

**ANNUAL TOWN MEETING  
APRIL 5, 2010**

The Annual Town Meeting was called to order by the Moderator, Janet M. Wallace, at 7:15 p.m., at the Kingston Intermediate School, 65 Second Brook Street, Kingston, Massachusetts. The Moderator welcomed those present and announced there was a quorum of voters present.

The Boy Scouts presented and posted the Colors. The Moderator proceeded with the story behind and the presentation of our Town Flag.

In November 1993, the Commonwealth created the Hall of Flags at the State House and requested that each municipality submit their flag to be flown in the Hall. The Board of Selectmen called out for a Betsy Ross of Kingston to create a Kingston Town Flag. Marjorie "Midge" Cronin heard that call and literally ran down to the Faunce School to it. It was the anniversary of her husband's death so she thought the call was for her in his memory.

Midge had three flags created. The first flag was donated to the Town of Kingston in honor of Helen Foster who created the Town Seal. This flag was first used in the Kingston Memorial Day Parade on May 29, 1994. The second flag was donated to the Hall of Flags at the State House. It was dedicated on Flag Day, June 14, 1994, in memory of Phillip Sheridan Cronin. The third flag is being presented today.

Ms. Wallace asked William Nangle Cronin, II and Benjamin Knight Cronin to come forward with the flag of Kingston for the presentation. She then asked Stacey Elmes, an elected member of the School Committee, to come forward to accept the Flag of Kingston.

Ms. Wallace went on to state it was with great pleasure that William Nangle Cronin, II and Benjamin Knight Cronin, representing the entire Cronin Family, donate the Town of Kingston Flag to the Kingston School Committee. The flag is given in honor of their Great-Grandfather, William Nangle Cronin, who served in the Massachusetts House of Representatives and also served as Chairman of the Kingston Finance Committee and as Kingston's Town Counsel, and in honor of their Grandfather, Phillip Sheridan Cronin, a life long resident of our community, who served as Kingston's Town Counsel for 26 years.

The Town Flag will remain on stage and be present for this and all future town meetings. The Moderator asked the Town Meeting body to join her in thanking William and Benjamin and the Cronin Family for their kind donation.

The town meeting body responded with a warm round of applause.

Next, the Moderator asked for a moment of silence in memory of the following former Town officials or employees who passed away in 2009:

Wallace C. Holmes  
Barbara C. Riddell

Mary Sauer  
Barbara E. Triffletti  
Enis A. Zoccolante  
Renato Zoccolante  
Roy L. McLean  
Michael E. Darsch (2008)

The vote checkers were: Ruth M. Alberghini, Gail L. Catani, Hannah M. Creed, Diane L. Hunt, Mary M. Leone, Patricia E. Scanlon, Diane T. Scully and Maureen E. Twohig. The doorkeepers were Nancy B. Delaney, Donna M. Farrington and Janet H. Holmes.

The sworn tellers were Paul L. Armstrong, Paul F. Basler and James C. Judge. Town Clerk Mary Lou Murzyn was sworn in as Deputy Moderator for Article 2.

The Moderator stated it was obvious proper notice had been given and the reading of the warrant was waived. She then explained the guidelines under which this Town Meeting would be conducted.

On the motion of Sandra D. MacFarlane, VOTED that the following non-residents and non-registered residents be allowed to enter and address the Town Meeting:

Jason R. Talerman, Town Counsel  
Jill R. Myers, Town Administrator  
Joan Paquette, Town Accountant  
John J. Tuffy, Superintendent of Schools  
Robert T. Heath, Fire Chief  
Thomas Bott, Town Planner  
Jennifer Scavone, Secretary to Wage & Personnel Board  
Chad Laurent, Esq., Meister Consultants Group,  
Inc. (Green Communities Program)  
Hank Ouimet, Weston & Sampson Engineers, Inc.  
Nicholas Nikitas  
Attorney Anne Bingham  
Mary O'Donnell  
Attorney Howard Guggenheim  
Attorney Edward Angley  
Richard Kleinman, Consultant for Renewable Energies  
Brian Kuhn, Aeronautica Wind Power

Sandra D. MacFarlane moved that at the recommendation of the Board of Selectmen Articles 9, 11, 12, 15, 28, 32 and 35-57 shall be postponed until an adjourned session of the Annual Town Meeting to be held at 7:00 p.m. on June 1, 2010.

Elaine A. Fiore moved to amend by removing Articles 11 and 12 from the requested postponement and for those articles to be heard this evening.

THE AMENDMENT WAS CARRIED.

On the motion of Sandra D. MacFarlane, as amended, VOTED that at the recommendation of the Board of Selectmen Articles 9, 15, 28, 32 and 35-57 shall be postponed until an adjourned session of the Annual Town Meeting to be held at 7:00 p.m. on June 1, 2010.

Representative Thomas J. Calter, III, was called upon and gave a state of the state address. Representative Calter advised that the Elm Street Bridge project has been moved up for funding from 2014 to this year. He remains hopeful and optimistic about the future of the Commonwealth. He then read a letter from Senate President, who was unable to attend tonight's meeting. Her letter read as follows:

April 5, 2010

Dear Friends:

I apologize for being unable to be with you in person this evening, but I wanted to thank my friend and colleague, Representative Tom Calter, for bringing you my greetings and an update from Beacon Hill.

