



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 December 17, 2009 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

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

Staff: Mark London (Executive Director), Jo-Ann Taylor (Coastal Planner/DCPC Coordinator), Paul Foley (DRI Analyst/Planner), Mike Mauro (Planner – Transportation), Christine Flynn (Economic Development and Housing Planner), Bill Wilcox (Water Resource Planner)

The meeting was called to order at 7:35 p.m.

1. **AT&T: AIRPORT CELLULAR TOWER – CONCURRENCE REVIEW**

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

For the applicant: Susan Roberts, Esq. (Anderson & Krieger), AT&T Representative

Linda Sibley recused herself and left the room.

Susan Roberts explained the project.

- The proposal is to move AT&T antennas presently on a 30 foot wood tower to a new 75 foot monopole tower at a new location in the airport area as requested by the Airport.
- The tower will be a monopole, 36" in diameter.
- The antennas will be inside with space for two additional antennas.
- An HVAC unit and equipment will be in a fenced-in area.
- Coverage will be significantly improved.
- It was the applicant's request that, because none of the DRI criteria are met, that the Commission find that the project is not a Development of Regional Impact and refer the project back to West Tisbury.

- After meeting with the Commission, AT&T will finish the permitting process in West Tisbury.
- The color of the tower is proposed to be gray, but it can be another color. The towers are typically galvanized steel.
- Sean Flynn, Airport Director, was at the LUPC meeting and confirmed that the change is one the airport wants.

Christina Brown explained that LUPC unanimously recommended that the project does not reach the level of a DRI and the town has regulations to cover it.

Tucker Hubble, West Tisbury, explained that West Tisbury has had two public hearings already and there will be another.

- The project is in a light industrial area and is about the best scenario for a cell tower.
- It gives much better coverage than the DAS system with coverage toward the south shore. It compliments the DAS system and it does a better job of coverage.

Doug Sederholm moved, and it was duly seconded, to not concur with the referral. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

2. ISLAND WIND DCPC: LAND ZONE – PUBLIC HEARING (CONT.)

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

Doug Sederholm reopened the public hearing on the Island Wind District of Critical Planning Concern, Land Zone Designation.

- The area under consideration for designation is that portion of the air space over all lands and inland waters within the County of Dukes County which exceeds one hundred fifty feet (150') in height above mean natural grade (for land areas) and/or surface water level (for inland water areas), extending from the Mean Low Water line landward; except the Elizabeth Islands, the lands and inland waters within the Town of Edgartown, school buildings and grounds, the Indian Common Lands (generally known as the Cranberry Bogs, the Clay Cliffs and Herring Creek) and the Settlement Lands.
- The public hearing was continued from last week because the Commission wanted to ask Counsel about flexibility, if any, on changing district boundaries. Counsel recommended not changing the boundaries in this proceeding. If the Commission wants to modify the boundaries in any substantial way – such as by changing the height limit, or by excluding certain properties such as municipal lands or farms – the change should be re-noticed and the Commission should hold a new public hearing.
- This DCPC should be developed in conjunction with the Wind Energy Siting Plan that the Commission is developing.
- The DCPC committee met to digest what happened at the last meeting, revised the guidelines as much as it could, and is now turning the guidelines over to the full Commission.

- Reference to the draft Wind Energy Siting Plan is included in the guidelines which may be amended as the Wind Energy Plan is formulated.
- It is recommended that the towns work closely with the Commission as they formulate their regulations. The work on the Wind Energy Plan may lead to changes to the guidelines.
- The DCPC committee decided that adding numeric standards for setbacks and noise was premature because the committee doesn't feel it has enough information yet.
- The committee redrafted the setback and noise sections and included protection of cultural DCPCs.
- The guidelines require that setbacks be provided following specific parameters, such as that no utility scale wind turbines be permitted within 300 feet of a cultural DCPC.
- There are two different parameters that have to be addressed on noise.
- The committee recommends that the guidelines include examples of the standards for minimum setbacks and maximum increase over ambient noise level
- An addition that's been made to the guidelines is the statement that regulations adopted by the town must conform to the wind facilities plan or that large scale turbines be approved as DRIs.

