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Minutes of the Commission Meeting Held on May 2, 2019 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P Gail Barmakian (A-Oak Bluffs)	- Michael Kim (A-Governor; non-voting)
P Trip Barnes (E-Tisbury)	P Joan Malkin (A-Chilmark)
P Leon Brathwaite (A-County)	P Katherine Newman (A-Aquinnah)
- Christina Brown (E-Edgartown)	P Ben Robinson (A-Tisbury)
- Peter Connell (A-Governor; non-voting)	P Doug Sederholm (E-West Tisbury)
P Robert Doyle (E-Chilmark)	P Linda Sibley (E-West Tisbury)
P Josh Goldstein (E-Tisbury)	P Ernie Thomas (A-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Richard Toole (E-Oak Bluffs)
P James Joyce (A-Edgartown)	P James Vercruysse (E-Aquinnah)

Staff: Adam Turner (Executive Director), Sheri Caseau (Water Resources Planner), Christine Flynn (Economic Development and Affordable Housing Planner), Jo-Ann Taylor (Coastal Planner, DCPC Coordinator), Dan Doyle (Regional Planner).

Chairman Doug Sederholm called the meeting to order at 7:00 p.m.

1. EXECUTIVE DIRECTOR'S REPORT

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

Adam Turner presented the following:

- Two weeks ago Tisbury contacted the MVC regarding the possible demolition of the Mill house. The house is approximately 300 years old and there were Revolutionary War activities in it. The house was renovated over time throughout and into the 1950s. The question was posed what to do with it because it only had a certain amount that could be represented as historic. The building official was instructed not to do anything and to bring it to the MVC to review for historical significance. But the building was demolished. We have asked for a cease and desist and the builder has agreed. They have built the basement. More reports are forthcoming. We have pulled the field card and the house was built in 1750. The building official said he did not authorize the demolition.
 - **Joan Malkin** asked if the windmill is still there.
 - **Adam Turner** said the tower/mill part is still there. This is something we have to review.
 - **Linda Sibley** asked what the recourse is that the town and the MVC has if a permit was issued.
 - **Adam Turner** said right now to stop anything further, but the archaeology is gone. We don't know if it will be rebuilt to what it was. Perhaps try to replicate what was there. It is on the State register with MACRIS. This is an area where this continues to happen. It is

down the street from the Santander building. It was in the newspaper and he is receiving lots of calls on it.

- **Doug Sederholm** asked if we have any idea of what they will put up and is it in the same style.
- **Adam Turner** said we do have some idea. He showed an elevation of the house to the Commissioners.
- **Gail Barmakian** asked if the Town of Tisbury has taken a stance.
- **Adam Turner** said only to stop anything further.
- **Doug Sederholm** said we will find out what happened and take a stance and nothing will happen until we find out. We have to get the facts first.
- In terms of the Verizon Tower, When he went back to prepare the staff report we found that the public hearing had been closed in December 2018 and the written record closed on January 10, 2019. To take action we have to re-notice it and the hearing has to be reopened.
 - **Fred Hancock** said we had a Post Public LUPC meeting and we thought information had been provided to us but it had not. The Chairman of LUPC can determine if information has come to light he has the authority to reopen the meeting.
- We think it would be a good idea to have a mid-hearing LUPC for Meeting House Way so we can organize it. To look where it was and where it has gone. He recommends doing that on May 13, 2019.
 - **Doug Sederholm** said he thinks it is essential and to have a full LUPC without having a quorum so we can have a full discussion.
 - **Richard Toole** agreed with Doug Sederholm.

2. TOWN OF AQUINNAH DCPC-PUBLIC HEARING AND VOTE ON PROPOSED BOUNDARY AMENDMENT AND AMENDMENTS TO REGULATIONS

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

For the Applicant: Peter Temple, Sophia Welch

Doug Sederholm, Public Hearing Officer opened the Public Hearing and read the Public Hearing Notice. The proposal is to amend the coverage area of the Aquinnah DCPC. Section 13.2 Boundary Description; all lands and waters within the corporate bounds of the Town of Aquinnah except: the Indian Common Lands (generally known as the Cranberry Bogs, the Clay Cliffs and the Herring Creek) and Settlement Lands, the Designated Area for Large Scale Ground Mounted Solar Photovoltaic Installations, Town of Aquinnah Map 8, Lot 31.

