



PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453  
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

**Minutes of the Commission Meeting  
Held on October 4, 2012  
In the Stone Building  
33 New York Avenue, Oak Bluffs, MA**

**IN ATTENDANCE**

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

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

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Jo-Ann Taylor (Coastal Planner DCPC Coordinator)

Chairman Chris Murphy called the meeting to order at 7:10 p.m.

**1. MINUTES**

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Commissioners Present: P. Cabana, E. Hammarlund, F. Hancock, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

**Fred Hancock moved and it was duly seconded to approve the minutes of August 23, 2012 as written. In Favor: 6. Opposed: 0. Abstentions: 4. The motion passed.**

**Fred Hancock moved and it was duly seconded to approve the minutes of September 6, 2012 as written. In Favor: 7. Opposed: 0. Abstentions: 3. The motion passed.**

**2. EXECUTIVE DIRECTOR REPORT**

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Commissioners Present: P. Cabana, E. Hammarlund, F. Hancock, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

**Mark London** presented the following preliminary timetable regarding the projects that are to be completed by the end of the year, namely the Wind Energy Plan, the Site Design and Landscape DRI Policy, and the DRI Checklist. For each project, the process will include a

presentation of the draft document to the Commission, a public hearing and then deliberation and decision.

- The draft for the Wind Energy Plan was presented two weeks ago, a public hearing will be held at today's meeting, and deliberation and decision is scheduled for October 18, 2012.
- The Landscape and Site Design draft is ready today October 4, 2012, was distributed to Commissioners, will be sent to town boards, and will be sent to media along with a press release. A public hearing is scheduled for October 18, 2012 and deliberation and decision on November 1, 2012. He noted that the committee working on this, along with staff, are working with the Polly Hill Arboretum to prepare and keep up to date lists of plant species by category which would be referenced in the policy, and would also be useful for town boards and members of the public. In addition to the MVC policy and the lists of species, the aim is to start next year on a third document, namely a guidance document for the general public (Green Pages or Landscaping the Vineyard Way) that would be consistent with the other documents but would include more information useful to the general public.
- For the DRI Checklist, there was a meeting earlier today, October 4, 2012. The aim is to have a draft ready in two to three weeks, which would be presented to the Commission on November 1, 2012 with a public hearing on either November 8, 2012 or November 15, 2012, and additional meetings if necessary. Deliberation and decision would tentatively be on December 6, 2012.

### **3. WIND ENERGY PLAN FOR DUKES COUNTY – PUBLIC MEETING ON DRAFT PLAN**

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

**Chris Murphy** asked Doug Sederholm, Chairmen of the Wind Energy Plan for Dukes County Work Group, to chair the public hearing. **Doug Sederholm** opened the public hearing at 7:15 p.m. and asked Mark London to present an overview.

#### **3.1 Wind Energy Plan Overview**

**Mark London** presented the following.

- The plan was done in collaboration with all towns in Dukes County including Gosnold. The work was directed by the Wind Energy Plan Work Group, and carried out mainly by MVC staff. The aim was to balance renewable energy objectives with other community goals such as those that the MVC is mandated to represent.
- There will be a few technical changes to the draft plan, namely updating the map of federal wind energy areas and modifying the wording, but not the intent, of various sections as a result of ongoing review by Commission Counsel.
- The following are the aims of the Wind Energy Plan:
  - To provide guidance and propose possible changes to the Island wide DCPC.
  - To identify which projects should be referred to the MVC as DRIs and to provide guidance to applicants and the Commission in reviewing these applications. The

recommendations about which proposals should be reviewed by the MVC would be incorporated in the proposed changes to the DRI Checklist.

