IN ATTENDANCE

Commissioners:  [P = Present; A = Appointed; E = Elected]
P  James Athearn [E - Edgartown]
P  Bill Bennett [A - Chilmark]
P  John Breckenridge [A - Oak Bluffs]
P  Christina Brown [E - Edgartown]
P  Peter Cabana [A - Tisbury]  
-  Martin Crane [A - Governor Appointee]
-  Carlene Gatting [County Appointee]
P  Chris Murphy [A - Chilmark]
P  Katherine Newman [A - Aquinnah]
P  Ned Orleans [A - Tisbury]
P  Jim Powell [A - West Tisbury]
P  Camille Rose [A - Aquinnah]
P  Doug Sederholm [E - Chilmark]
-  Casey Sharpe [A - Oak Bluffs]
P  Linda Sibley [E - West Tisbury]
P  Holly Stephenson [E - Tisbury]
P  Andrew Woodruff [E - West Tisbury]

Staff:  Mark London [Executive Director], Bill Veno [Senior Planner], Paul Foley [DRI Analyst/Planner], Jo-Ann Taylor [Coastal Planner, DCPC Coordinator]

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

1. COPELAND PLAN DCPC REGULATION CHANGES: PUBLIC HEARING


Christina Brown read the notice and opened the public hearing on proposed amendments to the Copeland Plan DCPC Regulations.

Jo-Ann Taylor explained the proposed amendments.
- The Copeland Plan District of Critical Planning Concern started in 1991 as the Ocean Park District.
- In 1982 the Town went through the process of making an inventory to become a historic district, but at the time, decided that it was not prepared to create the historic district.
- The Ocean Park District instead took advantage of the Commission’s ability to help them review architecture through the DCPC process.
- The name was changed to the Copeland Plan District as additional areas were added.
- The Town subsequently adopted a full historic district.
- In 2004 the Town asked for an amendment in the regulations. When the Town did finally adapt its own historic district, the Town no longer had an architectural assistance
committee which was part of the guidelines. The Town asked to have a member of the historic district added to the review committee in place of the member of the architectural assistance committee. The MVC approved that amendment.

- The new specific amendments are in relation to changes in the Copeland Plan Review Committee, to be detailed by the Zoning Administrator next.
- Amendments to the regulations had been made at a previous town meeting that were not heard or approved by the Commission, specifically one that added “views from abutting properties shall be preserved.” It may be difficult to find that language in conformance.
- However, the amendments addressed regarding composition of the committee should be able to be found in conformance.

**Adam Wilson**, zoning administrator for Oak Bluffs, has administrative oversight over the Copeland Plan Review Committee.

- In the last three years, the Copeland Plan Review Committee has met to make 9 decisions, 8 of which have dealt with demolition and replacement.
- His concern is that, during the last eight months, he hasn’t been able to get a committee together, so approvals were granted by constructive allowance.
- The Copeland District Review Committee is supposed to have seven members, including a member of the park commission, planning board, building official, member of the Cottage City Historic District Commission, member of the Board of Selectmen, and two owners of property within the review area.
- Town Counsel has made the suggestion that the building official should no longer sit on the committee; so Jerry Weiner has been off the board.
- Cottage City Historic Commission has had difficulty appointing someone because of redundancy issues.
- There never have been two property owners, except for the North Bluff area.
- There should be clarification that the member of the Board of Selectmen should be one person, not a rotating appointment.
- Another problem is that the vote has to be in the majority of the board. If there is a quorum of five, an approval has to be four votes.
- He has made a number of suggestions as a ways and means for Copeland to have the opportunity to meet and review.
- The language of the regulation is that no other board should meet or no other permits should be issued until Copeland has had the opportunity to meet.
- Projects that weren’t reviewed by Copeland because of a lack of a quorum were reviewed by the Cottage City Historic District and the Zoning Board.
- Cottage City Historic District is the same as Copeland’s except for the “E” Area of the Highlands and Sunset Lake.
- The Historic Commission looks at any proposed demolition in town over 100 years old.