2.1 Staff Report

Jo-Ann Taylor presented the following.

- As part of the 20th anniversary of the DCPC the Planning Board has been going over to see if any changes were needed.
- The MVC rules over this since it is a DCPC.
- There are seven Warrant Articles.
- The Planning Board proposes amendment to several parts of the regulations for the Town of Aquinnah District. The role of the MVC is to review the proposed amendments and determine conformance with the Goal and Guidelines for the District. The amendments then need a two thirds vote at Annual Town Meeting on May 14, 2019.

- The area nominated is now under consideration. We already excluded all of the Indian area common lands and the MVC never had authority over those lands and they do not have authority over the settlement lands.
- Based on the criteria the MVC is to decide on, she did not find any reason why it does not conform.
 - That appropriate exterior design, height and/or siting regulations be developed for any potential new structure proposed for construction within the District, to ensure that any and all new construction shall be consistent with the rural character of the Town of Aquinnah and shall not radically alter or interrupt the existing skyline of the Town as viewed from any public way including any public water body and including the lookout at the Gay Head Cliffs.
 - That the appropriate administration of exterior design, height and/or siting regulations, through a procedure to include site plan review, be developed; and that the site plan review procedure include clear and objective criteria for review.
- Article 7 addresses the landfill site and it was brought to the MVC in the course of the nomination.
- The timeline is;
 - The proposed amendments were received on February 27, 2019.
 - The nomination was made by the Aquinnah Planning Board, voted on March 13, 2019, received March 26, 2019.
 - The nomination was accepted for consideration on April 4, 2019. The MVC has 60 days to hold a public hearing and vote.
 - The Town has asked to be heard and voted prior to the May 14, 2019 Annual Town Meeting.
- Peter Temple did find a typo in Article 1 that needs a correction and he will address that.
- References include:
 - Nomination by Aquinnah Planning Board, voted March 13, 2019.
 - Decision of the Martha's Vineyard Commission Designating the Town of Aquinnah as a District of Critical Planning Concern, 1999, amended 2000.
 - Chapter 831 of the Acts of 1977 as amended.
 - Critical Planning District Qualifications, adopted by the Commission and approved on September 8, 1975 by the Secretary of Communities and Development.

Doug Sederholm said we are basically excluding the dump from the DCPC. Warrant Article 7 addresses solar at the dump so we don't have to address that. **Peter Temple** said he is correct. It is not in the town wide DCPC so you do not need to approve that just approve the change in the boundary.

Linda Sibley said is the proposed community solar project large enough to trigger a DRI. **Fred Hancock** said the DCPC would not supersede the DRI Checklist item. **Gail Barmakian** said it does say as of right large scale photovoltaic solar will be subject to a town approval so it needs an application/permit.

2.2 Applicants' Presentation

Peter Temple presented the following.

- He introduced Sophia Welch who is the Planning Board Assistant. When he came onto the Planning Board as Chairman the Planning Board did not have an assistant. When I step down Sophia Welch will be the primary liaison to the MVC.
- This is the 20th anniversary of the DCPC and it was created due to a trophy house that was built in the town.

