ave	
24	Regen T. Jones	38 Loun Ave S Hamilton	
25	Robert O'Connor	23 WALNUT RD	
26	James O'Connor	" " "	
27	Jim Louben	27 Walnut Rd	
28	Wm Smith	27 WALNUT RD.	
29	Linda Reed Blair	344 Nible Rd	
30	Chad Mollard	82 Fox Run	
31	June Morey	21 North St	
32	Don Buehler	38 Boardman Lane	
33	Ed Smith	3 ANNIS LN	
34	John Morin	63 Rock Maple	
35	John Morin (MORIN)	2 POSTGATE RD	
36	John P. Pette	30 Cutler Rd.	
37	James W. Buchanan	21 North St	/
38	Kathy Spive	River St	
39	Marilyn Giffell	46 Atkins Rd.	
40	Darcy Carter	28 Pine St.	

WARNING - criminal penalty for unlawfully signing, altering, defacing, mutilating, destroying or suppressing this petition: fine of up to \$1,000 or imprisonment for up to one year

REGISTRAR INFORMATION

INSTRUCTIONS TO REGISTRARS

- You must time-stamp or write-in date and time these papers are received.
- Check this against the name of each qualified voter to be certified. For names not certified use the code at the right.
- Draw a line through any blank spaces not containing signatures.
- Each sheet must be certified by at least three registrars. A

- N - No such registered voter at that address
- S - unable to identify signature or address as that of voter because of form of signature or address
- T - already signed this petition

APPENDIX ~~X~~ X

Proposed amendments to Zoning By-law Section VI.H Site Plan Review: (Additions are in **bold** and deletions are ~~struck through~~.)

VI.H.2.c to be amended to read:

7. Town house or multi-family housing developed under the OSFPD (V. A. 12) or Senior Housing (V. E.) By-law or uses permitted by Special Permit within the Commercial Overlay District shall not require Site Plan Review. Wind Energy Facilities in the Commercial Overlay District shall require Site Plan Review, ~~under the Planning Board.~~ **(Added May 2010)**

VI.H.3.a to be amended to read:

1. Except for those proposals eligible for Abbreviated Site Plan Review (2.b above), the applicant shall file 21 copies of all Site Plan Review materials as specified below, accompanied by a fee and documentation as required by the ~~Zoning Board of Appeals~~ **Planning Board** Instruction Sheet. ~~(Revised May 6, 2008, Article 2008/5-3-3)~~ The application shall be submitted to the Town Clerk. The application will not be considered legally submitted, for purposes of starting the review "clock", until it is complete and all copies are submitted. The Town Clerk shall thereafter forward ~~five copies to the Board of Appeals,~~ eight copies to the Planning Board, and one copy each to the Building Inspector, Department of Public Works, Bd. of Selectmen, Bd. of Health, Conservation Commission, Police/Fire Dept., and Office on Disability for their comments, retaining one copy for the Town Clerk file. An electronic copy of the application, including plans and drawings, shall also be submitted at the time of application, unless waived by the ~~Zoning Board of Appeals~~ **Planning Board**. ~~At or before the time of application, the applicant shall arrange to meet with the Planning Board to discuss the proposed Site Plan, as a basis for that Board's recommendation to the Bd. of Appeals. (The applicant is encouraged to meet informally with any of the above Boards/Departments for "input".) The commenting Boards/Commissions/ Departments shall transmit their comments in writing to the Bd. of Appeals~~ **Planning Board** within 35 days from the date of application. ~~(amended May 3, 2006, Article 4-5).~~
2. ~~The Board of Appeals~~ **Planning Board** shall hold a public hearing within thirty-five (35) days of the date of an application. Notice of the public hearing shall be given by publication in a newspaper of general circulation in Hamilton in each of 2 successive weeks, the first publication to be not less than 14 days before the day of the hearing. In addition, all abutters within 300 feet of the property line of the petitioner, as they appear on the most recent assessor's list, shall be notified by mail no less than 14 days before the hearing. The Board shall make its determination within 65 days of the public hearing, unless the applicant specifically grants an extension of the review

APPENDIX K

period in writing. Failure to decide within 65 days of the public hearing shall constitute approval of the Site Plan by the ~~Bd. of Appeals~~ **Planning Board** unless the applicant granted the above-mentioned written waiver. (The Boards shall be encouraged to act in a shorter time period whenever possible.)

