

THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission Minutes for the Special Meeting of October 14, 1999

The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, October 14, 1999 at 7:30 p.m. in the second floor meeting room at the Commission Offices in the Olde Stone Building, New York Avenue, Oak Bluffs, Mass.

At 7:41 p.m., a quorum being present, Richard J. Toole, Chairman of the Commission and the Selectmen's Appointee from Oak Bluffs, opened the Special Meeting.

Growth Management on the Island: Discussion with the Call For Action Group.

Mr. Toole began by explaining to the Call For Action petitioners that he did not have any formal agenda for the evening's discussion about growth management on the Island. Mr. Toole reminded all present that at the Regular Meeting of September 23, 1999, Ralph Graves, the self-described leader-by-default of the informal group, had told the Commission members that some of the petitioners had specific ideas about the direction the Commission should be taking with regard to growth management. At the time Mr. Graves had been unwilling to voice the ideas of the others himself. So that evening's meeting had been arranged as a forum for the discussion of those suggestions.

Mr. Toole decided to start by asking John Early, the Selectmen's Appointee from West Tisbury and the Chairman of the Planning and Economic Development (PED) Committee, to outline for the petitioners the progress of the Island building permit cap in each of the Towns and to discuss briefly the first and second priorities for growth management following the cap, as proposed by the Commission's Executive Director, Charles W. Clifford.

Mr. Early reported that on Tuesday, October 12, the Town of West Tisbury, through its Board of Selectmen (of which he is a member) had voted to participate in the Island-wide building permit cap (also known as the Rate of Development District of Critical Planning Concern or DCPC). Mr. Early then described how his committee had met earlier that evening and had had "a lively discussion, as usual, about the building cap and beyond."

Mr. Early continued that the committee had voted to recommend to the full Commission that Commission Staff and Commission members from the individual Towns approach the Planning Boards of the Towns and describe to them the work done some years before by the Commission in developing the Island Master Plan. The Commission would then ask the Planning Board members to prioritize five of those 38 Action Plans for their community and, it was hoped, then "get something going along those lines," said Mr. Early.

The PED Committee had also heard reports on the status of the individual DCPCs or the building permit cap bylaws in the other Towns, said Mr. Early. He then asked if any of the other committee members had anything to add. Mr. Toole reported that the Oak Bluffs Selectmen had not taken a vote on Tuesday evening (October 12). They did want to do a building permit cap, although at this point they wished to pursue it on a Town bylaw basis. The Selectmen would be meeting with the Oak Bluffs Planning Board the following Tuesday, October 19, to address the issue. Mr. Toole added that he thought that it was possible the Town would choose to take the DCPC route under the umbrella of the Commission.

Michael Donaroma, the Selectmen's Appointee from Edgartown and a member of that Town's Planning Board, reported that Edgartown had gotten together its building permit cap bylaw amendment, which would be discussed at a Public Hearing conducted by the Planning Board on October 26 and then would be voted on by the Townspeople at the Special Town Meeting of October 28. "I know the Planning Board is looking forward to starting on these PED plans that we started tonight," he said, referring to the prioritizing by each Town of five of the Commission's Action Plans.

Reporting on the progress of the building permit cap issue in Chilmark, Jane A. Greene, the Selectmen's Appointee from that Town, said, "I understand that the Selectmen will be voting next week." It was her impression, she continued, that they thought the Town should be taking the DCPC route.

Mr. Early reported that Chilmark had submitted a copy of their proposed regulations to the PED Committee for consideration. Mitchell Posin, a member of the Chilmark Planning Board as well as one of the Call For Action group, noted that Mr. Clifford would be attending the Town's Planning Board meeting the following week (October 18). Then the Selectmen would meet and finalize the regulations. He added that they hoped to come in under the building permit cap, issuing 18 permits, instead of the allotted 20, for the first year of the cap. He emphasized that Chilmark had definitely decided to do the building permit cap under the aegis of the DCPC.

Mr. Donaroma noted that Edgartown's bylaw amendment had been published in the *Vineyard Gazette* edition of October 8, although he expected that there would be a few changes before it arrived at the Special Town Meeting floor.

