



MARTHA'S VINEYARD COMMISSION

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REGIONAL PLANNING AGENCY OF DUKES COUNTY
SERVING: AQUINNAH, CHILMARK, EDGARTOWN, GOSNOLD, OAK BLUFFS TISBURY, & WEST TISBURY

Date: October 17, 2012 (updated October 25, 2012 to include comment by Paul Adler)
To: MVC Commissioners
From: Doug Sederholm, Chairman, Wind Energy Plan Task Force; Mark London, Executive Director
Re: **Wind Energy Plan – Review of Public Hearing Comments**

In the course of the public hearing on the draft Wind Energy Plan, the Commission heard and received several comments. Staff has drafted a response and recommendation for each concern.

1. Barbara Schlesinger

Barbara Schlesinger submitted a letter and attachments with comments on the impacts to neighbors, citing her experience with a nearby farm turbine.

a) Section 6.2.2 - Sound

- Comment: The 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...” Why choose a limit of 50dbC when conversation is 40dbA at one meter?
- Response: Yes, it’s complicated; but there is no good way to regulate sound without introducing technical, objective measures. The recommendations are the result of extensive work with an acoustical engineer to come up with standards that are protective of the neighboring aural character. The dbA and dbC thresholds are not interchangeable – each is needed to address different impacts. DbA measures the commonly understood audible range of sound (i.e. loudness), whereas dbC measures low-frequency sound, which is often “felt” more than “heard” and is usually the source of noise complaints about wind turbines.
- Recommendation: No change.

b) Section 6.2.2 - Sound

- Comment: The overall objective to “Protect people and their enjoyment of their property from potential negative consequences due to sound generated from wind turbines” (line 2608) conflicts with the introductory statement “...the Vineyard community has an interest

in protecting the well-being of its residents and visitors from wind turbine sounds that may unreasonably disrupt people's enjoyment of their properties...." (line 2467)

- Response: All of the Plan's objectives propose goals, but not absolute standards with respect to that factor. There is no way to guarantee absolute conformance with all objectives in the Plan short of prohibiting any turbines on Martha's Vineyard. Using the word "unreasonably" in the introduction indicates that this is not an absolute standard and that it could be acceptable that turbines are minimally audible.
- Recommendation: Keep the word "unreasonably" in line 2467 and add the word "unreasonable" to line 2608 so it reads ". . . from unreasonable potential negative consequences . . ."

c) Section 6.3.2 - Shadow Flicker

- Comment: Why "minimize" and "mitigate" instead of "prevent"?
- Response: The standard proposed in the Plan does in fact say (line 2704): "*There shall be no shadow flicker on normally occupied buildings within 1,000 feet of the turbine except those located on participating parcels.*" This is much stricter than standards typically used off-Island, which allow an accumulated total of 10 to 20 hours per year when neighboring properties may be affected by shadow flicker. The Plan's strict limit would result in a turbine having to be shut down during periods it would cause shadow flicker on nearby abutters.
- Recommendation: No change.

d) Section 8.2.2 - Property Values:

- Comment: The draft Plan (line 3035) says: "*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? . . . :
- Response: Municipal land use regulations provide predictability of the type and intensity of activities that may be allowed, and people have the right to develop their properties within these regulations. These regulations do not guarantee protection to property owners that their property values will not be affected by nearby development. For example, building a house on a vacant lot might block an abutter's view and diminish the abutter's property value, but this does not give the abutter the right to claim damages from the person building the house. When reviewing projects, the MVC or the town permitting authority can consider abutter's concerns and attempt to reduce impacts on abutters, if possible.
- Recommendation: No change.

2. Gary Harcourt

Gary Harcourt is an installer of small scale wind turbines (less than a megawatt generating capacity) and participated in some of the sessions of the Wind Energy Plan Task Force sessions. He testified at the hearing and submitted a letter.

a) Comments on General Approach

- Comment: Restrictions intended to deal with large-scale turbines will prevent some small, on-site turbines. The Island Plan promotes development of renewable energy and encourages on-site generation. The Wind Energy Plan assumes that large offshore wind is better, with large on-land area restricted in the Plan to areas where people are more likely to complain. Solar uses 100 times as much land as wind, and gobbles up farmland.
- Response: The Wind Energy Plan clearly opts on the conservative side because the Task Force concluded that it was preferable to proceed cautiously with the review and permitting of turbines. It does point out that the total potential energy development from even a very large number of land turbines across the Island resulting from very permissive regulations would only produce a small fraction of the energy of a single offshore turbine. In the future, as more turbines go up and as more information is available from off-Island, the Plan could be revised to relax restrictions.
- Recommendation: No change.

b) Comment on Hazard Mitigation Areas

- Comment: Why is the Hazard Mitigation Area pertinent to wind turbines? They can be built to withstand flooding. After the tsunami in Japan, wind turbines were left standing even though other structures were destroyed or damaged. This area should be an Area of Special Concern.
- Response: This prohibition follows the Island Plan recommendation that *“Construction . . . of buildings or infrastructure should be prohibited in the most highly susceptible areas”*. The Hazard Mitigation Areas include only locations most likely to be underwater with sea level rise, as well as those at highest risk from storm surges during hurricanes and nor’easters. The Task Force chose to be conservative regarding development in flood-prone and other Hazard Mitigation Areas. In any case, making the Hazard Mitigation Areas an Area of Special Concern would make little or no difference to potential wind energy development: in rural areas, these areas largely coincide with the Shore Zone of the Coastal DCPC (see next comment) where the Task Force concluded that development was undesirable for other reasons; in town areas, development would be very difficult if not impossible because of other restrictions such as required setbacks from structures.
- Recommendation: No change.

c) Comment on the Coastal DCPC

- Comment: Why is the Coastal DCPC exclusionary? Why exclude shore or nearshore community turbines?
- Response: The Coastal DCPC is limited to less-developed parts of the Vineyard’s coast, and does not include the working and village waterfront areas. The Coastal Zone extends to mean low water and does not include nearshore waters. Only the Shore Zone, or first 100 feet, is designated exclusionary. The Inland Zone is already an Area of Special Concern. Within the very limited commercial waterfront areas, it has long been the Commission’s policy that water-dependent activities should remain the priority for development.
- Recommendation: No change.

d) Comment on Turbine Height Illustration on page 10

- Comment: This graphic is not a good representation of the latest generation of wind turbines.
- Response: Agreed.
- Recommendation: Update the illustration in the final plan.

