THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission
Minutes for the Regular Meeting of
October 16, 2002

The Martha's Vineyard Commission (the MVC or the Commission) held its Regular Meeting on a special day, Wednesday, October 16, 2002, at a special time, 7:00 p.m., in the conference room at the Commission Offices in the Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts.

At 7:06 p.m., a quorum being present, James R. Vercruysse – a member at large from Aquinnah and the Commission's Chairman – called the Regular Meeting to order. *[The Commission members present at the gavel were: J. Athearn; C. Brown; M. Cini; M. Donaroma; J. Greene; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer. Mr. Best arrived at 7:08 p.m., and Mr. Israel, at 7:13 p.m.]*

"Before we start our deliberations tonight," began Chairman Vercruysse, "we're going to go into Executive Session with our attorney in the other room for about five or 10 minutes, at the request of Eric, Eric Wodlinger, our attorney, and there's a couple of ground rules he waits to..." The Chairman interrupted himself and then said, "I'm not sure what he wants to say to us, but we're going to find out."

"We need a Roll Call Vote," said the Staff Secretary, as the members started to leave their seats. "**I move that we go into Executive Session and return to the Regular Meeting following for the purpose of discussing legal issues**," said Christina Brown, a Commission member at large from Edgartown. The Motion was seconded by C. Mikel Oglesby, the Governor's Alternate. *[Mr. Best arrived at this point, 7:08 p.m.]*

Acting Principal Planner William G. Veno conducted a Roll Call Vote on the Motion, with the results as follows:

AYES: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

[Mr. Israel had not yet arrived at the Regular Meeting. When he came, at 7:13 p.m., he was directed to head upstairs.]

Thus, the Regular Meeting was suspended, and the members proceeded upstairs to the small meeting room.

At 7:41 p.m. the members began to return to their seats in the conference room. At 7:44 p.m. Chairman Vercruysse reopened the Regular Meeting. Michael Donaroma, the Edgartown Selectmen's Appointee, made a **Motion That The Commission Avoid Going Into Land Use Planning Committee Session For A Post-Public Hearing Review Of The Down Island Golf Club Three Application**. Richard Toole, a Commissioner at large from Oak Bluffs, provided a Second. By a Voice Vote conducted by the Chairman, the Motion carried.

Discussion on Process: Down Island Golf Club Three Application (DRI No. 556).

The Commissioners were about to begin to their pre-Vote discussion on the Down Island Golf Club Three Application, when John Best, a Tisbury Commissioner at large, asked, "Are you dancing around the issue of how we proceed from here? Because I would like to see the discussion on how we proceed from here before we get into this match of who's going to throw in the Motion To Deny or the Motion To Proceed [with the Conditions]." "Yes, that's what I want to discuss first," responded the Chairman.

Mr. Best related that the Commission had done it both ways before. "It's just that when there's this many Conditions..., it just seems like a huge effort to go through if in fact there's not likely to be a Vote," he observed. "If you wanted to put the Vote To Deny out first, it may not fly. It doesn't mean it's going to go the other way if it doesn't fly. It's just some people ... only make up their minds based on Conditions. But at least we'd know if there were people who feel that, you know, the project overall may or may not be suitable, regardless of specific Conditions."

Chairman Vercruysse said that he had thought about this all day. On the second Denial Vote for the preceding Down Island Golf Application (DRI No. 543), he continued, he wished the Commission had begun by voting on a Motion To Approve With Conditions. He did not feel that the Commissioners had to go through specific Conditions to take such a Vote, he remarked. "I think we can do general Conditions and vote in any project, and later, maybe even a different night, get more specific, go word for word, sentence for sentence on Conditions, which we'll need to do on a project this size or any project this size."

"I would rather proceed in that manner," the Chairman went on. "I think it puts us in a better light. It will be clear, you know, to everyone after the discussion. I don't think we have to get very specific, and I would urge us not to get specific on any conditioning Vote. That's the way I'd like to see it."

Mr. Donaroma stated that he agreed with Chairman Vercruysse. It had been a big project, he said, and he thought they owed it to the public not to shortchange the process. "There may be some people who, in going over possible Conditions, it might help them feel the benefits go one way or another," he remarked, adding, "And if you're going to vote against the project, maybe you shouldn't be jumping all over the Conditions anyway."

