

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF SEPTEMBER 15, 1988 MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Regular Meeting of the Commission on Thursday, September 15, 1988 at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

Mr. John Early, Chairman, opened the meeting at 8:10.

ITEM #1 - Chairman's Report - There was none.

Mr. Early stated Item #2 would be addressed later.

ITEM #3 - Minutes of September 8, 1988 - Motion was made and seconded to approve with corrections, [Pg 2, para 6, (change 1% to 100%) Pg 3, para 7 (same correction)]. The vote carried with one abstention (Scott).

ITEM #4 - Committee Reports

Mr. Young, Chairman of the Land Use Planning Committee said they had discussed 2 of the items that were before the Commission for vote this evening, Island Athletic Club and Morey House applications. The Island Group, George Pessotti was a no show. They also heard a presentation by Christina Brown on the proposed Edgartown B-2 District and the area study. Mr. Young stated it was extremely interesting. He then stated that next week LUPC would meet with the Deer Run Trust applicants on Phase I of the modification, Roger Wey for his addition application, and Wesley Arms applicants.

When there were no reports from the Task Force or the Lagoon Pond DCPC Committee, Mr. Early said that the Katama Airport DCPC Committee would be addressed under Item #5.

ITEM #5 - Discussion - Morey House DRI

Mr. Young was called upon to review the LUPC recommendations. Mr. Young, the updates/recommendations are as follows: (1) sidewalk across the street should not be considered as a part of this proposal. (2) suggests change in parking spaces in light of the Island's effort to control traffic, suggest 4 spaces with turnaround room to preserve some of yard, applicant has provided a new plan, (3) limited Inn to continental breakfast, and (4) make no structural changes to the exterior at all.

Mr. Ferraguzzi, Commissioner, questioned what was meant by structural changes? Mr. Young clarified it should be exterior changes.

Mr. Evans wonders if, since Edgartown's transportation is good, and as more and more Inn's are opening, wouldn't it be wise to encourage the use of the public transportation for a number of reasons: (1) difficult to get traffic in and out of this site, (2) the backyard would be ruined and (3) the neighbors, years ago, expressed concern about the quality of the area being retained and this parking lot could affect the quality of the area. I would like to see the parking eliminated altogether. Mr. Filley, Commissioner, agrees. We should be careful about starting a precedent of people using their yards for parking, this would not be a benefit. With the mini-van as a possible mode of transportation, I think parking should be eliminated with some language to secure area off site or put in some spaces if, down the line, they find this isn't working. Mr. Morgan, Commissioner, suggest a 1 year monitoring via conditions in the decision. Does this offset tearing up the yard? Will the mini-van be sufficient? Mr. Widdiss, Commissioner, believe that the 4 space proposed parking is a good compromise from the 7 spaces originally proposed. It is less than required and he thinks it addresses the issue enough. If we reject all parking how far can we go with this.

Mr. McCavitt, Commissioner, What is the trolley schedule for the winter season? Mr. Filley responded that it discontinues operation at the end of September. Mr. McCavitt then asked if the shuttle bus ran in the winter. The response was no.

Mr. Lee, Commissioner, said if he were paying \$100-125 to stay in an Inn in Edgartown he would want his continental breakfast in the backyard and that he agrees with Mr. Evans and Mr. Filley and thinks their points are valid. Mr. Young pointed out that according to the zoning by-laws 9 spaces must be provided, if they are not provided the applicant would be responsible to pay \$400 per spaces or a total of \$3,600 per year to the Town for out of town parking. There must also be a provision for the manager to park and for the mini-van to load and turnaround. He then displayed both the 7 parking space plan and the 4 parking space plan on the board.

Mr. Ferraguzzi, how much open space is saved behind the house with the new plan? Mr. Young, approximately 20-25 ft.