Megan Ottens-Sargent, the Selectmen's Appointee from Aquinnah, reported that she had spoken to Walter Delaney of the Aquinnah Board of Selectmen, who had told her that the Selectmen had voted "to go with the DCPC for the building cap." Ms. Ottens-Sargent had a question for the Executive Director, Mr. Clifford. Because the Town of Aquinnah was already under a DCPC, Mr. Delaney felt that this was going "to expedite things," said Ms. Ottens-Sargent, "and I didn't feel comfortable responding to that without a little clarification from you." There followed a discussion of Mr. Delaney's considerations. Mr. Clifford explained that there would be an overlap of moratoria, perhaps, but that these were two separate DCPCs.

Michael Colaneri, a Commission member at large from West Tisbury, asked Ms. Ottens-Sargent how the regulations for the Town-wide DCPC already in place had been going. Ms. Ottens-Sargent replied that she had gone to a meeting the night before (October 13), and it was clear that the Planning Board was working on the regulations. She had also spoken to MVC Staff member Jo-Ann Taylor and had gotten some guidance from her regarding the process, advice that she had brought to the meeting.

The Planning Board was looking at the zoning bylaw, particularly the 40A zoning, and trying to find where there were "weak points," continued Ms. Ottens-Sargent. Then, as they were going through that analysis, they were figuring out what they could actually address with the DCPC regulations and what they could address by amending the zoning bylaw. She then went into some detail about the specifics of their analysis and concluded by noting that she had advised them to call Mr. Clifford and to get Commission Staff support.

Mr. Early then referred to a document that had been distributed earlier at the PED Committee meeting: *Growth Management Proposal Presented to the Planning and Economic Development Committee of the Martha's Vineyard Commission*, written by then-Executive Director Carol Borer, dated December 10, 1987. [See the Meeting File of October 14, 1999 for a copy of this proposal.] "It's quite relevant," remarked Mr. Early, noting that this document could be used as their outline for future undertakings related to growth management.

Reporting on Tisbury, Marcia Cini, a Commission member at large from that Town, reminded her listeners that Tisbury had been the first to sign on to the building permit cap DCPC, with a 2-1 vote of the Board of Selectmen. However, the vote had been specifically to join in a six-Town DCPC. With Edgartown, and perhaps Oak Bluffs, going in a different direction, the Selectmen would have to "tinker with" the wording of the vote, she added.

Mr. Toole asked Mr. Clifford when they could expect the Nomination (by four or five of the Towns) to arrive at the Commission. Mr. Clifford replied that he would be typing up

the Nomination papers formally on Monday (October 18) and then would deliver them to the Towns that had already taken a vote so they could sign on. Those who were not ready to sign on could do so later, he added, and the minute one Town signed on, the Staff could begin to schedule Public Hearings. Mr. Toole asked if the Towns would be given some sort of time table when they received the papers. Mr. Clifford replied, yes, they would.

Mr. Early asked when they would be scheduling the acceptance of the Nomination. Mr. Clifford replied that the acceptance would be done just before the debate on The Future of the Martha's Vineyard Commission slated for November 4. On the other hand, if he could get it on the Agenda for the Regular Meeting of October 21, he would. The Public Hearing would come three weeks after the acceptance, he added, and would take place at the Regional High School. The Commission could vote on designation the same evening. In addition, if the regulations were ready, they could be submitted to the Commission at the same time, and a Public Hearing on the regulations would be scheduled for three weeks from that night.

Mr. Colaneri asked who would be writing the regulations. Basically, the Planning Board, replied Mr. Clifford, but they could ask anyone else from the Town that they wished to help them. Also, the Town would have to hold a Public Hearing, as was the case for a standard zoning article.

Moving on to another topic, Chairman Toole referred to a memorandum addressed to the PED Committee, written by Mr. Clifford and dated September 21, 1999, regarding "Future Undertakings." Attached to the memorandum was a document written by Mr. Clifford entitled *Proposed Activities as a Part of Growth Management*. [See the Meeting File of October 14, 1999 for copies of both documents.] Mr. Toole asked Mr. Clifford to elaborate on what he had written for the benefit of the Call For Action group.