Linda Sibley, a Commissioner at large from West Tisbury, began by saying that she agreed with what Mr. Donaroma had said to the degree that there might be people whose vote either way would hinge on the Conditions. But if that were the case, she continued, she did not know how one could vote to approve with Conditions without knowing what those Conditions were.

Chairman Vercruysse stressed that he had meant that they would not be going over the Conditions word by word, but could look at them "in a general way." For instance, he said, it would be easier to accept Applicant offers and to work with a draft or rough outline of the Conditions. Responding to a question from Ms. Sibley, the Chairman said that he had checked with Counsel about the Commission's ability to vote to approve with Conditions and then to meet another night, if necessary, to hammer out the details.

Aquinnah Selectmen's Appointee Megan Ottens-Sargent asked if all of the Commissioners would be able to attend a Meeting the following evening. It was quickly established that this was not possible. So we have to vote tonight? she inquired. Yes, replied the Chairman.

Tisbury Selectmen's Appointee Tristan Israel remarked that he did not mind using the approach the Chairman was suggesting. However, he noted, much internal criticism had arisen during the second Down Island Golf Application process because so much time had been spent on Conditions and then the project had not approved.

Mr. Israel also wanted to state for the record that this was the third incarnation of the Down Island Golf Club proposal. "We were asked to hear this Application," he declared. "That's just something I want to say. We were asked to hear the Application, and we *did*, however we vote."

Mr. Best observed, "When you do a conditioning process on a Motion To Approve, I just ask everyone to recognize that it behooves someone in opposition to a project – and not knowing which way the Vote will go – to put a lot of energy into Conditions. And I

always find when we go through this process, if I'm in opposition to something, we go through the process, every time you raise something as far as a Condition goes, it's like, 'Well, why're you doing that if you're not going to vote for it.' Well, that's an invalid comment."

"I agree with you," responded Chairman Vercruysse, who reiterated his view that all the nuances of the Conditions, like figures, were what they should avoid discussing at this point in their deliberations.

West Tisbury Commissioner at large Andrew Woodruff remarked that he was "struggling to think that I could participate at this time on Conditions because I believe that at the very best we'll end up where we were at the last Denial..."

"At some point we gather here tonight to discuss this Application, to try to condition it and try to vote on it," observed Robert Zeltzer, a Commissioner at large from Chilmark. "I wish we'd stop all the posturing and just *do* it," he declared. "Here, here," said an unidentified Commission member.

Mr. Oglesby stated that the Commissioners "should look at the fact that we tried it one way. Unfortunately, I feel that when the Vote was put out immediately to deny, it put a negative tone and scent throughout the room immediately, and even some people who were thinking about abstaining possibly or not, one way or another. I think we tried it one way, which was to deny immediately. What not try it another way and go through the process and prove to the public that we are looking at this thing?" It was agreed to proceed as the Chairman had suggested.

Discussion/Vote: Down Island Golf Club Three Application (DRI No. 556).

"**Motion To Approve With Conditions**," offered Mr. Donaroma, with a Second from Jane A. Greene, the Chilmark Selectmen's Appointee.

DRI Coordinator Jennifer Rand referred the members to a document in their packets entitled "Offers & Conditions for DIGC DRI #556, October 16, 2002, Jennifer Rand, AMENDMENTS IN BOLD." *[Hereinafter, this will be referred to as the Rand Offers & Conditions document. See the Full Commission Meeting File of October 16, 2002 (the meeting file) for a copy of this document.]*

Chairman Vercruysse said that he thought they should go through the accepted offers first and then go to the conditioning. He asked Ms. Rand if all of the Applicant's offers were listed in the her Offers & Conditions document. Ms. Rand replied that she felt she needed to go through the offers one more time because, for instance, she had just noticed that some offers by the Applicant to some Town groups were not included. Clarifying this statement at the Chairman's request, Ms. Rand explained that if the project were

approved, she would use the time between now and the next Meeting – when they would work on specifics – to check the list of offers once more.

