

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF FEBRUARY 15, 1990

## MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, February 15, 1990 at 8:00 p.m. at the Martha's Vineyard Commission Offices, New York Avenue, Olde Stone Building, Oak Bluffs, MA, pursuant to Section 8 of Chapter 831, Acts of 1977, as Amended, and Massachusetts General Law, Chapter 30A, Section 2, and the Standards and Criteria regarding designation of a District of Critical Planning Concern adopted by the Commission and approved on September 8, 1975 by the Secretary of Communities and Development, to hear testimony and receive evidence as to whether the Commission should designate specific geographic areas of the land and waters of Martha's Vineyard as described in the boundaries as a District of Critical Planning Concern.

Ms. Sibley, Chairman, read the West Tisbury Special Ways DCPC Public Hearing Notice, stated the bounds are described in the legal notice and the staff notes, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Mark Adams, MVC Staff, to make his presentation.

Mr. Adams used wall displays to indicate the location of the ways. He reviewed staff notes which included excerpts from the nomination papers and correspondence (staff notes are available in their entirety in the DRI and Meeting file). Mr. Adams also called attention to excerpt from the Island Road District DCPC Decision (also available in the above named files) and stated that this DCPC would be an amendment to the Special Ways section of this DCPC. Mr. Adams showed a video of the "Old Mail Road aka Old Holmes Hole Road" to depict the varying conditions of these paths ranging from barely discernable paths to vehicular accessible roads. This video also showed the proximity of the way to the West Tisbury School and it was noted to be used by school children as pedestrian and bicycle access to the school. Mr. Adams stated that the Town has done some research into the status of these ways. This nomination is not meant to claim that these are public or fully established public ways however they are nominated because there is some reason to believe there may be some public rights in each of these. They are generally accepted to be publicly traveled by habit. He reviewed research information provided by the Town on these ways. Following Mr. Adams' presentation he answered questions from the Commissioners.

Mr. Young, Commissioner, asked so this is an amendment to the Special Ways Section of the Island Road District? The response was yes. Mr. Young asked and the only trail already included in there is Scrubby Neck Road aka Watcha's Path? Mr. Adams responded and Tiah's Cove.

Mr. Young asked and there are going to be additional regulations put on those? Mr. Adams responded correct. The Town is working on more detailed regulations than were approved in 1975. Mr. Young asked and those regulations will also apply to the new paths? Mr. Adams responded correct. Mr. Young asked are there any other paths that are currently in the Special Ways Zones in West Tisbury that are not part of this? Mr. Adams responded no.

Ms. Eber, Commissioner, asked so this DCPC only applies to the roads within West Tisbury because some of them go over the town boundary? Mr. Adams stated yes this is a nomination for West Tisbury based on work done in their Town. There is a hope that other towns might identify special ways in their own town and come in with that sometime. These were chosen in part for their possibility for linking up to other systems and towns.

Ms. Sibley stated the nominator is the West Tisbury Planning Board and she invited them to make a presentation now.

Virginia Jones, Chairman of the West Tisbury Planning Board, stated that she thinks Mr. Adams has presented this admirable and I have nothing to offer except that what we are trying to do is the preserve the rights that may exist for public use and not create any new ones. These happen to be roads that we had some documentation on. If anyone has any questions I would be glad to try to answer them.

Mr. Wey, Commissioner, asked if any of these ways have been blocked off? Ms. Jones replied that some of them have been but more out of innocence and ignorance than malice. We have, as a Board walked each and every one of them and we did find piles of brush and things that were put out there, but it wasn't a real deterrent. The Courthouse Road does have gates on it but these are allowed. This has been here since long before I've been around.

Mr. Fischer, Commissioner, asked if Ms. Jones would comment on the correspondence from Mr. Gerstmar regarding the problems with dirt bikes? Ms. Jones responded that is a problem, a problem on every road. A lot of it has to do with enforcement and certainly it is not the intention to encourage vehicular traffic. We are trying to encourage non-vehicles traffic and discourage vehicular traffic. There are a lot of these roads which are very attractive to the dirt bikers of the world. That one happens to have a big sand pit fairly close to it. It is certainly our intent to try to curtail whatever inappropriate uses that are being made of them.

