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Minutes of the Commission Meeting Held on May 7, 2009 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

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| P James Athearn (E – Edgartown) | P Ned Orleans (A – Tisbury) |
| - Bill Bennett (A- Chilmark) | - Jim Powell (A – West Tisbury) |
| P John Breckenridge (E – Oak Bluffs) | P Camille Rose (A - Aquinnah) |
| P Christina Brown (E - Edgartown) | - Doug Sederholm (E – Chilmark) |
| - Peter Cabana (E – Tisbury) | P Casey Sharpe (A – Oak Bluffs) |
| - Martin Crane (A – Governor) | P Linda Sibley (E – West Tisbury) |
| P Carlene Gatting (A – County) | - Holly Stephenson (E – Tisbury) |
| P Chris Murphy (E – Chilmark) | P Andrew Woodruff (E – West Tisbury) |
| P Katherine Newman (E – Aquinnah) | |

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Analyst/Planner), Christine Flynn (Economic Development and Affordable Housing Planner), Mike Mauro (Planner – Transportation), Jo-Ann Taylor (DCPC Coordinator)

The meeting was called to order at 7:30 p.m.

1. MV TRANSIT AUTHORITY: DRI NO. 524-M3 - MODIFICATION/CONCURRENCE REVIEW

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, K. Newman, N. Orleans, C. Rose, C. Sharpe, L. Sibley, A. Woodruff

For the applicant: Angie Grant, administrator, Martha's Vineyard Transit Authority

Christina Brown opened the concurrence review.

Angie Grant described the project.

- The proposal is for a 24 x 10 ft storage shed addition on the west side of the building, attached to the building.
- The top piece would be the same blue siding as the building. The bottom half would be chain link fencing.
- No lighting is proposed.
- A concrete base is proposed.

Paul Foley reported that LUPC recommended unanimously that the change is insignificant and does not require a public hearing.

- The Airport Commission approved the project with the requirement that the chain link fence have black slat insertions.
- The purpose of the shed is to conceal equipment already stored on the lot.

Ned Orleans moved, and it was duly seconded, that the proposed change is not significant and does not require a public hearing. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Christina Brown asked if anyone attending had come to comment about the proposal, and got no response.

Linda Sibley moved, and it was duly seconded, that the Commission approve the modification as proposed. A roll call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, K. Newman, N. Orleans, C. Rose, C. Sharpe, L. Sibley, A. Woodruff. Opposed. None. Abstentions: None. The motion passed.

Angie Grant added the following:

- In Fiscal 08 there were over a million riders.
- The winter ridership is still growing. Current numbers are 24-25,000 riders a month.
- The Transit Authority received American Recovery Reinvestment Act funds for \$1 million for seven buses.
- Hybrid electric buses are too expensive at \$500,000 each and need to be used year round. The ultra low-sulphur diesel fuel and new engines have made great strides in reducing carbon emissions.

2. OCEAN MANAGEMENT PLAN

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, K. Newman, N. Orleans, C. Rose, C. Sharpe, L. Sibley, A. Woodruff

Jo-Ann Taylor reported on her work as representative on the Ocean Advisory Commission (OAC).

- The Oceans Act was passed a year ago to promote near shore development of renewable resources out to the three-mile limit.
- Previously the Ocean Sanctuaries Act prevented any kind of development in the ocean. The Commission had DRI review of any ocean-based proposals.
- The Ocean Act relaxes some of the restrictions for development.
- The Ocean Management Plan, as a separate entity, is to set out goals and standards for development. The Ocean Management Plan allows renewable projects of appropriate scale, defining scale and areas.
- The study team has been developing lots of data. The maps are drafts from various workgroups. There is also a science advisory council working on data.
- There will be exclusionary areas.
- There will be areas determined to be appropriate for development for which performance standards and appropriate scale will be determined.
- The groups have tried to define fisheries and navigation resources.

