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Martha's Vineyard Commission DCPC Committee Island Wind Notes of the Meeting of October 14, 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, Christina Brown, Holly Stephenson, Peter Cabana, and Camille Rose;

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

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

Jo-Ann Taylor presented draft Goals and Guidelines for discussion purposes, including the establishment of zones, as has been done in previous Island-wide Districts such as the Coastal District and the Island Road District. The draft includes Goals and Guidelines for the entire Island Wind District and special Goals and Guidelines for the Ocean Zone, leaving reserved sections for a future Land Zone.

Discussion centered on the draft, producing the Oct. 15 draft attached

The meeting ended at 7:20.

Minutes prepared by Jo-Ann Taylor

Attachment: October 15 Goals and Guidelines

PROPOSED ISLAND WIND DISTRICT – OCEAN ZONE
DRAFT GOALS AND GUIDELINES

Draft 10/15/09

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. The Commission will consent to a town’s request for review for conformance, in the manner required by the Act, town regulations adopted prior to October 1, 2009. 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 Zones

The Island Wind District shall consist of zones, as follows:

5.31 The Ocean Zone, consisting of that portion of the air space over all ocean waters within the County of Dukes 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 Reserved

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 option 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, 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 the 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.

Consumption of Fossil Fuels: *Implement measures to reduce the use of fossil fuels within the District and in adjacent areas. (tabled, maybe out)*

Hazards: Consider the possible hazards related to the installation of facilities, including collapse of facilities and spills of oil and/or chemicals. Establish cooperative measures 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; views of the water from roads close to the ocean; views from specific lookouts such as the National Natural Landmark of the Gay Head Cliffs; and general views from public roads. 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 Reserved

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), 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.

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. Regulations should identify what items will be reviewed by and regulated by the town directly, and what issues will be reviewed and regulated by other entities, particularly the Martha's Vineyard Commission and the Commonwealth of Massachusetts; this could include the requirement to refer projects of a given type and scale to the Martha's Vineyard Commission Developments of Regional Impact. The regulations and criteria for project review should ensure that the degree to which the goals of the Island Wind DCPC are not met is commensurate with the public benefit of the proposed facility, based on criteria such as its visibility, the amount of energy produced, and the type of ownership. The towns are encouraged to propose creative solutions in light of the special situation of needing to balance protection of exceptional natural resources with the development of wind energy resources. The Commission suggests that the towns consider providing for regular re-evaluation of facilities in place and available technologies, and to consider proposing updates to the Commission in order to keep the regulations performing as desired at the forefront of new technological advancements.