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## **Minutes of the Commission Meeting Held on January 6, 2011 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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

P Bill Bennett (A – Chilmark)	P Lenny Jason (A – County)
P John Breckenridge (E – Oak Bluffs)	P Katherine Newman (E – Aquinnah)
P Christina Brown (E – Edgartown)	- Ned Orleans (A – Tisbury)
P Peter Cabana (A – Tisbury)	- Camille Rose (A – Aquinnah)
- Martin Crane (A – Governor)	P Doug Sederholm (E – Chilmark)
P Erik Hammarlund (E - West Tisbury)	P Linda Sibley (E – West Tisbury)
P Fred Hancock (A – Oak Bluffs)	P Brian Smith (A – West Tisbury)
P Chris Murphy (E – Chilmark)	P Holly Stephenson (E – Tisbury)
- Jim Joyce (A – Edgartown)	

Staff: Mark London (Executive Director), William Veno (Senior Planner), Paul Foley (DRI Coordinator), and William Wilcox (Water Resource Planner).

**Chris Murphy** called the meeting to order at 7:00 p.m.

### **1. INCOMING CHAIRMAN'S REPORT**

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#### **1.1 Changes to the Board**

**Chris Murphy** acknowledged the changes to the composition of the Commission.

- He thanked Christina Brown for her years of service as Chairman.
- He acknowledged Andrew Woodruff's service to the Commission.
- He welcomed Erik Hammarlund from West Tisbury.
- LUPC Chair will be Doug Sederholm.
- PED Chair will continue to be Katherine Newman.
- Compliance Committee Chair will be Fred Hancock.

#### **1.2 Minutes**

**Chris Murphy** explained that he would have the minutes from the previous meeting approved at the start of each meeting. All typos should be sent to the staff for correction and any material changes to the minutes would be discussed during the meeting.

#### **1.3 Vision**

A slide presentation of Martha's Vineyard Now and Zen, by Susan Klein and Alan Brigish was shown.

## **2. MINUTES**

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### **2.1 November 18, 2010**

***Christina Brown moved, and it was duly seconded, to accept the November 18, 2010 Minutes with corrections.***

#### **Corrections to the Minutes:**

- Line 142 should say "chose to have four".
- Line 240 should end after "potential developers".
- Line 245 should say "impact on resources in state waters".
- Line 246 should say "opportunity for Island fishermen".

***A voice vote was taken. In Favor: 11. Opposed: 0. Abstentions: 2. The motion passed.***

### **2.2 December 16, 2010**

***Christina Brown moved, and it was duly seconded, to accept the December 16, 2010 Minutes as drafted. A voice vote was taken. In Favor: 11. Opposed: 0. Abstentions: 2. The motion passed.***

## **3. M.V. HOSPITAL NEW PARKING LOTS: DRI 324-M2 CONCURRENCE REVIEW**

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*Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, E. Hammarlund, C. Murphy, L. Jason, K. Newman, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*

### **3.1 Staff Report**

**Paul Foley** provided the Staff Report.

- It was a condition to the approval of the hospital that a plan had to be presented to the MVC for an additional 60 parking spaces.
- The Hospital now wants to add two parking lots, namely:
  - Turning the temporary parking lot located next to the helipad into a permanent lot with 24 spaces,
  - Creating a new parking lot on a property that the Hospital has purchased located on Eastville Avenue with 49 spaces.
- LUPC voted unanimously to recommend that the Commission concur with the referral and hold a public hearing on the proposed modification to the approved DRI.

### **3.2 Commissioners Questions**

**Doug Sederholm** asked how the Conservation Commission approved the changes to the stormwater catch basins in the rear parking lot if they were a modification of the DRI; he thought the MVC had to review the modification first. **John Breckenridge** explained that the Conservation Commission looked at the stormwater treatment plan, not the changes to the overall site plan.

**Lenny Jason** asked if the lot with 49 parking spaces was part of the Health Care District. **Paul Foley** explained that the Health Care District was expanded last April and the lot is included.

**Christina Brown moved, and it was duly seconded, that the proposal is a significant modification to the approved plan that requires a public hearing review as a Development of Regional Impact. A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.**

#### **4. CHASIN SUBDIVISION: DRI 625 REVISION OF WRITTEN DECISION**

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**Paul Foley** explained that Richard Gallogly, the applicant's attorney, requested a change to Condition 1.22 of the DRI approval. The decision has not been registered yet.

- The condition currently states "no septic components will be placed or located within 400 ft. of the mean high water mark as shown on the subdivision plan. It must be designed to include a drip irrigation component to reduce nitrogen."
- This condition was an acceptance of the offer made by the applicant. After review the applicant determined that "leaching field" was intended not "septic system components".

**William Wilcox** explained the regulations regarding septic systems in a coastal area. It is required to have a minimum of 200 ft. of separation between any part of the septic system and the water and any other septic systems.

**Doug Sederholm moved, and it was duly seconded, that the wording of condition 1.13 be modified to read "...no leaching field..." rather than referring to "septic components". A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 2. The motion passed.**

#### **5. POSTING OF MVC MEETINGS**

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**Chris Murphy** explained that the proposed policy would change the requirement of posting meeting notices. The policy would make a meeting posting to the MVC website the official public notice. The policy change intent is to insure the MVC is covered legally for all meetings.

**Mark London** provided further explanation.

- These notices must meet the requirements of the Open Meeting Law such as being posted more than 48 hours before the meeting (excluding weekends) and including an agenda.
- The Commission will continue to send the towns the Extended Schedule and notices for Commission, LUPC, any other meetings related to our regulatory role (DRI or DCPC), and other key meetings, and will also send copies of notices to relevant town boards. However, failure to have a meeting notice sent or posted would not constitute a violation of the MVC's official posting policy with respect to the Open Meeting Law.

