

# **DEPARTMENT OF ADMINISTRATION**

## **SPECIAL MEETING OF THE**

### **STATE PROPERTIES COMMITTEE MEETING MINUTES**

**WEDNESDAY, DECEMBER 4, 2013**

#### **ADDENDUM**

**The meeting of the State Properties Committee was called to order at 10:10 a.m. by Chairman Ronald N. Renaud. Attendance of the members was taken by roll call and the following members made their presence known: Robert K. Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; and Christopher Feisthamel representing the Rhode Island Office of the General Treasurer, Ex-Officio Member.**

**Chairman Renaud stated for the record that the State Properties Committee did have a quorum present to conduct business.**

**Chairman Renaud indicated that there are two items on the agenda today; however, he would like to have all representatives from both the Department of Transportation (the "DOT") and the Department of Environmental Management (the "DEM") make their presentations as a single request. Chairman Renaud along with the Committee believes that hearing the presentations for Items A and B in their**

**entirety prior taking questions will minimize confusion and assist the public in making informed inquiries based upon all facts relating to a project which is understandably a particularly passionate issue for many present today. Chairman Renaud reminded those members of the public with questions or comments to keep them precise and brief in order to allow as many people as possible to be heard.**

**Item A - Department of Transportation - A request was made for approval of and signatures on a Temporary Construction and Perpetual Easement over property located at Dillon's Corner (Route 1) in the Town of Narragansett, by and between the Department of Transportation and Deepwater Wind Block Island Transmission, LLC (Deepwater Wind”) together with approval of and signatures on an Assignment and Assumption of Easement Agreement, by and between the Department of Transportation; Deepwater Wind and The Narragansett Electric Company; and Item B - Department of Environmental Management - A request was made for approval of and signatures on an Easement Agreement, by and between the Department of Environmental Management and Deepwater Wind over property located on Ocean Road in the Town of Narragansett. Chairman Renaud introduced Mr. Paul Carcieri and Attorney Annette Jacques representing the DOT together with Attorney Mary E. Kay and Larry Mouradjian representing the DEM. Mr. Carcieri noted that line four (4) of the presentation memorandum submitted to the Committee contains a typographical error in the second of the dollar amounts referenced. The last two digits of the figure should be**

transposed to reflect an amount of \$186,285. Mr. Carcieri indicated that the easements before the Committee today are for the use of DOT controlled property referred to as the, so called, Dillon's Corner parcel located at the convergence of Routes 108 and 1 in the Town of Narragansett. Said parcel is currently used by the DOT as a salt and sand storage facility for its winter operations. Mr. Carcieri stated that Deepwater Wind desires use of the subject property for an electrical substation to service that company's generation and transmission of electricity from the Town of Narragansett to Block Island. In accordance with DOT's usual practice, the easements have been appraised by an in-house licensed appraiser and the dollar values are derivatives of said appraisal which was conducted in September of 2013. The Temporary Construction Easement will allow for the construction of the substation on State-owned land. The Temporary Easement is for a term of one (1) year and the Perpetual Easement, in effect, takes over when the Temporary Easement expires. The Perpetual Easement gives the Grantee the right to maintain and repair the facility which is standard practice with regard to the granting of easements. Collateral to this easement is the assignation of this document by Deepwater Wind to National Grid. The assignation document is likewise before the Committee and will take effect prior to the commencement of the construction of the electrical substation. The assignment will be held in escrow if it is, in fact, executed by the Committee today. All other required documents have been provided to the Committee including the corporate disclosures, a certificate of authority and a certificate of insurance. Ms. Kay explained that the

**DEM is before the Committee this morning seeking approval and signatures on an Easement Agreement with Deepwater Wind for property located at the Scarborough Beach Complex; designated as Plat S, Lots 136 and 123 on Ocean Road in the Town of Narragansett. The DEM also has an Assignment and Assumption Agreement, which will be held in escrow pending Deepwater Wind's compliance with a number of conditions, most importantly, Deepwater Wind obtaining all required permits and approvals and assigning the easement rights to the Narragansett Electric Company who will be doing the actual construction. In addition to Deepwater Wind fulfilling all its obligations associated with the DEM Easement Agreement, there is one more caveat which Ms. Kay indicated she would address later in her presentation. Ms. Kay stated that this easement is in connection with the construction of the demonstration of the off-shore wind farm project, which was proposed by the Rhode Island General Assembly pursuant to R.I.G.L. 39-26.1-7. This will allow the connection of Block Island's electric grid with the main land's electric grid system. Ms. Kay indicated that the easement will allow for the installation and operation of a buried electric cable on two (2) parcels of DEM controlled properties. The parcels are both part of the Scarborough Beach Complex. A portion of the conduit will be buried in sand at least ten feet below the surface of the beach. There is also a portion that will be situated within DEM's auxiliary parking lot, which is located across the street from the beach facility. The only surface feature associated with that portion of the project, will be a manhole cover located in the rear of said parking lot. The DEM has evaluated**

the proposed easements and the construction methods and determined the easements will not have a significant impact on the Scarborough Beach property. Ms. Kay indicated that Mr. Mouradjian will address this issue and any natural resource issues associated with this project in greater detail later in the DEM's presentation. The DEM is receiving compensation in three components in conjunction with this transaction. The initial component is a cash payment of \$169,750.00. Said compensation represents the appraised value of the temporary and permanent easement areas. The easements values were determined by an appraisal conducted by Peter M. Scotti & Associates on October 16, 2013. The appraisal was commissioned by the DEM and reviewed internally by Deputy Chief Lisa Primiano. Ms. Kay noted that the second aspect of compensation will be effectuated by The Narragansett Electric Company upon the assignment and assumption of the Easement Agreement. Said compensation will be utilized for renovations, landscape improvements and paving improvements to the Scarborough Beach Complex. These improvements will cost \$350,000.00. Ms. Kay stated that the Scarborough Beach Complex has not undergone any significant improvements since the 1980s, at which time substantial landscaping work was done as well as improvements to the pavilion and parking lot. Ms. Kay indicated that this transaction will provide for the much needed improvements to the most utilized beach facility in the State of Rhode Island. Final compensation will be made in the form of a \$1,000,000.00 payment, which will be utilized to fund a statewide park improvement project. This compensation will be the

obligation of Deepwater Wind only. No portion of this compensation shall be the obligation of The Narragansett Electric Company. The first of the \$1,000,000.00 installment payments from Deepwater Wind shall commence at the time of the assignment, which will transpire before construction begins at Scarborough Beach. Thereafter, said compensation shall be made in yearly installment payments in the amount of \$100,000.00, which will fund a State-wide park improvement project. Said payments will be secured by a letter of credit that will be submitted to the DEM at the time of the assignment.