Correspondence was received from Brian Nelson on behalf of Allen Farm and Northern Pines Farm.

Brian Nelson, wind consultant, wrote the letter trying to elaborate on the goals for next spring in terms of the grant opportunities.

- Northern Pines and Allen Farm are asking for an exemption or exclusion in the same way Edgartown and school projects are excluded. It seems more of a timing issue. Had they proceeded with a building permit before November, they'd be able to proceed, using the exemption for farm structures.
- They are trying to figure out how to proceed so they can get the grants in the spring.
- There are regulations in place to allow towns to reasonably regulate farm structures. Farms still have to meet the letter of the law as it exists.
- It seems unfair the Edgartown is excluded and they missed requesting the exclusion before the information was published.
- They don't know the best way to present it to the Commission legally, but they're asking how to make it happen.

John Packer said he's been trying to understand the rules.

- The Commission is proposing to put a moratorium on anything over 150 feet, so he can build a tower of 149 feet as a farm structure.
- He asked, whether, when the new zoning law is written, it will be for over 150 feet or will be from the ground.

Doug Sederholm said it's likely that the geographic dimensions of the DCPC would be amended when the regulations are ready for adoption. It might be logical to reduce a height limit to zero to control things like buildings associated with a wind turbine.

John Packer speculated that a wise farmer would apply for a 149 foot tower in the next twelve months.

Doug Sederholm responded that a wise farmer would work with the town he's in to try to develop reasonable regulations of utility scale wind or the farmer could apply for an exemption if there were a sufficiently urgent need. Speaking for himself, he said Brian Nelson's letter is not specific enough about the project to qualify for an exemption. An application for exemption would need to include the same level of detail as an application for a project.

Linda Sibley said, in the past when there have been exemptions, there's been a project description. The letter makes a good case for the emergency.

Jo-Ann Taylor clarified the exemption procedure. The DCPC Committee hears exemption requests and grants or turns down exemption requests. There is no going back to the Commission. In an immediate health emergency, Jo-Ann Taylor is authorized to grant the exemption. The exemption request does not come back to the full committee.

Christina Brown clarified that the procedure the Commission has adopted is that the DCPC Committee acts on the Commission's behalf.

Doug Sederholm said he's not sure of the height of utility scale wind turbines. Right now they're using a height of 150 feet and above for regulation which is not to regulate only utility wind, but any towers over that height.

John Packer said he's feeling a little beat up.

- Since the oil embargo in 1971, nobody's done a thing. The farmers, however, have taken the right-to-farm law and forced the neighbors to come to the table and talk about having a wind turbine on his farm.
- The DCPC is taking away the one tool they have to bring the neighbors to the table.
- He wondered whether the farmers have carried the ball as far as they can. They've gotten everybody to the table and he can be proud of that.
- He feels the DCPC is going to curtail a resource.

Doug Sederholm said the DCPC designation is a brief moratorium during which rules are developed.

John Packer responded that he's not sure the towns are going to create zoning under the Commission's guidance that the farm law can penetrate

Keith Maguire suggested that the DCPC is not ready to be voted on. He suggested that the Commission postpone the vote and get it better. If it's not ready, get it ready, and maybe get Edgartown back in.

Mitchell Posen agreed.

Chris Murphy explained that the Commission developed the guidelines at the request of the towns to do their bidding. They're here to consider a moratorium and develop good regulations and something the towns can live with. If the grant money is ready and the regulations aren't, the farmers can come back and request an exemption, but they have to have all their ducks in a row.

Doug Sederholm said the record is clear that the Commission has received requests from selectmen, planning boards, and five towns.

Mitchell Posen asked how the Commission knows that 150 feet is the right height. **Doug Sederholm** said 150 feet was picked to capture most wind turbines that might have a regional impact; he added that if someone has a meritorious exemption, then they should apply.

Mark London said that hypothetically the idea of bringing the height down to the ground is that the regulations might say that a turbine of a certain height would be reviewed, but it would be reviewed from the ground up. However, turbines of all heights would not necessarily be reviewed.

Doug Sederholm closed the public hearing.