Mr. Clifford then outlined what would be involved in drawing up the Economic Base Update and Action Plan as well as the Housing Report Update, which he considered the first two priorities after the establishment of the building permit cap by the Towns.

Chairman Toole asked if any of the audience members wished to say anything at that point. Clarissa Allen, a member of the original Call For Action group, said that they had been thinking a lot about the building cap, about "keeping it alive and hop[ing] that it becomes Island-wide." It was her hope that all the Towns would work together and execute their building permit caps under the auspices of a DCPC. In addition, her husband, Mitchell Posin, had been working with the Chilmark Planning Board.

Mr. Toole noted that the Commission had been working hard to try to keep the Island-wide DCPC alive as a possibility. "Well, you have the support of a lot of people in Chilmark," said Ms. Allen. "Well, I think it's close to a reality," remarked Mr. Toole. Ms.

Allen said she had become concerned because the possibility of that reality seemed to have become so "tenuous" for a while. So, other than trying to carry the Island-wide DCPC forward, she and some members of the group had not been talking about much else.

Lenny Jason, Jr., the County Commission representative, emphasized that it was important to understand where the Commission was trying to go with the building permit cap. There were 38 Action Plans, he said. It was their intention to go to the Towns and find out which ones each Town wished to concentrate on. "It's a bigger process than just a cap," said Ms. Allen. "Right," said Mr. Jason.

Emily Bramhall, another member of the Call For Action group, remarked, "I commend you all for keeping it as alive as it is." She then spoke about the well over 1,100 signatures that had accompanied their petition, although only 75 had been necessary. Those signers, she said, were looking to the Commission for a leadership role. "And we realized the tight spot you were in," she continued. "There was a lot of debate among us about how to present those signatures. I think we ended up wanting to say, 'Look, here's a lot of people who are really behind you, who are really looking to you for leadership. You've done a lot of great things, and let's just keep going.'"

Ms. Bramhall believed, moreover, that getting the Island Master Plan back out on the table and out to the Planning Boards of the various Towns was a "great idea." Overall, she was very "heartened" to hear that the Commission wanted to continue to bring growth management issues to the Towns. "I think everyone here agrees that the building cap is just one piece of it," she said. "I think we're here to say, 'We support you, and there are a lot of people who support you.' I recognize the really hard work that you guys are doing. It sometimes seems endless. Every week, sometimes many, many times a week." Then she added, "I'm also here to find out what we can do to keep this going forward."

Responding to Ms. Bramhall, Mr. Jason said, "The work has just begun. The discussion hasn't really taken place. In my mind, I think a lot of it's going to come at the local level, but some of them will be regional issues. I believe we have the capabilities to deal with regional issues, and I think we have staff support to help with the local issues. So hang in there."

James Athearn, another member of the original Call For Action group, said that he wanted to share some impressions he had been mulling over since the Meeting on August 19. His first impression was that the Commission was "remarkably sympathetic" and that there was no need to convince them of the urgency of what was before them. Unfortunately, when he had gone to the public meeting in Edgartown regarding the building permit cap, he had been disappointed to find that the Edgartown Selectmen apparently had no use for the Commission and wanted to stay away from anything that involved the Commission. "I was very surprised and disappointed," he remarked, "because I feel as if they're going to moderate the thing ... I don't think they have a sense of urgency, and that's required."

Mr. Athearn continued that the big question that everyone hesitated to articulate was, How are we going to tone down the building boom and save the Island without reducing the building? "We can't keep building and making money and save the Island at the same time," he noted.

Christina Brown, a Commission member at large from Edgartown who had attended the same public meeting, said that her impression of that gathering was a little different: "I think a lot of people in Edgartown, including the Selectmen, didn't want the DCPC for the building cap, but do feel that the problems ... of growth on the Island and changes on the Island are real and shared by all the Towns. And [the people of Edgartown] have said positive things about working with the Commission, separate from the DCPC. But I don't think there's a schism quite as dramatic as there might be." Ms. Brown added that based upon some things that had been said to her, she was looking forward to working with the Edgartown boards on planning issues.