Mr. Morgan, considering the land use I believe that the 4 spaces are agreeable especially taking into consideration the \$400 per spot charge. Is the applicant willing to pay this if there are no spaces approved. The chair asked the applicant's attorney Mr. Butler to respond. We have met 2 times with the LUPC and the applicant is aware of the concerns of the committee regarding parking. They have no objections to having 4 spaces and paying for 3, thinks that this is appropriate considering the traffic surveys and inn surveys conducted by the applicant. The 4 spaces and the mini-van make sense since there will be a definitive policy to discourage guests in bringing their cars.

Mr. Early, Commissioner, then clarified the question, specifically, how does the applicant feel about no spaces and paying for 7. Mr. Butler felt that it wouldn't be agreeable both because the financial burden (\$3,600 per year) was not equitable and because of the present parking and safety situation. He has no objection to continued monitoring and said he was informed by their traffic designer that the green on the 4 space plan could probably be increased another 3-4 feet and still retain adequate turnaround space.

Mr. Ewing, Commissioner, what the extra space was on on the 4 space plan? The response was a no-parking spot for turnaround.

Mr. McCavitt, Commissioner, what the surface proposed was? The response was bluestone/gravel.

Mr. Evans, Commissioner, urges the Commission to ask the applicant to try minimal parking for the larger benefit of the community.

Mr. Ferraguzzi, Commissioner, says he feels that the 4 space plan is a pretty good compromise. Mr. Ewing agrees that some parking is necessary but is concerned that within such a small area it is hard to do without disrupting the yard. Wants to know about Mr. Evans suggestion of a hammerhead turn. Mr. Evans responded that he was not here to design but that it was possible. Stated that if you look at the Inn's in Edgartown a lot of them had little or no parking now. Doesn't feel that the need for parking is an adequate argument.

Mr. Harney, Commissioner, asked if anyone had addressed the handicapped issue, people who need their cars? Mr. Young responded that this was not addressed and wonder as to the access and the state laws concerning such. Mr. Early called on Mr. Butler to address this issue. Mr. Butler said that the law doesn't require handicapped provisions for an Inn of this size and type but there would be a removable wooden ramp that would provide access at the mini-van entrance for guest in need and that they feel this is sufficient to meet the possible needs of the guests.

Mr. Young stated that he did agree with the cut in number of parking spaces from the original proposal and would support a further cut. If 1/2 of the number of people renting rooms are bringing cars that this ia unacceptable and the way to prevent it is by not providing parking.

Mr. Early moved to the next agenda item.

ITEM #6 - Possible Vote - Morey House

It was moved and seconded to approved the Morey DRI with conditions.

Mr. Ewing motioned to modify to 2 spaces to the north of the property as a condition. Mr. Early suggested that the conditions be (1) that the application should come back to the LUPC with a plan for 2 spaces and a modified turnaround and (2) that no alterations would be made to the exterior. Thought that conditioning the sidewalk across the

street and the continental breakfast were unnecessary since they both required reviews from other agencies.

Mr. Widdiss requested a consensus vote on conditioning the parking. The consensus was yes, vote on that issue separately.

Mr. Early called for a vote for inclusion of a condition to modify the parking. This carried with a majority vote.

Mr. Early then called for a vote to approve the DRI with Condition of a maximum of 2 parking spaces, turn around space and back to the Land Use Planning Committee. The DRI was approved with condition on a vote of 12 in favor, 1 opposed, and 1 abstention (Evans). (Harney was in favor, Harris abstained).

After a short recess, Mr. Early moved on with the agenda items.

ITEM #5 - Discussion

Island Athletic Club

Mr. Early called on Ms. Waterman, MVC Staff, to give a summary and update on this application. Ms. Waterman summarized what had been discussed at the public hearing and went on to say that the IAC has been granted non-profit corporation status by the state today, that there was some new correspondence, including a letter from the Oak Bluffs Board of Selectman, and that there was an addition to the landscaping plan to increase the buffer at the back corner of the property by including trees. She also pointed out handouts in the meeting material which highlighted the Oak Bluffs special permit requirements. Stating that the applicant must apply on 2 points for the special permit. (1) the height of the building exceeding allowance in the Island Road District, (2) the operation of a non-profit corporation in a residential district. She also brought attention to a copy of the MGL chapter 180 and the summary of by-laws of the corporation which addressed salient features.