3. ISLAND WIND DCPC: LAND ZONE – DISCUSSION & DELIBERATION

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

3.1 Designation

Christina Brown explained that the next step is to discuss whether or not to designate the DCPC in the five towns for everything above 150 feet. The second step is to discuss and vote on the guidelines. The final step would be to consider some changes to the designation of the area.

Peter Cabana said there is merit to not putting the DCPC in play at this time.

- A dichotomy exists between a change in district boundaries which is 150 feet and the statement in reference to prohibition of utility scale turbines. The implication is that 150 feet will get you utility scale turbines. In the third paragraph, the reference to DCPC calls for prohibition of utility scale turbines or measures to protect cultural resources.
- The industry for land-based wind turbines does have a parameter for utility scale turbines, at 2 megawatts.
- It's very important that when the Commission looks at this it has a clear definition of what a utility scale turbine is.
- The reason to postpone designation is that you can't get a utility scale turbine at 150 feet.

Linda Sibley said the reference to DCPCs is a topic unrelated to the 150 boundary. The DCPC reference is a suggestion that when the towns develop their regulations, they should look at their cultural DCPCs and consider prohibiting utility scale turbines in those areas. It's not a reference to 150 feet. The focus should be on the cultural DCPCs and that they should be protected.

Linda Sibley moved, and it was duly seconded, to designate the Island Wind DCPC Land Zone.

- **Linda Sibley** said it's unfortunate that a couple of meritorious projects have gotten caught up in this. To undesignate the five towns because of two particular properties that have problems would be a serious problem. She likes the Northern Pines and Allen Farm projects; they are visionary, but the whole process can't stop because of that. The Commission should deal with the two projects as such because the law allows it to cope with problems of this sort. The exemption process is available.

- **Doug Sederholm** agreed that the Commission should designate. The exemption process is always there. He finds the regulatory framework for wind turbines woefully inadequate. He finds it unfortunate that all six towns are not part of the DCPC. The six towns, with the exception of Aquinnah, don't have decent by-laws for wind turbines. The Island needs a coordinated approach. The DCPC will hopefully foster that and include a role for the Commission in addressing a certain type of wind turbine. Now is the time to do this.
- **Camille Rose** added that a large-scale turbine will be visible from all over the Island and will have significant impact on economic values, and historic and cultural resources, which will need to be considered in the siting of turbines. Health and safety must be considered as well as the impact on the natural environment. The Commission can provide research to towns to write by-laws. We can't put this off any longer. She urged everyone to vote for it now.
- **Ned Orleans** asked about the commitment the Commission is making as to the preparation of a Wind Energy Plan. He asked what it will contain and when it will be ready. It's a significant enough subject that the Commission should be ready to make a commitment to do its job.
- **Andrew Woodruff** said he agrees that the Commission should make the commitment to develop the wind siting plan.
- **Christina Brown** said that she would like to start working on the Wind Energy Plan in the second week in January. After two weeks, she would like to have a pretty clear scope on what the Plan will cover. It should be a plan that should be put together by the community and it will take several months to develop.
- **Mitchell Posen** explained that he can't propose a wind turbine plan until the information is available from the MET tower. That's where the education is done. He and John Packer agreed to come to the first meeting during the second week in January.
- **Andrew Woodruff** said he doesn't believe that anything about this process will be easy. But it's better to attempt a coordinated approach than to let haphazard development occur.
- **Christina Brown** confirmed that the farmers' participation in the Wind siting plan working group wouldn't impact their possible applications for exemptions.

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

3.2 Goals and Guidelines

Doug Sederholm moved, and it was duly seconded, that the Commission adopt the goals and guidelines as amended as of dated December 17th. He moved, and it was duly seconded, to include Mark London's memo of December 17th regarding numeric examples as an appendix to the guidelines.

Chris Murphy questioned the first bullet on setbacks. If a wind turbine is engineered to safety specs, it can be along a road. Siting a wind tower 1.5 times back from a boundary doesn't make sense.

Linda Sibley argued that the setback isn't necessarily about safety. The setbacks also affect noise and visual impact. West Tisbury requires a 50 foot setback from boundaries for wind turbines.

