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## **Martha's Vineyard Commission**

### **Land Use Planning Committee**

# **Notes of the Meeting of July 15, 2013 - DRAFT**

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 p.m.

Commissioners Present: Brian Smith (LUPC Chair); Fred Hancock; Linda Sibley; Camille Rose; Christina Brown; John Breckenridge; Josh Goldstein; Joan Malkin; Lenny Jason; Ned Orleans; & Madeline Fisher.  
MVC Staff Present: Paul Foley; Mark London; Bill Veno; Priscilla LeClerc; Christine Flynn; and Sheri Caseau.

The LUPC reviewed three projects on July 15, 2013: Bayside/Houlahan Subdivision (DRI 450-M3); Edgartown Lofts (DRI 170-M3); and the Discretionary Referral of NSTAR Poles (D.R. 2 – 2013).

***These notes only contain the discussion on the NSTAR Poles project.***

### **1. D.R. 2 – 2013 NSTAR Poles– Pre-Discretionary Referral Public Hearing Review**

**Present:** No one for the Applicant (NSTAR)

**Applicant:** NSTAR Electric Co.

**Proposal:** The NSTAR Electric Company is in the process of installing new and replacement utility poles from Tisbury through Oak Bluffs to Edgartown that are significantly larger than the existing poles and include major tree trimming and cutting.

**Location:** Edgartown-Vineyard Haven Road in Tisbury, Oak Bluffs, and Edgartown

**Purpose:** To review the Discretionary Referral and make a recommendation to the full Commission whether this project is significant and regional and requires a public hearing review as a Development of Regional Impact (DRI).

#### **Introduction:**

- Paul Foley gave a brief review of the project and referral including a map of the proposed pole installation and pictures of some of the cutting of trees and installation of poles.
- NSTAR representatives said that they only need local permission for the new mid-span poles.
- There will be 6 new mid-span poles in Tisbury, 19 in Oak Bluffs, and 19 in Edgartown. NSTAR has only asked for and received permission from Oak Bluffs. The claim they do not need any new permission for the newer larger poles.
- The route for the new poles starts where the new undersea cable will emerge from its trench on Main Street and Squantum Avenue in Tisbury and then follow the off-road NSTAR Right of Way until it meets up with Edgartown-Vineyard Haven Road near the Edgartown Bank. It will then go along the R.O.W. along Edgartown-Vineyard Haven Road to about County Road in Oak Bluffs at which point it will turn into the woods and run along the edge of the State Forest down to Edgartown-West Tisbury Road. Then it will turn left and head towards Edgartown eventually turning back up Edgartown-Vineyard Haven Road.

#### **Discussion:**

- Brian Smith said that NSTAR has said that the reason for these new and larger poles is the increased capacity as a result of the new hybrid submarine cable that was approved with conditions by the MVC

in DRI 641. He noted that NSTAR never said that they would need so many new larger poles. He feels that this is a breach of the DRI 641 Decision and that NSTAR either needs to request a modification to the DRI 641 Decision or they are out of compliance.

