

**WEST TISBURY
COMMONWEALTH OF MASSACHUSETTS**

**WARRANT FOR
ANNUAL TOWN MEETING**

County of Dukes County, SS
To Either of the Constables of the Town of West Tisbury,

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of West Tisbury qualified to vote in elections and in Town affairs to meet in the **West Tisbury Elementary School**, Old County Road, in said Town on **Tuesday the Fourteenth day of April, two thousand and nine**, at **seven o'clock** in the evening; then and there to act on the articles of this Warrant.

And to meet again in the West Tisbury Public Safety Building (North Tisbury Fire Station) in said West Tisbury on **Thursday, the Sixteenth Day of April, at Twelve O'Clock Noon** at the Polling Place, then and there to act on Article 1 of the Warrant by the election of Officers on the Official Ballot.

The polls for voting on the Official Ballot will be **opened at Twelve O'Clock Noon** and shall be closed **at Eight O'Clock in the Evening**.

ARTICLE 1: To elect the following Officers on the Official Ballot:

- One Moderator for One Year
- One Member of the Board of Selectmen for Three Years
- One Member of the Board of Health for Three Years
- One Member of the Board of Assessors for Three Years
- One Treasurer for One Year
- One Tax Collector for One Year
- One Town Clerk for One Year
- One Tree Warden for One Year
- One Constable for Three Years
- One Member of the Finance Committee for Three Years
- Two Library Trustees for Three Years
- One Member of the Planning Board for Five Years
- Two Members of Parks and Recreation for Three Years

And also to vote by ballot Yes or No on the following ballot question.

QUESTION 1: Shall the Town of West Tisbury vote to have its elected Town Clerk become an appointed office of the town?

ARTICLE 2: To hear reports of the Town Officers and Committees and act thereon.

(NO ACTION)

ARTICLE 3: To see if the Town will vote to amend the Personnel Bylaw (Section 26-3 & 26-4) Salary plan, to reflect a salary adjustment of 3.6% effective July 1, 2009.

(NOT RECOMMENDED)

ARTICLE 4: To see if the Town will vote to Raise and Appropriate such sums of money as may be necessary to defray Town Charges and Expenses for Fiscal Year 2010.

(NOT RECOMMENDED)

ARTICLE 5: To see if the Town will vote to authorize the following expenditure in order to defray Town Capital Expenses for Fiscal Year 2010, consistent with the Town’s Capital Improvements Plan:

PROJECT	EXPENSE	FUNDING SOURCE
Lambert’s Cove Bridge	Thirty Thousand Dollars (\$30,000)	Appropriate from Free Cash

(See Capital Improvements Budget immediately following Town Budget in Annual Report)

(RECOMMENDED)

ARTICLE 6: To see if the Town will vote to Authorize the Treasurer and or Collector to enter into Compensating Balance Agreements during Fiscal Year 2010 as permitted by M.G.L. Chapter 44, Section 53F.

(RECOMMENDED)

ARTICLE 7: To see if the Town will vote to authorize the Board of Selectmen to grant a conservation restriction to the West Tisbury Conservation Commission on seven parcels of land identified on Assessor’s Map 10 as lots 218, 219, 221, 222, 225, 229 and 230 in exchange for the conveyance of a parcel of land identified on Assessor’s Map 10 as lot 228 from the Stoney Hill Farms Homeowners Trust to the Town of West Tisbury, to be held for affordable housing purposes, or to take any other action relative thereto.

(RECOMMENDED)

ARTICLE 8: To see if the Town will vote to Appropriate from Free Cash the sum of Nine Thousand Nine Hundred and Thirty Dollars (\$9,930) for the purpose of upgrading the Town’s GIS maps.

(RECOMMENDED)

ARTICLE 9: To see if the Town will vote to Transfer Six Thousand Five Hundred Dollars (\$6,500) from Insect Pest Control (line 297-5700) to the Reserve Fund (line 132-5700) for the purpose of replenishing funds spent to cut down dead trees.

(RECOMMENDED)

ARTICLE 10: To see if the Town will vote to expend the sum of Two Thousand Five Hundred Seventy Dollars and Twenty-Seven Cents (\$2,570.27), surplus dog license fees, received from the county per M.G.L. Chapter 140, Section 172, for the support of the West Tisbury Free Public Library under the direction of the Library Trustees.

(RECOMMENDED)

ARTICLE 11: To see if the Town will vote to adopt the following bylaw: “A vote by written ballot shall be taken on any Town Meeting article if a motion is made, seconded and approved by twenty (20) voters (whether required by law to be a counted vote or not). The results shall be announced in terms of the numbers of aye, nay or abstain votes cast.”

(RECOMMENDED)

ARTICLE 12: To see if the Town will vote to Raise and Appropriate the sum of Thirty Three Thousand Three Hundred Fifty Three Dollars (\$33,353) to fund the Town of West Tisbury’s share of the administrative expenses of the Dukes County Regional Housing Authority in Fiscal Year 2010; provided however, that the other five towns on Martha’s Vineyard vote in the affirmative to raise and appropriate their respective sums.

