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**Minutes of the Commission Meeting  
Held on October 18, 2012  
In the Stone Building  
33 New York Avenue, Oak Bluffs, MA**

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## **IN ATTENDANCE**

Commissioners: (P= Present; A= Appointed; E= Elected)

P John Breckenridge (E-Oak Bluffs)	P Chris Murphy (E-Chilmark)
P Christina Brown (E-Edgartown)	- Katherine Newman (E-Aquinnah)
P Peter Cabana (E-Tisbury)	P Ned Orleans (A-Tisbury)
P Tim Carroll (A-Chilmark)	P Camille Rose (A-Aquinnah)
- Martin Crane (A-Governor)	P Doug Sederholm (E-Chilmark)
P Erik Hammarlund (E-West Tisbury)	P Linda Sibley (E-West Tisbury)
P Fred Hancock (A-Oak Bluffs)	P Brian Smith (A-West Tisbury)
- Leonard Jason (A-County)	P Holly Stephenson (E-Tisbury)
P James Joyce (A-Edgartown)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Jo-Ann Taylor (Coastal Planner DCPC Coordinator), Christine Flynn (Economic Development and Affordable Housing Planner), Sheri Caseau (Water Resources Planner), Michael Mauro (Planner Transportation)

**Chairman Chris Murphy** called the meeting to order at 7:05 p.m.

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## **1. MINUTES**

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

**Camille Rose moved and it was duly seconded to approve the minutes of September 27, 2012 as written. In Favor: 10. Opposed: 0. Abstentions: 4. The motion passed.**

**Fred Hancock moved and it was duly seconded to approve the minutes of October 4, 2012 as written. In Favor: 12. Opposed: 0. Abstentions: 2. The motion passed.**

## **2. M.V. HOUSING NEEDSASSESSMENT STUDY- MEMORANDUM OF UNDERSTANDING-VOTE**

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*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

**Christine Flynn** presented the following:

- The committee overseeing the new Martha's Vineyard Affordable Housing Needs Assessment includes representatives of the Boards of Selectmen.
- The committee has met five times since May.
- In September we hired Karen Sunnarborg to do the Housing Needs Assessment.
- The staff and other colleagues are providing Karen background information and the first interim report is due by Thanksgiving.
- There is a memorandum before us for approval and all six Boards of Selectmen have approved to sign the document.

***Linda Sibley moved and it was duly seconded to approve the Memorandum of Understanding for the Administration of the Martha's Vineyard Housing Needs Assessment Study. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.***

## **3. SITE DESIGN AND LANDSCAPE DRI POLICY - PUBLIC HEARING - 7:15 P.M.**

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*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

**Doug Sederholm**, Public Hearing Officer opened the Public Hearing at 7:20 p.m. and asked Mark London to give a brief introduction focusing on the process.

### **3.1 Presentation of Draft Policy**

**Mark London** outlined the policy.

- The aim of all the DRI policies is to put down on paper the criteria the Commission uses to evaluate projects.
- The process of drafting this document was overseen by a subcommittee made up of Commissioners, as well as representatives of the Polly Hill Arboretum and the Nature Conservancy.
- They are policies and guidance, not absolute criteria or regulations. They allow for the exercise of judgment during the weighing of detriments and benefits.
- This draft was prepared with the assistance of an intern. In addition to including information derived from previous MVC project review, research was done of best practices of similar locations.
- At the end of the summer, a draft was sent to the town planning Boards and Conservation Commissions and the committee held a meeting at which it received feedback.

- The subcommittee finalized a draft which is the subject of this public hearing.
- He suggested leaving the written record open after this public hearing.
- There are proposed changes to the draft policy that had been posted, namely leaving out the draft boilerplate language for conditions and offers on page 26 and a suggested re-wording and simplification of the lighting section.

**Brian Smith** asked if this is policy or regulations. **Mark London** said that it is the latter. These are not mandatory requirements. He read language from page 2 that says that this policy is generally a good indication of the Commission's concerns but some guidelines may not be appropriate for some proposals.

### **3.2 Public Comments**

**Doug Sederholm** noted that Ben Hall Jr. submitted a memo and asked that everyone review it. He noted that not everything that is submitted can be read at the Public Hearing, but it is posted on the MVC website. He called for other public testimony, but there was none.