I know there are concerns about local aid numbers for the Fiscal Year 2011 Budget, and those numbers are a direct reflection of our global economic downturn, which continues to present serious challenges for us.

Even as we work to address a projected multi-billion-dollar gap in the upcoming FY11 budget, we now have to find more than \$200 million to solve mid-year shortfalls in our current budget.

Massachusetts lost a total of 8,000 jobs in December and January. And with state unemployment steady at 9.5 percent it's a reminder of how far we have to go to fully recover. Most experts agree that recovery will be gradual over the next four to six years. Employment gains will be slow, and we likely won't see steady recovery in home sales until 2011.

We're still dealing with diminished revenues. The March numbers are in and put us under benchmark for the entire year, and April will not be a good month because of the tax filing deadline extension.

That's just a snapshot of what we're facing. But, we also have to talk about what is working in Massachusetts.

By all accounts, we have stopped the economic freefall, and we're on the road to recovery. A great example of this is our Accelerated Bridge Program which was initiated in 2009. For example, 13 projects totaling approximately \$42 million have been substantially completed. As of January 31, 46 projects totaling \$247 million were in construction, another 16 projects were in procurement, with a total value not yet known but at least \$55 million. In total, 181 projects are in the pipeline – and that means jobs.

We have also been fortunate to be able to invest in our infrastructure with funding provided by the federal stimulus package -- approximately \$65 million on ARRA-funded projects this fiscal year.

We're also doing better than other states because of our strong network of higher education institutions; our world-renowned health care industry, which is our number one employer; our vigorous and growing biotech companies and life science centers; and our deep commitment to biofuels and renewable energy resources.

We also continue to focus on education and recently saw our 4<sup>th</sup>- and 8<sup>th</sup>-graders ranked first in nation on the 2009 NAEP Reading Exam – the third year in a row that Massachusetts has ranked first among students from across the country.

Additionally, the three major financial agencies have affirmed the Commonwealth's strong double-A bond rating because of our "effective management during economic downturns."

Other states – California, Michigan, Illinois, New Jersey, Connecticut, Rhode Island and others – have all had their economic outlooks downgraded, with some unable to uphold commitments on local aid. We don't have that problem here. We're not sending out IOU's to cities and towns.

But that doesn't mean we won't have to make sacrifices. We wanted to let cities and towns know, as soon as possible, what to expect for state aid this year as you draft your town budget.

Certainly, I wish there was better news. As you know, the Senate and the House of Representatives have agreed that FY11 budget proposals will include up to a 4 percent reduction to Chapter 70 education funding and unrestricted local aid.

The Governor's proposal doesn't include reductions in these accounts because it relies on a series of proposed tax increases; and it takes \$175 million from the state's stabilization fund.

The Legislature's proposals will not include any new tax increases. We also believe it's important to stay the course and maintain a stable state tax policy with tax credits that are paying off and creating jobs across the Commonwealth.

We also need to recognize that federal stimulus money, while being put to good use, is drying up and will not be available for Fiscal Year 2012.

Since the financial crisis began, local aid has been held harmless for two consecutive fiscal years while other state budget accounts were decimated. We were able to protect local aid mainly because of one-time, federal stimulus dollars.

Those funds are expiring, and because we don't want to burden residents with tax increases or further strain our dwindling safety-net funds, it will be necessary to make the reductions we have suggested.

Local aid makes up close to 40 percent of our state budget. Even with the reduction in Chapter 70 funding, every community will remain at least at foundation levels. Again, Massachusetts continues to do better than most states in this world-wide economic downturn.

Our next challenge – one that cities and towns are very well aware of – is controlling the cost of health care for residents and small businesses.

We need to relieve the burden on small businesses so they can keep their doors open, expand operations and start hiring again. And, many of you have heard about the economic development bill I authored and filed with Senator Karen Spilka to improve the state's business development model.

The Senate also intends to consider a long-term plan for overall health care payment reform that will bring down costs for everyone.

It's easy right now to be pessimistic about the future of the Massachusetts economy. We all know people who are unemployed or struggling to stay in their homes and put food on the table. But while this crisis continues, we are taking action, and we are moving in the right direction. I believe there is real momentum behind our collective efforts, and I'm excited about working together as we move the Commonwealth forward.

For more information on what I'm doing on your behalf, please visit my website at [www.ThereseMurray.com](http://www.ThereseMurray.com). Thank you.

Sincerely,

**THERESE MURRAY**

President of the Senate

Representing the People of the Plymouth and Barnstable District

ARTICLE 1. On the motion of Sandra D. MacFarlane, VOTED that the Town accept the reports of the various Town Officers, Boards and Committees as printed in the Annual Town Report.

Sandra D. MacFarlane, Chairman of the Board of Selectmen, presented her opening statement.

Elaine A. Fiore, Chairman of the Finance Committee, presented her opening statement.

Mathew H. Hamilton, Chairman of the Capital Planning Committee, together with Town Treasurer John S. LaBrache, explained the capital outlay expenditure exclusion question that appears on the Annual Town Election ballot.