Ms. Kay stated that there are a number of conditions that have to be met prior to this agreement being effectuated. (1) Deepwater Wind must secure all necessary permits and approvals; (2) The Narragansett Electric Company shall perform the associated work under the Easement Agreement with the exception of the contribution to the State-wide park fund, but assuming all other obligations. The Assignment and Assumption Agreement is attached to the Easement Agreement as Exhibit C. Ms. Kay indicated that she will hold the Easement Agreement in escrow until such time as the project is ready to move forward and the Narragansett Electric Company executes the Assignment and Assumption Agreement. Ms. Kay stated that she would now turn the presentation over to Larry Mouradjian to give a brief summary of the analysis and studies conducted concerning any adverse impact this project may have on the beach. Mr. Mouradjian stated that his roll is to give testimony relating to the DEM's review of the impact this easement may have on the public's use of the facilities at Scarborough Beach. Mr. Mouradjian noted that this land

fall location is situated adjacent to a storm water discharge area that runs north of the designated beach operation at Scarborough and further into public open space at Black Point Beach. The Department feels that all due diligence submitted and particularly the history documented from 1939 to 2004, which is accredited to Dr. Booth Roy of the University of Rhode Island, shows that the beach front is not necessarily susceptible to radical changes in the beach's profile over time. Mr. Mouradjian stated that as the conduit will be installed at a depth of ten (10) feet underground and because of its insulators, the Department feels it will have little or no impact, either environmentally or to the public's use of the facility, inasmuch as its planned location is not designated as the beachfront and furthermore, the designated site already has a utility easement across it. Mr. Mouradjian stated that the utility will not be visible. Additionally, Mr. Mouradjian noted that the Department is accustomed to utility easements in State parks as there are many throughout the system including telephone cables, storm water cables, water easements and electrical cables. Additionally, there should be no impact to the parking lot operation other than the addition of two (2) manhole covers once the work has been completed. Mr. Mouradjian reiterated that the Department does not see this easement as having any substantial impact either environmentally or in terms of the public's use of the beach facilities. It is simply a real estate transaction involving an easement occupying two (2) identified parcels of land. As to the resulting public benefit, Scarborough Beach will undergo a substantial renovation as well as a commitment to assist in hosting improvements to State park facilities

in the future. The Department feels that this is, in fact, a fair and equitable arrangement for purposes of granting Deepwater's request for an easement and certainly finds no reason to deny the same on the grounds of any adverse impact associated with the operation of the beach. Mr. Mouradjian explained that he will not be able to stay for today's entire meeting, but that he will remain in order to answer any question and/or address any of the Committee's concerns. Mr. Mouradjian apologized indicating that he unfortunately has a prior non-negotiable commitment scheduled elsewhere and therefore will have to leave prior to the end of the meeting. Mr. Mouradjian noted that Chief Robert Parquet of the Division of Parks and Recreation is present as well as Executive Counsel, Mary Kay and that they will remain for the duration of today's meeting to answer any questions beyond those of the Committee. Mr. Carcieri indicated that he has furnished the Committee with two maps depicting the temporary construction and permanent easement areas for the DOT property involved as well as an overview of Dillon's Corner itself, which is a 2.8 acre property. The Committee took time to review the maps provided by DOT. Chairman Renaud noted that Mr. Mouradjian had mentioned a conduit and cable during his presentation and indicated that after reviewing the map, he would like some clarification as to how the cable will transition from the ocean floor onto the shore of the beach. Mr. Jeff Grabowski, CEO of Deepwater Wind, offered to address the Chair's question. Mr. Grabowski stated that the cable will be installed at a depth of six (6) feet beneath the ocean floor for the entire eighteen (18) mile course from Block Island to Scarborough

**Beach in the Town of Narragansett. Mr. Grabowski explained that on the Block Island side, Deepwater has easements agreements in place with the Town of New Shoreham to install the cable at a depth of ten (10) feet under Fred Benson Town Beach in New Shoreham. Mr. Grabowski stated that on the Narragansett side, the easement area begins at mean high water and will run all the way across the street to Ocean Road. He noted that this is the first part of the DEM easement. The buried cable transitions out of the water at a depth of ten feet under the berm of the beach. The cable then curves upward until it reaches the parking lot where it then enters a manhole located in the DEM parking lot behind the beach. Mr. Grabowski reiterated that the cable runs below the sand at a depth of ten (10) feet. Mr. Grabowski stated that the first element installed is the conduit, which is essentially a high density PVC pipe. The cable is then pulled from the ocean side through that pipe all the way into the manhole. When the cable reaches the manhole, it is then converted from this submarine cable into a more traditional tress reel type cable and is then buried in the roadway up to the DOT's parcel. The cable inside said conduit comprises a variety of layers. The cable is incased in two separate steel armoring layers, two separate high density plastic layers and numerous layers of insulation. Mr. Grabowski indicated that the voltage of that cable is thirty-four and a half (34 ½) KV, which is considered a medium voltage distribution line; it is not a high voltage line. Mr. Grabowski noted that it is the same voltage used for lines running all over and across Rhode Island at this very time. Mr. Grabowski stated that, in fact, there is a thirty-four and a half (34 ½)**