3. Where proposed new construction or alteration subject to Site Plan Review under this section IS ALSO an alteration of a pre-existing non-conforming use or structure under Sec. III of this By-law, the ~~Bd. of Appeals~~ **Planning Board** shall consolidate review under Sec. III.A. 1-3 with Site Plan Review under Sec. VI.H.
4. Where proposed new construction or alteration is subject to both Site Plan Review AND a Special Permit, the ~~Bd. of Appeals~~ **Planning Board** shall conduct both processes simultaneously, using the time limits of the Special Permit process to cover both reviews.

VI.H.3.b to be amended to read:

1. If the proposed construction and/or change of use is eligible for Abbreviated Site Plan Review under Sec. 2.b above, the Applicant shall file ~~8~~ **10** copies of the limited materials as required in 4) below with the Town Clerk, along with an Application fee and accompanying documents as required by the ~~Zoning Board of Appeals~~ **Planning Board** Instruction Sheet. The application will not be considered legally submitted until it is complete. The Town Clerk shall forward 5 copies to the ~~Board of Appeals~~ **Planning Board**, and one copy to the Building Inspector ~~and Planning Board~~, retaining one copy for the Town Clerk file. The commenting boards shall transmit their comments to the ~~Board of Appeals~~ **Planning Board** within 35 days of the date of application. A Public Hearing, abutter notification, and all other provisions as outlined in Section VI.H. 3.a.2, are required and apply to Abbreviated Site Plan Review. (Revised May 6, 2008, Article 2008/5-3-3)

VI.H.4.a. amended as follows:

1. Unless waived by the ~~Bd. of Appeals~~ **Planning Board**, all site plans shall be prepared to scale and be of professional quality. All site plans shall be standard 17"x24" or 24"x36" sheets and shall be prepared at a sufficient scale to show the following required items. (Please note: Applicant may want to have Site Plans prepared by Registered Architect or Engineer for proposals that require Architect/Engineer plans for Building Permits under the Mass. Building Code.)

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VI.H.2. to be amended to read:

- b. When the **Planning Board** deems it necessary, it may require that the applicant provide at his expense, supplemental data on traffic impact, including estimated daily and peak hour vehicle trips to be generated by the site, estimated number of employees and truck delivery schedule and hours of business;
- c. When the ~~Board of Appeals~~ **Planning Board** deems it necessary, it may require that the applicant provide at his expense supplemental data and analysis on potential environmental impacts of the proposed project on air quality, surface and groundwater quality, site and neighborhood drainage conditions. The Board may require that such studies be prepared by registered engineers or other appropriately qualified individuals.
- d. When the ~~Board of Appeals~~ **Planning Board** deems it necessary, it may require that the applicant pay a review fee to cover the reasonable costs of consultants engaged by said Board to assist in review of the proposed Site Plan, as authorized and limited by M.G.L. Ch. 44, Sec. 53G, and Sec. IX.H. of this Zoning By-law, (Added Nov. 13, 1990)

VI.H.6 to be amended to read:

The ~~Board of Appeals~~ **Planning Board** final action shall consist of either:

- c. approval subject to any conditions, modifications, and restrictions as the ~~Board of Appeals~~ **Planning Board** may deem necessary, including phasing of construction and performance guarantee for any public improvements.

VI.H.7 to be amended to read:

Implementation of Site Plans

Construction of any approved Site Plan project shall begin within one year and be completed within two (2) years of the date of approval, unless extension is granted by the ~~Board of Appeals~~ **Planning Board** after notice and a public hearing. Otherwise approval shall lapse.

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Proposed amendments to Zoning By-law Section VI.H Site Plan Review will also impact the following sections: (Additions are in **bold** or deletions are ~~struck through~~):

III.A.1. to be amended to read:

Such use or structure shall not be extended or altered unless the Board of Appeals makes a finding that the extension or alteration shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure. Any alteration or extension of a commercial, industrial or institutional structure in a residential zone is also required to have Site Plan Review **by the Planning Board**; see Section VI.H. ~~The Board of Appeals shall hear the above mentioned finding and the Site Plan Review simultaneously.~~

V.G.4 to be amended to read:

Administration

The Planning Board shall be the Special Permit Granting Authority ~~and Site Plan Review authority in the COD~~. An applicant may file an application with the Planning Board in conformance with M.G.L. Chapter 40A, (the Zoning Act) Sections 9 and 11, this Bylaw section, and Planning Board COD Rules and Regulations.