(RECOMMENDED)

ARTICLE 13: To see if the Town will vote to Appropriate from the Sale of Cemetery Lots the sum of Ten Thousand Dollars (\$10,000) for the purpose of repairing headstones in the Town’s cemeteries.

(RECOMMENDED)

ARTICLE 14: To see if the Town will vote to Appropriate from Free Cash the sum of One Thousand Two Hundred Ninety-nine and Eighty-eight cents (\$1,299.88) to pay unpaid bills from the prior fiscal year to Lawrence Lynch Corporation for paving of Path along Edgartown Road.

(4/5 VOTE REQUIRED, RECOMMENDED)

ARTICLE 15: To see if the Town will vote to Appropriate the sum of Sixty One Thousand Nine Hundred Sixty-Seven Dollars (\$61,967) for reconstruction work on town roads under Chapter 86 of the Acts of 2008 and the provisions of Section 34(2)(a) of Chapter 90 of the

M.G.L. Said amount will be reimbursed by the Commonwealth of Massachusetts and is considered an available fund. **(RECOMMENDED)**

ARTICLE 16: To see if the Town will vote to amend the Town’s bylaws adopted at Town Meeting entitled “Town Meetings” to reflect the change identified below:

“The Annual Town Meeting... All articles or subjects to be acted upon at the Annual Town Meeting to be held on the second Tuesday of April shall be filed with the Selectmen on or before the **First** Tuesday in February preceding said second Tuesday of April when the warrant shall be closed....”

(NO ACTION)

ARTICLE 17: To see if the Town will vote to petition the General Court of the Commonwealth of Massachusetts to enact special legislation authorizing the Martha’s Vineyard Regional High School District Committee to sell, convey, exchange, transfer, lease for an unlimited period of years, or otherwise dispose of the parcel of land and the buildings thereon located at 4 Pine Street, Vineyard Haven, Massachusetts, in such a manner and under such terms and conditions as the Martha’s Vineyard Regional High School District Committee shall deem appropriate, and to exempt such sale, conveyance, exchange, transfer, lease of other disposal from the state public bidding statutes, notwithstanding the provisions of any general or special law to the contrary; or to act in any other manner in relation thereto.

DESCRIPTION: This article seeks to authorize the Martha's Vineyard Regional High School District Committee to sell, transfer, exchange or lease the property that currently houses the Martha's Vineyard Superintendency Union. The Committee is seeking alternatives to housing the Union Office at the present 4 Pine Street site, and this legislation would permit it to consider alternative uses for the present building. While applicable state statutes authorize the Committee to purchase real property for school use, including use by the Superintendency Union, special legislation is required to allow the sale, exchange or lease of real property by a regional school committee.

(RECOMMENDED)

ARTICLE 18: To see if the Town will vote to transfer the sum of Twenty Thousand Dollars (\$20,000) from the Fire Department’s Fiscal Year 2009 Personnel Service line (220-5120) to the Fiscal Year 2009 Expenses line (220-5700) for the purpose of painting (\$8,000) and new signs (\$3,000) at Station 1 and purchasing storage lockers for Station 2 (\$4,000) and \$5,000 towards the purchase of an Air Breathing Air Compressor (total cost \$22,000) with the remaining \$17,000 to be donated by the Fire Department Association.

(RECOMMENDED)

ARTICLE 19: To see if the Town will vote to make the following amendments to Section 4.4-3(B.), Section 4.4-6, Section 4.4-7, and 14.2 of the Zoning Bylaw:

Section 4.4-3(B.) Multi-Family Housing by Special Permit

*Insert the following language in the first paragraph of Section 4.4-3(B.). The proposed additions are identified by **bold** text below.*

At the sole discretion of the Planning Board as Special Permit granting authority, upon a finding that the proposed dwelling units are consistent with the Town of West Tisbury Master Plan and provide needed housing for Town Residents, a Special Permit may be granted allowing any combination of residences or apartments where the density exceeds the standards in Subsection 4.4-1(A), provided that the following criteria are met: if two dwelling units are proposed, both shall be restricted as affordable housing as defined in this bylaw; if three dwelling units are proposed, at least two shall be restricted as affordable housing; if four or more dwelling units are proposed, then at least 75% of the units shall be restricted as affordable housing, **and subject to the terms and limitations of a covenant imposed by the Affordable Housing Committee or a Martha’s Vineyard Affordable Housing Needs Covenant granted to the Dukes County Regional Housing Authority pursuant to the provisions of St. 2004, c. 445, at the sole discretion of the Affordable Housing Committee**, and that the number of units in any building may not exceed four.

Section 4.4-6 Affordable Housing Requirement

*Insert the following language in the only paragraph of Section 4.4-3(B.). The proposed additions are identified by **bold** text below.*

In any development containing three or more lots developed over any five year period, at least 20% of the lots shall qualify as affordable housing as defined in this bylaw, **and shall be subject to the terms and limitations of a covenant imposed by the Affordable Housing Committee or a Martha's Vineyard Affordable Housing Needs Covenant granted to the Dukes County Regional Housing Authority pursuant to the provisions of St. 2004, c. 445, at the sole discretion of the Affordable Housing Committee.** Fractional units of less than .5 shall be rounded down and .5 or more shall be rounded up. By Special Permit, the Planning Board may exempt from this requirement lots created for the use of family members, if it finds that suitable resale restrictions are in place.