- There were listening sessions held around the state, including on Martha's Vineyard. The public input has gone into refining and synthesizing the data.
- Marine Avian Fauna habitat shows the most protected bird areas. Martha's Vineyard has species of threatened species. The roseate terns are particularly sensitive and that's a federally endangered species. All of Buzzards Bay is considered roseate tern area, as is Nomans.
- The study team began to present a synthesis of data. Nomans is still an exclusionary area, as is Stellwagen for whales and much of Buzzards Bay for terns. Other areas with birds won't be ignored, but areas that will continue to be protected are areas that have endangered species, navigation, and fisheries resources.
- Maps aren't yet available for public view, because the study team is still responding to comments.
- She pointed out the exclusionary areas around Martha's Vineyard, as well as the areas that will not have exclusionary standards.
- There isn't a map of cultural resources. There is no plan to have an exclusionary area based on historic, cultural identifiers.
- The Ocean Plan is a very important tool, as is the Commission's voice in developing the plan.
- She's hoping that people will develop a little more interest. She believes that the plan will become important and have positive and negative impacts.
- The Wind Suitability index is a combination of depth and wind. The state's immense wind resource has highest suitability near Martha's Vineyard.
- She wants to impress that people should really get involved in making the plan the best that it can be. Considering the wind resources and the exclusions all over the state, there's no doubt there will be wind power projects along Martha's Vineyard borders, which need to be done with concern for the impacts on habitat, fisheries, and cultural values. The sooner the Island weighs in, the better.
- The study team will be submitting a draft plan to the Legislature by the end of June. Public hearings will start in the fall, and the Ocean Plan will be adopted by the end of December. A lot of people will react when the draft plan comes out.
- She's glad people were at the meeting in Woods Hole. People are beginning to be impressed with the depth of the Act.

Mark London added comments as an observer.

- The mapping seemed complete for those things that are easy to measure, but a concern is that some important factors, including those that are more difficult to measure, are not being considered.
- At the recent meeting in Woods Hole, he asked how Ocean Plan will deal with scenic values. The response was that scenic values have not really been dealt with because the Oceans Act does not mention scenic values, although it does use the term 'appropriately sited.'
- In the preliminary plans that were shown, a good part of the waters off the Commonwealth are likely to be exclusionary or constraint zones for renewable energy

projects. Most of the west, south and east sides of Martha's Vineyard are open for development.

- There is a one mile exclusionary zone around inhabited land, but there is no constraint or exclusion around the rest.
- Since they aren't looking at scenic values, their criteria don't differentiate between a hypothetical wind farm one mile or four miles offshore, even though the impact would obviously be very different.
- The representative of the Wampanoag Tribe pointed out that the study team hasn't had direct discussion with the Tribe.
- Matt Pelikan said he had serious concerns about the methodology of how the bird data was gathered and it may not include Martha's Vineyard bird findings.
- The issue was discussed of how to differentiate between projects initiated by the local community and commercial projects.
- He raised the question of what is the long term scenario for the maximum development potential of the area. The developers of the Ocean Act said they're not aiming for a certain amount of electricity creation.
- The Ocean's Act supersedes the Sanctuary Act and town authority and Commission authority. The wording of the act includes wording that the Commission would still have regulatory authority over development in the ocean, but includes in brackets wording that effectively says: subject to appeal to the Energy Facilities Siting Board. At the very least, the Commission should be pushing to make the relationship with the Energy Facilities Siting Board a meaningful one, to have projects built that are in the interests of the Commission and the Island.

Christina Brown said it would be useful to get comments in at this point, before the draft plan is written, bound and sent out.

Jim Powell said he wanted to applaud the efforts of those from the Vineyard who went to the meeting in Woods Hole. As the Commission takes initiative to be proactive, Jo-Ann Taylor is in a key position to take the initiative, share the Commission's vision and plan, so it's incumbent upon the Commission to present its plans and help encourage the state to follow best practices.

Christina Brown said it's the Commission's task to pay attention to the Ocean Plan now.

Greg Mayhew, commercial fisherman from Menemsha, spoke about the maps and how they don't seem to reflect actual fishing areas.

- There's a lot of navigation that takes place between Menemsha and Squibnocket.
- The bird information seems to need updating.
- Mobile gear hasn't been allowed in Buzzards Bay for 100 years so turbines in Buzzards Bay would be okay.
- He doesn't think he'll mind the way wind farms will look, but wind farms should be weighted in such a way so the Vineyard could get some benefit.
- Mobile gear fishermen would need to know whether fishermen will be able to go near the turbines from a security stand point.
- He'd want to know what kind of economic impact the turbines will have on specific locations.

- It's good to be proactive in getting together some sort of plan. It's hard to stop something once it's quite well along.