- We took the powers that we had in the Moshup Trail District to town wide; 18 feet in height in any structure, a special permit is required for any structure, sighting guidelines including materials used, anti-trophy house bylaw, special permit over 2,000 sf footprint, restrictive clearing and topping of trees, archaeology review.
- You cannot clear or build in town without a permit.
- The review committee is actually a super committee as it includes the Planning Board and representatives from ConCom and the Selectmen.
- It slows down and complicates the approval process for people who want to get things done and people feel frustrated jumping through hoops.
- Over the 20 years we have identified things to be improved and modified and there are quite a few projects that don't need the full review.
- This is a first round of changes.
- We are not asking you to change the overall guidelines and goals of the district and the overall standards of review of the district.
- For zoning determinations the approval of the amendment will shorten the process.
 - **Sophia Welch** said over the last six years there were 10-11 zoning determinations that had been approved such as roof mounted solar. Of the 72 decisions only 11 were with zoning determinations.
- Warrant Article 1: simplification of the review process including expansion of a Zoning Determination to identify projects that have no negative impact, to determine whether a site is open and/or highly visible and to assess the need for a Project Notification Form to Mass Historic for a perc test.
 - Zoning Determinations to increase the number of projects that can be approved by a Zoning Determination and without the need for a Special Permit.
 - To simplify the implementation of the Aquinnah Zoning Bylaws and speed up the approval process for projects that have no negative impact on the resources these By-laws seek to protect.
 - A Zoning Determination cannot be used to approve a new single family residence, new structures that will be visible in open or highly visible areas or accessory structures or additions, including decks with a footprint greater than 170 sf. Or the siting of generators or ground mounted solar panels.
 - **Sophia Welch** said in 2018 there were only 11 but it would have doubled if it was for smaller footprints such as sheds.
 - If a Zoning Determination is used to permit a perc test, well or other small excavation in the presence of a qualified archaeological observer as soon as the excavation is complete the engineer or person in charge will complete, sign and file an Archeological Findings Form, which has also been signed by the qualified archeological observer with the Planning Board Plan Review Committee (PBPRC).
 - Speed up the approval process for many projects by creating a Zoning Administrator position that the Committee can delegate some of its responsibilities.
 - The Planning Board Plan Review Committee may appoint a Zoning Administrator to serve at its pleasure subject to confirmation by the Board of Selectmen.
 - The scope of authority delegated shall not exceed that explicitly authorized by vote of Town Meeting.
 - The PBPRC may not delegate the following powers and duties:
 - To permit any development within two hundred feet of wetlands, waterbodies, beaches, dunes or the crest of bluffs over 15 feet high.
 - To permit any development in the Marine Commercial District.

- To permit any development in the Aquinnah Circle area.
- To permit new single family residences including tear downs, partial tear downs, reconstructions, extensions or additions greater than 179 sf of footprint, affordable housing, multifamily housing, accessory apartments and cluster zoning.
- The PBPRC may delegate its powers and duties to make Zoning Determinations that meet the requirements of subsections 1, 2 and 3. Zoning Determinations issued under this provision must be made at a properly noticed public meeting and a written decision must be filed with the Town Clerk within one week and posted at Town Hall and on the PBPRC website for 10 days following its filing with the Town Clerk.
- The PBPRC may delegate its powers and duties to make Zoning Determinations for any and all projects that meet the requirements of subsections 1 and 2 but that may be detrimental to the interest of abutters.
 - **Doug Sederholm** said how do you know if it will bother the abutter.
 - **Peter Temple** said we know. We do not get many letters.
 - **Ben Robinson** said did you memorialize those conditions that abutters had issues with.
 - **Peter Temple** said we have a policy.
- The PBPRC may also delegate its powers and duties to approve modifications to Special Permits and the approved plans (as often happens during construction) if the modifications sought comply with all dimensional requirements of the Zoning Bylaw and are de minimis or not significant enough to require a fully noticed public hearing.
 - **Sophia Welch** said from the 2018 figures, of the 14 approved 11 were not significant and could have been done by the Zoning Administrator rather than the Planning Board such as landscape reviews.
- Warrant Article 2: to make rooftop solar as of right and to simplify review for other generation facilities. To reduce the number of facilities requiring review by the PBPRC.
 - This is designed to simplify the process and the amount of hearings.
 - Make roof top mounted solar panels as of right and simplify approval of other solar and electric generators by incorporating Section 2.9 into the Aquinnah DCPC by adding an exact copy.
 - Roof mounted solar panels that don't meet these requirements are allowed by Zoning Determination.
 - Large scale ground mounted solar photovoltaic installations are allowed as of right but must meet the requirements of Article 16.
 - **Sophia Welch** said 32 of the 72 decisions done in 2018 would have been faster for the applicant and not heard by the committee with the bylaw changes. It would have reduced a significant number of issues brought to the Planning Board.
 - **Peter Temple** said that the Zoning Administrator would logically be the Building Inspector but Leonard Jason is unlikely to do this due to the workload. It could also be the Planning Board Administrator. Sophia Welch will be going on maternity leave this summer so he will act as Zoning Administrator until Sophia Welch returns and he will work out the bugs.
 - Extend the amount of time before a Special Permit expires from one year to two (the legal maximum).