**KV line which runs directly behind an elementary school in the Town of Narragansett. Mr. Grabowski stated that said line is overhead, it is not insulated, it is not armored, it does not have two layers of steel nor does it have two layers of high density PVC pipe protecting it. Whereas, the cable being installed under the berm of Scarborough Beach, is extraordinarily well protected; not to mention, the added benefit of Deepwater Wind's vast experience with respect to the installation of submarine cables which currently run across beaches in New England. Mr. Grabowski indicated that there are numerous cables that connect Cape Cod to Nantucket Island and Cape Cod to Martha's Vineyard. Those cables are running under public beaches and have been in place for many decades. Mr. Grabowski reiterated that the cable proposed by Deepwater Wind is an extraordinarily safe cable, buried ten (10) feet under the beach in a pipe surrounded by four to five layers of steel and insulation as well as high density piping. The cable is a medium voltage distribution line. Mr. Grabowski explained that the proposed project is subject to the approval of a tremendously long list of regulatory agencies which must grant their approval before Deepwater Wind can move forward and those approvals are absolutely contingent upon the State Properties Committee's approval. There are also a variety of state and federal agencies including the United States Army Corp of Engineers that have to approve Deepwater Wind's construction plan for this aspect of the project. Additionally, CRMC must approve it, a different arm of the DEM must grant approval, as well as the Coast Guard and the FFA. Mr. Grabowski assured the Committee that a**

myriad of state and federal agencies are thoroughly examining this issue and indicated that all of Deepwater Wind's probing documents are available on line. Mr. Griffith asked how Deepwater Wind arrived at the ten (10) foot minimal burial depth of the cable running across the beach. Mr. Grabowski indicated that said figure is primarily driven by the engineering involved in getting the cable from the manhole, which is in the parking lot, to a six foot burial depth in the water; it is frankly a matter of geometry. The only applicable standard out there from an electrical engineering perspective is one which states that buried electrical cables should be at a minimum of two and a half feet (2½) feet below the sand on the berm of the beach. Mr. Grabowski assured the Committee that Deepwater Wind is well in excess of that two and a half feet (2½') feet standard. Mr. Grabowski explained that it is essentially a matter of getting from point A to point B; however, when point B is six feet below the seafloor, it is simply that upward curvature of the cable that determines the necessity of the resulting ten (10) foot figure. Mr. Griffith asked if there is any recent experience with cables being disrupted at the transition point from the water to the shore given the severe storms that the East Coast has suffered in the last several years. Mr. Grabowski thanked Mr. Griffith for bringing up this very important issue. Mr. Grabowski explained that the transition point is actually referred to as a transition vault; the manhole located in DEM's parking lot is also called a transition vault. It is at this point, where the submarine cable comes into that vault and the conduits inside the cable are then transitioned into a tress reel cable that goes into a concrete duck

bank in the road. Mr. Grabowski stated that the benefit of this particular vault is that the cable leading into the vault is still in its submarine form and the transition takes place in a very secure vault area. Mr. Grabowski noted that submarine cables are designed to withstand wet areas. Both Deepwater Wind's plans for the submarine cable's transition to the tress reel cable and its plans for the transition vault were both prepared in coordination with National Grid standards as National Grid operates all the cables running between Cape Cod and the other islands giving them a great deal of experience in terms of both the installation and transitioning of these cables. Mr. Griffith thanked Mr. Grabowski for his explanation, but reminded him that his specific question is whether there have been any recent incidents resulting in the disruption of a cable at the point of transition from submarine cable to tress reel cable as a result of any of the recent major/super storms. Mr. Grabowski indicated that he is not aware of any disruptions, but deferred to Deepwater Wind's Engineer, Paul Murphy, who has been working with National Grid's experts and may be better able to answer that question. Mr. Murphy believes there has been a great deal of research done using data from both simulated storms as well as actual storms such as Hurricane Sandy to determine what potential impact these storms could have on the cables and the berm of the beach. Mr. Murphy explained that in order to ensure that the ten foot installation depth is maintained over long periods of time. Deepwater Wind examines two conditions referred to as accretion and erosion over the berm of the beach. Mr. Murphy indicated that CRMC has examined the long term process of

erosion and accretion and found that Burnside Avenue and Scarborough Beach are fairly stable in terms of those long-term erosive processes. With regard to episodic events such as Hurricane Sandy, there have been two (2) recent studies conducted in South County both at proximate beaches. Mr. Murphy stated that the Woods Hole Group, which is a consulting firm based in Massachusetts, simulated both the twenty five (25) and the fifty (50) year storm and the effect on the berm of the beach. Additionally, Deepwater Wind has conducted separate survey work looking at 'pre' and 'post' conditions relative to Hurricane Sandy and found that anecdotally if you see significant amounts of sand in the parking lot of the beach, it gives the illusion that the beach is losing vertical depth equivalent to the piles of sand in the lot. However, once the survey work was completed and the modeling examined, the loss of depth was actually less than one (1) foot. This is because the majority of the sand that you are seeing in the parking lot is primarily caused by the sheering of the dunes. Mr. Murphy stated that the long term erosive property is negligible, whereas the episodic event is something on the order of six inches along the berm of the beach. Mr. Murphy indicated that examining the data points at Scarborough Beach which include both long term erosion and the accumulative effects of episodic events, it was determined that the vertical beach depth at this landing location is the same as it was in the 1930s. Chairman Renaud, hypothetically speaking, asked if two super storms such as Hurricane Sandy hit Scarborough Beach back to back, and for some reason unbeknownst to science, general

practices and/or past practices, the cable emerged from the sand and reached the ocean floor, what would happen if someone were to step on that cable despite all of its shielding. Mr. Grabowski indicated that the quick answer is “nothing,” because they would not be stepping on a cable; they are stepping on a high density HVP pipe. The cable is inside that high density pipe. So even if someone, some how managed to crack through said pipe, the actual cable is still enforced with four (4) separate layers of plastic and a ¼ inch steel armoring making it virtually impossible to reach the cable. Mr. Grabowski assured the Committee that even if it were possible to penetrate just one of those layers, the system is designed to sense a fault and the automatic relay on either side of that cable immediately shuts the system down. Mr. Grabowski reiterated that there is zero (0) risk of such an incident being realized. In fact, if super storm Sandy and her hypothetical sister managed to unbury the submarine cable from a depth of ten (10') feet, what the really means is that Scarborough beach no longer exists, because what Deepwater Wind has determined is that when storms hit, it is not the vertical depth that they destroy; it is the horizontal depth. Mr. Grabowski explained that these super storms essentially destroy the beach all the way up road. However, it has been determined that even after one hundred (100) years of erosion, Deepwater Wind’s cable would still remain at a burial depth of at lease six (6) or seven (7) feet under the sand. Mr. Murphy indicated that even under Chairman Renaud's hypothetical worst case scenario, the protective relay system found through out National Grid’s system would immediately detect a fault and the