### **3.3 Commissioners Comments**

**Christina Brown** said that since there has not been a lot of public comment she thought it would be of interest to read the first two pages of Ben Hall Jr.'s memo. **Doug Sederholm** complied.

**Doug Sederholm** asked if the draft was submitted to the Town Boards and **Mark London** confirmed that it was. In addition they received the preliminary version, a meeting followed, they received feedback from the town boards and the current draft reflects that feedback.

**John Breckenridge** noted that this is an evolving process and a lot of work went into it as well as information from other sources. He also noted that we are not hearing from members of the public concerned about this.

**Mark London** said that staff would prepare a memo for Commissioners summarizing and responding to public comment.

**Fred Hancock** noted that the wording on line 823 should be revised to "provide".

There was a discussion as to whether this was a policy, guidelines, or regulations.

- **Ned Orleans** stated that parts of this document do not seem to him to be a policy. A policy defines the goals that an organization wants to achieve. How to achieve those goals is not policy. Perhaps those are regulations.
- **Linda Sibley** said this is not regulations. She agreed that parts are too detailed to be called policy even though the document includes policy. She would like to see it restructured, but not changing the content. Perhaps the first paragraph of each section is the policy and the rest of the content would be the guidelines on how to accomplish the policy. We need both policy and guidelines, but we need to be clearer on what the policy is and what the guidelines are.
- **Doug Sederholm** noted that they were seguing into decision and deliberation because we are not receiving any public input.

- **Christina Brown** said she was a member of the work group. The guidelines are very useful, but she agrees with Linda that this document is intimidating. It would be good to restructure it and perhaps it could be sent back to the subcommittee to try and present it in a way that is easier for an applicant to review.
- **Erik Hammarlund** said there were a lot of guidelines and asked what in this policy the Commission is willing to enforce.
- **Fred Hancock** said that the decision is enforced, not the policy. He believes this is a good policy because it puts all the information in one place for an applicant. This is policy and guidelines in one compact place. Perhaps just the title needed to be changed to Policy and Guidelines.
- **Peter Cabana** referred back to Ben Hall Jr.'s memo that said this appears to have lack of clarity. Perhaps that can be addressed by titling it differently and that would address the issue.

**Chris Murphy** said instead of keeping the written record open, perhaps we should keep the hearing open and remand the document to the subcommittee.

**John Breckenridge** said that this is a document that is used when an applicant sits down with the staff to discuss the project. The staff member can point out which sections apply to any given application.

**Linda Sibley** said that per Mr. Hall's comments, there are places that appear to be commands .Revising the language could address this comment to make clear that this is policy and guidelines, not regulations.

**Doug Sederholm** said that the public hearing could be continued until November 1, 2012 with a new draft.

**Erik Hammarlund** said it looks like we are doing guidelines and not just policy, which is one step closer to a regulation. **Doug Sederholm** disagreed.

**John Breckenridge** noted that this was lot of hard work to come up with this draft that has a lot of breadth.

**Christina Brown** asked everyone to look at the content and make specific suggestions.

**Doug Sederholm**, Public Hearing Officer, continued the Public Hearing until November 1, 2012 to discuss the revised draft and content.

*Erik Hammarlund excused himself from the meeting.*

#### **4. SEPIESSA HOUSING EXPANSION (DRI 340-M) – PUBLIC HEARING**

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*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

*For the Applicant: Philippe Jordi (Island Housing Trust Corp.), David Vigneault (Dukes County Regional Housing)*

**Doug Sederholm**, Public Hearing Officer, opened the Public Hearing at 8:00 p.m. and read the public hearing notice. The applicants are the Island Housing Trust and Dukes County Regional

Housing. The location is 12 Clam Point Road, West Tisbury, Map 31 Lot 1.1. The proposal is to add three affordable housing units with six bedrooms to an existing affordable housing complex with three units and six bedrooms for a total of six units and twelve bedrooms.

