Minutes of the Meeting of the Martha’s Vineyard Commission, December 17, 2007

1. AQUINNAH ENERGY DISTRICT – DISCUSSION & VOTE

Doug Sederholm said that a letter had been received from the Chair of the Aquinnah Board of Selectmen indicating that the Board, with all Selectmen present, unanimously voted to support the Energy DCPC building moratorium.

Doug Sederholm explained that Section 8 of Chapter 831 lays out how a DCPC is created.

- The Commission needs to:
  - Specify why the area is of critical concern to the region,
  - Identify problems associated with uncontrolled or inappropriate development,
  - Specify advantages to be gained in the development of the area in a controlled manner,
  - Then, if approved, specify broad guidelines.

- The DCPC guidelines are:
  A. Development of the District will not result in undue water, air, land, or noise pollution.
B. The existing water supply of the District will not be unreasonably burdened in any development.
C. Development of the District will not result in increased beach erosion or damage to littoral or wetlands environment.
D. Development of the District will not result in undue harm to cultural, economic, or historic values.

- Given that the Commission is talking about energy efficiency and controlled development of renewable energy, Section D is the one to focus on.

Richard Toole reported on the results of the ad hoc committee that met to discuss the merits of the nomination and digest what was heard at the public meeting.

- Some Commissioners were worried about putting a moratorium on windmills.
- They discussed options, the present DCPC regulations, and whether the existing DCPC allowed turbines. They came to the conclusion that they did not.
- The Committee voted unanimously to recommend designation of the DCPC as presented. They felt that the guidelines will need to be reworked.

Doug Sederholm explained that the draft goals and guidelines and draft decision were handed out to facilitate discussion and not to foreordain the decision.

Paul Strauss moved, and it was duly seconded, to designate the Aquinnah Energy District as a DCPC as presented.

Mimi Davisson asked whether designating the DCPC would allow Aquinnah to be more innovative and creative than they could be within their by-laws. She suggested that a statement that the Commission wants Aquinnah to be innovative and creative be included in the guidelines.

Jim Powell suggested a timeline for submission of regulations because of the priority of a renewable energy policy.

Doug Sederholm clarified, with Jo-Ann Taylor, that Aquinnah had said they want to have something by their town meeting.

- The law says the moratorium ends after a year. If the regulations aren’t completed within a year, Aquinnah could nominate it again and the Commission would have to agree by a 2/3 vote to hear it again. Aquinnah has to present regulations to the Commission and vote at town meeting within a year.
- As a practical matter, the only structure that the moratorium prevents can’t be built anyway under the present regulations. If Aquinnah were able to adopt only windmill regulations and not energy conservation by the time the moratorium ends, it could later develop additional regulations and present them for nomination of a modification.

Linda Sibley said staff did a fabulous job of incorporating all the ideas and writing a set of guidelines that give Aquinnah maximum flexibility procedurally while still being clear about what the goals are. The goals try to frame the issue for Aquinnah to facilitate the use of renewable energy while maintaining the beauty of the land.
The draft goals are:

- Reduce the overall consumption of fossil fuels by improving efficiencies and reducing wasteful practices, especially by using building construction and renovation practices that optimize energy efficiency.
- Facilitate local generation of energy from renewable sources such as wind, solar, and geothermal, by allowing various technologies to be utilized while minimizing negative impacts on residents and visitors, on rural character, and on natural resources.

The draft guidelines are the following:

**3.1 Responsible Use of Energy**

A. New Construction, Additions, and Major Renovation: Establish measures to ensure that any new construction or substantial improvement, including accessory [definition of “accessory” will be added] - the use or maintenance of which will consume energy from any source - minimizes the use of energy from fossil fuels. This might involve the use of energy targets or allotments per unit of measure (e.g. by property, by number of buildings, by building size, by type of use, etc.).

This can be achieved through a combination of measures:

- Energy Efficiency Measures – including building location, siting, construction and design;
- Renewable Energy generation – especially if an adequate reduction cannot be achieved through efficiency measures alone and when the impact on the resources identified in the Town of Aquinnah DCPC [such as public viewsheds] are minimized;
- Offsets – After all feasible on-site energy efficiency techniques have been used, mitigating a portion of the energy use off site through means such as the reduction of energy consumption elsewhere within Aquinnah, either directly or through a financial contribution to a fund or other mechanism used to pay for such offset mitigation.