corresponding line would be shut down. Chairman Renaud asked what the span of time is between fault detection and the cable being completely shut down. Mr. Murphy indicated that it is approximately one tenth of a second. Mr. Woolley, speaking as a fellow resident of Block Island, informed friends and acquaintances from Block Island that he is here today in his capacity as the State Properties Committee's Designee for the Department of Attorney General. Therefore, any and all comments made or questions asked are generated as a result of his employment with the Department of Attorney General and on behalf of the Department of Attorney General and not as a resident of Block Island. Mr. Woolley stated that one of the documents the Committee was presented with is a map showing a cable line that he assumes will be connecting the easement at Scarborough Beach with the easement being granted by the DOT. Mr. Woolley asked Deepwater Wind clarify how a cable located at DEM's parking lot behind Scarborough Beach will be connected to the Dillon's Corner facility. Mr. Grabowski stated that Deepwater's primary goal is to connect the submarine cable with National Grid's existing system. The closest point in which to achieve this goal is at National Grid's Wakefield substation. Mr. Grabowski explained that once the cable reaches the manhole in the beach parking lot, it is then transitioned into a concrete duck bank located beneath the roadway. Mr. Grabowski noted that this methodology is relatively standard utility procedure. Mr. Grabowski stated that Deepwater Wind has information regarding the locations of existing utilities and will locate its duck bank within the State's

roadways being sure to avoid existing utilities. One duck bank will be installed at Burnside Avenue and the other at Route 108. Mr. Woolley asked how large these duck banks are. Mr. Grabowski noted that the duck banks are two to three feet wide and installed approximately two feet under the roadway. Mr. Feisthamel asked if Deepwater Wind will pull cable through an existing conduit. Mr. Grabowski stated that Deepwater Wind will install a new duck bank and a new conduit within the duck bank. Mr. Woolley asked if the cable will to run under Ocean Road as well. Mr. Grabowski clarified that the duck bank will not be under Ocean Road, because the cable will be buried under the beach as well as under Ocean Road. Mr. Feisthamel asked whether the methodology of trenching is important to this project. Mr. Grabowski indicated that there are several ways to install the cable; however, the preferred method is referred to as a direct trench, where you dig from the mean high water line across the beach, across the road and into the parking lot, which is the easiest, safest or most typical utility installation method. Mr. Feisthamel recalled that there were a myriad of approvals and permits for which Deepwater Wind still needed to obtain approval and questioned why if all permits and approvals have not been obtained why the Committee has been asked to consider this request today. Mr. Grabowski indicated that one of the reasons is because site control is one of the conditions of receiving final CRMC assent, which Deepwater Wind feels is actually the most important component. Mr. Feisthamel indicated that he is not a permitting expert, but wondered if the Committee might feel more comfortable considering this request if it were first furnished with all

permits obtained by Deepwater Wind, an approved environmental impact study together with a compliance letter from the Special Area Management Program. Ms. Kay asked if she could address Mr. Feisthamel's concerns from a DEM permitting standpoint. Ms. Kay indicated that the DEM permitting standpoint will basically go to a water quality certification and a dredging permit. Ms. Kay stated that in order to evaluate the entire project from an environmental standpoint the DEM needs to know where the land fall is going to occur. Ms Kay stated that, in fact, the DEM permit went out for public notice and a public hearing has already been held on the original permit. Ms. Kay indicated that another notice will be issued next week which will allow for public comment and that requires the landing of this project at the Scarborough Beach location. In order for the permits to be evaluated from an environmental standpoint and/or otherwise, the DEM needs to know the exact locations associated with this project. Mr. Feisthamel asked if the DEM is proposing this exact location. Ms. Kay responded that yes the DEM is proposing this location. Mr. Feisthamel asked if in considering this application, the DEM will utilize this same data. Ms. Kay indicated that DEM actually issued an amended permit, based upon Deepwater Wind coming in at this precise location. Ms. Kay stated that she believes the bottom line is that agencies such as the Army Corp of Engineers, CRMC, DEM and the Coast Guard, can not effectively evaluate this project until they know that the property interests have been secured so that they know the exact locations, as the types of analysis which have to be done and the types of permits required

depend on the precise locations of the project. Ms. Kay indicated that you can not have a moving target. Mr. Feisthamel asked if this is generally accepted procedure in terms of permitting across beaches; easements first and then the specialty permits next. Ms. Kay stated that the easement is not conditional upon Deepwater Wind obtaining all of the permits, but yes the easement has been negotiated, therefore Deepwater Wind does have the property rights to build what they are proposing to build. Ms. Kay does not believe permitting agencies have the luxury of saying that a project can be built here or it can be built there. There are times when different technology will be introduced in terms of how a project will be carried out as is the case when Mr. Grabowski spoke of some of the engineering data of different methods of connecting the cable. Ms. Kay noted that as far as the property interest, it is a requirement that those interests are secured before a permit application can be fully evaluated. Mr. Woolley asked for clarification as to the kinds of activities that will take place between Ocean Road and going into the parking lot located on Burnside Avenue. Mr. Woolley asked if Deepwater Wind will have to rip up the road. Mr. Grabowski stated that yes the road will be ripped up. Mr. Woolley assumes that there are already numerous live utilities in the roadway. Mr. Grabowski concurred that there are many utilities currently in the roadway and further, as Mr. Mouradjian stated, there is already a large storm water infrastructure in that roadway. Mr. Grabowski indicated that Deepwater Wind has surveyed the area extensively and is aware of the precise locations of those utilities. Mr. Grabowski illustrated the central line of the