#### **4.1 Staff Report**

**Paul Foley** presented the following:

- Included in the packet of information is the Staff Report dated October 18, 2012, a letter from NHESP, letters from the West Tisbury Planning Board, the West Tisbury ZBA minutes dated September 23, 2012, the LUPC notes of August 13, 2012 and September 17, 2012, the elevations and site plans and an updated amendment from the Nature Conservancy.
- DRI 340 was referred to the MVC in 1991 as a subdivision of land of 160 acres into lots qualifying as a DRI since the land subject to the application proposes the division of contiguous ownership of land of 20 acres or more.
- The three new units would be rented at 75% AML.
- The DRI referral was from the West Tisbury Zoning Board of Appeals.
- On September 17, 2012 LUPC voted to recommend to the full Commission that this is a significant change to the original DRI requiring a public hearing review.
- Key issues include:
  - Nitrogen Loading: The proposal meets the MVC Nitrogen Loading Policy by decreasing the overall nitrogen load but exceeds the budgeted nitrogen load limit for the Tisbury Great Pond.
  - Density: The proposal is for three additional units resulting in seven units on three acres. The project was originally referred as part of a subdivision of a large parcel the vast majority of which is preserved as permanently protected open space.
- A 50 foot no-cut buffer will be retained on three sides and a 65 foot no-cut buffer on the fourth side. 35% of the existing vegetation will be removed for the additional house site and parking.
- The Massachusetts National Heritage Endangered Species Program (NHESP) reviewed the proposal and determined that it would not result in a prohibited "take" of state-listed rare species.
- LUPC waived any need for a traffic study. The additional three units would generate 30 trips for a total generation of 70 trips a day for the expanded complex.
- The site is not visible from a public road.
- The new one-bedroom unit would be designed according to universal design standards for A.D.A. accessibility. The new three bedroom unit would have a bedroom on the first floor.
- Some neighbors complained of noise and nefarious activities at the West Tisbury ZBA Hearing.
- Correspondence was received from Virginia Jones of the West Tisbury Planning Board, requesting that the applicant trim vegetation where Clam Point Road and Tiah's Cove intersect. The West Tisbury Planning Board sent a second letter stating that the density is too much for the size of the lot located in a sensitive area and that it would require denitrification.

**Sheri Caseau** summarized the nitrogen loading situation.

- According to the MVC's Water Quality Policy: "If the previously developed site already exceeds the nitrogen-loading limits in this policy, the total nitrogen loading of the property shall not be increased." This would allow a total nitrogen loading for this property of 28.72 kg/yr.
- The DCRHA plans to remove the existing septic, install a de-nitrification system for the entire wastewater flow, and also install a drip irrigation system for all the effluent. The resulting nitrogen load would be 14.29 kg/yr. This meets the Commission's Water Quality Policy.
- Staff suggested these additional steps be followed to further minimize the nitrogen loading:
  - Low maintenance landscaping. Keep fertilized turf to a minimum. Only use slow release nitrogen fertilizer on this minimal area. Outlying grass areas should use a seed mix that will require no maintenance fertilizer such as hard fescue, sheep fescue and creeping red fescue.
  - Grade the parking areas to disperse runoff into vegetated areas such as possible to allow nitrogen uptake.
  - Disperse roof runoff onto vegetated areas as much as possible. Only use infiltration systems where absolutely necessary.

**Doug Sederholm** noted that they currently generate 28.72 kg/yr and they do qualify for an affordable housing reduction, but they offered a Title 5 system with a de-nitrifying system.

**John Breckenridge** said he thought a standard de-nitrification would reduce the nitrogen load by about 50%, and wondered how they increased the number of bedrooms and still reduced the nitrogen loading. **Doug Sederholm** said it is because they have both a denitrification system and they receive an additional reduction with the drip irrigation.

## **4.2 Applicant's Presentation**

**Philippe Jordi** presented the following:

- The Nature Conservancy amended agreement has many conditions that they have to meet.
- The Island Housing Trust has entered into an agreement with the Dukes County Regional Housing Authority to build the three additional units containing six additional bedrooms.
- They will remove the existing septic and install a de-nitrification system for the entire wastewater flow. The revised project wastewater load with the de-nitrification system will be higher than the nitrogen limit for the watershed but lower than what is currently produced. This project would be eligible for consideration as affordable housing and the 50% nitrogen reduction. The total nitrogen load will be reduced by 50% with de-nitrification.
- There will be a total of seven rental units with twelve bedrooms. This is three more bedrooms than the MVC approved in 1991. They cannot build more than twelve bedrooms.
- The applicant's annual income can range from \$36,000 to \$69,000 with rents of \$1000, \$1200 and \$1300 per month.