Deputy Moderator Mary Lou Murzyn presided over the next article.

ARTICLE 2. On the motion of Janet M. Wallace, VOTED that the Town amend the General By-Laws, Chapter 2, Town

Meeting, Article 2., Procedure at Town Meeting, Section 2-2-9., as follows:

2-2-9. Conduct Governed by Town Meeting Time, A Handbook of Parliamentary Law The conduct of the meeting, not specifically provided by law or these by-laws, shall be determined by the rules of practice contained in Town Meeting Time, A Handbook of Parliamentary Law, so far as the same is applicable to a town meeting.

At the conclusion of the article, the meeting was turned back to the "real" Moderator.

ARTICLE 3. (FY2010) On the motion of Sandra D. MacFarlane, VOTED that the Town appropriate the sum of \$140,000.00 to fund the terms of an arbitration award issued by the MA Joint Labor-Management Committee for FY2008, FY2009, and FY2010, and to meet this appropriation the sum of \$60,000.00 be transferred from Free Cash and the sum of \$80,000.00 be transferred from Police Personal Services FY10 Encumbrance and to authorize the Town Accountant to allocate such sums to the operating budgets as follows:

FY2010 Police Personal Services

Line Item:		
51117	Patrol Officers	\$77,934.65
51120	Sergeants	\$46,461.70
51114	Lieutenants	<u>\$15,603.65</u>
	TOTAL	\$140,000.00

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 4. (FY2010) Sandra D. MacFarlane moved that the Town appropriate the sum of \$99,975.61 to supplement the appropriations to FY10 Operating Budgets, and to meet this appropriation the following sums be transferred from unexpended appropriations:

Selectmen Encumbrance	01122-57950	4,204.72
Legal Encumbrance	01151-57950	1,725.00
Data Processing Encumbrance	01155-57950	2,985.00
Tax Title Foreclosure	01158-52312	7,500.00
Open Space Encumbrance	01179-57950	2,273.00
Care of Municipal Bldgs-Encumbrance	01192-57950	18,985.79
Police Expense Encumbrance	01210-57950	200.00
Fire Personal Services Enc.	01220-51950	291.48
Fire Expense Encumbrance	01220-57950	173.77
Inspection Encumbrance	01241-57950	2,020.00
Highway Encumbrance	01422-57950	951.15
Solid Waste Rubbish Removal Contract	01433-52296	25,810.10
Employee Benefits Encumbrance	01910-57950	8,796.48
A2 STM 4/09 KTEU 1%	01122-78059	17,474.93
A2 STM 10/08 Patrol Cars	01210-78040	350.00
A12 ATM 4/07 Police Roof	01210-78045	4,081.00
A7 STM 10/05 Library ADA Door	01610-78031	<u>2,153.19</u>
		\$99,975.61

and to authorize the Town Accountant to allocate such sums to the operating budgets as follows:

Assessors Clerical	01141-51113	726.44
Assessors Longevity	01141-51141	100.00
Data Processing Lease	01155-52272	5,050.00
Open Space-Land Management	01179-57735	2,273.00
Police-Overtime	01210-51114	25,000.00
Veterans Benefits	01543-57772	43,700.00
Employee Benefits-Medical Cost	01910-57745	21,277.17
Emp. Benefits-Medicaid Billing	01910-57745	<u>1,849.00</u>
		\$99,975.61

Elaine A. Fiore moved to amend by changing the sum to be appropriated from \$99,975.61 to \$253,276.53 and to meet the increase the sum of \$153,300.92 be transferred from Free Cash and that said sum of \$153,300.92 be allocated to Snow and Ice Deficit.

THE AMENDMENT WAS CARRIED.

On the motion of Sandra D. MacFarlane, as amended, VOTED that the Town appropriate the sum of \$253,276.53 to supplement the appropriations to FY10 Operating Budgets, and to meet this appropriation the following sums be transferred from unexpended appropriations:

Selectmen Encumbrance	01122-57950	4,204.72
Legal Encumbrance	01151-57950	1,725.00
Data Processing Encumbrance	01155-57950	2,985.00
Tax Title Foreclosure	01158-52312	7,500.00
Open Space Encumbrance	01179-57950	2,273.00
Care of Municipal Bldgs-Encumbrance	01192-57950	18,985.79
Police Expense Encumbrance	01210-57950	200.00
Fire Personal Services Enc.	01220-51950	291.48
Fire Expense Encumbrance	01220-57950	173.77
Inspection Encumbrance	01241-57950	2,020.00
Highway Encumbrance	01422-57950	951.15
Solid Waste Rubbish Removal Contract	01433-52296	25,810.10
Employee Benefits Encumbrance	01910-57950	8,796.48
A2 STM 4/09 KTEU 1%	01122-78059	17,474.93
A2 STM 10/08 Patrol Cars	01210-78040	350.00
A12 ATM 4/07 Police Roof	01210-78045	4,081.00
A7 STM 10/05 Library ADA Door	01610-78031	2,153.19
Free Cash		<u>153,300.92</u>
		\$253,276.53

and to authorize the Town Accountant to allocate such sums to the operating budgets as follows:

Assessors Clerical	01141-51113	726.44
Assessors Longevity	01141-51141	100.00
Data Processing Lease	01155-52272	5,050.00
Open Space-Land Management	01179-57735	2,273.00
Police-Overtime	01210-51114	25,000.00
Veterans Benefits	01543-57772	43,700.00
Employee Benefits-Medical Cost	01910-57745	21,277.17
Emp. Benefits-Medicaid Billing	01910-57745	1,849.00
Snow and Ice Deficit		<u>153,300.92</u>
		\$253,276.53

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 5. (FY2010) On the motion of John S. LaBrache, VOTED that the sum of \$2,000 be appropriated from the Elizabeth

B. Sampson Memorial Fund for the Memorial Day Parade and that the expenditure shall be under the supervision of the Board of Selectmen.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 6. (FY2011) On the motion of John S. LaBrache, VOTED that the sum of \$21,150.00 be appropriated for Sampson Fund expenditures for FY2011 and to meet this appropriation the sum of \$17,911.76 be appropriated from the Elizabeth B. Sampson Memorial Fund, and further that the unexpended balances of prior years totaling \$3,238.24 be transferred from the following accounts for Fiscal Year 2011:

Article 3, April 2009 STM	\$ 26.37
Article 9, April 2009 ATM	\$3,211.87

And, further, that the expenditure shall be under the supervision of the respective department or organization for the following:

Department	Purpose	Amount
Town Clerk	CART	\$1,000.00
Fire Dept.	Fire Safety Program	2,400.00
Fire Dept.	GPS Devices	500.00
Luminary	Luminary Expense	3,000.00
Conservation Land Review Committee	Camp Nekon Signs	1,550.00
Police	National Night Out	5,000.00
KES/KIS	Destination Imagination	3,700.00
Harbormaster	Boat Trailer	1,500.00
Harbormaster	Defibrillator	1,500.00
Animal Control	Software Program	1,000.00
		<u>\$21,150.00</u>

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 7. (FY2010) On the motion of Richard J. Arruda, VOTED UNANIMOUSLY that the sum of \$2,943.10 be appropriated from Free Cash to account number 01210-78063 to pay a FY06 School Department deductible invoice to American International Recovery.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 8. (FY2010) On the motion of John S. LaBrache, VOTED that the sum of \$171.60 be appropriated from the unexpended bond proceeds of the Town's Municipal Purpose Loan of 2003 Bonds for the payment of the principal of such bonds.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 10. (FY2010) On the motion of Sandra D. MacFarlane, VOTED that the sum of \$250,276.99 be transferred from Insurance Proceeds Account 34000-59510 and appropriated to the following Town Departments:

DEPARTMENT	ITEM	ACCOUNT NUMBER	AMOUNT
Police	K-9 Vehicle	01210-78064	\$ 42,387.41
Harbormaster	Harbormaster Boat	01295-78064	\$ 20,551.77

School	School Boiler	01325-78064	\$156,170.98
	Repair		
Sewer	N/Star Claim	70440-78064	\$ 31,166.83
			<u>\$250,276.99</u>

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 11. John S. LaBrache moved that the Town accept G.L. c. 64G, § 3A and, pursuant thereto, to impose a local room occupancy excise at the rate of six (6%) percent.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION  
ON A 3/2 SPLIT VOTE.

Discussion followed.

A vote was taken on the motion of Mr. LaBrache.

YES - 53; NO - 103

THE MOTION WAS NOT CARRIED.

ARTICLE 12. John S. LaBrache moved to accept G.L. c. 64L, § 2(a) and, pursuant thereto, to impose a local meals excise at the rate of 0.75%.

FINANCE COMMITTEE RECOMMENDED UNFAVORABLE ACTION  
ON A 3/2 SPLIT VOTE.

After considerable debate, Cynthia A. Fitzgerald moved the question.

THE MOTION WAS CARRIED.

A vote was taken on the motion of Mr. LaBrache.

YES - 72; NO - 86

THE MOTION WAS NOT CARRIED.

Mark S. Beaton moved to take Articles 18 through 24 out of order.

THE MOTION WAS CARRIED.

ARTICLE 18. On the motion of Mark S. Beaton, VOTED UNANIMOUSLY that the Town amend the Town of Kingston Zoning By-Laws §4.16. "Wind Turbine Overlay District" by deleting it in its entirety and replacing it with the language as printed in the Warrant and contained in a document entitled "Green Communities Wind Turbine Overlay District By-Law", dated March 9, 2010, with the exception that Section 4.16.3.1. of said By-Law, as printed in the warrant, shall be amended to read as follows:

**4.16.3.1.** Site Plan Review Authority No wind facility over 60 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a site plan approval from the Planning Board. No wind energy system shall be erected, constructed, installed or modified as provided in this section without

obtaining a building permit following site plan approval.