Then Mr. Jason asked Mr. Athearn if he had read the proposed building permit cap bylaw amendment for Edgartown. No, he hadn't, replied Mr. Athearn. Mr. Jason continued: "I think it's in compliance with the Guidelines [for the Rate of Development DCPC]. ... Would it have been nice if it had been an Island-wide DCPC? Yes. But I think that the thing we have to focus on is the number, and they have, in fact, done that. And it's possible that it will be in place long before the DCPC."

Ms. Greene noted that it was possible that Edgartown might join the DCPC afterwards. "So we're back to Edgartown moving ahead of everybody else," commented Mr. Donaroma. "That's a different way of looking at it." Mr. Jason said that Edgartown did have the advantage of having implemented a building cap in the past. "Not, parenthetically, written by a Commission planner," added Ms. Brown. "So it's not all gloom and doom, Jim [Athearn]," said Mr. Donaroma.

Linda Sibley, a Commission member at large from West Tisbury, said that when Ralph Graves had spoken to the Commission members in September, he had said that details about the things that the Call For Action group thought should be addressed by the Commission would be forthcoming. Since Mr. Graves was not there that evening, did that mean that the group was still bogged down with the building permit cap and had not moved ahead to consider such details? she wondered. Several of the Call For Action group members said yes. Clarissa Allen noted that they were not a formal group and there had been no formal meetings during which policy could be formulated. "But he [Mr. Graves] intimated that there were thoughts behind the list [included in the petition]," said Ms. Sibley. "Well, all the issues of regional planning that you're fully aware of," said Ms. Allen.

James Athearn said that he had a list that Mr. Graves had given him before leaving the Island which enumerated more or less what the group's ideas were. The list began thus: "Undertake a study to learn the full economics of the building industry, et cetera. If MVC does achieve a building cap, it should announce plans now to reduce that number in future years, provided experience in the first year warrants taking that step." Mr. Athearn then commented, "I certainly agree with that, [but] I don't know how that gets done."

Mr. Athearn continued reading the list. "MVC should make immediate plans to investigate, and then to promote, the Nantucket trash/garbage/recycling/septage system as an Island-wide solution for the Vineyard. The Nantucket system is cheaper, cleaner, better and more efficient than our haphazard six-Town approach. MVC should propose that every new house planned to exceed 3,500 or 4,000 square feet must make a donation to [the] affordable housing fund. The percentage size of that donation will increase with each 500-square-foot increment. MVC should propose that [any] resident with more than two household cars must pay a tax on the third, fourth and fifth car, with a high tax on the additional car. This might help our serious traffic problem by reducing the number of cars. But, more important, the tax income could go to the affordable housing fund."

Ms. Greene suggested that the car tax money go to the Transit Authority instead of the Housing Authority. Mr. Jason asked if there was a reason that Mr. Graves wanted the tax on cars to go to the Housing Authority instead of the Transit Authority. "I couldn't say," replied Mr. Athearn. Ms. Allen explained that many people had contributed to the list and that Mr. Graves had culled many different people's ideas and had written them down. Not all of the points made had been supported unanimously by members of the group, she added.

Mr. Athearn wished to add that, regarding the affordable housing issue, he thought it was time to institute a tax or transfer fee, similar to the Martha's Vineyard Land Bank Commission's system, that would be triggered by the cost of the house, and so forth. Such funds raised should be marked specifically for houses and not land. James Lengyel, Executive Director of the Land Bank, had informed Mr. Athearn that a one percent tax would generate \$3 million. In addition, the Land Bank had already offered to administer such a program.

Mr. Jason confirmed with Mr. Athearn that in spite of the Land Bank's willingness to help, that body was not willing to change the administration of the two and a half percent transfer fee that it already collected on qualified property transactions. Two percent, corrected Ms. Greene. "I understand they'll administer it if it comes from somewhere else," said Mr. Jason. Right, said Mr. Athearn.

Mr. Posin, a member of the Call For Action group who had spoken earlier, talked about the idea of having the building permit fees graduated. Speaking off the top of his head because he had not brought any notes with him, he explained that the system would call

for a \$100 fee for the first 1,000 square feet. For the next 1,000 square feet, \$1 would be added to the fee for each additional square foot. Then for the next 1,000 square feet, \$5 would be added for each additional square foot. For the next 1,000 square feet, the fee would jump to \$10 for each additional square foot, and so forth. In other words, it's a graduated building permit process, noted Ms. Greene. Yes, agreed Mr. Posin.