**Linda Sibley** agreed with the change and asked how the public would be made aware of the change. She suggested a press release or legal notice be placed in the newspapers and a statement be placed on the paper notices sent to the towns.

**Fred Hancock moved, and it was duly seconded, that the MVC adopt the policy whereby posting on the MVC website constitutes the official public notice of all meetings. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.**

## **6. ISLAND WIND DCPC MODEL REGULATIONS**

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### **6.1 Presentation**

**Doug Sederholm** reviewed the Island Wind DCPC Model Regulations for the ocean and land zones.

- The towns requested the MVC designate a DCPC for land and ocean waters in Dukes County, because of concerns about two state initiatives, namely the Massachusetts Ocean Management Plan's identification of two areas for commercial development of wind turbines in the waters of Dukes County, and a statewide proposal that would allow for the Commonwealth to override town and RPA control over large-scale wind turbines.
- Once a DCPC is created, there is a moratorium on development pending adoption of town regulations within a year. MVC formed the Wind Energy Plan Work Group – which was comprised of representatives from every town and various non-profit organizations – to work on the overall plan and to draft model regulations.
- After meeting all planning boards in the late summer - early fall of 2010, most boards indicated that their towns would only adopt zoning regulations at the annual town meeting. Therefore, the MVC adopted interim regulations that will be in place for up to one year.
- The model regulations were sent at the end of December to all towns, as well as to participants and the media.
- Although it would be helpful for all the towns to have uniform regulations, it is the prerogative of each planning board and town meeting to determine its own DCPC regulations.
- Each town will ask the MVC to determine whether its draft DCPC regulations conform with the guidelines in the MVC's designation of the DCPC, after which they would go back to the town for adoption.

**Mark London** gave a PowerPoint presentation on the Island Wind DCPC Model Regulations

- He noted that the model regulations are based on the assumption that the limits of the DCPC, presently only the airspace above a given elevation (150' for the Land Zone and 220' for the Ocean Zone), would be brought down to the ground, not only to allow for consideration of the entire wind energy facility for bigger turbines, but also to deal with all turbines in areas of particular regional impact.
- The presentation outlined the items covered in the model regulation and showed the maps that describe various factors used to identify which areas would be "exclusionary", where turbines would be prohibited, and other areas of special concern where proposals would be subject to special review.

### **6.2 Commissioners Questions**

There was a discussion of the proposed setbacks and review process in the model regulations.

- **Linda Sibley** questioned the recommendation that a wind turbine could be 3 times its height from an adjacent property's building envelope and would not require a special permit.

- **Chris Murphy** said that there had been considerable discussion in the work group about appropriate setbacks, and the consensus view was that anything closer than 3 times the height should trigger a special review.
- **Doug Sederholm** said that the set-backs should be reviewed carefully by each town. Noise generation is the biggest impact to abutters and the model regulation has strict standards for noise.
- **Mark London** said that although the model regulation recommends a special permit process for turbines located less than 3 times the turbine height from an abutting residence, or the building envelope for a vacant lot, towns could make all wind turbines subject to a special permit review. He noted that there is now a great variation in how towns regulate smaller wind turbines: in Chilmark, all turbines are subject to special permit review, whereas in Oak Bluffs, an application that meets minimal setbacks can obtain a permit as of right.

**Erik Hammarlund** asked what percentage of the island would be available for wind turbines by right without a special permit once the set-backs were accounted for. **Mark London** explained that the calculation had not been done yet.

**Linda Sibley** asked how the noise restrictions could require a machine to be quieter at night than in the day [the limit in the model regulation is 40dB during the day and 35 dB at night].

**Mark London** explained that if a machine's normal operation were 40 db, measures would need to be taken to make the machine quieter at night.

**Holly Stephenson** asked why municipally owned open space was in the exclusionary category. **Doug Sederholm** explained it was the consensus of the work group. The regulations are only a model that will be submitted to the planning boards for their consideration. Each town will be able to determine what serves it best.

**Fred Hancock** asked if the maps were part of the regulations for each town. **Mark London** explained that the model regulations refer to the source of each map, which is what would be legally binding. The MVC could supply maps and help the towns modify them if needed.

## **7. COMMITTEE REPORTS**

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### **7.1 Planning and Economic Development**

**Katherine Newman** announced that there will be a meeting at 12:00 p.m. on Wednesday, January 12<sup>th</sup> at the West Tisbury Town Hall. There will be a review of last year's work and a plan created for this year.

### **7.2 Land Use Planning Committee**

**Doug Sederholm** announced that there will be a meeting at 5:30 p.m. on Monday, January 10<sup>th</sup> at the MVC building. There will be a review of the DRI Checklist.

**7.3 Finance Committee**

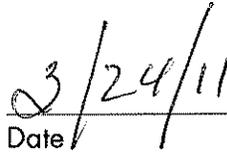
**John Breckenridge** announced that there will be a meeting at 5:30 p.m. on Thursday, January 14<sup>th</sup> at the MVC building. The budget will be voted upon for presentation to the board.

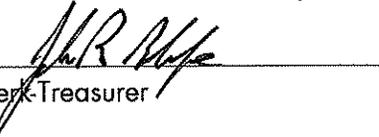
The meeting adjourned at 8:30 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING:

- Minutes of November 18, 2010
- Minutes of December 16, 2010
- M.V. Hospital New Parking Lots DRI 324-M2 Staff Report
- Chasin Subdivision DRI 625 Written Decision
- Policy of Posting MVC Meetings
- Island Wind DCPC Model Regulations
- Presentation on the Island Wind DCPC Model Regulations

  
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Chairman

  
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Date

  
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Clerk-Treasurer

  
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Date