- To define criteria to define what projects are acceptable (appropriate scale) for offshore projects in state waters under powers given to the Commission in the Massachusetts Ocean Management Plan (MOMP);
- To draft model regulations that the towns can adapt for regulation of turbines;
- To provide information for the towns and community at large for dealing with wind energy within the county and to take positions on adjacent federal waters.
- For each resource and use there is a description, a discussion of the potential impacts of the turbines, and recommended policies with respect to siting criteria and performance standards. Topics include: Birds and Bats, Scenic Resources and Visual Impacts, Open Space and Natural Resources, Cultural Resources, Tribal Resources, Shoreline Buffer, Seafloor Habitat, Marine Mammals, Fishing, and Navigation and Boating
- The plan also deals with impacts on people and property including: Noise, Shadows, Electromagnetic Fields and the Community Impact.
- The analysis indicates that the most problematic impacts are on land. The Cuttyhunk and Nomans offshore areas are also problematic. There are fewer conflicts the farther out the development occurs, namely offshore in federal waters beyond 12 nautical miles.
- The plan results in establishing different policies in different areas, namely: Exclusionary Zones, Area of Special Concern, and Qualified Areas.
- The plan proposes that turbines be prohibited in Exclusionary Zones, that turbines higher than 150 feet and within Areas of Special Concern would be reviewed by the MVC, and proposals in Qualified Areas would only require town approval.
- Recommendations on what would be appropriate scale for offshore wind were reviewed.
- The Commission and towns will need to continue work on the DCPC, including bringing the limits of the district down to the ground to put into place the Exclusionary Areas and the Areas of Special Concern.
- The Commission's legal authority extends three nautical miles offshore.
- The Wind Energy Plan attempts to be balanced but tilts somewhat on the side of protection of environmental resources, people, and property.

**Doug Sederholm** reviewed the background of the plan.

- It began in 2008 and 2009 when the Commonwealth decided to prepare the Massachusetts Ocean Management Plan (MOMP) to allow and provide a framework for offshore development, which had previously been prohibited in state waters.
- After examining the waters off Massachusetts, the state said the only two areas appropriate for large-scale commercial development were in Dukes County, namely areas off Cuttyhunk and Nomans Land. The MOMP would have allowed the state to override MVC and town review of development proposal in the two Wind Energy Areas.
- The MVC and town officials lobbied to retain local control and the Secretary of Energy and Environmental Affairs agreed to give the MVC, but not the towns, the authority make a determination of what constitutes "appropriate scale" for commercial scale wind energy development. The towns have authority over smaller community-scale projects.
- In the Wind Energy Plan for Dukes County, the only areas within state waters to be considered for wind energy development are the Areas of Special Concern, shown as orange areas on the map.

- The federal government has now determined that it makes no sense to put wind turbines within the first 12 nautical miles offshore.
- It was decided to include land areas in the plan, and the public maybe more concerned with how the plan affects wind turbines in their backyard or the community.

**Chris Murphy** noted that the Plan has been several years in the process and Mark London, Jo-Ann Taylor, Bill Venno, and Doug Sederholm have put a lot of effort into this Plan because the state was going to tell us what to do within our community. The Wind Energy Plan includes the best rules to protect our community.

**Peter Cabana** noted that Commonwealth officials came to the Island and they did listen. About fifteen or twenty elected officials came to give their views and the state did seem to listen and tried to accommodate our requests.

**Doug Sederholm** said this is why the state has shifted to the federal waters to minimize the impact on communities. Adopting this plan will give us guidance.

**Mark London** said the MVC and towns continue to actively participate in the state's and federal process through the federal task force. On October 30, 2012, state and federal officials will come to the Island for a meeting at the Tisbury Senior Center to update us on the status of their plans, and they will be looking for feedback from the public.

### **3.2 Public Testimony**

**Doug Sederholm** noted that Barbara Schlesinger submitted written testimony. She lives near the Allen Farm and has concerns about how their turbine has affected them. He noted the sections of the plan that are of concern to her and are in her testimony:

- She addressed the overall objective and performance standards of three sections of the draft plan. She objects to the following sections.
  - Section 8.2.2 deals with property values; "The overall objective: development of wind turbines, as with other types of land uses, should not be at the unreasonable financial detriment of other landowners." How is it possible that that word "unreasonable" is included in the Overall Objective? How can there be any financial detriment imposed on other land owners that is not compensated? How is any detriment "reasonable"? Who decides what is reasonable and unreasonable? Performance Standards: At this time, the Plan does not recommend any mechanisms for quantifying the potential lowered value of a surrounding property, nor mitigation to minimize the impact of such a change in land values.
  - Section 6.3.2 Policies; regarding shadow flicker, page 92, also has language of questionable meaning and detrimental consequences.
  - Section 6.2.2 Overall Objective regarding turbine noise, "sounds great ... however, it is totally meaningless by the time anyone gets through the seven tortured Performance Standards, which are not understandable to the above-average citizen..."

There was testimony about designating coastal areas as Exclusionary Areas.