Ensure that measures with little negative impact (e.g. reducing the size of a house, incorporating energy efficiency measures, using renewable generation techniques with minimal environmental impacts) are used before consideration is given to those techniques that have greater impact on views, noise, or other considerations outlined in section 3.2.

Consider tailoring the measures to the size of the building, such as the threshold in the Town of Aquinnah DCPC. Consider making certain provisions, particularly for smaller houses, subject to the availability of a low or no-cost loan program for energy efficiency that allows for repayment over the period of energy savings payback.

B. Existing Buildings: Consider implementation of measures dealing with existing buildings leading to improvement of energy efficiency and/or use of renewable energy sources.

C. Other Consumption of Fossil Fuels: Consider implementation of measures to reduce the use of fossil fuels in transportation and in other activities and operations.

**3.2 Renewable Energy-Generation Facilities**

D. Reasonable Development of Facilities: Identify the need for and provide for the reasonable development of renewable energy from a broad variety of public and private sources compatible with the other guidelines.
Given the exceptional wind resources in Aquinnah, consider utility-scale generation facilities to serve not only the needs within the town, but also the possibility of supplying energy to other parts of the Island. Identify potential locations for utility-scale facilities and consider measures to avoid compromising the possibility of their future development.

E. Safety: Identify risks and provide for siting and installation of facilities in order to ensure safety of inhabitants, visitors, and property. These shall consider, among other things, ice throw and possible collapse of wind turbines, and shall include the provision of adequate setbacks between wind turbines of various heights and other activities.

F. Noise: Identify potential impacts and provide for siting and installation of facilities to minimize the impacts of noise emanating from their operation.

G. Maintenance and Decommissioning: Include measures to ensure the adequate maintenance of facilities as well as the decommissioning should they no longer be needed. This could include the provision of a bond or other mechanism to ensure that funds are available.

H. Views and Vistas: Identify significant public views and vistas, prioritizing those of greatest public importance, public use, and visibility. (For example, these could include, in general order of priority: the National Historic Landmark of the Gay Head Cliffs; the Gay Head Lighthouse; views of the water from roads close to the ocean or ponds such as Moshup Trail, parts of State Road, and Lobsterville Road; general views from public roads including Vineyard roads beyond Aquinnah boundaries; views from public beaches, and views of Aquinnah from any public water body.) Provide criteria for reasonable protection of these views and vistas, such as siting to minimize the visual impact on public viewsheds, as well considering use of solar and geo-thermal instead of wind turbines in public viewsheds.

I. Public Spaces: Identify the significant public spaces in Aquinnah and minimize the impact of new renewable energy facilities – including ancillary equipment and related access – on the space and its use (such as the Gay Head Cliffs, the Lookout, and adjacent public spaces; public beaches, public or non-profit conservation land). Consider how energy-generation facilities may help educate the public about renewable energy generation.

J. Natural Environment: Consider the impact of facilities on wetlands, wildlife habitat, and other natural resources and provide any necessary measures to mitigate the impact.

K. Administration Procedure: Provide clear definitions of different types of facilities; for wind turbines, this could include scale (e.g. small, medium, and utility), location (off-shore or on land), use (commercial or non-commercial), and ownership (public or private). Prepare a map that indicates what types and scale of facilities would be considered in various locations. Include an appropriate administration of regulations that include clear and objective criteria for project review, through a procedure to include Site Plan Review in order to determine the best possible siting of facilities. The Commission recommends – when practical – administration in conjunction with the regulations for the existing Town of Aquinnah DCPC.


M. Relation to the Town of Aquinnah DCPC: Integrate and balance the goals of the Energy DCPC with the goals of the existing Town of Aquinnah DCPC. Consider how to ensure that energy efficiency measures are used as first priority, before consideration is given to the use of energy-generation facilities that may impact the resources identified in the Town of Aquinnah DCPC. The regulations and criteria for project review should ensure that the degree to which the goals of the Town of Aquinnah DCPC are not met, is commensurate with the public benefit of the
proposed facility, based on criteria such as its visibility, the amount of energy produced, and the type of facility. Consider proposing modifications to the Town of Aquinnah DCPC, for the consideration of the Martha's Vineyard Commission.

Jim Powell said one of the benefits and the beauty of the draft is that it is focused on the needs of Aquinnah first and not on any developer. The goals and guidelines focus on responsible use of energy: The emphasis is on fully developing energy efficiency before looking at renewable energy.