3. Richard Toole

Richard Toole was a member of the Wind Energy Plan Task Force and testified at the public hearing.

a) Comment on General Approach

- Comments: He admires the Wind Energy Plan and feels it could be a model for other communities. The community needs to promote renewable energy, not make it more difficult.
- Response: The Plan takes an admittedly conservative approach to development, recognizing that taking a permissive approach could result in projects similar to the recent less-than-success stories such as Falmouth and Vinalhaven, which can backfire and hamper future wind energy development. Taking a cautious approach is better for wind energy development in the long run. The Plan does leave room for development.

4. MVC Commissioners

a) When Should the Plan be Updated?

- Comment: Is 5 to 7 years too long to wait for the Plan to be updated?
- Response: The Plan suggests that two major factors that could impact the revision to the Plan are related to other offshore development in federal waters, namely the cumulative impacts of large-scale offshore development around the Vineyard and the actual, as opposed to projected, impacts of this offshore development. It will take 5 to 7 years to get this information. The timeline is discussed in Section 12.3 (line 3813). There could also be refinements in technology, which also take many years. The Massachusetts Ocean Management Plan calls for review in 5 years.
- Recommendation: Change the projected timeline for review of the plan to 5 years, and ensure that it is clear that the Plan could be revised sooner than that if conditions warrant.

5. Whit Griswold

Whit Griswold sent a comment by e-mail.

a) Wind Energy Development in the State Forest

- Comment: Mr. Griswold suggests that the State Forest should be the site of a large wind farm.
- Response: There are a number of reasons why this is not proposed in the draft Wind Plan:

- Much of the State Forest lies within approach and departure space for the Martha's Vineyard Airport and/or for the Katama Airfield. Tall turbines would not be permitted by the Federal Aviation Administration.
- The Wind Energy Task Force discussed and rejected the idea of using any parklands. These lands are set aside as open space and should not be developed, even for public or socially worthwhile uses.
- DCR only allows recreational uses in the State Forest. Power generation would not be allowed.
- Recommendation: No change.

6. Jane Schlesinger

Jane Schlesinger sent an e-mail on October 15, 2012. Although it was submitted five days after the close of the hearing record, here is a response to her comments.

a) Comments on Public Process for Project Review

- Comment: She made a number of suggestions regarding abutter and public input for wind turbine proposals.
- Response: All of her suggestions are already part of the MVC's DRI process. She could check with her local planning board to find out whether her suggestions are or could be incorporated at the town level. The Plan's model by-laws are suggestions for how towns might regulate wind turbines and towns could add additional measures if amenable.
- Recommendation: No change.

7. Minor Updates and Corrections

As stated at the public hearing, staff is in the process of making a number of technical and editing changes to the Plan, none of which affect the substance of the analysis or proposals. They include:

- Updating the status of referenced activities such as the most recent changes to the MOMP and the Wind Energy DCPC, including the map of federal wind energy areas;
- Revising wording of various proposals on advice of MVC counsel;
- Corrections to minor grammatical or editing errors in the text, including standardizing numbering, and checking references to technical materials.

8. Paul Adler

Paul Adler is a certified wind dealer and sent an e-mail on October 5.

a) Comments on Siting and Impact Standards

- Comment: He suggested that towers and turbines should not be situated near residential communities; that there are too many complaints to justify the limited amount of power produced.
- Response: The Wind Energy Plan takes a conservative approach overall, in order to avoid improper placements that might produce conflicts.

- Recommendation: No change.
- Comment: He suggested regulating turbines on farms, because they are often situated near residential neighborhoods.
- Response: The towns are limited in regulating farm activities by the Commonwealth's zoning regulations in MGL Chapter 40A. This is meant to keep farms viable in spite of potentially objectionable activities such as noisy tractors working in the fields. The MVC has no such restriction in its legislation.
- Recommendation: No change.
- Comment: He suggested using specific impact standards, such as sound in decibel measurements, rather than relying on the height limit of 150' for jurisdiction.
- Response: The MVC presently concerns itself with turbines higher than 150' because that is the present lower limit of the DCPC, selected by the towns at the time of nomination as representative of their comfort level. The draft Model Regulations provided in the Wind Energy Plan include specific standards for sound. Those standards use decibel measurement. The towns may or may not choose to adopt the standards provided in the draft.
- Recommendation: No change at this time. It may become desirable to extend the limits of the Wind DCPC below 150' if that is what the towns and MVC want.

Attachments:

- Barbara Schlesinger Letter to MVC September 13, 2012
- Barbara Schlesinger Letter to the Editor, undated
- Barbara Schlesinger Full page MV Times ad, undated
- Harcourt Letter October 5, 2012
- Griswold e-mail October 10, 2012
- Jane Schlesinger e-mail October 15, 2012
- Paul Adler e-mail October 5, 2012