**cable and its proximity to the large storm water system and indicated that Deepwater Wind will need to avoid the storm water system as well as the existing sewer lines and water lines, which can be seen on the map. Mr. Grabowski stated that Deepwater Wind's cable will be installed below those existing utilities. Mr. Woolly asked if the cable will be running perpendicular to the existing utilities in the road rather than parallel. Mr. Grabowski stated that the cable will run neither perpendicular nor parallel, but actually diagonally across the two. Mr. Woolley assumed although running diagonally it will run more perpendicular than parallel as it will have to go either below or above the existing utilities. Mr. Grabowski agreed that that is fair to say as at this location the cable will run quite deep underneath the existing utilities as they are rather shallow. Mr. Woolley asked what the estimated timeframe for this particular construction is. Mr. Grabowski stated that both easements are conditional upon the construction being completed prior to June 1st. Mr. Murphy indicated that the area in question is approximately two hundred (200') feet and the rule of thumb is that this type of liner construction moves at between one hundred fifty (150') feet and two hundred fifty (250') feet per day, therefore, it is a fairly short period of time. Mr. Murphy stated that in accordance with DOT's permit Deepwater Wind will coordinate with DOT to develop a traffic management plan. Mr. Woolley asked what Deepwater Wind's understanding is concerning the difference between a utility permit, an easement or a license to use State property as it relates to the public. Mr. Murphy indicated that without speaking for DOT, he understands a permit to be less of**

a property right than an easement. There is a set of rules and regulations in place with respect to utility permits and Deepwater Winds must conform with said rules and regulations, which are non-exclusive in the sense that anyone proposing a permit whether water, sewer, electric, cable or whatever it may be has the right to apply for one and as long as they meet the standards and DOT has the ability to grant the same. Mr. Woolley asked if Deepwater Wind envisions this to be permanent easement. Mr. Murphy indicated that as is the case with any utility easement, this is a permanent easement. Ms. Jacques stated that with respect to utility permits, the Department, for highway purposes, can require utilities to relocate within the roadway if necessary. Ms. Jacques stated that the benefit of a permit is that DOT does not have to condemn any property rights because DOT is not providing any property right for the permit. Ms. Jacques noted that if it is a federally assisted project on a federally aided highway, there are sometimes federal funds which will pay for or contribute toward the expense of relocating the utility. Ms. Jacques indicated that is in the Department's policies and the State's interest to allow utilities within our roadways and accommodate them when we can and unless there is a need for a highway project such as the I-195 project where DOT took a highway down. However, removing a highway is a rather unusual situation, but in those situations, DOT will relocate utilities preferably not on our limited access freeways as it prefers utilities to be installed in its highways. She noted that this is the distinction included in DOT's rules and regulations as to why we grant permits for the portion of the of the

**DOT process to get from the DEM manhole, if you will, and under Ocean Road. Those permits are being handled; DOT has regularly met with Deepwater Wind to review conceptual plans. However, all plans are run through DOT's engineering section and it is essentially standard operating procedure to work with the utility companies, particularly The Narragansett Electric Company and National Grid for the installation of utilities in our roadways. Mr. Woolley stated that during its presentation, Deepwater Wind described the size of the submarine cable but asked someone to describe the tress reel cable in greater detail. Mr. Grabowski presented a photograph depicting the size and appearance of the tress reel cable for the committee's review. Chairman Renaud asked DOT when the last time any utility or other type of work was done on the road between Scarborough Beach and the DEM parking lot. Mr. Carcieri indicated that he would have to check with the design section, as he is unable to cite a specific date and/or a project. Mr. Carcieri stated that as the Committee is aware this installation involves Route 108 and Ocean Road, which are both DOT controlled highways. Mr. Carcieri stated that although he can not cite any particular date as to when work was last done, he is aware of some ongoing work to Route 108 at this time. Chairman Renaud asked Mr. Carcieri whether there are proper and up-to-date "as-builts" for this area illustrating exactly what is under the roadway. Mr. Carcieri stated that there are definitely proper and up-to-date as-built plans. Mr. Carcieri explained that the Department has as-built plans on file, which are divided into lighting and utility installations; there are actually subsets for the whole and a general plan as well.**

**Mr. Griffith believes it would be prudent for DOT to determine whether any additional utility work needs to be done in the area where the roadway will be opened up in order to accommodate the cable for this project, so that all work could be done concurrently to avoid the roadway having to be opened and resealed again once this project is completed. It has been his experience relative to the Hope Street project in the City of Providence that the roads have been opened and resealed only to be reopened several times. Mr. Feisthamel asked what the expected timeframe for Deepwater Wind to get from the beach to Dillon's Corner. Mr. Murphy stated that the same mathematical calculation of two hundred (200') feet per day would be applied to that distance of four (4) miles; thus, the estimated timeframe would be just shy of four (4) months. Mr. Murphy added that it is a linear progression so that the construction sequence moves along the road and as he believes that both Route 108 and Burnside Avenue are four (4) lane roads, the expectation is that traffic will move freely throughout the construction process. Mr. Feisthamel clarified that Mr. Murphy said 200 feet per day and that there is 2,200 to go. Mr. Murphy said that is correct. Mr. Feisthamel asked Mr. Mouradjian how many vehicles travel on Route 108 per day to get to Scarborough Beach during a typical beach season given his statement that Scarborough Beach is the most utilized beach facility in the State of Rhode Island. Mr. Mouradjian stated that he does not have a traffic count on the roadway obviously, but there are calculations for patronage based upon the number of vehicles that enter the beach facility. On its busiest days, being either a Sunday or**

a holiday from June to August, there could be as many as 6,000 to 7,000 people who access the beach through the parking lot system and use the designated beach. However, Mr. Mouradjian indicated that there are a number of people who utilize the facilities outside the designated beach area whom come from local neighborhoods and travel by foot making it nearly impossible to account for those individuals. Mr. Mouradjian stated that this particular area really separates those two uses and is already encumbered by storm water issues. Mr. Feisthamel asked Mr. Murphy what the timetable is for the project on Route 108. Mr. Murphy indicated that if Mr. Feisthamel is inquiring about the timetable for the total four (4) miles, he would estimate the timetable to be four months. Mr. Feisthamel asked if Deepwater Wind believes that portion of the project will be completed by June 1, 2014 or is that simply into the parking lot and then from June 1, 2014, until four months out you would be at Dillon's corner. Mr. Murphy explained that how you would install at the beach and elsewhere is that you would want to have your infrastructure, so that that concrete encased duck bank through the roads all installed before that marine cable comes through. Mr. Murphy stated that you would want to have all that installed pre-so that the critical deadline, which involves the beach work where the marine cable comes through by the later spring and you want everything set up before that. Mr. Grabowski indicated that the goal is to have all the done during the winter. Mr. Feisthamel clarified that Mr. Grabowski is speaking about the portion around the beach and the parking lot. Mr. Grabowski indicated he was speaking about the full infrastructure in