Jim Athearn said he's observed from wind turbines on the Island that the best way to keep them out of sight is to locate them right along the road.

Peter Cabana said setbacks are unique to each area. The proposed types of setbacks are extremely restrictive.

Doug Sederholm said the numeric examples are examples and not part of the guidelines. The numbers are based on the preliminary review of the literature.

Mark London said the regulations were developed after many hours looking at model by-laws. There was enough variation in the numbers that the committee didn't feel comfortable recommending specific numbers. However, the numbers and ways of dealing with the issues such as setbacks and noise are pretty standard. Staff will need a few more months to develop more specific number but the numeric examples are not out of the blue. The guidelines state that towns, in writing regulations, should provide setbacks.

Chris Murphy moved, and it was duly seconded, to strike the language related to a minimum setback of the overall height of the turbine.

Chris Murphy suggested starting out with a blank slate and seeing what people come up with.

Doug Sederholm amended his original motion with the minimum setback phrase struck from the guidelines.

Andrew Woodruff referenced reasonable development of facilities; he asked whether the Commission is looking at encouraging Island turbines to supply the Commonwealth with electricity. **Doug Sederholm** pointed out the language only requires consideration of supplying energy to other recipients.

Doug Sederholm accepted the amendment that the note at the top should state : . . . the Martha's Vineyard Commission in conjunction with towns and the community . . .

Mark London, responding to Ned Orleans's reiteration of the need for setting a completion date for the Wind Facilities Siting Plan, said there will a lot of public concern about how many and where turbines should be. If it were just up to staff, a Plan could be developed quickly, but there are a lot of stakeholders and their involvement is important. After the first meeting in January, we should have a better sense of the scope of the work. At a minimum, he anticipates four to six months of work.

Holly Stephenson said towns will want to develop regulations and by-laws by Town Meeting, long before June 30^h.

Lind Sibley said any regulations could be revised to conform to revised guidelines.

Doug Sederholm said that the regulations the towns develop should conform to or be consistent with the Wind Energy Plan.

Mark London said that we could try to work out the process for being ready for town meeting and see if it's possible.

Holly Stephenson said she doesn't see why we can't work out a minimal set of standards in a few weeks. **Doug Sederholm** said the hard part is getting all the stakeholders to participate. There has to be a forum for stakeholders to discuss the issues.

Linda Sibley posed that setting a date certain might slow the process down. She suggested that the note should state that the Commission will be preparing a preliminary Wind Energy Plan in 2010 which could essentially be an outline so the town regulations and the siting plan move ahead simultaneously. We need to make it clear that it will be a long-range project.

Doug Sederholm suggested that the note should read that a preliminary report shall be prepared in the first three months of 2010.

Mark London outlined the process the Commission would be going through if there hadn't been a DCPC.

- The Commission would have developed a plan, which would then be used to revise the DRI Checklist.
- We would try to differentiate between local and regional impact. The plan might identify by location and by size which projects should be reviewed by the Commissioners as DRIs.
- It would give Commissioners and applicants criteria to use in evaluating proposals as outlined in the Commission's policy.
- Because of the DCPC process, the Commission now has to adopt guidelines in a sixty day period. The DCPC Committee hasn't yet gotten to the stage in research or in involving the community to know what those specific guidelines should be.
- The question is how to bring the processes of the siting plan and the towns' development of regulations together. Normally, the Commission doesn't get involved in writing regulations, but we will want the plan and regulations to be harmonized.

Chris Murphy said the Commission has to vote on the draft guidelines so the towns can start on their regulations.

Doug Sederholm said projects will need to conform to the Wind Energy Plan.

Christina Brown pointed out that the regulations have to state the projects have to conform to a plan that doesn't exist yet.

Doug Sederholm said the point of the Wind Energy Plan is to deal with wind facilities that have regional impact. Towns should in their regulations state that wind facilities that have a regional impact must comply with the plan.

Christina Brown pointed out that the proposed wording be that projects need to conform to the Wind Energy Plan, if it exists, or be reviewed as a DRI.