Section 4.4-7 Homesite Lots

*Insert the following proposed text after the phrase "special permit is granted" as it appears in the last provision of the first paragraph: "**or, at the sole discretion of the Affordable Housing Committee, grants a Martha's Vineyard Affordable Housing Needs Covenant to the Dukes County Regional Housing Authority pursuant to the provisions of St. 2004, c. 445.**"*

Section 4.4-7(C.) Initial Conditions for Homesite Lots:

*Substitute the following language for the existing text as it appears in Paragraph C.4.f.. The proposed additions are identified by **bold** text:*

"f. The proposed Homesite Lot shall be subject to terms and limitations in accordance with the perpetual Affordable Housing Covenant approved by the Affordable Housing Committee in effect at the time of ~~award of the Homesite Lot~~ **filing the special permit application, or, at the sole discretion of the Affordable Housing Committee, the proposed Homesite Lot shall be subject to the terms and limitations of a Martha's Vineyard Affordable Housing Needs Covenant granted to the Dukes County Regional Housing Authority pursuant to the provisions of St. 2004, c. 445**"; and

Section 4.4-7(D.) Use, Resale and Transfer of Homesite Lots:

*Substitute the following language for the existing text. The proposed additions are identified by **bold** text:*

"The use, resale and transfer of each Homesite Lot created pursuant to this section of the bylaws shall be governed by: **a.) the Affordable Housing Covenant or the Martha's Vineyard Affordable Housing Needs Covenant** recorded at the time the special permit is granted; **b.)** ~~and~~ the West Tisbury Affordable Housing Committee Guidelines in effect and as revised from time to time at the discretion of said Committee, **and c.) in the case of a Martha's Vineyard Affordable Housing Needs Covenant, the rules and regulations of the Dukes County Regional Housing Authority pertaining to said covenants under the authority of St. 2004, c. 445.**" The Affordable Housing Covenant and the Guidelines shall be enforceable by the Town of West Tisbury, or its designee, and shall limit, in part, the following:

1. The initial cost of the land;
2. The time within which to secure a building permit;
3. The use of the property to one dwelling, which shall be the owner's primary residence;
4. The maximum allowable rental time per year;
5. The rental guidelines and exceptions, if any;
6. The resale value to an affordable formula; and
7. The resale or transfer to Eligible Purchasers and heirs, or family members for whom the property is their primary residence as further defined the Affordable Housing Covenant."

Section 14.2 DEFINITIONS IN THIS BYLAW

Insert the following definition:

Martha’s Vineyard Affordable Housing Needs Covenant: A housing covenant created, administered and enforced by the Dukes County Regional Housing Authority, as agent of the Town of West Tisbury, pursuant to the authority granted by “An act authorizing Martha’s Vineyard affordable housing covenants”, St. 2004, c. 445 (approved December 30, 2004)(the “Act”). Said covenant created under the Act shall run with the land in perpetuity, and shall be executed by or on behalf of the owner of the land appropriate to: (a) limiting the use of all or part of the land to occupancy by persons or families of middle income in either rental or other housing, (b) restricting the resale price of all or part of the property in order to ensure its affordability by future middle income purchasers, or (c) in any way limiting or restricting the use or enjoyment of all or any portion of the land for the purpose of encouraging or ensuring the creation or retention of the rental and other housing for occupancy by middle income persons and families. “Middle Income” persons and households shall mean persons or households earning not more than 140% of Dukes County median household income as reported from time to time by the United States Department of Housing and Urban Development.

*Substitute the following language for the existing text. The proposed additions are identified by **bold** text:*

Affordable Housing: Housing units priced at a level determined by the West Tisbury Affordable Housing Committee to be appropriate for rental or purchase exclusively by persons who will make such housing their primary residence (defined as their actual year-round domicile) and whose annual household income is not more than 140% of the Dukes County median income, as established by the ~~Dukes County Regional Housing Authority~~ **United States Department of Housing and Urban Development.**

*Substitute the following language for the existing text. The proposed additions are identified by **bold** text:*

Eligible Purchaser: Any private purchaser over the age of 18 who meets the Affordable Housing Committee Guidelines in effect at the time of purchase or lease of a Homesite Lot, and whose total household adjusted gross income is not more than 140% of median income for Dukes County **as established by the United States Department of Housing and Urban Development.**

(NO ACTION)

ARTICLE 20: To see if the Town will vote to make the following amendments to Section 6.2 of the Zoning Bylaw (additions shown as underlined text, deleted text has strikethroughs):

SECTION 6.2 ROADS DISTRICT

Designated Area of Critical Planning Concern under Chapter 637 of the Acts of 1974, and administered by the Planning Board.

6.2-1 Purpose

To allow for safe access and travel along the roads and to protect the visual character, diversity of landscape and historic features of the journey along the roads. To protect historic places and retain special ways open primarily for uses such as walking and horseback riding. This Section 6.2 adds additional protections for some of the same roads designated as "Scenic Roads" by Special Town Meeting, February 5, 1974, as amended by vote of Special Town Meeting, October 27, 1976.