When there were no further questions for Ms. Jones, Ms. Sibley called for any other town board testimony, there was none. She then called for testimony in favor of this designation.

Ms. Deborah Yennie, West Tisbury Representative to the Land Bank, testified that they are definitely interested in preserving these paths. We hope to be able to incorporate them in our plan for an Island-wide network of trails. We are very concerned that regulations be stipulated for these ways that will truly have them do what we hope they will do. Which is truly that they not be ones for vehicular

access but that they are for non-vehicular access. I think that is a key point. As far as the comment that was made that they don't go anywhere, they definitely go somewhere. Certainly I noticed you did a lot of video taping of the one behind the school and I am assuming that most of you know that many children use that path every day to get to school and it really would be a real loss if we didn't maintain that trail in particular. I also urge you to keep the Land Bank abreast of all of these proceedings and If we can be of any assistance to the subcommittee we will. I would also like to request that, and I am not honestly sure whether this is the Commission's job or the job of the West Tisbury Planning Board, but for these ways we'd like a very clear understanding of exactly what lots are on them and who is effected by the regulations. So that when it comes to the Town meeting for West Tisbury we actually know what it is that we are voting through.

Mr. Rez Williams, West Tisbury resident, testified that he thinks it is important to keep in mind that this designation is to primarily keep the landscape open and viable to the citizens of the Town and the Island. There has been much criticism of it as a taking but actually it is not a taking, it is really a giving.

Mr. Gary Motteau testified that he owns land at the turn that Watcha Path makes off of Scrubby Neck. My feeling is that historically the public has used these. They were used as the roads to market for farmers in the past. I would like to see the continuation of the quiet recreational use that is possible and still exists because the road is open. Eastover Farms, the horse farm, uses that whole network regularly so hundred and maybe thousands of people a year get to ride their horses through here. There are many places where, because of vehicular access there would have to be maintenance. I'd be willing to hold some of my rights in abeyance to allow you to protect and continue a pedestrian loop which is not necessarily related to the more congested water related amenities of the Island. I would like to ask a question of anyone about what the State position on ancient ways? I know they exist all over the State. As a landscaper, on occasion I have been asked to plant trees in them because people are trying to close them off. Oysta Watcha Midland Association has a gate across one of the well worn paths that I hope eventually would be considered a public path.

Mr. Adams responded to Mr. Motteau's request on the State's position on ancient ways. He stated that these have not been nominated to claim that any of these ways are ancient ways. That is quite a complicated concept which has sort of confusing legal standings. So this is not meant to be a declaring that these ways are ancient ways. The legal concept of an ancient way, if it does exist, relies on documented proof that a trail has been in use for more than 20 years without the owners permission. That is called an adverse use and it establishes a prescriptive right for use of the paths as a public way. In order for something to become a prescriptive way in that manner it has to go to Land Court and be proven through testimony and documents of witnesses and maps that it has been in use for more than 20 years. This may be a process which public or private agencies on the Island may continue to pursue beyond this but it is not intended to be part

of this process tonight.

Mr. Burton Engle, Chilmark resident, testified that he would hardly recommend that this process be carried through. I would like to see it extent to some of the roads in Chilmark as well. I have a question about the King's Highway in Chilmark at some point but that would be out of order right now.

When there was no further testimony in favor of the designation, Ms. Sibley called for testimony in opposition, there was none. Ms. Sibley then called for general testimony.