- Warrant Article 3: to clarify the meaning of open/highly visible. Replace the phrase “open/highly visible” with the phrase “open and/or highly visible”.
 - Add the following definition; Highly Visible Area; An area of land characterized by large shrubs, trees or other vegetation where a structure would be completely or partially visible from lands and waters open to the public and be recognizable as a manmade structure and potentially disrupt or distract and/or detract from the beauty of the natural landscape unless mitigated by controlling the siting, mass, height, amount of glazing, colors and materials of the structure or by screening it with vegetation to make it blend into or otherwise eliminate or minimize its visual prominence in the natural view.
 - This clarifies what open and highly visible means.
- Warrant Article 4: to amend the maximum height in favor of energy efficient design.
- Warrant Article 5: update the Moshup Trail section to allow new energy efficient building materials and construction techniques. Structures that are visible to the public may by Special Permit from the PBPRC use other materials if they have essentially the same impact as natural wood shingles on minimizing the visual prominence of the structure.
- Warrant Article 6: to amend Site Review section to read correctly and to address existing typographical errors to rearrange its segments so it read correctly.
- Warrant Article 7: to designate the landfill for construction of ground mounted solar generation facilities as of right, a qualification for Green Communities grant funding. To amend the coverage area of the Aquinnah DCPC for Section 13.2-1.
 - **Jo-Ann Taylor** said this has to do with the boundary change that would exclude the landfill from the District. On April 4, 2019 the MVC voted to accept the boundary amendment nomination for consideration.

Peter Temple noted the typo on Warrant Article 1 that will be corrected. On Section C4. The language should be “... during the 30-day appeal process, following its filing with the Town Clerk...”. The word and is to be deleted.

Doug Sederholm, Public Hearing Officer closed the Public Hearing. There was no testimony from Public Officials or from the Public.

James Vercruysse moved and it was duly seconded to amend the boundary of the Town of Aquinnah DCPC to exclude Map 8 Lot 31 as noticed.

- **Doug Sederholm** asked if that is because it is a logical planning area that is being excluded and the dimensions are not recognizable.

James Vercruysse amended his motion and it was duly seconded to find that the amended regulations as proposed and corrected conform to the Goals and Guidelines of the designation decision as stated here.

- **Trip Barnes** said he is not comfortable saying yes. It is the first time he has heard of it and it is a complicated change. But if nobody cares he will go for it.
- **Doug Sederholm** said it is an appropriate change and they excluded the landfill so they can put a solar array there and become a Green Community. It sounds to him that they have thought it through very thoroughly.
- **James Joyce** said the Planning Board wants it so let them have what they want.

Roll call vote. In favor: G. Barmakian, T. Barnes, L. Brathwaite, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson. D. Sederholm, L. Sibley, E. Thomas, R. Toole, James Vercruysse. Opposed: none. Abstentions: none. The motion passed.

James Vercruysse said this is a well received and much needed process for the DCPC and the Planning Board has listened to all of the concerns to streamline the process.

Doug Sederholm applauds the Town of Aquinnah and Peter Temple for their much thought out review to preserve and protect the DCPC.

Doug Sederholm, Chairman recessed the meeting at 8:05 p.m. and reconvened at 8:10 p.m.

3. VINEYARD WIND UNDERSEA CABLE-EDGARTOWN DRI 688 DELIBERATION AND DECISION

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

Doug Sederholm, Chairman said this is about the burying of the cables and not about the wind turbines. The applicant will be burying two cables 5 to 8 feet deep using hydro plowing. They have two possible routes but will use only one. They will also have to armor some of the area. The closet point is 1 to 2 miles from Edgartown.

3.1 Offers

Doug Sederholm read the offer; "Vineyard Wind will provide the Commission with any final federal and state environmental approvals for the Project that apply to the waters of Martha's Vineyard, including the Record of Decision issued by Bureau of Ocean Energy Management (BOEM). Vineyard Wind will also provide a copy of the Federal Final Environmental Impact Statement (FEIS) issued by BOEM. Vineyard Wind will make itself available to MVC staff to discuss the approvals or the FEIS after they are issued."