6.2-2 Establishment of Zones in the Roads District

Major Roads Zone: consisting of the area lying within two hundred feet of the right of way of the designated Major Roads unless the area is in the MB Zoning District.

Special Ways Zone: consisting of the area lying within twenty feet of the centerline of the designated Special Ways as shown on map entitled "West Tisbury Districts of Critical Planning Concern" dated October 1976 and on a map entitled "West Tisbury

Special Ways" dated January 1991 and on a map entitled "West Tisbury Special Ways Added 2009" dated December 2008.

6.2-3 Major Roads Zone

[unchanged]

6.2-4 Special Ways Zone

The area lying within twenty feet of the centerline of a designated Special Way shall comprise the Special Way Zone and be subject to the regulations herein.

A. Designated Special Ways

References in this section to the West Tisbury Assessors Maps are to the maps dated January 1, 1990, unless noted otherwise.

- *Old Holmes Hole Road:* Beginning at the Massachusetts State Highway at West Tisbury Assessors Map 10, Lot 195, and running Southwest, ending at Old County Road South of Assessors Map 21, Lot 18.
- *Old Courthouse Road:* Beginning at the Northern portion of Assessors Map 25, Lot 1, and running along its Western bound to Old County Road.
- *Tiah's Cove Road:* Beginning where it intersects the Western bound of Assessors Map 36, Lot 9, continuing North-Northeast on the Eastern side of Assessors Map 36, Lots 7 and 8, and Map 30, Lot 1.1, intersecting with Scrubby Neck Road/Watcha Path.
- *Scrubby Neck Road and Watcha Path:* Beginning at the Edgartown Road at Assessors Map 31, Lot 102.12, running Southeast [see relocation by Planning Board action in 1998], then overlaying with the access road of the Thomas Thatcher subdivision, running across the Southern point of Assessors Map 31, Lot 104.2 heading Southeast through Map 31, Lots 106.3 and 106.4 [see relocation by Planning Board action in 1994], continuing Southeast through Map 30, Lot 5.2 and turning East along the Southern bound of Map 30, Lot 2.32, continuing East through the Magid subdivision parallel to the access road when the road runs East to West and the Northern portion of Map 30, Lot 10.2 and the Southern portion of Map 30, Lot 2.85, crossing Deep Bottom Road, turning southeast over the northern portion of Map 36, Lots 17.2 and 17.11, continuing along the northern bound of Map 36, Lots 23 and 28, and shown as a 40-foot laid-out way north of Map 38, Lot 1, continuing east then turning northeast at the southern bound of Map 37, Lot 56, and continuing to the Edgartown town line.
- *Roger's Path and Burying Ground Road:* Beginning approximately sixty feet on South Indian Hill Road from the intersection of Christiantown Road and Indian Hill Road and running South to connect with the Burying Ground Road and ending at the Massachusetts State Highway West of Map 22, Lots 40.1 and 9.
- *Stoney Hill Path a.k.a. Head of the Pond Road:* Beginning at its intersection with Old Holmes Hole Road at the Southern bound of Map 10, Lot 19.1 running northeasterly across Old County Road and continuing until it merges with Stoney Hill Road at the southeastern most corner of Map 10, Lot 199.9. (2008 maps)
- *Chicamo Path a.k.a. Chicama Path a.k.a. Little Pond Road:* Beginning at its intersection with Stoney Hill Path at the westernmost point of Map 10, Lot 196 running southeasterly to the Tisbury town line at the Northeastern corner of Map 18, Lot 1. (2008 maps)

- B. Uses Permitted
Any residential, recreational, agricultural or open space use permitted in the respective zoning districts, subject to the regulations and restrictions of Subsection 6.2-4(D) and Section 6.2-5, provided that the development does not result in direct vehicular access to the Special Way. ~~Where direct vehicular access is not allowed, vehicles may cross such a way at or nearly at right angles but may not travel along the way for any distance to gain access to a development.~~
- C. Uses Requiring Special Permit from the Planning Board:
Criteria for granting a Special Permit shall include whether the development will create conflicts with present or future use of the Special Way.
1. Any uses permitted by Special Permit in the respective zoning district, subject to the regulations and restrictions of Sections 6.2-4(D) and 6.2-5.
 2. Alteration of a Special Way to exceed a width of twelve feet, if first approved by the Martha's Vineyard Commission.
 3. Where direct vehicular access is not allowed on the Special Way, vehicles may cross such a way by a proposed dirt, paved, or otherwise improved roadway at or nearly at right angles but may not travel along the way for any distance to gain access to a development. Consideration of such proposed crossings shall include deliberation of appropriate means to draw attention to the crossing for people's safety, including the surface composition of the crossing.
 4. Other development, uses or structures for which the imposition of regulations would otherwise deprive a landowner of all other reasonable uses, or may be demonstrated by a landowner to be unreasonable.
- D. Regulations
1. Any development, other than for historical preservation, shall be prohibited within forty feet of a Special Place of historic value as listed on the Special Places Register of the Martha's Vineyard Commission.
 2. ~~Criteria for granting a Special Permit shall include whether the development will create conflicts with the present or future use of the Special Way.~~ Development and use within a Special Way Zone shall not block or prevent non-motorized means of travel such as walking, horseback riding and bicycling along a Special Way.
 3. There shall be no alteration of the width or surface materials of a Special Way. This provision is not intended to prevent the routine maintenance and repair of existing segments of Special Ways consistent with these Special Way regulations.
 4. There shall be no removal of existing vegetation within a Special Way Zone other than to keep the Special Way clear of debris and overgrown vegetation, except as permitted as part of a Special Permit issued under 6.2-4.C. or where the width of a Special Way Zone extends beyond a pre-existing fence or beyond where a fence may be allowed under 6.2-4.D.6.
 5. No fences, walls, structures, excavations, fill, or obstructions shall be made erected, placed or constructed within the Special Way Zone, except for gates, bars or stiles designed to allow passage for non-vehicular travel or for vehicular travel where vehicular rights-of-way exist.
 6. Notwithstanding 6.2-4.D.5. above, areas where the Special Way Zone encompasses building lots that are less than one acre in area may have fences erected on those lots within the Special Way Zone provided the fences are at least 50% transparent, such as a split-rail or picket fence, and meet the minimum setbacks from the Special Way