Mr. Eric Peters asked if this is accepted what regulations are meant to be applicable or not applicable to these particular ways? This is sort of a novel DCPC in the sense that this is a District that doesn't say anything. Mr. Adams responded it would follow somewhat the guidelines that have been in place for the existing special ways with a couple of exceptions that I think the Town is considering in its own regulations. The most important exception to the existing guidelines that they might request is in Decision Section V, Part A, #2 referring to construction of fences within a 20 foot zone. The intention will be to try and develop ways to add gates and bars to these ways so that access could be somewhat regulated, but not restricted, to the proper kinds of lower uses. So that vehicles that have rights could open the gates and drive through, walkers or horseback riders could step over, but it would be just a bit more difficult for motor bikes or unauthorized vehicles. That is the most important exception to the existing guidelines that they might like you to consider. The other significant feature of the regulations that the Town is suggesting is planning a special permit zone within 40 feet of the center line of the way. An 80 foot special permit zone where habitable structure would require a special permit. Again this is just a proposed idea in the Town right now. The intention is that they would be able to inform private landowners who want to build a house through or near to a way, that the way does exist and if they want to build close to the way they may have some nuisances from noise and walkers going by. If would be an opportunity to inform them.

Mr. Peter Van Rosbeck stated that he has questions. This nominations seems to be a little different than others. It talks about anything within 40 feet of the center line of these ways. Maybe someone can explain what is going to happen, or what can happen, through this period? The papers that I have just says that there will be a nomination of land within 40 feet. Then if you read some of the text that was provided by the Town it talks about all kinds of things. It talks about special ways being public rights of way, old rights of ways, private special ways and public special ways, adverse public uses, etc. It goes on to talk about uncontrolled and inappropriate development. Is uncontrolled development or inappropriate development and A&P or a garden. Is it an A&P without parking spaces or a garden with a lot of weeds? I read this over and I really wasn't sure what was to happen within this 40 feet for a period of time. The Town has a lot of people who have good ideas about things that can happen. However, I was unsure of the meaning when I read something that said special ways are public rights of way, then it goes on to explain that

there are other special ways some of them are private and some of them are not. So where we have a combination of ways and we haven't really defined what appropriate or inappropriate is, I guess my question to the Commission is for the next period of time if these ways are designated and the nomination describes the land within 40 feet of these ways, what can happen and what can't happen? The nomination doesn't say what is going to happen it just says we are going to nominate this land within 40 feet for a period of time.

Ms. Borer, Executive Director, responded this Committee is not in the process, at the moment, of drafting regulations and in working with the Town to draft regulations for activities within the 40 feet, so I am not able to answer your question.

Mr. Rosbeck stated I have a more specific question. One of these ways runs through property that I have. I have a way which I had intended to put utilities down that crosses the special way. I don't know if all of the sudden someone is going to say we can't do anything within 40 feet. There are things going on all the time within 40 feet of these ways. I just want to know what happens or what doesn't happen?

Mr. Adams stated that he has a partial answer. In the Commission Decision from the 1975 Island Road District that covered special ways, they set down guidelines that says these uses are permitted within the special ways zones: Section V: Special Guidelines for the Special Ways Zone, B: Uses within the Special Ways Zone. 1. Permitted uses. Any use permitted by the applicable town zoning district, provided that the development does not result in direct vehicular access to the Special Way. 2. Uses Allowed by Special Permit. Any use permitted by the applicable town zoning district, which results in direct vehicular access to the Special Way. So according to the Commission decision, all uses will still be allowed and certain uses would require special permits.

Mr. Rosbeck stated the specific questions was about underground utilities. Mr. Adams stated he can't answer that specifically.

Mr. Peters stated that he would sort of follow Mr. Rosbeck's line and restate what his original question is and then make a general comment about these roads. I happen to have a client who has some property adjacent to one of these roads. My usual familiarity with the DCPC process is that when you designate something, or amend a designation, you also asked, when that is done, that it say this is what is going to happen. These are the guidelines we proposed. Then you have exemptions. You have something the people can respond to and work with for the year that follows, or how ever long it takes. So I would suggest that it is only reasonable to create or amend the District by having some regulations. Instead of just having this thing that nobody knows what it is.