- There is a waiting list of 264 applicants including 18 West Tisbury residents with a family size from one to four.
- They had a meeting with the neighbors and property owners and also had a site meeting. They agreed to vegetative buffering with native species.
- They are asking the MVC to support this issue.

**Doug Sederholm** noted that the West Tisbury Planning Board asked that they trim vegetation at Clam Point Road and Tiah's Cove. **Philippe Jordi** said that they will need to make a request to whoever owns the property since they do not own it.

#### **4.3 Public Comment**

**Gary Harcourt** said that he goes to Sepiessa all the time to use the pond and hardly notices the housing that is already there. He donated some of the kitchens for the existing housing. He thinks this is a good project and there is not a lot of housing out there for low-income families.

**Woollcott Smith** said he was there for two neighbors that have been affected. There has been zero mitigation for headlights. He asked that the MVC meet with the neighbors and help to mitigate the problem. **Doug Sederholm** asked Philippe Jordi if they are working with the neighbors to mitigate. **Philippe Jordi** confirmed that they are. **Doug Sederholm** also noted that it would be part of the conditions.

#### **4.4 Commissioners' Discussion**

**Linda Sibley** noted that the Nature Conservancy sold part of the property to the Land Bank and for the Sepiessa housing project; she asked how the nitrogen loading looked if you reviewed it as the entire property. **Sheri Caseau** said the nitrogen load limit would have been 133.6 kg/yr for the entire property.

**Linda Sibley** noted that if they came before the MVC before the subdivision then this would not be a shocking nitrogen load. It was really one property. It only seems outrageous because it is a tiny piece of a larger property.

**Chris Murphy** said that looking at the letter from the West Tisbury Planning Board; they feel the density is too great for the size of the lot. The Town doesn't have any direct control on the project. He asked the applicant if he could convince the Commission why the Planning Board should not worry about this project. **Philippe Jordi** said he did not meet with the Planning Board so he does not know what their thinking is. He met with the Affordable Housing Committee and the Zoning Board of Appeals.

**Tim Carroll** said that it is his understanding that the Town of West Tisbury has partially funded the project. **David Vigneault** said that the Town Meeting floor had very positive votes. **Tim Carroll** noted that it was obvious through the Town Meetings that it would be this density. **David Vigneault** confirmed.

**Holly Stephenson** asked if they are offering an advanced septic design. **Doug Sederholm** confirmed that they are.

**Christina Brown** needed clarification on what permits are needed from the town boards.

**Philippe Jordi** said the ZBA administers the Comprehensive Permit and the other town boards can have input into it. **Chris Murphy** said that when you do a Comprehensive Permit is streamlines the process but it creates a road bump at the Commission. **Mark London** noted that a decision of the ZBA can be overturned at the State level but the MVC decision cannot.

**Linda Sibley** said that we keep forgetting that this was once a large subdivision and this is an intensely clustered subdivision.

**Philippe Jordi** said that the Town of West Tisbury has put into place a zoning bylaw that allows for this density. It does specify 10,000 sq ft/bedroom. So this request and proposal is consistent with the Town bylaws.

**John Breckenridge** asked if the new buildings will be built with similar materials as the existing. **Philippe Jordi** said they would and it would be the same look as the old buildings.

**Woollcott Smith** said that there was a question from one of the Commissioners on how the nitrogen load would be reduced by 50% and asked that be explained. **Doug Sederholm** said that even though there is doubling of the size of the project, by using the de-nitrification system it will bring it back down to about the existing level The drip irrigation reduces it further. **Sheri Caseau** confirmed this information. The calculation will be 14.29 kg/yr. **Paul Foley** noted that the numbers can also be found in the Staff Report.

**James Joyce** asked what drip irrigation is. **Sheri Caseau** said drip irrigation is six inches below the ground and is a pump system to bring it to the surface. It is on a timer and doses smaller amounts so it does not puddle.

**Philippe Jordi** said that it is required by the Town Board of Health that the system is operating properly and that the O & M (Operation and Maintenance) can also be provided to the MVC.

