



PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453  
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

## Minutes of the Commission Meeting Held on August 14, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

---

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

- |   |                                      |
|---|--------------------------------------|
| - James Athearn (E – Edgartown)         | P Ned Orleans (A – Tisbury)          |
| P John Breckenridge (A – Oak Bluffs)    | P Jim Powell (A – West Tisbury)      |
| P Christina Brown (E - Edgartown)       | P Doug Sederholm (E – Chilmark)      |
| P Peter Cabana (A – Tisbury)            | P Susan Shea (A – Aquinnah)          |
| - Martin Crane (A – Governor Appointee) | - Linda Sibley (E – West Tisbury)    |
| P Mimi Davisson (E – Oak Bluffs)        | - Paul Strauss (County Comm. Rep.)   |
| - Mark Morris (A – Edgartown)           | P Richard Toole (E – Oak Bluffs)     |
| P Chris Murphy (A – Chilmark)           | P Andrew Woodruff (E – West Tisbury) |
| P Katherine Newman (A – Aquinnah)       |                                      |

Staff: Mark London (Executive Director), Bill Veno (Senior Analyst), Paul Foley (DRI Coordinator), Bill Wilcox (Water Resource Planner)

The meeting was called to order at 7:40 p.m.

**Doug Sederholm** announced that Aquinnah did not adopt the Energy DCPC regulations, and the MVC will hold a public hearing on the Selectmen's request to rescind the DCPC.

### 1. MV ARENA WIND TOWER: DRI 49-M – PUBLIC HEARING

---

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, R. Toole, A. Woodruff

For the applicant: Jevon Rego, MV Arena, Board of Directors; Mike McCormack, MV Arena, Board of Directors; Gary Harcourt Great Rock Wind Power

**Susan Shea** recused herself.

**Jim Athearn** explained that he is purchasing a wind tower from Great Rock and has asked the Ethics Commission to determine whether that represents a conflict.

**Richard Toole** opened the public hearing on the proposal to construct a 165 foot wind tower with a wind turbine.

#### 1.1 Staff Report

**Paul Foley** gave the staff report.

- The site is in Oak Bluffs on a 3.28 acre lot.

- The proposal is to construct a 165 foot tall wind generator on a 145 foot tall lattice tower with a 50 foot diameter blade. The tower will be designed to also hold wireless communications equipment.
- Zoning is R-3 residential. Windmills are allowed with a special permit from the Zoning Board of Appeals.
- The MV Arena was approved by the Commission in 1976. Wind towers do not trigger the Commission checklist at this time. There are currently about five other wind towers in various stages of planning.
- The MV Arena is one of a few community-owned rinks in the Commonwealth and is run by volunteers who raise and administer their approximately \$350,000 annual operating budget, about \$115,000 of which are electricity costs.
- The MV Arena is the third largest energy consumer on the Island. The wind tower is estimated to generate up to 20% of the MV Arena energy needs.
- The applicants are hoping to get approval by the end of August in time for a grant application deadline.
- The applicants are in negotiations with a tower company that wants to engineer a tower that could co-locate a cell phone antenna within the wind tower. However, the applicants are going forward at this time with just the wind tower application.
- The project was referred by the Oak Bluffs Building administrator.
- Issues related to the project are visual impact, questions of wildlife, fall zones and noise.
- The area is a large cleared dirt area.
- The site abuts habitat area.
- The Arena will move their entrance closer to the skate park, which will allow them to landscape where the present entrance is as well as in front of the Arena, which would improve the roadscape.
- They're discussing increasing the buffer at the back of the property.
- There will be no additional lighting.
- The tower will pay for itself in nine years.
- They are proposing a lattice tower.
- Four letters have been received in support of the project.
- He showed slides of the site and area.

## **1.2 Applicants' Presentation**

**Michael McCormack** presented information about the project.

- The MV Arena started as non-profit corporation in 1976.
- The mission of the Arena is to be a viable and self-sustaining facility to fulfill the needs of the community. It is home to many users. Revenues are generated by selling hours of ice time to users and from donations.
- The proposal is to construct a wind turbine which has the ability to carry wireless communications. The goal is to save money and generate revenue.