Commissioners discussed the sections on Renewable Energy Generation Facilities, Views, Cultural Impacts, public spaces, natural environment and Administration. It was agreed that cultural and historic values sections would have similar language.

Paul Strauss said this includes encouraging the town to use initiative and seek options as they develop regulations.

Mimi Davisson suggested including language to provide for on-going evaluation of performance and technology and provide for periodic review and revision of DCPC regulations. Reevaluate technology and what has been installed. Commissioners discussed the criteria on which to base whether the technology is working, especially if other values are being compromised.

Mimi Davisson asked about decommissioning and removal. If the facility isn’t working 90% of the time and it compromises the viewscape, there should be the ability to require removal. Jim Athearn suggested including language that the Town should consider including provisions for decommissioning and removal. Commissioners agreed.

Susan Shea expressed concern with including off-shore. It was clarified that the Town would be defining ‘off-shore’ and then determining regulations for off-shore turbines.

Jo-Ann Taylor said the regulations need to come from the town and be approved from the town. Staff can help but should keep a low profile.

Christina Brown suggested, in Section L, Procedure, that the sentence should read: “The Town should provide clear definitions of different types of renewable energy. For wind turbines, this could include . . .”

There was a discussion of incentives:
- Mimi Davisson suggested that Aquinnah consider developing incentives as well as regulations.
- Jo-Ann Taylor said she felt incentives could be included.
- Jim Athearn said incentives shouldn’t bargain off setbacks and density.
- Linda Sibley said that the guidelines could encourage incentives. The DCPC process isn’t designed to create incentives but they are consistent with the regulations.
- Doug Sederholm said the point of DCPCs is to protect the resources of the Island, including values. Renewable energy is on the edge but it’s within the legal scope.
There was a discussion of technical assistance.

- **Mimi Davisson** asked whether Commission staff could make a commitment to provide assistance to Aquinnah.
- **Jo-Ann Taylor** said Aquinnah would have to ask for assistance.
- **Mimi Davisson** asked whether Aquinnah’s working committee has the expertise to develop the regulations.
- **Peter Cabana** suggested that Massachusetts Technology Collaborative has funds available to provide different kinds of assistance.
- **Kathy Newman** said this is a model for how to proceed in the future so it would be worth dedicating some Commission staff time.
- **Christina Brown** said staff makes really good judgment calls about the time and energy they can devote and how to direct applicants.
- **Jo-Ann Taylor** said that it is important that the regulations come from the town.


### 2. WAMPANOAG COMMUNITY CENTER: DRI 606 – DISCUSSION & VOTE


**Richard Toole** moved and it was duly seconded to accept the written decision as written.

- **Mimi Davisson** said it was noteworthy that they replicated wetlands.


### 3. HAVENSIDE: DRI 608 – WRITTEN DECISION


**Christina Brown** moved, and it was duly seconded, to accept the written decision as written. A roll call vote was taken. In favor: J. Athearn, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole. Opposed: None. Abstentions: A. Woodruff. The motion passed.
4. ELECTION OF OFFICERS – DISCUSSION & VOTE


Linda Sibley moved, and it was duly seconded, that the nomination be closed. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley moved, and it was duly seconded, to approve the slate of officers proposed by the Nominating Committee, namely Doug Sederholm as Chair, Christina Brown as Vice-Chair, and Ned Orleans as Clerk-Treasurer. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

5. DRI CHECKLIST REVISION – DISCUSSION

Christina Brown thanked all of the members of LUPC over the last several years.
- She explained that town boards use the checklist to determine what projects are of regional impact and should be reviewed by the Commission.
- This is a light modification because of the work that may come out of the Island Plan.

Doug Sederholm explained that Commissioners will discuss whether the draft is in sufficient shape to send out to building inspectors and the community for comment. There will be a public hearing in February.

Susan Shea asked about the relevance of Section 2.17 on mining. Christina Brown said Chapter 831 requires a section on mining. Mark London added that Goodale’s pit is an open mine.