the road. Mr. Grabowski stated that Deepwater wind has to be done with the beach by June 1, 2014, in order to do that all the roadwork has to already be done. It is Mr. Woolley's understanding that the easements for Scarborough and Dillon's Corner both require that there be no activity during certain periods of time; however, there is no such restrictions as to the utility permits at least at this time. Mr. Woolley indicated that it is his understanding with DOT at least relative to its construction projects that there is what is referred to as winter shutdown from December 15 through April 15 to limit construction during the winter months. Mr. Woolley asked if Deepwater Wind anticipates any construction activity during the winter months with that sort of restriction. Mr. Murphy stated that the restricted construction times fall under the control of the DOT's utility permit office. The DOT looks at the duration of expected construction with our traffic management plan and time of year to dictate the appropriate shut down time to coincide with some of restricted periods of time. Mr. Woolley noted that earlier in Deepwater Wind's presentation someone mentioned that both Route 108 and Burnside Avenue are four (4) lane roads and asked how many lanes will be taken up by construction. Mr. Murphy indicated that approximately a lane and a half would be taken up by construction efforts. Mr. Woolley deduced that in essence the travelers would be left with a two lane road rather than a four lane road. Mr. Grabowski agreed but clarified that the distinction there is that said restriction would not be for the entire length as the construction activities happen over a 200 foot stretch of road so it is a moving lane restriction. Mr. Woolley

commented that in that case it is a moving bottle neck. Back to my question about size of the cable. Mr. Woolley asked how big is the cable going under the road. Mr. Grabowski stated that the cable is 6 inches. Referring to a photograph Mr. Grabowski explained that what is being seen here in the middle is the conductor, which is found in many overhead lines in Rhode Island. Mr. Grabowski reiterated Mr. Murphy previous statement that in the initial piece is a number of different layers both metal and high density plastic around each conductor and then a wrap around the whole outer portion which is constructed from heavy, high density plastic and then a ¼ inch protective layer made of steel is around the outside. Mr. Woolley asked if that would be in the road as well. Mr. Grabowski stated that will be up to the transition vault located in the parking lot. Mr. Grabowski explained that the reason they have this separate structure all in one bundle is for marine installation. The way it is installed is with one jet plow, so as opposed to putting three different conductors that would necessary for alternating current; they put it all together. Mr. Woolley asked what type of cable is going under the road from Dillon's Corner to Burnside Avenue. Mr. Grabowski using a photograph indicated a particular section and stated from this point to this point you will have that marine cable and a conduit. He then explained that once you get to the transition vault then you will have a concrete encase duct bank, which is like any other National Grid buried utility in Rhode Island. There will be 2 ½ feet of earth over the duct bank in the roadway, then a layer of paved material, and finally there is 2 ½ feet of concrete. Further, Mr. Grabowski stated that in

that concrete you have 4 inch conduits and in those conduits is the conductor just as in any other National Grid utility. Mr. Grabowski noted at that stage manholes are placed along the road 800 feet apart and they pull the cable from one manhole through to the other. Mr. Feisthamel asked how the road cable differs from that depicted in the photograph. Mr. Grabowski indicated these different lines of cable are protected in individual conduits and buried in the concrete encasement. Mr. Woolley asked what exactly a conduit is and Mr. Grabowski explained that a conduit is a pipe, a duct bank. Mr. Woolley asked in view of the number of people who visit Scarborough Beach, Roger Wheeler Beach, the Port of Galilee boat ramps, Salty Brine Beach and all the activities and events taking place in South County during the season, how will the construction on the roadways impact these places and events. Mr. Mouradjian answered that there really should not be any impact given the time of year and how the construction has been scheduled, especially during the height of Deepwater Wind's activity. Mr. Mouradjian noted that the beach facilities and their operating season typically begins in the third week of June through Labor Day weekend, when children are out of school. Mr. Mouradjian noted that the Port of Galilee is on Route 108, and being a commercial center, it has its own traffic pattern; therefore, in his opinion, he does not see that this project or Deepwater Wind's operations would severely impact public access to the Port of Galilee or the beach facilities. It is Mr. Woolley's understanding that during the shoulder season there is a significant amount of activity in those facilities even when the beaches are closed. Mr. Mouradjian stated

that the impact on the shoulder season will depend mainly upon the weather patterns, he admits that he has seen warming trends continue right up until the middle of October. However, the Department ceases its beach operations including lifeguard patrol and public fees the week after Labor Day. Mr. Mouradjian noted that there is some wiggle room, but nonetheless he does not anticipate a huge impact on the public due to construction. He stated that Route 108 is prone, as you know, to traffic jams during the height of the season. Mr. Mouradjian, again, stated that given this particular period of construction and although he is not a fortune teller, he does not see a big issue on Deepwater's part. Mr. Woolley's understanding is that typically when Narragansett Electric and other public utilities seek utility permits from DOT to use the power lines, they are not required to pay for the ability to do that, unlike easements which they are required to pay for. Ms. Jacques agreed and stated that Narragansett Electric pays a permit fee and then they are required to restore the roadway to its existing or better condition, provide a bond, and insurance indemnification. It is only on 21 limited access freeways that the DOT does not require an easement and in fact prefers not to grant an easement. The DOT prefers a permit in those roadways and it does not, as a matter of policy, state laws and/or current rules or regulations, charge Narragansett Electric a fee on a per linear foot basis for access into the roadway. Mr. Woolley asked if it is contemplated in this particular project that Deep Water Wind will not be required to pay for a utility easement under Ocean Road nor required to pay for the privilege of running its power cable from

**Burnside Avenue to Route 108 and from Route 108 to Dillon's Corner.**

**Ms. Jacques answered that none of those roads are considered limited access freeways. Mr. Woolley asked whether the circumstances involved in this particular case dictate that the DOT should and require Deepwater to pay as it is a "for profit" enterprise, involved in a special project, and given special treatment by statute.**