Ms. Sibley stated that is what the process will be. If the Committee gets the permission to designate there will be guidelines. Mr. Peters said during the decision to designate someone will come up with regulations? Ms. Sibley stated guidelines, the Town will come up with the regulations. Mr. Peters stated then my comments would be, at

least to the people who are working on this with West Tisbury, the same as a comment I heard in Edgartown the other day. It will be more productive in the long run if people want to attempt to secure the future use of these roads, paths, etc. for whatever particular purpose that is useful about them, that they explore the legal property type questions to do with laying out a public road, laying out a public easement, takings and so forth. This would actually assure the long term preservation of them. Or look at which road may actually be public roads already and what are the legal rules and regulations that the Town can already engage in. As far as I know Watcha Path is already a Town road but the Town has said they don't know what they want to do with it. Those things would be more productive especially if there is an intent to try to insure future use. The Land Bank wants to have a public trail system, maybe like in England. The DCPC is not going to accomplish that. Yes it might prevent a house from so many feet from a way but it isn't going to say this is public. So depending on exactly what the purpose is, I would suggest that maybe there is another way to go about accomplish this purpose.

Mr. Jason asked what the permitted uses in the Special Ways Zone in West Tisbury are now? Mr. Adams referred Mr. Jason to the Island Road District Special Ways Zone Section V, Part 2, A & B. Mr. Jason asked I thought we were being asked to amend the Special Ways Zone by adding these road to it? Mr. Adams responded exactly. Mr. Jason stated, well it appears they are trying to amend the Special Ways Zone period? Either that or I am misunderstanding. Ms. Sibley stated I believe that is correct. They are not just adding new ways. They will be drawing up new regulations as well. Mr. Adams stated both statements are true. They want to add some ways to the Special Ways Zone and refine some of the regulations and in some cases adapt them to Town needs.

Ms. Jones asked for a point of clarification on the statement before that you were just mentioning about the guidelines. There are guidelines for the Special Ways Zones. Under C. of these guidelines it mentions rules that may include among other devices such rules as, varying setbacks, guides on clearing or planting, rules for signs or utilities or for the character of vehicular entries (driveways), plan review procedures for key locations, and measure to preserve important views. So I think that it clearly says that while the process is unfolding the Town can establish guidelines to be considered in the regulations. The other think I should mention, to reiterate what has already been said, Watcha Path is already is special way. There was however, as I recall, a small technical problem with its description in the Commission wording. What it says is not where it is and mainly for that particular road, it is to clarify its geographical location. The other roads are newer entries into the Special Ways Zone but there is documentation for each and everyone of them that can be verified and worked out once the process begins.

Ms. Borer asked Ms. Jones for clarification. Do I understand that the nominators are asking for the following: 1) an amendment to the Island Road District to add additional special ways to the list of what is already in effect in the Town of West Tisbury, 2) and you are also asking that the regulations that are within the Town Zoning By-laws be

amended for the Special Ways Zone? The response was yes. We will be bringing it to a Town Meeting for a vote on whether they want to amend the regulations.

Mr. Peters stated, again having looked at one of these special ways before, I don't remember which way it came, but there was some question as to what actually happened back in 1976 for some of the "Special Ways" in West Tisbury and what regulations were applicable to what. There was a regulations that the Planning Board thought was going to be adopted as part of the DCPC and it wasn't adopted. Or it was something that the Commission had adopted that wasn't in the West Tisbury Zoning By-laws. Hopefully this might straighten out one of those problems. Ms. Sibley stated that was very confusing could you perhaps put that in writing. Mr. Peters stated that I don't exactly remember what the specific problem was. Ms. Sibley asked Mr. Adams to look into it.

Mr. Motteau testified that in his deed it says that Scrubby Neck is a 3 rods wide right of way, that I believe is 48 1/2 feet. At least at one point in this road it is legally defined. The actually road in use is about an 8 foot path. In other places perhaps this isn't so. What you saw on the video was the broad spectrum, anything from a deer trail through the brush to a dirt road that people use to get into their driveway.

Ms. Sibley called for any further general testimony, there was none. She then asked the nominator to make a final statement.