**Fred Hancock** noted that the MVC would be waiving the affordable housing fee for this project.

**Doug Sederholm** said that would be done at deliberation and decision.

**Doug Sederholm**, Public Hearing Officer closed the Public Hearing at 8:40 p.m. and left the written record open until 5:00 p.m. October 29, 2012. He also noted that Deliberation and Decision would be on November 1, 2012.

*Erik Hammarlund rejoined the meeting.*

## **5. BEACH ROAD PIZZA PICNIC TABLE (DRI 626-M) MODIFICATION REVIEW**

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*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

### **5.1 Staff Report**

**Paul Foley** presented the following.

- The site plan was reviewed.

- The Commission approved the project as proposed with the following description; to locate a new pizza and sandwich shop in a renovated building located at 45 Beach Road with a Century 21 Office and parking lot for Budget Rental Car, the Tisbury Marina and Blue Canoe Restaurant. There shall be no seating, just counter service.
- The Applicant now wants picnic tables for general public seating, but the conditions were for no seating.
- They would like two picnic tables and will be responsible for cleaning of the space regardless of who uses the tables.

## **5.2 Commissioners Discussion**

**Doug Sederholm** said that LUPC recommended to the full Commission that this is not sufficiently significant to require a public hearing and that the project be approved.

***Ned Orleans moved and it was duly seconded to adopt the LUPC recommendation and it does not rise to the level of a public hearing. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.***

**Linda Sibley** said another institution will be coming before us in a couple of weeks for picnic tables and asked whether the Commission is boxing itself in. **Paul Foley** said the other request is more involved.

***Linda Sibley moved and it was duly seconded to approve two picnic tables and to record it with the original Decision.***

**Brian Smith** asked if anything else was changing such as lighting. **Paul Foley** said no, and reiterated that the applicant will clean up the area regardless of who uses them.

***Roll call vote. In Favor: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson. Opposed: none. Abstentions: none. The motion passed.***

## **6. CRONIG'S SOLAR DISPLAY (DRI 321-M4) MODIFICATION REVIEW**

*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

### **6.1 Staff Report**

**Paul Foley** presented the following:

- The site plan was reviewed.
- The applicant wants to add a kinetic sculpture and park benches to the solar rays along with a sign with an explanation of how it works.
- The handicap parking space will be relocated.

### **6.2 Land Use Planning Committee (LUPC) Report**

**Doug Sederholm** said the LUPC carefully reviewed the request and recommends to the full Commission that it does not rise to the level requiring a public hearing and that the modification be approved.

### **6.3 Commissioners Discussion**

**Erik Hammarlund moved and it was duly seconded that it does not rise to the need of a public hearing.**

- **Tim Carroll** noted that they want to move the handicap spaces further from the building and waste electricity on the sculpture.
- **Brian Smith** asked what the Tisbury ruling is on a billboard/sign regulation. **Ned Orleans** said it would be the decision of the Building Inspector.

**Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

**Linda Sibley moved and it was duly seconded to approve the change and record the change with the original Decision. Roll call vote. In favor: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson. Opposed: none. Abstentions: none. The motion passed.**

*Chris Murphy recessed the meeting at 8:50 p.m. and reconvened at 9:05 p.m.*

## **7. WIND ENERGY PLAN FOR DUKES COUNTY – DELIBERATION AND DECISION**

*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

**Christina Brown** asked for clarification on her participation in the deliberation and decision, since she was not at the Public Hearing. **Linda Sibley** and **Mark London** said since the adoption of a policy is a legislative activity, the restrictions that apply to quasi-judicial actions such as DRI review – namely the requirement to have attended all hearings and the prohibition on ex-parte communication, do not apply. For a quasi-judicial action, the decision must be based exclusively on testimony at the public hearing. For a legislative action such as adopting a policy, board members are encouraged to obtain as much information as possible in any way they wish.

**Doug Sederholm** presented the following:

- The Wind Energy Plan only has one area that specifically is regulatory, namely setting forth the definition of “appropriate scale” for wind energy development in offshore state waters. The rest of the plan is made up criteria that may be used to evaluate projects, recommended changes to the DRI Checklist, and model town regulations.
- He noted that Barbara Schlesinger has taken him to task for not reading her letter dated October 3, 2012. He noted that a public hearing is to hear from members of the public who are present. All written testimony is taken into consideration and is part of the record. To accommodate her, he read the five paragraphs that she was most passionate about.