- **Gary Harcourt** said he is in the business of installing wind turbines. He is with Great Rock Wind Power and installed the Allen Farm and Morning Glory Farm turbines and five

other smaller projects. He appreciates the work that the MVC has done. It is definitely a protective document. He has read the document and it is well researched and well written. He notes that it is in the Exclusionary Zone where we want to protect the Island. We don't have a lot of resources on the Island, so it is necessary that we ship our trash off Island, ship fuel to the Island, etc. The plan will help to regulate large turbines such as the municipal projects. Most of his work is outside the United States as other countries are more progressive. He asked why it is inappropriate for wind turbines in hazard mitigation areas. He noted that wind turbines were the only structures left after the tsunami in Japan. He also asked why the coastal zone is exclusionary. He understands that the viewshed is the biggest issue there but he is asking with regards to turbines under 150 feet.

- **Doug Sederholm** noted that we would have to get back to him on his questions. He noted that development in these areas could be allowed in the future with a modification to the plan if conditions change. For example if there was a crisis and fossil fuels were unavailable, it would need to be addressed; the plan is for now.
- **Gary Harcourt** noted that the impacts these regulations have on smaller turbines is so great, it would probably make it impossible to put up a 50 kw turbine. He would like to see a provision for slightly less regulation for smaller turbines as the sound, shadow flicker, and impact on animals is much different. The industry standard for small turbines is 100 kw or less. Lowering the DCPC to ground level would bring all turbines in front of the MVC under the same regulations.
- **Mark London** said that is not the intent. The intention is to have any turbine above 150 feet over land, or of any height in the orange areas on the map, come before the MVC.
- **Doug Sederholm** said any change to the DCPC would be decided separately. This plan gives an overall approach.
- **Mark London** noted that the DRI Checklist already requires all development in the ocean to be referred to the Commission
- **Gary Harcourt** reiterated that the red area is a no go area no matter what height.
- **Mark London** noted that this version of the plan takes a conservative approach. The plan can be revised a few years down the road. At that time, it may be that people are more accepting of wind turbines.
- **Jo-Ann Taylor** noted that the DCPC will sunset in November 2013.
- **Doug Sederholm** said it is an interim regulation that was extended because the towns did not adopt regulations in conformance with the DCPC's guidelines.
- **Katherine Newman** asked Gary if he had more information in a couple of years, could he talk with the MVC and perhaps that information might help tweak the plan. She asked if there is a process for that.
- **Doug Sederholm** said that he would think that the MVC would be open to inviting him to provide any new information at any time.
- **Mark London** noted that the plan suggests that it be reviewed in five to seven years. He also said that taking a more permissive approach could backfire by allowing projects that foster a negative public reaction that stymies future development. This could be a lot worse than having regulations that are on the restrictive side.
- **Doug Sederholm** said that the Falmouth wind turbines have had a negative impact on the development of wind energy. The local government has had to step back and relook at the project. The turbines were built too close to residential properties.

- **Paul Pimentel** said that a lot of time and energy is invested in developing these projects. There is value in planning and certainty for a turbine business so the industry can make investments. The industry is moving very fast and technology is changing. It seeks clarity and certainty for a rational and responsible business process.
- **Gary Harcourt** reiterated that it would be desirable to review some of the prohibited areas. They may be great spots for municipal turbines and should open discussion to it.
- **Linda Sibley** thought that Gary might explain why some areas designated as no-go areas that have good wind should have turbines allowed, those areas could be looked at. However, she suspects that the public at large would not be in favor of opening up coastal zones for installing turbines, where they would be highly visible. There would like be strong opposition and she note that the demographic of people who live along the coast has money and they probably won't want their area changed.
- **Jo-Ann Taylor** noted that the Coastal District is divided in two sections. It is only the first 100 feet, the Shore Zone, that is exclusionary. This does not include the working waterfront areas. Turbines are permitted in the rest of the Coastal District, the Inland Zone. The Coastal District was created for protecting the pristine expanses of coastal areas.

**Erik Hammarlund** said that he has been contacted by property owners who don't like wind turbines and their visibility. Perhaps we should keep the discussion focused on the plan. **Doug Sederholm** said that this is a public hearing so the discussion is acceptable.

**Richard Toole** said this is an unbelievable piece of work that the MVC has done. The Island should be aware of this. It could be a template for other areas in the United States. We have to make changes in our lifestyles and if there is sea level rise, we'll need to do something. We need to make sacrifices. We won't cut back on electricity right away and we may need to compromise on viewsheds. We can't keep doing things to make it more difficult for renewable energy.