Mr. Posin continued. Using the system, a 4,300-square-foot house would generate around \$16,000 [actually, \$17,600]. Under the plan a certain percentage would go to affordable housing and another percentage would go to the land bank for that Town to buy open space. Mr. Posin explained how tennis courts, swimming pools and other amenities could generate additional fees. Some discussion of the issue of impact fees ensued.

Ms. Cini spoke about a meeting she had attended four or five years before where the attendees had discussed using the Land Bank model for a one percent transfer tax to assist affordable housing. The Land Bank thought at the time it was a "great idea, but didn't want it to come anywhere near their structure," she said. "But I can understand that." So the Land Bank would show the affordable housing group how to do it, and the group would develop the system from scratch after the Land Bank model.

However, Ms. Cini continued, it was not a good time during the Cellucci administration (four or five years before) to pursue this idea. In the meantime, a spinoff of Historic Massachusetts, Inc. had gotten behind what is known as the Community Preservation Act, which includes a transfer tax that can be allocated in some measure to affordable housing. The bill had been passed by the State Senate, although it faced an uphill fight in the House. Ms. Cini suggested that those concerned about affordable housing contact Representative Turkington and urge him to support the Community Preservation Act. Further discussion of the act followed.

Ms. Cini also spoke about the *Franklin* case, which dealt with the distinction between a fee and a tax. She had been working with the Commission's Affordable Housing Subcommittee since the spring to revise the Affordable Housing Policy and was hoping to devise a way to hit the maximum legal limit for fees for affordable housing. When the Town of Franklin had raised building permit fees to help pay for affordable housing, it was struck down by the courts. Ms. Cini then outlined briefly the list of tests that had to be met for a charge to qualify as a fee and not a tax. She added that the Commission could not tax; only the State could do that.

Ms. Cini also announced that the next meeting of the Commission's Affordable Housing Subcommittee would be at 5:30 p.m. on Wednesday, October 27, at the Commission Offices. [*This was later changed to Tuesday, October 26, at 5:30 p.m.*] Ms. Sibley recalled that there had been a clause in Proposition 2-1/2 which stipulated that fees could only cover the reasonable expenses incurred by the agency accepting the contributions.

Ms. Cini noted that the fee also had to bear some relation to the impact being caused by the development being charged the fee.

There was some discussion about whether or not it was likely that a fee system for affordable housing could be developed and accepted by the Legislature, the Attorney General and the Courts. Mr. Clifford explained that there was no money attached to the bill in either the Senate or the House. Also, the bill had to go through Ways and Means, and it was uncertain how long it would take to get through that process, added Mr. Clifford. Further discussion ensued.

Ms. Sibley made a Motion to write a letter to Representative Turkington in support of the Community Preservation Act, duly seconded. The letter should stress the urgency of Representative Turkington's support for the act, Ms. Sibley added.

The discussion then turned to the Economic Base Update that Mr. Clifford had proposed in his *Proposed Activities as a Part of Growth Management* outline. Ms. Allen raised the question of how much construction money was going to off-Island interests. Would this issue be looked into? she asked. Yes, all aspects of the economy would be, answered Mr. Clifford. Ms. Sibley related to Ms. Allen some of the discussions that had taken place during the PED Committee meetings where that issue had been addressed.

A question arose about whether there had been further discussion in the PED Committee meetings about the financial details of the studies that Mr. Clifford had proposed. "Here comes that awkward moment when we're going to talk about money," said Mr. Jason. The outcome of the discussion that ensued was that there continued to be the promise of financial support from the potential backers known to the Call For Action members.

Mr. Toole declared that the Commission had come to the conclusion, which they should have reached years before, that the MVC was severely underfunded. He said that they were putting together a new budget -- a much larger budget -- to present to the Island's Finance Committees. "And we're going to need all the support we can get from the voters of the Towns," he added.