- Staff, with his input, prepared a review of the public hearing comments. Most of the recommendations were for no change to the document. There are some recommended changes, such as calling for the plan to be review every 5 years.
- The plan proposed a very conservative approach to developing wind energy on Martha's Vineyard. There is a real intent to protect the abutters, but there is no way to build a wind energy turbine that will not have any impact on abutters. Nothing is perfect, but it is a good document after two years of work.
- **Mark London** noted that the memo reviewing the public hearing comments will be on the MVC website. He also noted that in the United States there is no absolute guarantee that your property values will not be affected by development of nearby properties.

**Chris Murphy** asked for suggestions on how the Commission should deliberate this extensive document.

***Doug Sederholm moved and it was duly seconded to adopt the plan.***

**Erik Hammarlund** thought the Commission should discuss and identify sections in general that may need an amendment and that may provide a way for specific detail.

**Holly Stephenson** pointed out that Gary Harcourt noted two issues to be considered in the letter that he submitted to the Commission.

**Erik Hammarlund** suggested that in section 8.2.2, about the economic impacts of wind energy development, that the Commission discourage placing them as far away from the owner's homes and thus closer to their neighbors and the abutters. The burden of the placement of the turbine should be on the owner and not the abutter.

**Mark London** noted that with the Allen Farm project, they were aware of the draft Wind Energy Plan and he understands that they relocated the turbine to respect the setbacks, thereby putting it in the middle of the property and minimizing the impact on abutters.

**Brian Smith** noted that this may be the case, but Barbara Schlesinger said she cannot use her property. **Mark London** noted that the turbine is 1300 feet away from her property and if there was a regulation that prohibited turbines at that distance, it would probably effectively mean that all turbines were prohibited on the Vineyard. **Doug Sederholm** noted that the plan proposes to prohibit any shadow flicker on an occupied building, other than the owners, within 1000 feet.

**Linda Sibley** said we have what we call exclusionary zones and asked what excludes them from a legal point of view. **Doug Sederholm** said the DCPC can be used to prohibit them if the town or the Commission adopts regulations.

**Christina Brown** noted that this plan is not a regulation but guidelines.

**Linda Sibley** asked why we have to declare an exclusionary zone rather than stating that anything in this zone requires a mandatory review. **Doug Sederholm** replied that it is for those areas that are considered a very high level of public value such as beaches, or historical and culturally significant areas. Offshore, it is also the most critical areas, including the area immediately in front of the Gay Head cliffs. **Mark London** noted that the same approach is used for land and water, namely having some areas which are clearly exclusionary, other areas where they could be approved if they meet the guidelines, and on land, some areas where they

don't need MVC review at all. The DRI Checklist mirrors what is in the plan by calling for MVC review of projects in the Exclusionary Areas and the Areas of Special Concern.

**Linda Sibley** said she did not think the turbines belonged on the Gay Head cliffs, but she didn't think excluding them broadly from any location where they can be seen by the public, would be appropriate. **Doug Sederholm** said that this is not what the plan proposes. **Linda Sibley** said that she would be concerned about excluding large areas of land based only on aesthetic judgment; she is most concerned about noise impacts and less concerned about people looking at the turbines. She thinks we will reach a point where it will be acceptable, such as in Sweden. Turbines should be excluded in proximity to where people live, but not everywhere they can see them. **Peter Cabana** noted that what you see in Sweden are commercial turbines offshore.

**Doug Sederholm** asked that everyone look at the maps and charts. There are not a lot of exclusionary areas. We need to protect the quality of life of the Island and we are a tourist and second-home economy. We are not voting on a hard and fast rule.

**Brian Smith** said that we are always talking about aesthetics in the Commission and there is nothing wrong with that. When he saw the turbine being installed at the Allen Farm, he felt it was like the rest of the United States where they are popping up all over the place.

**Linda Sibley** said we need to address public open space and asked if people would be offended by turbines in the State Forest. **Peter Cabana** noted that you will not see them in the State Forest due to the proximity to the airport and the FAA regulations.

**Christina Brown** said that we can revise the plan at any time. It is not cast in stone.

**Camille Rose** said that when she read through the plan she was impressed with what was done and how much clarity there was. She questioned using the word unreasonably in section 6.2.2, line 2608 as it implies too much subjectivity. Perhaps the word substantial is better as it implies something quantitative.