Wind monitoring or meteorological towers shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space, parking, and building coverage requirements.

and further, to allow wind turbines within the existing overlay district to be allowed under site plan approval (by right) and be subject to expedited permitting to comply with the Green Communities Act, and further to amend the Town of Kingston Zoning Map by replacing Wind Turbine Overlay District with Green Communities Wind Turbine Overlay District on those parcels identified as Map 75, Lot 11 and Map 66, Lot 50 on the Kingston Assessors' Maps; and by replacing Wind Turbine Overlay District with the following district: "Green Communities Wind Turbine Overlay District", in the list of Zoning Districts in Section 3.1. of the Zoning By-Laws.

Said By-Law, as amended, to read as follows:

#### **4.16. Green Communities Wind Turbine Overlay District**

**4.16.1.0. Purpose** The purpose of this by-law is to provide for the construction and operation of wind facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city or town and provide adequate financial assurance for decommissioning.

The provisions set forth in this bylaw shall take precedence over all other bylaws when considering applications related to the construction, operation, and/or repair of land-based wind energy facilities.

**4.16.1.1. Applicability** This section applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this section. This section also pertains to any physical modifications to existing wind facilities that materially alters the type or increases the size of such facilities or other equipment. It does not apply to single stand-alone turbines under 60 kilowatts of rated nameplate capacity.

#### **4.16.2.0. Definitions**

**4.16.2.1. As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to non-discretionary site plan review to determine conformance with local zoning bylaws as well as state and federal law. As-of-right development projects that are consistent with zoning bylaws and with state and federal law cannot be prohibited.

**4.16.2.2. Building Inspector:** the inspector of buildings, building commissioner, or local inspector

charged with the enforcement of the state building code. Building Permit: The permit issued in accordance with all applicable requirements of the Massachusetts State Building Code (780 CMR).

**4.16.2.3. Designated Location:** The locations designated by Town Meeting in accordance with M.G.L. c. 40A, section 5, where wind energy facilities may be sited as-of right. Said locations are shown on a Zoning Map of Kingston, Massachusetts dated December 17, 1993 revised through April 5, 2010. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

**4.16.2.4. Utility-Scale Wind Facility:** A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**4.16.2.5. On-Site Wind Facility:** A wind project, which is located at a commercial, industrial, agricultural, or institutional facility that will consume more than 50% of the electricity generated by the project on site.

**4.16.2.6. Municipal Wind Facility:** A project initiated by the local government whose primary purpose is to provide power for municipal uses.

**4.16.2.7. Height:** The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

**4.16.2.8. Rated Nameplate Capacity:** The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

**4.16.2.9. Site Plan Review Authority:** Refers to the body of local government designated by the municipality to review site plans. In the Town of Kingston the Planning Board is the site plan review authority.

**4.16.2.10. Substantial Evidence:** Such evidence as a reasonable mind might accept as adequate to support a conclusion.

**4.16.2.11. Wind Facility:** All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**4.16.2.12. Wind Monitoring or Meteorological Tower:** A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

**4.16.2.13. Wind turbine:** A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

**4.16.2.14. Zoning Enforcement Authority:** The Inspector of Buildings/Zoning Enforcement Officer.

#### **4.16.3.0. General Requirements for all Wind Energy Facilities**

**4.16.3.1. Site Plan Review Authority** No wind facility over 60 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in

this section without first obtaining a site plan approval from the Planning Board. No wind energy system shall be erected, constructed, installed or modified as provided in this section without obtaining a building permit following site plan approval.

Wind monitoring or meteorological towers shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space, parking, and building coverage requirements.

**4.16.3.2. Compliance with Laws, Ordinances and Regulations**  
The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

**4.16.3.3. Proof of Liability Insurance** The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

**4.16.3.4. Site Control** At the time of its application for approval the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

**4.16.3.5. Renewable or alternative energy research and development facilities, and renewable or alternative energy manufacturing facilities, subject to Site Plan Review by the Planning Board, pursuant to Section 7.3. and 4.16.10.3.2. Site Plan Approval and subject to the requirements of Section 4.16.4.0. General Siting Standards, 4.16.5.0. Design Standards, 4.16.6.0. Safety, Aesthetic and Environmental Standards, 4.16.7.0. Monitoring and Maintenance, 4.16.8.0. Abandonment or Decommissioning, 4.16.9.0. Term of Permit, and 4.16.10.0. Application Process** Said Site Plan Approval shall be an "expedited" application and permitting process under which said facilities may be sited within one (1) year from the date of initial application to the date of final approval by the Planning Board.

**4.16.4.0. General Siting Standards**

**4.16.4.1. Height** Wind facilities shall be no higher than 400 feet above the current grade of the land, provided that wind facilities may exceed 400 feet if:

- (a) the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility;
- (b) such excess height is necessary to prevent financial hardship to the applicant, and

(c) the facility satisfies all other criteria for the granting of a site plan approval and a building permit under the provisions of this section.

**4.16.4.2. Setbacks** Wind turbines shall be set back a distance equal to 1.5 times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure and 100 feet from the nearest property line and private or public way.

**4.16.4.2.1. Setback Waiver** The Site Plan Review authority 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 site plan approval and a building permit under the provisions of this section.

#### **4.16.5.0. Design Standards**

**4.16.5.1. Color and Finish** The site plan approval granting authority shall have discretion over the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.