Ms. Sibley believed that the notably controversial studies had to be funded publicly. She did not think that the Commission could accept the money for the really controversial studies from private sources. If, however, private parties donated money for a general fund with no strings attached or if they donated money for, say, a very specific, small study that was not particularly controversial, there would seem acceptable to her. Robert Zeltzer, a Commission member at large from Chilmark, agreed with Ms. Sibley that donations from private individuals should perhaps go into a general fund.

Mr. Jason said that all he wanted to hear from the Call For Action group was that there still was a commitment. There is, answered two or three of the Call For Action group. "Why don't we just do our part and see what happens?" he said.

Anne Harney Gallagher, a Governor's Appointee, reminded everyone that the summer before, the Call For Action group had urged the Commission to institute an Island-wide building moratorium. Was she to conclude that the group was now unanimous in their support of a building permit cap? she asked.

After a brief discussion, the consensus from the Call For Action group was that, although they had started out as unanimously supporting a yearlong, Island-wide building moratorium, some of them had tempered that opinion as they had become aware of the economic and political realities that would come to bear following such a move. Moreover, the petition calling for the extended moratorium had been an "advisory" and not a DCPC Nomination. While all of the original Call For Action letter writers still supported the end of effective growth management on the Island, their estimation of the means used to achieve that end had changed somewhat.

The Commission members had a number of questions for Ms. Allen regarding the nature of the Call For Action group, which she described as an informal "non-group" that had no format or regular meetings.

Mr. Athearn noted that he was a fiscal conservative, but that when he found out how limited the funds for the Commission's operations were, he was quite "shocked." It struck him that it should be easy to get an additional \$100,000 from each Town. Moreover, through the petition he had discovered "how many people of all kinds want something serious to be done now." He was confident, he said, that there would be widespread support for any initiative by the Commission to manage growth on the Island.

Mr. Clifford addressed Mr. Athearn's concerns, voiced earlier, about the effect the building permit cap would have on the Island's construction industry. He had asked the Staff to study the question, and Andrew Grant and David Wessling had presented their conclusions in a paper entitled "Growth Management: Building Permits and Construction Employment," dated September 27, 1999. *[See the Meeting File of October 14, 1999 for a copy of this document.]* They had found, for instance, that in the area of renovations, as opposed to new construction, there had been no peaks and declines, in other words, that it had grown fairly steadily.

Mr. Clifford observed, "If you take and look at the historic trend [for new construction] with those peaks and valleys, the construction trade grew historically about 5 percent. So if you had 100 people working this year, next year you'd have 105. You take and flatten out those peaks and valleys of new construction ... there continues this progressive climb upward." He then explained how the computer model showed that with a building permit

cap of 240, the growth rate in the industry would go from 5 percent to 3 percent. Instead of 105 people employed next year, there would be 103. So there would be a minimal impact on the person currently at work in the construction business.

Another question arose: At what point would people who needed renovations on their houses -- people who were at the moment unable to arrange that because of the boom in new construction -- be able to get that sort of work done? A brief discussion ensued, during which Mr. Clifford related how it had taken him two and a half years to get a person to come in to remodel the first floor of the Commission Offices building. "In other words, people aren't going to be unemployed," remarked Ms. Sibley. More discussion followed on the topic of renovations.

Mr. Clifford then described a white paper produced by then-Executive Director Carol Borer, which had then culminated in the Island Master Plan. In the document she had listed several types of analyses. One was carrying capacity. For the past two years Staff member William Wilcox, and now Mr. Wilcox and Staff member Jo-Ann Taylor, had been looking at the Great Ponds and their watersheds, trying to determine what the carrying capacity of those ponds would be. Mr. Clifford then asked Mr. Wilcox to speak.

Mr. Wilcox, the Commission Water Resources Planner, spoke first of how difficult it was to set nitrogen-loading limits for the Great Ponds. They had already come up with a range of figures for the carrying capacity of the natural system for the Edgartown Great Pond and had chosen one that was "toward the lower middle end of the range" as a suggested target to recommend to the Towns.

Mr. Wilcox described the process as "very basic": defining the watershed boundary; collecting water samples; and studying the assessors' records to identify all the uses of all the different parcels along the shore. The process in the case of the Edgartown Great Pond had been abbreviated because of earlier studies of its contents. In the cases of Menemsha Pond and Squibnocket, he had a lot of data about the water quality in the two systems. As for Chilmark Pond, he had no data, so a lengthy water-sample-collecting process was necessary.