**Doug Sederholm** asked whether Adam Wilson has anything to say about the appropriateness of the town meeting amendment that abutting views shall be preserved. Related to the process amendments, he asked for clarification as to whether Copeland wants a specific selectmen’s representative or a rotating person.
Adam Wilson said he would like one designated selectman to represent all of Copeland. He doesn’t have an opinion on the views regulation.

David Wilson, Cottage City Historic District, supports the amendments and Adam Wilson wholeheartedly.

Renee Balter said that in reviewing projects, views from abutting properties have always been a consideration. She said that it has always been in the by-law.

Ned Orleans said he can understand considering views, but he can’t imagine that it would be a by-law.

Renee Balter said there are no definite guidelines. That’s one of the problems that the DCPC has.

John Breckenridge said the views language seems to be another way of stating the original goals of the Copeland District which states that there should be no visual impediments to the long views and new construction should enhance the prevalent architecture.

Doug Sederholm said the guidelines are related to long views from parks and are very public space oriented, and not related to private properties. He can’t imagine how an absolute protection of views from abutting properties could be enforced.

Jim Attearn said that views are mentioned in five of the guidelines.

Andrew Woodruff asked whether the Commission can even be looking at the views amendment. Christina Brown says it can’t be part of the Town’s regulations; the Commission has to hold a public hearing and review the regulation’s conformance; the Town can’t use the regulation until the Commission agrees that it’s in conformance.

Commissioners discussed the landscaping amendment that was adopted by the Town but did not come before the Commission.

Christina Brown said there have been difficulties having a majority vote of the board when it’s been difficult getting a quorum together. The proposal is for a member of the planning board, selectmen’s rep., pork commission and one property owner.

Renee Balter said there are at least six sections of the Copeland Plan District. The original committee was to have one owner from each of the six districts. The proposal is for one property owner to represent all six sections.

Holly Stephenson said it looks like neither of the two amendments that were made at Town meeting fall under the guidelines.

Doug Sederholm said the only thing Commissioners can do is focus on whether the specifically proposed amendments are in conformance.

Peter Cabana asked for clarification of participation by property owners. The guidelines are the Commission’s guidelines. The regulations are the Town’s.

Jo-Ann Taylor said the guidelines recommend one or two property owners be on the committee. Specific participation by property owners was in the original regulations.
Doug Sederholm moved, and it was duly seconded, that the Commission find that the amendments previously voted, specifically adding that views from abutting properties shall be preserved and deleting the landscape language, do not conform to the guidelines for development of the DCPC. The proposed amendments of June 2009 regarding composition and operation of the committee, as clarified during this hearing, do conform.

- **Linda Sibley** agrees that the original landscaping regulations are pretty draconian, but there needs to be landscaping regulations.
- **Christina Brown** said that, if the Commission says that the views regulation isn’t in conformance, the Town can’t use the criteria. She assumed that the original Copeland District regulations said that landscaping can be reviewed. That will remain in place until brought forward differently.
- **Doug Sederholm** said that “views from abutting properties shall be preserved” is too vague to be enforced. He isn’t opposed to protecting views but the language has to be presented differently. There are ways it can be done.


Renee Balter said she’d written a letter about abolishing the DCPC. Jo-Ann Taylor replied that the Cottage City Historic District could make a proposal to abolish the Copeland Plan DCPC. It could be proposed by the Selectmen or by petition with 75 tax payer signatures.

### 2. MORNING GLORY FARM SUBDIVISION: DRI 620 – PUBLIC HEARING (DISCRETIONARY REFERRAL)


Representing the Applicant: Simon Athearn.

Andrew Woodruff and Jim Athearn recused themselves.

Linda Sibley opened the public hearing on the division of land and read the public hearing notice.

### 2.1 Staff Report

Paul Foley gave the staff report.