**Ms. Jacques responded that the statute does not direct the Department to require Deepwater to pay anything additional; therefore, this project is being treated as any other utility installation.**

**As discussed, with the assignment to Narragansett Electric prior to construction, the Department will be working with Narragansett Electric. In this scenario it is a full assignment of all rights and the DOT has Narragansett Electric installing utilities in quite a few locations in the state, most prominently Providence. Mr. Woolley questioned whether the cost of installing the cable from Scarborough Beach to Dillon's Corner, the cost of the easement for Dillon's corner, the cost of the easement for Scarborough Beach as well as any and all expenditures incurred by Deepwater Wind will be reimbursed by Narragansett Electric in the event they spend any money as part of the Assignment of Assumption Agreement. Mr. Woolley asked if from there the Narragansett Electric Company will go to the Public Utilities Commission seeking to obtain a rate increase in order to recoup any costs together with making some sort of a profit. If that is the case, then aren't the rate payers left to bank roll this entire project; is that correct. Ms. Jacques answered she believes State law is clear that the cost of the cable is to be treated like the cost of any other**

distribution line that serves Rhode Island. She noted that whether lines go to Burrillville or to Westerly, their cost whether expensive or not, are born by all the rate payers in the State. The General Assembly as a matter of policy says quite clearly in Chapter 26.1 that the costs related to the transmission cable and related facilities are to be charged in transmission rates in a manner that socializes the costs throughout Rhode Island; therefore, the answer to that questions is yes. Mr. Woolley commented on behalf of Attorney General Kilmartin: First, and foremost, Attorney General Kilmartin certainly supports wind energy, but he has concerns about this particular project. He feels that these two (2) easements should not be considered in a piecemeal fashion. It is imperative that they be considered in the context of the entire project, and more particularly, in the context of how each easement will be connected to the DOT's Dillon's Corner easement. Further, Attorney General Kilmartin believes careful consideration should be given to the potential for this project to adversely impact the residents of the Town of Narragansett together with the citizens of the State of Rhode Island as well as their visitors. Mr. Woolley stated that the as this project involves the digging up of State roadways, which will obviously have an adverse impact on commerce, traffic, the public's access to beach facilities, to residential homes, to nearby businesses and to the Port of Galilee, he considers it to be a significance nuisance and a major inconvenience, for not only the residents of the Town of Narragansett and the State of Rhode Island, but to tourist/visitors as well. Mr. Woolley stated that he feels that this "for-profit" entity

should be required to pay some sort of compensation for its ability to use the State's roadways to bury its cables from Scarborough Beach to Dillon's Corner. It is Mr. Woolley's understanding from conversations with DOT's Legal Counsel and here at this meeting, that DOT does not intend to charge either Deepwater Wind or the Narragansett Electric for the right to lay their electric cables within the State's roadways. Further, the Attorney General feels that it is more than appropriate, given the unique circumstances of this particular project, that compensation be paid to the State and its citizens for both the use of State-property and for the nuisance and disruption of the ability to move about the roadways with some level of ease, especially, during the much beloved summer season. Mr. Woolley also commented that he believes in this particular circumstance, the State Properties Committee has jurisdiction to consider and either approve or deny the utility easements required for this project, including the easements on Ocean Road, Point Judith Road and Burnside Avenue. Mr. Woolley stated that the seeking of a utility permit is not a matter that should be handled independently by and between the Applicant and the DOT, without the knowledge of or input and guidance from the State Properties Committee. Mr. Woolley indicated that he does not believe the Attorney General's concerns have been adequately addressed by Mr. Mouradjian/the Department of Environmental Management, nor does he agree with either Mr. Mouradjian's opinions or statements claiming that there will be no significant impact to the public's ability to travel on the roadway and or access beach facilities. Mr. Woolley also disagrees

with DOT' engineers' claim that the removal of a lane and a half of a major roadway will not cause significant disruption to the flow of traffic while Deepwater is working its way along installing cable. Mr. Woolley indicated that traffic in these areas does not flow smoothly during the summer season under the best of conditions, let alone, while a major construction project is going on. Ms. Jacques stated that as discussed previously, under the Department' s current Rules and Regulations these particular roadways do not implicate an easement. It is not under our limited access freeway. She reiterated that under the current Rules and Regulations this would be handled by a utility permit. The Department handles over five hundred (500) permits of this nature per year; physical alteration permits and physical utility permits where various applicants would like access to bring utilities to their projects or public utilities such as Narragansett Electric Company to bring in lines. Ms. Jacques stated that this is just not how the Department currently works. Ms. Jacques is unaware of any discussion between the Department of Attorney General and the Director of the Department of Transportation as to whether this project warrants an exception to these Rules and Regulations. Ms. Jacques stated that there is nothing she has found in the statute to substantiate a claim that this project should be treated as anything other than a utility installation requiring a utility permit. Ms. Jacques noted that the State Properties Committee's enabling legislation is certainly broad and perhaps could be interpreted differently, however, in the usual course of business, the Department does not come before this Committee for that type of approval. Ms. Jacques

acknowledged that if the matter involved limited freeway access and there is an easement being granted, or in the case of the Narragansett Bay Commission as they often request an easement, the Department always brings an easement, which is a vested property interest, before the State Properties Committee for approval. Ms. Jacques once again noted that the Department does not view a permit the same as a property interest or an easement, but it certainly raises a policy question as to whether that is how the Department shall proceed. Ms. Jacques stated that she does not believe that she as Legal Counsel or Mr. Carcieri can answer this question one way or the other in the affirmative; however, as always the Department is open to a discussion with the State Properties Committee together with the Department of Attorney General regarding their interpretation of what the Committee's enabling legislation is and how the parties should move forward. Ms. Jacques noted that the Department does in fact come before the Committee regularly seeking approval of utility easements. The Committee sees them on a pretty standard basis and in this case under State law, just to be clear for the residents of Narragansett, regarding utility permits of this nature, the Department has to notify the municipality of those permits when they are applied for and the Department certainly works with the municipalities with respect to the transportation issues that may arise from a project such as traffic management, restoration of the roads as previously we described including whether a safety concern exist; however, those are of a transportation based nature. Mr. Grabowski noted that if today's request before the Committee is denied then the