Pointing to a map of the Edgartown Great Pond and its shores, Mr. Wilcox went over the types and sizes of the surrounding lots and the amount of nitrogen that each of these would likely add to the system. It was a process, he explained, of determining what the nitrogen-loading capacity was for the pond, determining what the current load was from the existing land uses in the watershed, and then trying to project that out to a buildup at some time in the future. Then you would examine your projected nitrogen loading and your loading limit for the pond. Finally, you would determine if there was a need to adjust.

In the case of the Edgartown Great Pond, continued Mr. Wilcox, the nitrogen-loading limit had nearly been reached. If the development pattern continued in areas on the pond where there were fairly larger lots that were undeveloped, then, despite the presence already of smaller lots on the pond, it would probably work out to a nitrogen load that was acceptable.

Continuing his report, Mr. Wilcox noted that in Chilmark they had collected the tidal flushing data. The tide gauges would be going out in Menemsha and Squibnocket the following week "if all goes well," he said.

Once the nitrogen-loading picture was established, if there was a need to lower the loading, one could look at enacting different bylaws; that was where the growth controls came in. These controls could be, for example, changes in zoning density, changes to more advanced septic systems, or enhancement to the present septic systems. For Edgartown Great Pond, Mr. Wilcox had looked at the possibility of trying to increase the flushing by trying to get rid of some of the tidal flats that had accumulated over the years near the current opening, as well as of trying to re-establish the Herring Creek drainage into Katama Bay as a means of timing the opening.

A nitrogen-loading study had also been done for Trapps Pond in Edgartown as well as for Farm Pond, Mr. Wilcox added. The results would be going to the Planning Boards.

Mr. Athearn wanted to know if Mr. Wilcox had said that "if all the unbuilt land around Edgartown Great Pond was built out to the zoning size ...," but before he could finish his question, Mr. Wilcox interrupted him to establish what he had, in fact, said: If the land was built out to a little larger than the zoning size, then the nitrogen loading would probably still be at an acceptable level. The average lot size on the western side of the pond was between 8 and 10 acres, Mr. Wilcox explained. If that kind of pattern continued in the remaining open land along the pond, it would compensate for all the small lots. Therefore, the ultimate nitrogen-loading level would be acceptable. He provided further details about what the buildout would have to be like to accomplish this.

"So you're saying that zoning does not adequately protect the Great Pond?" asked Ms. Sibley. "If it were built out at zoning, the Great Pond would be overloaded?" "It could well be," replied Mr. Wilcox. Moreover, some adjustment could be made. If, for instance, in a particular area the zoning could not be kept to 5 acres, than increased flushing could also keep the loading down. Also, shellfish production in the pond was a source of nitrogen removal.

"So, basically what you're saying is that the 3-acre zoning areas should probably be 6 or 7 acres for what's going to be half-acres other places?" asked Ms. Greene. "Probably 10 acres would be the ideal," she added. No, replied Mr. Wilcox, actually, you could get by

with a much lower number, like 5 acres. Moreover, you could cut the lot sizes almost in half if the home owners were required to install state-of-the-art septic systems.

Ms. Brown, who works for the Edgartown Planning Board, cautioned that the technology was not yet so sophisticated that there were no problems with the start-up period for these systems in the case of summer homes. In addition, because they were so new, many of these systems were still considered experimental. So one really could not consider the advanced septic system a viable, reliable planning tool for density decisions just yet. A brief discussion of alternative septic systems ensued.

Mr. Zeltzer observed that in some areas of Edgartown Great Pond the water had a "bad odor." "It tells you that something is going on there," he said. "It's green and it's dying." Mr. Wilcox described a recent algae bloom and mentioned that some eelgrass beds that he had intended to study last summer were completely gone. He was not sure if this had been caused by wasting disease or by the algae bloom. In any event, it was not a good sign, he said. A discussion of pond openings, the dead eelgrass beds, the swan population, the shellfish population and the chemical composition of the water followed.