**Jevon Rego**, president, explained that the Arena is getting hammered by rising costs of utilities.

- The Arena has been working with Cape Light Compact and the Vineyard Energy Project and has made some improvements.

- In August 2006, the Arena started looking for alternative sources of revenue and in April 2007 they discussed being included in the wireless overlay district. In spring 2007 the Arena and other parcels were added to the overlay district.
- In December 2007, the Arena was on the verge of signing with a cell phone tower company. Then Gary Harcourt proposed building a wind turbine with co-location of cell tower.
- The Arena is now waiting to hear about their grant application and will then go before the Oak Bluffs Zoning Board of Appeals.

**Gary Harcourt**, Great Rock Windpower, said the Arena is the third largest user of electricity on the Island. A wind turbine could provide 25% of the Arena's power needs with clean energy.

- He is proposing a 50 kw machine that would be tied to the grid.
- He showed slides of the proposed location.
- Airport vicinity height restrictions limit the size of the proposed machine, as do total costs.
- The height has an impact on economics of the machine. At 120 feet, there is a 8.8 year payback. At 140 feet, it is a 7.5 year payback.
- The proposal is for a lattice tower which is less visible from a distance. Monopoles of that height are custom made and cost prohibitive.
- Wind turbines have killed birds at wind farms out west but letters indicate that wind turbines of this size have little to no impact on birds.
- There is measurable sound but it's generally not audible inside a home. The high school windtower is 53 to 62 decibels. Wind towers make sound and they make electricity.
- The mechanicals will be connected to a wireless communication system. If anything goes wrong, communication is immediate.
- The tower could also be connected to the high school as a learning project.
- It easily integrates with the site.

**Jim Albione** and **Chris Hicks** from Maxtin explained the cell co-location aspect of the project.

- Should the project be approved, Maxtin is the company that gets the cell phone carriers on the tower.
- They believe that a minimum of two carriers would make use of the tower.

The applicants clarified the following.

- Regarding, the 150 foot FAA restriction, the FAA wants towers within 10,000 feet of an airport runway to be under 150 feet. The applicants would prefer 165 feet.
- The wireless equipment has to be below the lowest point of the blade.
- The applicants have a seasonal wind pattern report and not necessarily a diurnal report that would give noise impacts during day and night. The turbine will be in highest use during winter months when windows are closed.
- The further back the tower is from the road, the more visible it is from the walking path.
- Less than one in 10,000 birds is killed by wind towers.
- No human being has been killed by a wind turbine. They're designed to shut down at 53 miles per hour. They are equipped with brakes. They've been installed at schools and public areas around the country.
- The Zoning Board of Appeals would look at fall distances.

- The tower would have to be over-engineered to accommodate the extra load, the cost of which the cell phone carriers would pick up.
- The applicants are looking for an approval for a tower with cell antennas.
- The applicants will provide visuals and specs on the antennas.
- The proposed tower is similar to the 140 foot tower off of Clevelandtown Road but without wires and with a wind turbine.
- The abutter notice list was expanded to 600 feet. The Town of Oak Bluffs is overwhelmingly in support. Jevon Rego has also spoken to the YMCA, Dr. Weiss, and Priscilla Silvia of the Land Bank.
- The Oak Bluffs Land Bank land swap is in discussion but the parcel being discussed is not adjacent to the wind tower site.
- They're looking at two cell phone transmitters. They may be able to put four. The application is between two and four. There needs to be ten feet of separation between antennae.
- The buses would remain in the same place in the campus plan. There are no issues with the buses being near the cell tower and the number of parking spaces won't be changed.
- National Renewable Energy Lab has done sound output testing for this turbine and the report is available.
- Wind towers may increase the ambient decibel levels by 10 within 100 feet.
- The largest sound impact is 100 feet downwind at the height of the turbine.
- Once the building permit is in hand, the project will be on the A list for getting the grant.
- A structural engineer would determine the space between the blades and the cell antenna, but it's generally around 5 feet.
- DAS is for areas that have zero coverage. Infrastructure has already been created down-Island so it doesn't make sense to get involved with DAS at this time.
- The footprint of the area is 25 x 25 feet for the concrete foundation. The three legs of the tower are about 15 feet per side.
- The blades don't have lights on them. The FCC will determine the light requirement on the tower.
- The Arena owns the land. They lease the outer parking area from the high school.