- The applicants are James A. and Deborah F. Athearn.
- This Public Hearing is being held to determine whether a Discretionary Referral for a proposal to divide one 17.19-acre lot into two lots (one 7.62-acre lot and one 9.57-acre lot) should be reviewed by the MVC as a Development of Regional Impact.
- The zoning is R20, the minimum lot size is half of an acre.
- The planning board will have to issue a Form A permit.
• The project was originally referred in April for a proposal to add onto the farm stand and add parking. That proposal was withdrawn in order to enable the proposed land division prior to the property becoming a DRI. The division does not trigger mandatory DRI review. A Planning Board’s concern is the proximity of the parking lot access to Edgartown-West Tisbury Road.

• The Land Bank has an agricultural restriction over the property in perpetuity. The Land Bank has reviewed the proposal and has confirmed that it is not in conflict with the restrictions.

• There are two ancient ways, which have their own regulations.

• The project was referred by the Edgartown Planning Board on July 20th. Four issues were raised: whether Jim Athearn could represent himself, access, lot line placement, and how long “in perpetuity” lasts.

• A small portion of the lot is mapped as rare priority habitat. There are no changes proposed for that portion.

• Landscaping is planned. There is open space and trails, fields, farm buildings, residences, and commercial buildings.

• The purpose of the Special Ways District is to protect the ancient cart paths as a recreation and conservation resource. The path itself is protected on twenty feet either side of the centerline.

• Quonomica Road would be the division between property lines.

• It is in a nitrogen sensitive watershed.

• There are four access points. The closest one to Edgartown-West Tisbury Road is 60 feet, then 190 feet. When the farm stand is busy, cars can back up to Edgartown-West Tisbury Road.

• Staff looked at Mass Highway accident data for the years 2003 through 2007. In 2003, 2004, 2006, and 2007 there were zero accidents at or near the intersection. Of the 172 accidents in Edgartown from 2003 to 2007 three were at or near this intersection, all in 2005.

• There is a commitment from the applicant to eliminate the access nearer to Edgartown West Tisbury Road, if the proposal is approved and if they can retain the same number of parking spaces.

• The APR is in perpetuity and does not expire. Many groups and people would need to sign off on changing protected status.

• The owners are allowed one house, one guest house and a pool in the designated area.

2.2 Referring Board - Edgartown Planning Board.

Fred Mascolo, chairman, said when they originally discussed the proposal, they had difficulty interpreting the DRI Checklist and decided that it should be sent to the Commission for clarification.

• The question of perpetuity came up. There are certain instances where it can fall off. He’s had conversations and he’s comfortable with the perpetuity.

• Although there were only three accidents, there were observations that when it’s busy it is a dangerous spot. It’s a concern.
• Mr. Athearn’s letter states that it is the applicant’s intention to eliminate the north access within the next two years, dependent on approvals of modification of the parking lot and maintenance of the same number of parking spaces.
• The applicant may have to go to ZBA for modification of parking lot and entrance.

Georgianna Greenough, Planning Board Assistant, said they couldn’t find any paperwork related to the original approval of the farm stand. The farm stand is within the Island Road District and would have come before the planning board, but they haven’t found related paperwork.

Simon Athearn explained that moving the entrance is part of a larger plan that includes moving buildings. They would like a two year window because they may not be able to complete the work this winter.

Bob Sparks, Planning Board, wanted assurances that anything going on would have no impact on the ancient way.

Jo-Ann Taylor explained that ancient ways are often used as lot lines. The Special Ways DCPC protects the uses and is twenty feet on either side of the centerline. Quonomica is also a Special Vehicular Way in certain sections. Only the vehicle use going on at the time of the passing of the designation is allowed, not as a consequence of the division.

Simon Athearn explained that they use a corner of the ancient way for access as they have for years. There will be no expanded use. They are active protectors of the ancient way.

2.3 Applicant’s Presentation

Simon Athearn presented information about the division.
• The proposal is for a Form A Division.
• Jim Athearn recused himself and is not presenting. He can’t present for property owned jointly with his wife.
• The reason for the division is for estate planning purposes and for having the convenience of the farm buildings on one lot. The APR is retained. There is no new access, and the plan is to remove the north lot’s north access.

2.4 Member of the Public

There were no questions or comments.

2.5 Commissioner Questions

Ned Orleans asked if there were any evidence that accidents were related to Morning Glory.
Paul Foley said that the reports don’t say specifically.