#### **4.16.5.2. Lighting and Signage**

**4.16.5.2.1. Lighting** Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

**4.16.5.2.2. Signage** Signs on the wind facility shall comply with the requirements of the town's sign regulations, and shall be limited to:

(a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.

(b) Educational signs providing information about the facility and the benefits of renewable energy.

**4.16.5.2.3. Advertising** Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

**4.16.5.2.4. Utility Connections** Reasonable efforts shall be made to locate utility connections from the wind 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.

**4.16.5.3. Appurtenant Structures** All appurtenant structures to such wind facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures

shall only be used for housing of equipment for this particular site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

**4.16.5.4. Support Towers** Monopole towers are the preferred type of support for the Wind Facilities.

**4.16.6.0. Safety, Aesthetic and Environmental Standards**

**4.16.6.1. Emergency Services** The applicant shall provide a copy of the project summary and site plan to the local emergency services entity, as designated by the Site Plan Approval Authority. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan.

**4.16.6.1.1. Unauthorized Access** Wind turbines or other structures part of a wind facility shall be designed to prevent unauthorized access.

**4.16.6.2. Shadow/Flicker** Wind facilities shall be sited in a manner that minimizes 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 through either siting or mitigation.

**4.16.6.3. Noise** The wind facility and associated equipment shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the Site Plan Approval Authority agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source:

- (a) Increases the broadband sound level by more than 10 dB(A) above ambient, or
- (b) Produces a "pure tone" condition - when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria are measured both at the property line and at the nearest inhabited residence. Ambient is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards.

The Site Plan Approval Authority, in consultation with the Department, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

**4.16.6.4. Land Clearing, Soil Erosion and Habitat Impacts** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

**4.16.7.0. Monitoring and Maintenance**

**4.16.7.1. Facility Conditions** The applicant shall maintain the wind facility in good condition. Maintenance shall

include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

**4.16.7.2. Modifications** All material modifications to a wind facility made after issuance of the site plan approval shall require approval by the Site Plan Approval authority as provided in this section.

**4.16.8.0. Abandonment or Decommissioning**

**4.16.8.1. Removal Requirements** Any wind facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than 150 days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed or any other permitted use. More specifically, decommissioning shall consist of:

- (a) Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The site plan approval authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

**4.16.8.2. Abandonment** Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Site Plan Approval Authority. The Site Plan Approval Authority shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the facility.

**4.16.8.3. Financial Surety** The Site Plan Approval Authority at a date certain shall require the applicant for utility scale wind facilities to provide a form of surety at a date certain, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the facility, of an amount and form determined to be reasonable by the Site Plan Approval Authority, 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 Cost of Living Adjustment.

**4.16.9.0. Term of Permit** An approval issued for a wind facility shall be valid for 25 years, unless extended or renewed. The time period may be extended or the permit renewed by the Site Plan Approval Authority upon satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the site plan approval. Submitting a renewal request shall allow for continued operation of the facility until the Site Plan Approval Authority acts. At the end of that period (including extensions and renewals), the wind facility shall be removed as required by this section. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

#### **4.16.10.0. Application Process & Requirements**

##### **4.16.10.1. Application Procedures**

**4.16.10.1.1. General** The application for a wind facility shall be filed in accordance with the rules and regulations of the Site Plan Approval Authority concerning site plan approval.

**4.16.10.1.2. Application** Each application for a site plan approval shall be filed by the applicant with the city or town clerk pursuant to section 9 of chapter 40A of the Massachusetts General Laws.

##### **4.16.10.2. Required Documents**

###### **4.16.10.2.1. General**

The applicant shall provide the Site Plan Approval Authority with 16 copies of the application. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:

**4.16.10.2.2.** Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any.

**4.16.10.2.3.** The name, contact information and signature of any agents representing the applicant.

**4.16.10.2.4.** Documentation of the legal right to use the wind facility site, including the requirements set forth in 4.16.3.4. of this section.

###### **4.16.10.3. Siting and Design**

The applicant shall provide the Site Plan Approval Authority with a description of the property which shall include:

**4.16.10.3.1.** Location Map (Modify for On-Site Wind Facilities) Copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the

proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; however a copy of a zoning map with the parcel identified is suitable.

#### **4.16.10.3.2. Site Plan**

A one inch equals 100 feet plan of the proposed wind facility site, with contour intervals of no more than 10 feet, showing the following:

- (a) Property lines for the site parcel and adjacent parcels within 300 feet.
- (b) Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet. Include distances from the wind facility to each building shown.
- (c) Location of all roads, public and private on the site parcel and adjacent parcels within 300 feet, and proposed roads or driveways, either temporary or permanent.
- (d) Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within 300 feet.
- (e) Proposed location and design of wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
- (f) Location of priority points referenced below in 4.16.10.3.3. of this section.
- (g) Wetlands, Wildlife, Habitat and other natural features
- (h) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;
- (i) Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
- (j) Tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
- (k) One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- (l) Documentation of the wind energy facility's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
- (m) Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;
- (n) The name, contact information and signature of any agents representing the applicant; and
- (o) A maintenance plan for the wind energy facility;

#### **4.16.10.3.3. Visualizations (Modify for On-Site Wind Facilities)**

The Site Plan Approval Authority shall select between three and six sight lines, including from the nearest building with a view of the wind facility, for pre- and post-

construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the wind facility. View representations shall have the following characteristics:

- (a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind facility onto photographs of existing views).
- (b) All view representations will include existing, or proposed, buildings or tree coverage.
- (c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

**4.16.10.4. Landscape Plan (Utility-Scale Wind Facilities Only)** A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution.