Mr. Toole asked about the impact of farming on nitrogen loading, provided that the farmers were "doing the job right." Mr. Wilcox answered that he did not think there had been a lot of detailed analysis of groundwater impacts and agriculture. Grassland agriculture had much less nitrogen involved in the growth of the crop than row crop agriculture, corn, those kinds of things, he said. Although he thought that agriculture could have an impact, there were a number of effective ways to minimize that impact. For instance, soil-testing capabilities were much better than they used to be, particularly for sweet corn, so that the precise amount of nitrogen needed -- and no more -- could be added to the soil.

Mr. Athearn, a farmer, noted that in meetings at the UMass Extension Service, nitrogen leaching had often been the topic and was of great concern to all farmers. He spoke of the problems of unexpected rainfall and the fact that the farmers tried to put the fertilizer on as the crop needed it.

Mr. Colaneri asked Mr. Athearn approximately how many pounds of fertilizer per acre he used on his crop. The standard dose would be 600 pounds of triple-19 per acre, replied Mr. Athearn, so that meant about 116 pounds per acre of actual nitrogen. A discussion ensued about the amounts of fertilizer required for different crops, how deeply the roots of some crops grew, and the differences between chemical fertilizers and organic fertilizers, including their relative solubilities. Mr. Athearn and Mr. Posin, farmers both, had differing opinions about the advantages of chemical versus organic fertilizers. The talk then turned to hydroponic farming.

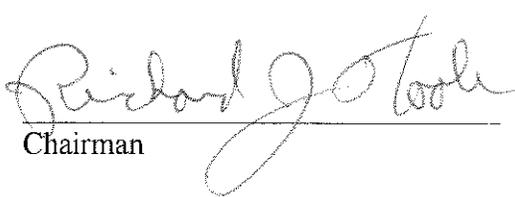
Mr. Zeltzer observed that his major concern was not the fertilizing of crops, but the issue of 2,000-square-foot lawns and the lack of regulation for home owners, who were often overzealous in their applications of fertilizers.

Mr. Toole then invited Paddy Moore, a professional mediator, to speak. "My concern is, and continues to be, the need to do an overarching pulling-together of all the different things we're talking about," remarked Ms. Moore. "I think that that can seem like almost an overwhelming challenge."

She said that she would still like to hold out the possibility that the Commission would consider "some sort of a consensus-building, agreement-building process that involves a range of stakeholders ..." This could involve the Commission, the County Commission, the Dukes County Selectman's Association, and representatives of various Island groups representing different points of view. Ms. Moore emphasized that the Commission had to engage people in the process and should take advantage of the dialogue that was already active all over the Island.

Ms. Sibley spoke of how inspired she had felt when she had read the opening chapters of a book Ms. Moore had written a few years before. She hoped that this material could be made available to everyone. Ms. Moore explained that Ms. Sibley was referring to a study by a colleague and herself that analyzed the solving of disagreements like land use disputes, housing disputes, and so forth. She said she would be happy to share the material with the Commission members.

Mr. Toole thanked everyone for coming that evening. A Motion was made to Adjourn, duly seconded. The Special Meeting was adjourned at 9:14 p.m.


Chairman

11/29/99
Date


Clerk/Treasurer

11/29/99
Date

PRESENT: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma; J. Early;
J. Greene; L. Jason, Jr.; M. Ottens-Sargent; L. Sibley; R. Toole;
R. Zeltzer; and A. Harney Gallagher.

ABSENT: B. Hall, Jr.; T. Israel; M. Lazerow; J. Vercruyssen; T. Henson, Jr.;
and M. Bolling.

*Summary of Revisions to the
Meeting Minutes of October 14, 1999
Proposed by Commission Members
in the Meeting of November 4, 1999*

[An excerpt from the Meeting Minutes of the Special Meeting of October 14, 1999 follows immediately. It describes the actions taken by the Commission with regard to the Minutes of October 14, 1999.]

Page	Paragraph	Sentence	Revision
10	3	3	Substitute the word "objective" for the word "end" so that the sentence reads: "While all of the original Call For Action letter writers still supported the objective of effective growth management on the Island, their estimation of the means used to achieve that objective had changed somewhat."