**Doug Sederholm** said that line 2467 is a strict performance standard for sound based on the measurements. **Camille Rose** noted that part of the problem with the Falmouth project was that this is not unreasonable. What shut it down was that it was substantial, it was quantitative.

**Doug Sederholm** thought that unreasonable is a stronger statement. **Camille Rose** withdrew her suggestion.

**Chris Murphy** reminded the Commissioners that we have a couple of suggestive changes; two from Mark London and one from Erik Hammarlund and we also have a motion on the floor.

**Erik Hammarlund** reiterated his suggested change in section 8.2.2, namely adding that any negative impact should be borne by the owner, not the abutter, to the greatest extent possible.

**Linda Sibley** agreed that if you can't love this thing near you, you should not impose it on the abutters.

**Erik Hammarlund moved and it was duly seconded to add a policy in section 8.2.2 saying that, as a general policy and to the greatest extent possible, the negative impacts of a wind turbine installation should be borne by the owner**

**rather than the abutters. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

**Doug Sederholm moved and it was duly seconded to suspend the rules for five minutes. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

**Fred Hancock moved and it was duly seconded to add the word “unreasonable” to line 2608 in the sound section, to review the plan in five years or sooner if warranted, and to make the other editing changes in the staff memo. Voice vote. In favor: 13. Opposed: 1. Abstentions: 1. The motion passed.**

**Chris Murphy** said there is also a motion on the floor to vote the entire document as amended.

**Brian Smith** thanked everyone who worked on this document but said he could not support it as it does not protect the abutters enough.

**Fred Hancock** agreed with Brian Smith but said it is better than nothing. If we need to change it we can. This is an important piece to measure wind turbines by.

**Christina Brown** said the last time we sent the DRI Checklist to the Office of the Interior that included referral of wind turbines, it was sent back because the Secretary said the Commission needed a plan and standards. Now we have them. **Linda Sibley** agreed that the Secretary of Energy and Environmental Affairs should now allow us to put turbines on the DRI Checklist

**James Joyce** and **Erik Hammarlund** said that these are guidelines and we need to support them.

**Holly Stephenson** pointed out that we just had the hottest September on record and we cannot ignore this document; it is a good plan.

**Doug Sederholm reiterated his motion which was duly seconded to adopt the plan as amended. Voice vote. In favor: 13. Opposed 1. Abstentions: 0. The motion passed.**

**Linda Sibley** asked if they could find some way, in the next few weeks, to support some wind development. **Doug Sederholm** said that we do support wind development 12 nautical miles offshore. **Peter Cabana** said we should be discussing issues that will give us the energy that we need, not just wind.

## **8. REPORTS FROM COMMITTEES AND/OR STAFF**

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*Commissioners Present:* J. Breckenridge, C. Brown, P. Cabana, T. Carroll, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

### **8.1 Staff Reports**

Three staff members presented updates on what they have been working on.

Economic Development and Affordable Housing

**Christine Flynn** presented the following.

- She has worked with each town housing committee for the fiscal year 2013 Community Development Block Grants (CDBG). The monies are used for housing rehabilitation and child care subsidies. Island towns have received \$16 million over the years. The monies for housing rehabilitation are used for such items as roofs, septic systems and windows. Over the last nine years over 300 homes have been rehabilitated. In June Governor Patrick announced that Oak Bluffs and Edgartown would receive just under \$1 million in CDBG funding.
- The MVC provided considerable technical assistance for the Arts Martha's Vineyard planning report completed last January. She provided information on the economic impact of the arts and culture on the Island. MVC has supported this group and attends their meetings. Arts MV is hosting Fall for the Arts in October, including a series of meetings on the creative economy including one next week on the relation between the media and arts and culture.

**Peter Cabana** suggested that Cape Light Compact be contacted as they might be able to complement the CDBG work. He asked if any commercial projects were involved. **Christine Flynn** said the monies do not cover commercial applications.

**John Breckenridge** asked how the communities are determined at. **Christine Flynn** said Edgartown and Oak Bluffs are the lead communities and the funds for other towns are channeled through these towns.