Christina Brown said that the major changes are:
- The Checklist drops part of the “once a DRI, always a DRI” rule. If a DRI is denied, or withdrawn before it was voted, or expired, the land goes back to non-DRI status.
- Some definitions were added.
- They suggested 1974 as the date to look at pre-existing use of land, specifically agricultural land or a previous division of land. Mark London added that staff has started creating a map that shows what land was agricultural, and the date in the Checklist should correspond to the date when an inventory is available. The map will help town boards apply this item.
- They dropped the threshold of the number of acres for a subdivision from 15 to 10. The Island is seeing more small subdivisions and they want to encourage incentives.
- The changes codify what the Commission adopted as a policy for mixed-use buildings.
- Mark London and Jim Miller redid the high traffic generating use list. This one is more useful one because it talks about traffic generation.
- Mark London reorganized the list of possible factors warranting discretionary referral. The list gives the Commission and town boards the ability to look at something that may be on the edge.
Jim Athearn commended Christina and LUPC members for slogging through the Checklist; he suggested including a definition of commercial and wondered whether a big greenhouse is a commercial enterprise or an agricultural enterprise, and whether a large animal facility is commercial or agricultural. Linda Sibley said it bears some thought; commercial poly houses have to be in a commercial zone, but the State defines growing as agricultural.

Mark London said he suggests moving 3.301 H and J, which deal vehicular traffic and food and move them both to 3.302.

Mimi Davisson moved, and it was duly seconded, to authorize staff to finalize the draft and circulate it for further comment. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

6. MINUTES


6.1 Minutes of August 23, 2007

Linda Sibley moved, and it was duly seconded, to approve the minutes of August 23, 2007, with the following correction:

- Page 4, Line 137-138 . . . he’s made at Island health facilities . . .

A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 1. The motion passed.

6.2 Minutes of September 6, 2007

Linda Sibley moved, and it was duly seconded, to approve the minutes of September 6, 2007. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 4. The motion passed.

6.3 Minutes of September 20, 2007

Kathy Newman moved, and it was duly seconded to approve the minutes of September 20, 2007, with the following corrections.

- Line 233 . . . because under statute . . .
- Page 12, Line 489 . . . field . . .
- Page 13, Line 531 There are a lot of letters, the vast majority in opposition.
- Page 13, Line 549 The majority of the activity will be between April to June, which is not during the peak summer season.
- Page 15, Line 595-596 . . . that would be removed every year in late July and reinstalled the following April.

A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 3. The motion passed.
6.4 Minutes of October 4, 2007
Linda Sibley moved, and it was duly seconded to approve the minutes of October 4, 2007, with the following corrections:
- Phil Conver
A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 1. The motion passed.

6.5 Minutes of October 18, 2007
Linda Sibley moved, and it was duly seconded to approve the minutes of October 18, 2007, with the following corrections.
- Page 6, Lines 240-241 . . . without lower other taxes in return.
- Page 7, Lines 256 . . . that she suggested Little League look at . . .
A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 4. The motion passed.

6.6 Minutes of November 1, 2007
Christina Brown moved, and it was duly seconded, to approve the minutes of November 1, 2007, with the following corrections. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 3. The motion passed.

6.7 Minutes of November 15, 2007
Linda Sibley moved, and it was duly seconded to approve the minutes of November 15, 2007, with the following corrections:
- Page 1, Line 39 Christina Brown moved, and it was duly seconded, that the day after Thanksgiving should be staff appreciation day, directing staff to stay home. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.
- Staff will check which branch of the military built the Community Center.
- Page 2, Line 52 Only the 1983 by-laws apply based on the Memorandum of Understanding between the Tribe and the Town.
- Page 3, Line 102 . . . in the Wampanoag language and then presented . . .
- Page 3, Line 111 . . . for preserving Wampanoag Culture . . .
- Page 4, Line 154-155 . . . to learn more about the Stormtreat system for future applications . . .
- Page 4, Line 156 Bill Wilcox agreed that the applicants . . .
- Page 5, Line 181 . . . half of the entire site . . .
- Page 5, Line 188 . . . on page four of the Staff Report . . .
- Page 5, Lines 190-191 . . . and suggested putting language in the final decision – if approved – that allows . . .
- Page 6, Line 223 . . . to save travel gas and time.
- Page 6, Line 234 The project is consistent with Commission’s Open Space Guidelines.
- Page 6, Line 238 . . . replicated the wetlands that were filled in . . .
6.8 Minutes of December 6, 2007

Susan Shea moved, and it was duly seconded, to approve the minutes of December 6, 2007. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 2. The motion passed.

The meeting adjourned at 10:00 p.m.

Chairman

Date

Clerk-Treasurer

Date