Christina Brown reiterated that conservation restrictions are very tight. Simon Athearn explained that there is no further division of the land for house lots. There is one reserved area in lot two around the original house.

Georgianna Greenough explained that the planning board has reservations about signing a Form A because the board can’t condition a Form A. If there could be an agreement that the applicant could put it’s restrictions on the Form A.
• The planning board is looking for something more specific, even if it’s voluntary.
• Their questions were about perpetuity, access, and the potential impact on the ancient way.

**Linda Sibley** clarified that Commission can "not concur" with a referral based on commitments from the applicant.

**Chris Murphy** said the conversation would be relevant if the applicant were trying to push the limits of the Form A and the planning board’s rules and regulations.

**Linda Sibley** closed the public hearing.

### 3. MORNING GLORY FARM SBDIVISION: DRI 620 – DISCUSSION & DELIBERATION

**Commissioners present:** B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson

**Chris Murphy** moved, and it was duly seconded, to not accept the discretionary referral.

• **Chris Murphy** explained that the Planning Board’s questions have been answered. The proposal is not anything out of the ordinary and the Planning Board can handle it. If the project continues, the Commission could be involved at a later date.

• **Doug Sederholm** reiterated that the proposal is for the Form A division with the addition of the commitment of the applicant to, within two years, close the north access, subject to the conditions in the commitment. The traffic issue may have regional impact, but the commitment adequately addresses the traffic question. He feels that the Commissioners are looking at the proposal especially carefully, so that neither the Commission nor Mr. Atchear could be criticized for their review.

**A roll call vote was taken. In favor:** B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson. **Opposed:** None. **Abstentions:** None. **The motion passed.**

**Christina Brown** said that the questions that planning board had were good, and were answered.

**Linda Sibley** encouraged the planning board to bring questions/clarifications to the Commission.

### 4. WIND ENERGY LEGISLATION

**Commissioners present:** B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson, A. Woodruff

**Mark London** explained that the Wind Energy Facilities Siting Reform Act is in committee in the state House and Senate. It encourages commercial wind projects two megawatts or larger.

• The state’s Energy Facilities Siting Board could override any town decision on 2 megawatts or larger wind projects.
• The Commission and Cape Cod Commission are seeking to put in a provision that says if the commissions adopt a siting plan approved by the Department of Energy Resources, the EFSB could no longer override an MVC or CCC decision. The DOER would apparently accept standards that are specific to Martha’s Vineyard as long as the standards do not preclude development of wind facilities.
• The Martha’s Vineyard Commission is going to ask that a Commission representative be on the advisory group working on the state’s siting standards.

Peter Cabana said that he doesn’t believe that Martha’s Vineyard will have land-based wind turbines larger than 2 megawatts.

Linda Sibley said that Martha’s Vineyard should have representation on both advisory boards.

Jim Powell agreed that local level of concern and review needs to be enforced and given support.

Christina Brown asked that Commissioners who are interested in working on the question of Vineyard representation should get in touch with her.

5. OCEAN MANAGEMENT PLAN


Jo-Ann Taylor reported that there will be four public hearings on the draft Massachusetts Oceans Management Plan throughout Massachusetts during the week of September 14 - 17.
• She has requested that a meeting or hearing be scheduled on Martha’s Vineyard. It many not be a full public hearing meeting, but Islanders will be heard.
• She suggested putting the Martha’s Vineyard hearing off until September 21st, after the all-Island Seadmen’s meeting.
• She will be at the hearing in New Bedford.
• She has been talking to various groups about the Oceans Act but there hasn’t been a comprehensive look or discussion wider than a small group.
• She’s working on a Vineyard primer to outline the issues.
• A key proposal is to create two commercial Wind Energy Areas, both of which are located in Dukes County, namely south of Nomans Land and south of Cuttyhunk. It seems to make sense to keep the commercial spots limited to where they are, rather than expanding the commercial area.
• The draft Plan also proposes to allow community wind projects of up to ten turbines in each region which can go in the commercial Wind Energy Areas or in the Multi-Use Areas. The locations of the ten turbines will be determined by the regional planning agencies.
• What we need to focus on in our comments is holding the line, if that’s agreed to, because there will be a lot of pressure to expand commercial areas. It is also important to define what we want in terms of community benefit, which both the community and commercial projects must provide.
- The Commonwealth's overall goal is to produce energy and reduce dependence on fossil fuels, so it doesn't matter to the Commonwealth whether the projects are for profit or non-profit.
- The question is to look at what the Island would want to get out of having projects in its back yard. It makes sense to ask that community projects be the priority.
- Martha's Vineyard hopefully won't have electrons come on shore, directly from the turbines, with transmission facilities on the Island. Presumably the power would be cabled over to New Bedford.
- There is little doubt that there will be off-shore development somewhere, so it makes sense to cluster the development.
- The full Ocean Plan is available on the Ocean Plan website. Copies are available for Commissioners.