Referring to page 2 of the Rand Offers & Conditions document, Ms. Brown suggested that the fourth item under "Recommended Conditions" about the 16 rental units of affordable housing be moved to the "Offers from the Applicant" section. In addition, she pointed, out, Item 5 under "Recommended Conditions" concerning the surety bond was also an offer from the Applicant. Chairman Vercruysse expressed the view that writing an offer as a Condition strengthened it.

Ms. Brown also noted that the Applicant's offer of a Conservation Restriction was not on the list. Nor had the Applicant's offer to upgrade their wastewater treatment facility so as to be able to accommodate the flow of effluent from the regional high school been included. Missing as well, she said, was the Applicant's offer of a three-year moratorium on the development of the parcels that were proposed to be purchased by the Department of Environmental Management and the Land Bank, should those purchases not go through.

Ms. Greene suggested that in the last sentence of Item 2 under "Offers from the Applicant" the word "fund-raising" be inserted between the words "additional" and "events" so that the end of the sentence read: "... if additional fund-raising events should be held."

As for No. 6 of Item 7 under "Offers from the Applicant," Ms. Greene recommended a clarification that would make it plain that the Applicant's offer was to donate the greens fees *from the Island memberships only* to the Town of Oak Bluffs, not all greens fees.

Marcia Mulford Cini, a Commissioner at large from Tisbury, wanted an expansion of Ms. Brown's suggestion that would include the Applicant's offer to handle the effluent from the high school. The offer, she said, was to increase the wastewater facility's capacity so as to be able to handle the high school's effluent *in exchange for withdrawing their offer of $75,000 per year for three years for studies of the ponds*. Ms. Rand explained that Water Resources Planner William M. Wilcox had addressed this in his list of water-related Conditions.

Referring to Item 4 under "Recommended Conditions," Ms. Sibley wanted to know if Ms. Rand herself had added the phrase "seventy percent of the units shall be rented to Oak Bluffs residents..." No, answered Ms. Rand, that was in the Applicant's text. "I was under the impression," said Ms. Sibley, "that this element of the project was [Chapter] 40B and needed to be in order to help the Town meet its 40B requirements. And I thought that ... under 40B you couldn't restrict..." "Seventy percent local preference is allowable," interjected Ms. Rand.

West Tisbury Selectmen's Appointee Kate Warner requested that a more specific definition be formulated for the term "Island member" and that particulars on how the lottery would be done be included. Personally, she said, she wanted a new group of people every year to have a chance at such a membership.

Mr. Israel suggested that the Applicant be given a one- or two-month deadline by which an Island membership plan had to be submitted, in order to avoid what had occurred in the case of the Vineyard Golf Club (DRI No. 484). The Chairman recommended that the Island membership plan be approved by the Commission before any Special Permit could be issued by the Town.

Referring to Item 9 under "Offers from the Applicant," Ms. Sibley remarked that the word "semi-public" did not accurately describe the club and that the item should be rephrased to include something along the lines of "the club shall have a public-play component."

Ms. Warner asked what the greens fee would be. Ms. Rand responded that she could not answer that. Ms. Rand then outlined the plan for Island membership proposed by the Applicant, which included the designation of the membership by the Oak Bluffs Selectmen. This constituted, she pointed out, a "disconnect" between the Remand Plan and the Settlement Agreement. So the lottery system mentioned in Item 7-(v) under "Offers from the Applicant" was not the Applicant's offer, she stressed. She referred the Commissioners to Exhibit H of the Settlement Agreement, where this was spelled out.

Mr. Israel stated that before Approval the amount of the greens fee for the public should be known, noting that there was quite a difference between $50 and $125 per round. He then recommended charging $50 a round. The Chairman suggested that these were specifics that could be worked on in a later session. Mr. Israel argued that this should be addressed now, since it was clearly one of the benefits of the plan. The Chairman recommended that Staff do some research on this issue.

Mr. Donaroma pointed out that having the greens fee be comparable to that at the Farm Neck Golf Club had been discussed. "We could research that," he said. Mr. Donaroma then laid out the offer the Applicant had made with regard to public play. *[See pages 29-31 of the Full Commission Meeting Minutes of October 10, 2002 for the details of the Applicant's offer of a public-play component.]* Mr. Donaroma stressed his view that Island members and the public would have the right to use all the facilities at the club.

