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Martha's Vineyard Commission DCPC Committee Island Wind Notes of the Meeting of November 16, 2009

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 P.M.

Committee Members Present: Committee members Doug Sederholm (Chairman), John Breckenridge, Holly Stephenson, Jim Powell, Camille Rose and Christina Brown;

Others Present: MVC staff Jo-Ann Taylor, Mark London and Bill Veno

Doug Sederholm opened the meeting at 5:30 P.M.

Discussion centered on the November 12 draft Goals and Guidelines for the proposed Land Zone, introduced by Jo-Ann Taylor, attached. The draft includes the Goals and Guidelines voted November 5 for the entire Island Wind Zone, for context, with special parts for the proposed Land Zone.

There was particular focus on the issue of setbacks. It was noted that the Green Communities Model By-law includes setbacks of 1.5 times ht. from nearest road and 3 times ht. from nearest residence.

There was also discussion of including a noise standard, such as the basic DEP standard (as used in the proposed Aquinnah by-law) or something more stringent.

There was discussion of identifying significant public viewsheds.

The meeting was adjourned at 7:00 P.M.

Minutes prepared by Jo-Ann Taylor

Attachment: November 12 draft Goals and Guidelines

ISLAND WIND DISTRICT GOALS AND GUIDELINES

Voted 11/05/09

With draft guidelines for proposed Land Zone 11/12/9

Section 5.00 Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of the Island Wind District. In adopting the Guidelines, the Commission has evaluated each of the considerations enumerated by Section 8 of the Act and, in addition, has considered other relevant matters.

Towns shall, in the manner required by the Act, adopt Regulations for the development of the Island Wind District. In the event that a town has adopted regulations prior to October 1, 2009, they may be submitted for the Island Wind District, and will be reviewed for conformance to the guidelines in the manner required by the Act. The Commission draws the towns' attention to Section 10 of the Act which in part provides, "In adopting such regulations, each municipality shall have all of the powers it otherwise had under the General Laws". The Commission also encourages the towns to adopt compatible regulations within the Island Wind District. As used herein, the terms "development", "permit" and "regulations" shall have the same meaning as in the Act.

5.1 Goals

To protect the natural, cultural and economic resources in the County of Dukes County, while allowing for development of wind energy facilities consistent with the enabling legislation of the Martha's Vineyard Commission (MVC), Chapter 831 of the Acts of 1977 as amended.

5.2 Establishment of Guidelines

The Towns shall adopt regulations of the types described in the Act, which conform to these Guidelines, to control development within the Island Wind District.

In appropriate cases, after notice and a Public Hearing, the Martha's Vineyard Commission may permit a town to adopt regulations that are less restrictive than these guidelines if the Commission finds that such regulations will carry out the purpose of the Act and the intent of these Guidelines for the District.

5.3 Establishment of Zone(s)

The Island Wind District shall consist of zone(s), as follows:

5.31 The Ocean Zone, consisting of that portion of the air space over all ocean waters within the County of Duques County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation.

5.32 The Land Zone, consisting of that portion of the air space over all lands and inland waters within the County of Duques County which exceeds one hundred fifty (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.

5.4 Guidelines Applicable Throughout the District

The Towns and Martha's Vineyard Commission shall review and/or undertake studies of the impacts of wind energy facilities on natural, cultural and economic resources, which will serve as the basis for development of regulations to ensure the best possible siting, appropriate scale, project design, and public benefit of wind energy generation facilities.

Although "mitigation" appears throughout these Guidelines as an option, the possibility of mitigation shall not indicate that mitigation can necessarily overcome the unsuitability of a site or design.

The following Guidelines apply to the impacts that possible developments in the District have within the District as well as on resource areas including the waters located in the vicinity of the District.

Scenic Resources: Identify significant public views and vistas, prioritizing those of greatest public importance, public use, and visibility. Evaluate impacts of facilities on day and night viewing, considering "dark skies" and ambient lighting. Provide criteria for reasonable protection of public views and vistas, including from properties available through town residency or non-profit membership, such as siting and project design to avoid, minimize or mitigate the visual impact on public viewsheds.

Natural Environment: Consider the impact of facilities on wildlife and habitats, and other natural resources and establish criteria to avoid, minimize or mitigate any negative impacts through siting or project design.

Cultural or Historic: Consider the impact of facilities on cultural, or historic resources, and provide any necessary measures to avoid, minimize or mitigate any negative impacts.

Maintenance, Decommissioning, and Removal: Include, from the inception of the project, measures to ensure the adequate maintenance of facilities as well as their decommissioning and removal should they no longer be needed. Project approval shall be dependent upon provision of a bond or other mechanism to ensure that funds are available.