Ms. Jones stated that the 40 foot distance to either side of the center line is meant less to be exclusionary than to protect people who might inadvertently build too close to a public way where public rights already exists. So they might be aware that, as Mr. Adams pointed out, they might find it a nuisance with people hoofing by their back porch everyday. It is more to protect the landowners than to be overly restrictive. It is to provide a buffer zone for the owner as well as people using the path. It is for habitable structure.

Ms. Sibley asked for any further testimony.

Mr. Motteau stated he believes it would be a very useful thing if the Town does go through this process to actually survey that centerline that is very ambiguous at this point. So that even abutters would know where their property lies.

Ms. Sibley then asked for further questions from the Commissioners.

Ms. Colebrook asked, during the amendment process and final recommendations, will all six of those trails remain open to horseback riding? Mr. Adams responded this process has nothing to do with open public access for pedestrian, equestrian or other uses.

Ms. Jones stated that the Planning Board has walked over all these trails.

Ms. Bryant, Commissioner, stated that whether or not they have walked the trails isn't the question. The question is public access. The response was that we don't have the power to resolve public access questions in this process.

Mr. Rosbeck stated that Ms. Colebrook's question is a good question. Could someone ride on these trails and road. This affects the whole Island not just this Town, that is why it is before the Commission. There should be a review of what goes on and discussion on public use. The Planning Board should be considering if this does affect the whole Island. They say it does and that is why it is here. If this is so, then public use is a concern. The nomination papers discuss the construction of private gates and bars, who will make these decisions? If this is nominated as a DCPC the outcome is that it will be for public use, that is what it says to me.

Mr. Jason, Commissioner, asked in the event that there is no public rights, what will happen to the nomination? Mr. Filley, Chairman, stated that these ways exist, historically and culturally, and potential use doesn't matter, whether there are public rights or not. It will give the opportunity for possible acquisition of public rights however the Commission doesn't have the power to give public access.

Mr. Jason asked what if during the DCPC time period the Town wishes to commit themselves to acquiring public rights? Ms. Sibley stated that this will be pursued. Mr. Adams stated that some of the ways described were in the 1975 Island Road District Special Ways Zone and no commitment was required by the Commission to establish public access on these ways. Mr. Jason stated but now the rules will be a little different.

Ms. Jones reemphasized that there is no intent to create public access where no rights currently exist or no interest in extinguishing public rights that do exist. The establishment of guidelines will serve to inform landowner. To deal with issues such as when subdivision have lots where roads and ways pass through them and people buy these lots and then say wait, we didn't know that a public way runs through the property, where am I going to put my house?

Mr. Peters stated that tentatively the DCPC says nothing will be done about the use as roads, trails or paths but will deal with setbacks, etc. A number of trails are overgrown and couldn't be used now so zoning would not be effective to protect the paths if no one notices an overgrown path that nobody uses. If the intent is to make physical use of the ways, this isn't the process to follow from a legal point of view.

Mr. Engle stated that the ways were chosen because sufficient use could be shown. Clarification of these ways would not make more use likely.

Mr. Peters stated that we should wait and see if there is enough evidence of sufficient public use.

Mr. Rosbeck questioned the discussion on how these roads were chosen.

Evidently these were selected very carefully as roads that are used and used in a public way. Ms. Jones stated that these ways are used today and some are used more than others. There is some documentation in one form or another that gives us the feeling that the roads have rights for public use. Certainly this evidence can be used. Ms. Sibley asked that the West Tisbury Planning Board submit the documentation and research they have referred to? Ms. Jones stated it would be submitted.

Ms. Eber asked so there would not be access to these roads? I am concerned that some of these roads are more private than others and this might create public rights on ways not previously used. Ms. Jones stated that these ways were chosen because we had some documentation of prior public use. Ms. Eber stated that she is also confused because none of these ways seem to be going anywhere. Ms. Jones stated that each of these ways touches on a public highway or public way.