issue is moot; however, if it is approved, he questioned whether it will go back to the Attorney General or to DOT. Mr. Grabowski asked what the procedure from this point is. Would the parties engage in further discussions; how do we engage? Mr. Woolley stated as a particular matter there is the Scarborough Beach easement, the Dillon's corner easement, the utility permit and whether it is a permanent easement or license is not the matter before the Committee at this time now. However, he wanted it put on the table now because in the context of the big picture, if and when either Narragansett Electric or Deep Water Wind comes to DOT and says it wants to have utility permit access to put these transmission cables from Scarborough under Ocean Road up Burnside Avenue to 108 to the switching station, the State Properties Committee should have a hand in that decision making process. Ms. Jacques asked whether Mr. Woolley is speaking in terms of just this particular matter or of all matters that involve utilities. Mr. Woolley stated that this is a unique circumstance, this is not a regular public utility, this is a special project involving a "for-profit" entity and even if it shifted over to the Narragansett Electric Company, the benefit runs directly to the Deep Water Wind project not anyone else. Ms. Jacques stated that the Department has similar permits for other "for-profit" entities as well and asked, prior to moving forward, perhaps the State Properties Committee, the Department of Attorney General and the Department of Transportation should discuss how the Committee's enabling legislation shall be interpreted. Mr. Woolley agreed that a discussion should be had and that just because it has been a policy by a

Department for a period of time, does not necessarily make it appropriate. At this time, Chairman Renaud opened the meeting to comments from the various dignitaries who were present as well as the general public who expressed both support and opposition to the project. Senator Whitehouse appealed to the State Properties Committee to please make the right decision regarding approval of the requests of the Department of Environmental Management, the Department of Transportation and Deepwater Wind Block Island Transmission, LLC and realize that this project provides no benefit to the State of Rhode Island or its residents. Former Attorney James O'Neal also urged the State Properties Committee to deny Deepwater Wind Block Island Transmission, LLC's request for a utility easement application as did members of the Narragansett Town Council who expressed their opposition to the approval of this project together with many residents of the Town of Narragansett. Dawson Hodgson, State Senator representing the Southern half of the Town of Narragansett spoke in opposition to this proposal. Senator Hodgson indicated that he fully understand the this body's limited purview as the State Properties Committee; however, I am casting no dispersions on DOT or DEM in terms of their due diligence on the technical aspect of these easements. Senator Hodgson, yet, objects to this project in the strongest possible terms on behalf of his constituents and on behalf of the business rate payers across the entire State of Rhode Island. Senator Hodgson believes the Committee has raised some very relevant concerns about passing even more costs on to the rate payers from the construction portion of this project. However, the

**Committee's recognition and obvious concern regarding these issues is not going to stop the Senator from arguing briefly to the Committee that the Deepwater Wind project represents a terrible public policy decision and it is a breakdown of fiduciary responsibility across multiple levels of government. Senator Hodgson stated that this project is opposed by a great number of his constituents, who made their feelings and their very well researched points of view, known to the Narragansett Town Council when Deepwater Wind proposed bringing this cable to the town beach. The Town Council of Narragansett responded to these concerns by rejecting this proposal out right and rejecting the easement. Senator Hodgson recognized that this is certainly not a unanimous opinion, but it is a very prevalent opinion among his constituents who have consistently and vehemently articulated that this cable is not wanted in the Town of Narragansett. Senator Hodgson indicated that today the State Properties Committee has the ability to stand up for the Town of Narragansett residents together with the citizens of all of Rhode Island and stop this project on a procedural basis. Senator Hodgson wished to be clear that he believes the debate here today is neither whether climate change exists, nor whether the State of Rhode Island should make investments in renewable energy policies, as these are real issues that need to be addressed and he agrees those investments are essential to the future of our State. However, for himself and his constituents, this is about stopping a terrible deal for the people of Rhode Island. National Grid has recently signed a power purchase agreement to buy wind power, good, clean,**

renewable wind power, from the State of Maine for less than .08 per kilowatt hour; less than a third of the cost that is being proposed in this project. Governor Chafee, during the upcoming legislative term, will advance the proposal to purchase clean, renewable energy from hydropower in Quebec. Senator Hodgson stated that Senator Sheldon Whitehouse has stood up on the floor of the United States Senate in excess of fifty (50) times expounding the importance of climate change and now we have a duty to make good, sound, long-term decisions in order to maintain a realistic approach to this potential policy. It is the Senator's proposition to the Committee that an investment, such as this, will do long-term damage to the credibility of renewal energies and even to the possibility of offshore wind power. Senator Hodgson reiterated that he sees no benefit to the citizens of Rhode Island arising from this project and that it is well within the State Properties Committee's purview to, for good cause, derail this project on a procedural basis. Senator Hodgson stated that he believes that the approval of such a one sided, insider deal with such a bad financial arrangement for the citizens of Rhode Island, will surely set back any responsible and/or reasonable proposals for the development of renewable energy in Rhode Island. Senator Hodgson requested the Committee to please use its position wisely as it one of the last check and balance body's with the ability to stop a very bad decision from being fully culminated. Senator Hodgson respectfully requested that the Committee please listen to he and his constituents and use its usual wisdom and best judgment and to deny this easement.

**Dr. Peter B. Baute, Block Island resident and former Town Council Member expressed his support for the project as did Peter Galvin of the Rhode Island Chapter of the Sierra Club together with many residents of Block Island. After hearing all comments in support and in opposition of the project, on a motion made by Mr. Griffith to approve the above request and seconded by Mr. Woolley a roll call vote was taken and the results were as follows: Mr. Griffith voted "Aye"; Mr. Woolley "Abstained form voting" and Chairman Renaud voted "Aye".**

**Motion Passed with two Votes "Aye"**

**Mr. Griffith**

**Chairman Renaud**

**One "Abstention"**

**Mr. Woolley**

**There being no further business to come before the State Properties Committee, the meeting was adjourned at 12:35 p.m. On a motion made by Mr. Griffith and seconded by Mr. Woolley, the Committee voted to unanimously adjourn the State Properties Meeting of December 4, 2013**

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**Holly H. Rhodes, Executive Secretary**