- Mark London said the question of whether this is a modification or a different project is debatable. The hybrid cable was approved in one location and these poles are in a different location so therefore it is not a part of the DRI 641 Decision. DRI 641 was originally a Comcast project that later was expanded to include NSTAR so the applicants are not the same in this case either.
- Lenny Jason noted that this project would not be necessary without the new submarine cable but he also said he thought they had been putting up 40 foot high poles in Chilmark for some time.
- Brian Smith added that NSTAR was in front of us and they knew this would be the result and they never said anything about it.
- Jay Grande, Tisbury Town Administrator, said that NSTAR has put forward that this is a reliability issue. They have said it would cost \$1.2 million a mile to bury the utilities but they say that whether it is a city or rural. They have made a lot of promises that have not been kept. He said the MVC is the vehicle that the island has to drive to move towards burying the utilities. The cost should be much less in a rural area such as this. Utility poles are a traffic hazard and expensive to put up and maintain. They began with the rural electrification act during the depression when money was scarce. It is time to move in a new direction.
- Tristan Israel, Tisbury Selectmen and County Commissioner, noted that the new poles break the tree line and the change is very dramatic. The Town has asked NSTAR for years to bury the poles along Beach Road and particularly the one in the road on Beach Street. One of the purposes of the MVC is to protect the character of the island and these poles represent a dramatic change to that character. The Town just received a letter one day that Hamilton Tree Service would be doing the cutting. Where is the public input? The MVC should develop policies to oversee this type of work going forward.
- Fred Hancock noted that the Island Road DCPC allows for towns to regulate utilities. However the MVC DRI process is based on the need for Applicants to be required to get permits.
- Tristan Israel added that in places where the cutting took place next to woods the tree cutting service simply discarded branches into the edge of the woods.
- Mark London said that the MVC reviews projects that need permits which includes permissions. The NSTAR representatives said that they have only received that local permission from Oak Bluffs so far. This raises the question of whether we have any purview in Oak Bluffs and Edgartown. NSTAR said that in Edgartown they only use the Right of Way so they may not need local permission.
- Mark London then asked the representatives from Tisbury what they were hoping for from the MVC. Do they want us to deny the project? Or do we just want to start the conversation for future plans.
- Tristan Israel responded all of the above. Tisbury would like to stop it, would like to mitigate it, and would like to change the process in the future.
- Joan Malkin noted that the replacement poles are really new poles because they straddle the old poles and sometimes stay there for years.
- Linda Sibley agreed that there is a desecration going on. NSTAR does a lot of damage when they trim. She hopes we will accept the referral. She said a trained arborist would never approve of the cutting the way it is being done. They are totally uncoordinated. These are our scenic roads and we are a tourist destination. We need to look at the Island Road DCPC Regulations and demand that we have the right to set the standards for this type of operation.
- Lenny Jason said that we did review a pole in the 1990's. We have to figure out how to bury the poles. He understands that NSTAR has to deal with unions. We need a responsible person to figure out the costs and come up with a plan.

- Paul Foley noted that when they do a cost-benefit analysis they have to consider all of the costs to a community, not just NSTAR. When the power goes out for several days how much money do all of the businesses out of power lose? What is the value of all of the food that is thrown out? His power was out for three days this past winter and though NSTAR did an amazing job getting power restored given the destruction of the storm he wondered what the cost of losing power for that long was to businesses and families, not just the utility company.
- Tristan Israel said he thinks the cost of installing the poles must be incredibly high not to mention the maintenance and storm repair. First they have to cut the tree and ship it cross country, and then it gets soaked in creosote (a toxic chemical) and then cured and shipped before getting to its location where the installation of each one is a significant operation. We need to see a comparison of costs. In Nantucket they are burying the cables and they have to pay as they go. So far they have buried about 25% of them.
- Ned Orleans said the issue is that we do not have the control that we as the regional planning commission should have. This has to be done in an organized fashion, not through a DRI. NSTAR needs to know that the whole island is upset.
- Camille Rose noted that when they were doing the Distributed Antenna System (DAS) up-island one hold up was that NSTAR said that they had to put up these 40 foot (above grade) poles. The Commonwealth said the answer is in the legislation that empowers the utility companies.
- Linda Sibley said that years ago when David Dunham worked here he said that this issue with burying the utilities was that every time they had to cross the road they had to tear up the pavement. That is not the case anymore. They can easily trench under the road now. They must be doing that in Nantucket.
- Fred Hancock suggested that we should have a relationship with NSTAR similar to what we have with Mass DOT.
- Tristan Israel said that when NSTAR went to Edgartown they just said pointed out some dots on a plan. No one understood the scale or the scope. There needs to be a process in the future or NSTAR will destroy the whole island.
- Joan Malkin suggested we need to better understand the rights and responsibilities that NSTAR has.
- Lenny Jason said we should start with our goal. We want the utility lines buried. How do we get there?
- Christina Brown noted that with the Roundabout the State said they could do what they wanted but they shoes to work with us. She thinks we should accept the Discretionary Referral if for nothing else for to begin the discussion. We should avoid talking about what powers we have and where jurisdiction lies, that is a side issue. She then asked the representatives from Tisbury if the Discretionary Referral was just for Tisbury or for the whole project in all towns affected.
- Tristan Israel answered for the whole project. Jay Grande said that they referred the project as a regional impact without knowing the full scope of the project.
- Paul Foley noted that the first paragraph of the referral letter mentions Edgartown-Vineyard Haven Road but quoted from the second paragraph which states among other things, "We believe NSTAR and the other anticipated users of these utility poles should have been more sensitive to the unique beauty and character of Tisbury and Martha's Vineyard in general".
- **Lenny Jason made a Motion to recommend to the full Commission to accept the Discretionary Referral from Tisbury for the whole NSTAR project of new and replacement poles significantly larger in height and diameter. Christina Brown seconded the Motion which was passed unanimously.**

The meeting was adjourned at 7:20 pm.