centerline set out in the table below.

Fence Setbacks for Parcels Less Than One (1) Acre

Fences must be at least 50% transparent

<u>Fence Height</u>	<u>Setback from centerline</u>
<u>Under 4 feet</u>	<u>5 feet, or 1 foot outside the top edge of the physical embankment alongside the Special Way, whichever is greater</u>
<u>4 to 6 feet</u>	<u>10 feet</u>

7. No Special Way shall be paved with impervious materials, except for segments that may be approved as crossings of a Special Way under 6.2-4.C.3.
8. Special Ways may be relocated ~~within subdivisions~~ with approval of the Planning Board for the purpose of aligning ways with property lines and preserving the continuity of a designated Special Way. However, the Planning Board does not have the legal jurisdiction to grant or extinguish public or private rights-of-way by such action.

6.2-5 General Regulations and Restrictions

[unchanged]

6.2-6 Administration

[unchanged]

(NO ACTION)

ARTICLE 21: To see if the Town will vote to amend the Zoning Bylaw as follows:

Add the following to Section 8.5-4A., Swimming Pools:

4. In order to minimize noise impacts on neighbors, associated noise-producing pool equipment shall be located as far as possible from abutting properties, and at least the minimum required setback.

(NO ACTION)

ARTICLE 22: To see if the Town will vote to amend the Zoning Bylaw as follows:

Amend Section 3.1-1, Use Table, as follows: Add Wind Energy Conversion Systems as a use allowed by Special Permit within all Use Districts as residential uses, community uses, and business uses.

*Amend Section 4.3-2, Height Exceptions, as follows (new language in **bold** print, deleted language in brackets []):*

C. Barns **and** silos [and wind energy conversion systems] may exceed applicable height limits, provided that they comply with all other provisions of this bylaw, and provided that for every one foot by which such structures exceed the height limit, the minimum setback requirements are increased by one foot.

E. Wind Energy Conversion Systems (WECS) may exceed height limitations via Special Permit per Section 8.9.

Add the following new Section 8.9:

SECTION 8.9 WIND ENERGY CONVERSION SYSTEMS (WECS)

8.9-1 Purpose

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

8.9-2 Applicability

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

8.9-3 Special Permit

No WECS shall be erected, constructed or installed without first obtaining a Special Permit from the Zoning Board of Appeals (ZBA). Modification to an existing WECS shall also require a Special Permit.

8.9-4 Requirements and Procedures

In addition to the requirements and procedures for Special Permits listed in Section 9.2-1, applicants seeking approval for any WECS shall comply with the following:

A. Site Plan and Other Plans: Per Section 9.2-1C, the Special Permit application shall be accompanied by a Site Plan. A plan showing existing vegetation, including average height of trees and any proposed vegetation removal on the subject property or abutting properties shall also be provided. A topographic map of the area within 2,000 feet of the proposed site shall be submitted. Any portion of this subsection 8.9-4A may be waived if in the opinion of the ZBA the materials submitted are sufficient for the Board to make a decision.

B. Expanded Notification: Due to potential for significant visual and other impacts, public hearing notices shall be mailed to all property owners within 1,000 feet of the subject property.

C. Written Narrative: The applicant shall provide a description of the proposed WECS including technical, economic, environmental details, and other reasons for the proposed location, height and design.

D. Height Calculation: Overall height of the wind turbine shall be measured from the land in its natural state prior to grading or filling to the highest point reached by any part of the wind turbine.

E. Setbacks: The minimum setback for the wind turbine shall be maintained equal to the overall height, as defined in D. above, plus ten (10) feet from all boundaries of the site on which the WECS is to be located.

No part of the WECS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zoning district in which the property is located.

The ZBA may reduce setback distances for a WECS with the permission of an abutting property owner, including a recorded easement describing such agreement in detail.