### **1.3 Public Comment**

**Jim Weiss**, Superintendent of Schools, will bring the information to the School Committee.

- It would be difficult to not support the tower because the high school already has one.
- The high school tower is 100 feet plus the blade. It's a 10 kw demonstration tower.
- The only problem is that some neighbors had some concerns about aesthetics and that Deer Run now has some noise. The turbine is for educational demonstration and has the expected output.
- There haven't been complaints about tv or radio interference.

**Brian Nelson** said he wrote to a letter supporting the project.

- It's an amazing fit. He can't think of a better place to start for the Island Plan. This is a good way to get questions out there.
- It's a perfect size machine and creates a lot of power.

- Kids will see the Commission's commitment to move forward with the Island Plan and energy.

**Susie Wallo**, chair of fundraising for MV Arena, said their budget is so small and bills are so big for power. Having the opportunity to go forward with this turbine available helps them keep the facility open for people of the Vineyard. Bob and Gail Mone are also in support of the turbine.

**Phil Mercier** Edgartown, has been involved with hockey and the Arena since he was young. He hopes the Commission will support the project.

#### **1.4 Commissioner Questions**

**Mimi Davidson** asked whether they've made this the highest generating capacity that they can.

**Gary Harcourt** said the proposed machine is the perfect machine for the load and efficiency; for that location, it's the right size.

**Mimi Davisson** asked whether the applicant would be willing to install landscaping and screening. **Jevon Rego** said that the applicants would be willing to do landscaping and plantings, but are still in discussion with the YMCA on the final campus plan.

**Mimi Davisson** said she would like to see standard decibel levels for different activities such as lawn mowers, planes, cars, etc. to have a context within which to understand noise from wind turbines.

**Doug Sederholm** asked about capacity and size of turbines.

- There aren't wind turbines at 20 kilowatts. Those machines just aren't there.
- This design was an old Department of Energy design. It's one of the few turbines that has had verified testings and has a track record.

The applicants will come back with a picture of tower and cell phone equipment, as well as information on the equipment at the base and on the cell phone equipment.

**Richard Toole** continued the hearing until August 28<sup>th</sup>.

## **2. FORTUNE WORLD LLC: DRI 617 – PUBLIC HEARING**

*Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, R. Toole, A. Woodruff*

*For the applicant: Peter Breese, architect; Jessica Cook, architect, Danny Chan, owner*

**Richard Toole** opened the public hearing on the proposal to demolish the existing one-story building and replace it with a two-story two-bedroom building.

### **2.1 Staff Report**

**Paul Foley** gave the staff report.

- The project is located at 6 Sea View Avenue Extension.
- The proposal is to demolish an existing 1-story 2-bedroom multi-use, 1300 sq. foot building and replace it with a new 2-story 2-bedroom multi-use, 1400 sq. foot building with 2800 gross sq. foot.