Jo-Ann Taylor said the plan has to be renewed every five years. There is a Mass Ocean Plan website that has the data for the technical report for fisheries. A representative from the Ocean Plan met with Warren Doty and Tom Osmer relative to fishing. The draft plan will be available June 30th.

Linda Sibley said they seem to have a pretty good structure for analysis but there seem to be some data problems.

Jo-Ann Taylor said it's not too late to add to the data and comment on it.

Linda Sibley asked whether the Vineyard bird data exists. Matt Pelikan is going to report it.

Andrew Woodruff said that it is both exciting and scary at the same time. In contrast to Cape Wind, there seems to be some planning taking place for the inevitable tapping of the resource. A concern is that there doesn't seem to be enough local input. He asked about coordination between state and federal.

Jo-Ann Taylor said the Act says that it will address coordination, but that hasn't been addressed in the Plan yet. The OAC has discussed utility scale wind turbines going into federal waters.

Kathy Newman asked if the Commission is going to try to gather the information.

Christina Brown said that individuals may be making comment.

Michelle Jones attended the workshop. Ed Barrett from Mass Fishermen's Project said the biomass and fishing areas don't seem to match. The Martha's Vineyard community needs to make sure the data is correct. The Duke's County Martha's Vineyard Fishermen's Association may be able to put the data together and get it to the planners.

Jo-Ann Taylor said the routes of fishermen could be included.

Michelle Jones added that there's no exclusionary zone for Tribal waters.

John Mayhew, fisherman, added that the idea of how close boats can go to the turbines will be important.

Chris Murphy asked what else the Act opens the door to. **Jo-Ann Taylor** said it opens the door to sand and gravel mining, and to aquaculture which can only go where fisheries don't go.

John Breckenridge asked about beach nourishment, etc. **Jo-Ann Taylor** said sand and gravel mining is more of a concern where the material is contaminated and needs to be disposed of. There is a work group on sand and gravel mining.

Linda Sibley moved, and it was duly seconded, to send comments to the Ocean Management Plan team at the Secretary of Energy and Environment Affairs based on the meeting in Wood Hole and on the discussion at this meeting.

- The comments should include the following.
 - Note that fishermen feel that fisheries data is incomplete and/or inaccurate.

- Navigation between Squibnocket and Nomans needs to be addressed.
- Given the high resource area south of the Vineyard, there are some places that are farther from the shore that should be developed first. The statement that locations farther away from viewsheds should be prioritized should stand out in the comments.
- The Martha's Vineyard Dukes County Fishermen's Association will be sending additional data.
- The importance of getting in touch with the Tribe.
- The importance of local benefits.
- Encourage a representative from the Department of Environment and Energy to meet again with the Fishermen's Association.
- **Greg Mayhew** added that fishing boats out of New Bedford come through Vineyard Sound and go out by Gay Head to George's Bank.
- **Kathy Newman** asked if it would make sense to have key facts highlighted and bulleted.
- Commissioners agreed by consensus that staff would revise the comments to include the additional topics discussed at this meeting and Christina Brown would review the final draft.

A voice vote was taken on the motion to send comments. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

Jo-Ann Taylor said that, in draft versions, for vistas that are visibly accessible from beaches, higher elevated public views may be given higher priority. The methodology is that the higher the number of people that can see a vista, the more it counts as needing protection. The public vista will weigh more heavily for an area like Boston where there are numerically more people. Commissioners responded that the enabling legislation from Chapter 831 that established the Commission protecting the unique values of Martha's Vineyard needs to be noted in relation to scenic values.

3. MINUTES

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, K. Newman, N. Orleans, C. Rose, C. Sharpe, L. Sibley, A. Woodruff

3.1 Minutes of May 8, 2008

Kathy Newman moved, and it was duly seconded, to approve the minutes of May 8, 2008, as written. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

3.2 Minutes of May 15, 2008

Line 82 add working discussions with the applicant

Line 534 add The applicant said the containers would not be rented out.