F. Tower Type: Monopole towers, with or without guy wires, have less visual impact than lattice-type towers. If a lattice-type tower is proposed, the applicant shall provide documentation that the lattice tower is necessary for performance or other considerations.

G. Noise: the WECS and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). An analysis, prepared by a qualified engineer or qualified independent testing entity, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

Manufacturers' specifications may be accepted when in the opinion of the ZBA the information provided satisfies the above requirements.

H. Noise Violations: Upon notification of a complaint of excessive noise, the property owner shall be responsible for supplying to the Building Inspector ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and/or to the nearest inhabited residence.

If the noise levels are found to have exceeded allowable limits, the Building Inspector shall notify the property owner in writing to correct the violation. If the noise violation is not remedied within 30 days, the WECS shall remain inactive until the noise violation is remedied, which may include relocation or removal.

I. Shadow/Flicker: The WECS shall be sited in a manner that does not result in significant shadow or flicker impacts.

J. Prevention of Access: All WECS shall be designed to be protected from unauthorized access and/or climbing.

K. Visual Impact: The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain non-reflective muted colors without graphics or other decoration.

L. Electromagnetic interference: No WECS installation shall cause electromagnetic interference. If interference is established, the Building Inspector shall notify in writing the owner of the property to correct the violation. If the interference is not remedied within 30 days the WECS shall remain inactive until the interference is remedied, which may include relocation or removal.

M. Lighting: No WECS shall include lighting, unless required by the Federal Aviation Administration (FAA).

N. Compliance with FAA Regulations: WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

O. Roads District, Coastal District: No WECS shall be permitted within the Roads District or Shore Zone of the Coastal District, as delineated in Article VI of the zoning bylaw.

P. Compliance with Massachusetts State Building Code: Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a licensed professional engineer shall also be submitted. (Manufacturer specifications may be accepted at the discretion of the Building Inspector.)

Q. Compliance with National Electric Code: Building permit applications for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

R. Utility Notification: No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

S. Professional Fees: The ZBA may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant shall be borne by the applicant.

T. Security: In conjunction with the above special permit approval process the ZBA may require the posting of a bond or other security to assure satisfactory fulfillment of the above requirements, in such sum and in accordance with such conditions as the Board may determine necessary. The ZBA need not require security where there is full assurance of compliance with the above requirements. The amount of security required shall not exceed

either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is greater.

8.9-5 Review Criteria

In addition to the review criteria and General Findings and Specific Findings for Special Permits listed in Section 9.2-2, the ZBA shall also make specific written findings that the proposed WECS, with appropriate conditions:

A. Will not, at the proposed height and location, significantly interfere with the rights of abutters to enjoy their property.

B. Will not significantly detract from any important public view sheds.

8.9-6 Abandonment

Per Section 9.2-3, a Special Permit shall lapse if the Special Permit use ceases for more than 24 consecutive months for any reason. In addition, a WECS shall be considered to be abandoned if it is designated a safety hazard by the Building Inspector. Once a WECS is designated as abandoned, the owner shall physically remove or repair the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:

- Removal of WECS, any equipment shelters and security barriers from the subject property.
- Proper disposal of the waste materials from the site in accordance with local and State solid waste disposal regulations.
- Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.

Add the following to Section 14.1, Definitions:

Wind Energy Conversion Systems: All equipment, machinery and structures utilized in the connection with the conversion of wind to other forms of energy whether commercial or residential. **(NO ACTION)**

ARTICLE 23: To see if the Town will vote to appropriate from Free Cash the sum of Three Thousand Eight Hundred Dollars (\$3,800) for the purpose of mowing the West Tisbury Cemeteries for the remainder of FY 2009. **(RECOMMENDED)**

ARTICLE 24: To see if the Town will vote to have its elected Town Clerk become an appointed Town Clerk of the Town effective April 15, 2010. **(NO ACTION)**

ARTICLE 25: To see if the Town will vote to act upon the recommendations of the Community Preservation Committee to appropriate and set aside for later expenditure from the Community Preservation Fund established pursuant to Chapter 44B of the Mass. General Laws, FY2010 revenues, in the following amounts to the following reserves:

- a. Open Space reserve \$45,000 (10% of estimated FY2010 Community Preservation Fund revenues)
- b. Historical Resources reserve \$45,000 (10% of estimated FY2010 Community Preservation Fund revenues)
- c. Community Housing reserve \$45,000 (10% of estimated FY2010 Community Preservation Fund revenues)
- d. Administrative appropriation \$22,500 (5% of estimated FY2010 Community Preservation Fund revenues)
- e. Undesignated reserve \$292,500 (65% of estimated FY2010 Community Preservation Fund revenues) **(RECOMMENDED)**

ARTICLE 26: To see if the Town will vote to transfer \$77,844 from the Old County Road Path account to the Community Preservation Undesignated reserve. This sum is the balance of \$80,000 appropriated from the Community Preservation Undesignated reserve toward

construction of a path along Old County Road at Annual Town Meeting in April 2007, and postponed indefinitely at Annual Town Meeting in April 2008. **(RECOMMENDED)**