When there were no questions for Ms. Waterman, Mr. Early asked Ms. Borer to read the letter from the Oak Bluffs selectmen.

In summary the letter requested a delay in the Commissions decision until after a September 29th public hearing in Oak Bluffs. (A copy of the letter is available in the correspondence file). Ms. Borer went on to say that she had discussed a 60 day extension with the applicant but because the applicant had already been before appeals committees for months and applicants current business would be dissolving soon, the applicant did not want to extend the time period.

Mr. Early questioned Ms. Borer as to our timetable. Ms. Borer responded to the timetable for our decision and stated that a written decision was needed by October 6th which was 1 week after the September 29th Public Hearing in Oak Bluffs. September 29th would be the last day for an oral vote.

Mr. Filley asked if we could accept testimony from the Board of Selectmen or is the decision to be made on existing evidence. Mr. Early replied that our official record has been closed for sometime. That the applicant had requested an extension of the time for written testimony until September 1 and that is expired. He doesn't see how we could accept Board of Appeals or Selectmen testimony now.

Mr. McCavitt, are there 2 permits requested one for height and one for non-profit. Ms. Borer responded that it was one permit application covering 2 sections. She then asked Mr. Wey if the board members had indicated why testimony wasn't submitted during the course of the public hearing. Mr. Wey said he didn't know, he went on to say that he was aware of the time constraint on this issue.

There was more discussion between Mr. Evans and Mr. Ewing on the concerns of development in a residential district. Mr. Ewing said that it was complicated by the issue of a profit-making corporation owning the land, building the site, and renting it to a non-profit organization.

Mr. Early, questioned if the non-profit status iss really an issue properly of the concern of this Commission? Mr. Ferraguzzi said why not? Status is relevant to the Town and is very important because of the non tax status for non-profit organizations.

Mr. Young stated that although it was non-profit that didn't mean no taxes there would be a land tax. Said the reasons we are addressing this issue is that it was brought up in a letter from Mr. Coogan, Oak Bluffs Town Consel. He said there are heavy penalties for non compliance with non-profit regulations and that this is as guaranteed as it can get. It is the Commissions decision if it is of regional impact. If the Commission's decision is positive it doesn't mean the Town Boards will vote positive. Since we can't receive their testimony I think we should go ahead.

Mr. Harris, Commissioner asked if there was a significant difference between this and the Martha's Vineyard Arena or the Community Services center. Mr. Morgan said that if someone agreed to build a facility for them, and lease it to them, it would be the same. Mr. Wey said since the group building is a for-profit corporation and leasing to a non-profit corporation that it is different than the Arena and the Community Services Center.

Ms. Borer read Mr. Coogan's letter at the request of the Commission.

Mr. Wey then stated that he was not against it he just wanted to be sure it was all out in the open. Mr. Ewing said we would vote only on the scope and concept of the application and it would be up to the Town Boards to work out the nitty-gritty of the non-profit status. Mr. Wey said his concern was with how the decision would be written.

When there were further question as to who would own, build and receive profit and rent for this application Mr. Early called on Mr. Sherman, applicant's agent, to speak for the applicant. Mr. Sherman

explained that the 4 principle founding members would be the board of directors until 25 members elected a new board. Ms. Scott, Commissioner, asked who owned the land and Marillyn Scheerbaum responded the 4 principles in the Island Athletic Club.

Mr. Evans asked Mr. Wey if the concern of the Oak Bluffs selectman was that this application was technically by-passing the intent of the by-law. Mr. Wey stated that in response to Mr. Evans' question, he doesn't feel that this conforms with the intent of the Oak Bluffs Zoning By-Laws.

Mr. Ferraguzzi, does anything limit the corporation doing the building and renting from making a profit? Mr. Early's response was no. Mr. Young wanted to add, however, the entities were entirely dependent on one another. The only people who can rent this property will be the Island Athletic Club. Therefore if the rent is too high the builders/owners will only end up with an empty building. That is why the number of members is so relevant.