- The existing building was damaged by a fire.
- The applicant is asking for a curb cut.
- There is an easement out onto Pasque Avenue.
- The project was referred under new construction totaling 2000 sq. feet or more as a mandatory review.
- Key issues are: the project is in a very visible location, there are some issues with vehicular access. Specific use of the retail is not known.
- A willow tree would be eliminated if the curb cut were allowed.
- There hasn't been a specific lighting offer.
- The property won't create noise, but the people moving in upstairs should be aware that there is existing noise in the neighborhood.
- There hasn't been an energy-related offer.
- The property is not currently on town sewer, but will be hooked up.
- The proposal does need a stormwater plan.
- The proposal shows a 9-foot wide driveway and curb cut.
- The traffic study was waived by LUPC because the applicant has said their plan is for non-high traffic generating businesses that would generate less than 120 trips a day. If that were to change, the applicant would return to the Commission.
- Restaurants or liquor use would be prohibited.
- The site is in the B-2 district, which doesn't require parking.
- There will be two 1-bedroom apartments rented on a year-round basis.
- The building is bigger than the existing building but the design is within keeping of the size and style of the neighborhood.
- An ADA ramp is proposed.
- The slides showed existing buildings and neighborhood.
- The new footprint is longer and slightly shifted toward The Lookout Tavern and comes back further.
- The existing entrance is through the existing Surfside curbcut but there have been problems with it being blocked.

## **2.2 Applicant's Presentation**

**Peter Breese** presented the project.

- The applicant is Danny Chan.
- The project has been before LUPC, the Oak Bluffs Copeland District Board and the Cottage City Board and they have had comments about the building and site plan.
- Some of the changes were to delete an earlier proposal for a stone veneer finish and add white cedar shingle siding.
- They've agreed to commit both of the two apartments on the second floor to year-round rentals.
- They've discussed the issue of high traffic uses for the first floor and they are going to commit to not renting the space to high traffic use.
- The project will meet or exceed the existing Massachusetts Energy Code.

- They need to resolve the access and parking issue with the abutter. There could be some trade-off with the two spaces below the existing right of way but they haven't been able to open negotiations with the neighbor.
- The porch is in alignment with the solid face of the existing building so it will be stepped back from the street.
- The curb cut is important because of the issues that have occurred in the back and because they don't trust that the access will always be available, especially if there were a need for emergency access.
- The building is really 1.5 stories and was lowered from the original proposal to 26.5 feet. The outside walls of the second story are kneewall height rather than full eight feet. There are two dormers.
- The curb cut is related to not being able to access the property from either side when the Surfside lot is full of cars and blocking the property's access. The driveway will be a grass strip drive with poured concrete pieces.
- Even though parking isn't required in the B-2 district, they're interested in parking for the two cars related to the two apartments. There is a necessity for vehicular access to the building.
- It could be gated at the front. It is a sensible proposal when the back access is blocked.
- The building is taller than The Lookout in the center. The building is as low to the ground as possible for the wheelchair ramp and to address the overall height of building.
- They haven't yet spoken with Sovereign Bank about a possible parking/access solution.
- The other boards want the building to be as historically appropriate as possible. They didn't comment on the curb cut.
- The plan is for a concrete block structure faced with shingles to serve as a fire wall.

**Chris Murphy** said the new curb cut would alter the streetscape as it relates to the view approaching Oak Bluffs.

**John Breckenridge** said there will be a business that will require deliveries of some sort. The resolution would be to solve the existing access.

**Peter Breese** said the legal access path is physically blocked by a fence that crosses the right of way. There is no agreement with Lot 2 to drive through that property to the site.

**Chris Murphy** said the lot plan shows that the applicant has access through Surfside.

**Peter Cabana** said that LUPC encouraged the applicant to exceed the Massachusetts Energy Code. The project could be a unique opportunity for implantation of energy saving systems. With a new building it would be great to focus on long term energy costs.

### **2.3 Public Comment.**

**Mike Santoro**; owner of The Lookout Tavern., said they support any improvement.

- They like the proposal, but have concerns about the driveway.
- They have an existing business with an exhaust plan facing toward the second floor of the building.
- Access to his porch is only on the left by the proposed curbcut.
- There are two public parking spots in front of the electrical parking spots

- He supports the applicant. It's a beautiful building.

**Peter Breese** responded that insulation, concrete walls and quality windows help with noise. The building will have air-conditioning in summer. They think they can work something out to use the back parking lot.

**Doug Sederholm** pointed out that the easement is there for the applicant, The Lookout Tavern, and Surfside. The Surfside owner needs to be involved. There ought to be some way to guarantee that the applicant can have access.