John Breckenridge moved, and it was duly seconded, to approve the minutes as revised and with corrections made by staff. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

3.3 Minutes of July 17, 2008

Chris Murphy moved, and it was duly seconded, to approve the minutes of July 17, 2008, as written. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

3.4 Minutes of October 16, 2008

Chris Murphy moved, and it was duly seconded, to approve the minutes of October 16, 2008, as written. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

3.5 Minutes of January 22, 2009

Ned Orleans moved, and it was duly seconded, to approve the minutes of January 22, 2009, as written. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

3.6 Minutes of February 19, 2009

Andrew Woodruff, moved and it was duly seconded, to approve the minutes of February 19, 2009. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

3.7 Minutes of March 5, 2009

Jim Athearn moved, and it was duly seconded, to approve the minutes of March 5, 2009, as written. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

3.8 Minutes of April 9, 2009

Linda Sibley stated that the description of the towers in the plan should stand as the plan for the towers, not the written decision description in the minutes.

Linda Sibley moved, and it was duly seconded, to accept the minutes of April 9, 2009. voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

4. WIND ENERGY SITING REFORM BILL

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, C. Gattling, C. Murphy, K. Newman, N. Orleans, C. Rose, C. Sharpe, L. Sibley, A. Woodruff

Mark London reported that he received a phone call from Ken Kimmell, counsel to the Secretary of Environmental Affairs, informing him of the Wind Energy Siting Reform Bill.

- This legislation would allow the Commonwealth's Energy Facilities Siting Board (EFSB) to override local and regional agencies on siting large-scale wind energy facilities. Ken Kimmell said comments on the bill are due May 8th.
- The Cape Cod Commission had been consulted and proposed wording whereby regional planning agencies with regulatory authority – namely the Martha's Vineyard Commission

and the Cape Cod Commission – could prepare a wind siting plan. If the Secretary of Energy and the Environment Affairs accepts the plan and the Commission is operating under the plan, the appeal wouldn't go to the Siting Board.

- The bill won't necessarily pass.

Jim Athearn asked if the Commission, at this point, could ask Eric Wodlinger to put a short note in on its behalf.

Jim Powell said it would be important that the Commission send a letter as an official placemaker, asking questions, even generally. He wonders who is proposing the legislation.

Linda Sibley said the letter should point out the same issues as in the Oceans Act letter, namely that the Island's economics are based on tourism and how the Island looks. It's inappropriate for someone to overrule local judgment on matters of this sort if it can harm the local economy.

Bill Veno pointed out that this legislation doesn't just apply to renewable energy. It could apply to the electrical grid. There's a lot of weight behind this legislation.

Linda Sibley added that the Commission should complain that it was notified 24 hours in advance of the comment deadline.

Jim Powell suggested a phone call be made to the Secretary's Office to get more information about the process.

Kathy Newman asked if Eric Wodlinger might make comments on the Commission's behalf.

Jim Powell said he wants to make sure that people understand the comparative value and the different economies of scale. Comparative values each present its own separate set for each locale; four of something on the Vineyard is as valuable as 4 times that four in New Bedford.

Christina Brown suggested that, if Eric Wodlinger can't pull a letter together, then Jim Powell and Christina and Mark can pull it together.

Commissioners agreed by consensus that Christina Brown has authority to send a letter to the Secretary of Environmental Affairs regarding the bill.

5. DRI CHECKLIST

Christina Brown reported that the revised DRI checklist was sent to the Secretary of Energy and Environmental Affairs for approval. The proposed Checklist item dealing with wind turbines raised concerns, because the state wants to know what criteria the Commission would for wind turbine siting on the Island. Peter Cabana is going to work with Mark London and come up with possible criteria that the Commission might use in the checklist that might be satisfactory to the Secretary. The wind power checklist will be reviewed at the May 21st meeting.

John Breckenridge asked that Commissioners be sent the version of the checklist that was resubmitted to the Secretary.

Christina Brown confirmed that the Commission is required to review its DRI checklist every two years.

Andrew Woodruff commented that if the land-based wind power legislation goes through, DRI checklist items related to wind power may be moot. The Commission is the best place to deal with wind generation on the Island.

6. OTHER

Mark London reported that he and some Commissioners will be meeting with the Cape Cod Commission to review proposed reforms to the Land Use Planning Act which may give municipalities more authority. It gives flexibility and site review to Planning Boards.


Christina Brown said Rob O'Leary has filed a bill a different but related bill called the Community Planning Act.

The meeting adjourned at 10:10 p.m.


Chairman


Date


Clerk-Treasurer


Date