**4.16.10.5. Operation & Maintenance Plan** The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.

**4.16.10.6. Compliance Documents** If required under previous sections of this by-law, the applicant will provide with the application:

- (a) a description of financial surety that satisfies 4.16.8.3. of this section,
- (b) proof of liability insurance that satisfies Section 4.16.3.3. of this section,
- (c) certification of height approval from the FAA,
- (d) a statement that satisfies Section 4.16.6.3., listing existing and maximum projected noise levels from the wind facility.

**4.16.10.7. Independent Consultants - (Utility-Scale Wind Facilities Only)**

Upon submission of an application for a site plan approval, the Site Plan Approval Authority will be authorized to hire outside consultants, pursuant to section 53G of chapter 44 of the Massachusetts General Laws. As necessary, the applicant may be required to pay the consultant's costs.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ARTICLE 19. On the motion of Mark S. Beaton, VOTED UNANIMOUSLY to amend the Town of Kingston Zoning By-Laws by adding a new **Section 4.17. Large-Scale Ground-Mounted Solar Photovoltaic Overlay District** as printed in the Warrant and shown in a document entitled Green Communities Ground-Mounted Solar PV Overlay District By-Law dated March 9, 2010, and to allow ground mounted photovoltaic installations to be allowed under site plan approval (by right) and be subject to expedited permitting and further

to amend the Town of Kingston Zoning Map to include in the Solar PV Overlay District those parcels identified as Map 75, Lot 11 and Map 66, Lot 50 on the Kingston Assessors' Maps; and by adding to the list of Zoning Districts in Section 3.1. of the Zoning By-Laws the following district: "Solar PV Overlay District".

Said By-Law to read as follows:

**4.17. Large-Scale Ground-Mounted Solar Photovoltaic Installations Overlay District**

**4.17.1.0. Purpose** The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

**4.17.1.1. Applicability** This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

**4.17.2.0. Definitions**

**4.17.2.1. As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the board of selectmen, or person or board designated by local ordinance or bylaw.

**4.17.2.2. Building Inspector:** The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

**4.17.2.3. Building Permit:** A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

**4.17.2.4. Designated Location:** The locations designated by Town Meeting, in accordance with Massachusetts General Laws Chapter 40A, section 5, where ground-mounted large scale solar photovoltaic installations may be sited as-of right. Said locations are shown on a Zoning Map of Kingston,

Massachusetts dated December 17, 1993 revised through April 5, 2010 pursuant to Massachusetts General Laws Chapter 40A Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

**4.17.2.5. Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**4.17.2.6. On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**4.17.2.7. Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**4.17.2.8. Site Plan Review:** review by the Site Plan Review Authority to determine conformance with local zoning ordinances or bylaws.

**4.17.2.9. Site Plan Review Authority:** For purposes of this bylaw, Site Plan Review Authority refers to the body of local government designated as such by the municipality

**4.17.2.10. Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

**4.17.2.11. Zoning Enforcement Authority:** The person or board charged with enforcing the zoning ordinances or bylaws.

**4.17.3.0. General Requirements for all Large Scale Solar Power Generation Installations** The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

**4.17.3.1. Compliance with Laws, Ordinances and Regulations**

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

**4.17.3.2. Building Permit and Building Inspection**

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

**4.17.3.3. Fees**

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

**4.17.3.4.** Renewable or alternative energy research and development facilities, and renewable or alternative energy manufacturing facilities, subject to Site Plan Review by the Planning Board, pursuant to Section 7.3.

and 4.17.3.5. Site Plan Review and subject to the dimensional requirements of Section 4.17.3.9. Dimension and Density Requirements. Said Site Plan Approval shall be an "expedited" application and permitting process under which said facilities may be sited within one (1) year from the date of initial application to the date of final approval by the Planning Board.

#### **4.17.3.5. Site Plan Review**

Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.

##### **4.17.3.5.1. General**

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

##### **4.17.3.5.2. Required Documents**

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- (a) A site plan showing:
  - i. Property lines and physical features, including roads, for the project site;
  - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
  - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - vi. Name, address, and contact information for proposed system installer;
  - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - viii. The name, contact information and signature of any agents representing the project proponent; and
- (b) Documentation of actual or prospective access and control of the projectsite (see also Section 4.17.3.6.);
- (c) An operation and maintenance plan (see also Section 4.17.3.7.);
- (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (e) Proof of liability insurance; and
- (f) Description of financial surety that satisfies Section 4.17.3.13.3.

The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

##### **4.17.3.6. Site Control**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

#### **4.17.3.7. Operation & Maintenance Plan**

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

#### **4.17.3.8. Utility Notification**

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

#### **4.17.3.9. Dimension and Density Requirements**

##### **4.17.3.9.1. Setbacks**

For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be at least 10 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the front yard shall not be less than 50 feet.
- (b) Side yard: Each side yard shall have a depth at least 15 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the front yard shall not be less than 50 feet.
- (c) Rear yard: The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the front yard shall not be less than 50 feet.