Gail Barmakian said isn't this public record. **Doug Sederholm** said it is but they have also submitted it here.

Doug Sederholm read a new offer that was submitted. "Vineyard Wind agrees to comply with the January 22, 2019 Agreement, as it may be amended pursuant to its terms, with the National Wildlife Federation, Natural Resources Defense Council, and Conservation Law Foundation regarding protections for the North Atlantic right whale, as the Agreement pertains to the jurisdictional waters of the Martha's Vineyard Commission."

Gail Barmakian said who decides significant changes and is that solely by the Commission.

Adam Turner said a cable overview from Vineyard Wind has been handed out to the Commissioners and it includes the project description and the map of the area. It lists all of the State, Federal and Regional agencies and all permits required. He has also handed out the minutes of the public hearing. Benefits and Detriments were looked at by LUPC and amended to reflect their comments. This is an important decision and we support the development of wind energy and it is part of the Island Plan. We support the development of the Vineyard wind farm. We do not have confidence in BOEM and they have relaxed restrictions. We are the ones and the agency to protect the Island and we need to look at the offers and the conditions. We might approve but need to be sure we are in the loop as it goes through final approvals. Until permitting is done we should put in monitoring and think about what our responsibilities are.

Rachel Pachter submitted an additional offer when the Commissioners were discussing conditions and monitoring species.

Doug Sederholm read the new offer: The applicant will undertake Benthic Habitat Monitoring Program to document any potential disturbance to and subsequent recovery of marine habitat and benthic communities following construction of the project. The final plan which the applicant anticipates will be memorialized in the 401 Water Quality Certificate that will be issued by the Massachusetts Department of Environmental Protection following review of the plan by the Massachusetts Department of Marine Fisheries, shall be provided to the Commission.

Josh Goldstein moved and it was duly seconded to accept the offer. Voice vote. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.

3.2 Conditions

Linda Sibley moved and it was duly seconded to adopt as a condition the language of the proposed condition.

- **Doug Sederholm** read the Proposed Condition.
“Require that all reports referred to BOEM and required by BOEM and NOAA for permitting will be submitted or presented to the Commission including, but not limited to those listed below.
 - Changes to the seafloor morphology and structure;
 - Changes in abundance, diversity, and cover of species, with special focus on those that are ecologically or anthropogenically important;
 - Changes in the infaunal density, diversity and community structure.
 - Reports of benthic Habitat Monitoring and required mitigation, if any.
 - Effect on eelgrass during installation.

The Commission reserves the right to reopen and/or impose additional (reasonable) conditions and amend existing ones designed to mitigate any impact (minor or greater).”

Linda Sibley amended the motion and it was duly seconded to remove “reasonable” and “minor or greater”.

- **James Joyce** said he would like clarification on the bullet points of the proposed condition.
- **Adam Turner** said it has to do with changes to the sea floor structure and the abundance of species. Benthic Habitat is plants on the bottom such as eelgrass.
- **Leon Brathwaite** asked what morphology is.
- **Adam Turner** said we can take that out but it is about change.
- **Gail Barmakian** suggested revising the condition so that the BOEM impact statement will be included in their report.

Linda Sibley agreed to amend the motion and it was duly seconded that the BOEM impact statement be included in the applicant’s report.

- **Joan Malkin** said the two permitting authorities may not be the only ones and she suggested revising the language to; required by BOEM or NOAA or any other permitting authorities.

Linda Sibley amended the motion and it was duly seconded to revise to all permitting authorities.

- **Joan Malkin** said she needs clarification about the language we reserve the right to reopen. We can’t impose conditions without reopening the hearing, are we reopening the hearing.
- **Fred Hancock** said after we make a decision we can’t reopen the hearing. We can find them not in compliance with the decision.
- **Joan Malkin** suggested language such as; that if evidence comes back that is inconsistent with their proposal and what their testimony said that in fact there are impacts that constitute a change and we then tell them they have to come back to us with a change since it is a modification.
- **Gail Barmakian** said we have to be sure there is an impact even if speculative that warrants a material change.
- **Linda Sibley** said she does not agree. They said there would be no impact. They may be minimal so that they will heal themselves.
- **James Vercruysse** said there are characterizations of impacts in their proposal, three or four of them that they outlined.
- **Gail Barmakian** said but they are speculative.
- **Linda Sibley** said if we look at the reports and we judge that this constitutes a substantial change we can require them to come back for a modification. It will be in the decision.