**Christina Brown** added that for the block grants, the work is coordinated and watched over by someone on the Island.

**Fred Hancock** noted that in addition to all of this work, Christine also sits on other committees on the Island and congratulated her for the good work that she does.

#### Transportation

**Michael Mauro** presented the following:

- He is continuing the annual traffic counts and by the end of the year will be putting together historical data. He will continue into the winter as well as next summer to determine Martha's Vineyard's trip generation rates for various land uses.
- He works with District 5 in Taunton and Mass DOT on the Transportation Improvement Program (TIP). MassDOT is providing an additional \$1 million to the Island that will be used by the VTA to purchase four new buses.
- He is working with Bill Veno on the Beach Road bicycle path in Vineyard Haven and on Skiff Avenue safety improvements.
- The Lagoon Pond Drawbridge Committee is setting up a meeting in November.
- We are working with the Town of Oak Bluffs on the before and after analysis of the Dukes County Avenue one way and will present it to the Roads and Byways Committee.

**Peter Cabana** asked what they are doing on Skiff Avenue; are they dealing with the entrance for the new museum. **Michael Mauro** said that the project is looking at Skiff Avenue in conjunction with the Vineyard Haven-Edgartown Road.

## Water Resources

**Sheri Caseau** presented the following.

- She noted that she would give a more extensive presentation updating the Commission on the Mass Estuaries Project when they had more time.
- She takes extensive water samples, such as those for the Tisbury Great Pond that have been submitted to the DEP.
- She participates on advisory boards and many committees such as Joint Sengekontacket Committee, The Friends of Sengekontacket, the Mill Pond Committee, and the Tisbury Wastewater Advisory Committee. They are monitoring the wells around Sengekontacket and testing nitrogen in the water around Sengekontacket. They are looking at the recommendations that Bill Wilcox made for Mill Pond. They are working with Tisbury and trying to find leaching areas outside of sensitive watersheds as well as planning for smart growth in the business districts.
- Next week, she will attend a conference in Hyannis on innovative technologies for wastewater.

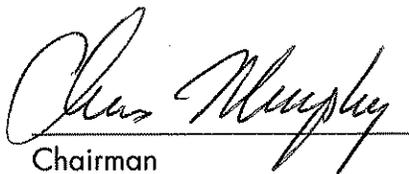
*The meeting was adjourned at 10:05 p.m.*

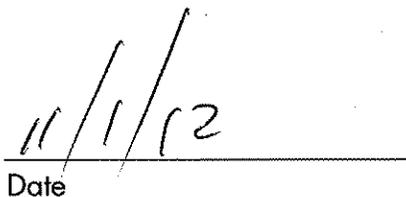
## DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on September 27, 2012
- Minutes of the Commission Meeting – Draft, Held on October 4, 2012
- Memorandum of Understanding for the Administration of the Martha's Vineyard Housing Needs Assessment Study
- MVC Policy for DRI Review – Site Design and Landscape – Draft dated October 4, 2012
- MVC Policy for DRI Review – Site Design and Landscape 2.6 Exterior Lighting Revised Draft October 18, 2012
- Email from Benjamin L. Hall Jr. Dated October 17, 2012 – MVC Landscaping Policy
- Martha's Vineyard Commission – DRI # 340-M Sepiessa Affordable Housing Expansion MVC Staff Report – 2012-10-18
- DRI 626-M Beach Road Picnic Tables – Conditions and Conclusion of the MVC Decision – DRI No. 626 – 45 Beach Road /Pizza page 6 of 7
- Cronig's Parking and Public Space – Lot Sketch and Rendering
- Memorandum to MVC Commissioners Dated October 17, 2012 – Re: Wind Energy Plan – Review of Public Hearing Comments
- Correspondence to the Commissioners of Martha's Vineyard Commission from Barbara Schlesinger Dated October 17, 2012 – Re: The Unfulfilled "Public Hearing"
- Email from Jane Schlesinger Dated October 15, 2012 – Subject: Turbine Regulations
- Correspondence from Gary Harcourt Dated October 8, 2012 – Re: Draft Wind Energy Plan for Dukes County for Public Comment

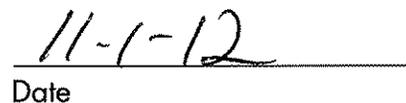
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Chairman

  
Date

  
Clerk-Treasurer

  
Date