Mr. Schwartzman, Oak Bluffs resident, testified that in creating this entity someone must be responsible to address these concerns. Ms. Sibley stated that is what this process is all about. The Committee and the Commission will discuss these concerns and, if approved, will develop regulations, in conjunction with the Town, for this District which will then be brought to Town meeting for approval.

Mr. Engle stated that there appears to be some legal opinions on the legal status of these ways, who will examine these questions? Ms. Sibley stated that this question cannot be answered tonight.

When there was no further testimony, Ms. Sibley closed the public hearing at 9:20 p.m. with the record remaining open for one week.

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Following the public hearing, Mr. Filley, Chairman, opened the regular meeting of the Commission and proceeded with agenda items.

#### ITEM #1 - Chairman's Report

Mr. Filley introduced John Schilling as the Commission's new coastal planner. He invited Commissioners to take a few minutes during or after the meeting to introduce themselves and get acquainted with Mr. Schilling. Mr. Schilling thanked Mr. Filley for his welcome and stated that he would be needing everyone's help in the months ahead.

Mr. Filley continued by stating that due to a problem with quorum, the meeting with the Edgartown Planning Board has been rescheduled to February 20 at 7:00 p.m. The meeting with the Tisbury Planning Board will be February 21 at 8:00 p.m. at the Town Hall Annex.

Mr. Filley closed by stating that Ann Skiver, MVC Staff, would be reporting on the Steamship Authority under Item #4.

#### ITEM #2 - Old Business

Mr. Filley called Commissioners attention to copies of the Cape Cod

Commission act which was distributed in their packets and stated that there may be some good ideas in there for the MVC. Ms. Harney stated that she appreciates receiving this and she is glad to have a copy.

ITEM #3 - Minutes of February 1, 1990

It was motioned and seconded to approve the draft minutes as presented. There was no discussion. This motion passed with no opposition, 1 abstention, Fischer. (Harney abstained.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Chairman of LUPC, reported that they had met on February 5 with representative from the Vineyard Assembly of God and the Playhouse Theatre. In addition, Ms. Greene, Mr. Jason, (Commissioners) and myself made a site visit of the Leland DRI property. The next LUPC meeting will be February 26, when we will discussing the Leland DRI and having a working session on the DRI checklist.

Mr. Morgan continued by stating that he wanted to keep the Commissioners up to date on what is going on regarding the Spring Cove Realty Trust DRI. As you may be aware borings must be done per the MVC Decision. I have had several discussion with abutters, one of which happens to be a friend of mine, and got word the other day that there would be a boring taken yesterday between 9-9:30 a.m. I called Greg Saxe, MVC Staff, at the Commission offices and told him that I though I would attend. However, as I discovered the night before the borings in phone conversations with Mr. Saxe, Mr. Adler and his representative, there was set of rules for the conduction of the boring. There was some discussion as to whether or not I should attend in that I am a public official. I did not go. Theoretically this is not one of the 5 borings that were specified in the MVC decision but was specifically for DEP to settle a dispute with abutters regarding the permit application in a wetland. In the State's decision on this matter it states that neither the owner nor the abutters should be present during this boring, only consultants and engineers representing the parties. As a matter of record, I want to make it clear to the Commissioners that I have been discussing this issue with the abutters.

Ms. Colebrook, Commissioner, asked if we will be getting copies of the boring report? Mr. Morgan stated that the boring was done with auger which poses another question. We didn't specify in the MVC Decision how the borings should be done but it shouldn't be done with an auger. It should probable be done by tube method.

Mr. Morgan then reported as Legislative Liaison by stating that over 65% of the bills filled in November are now in print. Next Thursday's meeting I will bring copies of the bills under natural resources. February 27th there will be hearings on all the air quality and Mass. water resource acts bills including 6 hazardous waste bills, 73 solid waste bills, 20 fish and wildlife bills. The hearings will begin at 11:00 in room RA2. Mr. Morgan continued by stating that it looks like new taxes are inevitable. Some legislators feel there should be more

cuts or favored political cuts. I will provide copies of any bills regarding the Vineyard.