- **Joan Malkin** said she thinks there is a procedural problem that we have not quite cleared here. For instance on electromagnetic fields and electro energy fields she cannot remember if they said minimal or no impact.
- **Adam Turner** said they said no impact.
- **Doug Sederholm** said if evidence is submitted to us going forward and it is greater than the impacts stated in their presentation and we determine those impacts are substantial then we reserve the right to a modification review.
- **Joan Malkin** suggested to require a modification.
- **Fred Hancock** said we should have that language rather than reopen.
- **Joan Malkin** suggested language; The Commission reserves the right to require the applicant to file a modification should the results and reports indicate that any of the matters which they have reported have provided an impact greater than their proposal.
- **Linda Sibley** said it should be required by BOEM, NOAA or other permitting agencies.
- **Doug Sederholm** said the language should be "and other permitting agencies".
- **Joan Malkin** suggested "or any other permitting agencies".
- **Doug Sederholm** said it should be shall be submitted to the MVC.
- **Joan Malkin** read the suggested revised language: Including but not limited to those reports submitted the Commission reserves the right to require the applicant to seek modification if the impacts reported are greater than those represented in the application and the Commission reserves the right to determine whether or not those impacts are sufficiently substantial to require a modification of conditions.
- **Doug Sederholm** said we can determine if it is a substantial impact requiring further conditions.

Doug Sederholm read the revised Proposed Condition which Linda Sibley agreed to amend and it was duly seconded;

Require that all reports referred to BOEM and required by BOEM or NOAA and any other permitting authority shall be submitted to the Commission including but not limited to those listed below.

- ***Changes to the seafloor morphology and structure***
- ***Changes in abundance in abundance diversity and cover of species with special focus on those that are ecologically or antropogenically important***
- ***Changes in the infaunal density, diversity ad community structure***
- ***Reports of Benthic Habitat Monitoring and required mitigation if any***
- ***Effect on eelgrass during installation***

The Commission reserves the right to require the applicant to seek modification if the impacts reported are greater than those represented in the application and the Commission reserves the right to determine if those impacts are greater to require a modification.

- **James Joyce** said do they monitor for a number of years and how do we find out.
- **Doug Sederholm** said we will find out by the reports that other agencies require.
- **Gail Barmakian** said in their presentation there are tons of reports they have to provide.
- **James Joyce** said it was presented that conch, whelks, etc. are afraid to pass the cable/barrier so how do we find out.
- **Joan Malkin** said we don't know which species they will be required to monitor. They might include whelk.
- **Fred Hancock** said it is better not to specify species.
- **Doug Sederholm** said it covers it all.
- **Robert Doyle** said if specified we might miss something.

Voice vote. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.

There was a discussion about monitoring species.

- **Linda Sibley** suggested that should those agencies not require monitoring of the species affected that the MVC requires it.
- **Joan Malkin** said for species that use that general area as habitat.
- **Gail Barmakian** said it says they use their best efforts to not disturb eelgrass when laying the cable but she would like mapping to show what eelgrass is destroyed. She is concerned about the destruction of the eelgrass.
- **Adam Turner** asked what species are they talking about, the species in the FEIS reports.
- **Linda Sibley** said the ones the applicant testified about.
- **Adam Turner** asked the applicant; the species you claim you will watch over time are you monitoring those species.
- **Rachel Pachter** said yes and they thought this may come up so they have an offer to submit. (see Section 3.3.1 Offers)
- **Joan Malkin** said the Division of Marine Fisheries suggested the channel is used by a long list of fish and we don't have a final requirement from them of what they will monitor, it says benthic.
- **Linda Sibley** said benthic is the bottom and the problem with movable species such as fish is with the change in the water temperature. There may be significant changes in those species that has nothing to do with this cable.
- **Gail Barmakian** said she has a concern of what is on the ground and being disturbed.
- **Doug Sederholm** said we voted on that and they have to report and tell us if the impacts are different.

There was a discussion about decommissioning.