**Peter Breese** asked if there could be a condition that if there were a resolution of access, they wouldn't build the driveway.

**Richard Toole** closed the public hearing.

LUPC will review the proposal on August 25<sup>th</sup>.

### **3. AA CAR RENTAL: DRI 616 - WRITTEN DECISION**

---

*Commissioners present: J. Athearn, C. Brown, P. Cabana, C. Murphy, N. Orleans, S. Shea, R. Toole, A. Woodruff*

**Christina Brown** said that the question is whether the written decision accurately reflects the oral vote.

Commissioners agreed to the following changes:

- Page 1: Spelling correction: *Bettenhauser*
- Page 3: Add: *A letter was received from Jamie Douglas.*
- Line 176: Delete: *V-2* .Revise: *Concerns about congestion at Five Corner which will be ameliorated . . .*
- Page 4, Line 123: Correction: . . . *1998 sq. foot total floor area, made up of office space on the first floor and two one-bedroom apartments on the second floor.*
- Page 4, 123 and 126: Correction: . . . *it will be . . .*
- Line 286: *The width of the curbcut shall be 24 feet consistent with safety with input from Commission traffic engineers with final approval by LUPC.*
- Line 300: Revision: *There shall be a dormant easement.* Commissioners confirmed that their understanding was that the applicant would put a 10 foot dormant easement between his property and the property next two it at Five Corners along the joint property line.
- Line 309: Correction: *Tisbury may now . . .*

**Chris Murphy moved, and it was duly seconded, to approve the written decision as corrected. In favor: J. Athearn, C. Brown, P. Cabana, C. Murphy, N. Orleans, R. Toole. A. Woodruff. Opposed: None. Abstentions: S. Shea. The motion passed.**

### 3. SHIRLEY'S HARDWARE: DRI 380-M - WRITTEN DECISION

---

Commissioners present: J. Athearn, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, D. Sederholm. S. Shea, R. Toole

**Kathy Newman** recused herself from participating in the decision but remained at the meeting to constitute a quorum.

Commissioners reviewed the written decision and made the following changes.

- Line 25: Delete: *large*.
- Page 2 line 65: Correction: Shirley's *packet*
- Line 30: Clarification: *for a period of five years only*
- Page 3, E8: Add: the original decision's parking plan.
- Correction: Kent *Healy*
- Page 4, line 136: John Breckenridge suggested adding a new bullet point addressing parking. This new plan provides for parking describes in the original application to the Commission. The decision should reference the plan and the date and the number of spaces that were approved at the rear of the building. Commissioners generally agreed that by referencing the original plan in E8 and in the landscaping plan, it's clear that the applicant has to meet the original plan. It was clarified that the parking area in the rear was never considered to be for overflow parking. It was part of the parking plan.
- Line 140: *shall* be reevaluated.
- Line 138: delete
- This project shall be re-evaluated in no later than five years.
- Minor impact on municipal services.
- Page 7, Line 269: Delete *permanently*
- Line 271: Clarification: the *applicant may have no more than three trailers*
- Line s 256 and 261: Revision: *shall* plant four cedar trees; *shall* include fencing.
- Section 6.1, Line 288: Section 2.1 should be landscaping approved by LUPC.

**Richard Toole moved, and it was duly seconded, to approve the written decision as corrected. In favor: J. Athearn, C. Brown, P. Cabana, C. Murphy, N. Orleans, D. Sederholm, S. Shea, R. Toole. Opposed: None. Abstention: K. Newman.. The motion passed.**

### 4. OTHER

---

Commissioners present: J. Athearn, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, D. Sederholm. S. Shea, R. Toole

**Richard Toole moved, and it was duly seconded, to change the regular meeting from the third Thursday in August to August 28<sup>th</sup>, the fourth Thursday, due to the Agricultural Fair. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.**

The meeting adjourned at 11:00 p.m.

Chrysmma  
Chairman

5/7/09  
Date

Wheans  
Clerk-Treasurer

5/7/09  
Date