Ms. Bryant asked if there were any moped bills? Mr. Morgan responded I believe 3 or 4 but I am not sure if they specifically are int print. Ms. Borer asked if the MVC bill is in print and a number has been assigned? Mr. Morgan responded that he anticipates it has. It was stated that once we get the hearing date we should establish an offensive and charter some buses.

Mr. Ewing, Chairman of the Edgartown Ponds DCPC Committee, reported that they had met to review an exemption but the applicant still has to apply for a building permit. At the Planning Board meeting on the February 20th there will be a public hearing on their rules and regulations. The Conservation Commission has given their approval to the package and hopes it meets with the Commission's approval.

Mr. Fischer, Chairman of the Gay Head Cliff Area DCPC Committee, reported that they had met tonight with Jean Taylor; Mr. Weiner, Gay Head Building Inspector; and Mr. Fred Simmons, Gay Head Planning Board. It was a very confusing meeting. It appears that Mr. Taylor wants to make a usage change but will have to go back to the Planning Board and submit an application before he comes back to us again. Mr. Fischer closed by stating there will be a Committee meeting next Thursday at 7:00 p.m. here at the MVC offices to discuss the Diem property.

Mr. Filley asked Mr. Adams, MVC Staff, to report on the meeting of the Agricultural Committee. Mr. Adams reported that Mr. Don Liptack and Mr. Bill Wilcox were both in attendance. We worked on a point system for evaluating farm land on the Island. Taking soil maps and adding land characteristic to give a rating as to the agricultural value. Once completed the Commission might find ways to use this information as a tool in DRI and DCPC processes. It was a very fulfilling meeting.

Ms. Sibley, Commissioner, stated that it was a good meeting and I was very charged by it. Anyone who cares about agriculture ought to come to the next one. This could yield a policy that the Commission could use to aid agricultural land.

Ms. Skiver, MVC Staff, reported on the Steamship Authority planning proposal by stating that the goal is to develop a memorandum of understanding between the SSA and the MVC. She called Commissioners attention to a draft of the plan in their packets and stated that this is for consideration and discussion only. Before any agreement can be made the full Commission will have to sit down and decide what they want addressed.

Mr. Skiver continued by stating that the Tisbury Parking and Traffic Management Planning Advisory Committee which was formed last year will be reorganized by the Tisbury Selectmen for the coming season. The Board of Selectmen want to reinstate this committee and invite members from Oak Bluffs, Edgartown, the Joint Transportation Committee, the Transit Authority, and they would like a volunteer from the

Commission. They will be increasing their focus to look at the State Road corridor and some areas the Commission is interested in for past, present, and future DRIs. Mr. Sullivan, Commissioner, expressed an interest in serving on this Committee. Ms. Skiver stated she would be in touch and let Mr. Sullivan know the date of the meetings.

Mr. Filley then skipped to Item #7 on the agenda and asked Mr. Jason to review the new business.

ITEM #7 - New Business

Mr. Jason explained that there is a pending building permit for a pumping station by the Edgartown Water Company in an area that is now under DCPC moratorium. There is also a pending subdivision application. The Edgartown Ponds DCPC Committee has granted exemptions for both the pumping station and the subdivision. Since the Planning Board has referred the subdivision as a DRI, the building permit cannot be issued while the land it sits on is before the Commission as a DRI. The Water Company was looking to have this facility on line by May, 1990. I'm requesting direction from the Commission on how to proceed.

It was motioned and seconded to exempt the Edgartown Water Company's pumping station from the DRI process as the land it will stand on is the subject of a subdivision DRI and allow the Building Inspector to issue the building permit. There was no discussion. This motion carried unanimously.

ITEM #5 - Discussion - Harold Sears DRI, Town of Oak Bluffs

Mr. Filley called on Tom Bales, MVC Staff, to review this DRI.

Mr. Bales briefly described the main aspects of this proposal and stated that there is no new information since the public hearing.

Mr. Morgan reported that LUPC had not taken a vote on this DRI but it appears they looked on this quite favorably.