- **Gail Barmakian** said she is assuming the final approvals will include the decommissioning and can we incorporate that.
- **Josh Goldstein** said that is already in there.
- **Ben Robinson** said their testimony was at the time of decommissioning it was for them to decide what was more detrimental to remove or replace.
- **Leon Brathwaite** said it is 20 years from now and the decision may be to leave there and not report at that time.
- **Linda Sibley** said they will report that and the MVC will decide if that requires a modification.
- **Joan Malkin** said how could they, they are doing what they think is best.
- **Doug Sederholm** said the applicant has to tell us.

Gail Barmakian moved and it was duly seconded should it be determined and the applicant decides to remove the cable from the ocean floor they need to come to the Commission with their reason to remove.

- **Fred Hancock** said why would this possibly come up. Depowering the cable yes but remove from the sea floor why would they. It would disrupt the sea floor and cost lots of money. They are not doing it for scrap copper.
- **Gail Barmakian** said it is left open in the testimony and BOEM will decide. It is an open question so it doesn't hurt to have it in.
- **Leon Brathwaite** said they may not take it up but sell the salvage rights.

Roll call vote. In Favor: 15. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm, Chairman said we have two conditions and three offers.

Gail Barmakian moved and it was duly seconded that during the installation of the cable if there is any destruction of the eelgrass it needs to be mapped and reported. Voice vote. In favor: 2. Opposed: 13. Abstentions: 0. The motion did not pass.

Leon Brathwaite moved and it was duly seconded to approve the project with the conditions and offers.

3.3 Benefits and Detriments

Wastewater and Groundwater

Not Applicable

Open Space, Natural and Community Habitat

Benefits:

- Reduction in fossil fuels ultimately protects marine species and other habitats by reducing global warming.
 - **Richard Toole** said at ocean acidification.
 - **Fred Hancock** said at LUPC we wanted to say this enables the reduction of fossil fuels.
- Industrial wind contributes less industrial waste and other pollutants than traditional fossil fuels.
- The project is a testimonial to an island community that values its natural resources and represents a net positive when considering the externalities of incumbent, high polluting fossil fuels.

Detriments:

- Construction, installation and operations are expected to have minor to moderate impacts on commercial fisheries and for recreational fishing.
- The area is mapped as NHESP Habitat for State Listed Rare Species and the cable wrap around and very close to Core Habitat of the Northern Right Whale. They will traverse several areas mapped for shellfish ad will go through habitat for Whelk, Blue Mussel and Sea Clam. The latest NOAA correspondence refers to the fact that more work needs to be done in terms of protecting marine species from the impacts of the overall wind generation project.
 - **Gail Barmakian** said we discouraged the public to comment on wind power.
 - **Linda Sibley** said we only have jurisdiction over the cable for this application.

Night Lighting, Noise

Benefits:

- None

Detriments:

- During the installation subsurface noise that could negatively affect aquatic life. Potential impact to the most vulnerable species if the Northern Right Whale is mitigated by the January 22, 2019 Vineyard Wind-NGO Agreement.
 - **Trip Barnes** said during installation it could not only affect aquatic life it could affect our fisheries.
 - **Doug Sederholm** said are you talking about noise created by the cable.
 - **Trip Barnes** said he is and the magnetic fields.
 - **Ben Robinson** said they have the agreement how the right whale will be protected.
 - **Trip Barnes** said he is worried about everything that is living in the water during installation and when the cables are operational under the water.
 - **Doug Sederholm** said there was testimony about what the affect would be. The impact from the electricity would be nonexistent or minimal to aquatic life.
 - **Joan Malkin** said there is other evidence in the record that there is not enough study to know if it is detrimental.

- **Doug Sederholm** said the applicant has made an offer to monitor the benthic environment and if reported to us that they are wrong we can address. A lot of this is not known.

Traffic and Transportation

Benefits:

- **Ben Robinson** said with moving to all electric it is moving traffic off the road for deliveries. It facilitates less trucking as fossil fuels may not need to be shipped to the Island.

Detriments:

- Temporary boat traffic during the cable installation will pose a risk to the Northern Right Whale. This impact is mitigated by the offer of the January 22, 2019 Vineyard Wind-NGO Agreement which commits Vineyard Wind to protective measures including passive acoustic monitoring.