Commissioners agreed by consensus to take out the first sentence of the third bullet and the words “. . . as the Commission notified the towns earlier in the year . . . “

A voice vote was taken on the motion to adopt the goals and guidelines, with the numeric examples as an appendix. In favor: 13. Opposed: 1. Abstentions: 0. The motion passed.

Christina Brown said that she doesn't support having the numeric examples as an appendix to the guidelines.

A roll call vote was taken on the motion to adopt the goals and guidelines and the numeric example appendix. In favor: B. Bennett, J. Breckenridge, P. Cabana C. Gating, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, H. Stephenson, A Woodruff. Opposed: C. Brown. Abstentions: J. Athearn.

Linda Sibley suggested that there could be public hearings on the height change and on the exemption of the Tisbury Landfill. The farmers would have to work on defining farmland as a geographic description.

Linda Sibley moved, and it was duly seconded, that at the January 7th meeting the Commission vote on when to hold a public hearing on boundary changes and the public hearing will be held within a month of the vote.

- **Camille Rose** said there is a serious issue of definition of boundaries that Commission counsel has raised in regard to farms. We have to determine what is eligible as a farm.
- **Christina Brown** said that the community can work with staff to come up with a boundary definition for farms.
- **Brian Nelson** said that the map of farms being used in the study of agricultural self-sufficiency could be used as a first draft, along with input from the Island Grown Initiative and the agricultural society.
- **Mark London** said that we have a listing 45 places that have been identified or self-identified as a farm. State standards could also be used. Staff could sit down with farmers and create a definition using information that we have.
- **Mitchell Posen** asked whether the geographical definition could be farms over a certain acreage.
- **Linda Sibley** said she thinks it's going to be difficult to come up with an objective definition. She hopes that the DCPC Committee could meet with the people who want an exemption and go over the process for exemption.
- **Doug Sederholm** said that if the boundaries are changed and certain areas, such as farms, are excluded, then we're opening the door to someone doing something that's unregulated.
- **Jo-Ann Taylor** said that there is a moratorium on now. Anyone may request an exemption. Excluding areas from the district designation would be considered a new nomination, starting with an agenda item at which the Commission would decide whether or not to consider the nomination. It needs to be clear who's making the request.

- **Linda Sibley** explained that, at the first meeting in January, the Commission could receive any requests for boundary changes in the form of a nomination, and make decisions on whether to individually accept those nominations or not.
- **Jo-Ann Taylor** clarified that, if the farmers request the exclusion, they will need 75 signatures and a geographic description to qualify for a nomination.
- **Andrew Woodruff** said when the vote was originally taken on accepting the nomination, excluding Edgartown from the DCPC because they didn't want a DCPC in their town was a difficult vote for him. With this motion, the Commission is inviting everyone to apply for an exclusion.

Linda Sibley moved, and it was duly seconded, to withdraw her motion. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley suggested that the Commission write a letter to the Tisbury Selectmen indicating that they could apply for an exemption from the DCPC for the Tisbury Landfill wind facility project. Andrew Woodruff left the meeting. Jim Athearn left the meeting.

4. MORNING GLORY FARM: DRI-620 – PUBLIC HEARING

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

For the applicants: Simon Athearn, Jim Athearn, Deborah Athearn

Jim Athearn and Andrew Woodruff recused themselves and left the meeting.

Linda Sibley read the hearing notice. The proposal is to remove part of the existing Morning Glory Farm stand and then rebuild, reorganize, and expand the current commercial operation.

4.1 Staff Report

Paul Foley gave the staff report.

- The zoning is R20 residential agricultural. The property is in the Island Road District.
- The proposal will result in a 1,200 sq. ft. bigger building with an 800 sq. ft. greenhouse. The existing 2,600 sq. ft. greenhouse will be relocated so parking will be added. The entrance will be a single entrance and egress.
- The project will be a new retail building of 2,390 sq. ft. that will replace the existing 1,366 sq. ft. building for a 1,024 sq. ft. increase in retail area. The total existing retail, office, and dormitory is 5,494 sq. ft. The renovated total will be 8,342 sq. ft, not including the greenhouse.
- The Land Bank holds an APR on the property. There is an ancient way on the property.
- The project was referred by the Edgartown building inspector.
- Key issues are:
 - How the renovation and the new greenhouse will fit in with the streetscape;
 - How the Commission will deal with nitrogen loading from farms;
 - A small portion of the property is mapped as habitat.