ARTICLE 27: To see if the Town will vote to appropriate the sum of \$100,000 from the Community Preservation Historical Resources reserve to support debt service for the Town Hall renovation bond issue. This is the first of five annual installments, as authorized and voted at Annual Town Meeting, April 2008. **(RECOMMENDED)**

ARTICLE 28: To see if the Town will vote to appropriate the sum of \$30,000 from the Community Preservation Historical Resources reserve to fund engineering and architectural studies preparatory to restoration of the First Congregational Church of West Tisbury, contingent upon a historic preservation restriction that ensures the Town's interest in preserving this historic property. **(RECOMMENDED)**

ARTICLE 29: To see if the Town will vote to appropriate the sum of \$55,000 from the Community Preservation Historical Resources reserve to fund design, permitting, and construction of a brick sidewalk in front of Town Hall, where the design shall be coordinated with the landscape plan being developed by the Town Hall Renovation Committee and may include fences, posts, and paving. The award of Community Preservation funds is contingent upon a finding by the Historic District Commission to the effect that this project contributes to the restoration of the Town's central historic neighborhood. **(NOT RECOMMENDED)**

ARTICLE 30: To see if the Town will vote to appropriate the sum of \$10,000 from the Community Preservation Historical Resources reserve to fund the organization of records for the Town's cemeteries, including the preparation of a computerized data base and maps to locate gravesites. **(RECOMMENDED)**

ARTICLE 31: To see if the Town will vote to appropriate the sum of \$66,000 to provide rental subsidies for West Tisbury applicants currently on the Dukes County Regional Housing Authority's Rental Conversion Program waitlist, with the sum of \$60,000 to be appropriated from the Community Preservation Community Housing reserve and the sum of \$6,000 to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED)**

ARTICLE 32: To see if the Town will vote to appropriate the sum of \$170,000 from the Community Preservation Undesignated reserve to the Island Affordable Housing Fund in order to reduce the prices of two units in the affordable housing project at 250 State Road so as to be affordable by qualified buyers with incomes at or below 100% of the area median income, provided that eligible residents of West Tisbury will be given preference for these units, where the selection process will be conducted with the West Tisbury Affordable Housing Committee. **(NOT RECOMMENDED)**

ARTICLE 33: To see if the Town will vote to appropriate the sum of \$50,000 from the Community Preservation Undesignated reserve to support energy-efficient construction of permanently deeded affordable housing for West Tisbury residents with incomes at or below 100% of the area median income, with funds to be administered by the Island Affordable Housing Fund subject to a grant agreement requiring that specific projects be designated and approved by the Community Preservation Committee in advance of any payment from this appropriation. **(NOT RECOMMENDED)**

ARTICLE 34: To see if the Town will vote to appropriate the sum of Five Thousand Dollars (\$5,000) for the purpose of Aquatic Study of the Mill Pond. **(RECOMMENDED)**

ARTICLE 35: To see if the Town will vote to reauthorize revolving accounts previously established by vote of the Town under M. G. L. Chapter 44, Section 53E1/2, for fiscal year 2010, to be credited with receipts from the following revenue sources, to be expended under the authority and direction of the following agencies or officials, for the following stated purposes, not to exceed the following spending limits respectively:

FUND	REVENUE SOURCE	AUTHORITY TO SPEND FUNDS	USE OF FUNDS	SPENDING LIMITS
Wetlands	Filing Fees	Conservation	To pay for expenses	\$2,000

Protection Bylaw		Commission	of the Commission related to the administration of the Bylaw	
Health Services	Medicare, insurance & other reimbursements	Board of Health	Town health services	\$12,000
MVRDRRD	Fees collected at local drop-off by MVRDRRD	Board of Health	Expenses related to operation of the Local Drop-off	\$99,000

(RECOMMENDED)

ARTICLE 36: To see if the town will vote to Raise and Appropriate the sum of Sixteen Thousand Three Hundred and Ninety Dollars (\$16,390) and transfer Two Thousand Five Hundred Seventy Dollars (\$2,570) from the FY2005 Recertification Warrant Article and transfer Five Thousand Forty Dollars (\$5,040) from the Business Property Revaluation 2008 Warrant Article to be used by the Board of Assessors for a valuation update of real and personal property to meet triennial certification of values as required by Massachusetts State Law for Fiscal Year 2011. **(RECOMMENDED)**

ARTICLE 37: To see if the Town will vote to Appropriate from Free Cash the sum of Seven Thousand Dollars (\$7,000) to cut down dead trees on the Lambert's Cove Beach pathway to the beach. **(RECOMMENDED)**

ARTICLE 38: To see if the Town will vote to establish under M.G.L. Chapter 40, Section 5B, a new Stabilization Fund, the Fire Equipment Stabilization Fund, for the purpose of setting aside funds toward future major equipment needs of the West Tisbury Fire Department. Further, to see if the Town will vote to transfer the sum of Seventy Five Thousand Dollars (\$75,000) from Short-Term Debt Interest (Line 710-5925) into the Fire Equipment Stabilization Fund. **(2/3 VOTE REQUIRED, RECOMMENDED)**