Scenic Monitoring

Not Applicable

Character and Identity

Not Applicable

Impact on Abutters

Not Applicable

Low and Moderate Income Housing

Not Applicable

Impact on Services and Burden on Taxpayers

Benefits:

- Once complete the cable will enable 30-20 full time wind technician jobs to islanders given the applicant's desire to locate their Operations and Maintenance facility to Vineyard Haven along with an island residency requirement for technicians.
 - **Adam Turner** said this should be deleted as jobs have not been offered and it is speculative.

Detriments:

- None

Use Efficiently or Unduly Burden Other Public Facilities

Not Applicable

Consistency with/and Ability to Achieve Town, Regional, State Plans and Objectives

Benefits:

- The project enables 800 MW of electricity. This will leave the Commonwealth significantly better positioned to meet its Clean Energy Standard of 80% of total supply by 2050. The project is consistent with and forwards the Commission's policy on wind energy.
- The project is consistent with the Martha's Vineyard Commission's Wind Energy Plan for Dukes County, 2012.
 - **Fred Hancock** said it is consistent with the Island Plan.
- The project is regulated by federal (BOEM, NOAA), State and local reviews. It is heavily regulated.

Detriments:

- None

Conforms to Zoning

Not Applicable

Conforms to DCPC Regulations

Note: The project lies outside of the Coastal District DCPC and Edgartown's Surface Water Zoning District. The project lies outside the Island Wind District which includes air space exceeding 220 feet above mean sea level.

Summary

The project is for two 220 kw export cables that will be trenched beneath the sea floor including through some area of marine habitat. At their closest they will pass Edgartown just over a mile from the shore. Areas of intense tidal currents will necessitate the use of hard armoring to ensure the cables remain intact, these measures should amount to no more than nine total acres. This project signifies the type of industry shift to renewable energy that is critical if we expect to decouple consumption, population and economic growth from fossil fuel emissions.

Linda Sibley said the document "Benefits and Detriments - Vineyard Wind LUPC approved on 4/22/2109" says that the motion made at LUPC was "to approve the proposal" and it should be "to recommend to approve the proposal".

Roll call vote. In favor: G. Barmakian, L. Brathwaite, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse. Opposed: none. Abstentions: T. Barnes. The motion passed.

4. NEW BUSINESS

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

James Joyce asked if the new owner of the Clarion Hotel was contacted about the foundation that went in on the adjacent property. It is about 150 ft x 60 ft. **Adam Turner** said they have not. **Doug Sederholm** said we would have to assume they got a building permit and we will look into it to find out what it is.

The meeting was adjourned at 9:00 p.m.

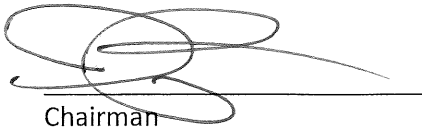
DOCUMENTS REFERRED TO DURING THE MEETING

- Town of Aquinnah DCPC (District of Critical Planning Concern) Proposed Boundary Amendment and Amendments to Regulations, May 2, 2019, Staff notes, April 26, 2019 Jo-Ann Taylor, DCPC Coordinator
- Benefits and Detriments - Vineyard Wind, LUOC approved on 4/22/2019
- DRI 688 Vineyard Wind Offers, Mat 1, 2019 and April 25, 2019
- Proposed Condition – Vineyard Wind
- Vineyard Wind Minutes: February 21 & March 21, 2019
- Environmental Permits, Reviews, and Approvals for the Project (Vineyard Wind)
- DRI 688 Vineyard Wind Undersea Cable Overview

Chairman

Date

- 571 • Town of Aquinnah DCPC (District of Critical Planning Concern) Proposed Boundary Amendment
572 and Amendments to Regulations, May 2, 2019, Staff notes, April 26, 2019 Jo-Ann Taylor, DCPC
573 Coordinator
574 • Benefits and Detriments - Vineyard Wind, LUOC approved on 4/22/2019
575 • DRI 688 Vineyard Wind Offers, Mat 1, 2019 and April 25, 2019
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9-19-19

Date

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588 Clerk-Treasurer

19 SEP 2019

Date