- The buildings include a farmstand, dormitory space, offices, and a commercial kitchen. There are also parking spaces, garages, sheds, a compost pile, a single family residence, orchard, farm buildings, and cow pastures.
- A section of the property is designated priority habitat but no changes are proposed in that area.
- Minimal landscaping is planned in the farmstand area. Six oak trees will need to be removed as they are directly in the footprint of the new building. Trees will be transplanted and re-used.
- No synthetic fertilizer will be used. They will have a full detailed landscape plan, if required, that they will submit to LUPC.
- They have offered to extend an existing path to meet with the bike path.
- Exterior lighting will be one light over the loading dock, one light over the barn door, and one light over the customer entrance, shaded, cast downward and only on when needed. There will be underside porch lights which will be on October to December when the farmstand is open after sunset. Most of the year, they don't need lights. They'll have additional lights in the parking area and for those living on site, which will be on motion sensors.
- Noise contribution is from backing up for deliveries. The closest neighbors are 450 feet away.
- The building will be insulated.
- The site has been approved for a 50 kw wind turbine, which the applicants expect will provide 2/3 of their electrical needs.
- The electric heat will be replaced with gas fired hot water heat, which can be supplemented in the future with solar panels.
- The proposal is to eliminate the closest access to Edgartown West Tisbury Road, pending appropriate permits.
- The farmstand currently has 49 parking spaces. They will be losing a few but will be moving employee parking to another part of the property. They have an incentive program where they pay employees who bike or carpool to work.
- Five cars will be able to queue up in the parking lot, which is an improvement. The lot will be sand hardener covered with bluestone gravel.
- Sightlines are adequate in all directions.
- There have been two accidents in the last three years at the main intersection.
- Using ITE numbers for general office and supermarket and Morning Glory sales, the estimate for the new facility is an additional 314 trips a day. Based on sales, July and August show 960 sales. Daily trips in August and July are much higher than ITE numbers. Ultimately the applicants estimate a 20% increase in sales because they'll have an increased number of parking spaces and better flow within the store.
- For traffic mitigation, the applicants are offering relocating employee parking spaces, incentive for public transportation, and clearing vegetation on the right of the Meshaket exit, in addition to the already planned closing of the entrance closer to the intersection.
- For affordable housing, the applicants are offering to either build four additional dormitory rooms at another location within five years, or if that doesn't happen, they'll

pay the suggested mitigation. They do house eleven employees currently and hope to create space for another four.

- The farmstand has seven year-round employees, four full-time and three parttime. They have 64 employees in the summer. Spring and shoulder season, they have an average of 33 full and 8 part-time employees. They don't anticipate increasing the number of employees.
- Regarding scenic values, the post and beam barn and greenhouse are consistent with existing architecture. There will be greater massing. The farmstand will be ADA accessible. There will be minimal impact on abutters. The traffic flow situation is better.
- Correspondence includes letters from:
 - James Lengyel of the Land Bank stating that this proposal is not inconsistent with the APR;
 - Ali Berlow from the Island Grown Initiative in support of the expansion;
 - Dale McClure, Martha's Vineyard Agricultural Society, stating that the board voted unanimously to support the application;
 - Tom Dunlop and Daniel Tostado, summer employee, both supporting the proposal.
- He showed slides of elevations and existing conditions.

Bill Wilcox outlined the wastewater situation.