Peter Cabana read into the record the goals of the state to develop wind power and reduce reliance on fossil fuels. The area that is most prone to development is the area around Noman's Land. The action is going to be in off-shore wind and it will be developed with the goal of bringing the power onshore.
- Massachusetts generates most of its own energy which comes from coal and natural gas. Martha's Vineyard produces virtually none of its electricity.
- NStar is proposing to bring 1200 megawatts from Quebec through a direct current cable. Added to 6000 megawatts available from off-shore wind power, Massachusetts could be carbon free.
- Cape Light Compact has doubled its budget for helping people with energy conservation and efficiency.
- The demand for electricity will increase as we fuel cars from electricity.
- A problem is that average house size has gone from 900 sq. ft. to 2000 sq. ft.
- Off-shore wind is only one kind of climate-benign electricity.

Linda Sibley said that she has a policy problem in that the state says that communities should be developing wind turbines but they don't seem to be willing to say that people can't have large houses.

Jo-Ann Taylor confirmed that the commercial area off Noman's and Cuttyhunk is about 40 square miles.

Mark London said that all the State's commercial projects are in areas under the planning jurisdiction of the Martha's Vineyard Commission

Andrew Woodruff asked why we're not seeing more commercial locations. Jo-Ann Taylor showed the compatibility assessment for commercial wind, which includes bird sites, eel grass and high traffic areas. There was strong political pressure that excluding all the controversial areas would be too much.

Holly Stephenson asked about documenting and comparing long-tailed duck data from different areas.

Jo-Ann Taylor said that we're getting a realistic layer of data from commercial fishermen.
Chris Murphy said that, from his experience on the water, there are lots of long-tailed duck in Nantucket and on the mainland and there are not very many on Martha’s Vineyard. Documenting where fishermen are fishing is hard to get right, but they’re working on it. We’ll get the process stuck down our throats whether we like it or not.

Jim Powell said the fish data is from state and federal harvest off-load data from the Martha’s Vineyard Dukes County Fishermen’s Association. Our local organizations are doing a fabulous job of bringing up local issues. He wants the Commission’s role to be linked to empowering it in the regulatory process.

Holly Stephenson commented that the Elizabeth Islands are really important in this issue. Jo-Ann Taylor said she’s been in touch with the Selectmen there and needs to stay in touch.

Jo-Ann Taylor Under the draft Ocean Plan, it appears that the Commission would have regulatory authority over the commercial area.

Linda Sibley said the argument for limiting the commercial area is connected to any plan to bring transmission lines across the Island. We need to protect fishermen and the Island.

Jo-Ann Taylor showed a slide of the present cable infrastructure. There is no reason for electrons to go to the Island. The cables are underwater and would likely go ashore at New Bedford.

Andrew Woodruff asked what’s preventing the federal government from putting up their own turbines.

Jo-Ann Taylor said the draft plan suggests that the federal waters adjacent to the commercial area would be a good place for federal leases, but we don’t have control over federal projects. She will investigate the coordination between the state and federal plan.

Peter Cabana commented that the further off shore the turbines, the higher the cost of electricity.

The meeting adjourned at 10:35 p.m.

Chairman

Date

Clerk-Treasurer

Date