Hazards: Consider the possible hazards related to the installation of facilities, including collapse of facilities and spills of oil and/or chemicals. Establish criteria to minimize these hazards and mitigate harms.

5.41 Special Guidelines for the Ocean Zone

Ocean Scenic Resources: Identify significant public ocean views and vistas, prioritizing those of greatest public importance, public use, and visibility. (For example, these could include: views from public beaches, including those available through town residency or non-profit membership; views of the water from public roads; views from specific lookouts such as the National Natural Landmark of the Gay Head Cliffs; and ocean views from public lands. Provide criteria for reasonable protection of public views and vistas, such as siting and project design to avoid, minimize or mitigate the visual impact on public viewsheds.

Avian Resources: Consider the impact of ocean wind generation facilities on avian resources, both for resident and migratory birds. Consider the rarity of a particular species as well as other factors such as overall avian biomass. Establish criteria to avoid, minimize or mitigate any negative impacts through siting or project design.

Commercial and Recreational Fishing: Consider the impact of ocean wind generation facilities on the commercial fishing industry as well as on recreational fishing in the vicinity of the District, considering impacts both on the fish and their habitats as well as impacts on the means of fishermen to continue fishing to support themselves, their families and communities. Establish criteria to avoid, minimize or mitigate any negative impacts through siting or project design.

Commercial and Recreational Boating: Consider the impact of ocean wind generation facilities on commercial as well as recreational boating in the vicinity of the District. Establish criteria to avoid, minimize or mitigate any negative impacts through siting or project design.

Benthic Resources: Consider the impact of the construction and ongoing operation of ocean wind generation facilities, including cables to connect such facilities with the mainland, on the sea bottom, in the vicinity of the District. Establish criteria to avoid, minimize or mitigate any negative impacts through siting or project design.

Local Economic Benefit: Ensure that local economic benefit from commercial facilities includes at least a reasonable portion of shares and a reasonable portion of net return, with a portion to be dedicated to reducing local consumption of fossil fuels.

5.42 Special Guidelines for the Land Zone

The following Guidelines apply to the impacts that possible developments in the Land Zone have within the District as well as on resource areas including lands located in the vicinity of the District.

Towns are advised to review and avoid conflicts with federal and state regulations including those dealing with aviation.

Reasonable Development of Facilities: Provide for the reasonable development of wind energy from public and/or private sources, compatible with the other guidelines.

Consider utility-scale generation facilities to serve not only the needs within a town, but also the possibility of supplying energy to other parts of the Island and Commonwealth. Identify potential locations suitable for utility-scale facilities. Ensure that such suitability is not compromised by land use practices which invite conflict with utility-scale wind facilities.

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

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

Views and Vistas: (covered in general for now....any specific to land?)

Public Spaces: Identify the significant public spaces in each town and minimize the impact of wind energy facilities, if any, – including ancillary equipment and related access – on the space and its use. Consider how wind energy-generation facilities may help educate the public about renewable energy generation.

Construction Impacts: Identify and minimize impacts related to shipping, site clearance, and temporary access.

Setbacks: (Mark suggested a separate section on setbacks)?

5.5 Administration

Re-evaluation of boundary: The towns shall, after researching their needs, desires and options, re-evaluate the height coverage of the District as originally designated and may request amendment which the Commission would consider in accordance with Section 8 of Chapter 831 of the Acts of 1977 as amended. This may be done in conjunction with proposal of regulations.

Procedure: Provide clear definitions of different types of wind energy generation facilities. For turbines, this could include scale (e.g. small, medium, and utility), type (e.g. monopole or lattice, fixed or floating), location

(zone), 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.

Criteria: Include an appropriate administration of regulations that includes clear and objective criteria for project review, through a procedure to include a Special Permit procedure and/or Site Plan Review in order to determine the best possible siting of facilities.

Developments of Regional Impact: Regulations should identify what projects, due to their type, scale and/or siting, should be referred to the Martha's Vineyard Commission for review as Developments of Regional Impact.

Balanced Approach: The towns are encouraged to propose creative solutions in light of the need to balance protection of exceptional natural resources and the development of wind energy resources. In achieving balance, the degree to which wind energy resources are valued should reflect public interests and local impacts, based on criteria such as visibility, amount of energy produced, type of ownership, and other community benefit.

Town regulations shall provide for periodic evaluation of regulations based on the performance experience of facilities in place as well as of available technologies. Towns are encouraged to proposed updates to the Martha's Vineyard Commission, for conformance review in accordance with the Act, in order to keep the regulations performing as desired at the forefront of new technological advances.