- The site is in the Edgartown Great Pond Watershed, which, under Commission policy, is a compromised water body, meaning it has some nitrogen impacts and is sensitive to nitrogen loading from the watershed. It is a south shore great pond. The nitrogen limit requirements are somewhat reduced from an impaired watershed.
- This is a 7.6 acre property with a 16.7 kgs allowance. The wastewater contribution already exceeds 16.7 kgs.
- The MVC policy calls for a project in an impaired watershed to meet the less restrictive of either meeting the nitrogen load limit or implementing a basic nitrogen reduction technique; this would require treating the wastewater from the addition so the new loading is reduced by about 40%.
- Another part of the policy says that if a previously developed property already exceeds the load, then the total load shall not be increased. This will require offsetting the estimated increase of 7.6 kilograms/year.
- So the two things to look at are no increase to the overall nitrogen load and a reduction of 40% of the potential additional load. The first limit is more restrictive.
- He referenced a table in the staff notes that demonstrate the current nitrogen load and what the future expected nitrogen load would be.
- Water meter records indicate water use from August to November of 1111 gallons of wastewater per day, indicating a contribution of just under 31 kgs per year.
- The property has 1.2 acres of organically managed cropland and 0.4 acres of synthetically managed cropland.
- In applying the policy, it is not clear how to determine the existing load. For residential uses, this is based on a standard "book value" (60,000 gallons annually at 35 parts per million) for this use, irrespective of the actual current loading. For agriculture he's

suggesting that they use a similar approach, using the figure for agronomic acceptable rates for the cropland and then determining the nitrogen load based on that.

- The 21.8 kgs in the table is based on the 1.6 acres being managed with synthetic fertilizer.
- The greenhouse load is very low.
- The compost estimate is based on a calculation of the approximate volume of the compost piles and assuming that they contain 1% nitrogen and 1% of that is prone to leaching. Runoff is what comes off the impervious surfaces.
- The total estimated load for the property based on the book value method of determining existing loading and assuming synthetic fertilizer on the 1.6 acres is 99 kgs per year. The project would result in an increase of 7.6 kg/year that should be zeroed out in order to bring the loading back down to 99 kg per year. This could be done by having them commit to permanently maintain the organic management of fields.

Doug Sederholm said that the best estimate, in actual practice, is 85.3 kgs of nitrogen, which is way over the allowance of 16.7 kg. With this way of applying the policy, the nitrogen would still go up 7.6 kgs.

Bill Wilcox is suggesting that the Commission base the calculation of existing loading on the potential nitrogen contribution with synthetic fertilizer and allow a credit for the organically managed fields if there is a commitment to permanently maintain this.

- In reality they are largely organically managed. There is an 18.2 kgs lower nitrogen contribution because the majority of acreage is organically managed. If they get credit for permanently committing to maintain this practice, this would offset their additional loading and they'd have some additional nitrogen credit.
- They are thinking of converting 2 acres of woodland into farmland. If that were managed organically, there would be a nitrogen contribution of 4.5 kgs which would fit within the credit.
- There may be future staff housing and the nitrogen credit could be applied to that.
- The compost pile is a rather significant source of nitrogen, but difficult to calculate. His recommendation is that the leachate from the compost pile be sampled.
- In summary, if they receive a farm practice credit, they can cover their additional nitrogen load.

Linda Sibley asked if one per cent of the compost pile is leaching, could the compost pile be on concrete so the nitrogen can be captured. **Bill Wilcox** said that would be possible, but it would be expensive.

Doug Sederholm said he's having trouble understanding why the Commission should give a farm practice credit which is a number that doesn't reflect reality.

- The farm's practice is excellent, but the nitrogen contribution is 85 kgs which is five times more than what the land should be contributing to the watershed.
- Why not deal with what they have and see if there's something they can do to mitigate the 7.6 kgs so they can zero their addition. That would more fairly zero out the impact on the watershed.

Bill Wilcox said that the numbers used for residential wastewater contribution may also not reflect reality. All the great ponds are in the compromised category because they don't have a good model to determine their nitrogen load.

Linda Sibley said some of this discussion can occur with Bill Wilcox outside of the public hearing.

John Breckenridge said that the applicant would be trying to compensate for the 7.6 kg increase. He would like an option of alternative numbers in terms of denitrification.

Mike Mauro added that traffic analysis at Meshaket Road showed no accidents in the last five years. Just west of the intersection, the speed limit increases westbound, but the sightlines still exceed the requirements.

4.2 Applicants' Presentation

Simon Athearn added information about the proposal.