Mr. Ferraguzzi asked when the lease agreements would be made in reference to when the 4 would step down. Mr. Young assumes the membership will be well formed before this comes up.

Mr. Ewing said that it comes down to whether this area is reserved for housing and that is an issue for the Oak Bluffs Zoning Board Of Appeals. Mr. Wey agrees. Ms. Eber, Commissioner, questioned what would happen if we approve and no permits are granted. Mr. Early said it would die. We can't issue permits.

Mr. Evans asked, Is this application particularly appropriate for this area? Does the design give a sensitive interface? Is additional screening sufficient? Are the lights acceptable? Etc. Mr. Young addressed these issues based on LUPC discussion as follows: He feels this is indeed an appropriate location for this type of facility considering the amount of traffic that will be generated and that is in an area where it will have as little impact as possible. This is a residential neighborhood and considering what business exists in this area, and the large area of no cut, that the interface and screening were addressed sufficiently. Concerning the lights, there are few, and they are pointed in a downward direction. The club also does not anticipate late night usage.

Mr. Early asked if there were any other points addressed by the LUPC that should be brought up here. Mr. Young responded that the question of drainage of the pool and the chemical storage was a concern. There should be a condition that the Oak Bluffs board of health approve the pool management plan.

Mr. Wey said we should also condition the non-profit status. Mr. Widdiss agreed with conditioning the lighting proposal.

Mr. McCavitt asked if there were any changes in the building design since the original presentation. The answer was no.

Mr. Evans said that with more and more developments, lighting issues should be addressed. That sodium light was very yellow and that is very diffused in fog. They will dominate the area with an unusual light, in the sense that it is not part of the normal night light, night sky. Mr. Early made a tentative proposal to condition the applicant to come back with a plan that address the skylight effect and that they work with the Martha's Vineyard Commission staff on this. Mr. Morgan agreed.

Ms. Harney, wants to go on record that she has problems with the facility even if it will be used as a non-profit which will help handicapped. She has problems with a club of this size, generating the amount of traffic it will. It is still in a residential zone and a project of this size and use should not be in an area zoned for residences.

Mr. Harris, Commissioner, asked if there was a non segregated statement in the by-laws. Mr. Waterman said it was not specifically addressed. Mr. Early called on the applicant who said it was not specifically addressed but that they are integrated now and will continue to be so. Mr. Young believes that this is required under Chapter 180.

When there was no further discussion Mr. Early moved on.

ITEM #6 - Possible Vote - Island Athletic Club

Motion was made and seconded to approve with conditions.

Mr. Widdiss, Commissioner, stated the conditions be as follows: (1) compliance with state and local non-profit status by-laws, (2) lighting be approved by the MVC staff after addressing concerns raised tonight, (3) adequate screening be provided at the southwest corner to screen the view into the lot, (4) the maintenance schedule for the pool be reviewed by the MVC staff and the Oak Bluffs Board of Health, and (5) Membership have a non discriminatory policy written in the by-laws unless the law already applies.

Mr. Filley, Commissioner, added condition (6), if heating oil will be used for heating that there be plans for containment and these should be reviewed by staff.

Mr. Widdiss added condition (7), concrete slab adequate for parking 4 motorcycles.

Ms. Scott, Commissioner, asked if parking lot proposed was paved. The response was Yes.

Mr. Morgan, Commissioner, concerning condition (1) he didn't think there were local by-laws for nonprofit. Mr. Young said they should comply with one section of the by-laws allowing non-profit businesses to operate. Mr. Early said he imagines state law for non-profit agencies also governs non discriminatory policy but he wants staff to investigate when compiling the written decision. Mr. Young proposes

that the screening issue is handled the same as the lighting, i.e. by the staff. Mr. Morgan then asked Mr. Wey how he felt about this decision and the conditions. Mr. Wey said he would abstain.

On a roll call vote the motion to approve with conditions passed with 11 in favor, 1 opposed, 2 abstentions (Evans, Wey). (Mr. Harris was in favor, Ms. Harney was opposed)

After a short recess Mr. Early reconvened the meeting at 10:15.