When there were no questions or general discussion, Mr. Filley moved to the next agenda item.

ITEM #6 - Possible Vote - Harold Sears DRI, Town of Oak Bluffs

It was motioned and seconded to approve the DRI as presented. There was some discussion regarding a condition that there would be no commercial usage of these facilities. The motion was amended and the amendment was seconded to include a condition that there would be no commercial usage of these facilities. There was no further discussion. The amended motion passed with a vote of 12 in favor, 0 opposed, 3 abstentions, Bryant, Ewing, Fischer. (Harney was in favor.)

ITEM #5 - Discussion - Regional Comprehensive Plan Goals, Policies and Action Plans

Mr. Filley introduced Mark Adams, MVC Staff, to review the information provided in Commissioners packet and available in the meeting file entitled: "The Martha's Vineyard Draft Policy Plan, (draft for discussion: version 2/15/90".

Mr. Adams reviewed some sections of the above named document and questions and discussion followed review of each section. Discussion included all topics under Roman Numeral I. Discussion on remainder of the document will take place at the next Commission meeting and a review of the entire discussion will be provided following this meeting.

ITEM #6 - Possible Vote - Adoption of Regional Comprehensive Plan Goals and Policies

Mr. Filley stated that this agenda item would also be dealt with on next week's agenda.

ITEM #7 - New Business

Mr. Filley reported on an additional item of new business. The League of Women Voters have invited us to a meeting on March 6, 1990. This will be a regionalization forum and will involve representatives from the Superintendent of Schools, Conservation Commissions, Land Bank, Refuse District and members of the Commission. Are there any volunteers to participate in this forum? Ms. Eber, Commissioner, volunteered.

There was an announcement that the Dukes County Historical Society would be meeting with the State Historical Commission to discuss architectural restrictions on March 4th. Anyone interested in attending should get the details at the close of this meeting.

ITEM #8 - Correspondence

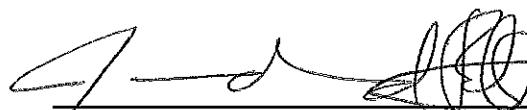
Mr. Filley asked Ms. Borer to read a letter sent to the Vineyard Assembly of God regarding their pending DRI.

Ms. Borer read the following letter to Mr. Arthur D. Smith, Esq. dated February 14, 1990 regarding the Vineyard Assembly of God. I am writing in response to your letter of February 5, 1990 claiming that the Vineyard Assembly of God is exempt from the provisions of the Martha's Vineyard Commission Act. By its terms, M.G.L. c. 40A, s. 3, the so-called "Dover Amendment", applies only to local zoning ordinances and by-laws and not to duly enacted statutes of the General Court. Nor does the Commission interpret the allusion in Section 3 of the Commission Act to M.G.L. c. 40A to incorporate by reference the provisions of the Dover amendment within the terms of the Commission Act. Further, the Commission voted this application to be a DRI under Sections 3.301 and 3.601 of the Standards and Criteria for DRIs. For these reasons, your claim for an exemption is denied at this time. We would, of course, be happy to review any further materials you wish to submit in support of your claim.

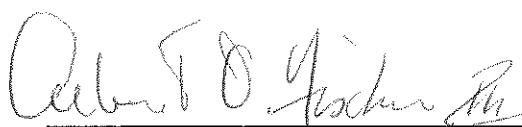
There was no further correspondence.

The meeting was adjourned at 10:48 p.m.

ATTEST

  
J. Woodward Filley,  
Chairman

3/1/90  
Date

  
Albert O. Fischer, III,  
Clerk/Treasurer

3-1-90  
Date

Attendance

Present: Bryant, Colebrook, Eber, Ewing, Filley, Fischer, Greene, Jason, Lee, Morgan, Schweikert\*, Sibley, Sullivan, Wey\*\*, Young, Harney.

Absent: Early, McCavitt, Allen, Geller, Davis.

\* Mr. Schweikert arrived at 8:15 p.m.

\*\* Mr. Wey arrived at 8:45 p.m.