- They've been dragging their heels for several years on doing the expansion. The store and the Island have seen an overall increase since 1981 when the last expansion was done.
- They need office space, and infrastructure with a cooler and refrigeration area.
- They can create some efficiencies and get more retail space to take advantage of how well they've done on the farm.
- They've put the best effort into preparing the proposal and materials. They visited farm stands around New England and they've learned a lot about procedures and flow and set-up.
- They strongly believe in growing and our demand wants this expansion of our store.
- They are a working farm and family that shows up seven days a week to grow and sell to the community.

Daniel Athearn said he was a little nervous about the change, but they've planned a lot, and the proposal is just right for the farm and for the community.

Doug Sederholm referenced the project description wastewater section. To mitigate the 7.6 kgs increase from development, the applicants are offering to mitigate the increase by converting sufficient acreage to organic fertilization. **Simon Athearn** said that the amount needed to mitigate is the question. He wants to commit only what's necessary in this proposal because this is a commitment for future generations. He's ready to commit to offering the acreage for organic fertilizer.

4.3 Public Testimony

Robert Colbert, parttime employee, testified that the expansion is needed, especially for the flow within the farm stand. This will make customers happier.

Jan Pogue, Edgartown resident, testified that she had the pleasure of publishing the Morning Glory book. This is exactly what you want in a community business. She prays that the Commission will pass this project and that her children will be able to work there again.

John Best testified that the farm is the real article.

- The Athearns have set an example and their operation has broad benefits to the community, the people that work there, customers, and employees.
- When you work on a farm, you expect to see the ugly side. It's amazing how really devoid of the ugly side this operation is.
- They do the best they can for the environment. Nothing is wasted. What they do as a local producing farm has a big impact on the carbon footprint. While they're selling local asparagus, Stop and Shop is selling asparagus from Peru.
- They've tried to grow things you wouldn't expect them to.
- From a planning standpoint, he can't think of a better proposition for a business than this one.
- He strongly endorses the proposal. And the farm stand really needs it. It's cramped and almost dangerous.
- He strongly encourages the Commission to approve the project.

Jim Glavin explained that he worked with the Athearns on the design for a year and a half.

- He added that the Athearns are under stringent time restraints. They want to reopen the farmstand for the next season.
- If there's any way the Commission process can accommodate their time constraints that would be great.

Simon Athearn shared a lot of concerns about nitrogen.

- Theirs is a nitrogen business. They even beg, borrow, and steal nitrogen from their neighbors.
- The compost heap is a great thing. They mainly get Edgartown businesses and residents so Edgartown nitrogen is staying.
- The leachate drains into naturally vegetated oak areas. He wishes he could put in tanks to capture the leachate but the cost is prohibitive.
- The compost makes the Edgartown soils productive. He likes to think of the compost as a real win win.

Daniel Athearn said that the compost pile allows the farm to grow organically. Having the compost build up the soil allows the farm to not be putting on 500 pounds of nitrogen per acre.

Linda Sibley asked if they could improve the treatment of the leachate with plantings. **Bill Wilcox** said a grass planting could possibly reduce the nitrogen in the leachate of the compost.

Linda Sibley said she'll keep the public hearing open for the purpose of accepting written testimony until 3:00 p.m. on January 4th. The Commission will take oral testimony on January 7th only if new issues are raised. It would be rushing to vote on the proposal at this meeting; some issues need to be clarified. She closed this session of the public hearing.

Debbie Athearn, reflecting on thirty years ago, commented how incredibly sandy the soil was. The addition of the compost has allowed them to use a lot less fertilizer. They started out 100% organic, but couldn't do that intelligently. They have 7 acres dedicated to organic fertilization and they want to add more. As far as the expansion goes, they've been talking about it for a while. Now they need it and it's a good thing for the community too.

5. NOMINATING COMMITTEE

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

Bill Bennett moved, and it was duly seconded, that Christina Brown be Chairman, that Chris Murphy be Vice-Chairman, and that John Breckenridge be Clerk-Treasurer. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

6. OTHER

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

Carlene Gatting moved, and it was duly seconded, to give staff December 24th off. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

The meeting adjourned at 11:00 p.m.



Chairman

5/20/10

Date



Clerk-Treasurer

5/20/10

Date