VI.I. to be amended to read:

Definitions

~~SITE PLAN REVIEW AUTHORITY: When the wind energy facility is located within the Designated Location, the Site Plan Review Authority will be the Planning Board.~~

General Requirements for all Wind Energy Facilities

Site Plan Review

No Wind Energy Facility shall be erected, constructed, installed or modified as provided in this section without first undergoing Site Plan Review ~~by the Planning Board~~ if the project is located in the Designated Location (COD).

VI.I.A. to be amended to read:

Administration

Placement of Wind Energy Facilities on any property in the designated location, Commercial Overlay District (COD) located in the Town of Hamilton, as described on the Hamilton Zoning Map, shall be a permitted use, however, will require Site Plan Review Section VI. H. ~~under the authority of the Planning Board~~, in addition to a building permit and any relevant electrical permits. Site Plan Review requires a public hearing with a timeframe limit of 120 days from application to the end of any appeal period.

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VII.A.a. to be amended to read:

Utility Scale Wind Energy Facilities with Site Plan Review

13. Description of financial surety in the form of either an escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority (~~Planning Board~~), but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. 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 calculating increased removal costs due to inflation.

VII.A.b. to be amended to read:

15. **Utility Connections**
Reasonable efforts, as determined by the Site Plan Review Authority (~~Planning Board~~), shall be made to place all utility connections from the Wind Energy Facility underground, depending on appropriate soil conditions, shape and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
19. **Modification**
All substantial modifications to a Wind Energy Facility made after issuance of the required building permit shall require approval by the Site Plan Review Authority (~~Planning Board~~).

VII.B.b.2. to be amended to read:

b. Utility Scale Wind Turbine Standards

Please refer to all standards as listed in VII.A. Wind Energy Facilities in Commercial Overlay District – Use Permitted By Right with Site Plan Review and note that ~~The Zoning Board of Appeals~~ **the Planning Board** may reduce the minimum setback distance as appropriate based on site-specific consideration or written consent of the affected abutter(s) if the project satisfies all other criteria for the granting of a building permit under the provisions of this section.

IX.B to be amended to read:

Powers and Duties

The Board of Appeals shall have all the powers and perform all of the duties conferred or imposed upon it under the applicable provisions of the General Laws of the Commonwealth of Massachusetts, and is designated the permit granting authority and the special permit granting authority to the extent provided in this Zoning By-law. (~~But see Sec. VIII.C. of this By-law~~)

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IX.D. to be amended to read:

2. To hear and decide upon proposals for ~~Site Plan Review~~ and alterations to a non conforming use. (Added May 18, 1989)

3. To hear and decide applications for special permits and ~~Site Plan Review~~ as provided in this By-law, subject to any general or specific rules therein contained and subject to any appropriate conditions, safeguards and limitations imposed by the Board. A special permit shall be issued only following public hearing held within sixty-five days after filing of an application with the Town Clerk, who shall transmit a copy thereof to the Board of Appeals forthwith. A special permit shall lapse after one year if substantial use or construction, as granted by the permit, has not commenced, except for good cause. Time required to pursue or await the determination of an appeal shall not be considered in determining the one year limitation. ~~When an applicant needs to be heard by the Board of Appeals for both Site Plan Review and a special permit on the use of the structure, the Board shall conduct both processes simultaneously using the time table of the special permit process. (Amended May 18, 1989)~~

5. To require applicants for Special Permits, ~~Site Plan Approval~~, Variances and/or Comprehensive Permits under M.G.L. Ch. 40B to pay a review fee to cover the reasonable costs of consultants engaged by the Board of Appeals to assist in review of proposed plans, as set forth in Sec. IX.H. of this Zoning By-law.

IX.H. to be amended to read:

H. Outside Consultants to Assist Special Permit Granting Authority/**Site Plan Reviewing Authority**

(This section added November 13, 1990)

1. When reviewing an application for (permit/approval), the **reviewing** Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. The Board may require that applicants pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

5. Any applicant may take an administrative appeal from the selection outside consultant to the ~~(City Counsel/Board of Selectmen)~~. **Zoning Board of Appeals, in the case of an appeal from the Planning Board, or to the Board of Selectmen, in the case of an appeal from the Zoning Board of Appeals.** The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue

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or related field. The required time limit for action upon an application by the board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the (~~City Counsel~~/**Zoning Board of Appeals**/Board of Selectmen) within one month following the filing of the appeal, the selection made by the board shall stand.