ITEM #5 - Discussion - Katama Airport DCPC

Mr. Morgan excused himself from the room during this discussion due to possible conflict of interest.

Mr. Early stated that the Katama Airport DCPC Committee had met and decided on new boundaries which follow lot boundaries. The large parcel to the extreme left middle was designated after conversation with the Nature Conservancy and the National Heritage foundation which determined that this was an important hunting habitat for rare birds. Mattakeset way bounds are the only ones that cut across property lines.

Mr. Ferraguzzi then asked if there would be any significant development in this area. Mr. Early stated that it was pretty well built out. Mr. Ferraguzzi asked if lot 31 was included. Ms. Borer responded yes. Mr. Early then called attention to Section 5 of the draft decision regarding guidelines and called on Ms. Borer for a summary. Ms. Borer stated that the guidelines and goals on page 7 were specific to protect the clear zones and the wildlife. On page 8 under general guidelines applications for building structure and subdivisions requires permits and review by the Site Review Committee.

Mr. Evans, Commissioner, is the suggestion under Section 5 that the administration of the guidelines be by a Site Review Committee. Is this how it will be handled? Ms. Borer responded that the Site Review Committee will prepare a report with recommendations for the granting authority. Mr. Evans then asked if there were perceived standards to cover all cases so the Site Review Committee could use this as a guide. Ms. Borer replied that Mr. Mitchell and the Edgartown Airfield Commission would prepare an airport "Approach Path Chart" with guides for heights and there would also be wildlife habitat maps available. Mr. Evans went on to say that in his 15 year experience Katama Plains have gone from being a great plain to a mini East Hampton. Public investment might be perceived as being damaged. There is more at stake concerning public interest than the airport. Is just a height restriction for airplanes sufficient. Maybe more moderate use of scale is appropriate in general to protect visual quality. Mr. Early responded that we are dealing with an area that has already been built. Mr. Ewing asked how many buildings currently? Ms. Borer told him to refer to map on wall with structures denoted as blue dots. She also referred to the predictions for '88. She said the only thing the Nature Conservancy could do is ask them to move to a different

location. That is why a Board of Health member should be on the Site Review Committee with the Conservation Commission to be called in when it was really significant. Mr. Ewing stated that while he agreed with Mr. Evans the area is already screwed up. The Atlantic Avenue portion is already totally built. How much more could there be left to build? Mr. Early responded a significant amount, especially the subdivision in the northeast corner.

When there was no further discussion Mr. Early moved to the vote.

ITEM #6 - Possible Vote - Katama Airport DCPC Designation

The motion was made and seconded to designate Katama Airport as a DCPC pursuant to boundaries, goals, and guidelines in the Draft Decision (see Decision on file). There was no discussion on the motion. The motion was approved on a roll call vote of 12 in favor, 0 opposed, 2 abstentions (Morgan, McCavitt) (Harney and Harris were in favor).

ITEM #7 - New Business

Mr. Early, Commissioner, called on Ms. Borer, Executive Director. Ms. Borer said that at the August 22nd LUPC meeting they reviewed a sketch from Cabral about a 1.64 acre subdivision. The parcel was contiguous to the 16.5 acre property reviewed for Doug Cabral and given to the Land Bank. LUPC told the applicant that they recommended deleting the property line and combining the parcels, we are not sure it could be approved as a Plan A, but this would be up to the Planning Board. The Planning Board has asked us if since the Land Bank will be purchasing this tract of land also, will it be a significant modification to warrant a public hearing or could they just go ahead with it.

Ms. Eber, Commissioner, asked, it's contiguous? Yes. Mr. Filley, Commissioner, pointed out it would be creating a parcel for the Land Bank's purchase. Mr. Ferraguzzi asked, created from what? The response was the Joyce Cabral property.

Mr. Evans, Commissioner, wanted to know if the purpose of this acquisition was to continue the trail system? Ms. Borer did not know the intent of acquisition.

Mr. Early, is this a DRI? Does it warrant a public hearing? Mr. Ewing responded that it was the same concept with just a little more space and he doesn't see the need for a public hearing.