**Mark London** noted that the written testimony from Barbara Schlesinger will be on the MVC website.

### **3.3 Commissioners Discussion**

**Katherine Newman** said she thinks five years is a long time to wait to review. She would be more comfortable to open up discussion in two years. **Doug Sederholm** said that perhaps that is something that can be reviewed in deliberation. **Holly Stephenson** said that perhaps it should be shorter due to the rapid development of technology and the community's needs.

**Camille Rose** said that we really need to think about the time frame to review. How do we change regulations constantly or every two years?

**Peter Cabana** said that somehow as a community we should talk about what is appropriate for the entire Island. What is appropriate for Martha's Vineyard to do in order to develop electricity?**Chris Murphy** addressed looking at it from two different points of view; as an engineer you are looking at it from a production standpoint, the amount of electricity it can generate. Everyone else is looking at it from the impacts such as height and the visibility.

**Peter Cabana** said if we want to become a renewable energy Island we have two resources, solar and wind. The towns should have a discussion on how we do that. **Chris Murphy** said that we still have to talk about land based wind turbines and if we don't we will be remiss. We

still haven't dealt with these land based turbines and those are the ones that are pushing buttons for people and what is in their backyard. The offshore turbines, 15 miles out, don't seem to be an issue.

**Peter Cabana** said that we need to prepare a plan for the best location for renewable energy so we are self-sufficient.

**Doug Sederholm** said this plan is legislative and regulatory for Martha's Vineyard and three miles off Martha's Vineyard. This document takes a very conservative and protective approach to protect the Island until we see what happens with the federal project. Aesthetics and health issues are very important.

**Linda Sibley** said she does not think that we know how the public feels about looking at and the visibility of large turbines. We don't have good information about the aesthetics and the public view.

**Brian Smith** suggested that we are getting into discussion as a Commission rather than a public hearing.

**Gary Harcourt** said that turbines are used universally in the media as exceptional and a means for energy. He would like to see the graphic in the plan that shows the size of the turbines revised. He felt it did not accurately reflect the design of turbines. **Mark London** said the MVC would look at revising it.

**Doug Sederholm**, closed the public hearing at 8:35 p.m. and left the written record open until October 10, 2012, 5:00 p.m.

#### **4. REPORTS FROM COMMITTEES AND/OR STAFF**

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

**Chris Murphy** asked that Commissioners unable to attend a meeting to please notify the staff so we know in advance whether or not we will have a quorum.

**Doug Sederholm** said that LUPC is continuing the review of the DRI Checklist and has had a tremendous turnout of Commissioners. It should have a draft in the near future.

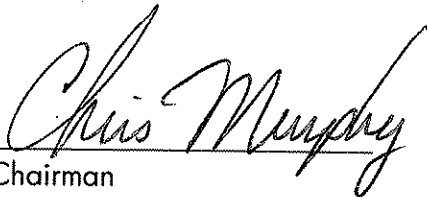
**Fred Hancock** said the Compliance Committee will meet on Tuesday October 9, 2012 at 9:00 a.m.

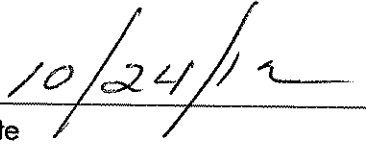
**Bill Veno** reminded the Commission and the public that there is a Citizens Planning Collaborative Work Session on Site Plan Review. The meeting is October 20, 2012 at the MVC from 8:30 to 10:30 a.m. There is a fee for the public to attend and people need to register in advance by emailing or calling Bill Veno. The MVC will cover the costs for Commissioners.

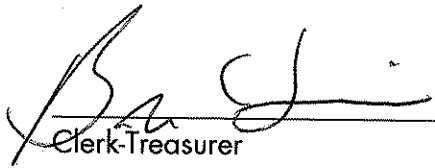
The meeting was adjourned at 8:40 p.m.

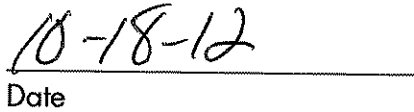
DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on August 23, 2012
- Minutes of the Commission Meeting – Draft, Held on September 6, 2012
- Letter to the MVC from Barbara Schlesinger, dated October 3, 2012
- Letter to the Vineyard on the Realities of Wind Turbine Legislation and Zoning Bylaws – by Barbara Schlesinger

  
Chairman

  
Date

  
Clerk-Treasurer

  
Date