ARTICLE 39: To see if the Town will vote to authorize the Board of Selectmen to enter into an intermunicipal agreement with the County of Dukes County to provide an Integrated Pest Management Program (including rodent control), and to further see if the Town will vote to Raise and Appropriate the sum of Four Thousand Four Hundred Twenty-Three Dollars and Twenty-Three cents (\$4423.23) as the Town's proportional share of the balance (\$31,149.49) of the net cost of the program, based on the equalized valuation as computed by the Commonwealth of Massachusetts Department of Revenue for Fiscal Year starting July 1, 2009. The total cost of the Pest Management Program for Fiscal Year 2010 is \$71,915.81 less projected revenue of \$20,000 for a net cost of \$51,915.81. The County of Dukes County will pay Forty percent (40%) (\$20,766.32) of the net cost of the program. **(RECOMMENDED)**

ARTICLE 40: To see if the Town will vote to authorize the Board of Selectmen to enter into an intermunicipal agreement with the County of Dukes County to provide a Vineyard Health Care Access Program and further to see if the Town will vote to Raise and Appropriate the sum of Seven Thousand Five Hundred Seventy-One Dollars and Twenty-One Cents (\$7,571.21) as the town's proportionate share of the balance (\$53,318.36) of the level budgeted projection cost, based on the equalized valuation as computed by the Commonwealth of Massachusetts Department of Revenue for a fiscal year starting July 1, 2009. The cost of the level budgeted share of the program for fiscal year 2010 is \$88,863.94. The County of Dukes County will pay \$40% (\$35,545.58) of the level budgeted cost of the program. **(RECOMMENDED)**

ARTICLE 41: To see if the Town will vote to Raise and Appropriate the sum of Eight Thousand One Hundred Ninety-Five Dollars and Ninety-Eight (\$8,195.98) to continue the Vineyard Health Care Access Program at the Current level of Service. These funds will be administered by the County of Dukes County and will provide Fifty-One Thousand Nine Hundred Seventy-Two Dollars (\$51,972) county-wide. This amount represents the Town's proportionate share, based on the 50/50 formula, which combines 50% of the cost based on equalized valuation of property values as computed by the Commonwealth of Massachusetts

Department of Revenue and 50% based on the Town's populations as documented in the US Census. Based on this formula the total for West Tisbury is 15.53%.

(RECOMMENDED)

ARTICLE 42: To see if the Town will vote to Transfer Two Thousand Five Hundred Seventy Dollars (\$2,570.00) from Town Clerk Elected Official Salary (line 161-5110) to the Town Clerk Personal Services (line 161-5120) for the purpose of providing for hiring training and/or assistance for the new Town Clerk after the town election. **(RECOMMENDED)**

ARTICLE 43: To see if the Town will vote to transfer the sum of Seventy Five Thousand Dollars (\$75,000) with Forty Five Thousand (\$45,000) from Short-Term Debt Interest (Line 710-5925) and Thirty Thousand (\$30,000) in Free Cash to the OPEB Stabilization Fund.

(2/3 VOTE REQUIRED, RECOMMENDED)

ARTICLE 44: To see if the Town will vote to Appropriate from Free Cash the sum of Two Hundred Seventy Thousand Dollars (\$270,000) to reduce the tax levy in Fiscal Year 2010.

(RECOMMENDED)

ARTICLE 45: To see if the Town will petition the General Court to enact the following special act, or take any other action relative thereto:

An Act Authorizing The Government Employers In The County Of Dukes County To Establish A Pooled Other Post –Employment Benefits Trust Fund.

SECTION 1. Notwithstanding any general or special law to the contrary, the government employers in the County of Dukes County may, at their sole discretion, appropriate funds in order to offset the anticipated costs of premium payments for, or direct payments to, retired employees and the eligible surviving spouses or dependents of deceased employees. These funds shall be credited to a special fund to be known as the Dukes County Pooled Other Post Employment Benefits (OPEB) Trust Fund. Any interest or other income earned by the fund shall be added to and become part of the fund. The Board of Trustees of the Dukes County Pooled OPEB Trust Fund shall be the custodian of the fund, and the Trust Fund shall be governed the Declaration of Trust of the Dukes County Pooled OPEB Trust Fund.

SECTION 2. Each government employer, by a vote of its applicable legislative authority, may vote to join the Dukes County Pooled OPEB Trust Fund at any time after its creation.

SECTION 3. This act shall take effect upon its passage. **(RECOMMENDED)**

And you are directed to serve this Warrant by posting attested copies thereof in not less than six (6) public places in West Tisbury fourteen days at least before the holding of such meeting.

Hereof fail not and make due return of this Warrant with doings thereon to the Town Clerk at the time and place of Meeting aforesaid.

Given under our hands this 18TH Day of March in the Year Two Thousand Nine.

Jeffrey S. Manter, Chairman

Dianne E. Powers

Richard R. Knabel

WEST TISBURY SELECTMEN

DATE:

I have posted attested copies of the above Warrant in not less than six (6) public places in West Tisbury fourteen (14) days before such meeting.

Timothy A. Barnett
Constable

A true copy, attest:

Prudence M. Whiting
Town Clerk