##### **4.17.3.9.2. Appurtenant Structures**

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

#### **4.17.3.10. Design Standards**

##### **4.17.3.10.1. Lighting**

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and

shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

**4.17.3.10.2. Signage**

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with a municipality's sign bylaw. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

**4.17.3.10.3. Utility Connections**

Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation 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.

**4.17.3.11. Safety and Environmental Standards**

**4.17.3.11.1. Emergency Services**

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

**4.17.3.11.2. Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

**4.17.3.12. Monitoring and Maintenance**

**4.17.3.12.1. Solar Photovoltaic Installation Conditions**

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of

maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

**4.17.3.12.2. Modifications**

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

**4.17.3.13. Abandonment or Decommissioning**

**4.17.3.13.1. Removal Requirements**

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 4.17.3.13.2. of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

**4.17.3.13.2. Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

**4.17.3.13.3. Financial Surety**

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority, 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 project proponent. Such surety will not be required for municipally-or

state-owned facilities. The project proponent 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.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ARTICLE 20. Mark S. Beaton moved to amend the Town of Kingston General By-Laws, by adding a new Chapter 24 entitled "**Stretch Energy Code**" for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the "**Stretch Energy Code**", including amendments or modifications thereto, as printed in the Warrant and a copy of which is on file with the Town Clerk.

Considerable discussion followed.

Pine duBois moved the question.

THE MOTION WAS CARRIED.

On the motion of Mark S. Beaton, VOTED to amend the Town of Kingston General By-Laws, by adding a new Chapter 24 entitled "**Stretch Energy Code**" for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the "**Stretch Energy Code**", including amendments or modifications thereto, as printed in the Warrant and a copy of which is on file with the Town Clerk.

Said By-Law to read as follows:

#### **Chapter 24**

#### **STRETCH ENERGY CODE**

#### **Article 1. Definitions**

**For the purposes of this By-Law, the following definitions shall apply:**

#### **24-1.**

- A. International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.
- B. Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

**Article 2. Purpose**

**24-2.** The purpose of 780 CMR 120 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

**Article 3. Applicability**

**24-3.** This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

**Article 4. Authority**

**24-4.** The Town of Kingston, seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR, mandates adherence to Appendix 120 AA.

780 CMR 120 AA may be adopted or rescinded by the Town of Kingston in the manner prescribed by law.

**Article 5. Stretch Code**

**24-5.** The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Kingston General By-Laws, Chapter 24.

**Article 6. Enforcement**

**24-6.** The Stretch Code is enforceable by the building inspector official.

ARTICLE 21. On the motion of Mark S. Beaton, VOTED to authorize the Board of Selectmen to enter into a lease of a parcel of land or portion thereof as shown on Assessors' Map 75, Lot 11 and Map 66, Lot 50 for the purposes of erecting, maintaining and operating a wind turbine(s) to generate electricity, together with appurtenant easements for wires, pipes, conduits and supporting structural elements, for a term not to exceed 25 years, and upon such terms and conditions as the Board of Selectmen deem appropriate.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 22. On the motion of Mark S. Beaton, VOTED to authorize the Board of Selectmen to enter into a lease of a parcel of land or portion thereof as shown on Assessors' Map 75, Lot 11 and Map 66, Lot 50 for the purposes of erecting, maintaining and operating solar Photovoltaic unit(s) to generate electricity, together with appurtenant easements for wires, pipes, conduits and supporting structural elements, for a term not to exceed 25 years, and upon such terms and conditions as the Board of Selectmen deem appropriate.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 23. On the motion of Mark S. Beaton, VOTED to amend the Town of Kingston Zoning By-Laws §4.16. "Wind Turbine Overlay District" by amending the Town of Kingston Zoning Map to expand the District to include contiguous parcels consisting of Assessors' Map 74, Lot 8; Map 75, Lots 2, 10, 12, 34, 35, 36, 37, 38, 39 and 40; and Map 82, Lots 3 and 4.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ARTICLE 24. On the motion of Mark S. Beaton, VOTED to amend the Town of Kingston Zoning By-Laws §4.17. "Large-Scale Ground-Mounted Solar Photovoltaic Overlay District" by amending the Town of Kingston Zoning Map to expand the "Solar PV Overlay District" to include contiguous parcels consisting of Assessors' Map 74, Lot 8; Map 75, Lots 2, 10, 12, 34, 35, 36, 37, 38, 39 and 40; and Map 82, Lots 3 and 4.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

On the motion of Paul M. Gallagher, VOTED to adjourn this meeting to Tuesday, April 6, 2010, at 7:00 p.m., at the Kingston Intermediate School, 65 Second Brook Street.

There were 57 voters from Precinct 1, 67 voters from Precinct 2, 37 voters from Precinct 3 and 55 voters from Precinct 4, for a total of 216 voters.

Adjournment was at 9:52 p.m.

Respectfully submitted,

Mary Lou Murzyn, MMC/CMMC  
Town Clerk