Mr. Young, Commissioner, then asked Ms. Borer to read her letter to the West Tisbury Planning Board. The letter is summarized as follows: confirms the verbal information given to the applicant at the August 22nd LUPC meeting, explained that they had concerns as to why it hadn't been done simultaneously with the Cabral DRI thus simplifying procedures, and further how this could conform to be a form A, suggestion to the applicant was to amend the Cabral subdivision plan to combine the 1.5 acre parcel with the 16.5 acre parcel, as this was only a suggestion, the final decision would have to come from the planning board.

Mr. Ferraguzzi, any specifics as to why they are doing this now? Mr. Young stated that it was Joyce Cabral's intention to do at the same time as Cabral parcel but this was held up in creating the parcel process so the timetable got messed up.

Mr. Ferraguzzi, can this be legally subdivided? Mr. Young, that is the question. Mr. Ferraguzzi, I thought there were no more subdivisions allowed under the original Hilltop decisions. This seems to keep being subdivided. Ms. Borer checked the original Hilltop decision and said there was nothing about further subdivision.

Mr. Early said it was his opinion it was not a DRI, that they should let the town work it out, however, he wanted a vote.

The motion was made to vote that this issue wasn't a DRI, and didn't warrant a public hearing. This was seconded. The motion carried with 13 in favor, 0 opposed and 1 abstention (Ferraguzzi). (Harney and Harris in favor).

ITEM #8 - Correspondence

Mr. Early read a letter received today from the Land Bank to Ms. Borer regarding the upcoming joint meeting. In summary the letter stated they were enthused about the meeting, however, 3 items the commissioners want worked out in advance follow: (1) different date, (2) a fixed agenda, and (3) Larry McCavitt as temporary chairman for this meeting since he is the only member of both commissions. Mr. Early said the Land Bank seems to have problems with our meeting format with public hearings typically lasting until 10:30-10:45. Stated that perhaps we should go to their meeting on Mondays. We have made an effort and there seems to be a conflict so I suggest we let the Executive Directors suggest a date. Mr. McCavitt and Ms. Harney both expressed their desire to attend and the problems created with having the meeting on Monday night. Ms. Harney suggested a possible meeting on a Thursday at 5:30-6:00.

Mr. Early will leave it up to Ms. Borer to work out but he thinks it is difficult to do anything for next week unless they can come at 5:30.

Mr. Ewing asked if we couldn't have put them on the agenda for 9:00. Ms. Borer said they were informed that it was a light agenda night with a good possibility of them coming up about 9:00.

ITEM #9 - Vote to enter into Executive Session regarding litigation.

The motion was made and seconded to go into Executive Session for litigation and reconvene in open session.

The Commission entered into Executive Session on a vote of 14 in favor, 0 opposed). (Harney was in favor, Harris abstained).

After reconvening to open session Mr. Early went back to agenda item #2.

ITEM #2 - Old Business

Mr. Early said they would again address the moped problem? He said they have approached council several times, have rejected some of their suggestions as not being satisfactory, and we now have a letter from them that came in today which has to do with filing legislation.

Mr. Ferraguzzi asked if we as a Commission were actually in favor of regulating mopeds? This is regulation of a motor vehicle. Mr. Early said that our objective is to do something about the carnage on the roads and highways. That the Island Road District DCPC might be inadequate to cover the downtown business areas and may be limited in its power to regulate authority over mopeds. That this is a bill to be submitted in the interim while research continues with the Commission as a co-petitioner.

Mr. Early read the cover letter from Choate, Hall and Stuart. The changes to the bill initiated by the council were (1) MVC added as a petitioner, (2) added moped to term motorized bicycles, and (3) limited to Dukes County and wants the Commission to decide if they want this applicable to both Dukes and Nantucket counties, and (4) Lessor regulations deleted, no reference to any spending provisions. He then called on Ms. Borer to discuss the information received from Choate, Hall, & Stuart. Ms. Borer distributed informational material and a suggested bill to be submitted to legislature regarding the moped regulatory issue. She stated that in June the Martha's Vineyard Commission received a request from the Board of Selectman of Edgartown for the Commission to examine moped use, regulation, prohibition in the area of the Island Road District as a DCPC. Previous efforts regarding regulation of mopeds have been futile, regarding the Island Road District DCPC she has had many talks with counsel inquiring about the possibility of the Commission regulating mopeds in the Island Road District. The Council feels there may not be a mechanism to do this. The Island Road District doesn't include centers of Town, the boundaries on the roads are inconsistent, etc. There seems no way to get the Department of Public Works to pass regulations. The recommendation therefore is specific legislation for Dukes County, with co-sponsor Mr. Calhoun. This would give the County Commissioners the right to decide the rules and regulations. This is the way the council suggest we proceed at this time. Since this was only received today I have not had a chance to show it to Edgartown yet, since they made the initial request we owe them the information.

There was discussion among the Commissioners as to how the County Commissioner could enforce the regulations. How the Commissioner could become involved as a data source. Mechanisms to permit qualified owner/operator persons.

Mr. Morgan, Commissioner, stated that he had doubts this would go through. Previous experience showed there was a chance it wouldn't

get a favorable review. He stated he was disappointed with the lawyers for not coming up with another alternative.

Ms. Harney, Commissioner, asked if there was a strong lobby in favor of mopeds? Mr. Morgan replied in the affirmative. Stating that the companies who manufactured the mopeds were influential, and that although he has never seen anyone against moped regulatory bills he does feel there is strong lobbying involved.

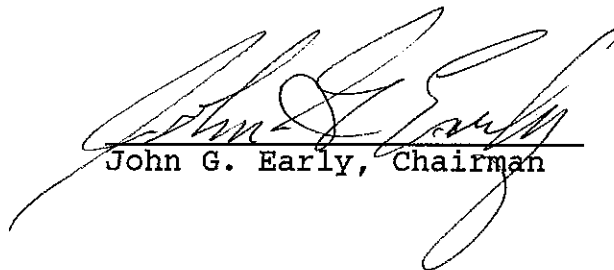
Steve Ewing, Commissioner, asked what gave the town's the power to regulate mopeds, motorcycles, and buses on their streets by limiting access. Mr. Widdiss, stated that if the roads didn't use State funds that they could be regulated by the town. Mr. Ewing, is that how they keep the buses out of Menemsha. Mr. Widdiss, said that is correct. Mr. Early added that not all town regulations were legal.

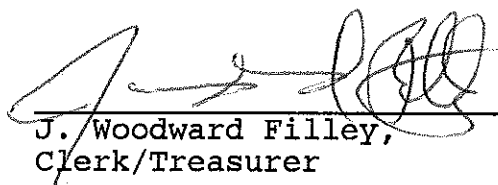
There was further discussion on the moped issue including questioning the legality of Selectman decreasing permits and licences, Amending Chapter 831 to cover mopeds, the Registries disapproval of giving up regulatory authority in Dukes county, and the possibility of the Registry submitting the bill.

Mr. Evans, Commissioner, asked if it wasn't the general interpretation of Chapter 831 to promote the general health and welfare, with the statistics we have on moped accidents, why don't we just go ahead and regulate them? Mr. Early replied that we might be sued by the moped rental agencies. Ms. Borer asked if Mr. Evans would like to explore amending the regulations for the DCPC. Mr. Evans replied in the affirmative. Mr. Widdiss stated that they must distinguish between it being a mechanical or operation problem with the mopeds. After further discussion the commission decided to have Mr. Morgan file the draft bill, and continue to correspond with counsel about other alternative actions.

The meeting was adjourned at 11:55.

ATTEST


John G. Early, Chairman 9/22/88
Date


J. Woodward Filley,
Clerk/Treasurer 9/22/88
Date

Attendance:

Present: Lynch, Widdiss, Filley, Young, Eber, Ferraguzzi, Evans, Scott, Early, Wey, Ewing, Lee, Morgan, McCavitt, Harney, Harris.

Absent: Jason, West, Medeiros, Delaney, Allen, Geller.