Oak Bluffs Selectmen's Appointee Alan Schweikert recommended that the Commissioners also consider the public-play policy at the Mink Meadows Golf Club in Tisbury. Regarding Mr. Israel's suggestion of a $50 charge per round, Mr. Schweikert argued that the affordable component would be the Island memberships; that many of those taking advantage of public-play opportunities would be vacationers and could

afford to pay more; and that whatever was charged should be in line with the greens fees at the other Island clubs.

Ms. Greene suggested that the Commission write a Condition that the Applicant could charge no more than the competing courses for the greens fee. "That would be fair," said Mr. Schweikert. Mr. Zeltzer said he was curious about the details of the discounted twilight tee times, and he suggested that this fee, too, should be no more than the discounted fee at the other courses.

Mr. Schweikert pointed to another factor that had to be considered in setting the price for public play: the more play a course was subjected to, the higher the cost of maintaining the turf. Mr. Israel emphasized that there would be a trade-off for the public play, namely, that the Applicant would be able to use non-organic turf-maintenance products.

After still more discussion, the Commissioners agreed that the cost for a tee time by a member of the public had to be determined before or during their initial deliberations. County Commission representative Roger Wey suggested that they simply average the fee at Farm Neck and the one at Mink Meadows. "No more than [the average]," recommended Ms. Sibley.

Ms. Ottens-Sargent reminded the Commissioners that Water Resources Planner William Wilcox had recommended that all the greens be lined if public play were allowed, since some non-organic products would be used. Moreover, she said, she agreed with Mr. Israel that the fee should be kept low so that the benefit of public play would be available to more people.

Ms. Greene cautioned the members against assigning a set dollar value to the fee "because inflation or recession could happen, and 10 years from now, $125 may be 50 cents or may be $10,000."

Mr. Schweikert made a **Motion That The Greens Fee For Public Play Be No More Than The Average Of The Fee Charged At The Farm Neck Golf Club And The One Charged At The Mink Meadows Golf Club**, duly seconded by Mr. Donaroma. By Voice Vote, the Motion carried, with 15 Ayes, one Nay (T. Israel) and one Abstaining (M. Ottens-Sargent).

Ms. Greene pointed out that there was an offer from the Applicant that had not made it onto the list. She referred to a letter *[in the meeting file]* dated October 16, 2002 written by Applicant Corey Kupersmith to Chairman Todd Rebello of the Oak Bluffs Board of Selectmen. One paragraph read:

> "Should the Windfarm purchase be eliminated from the Down Island proposal, upon the issuance of a Certificate of Occupancy for the golf course, we will pledge to match any funds expend[ed] by the Town of Oak

> Bluffs and/or the Martha's Vineyard Land Bank Commission, used to purchase 'open space' in Oak Bluffs, up to a total of $500,000. Should the Land Bank and the Town join together to purchase open space, we will match the contributions of both parties, up to the $500,000 figure."

Ms. Sibley noted that this offer had been made after the close of the Public Hearing. Commission Counsel Eric Wodlinger, who was present that evening, remarked that in his opinion the offer was "fair game." "Then I would like to add it in," said Ms. Greene.

Responding to a comment from Mr. Israel, Ms. Sibley stated that she saw no relationship whatsoever between the Windfarm property, including whether or not it would be purchased, and the golf course plan itself. After all, she said, it was not a wooded area. "I think there's actually a negative, a loss. This is a truly democratic recreational facility where families can practice the skill of golf," she added.

Ms. Greene explained that the reason she wanted to keep the whole Windfarm offer on the table was because in the October 10 Hearing session, the Applicant had offered to eliminate three of the market-rate houses if the Windfarm purchase did not go through. *[Ibid., page 33.]*

Mr. Schweikert agreed with Ms. Sibley that the Windfarm Golf Practice Facility was a good recreational facility for the general public. In addition, he continued, the original intention of the Applicant's offer had been to have the nets taken down, although he had not heard a lot of testimony at this point about the nets. "So I agree that we should look at the other, alternative proposal," he said.

Mr. Israel argued that if the Windfarm property were allowed to go through a natural progression, it could come back as a second-growth forest as the Southern Woodlands had. Also, he said, it was close to the Lagoon, and the purchase would facilitate the removal of the nets.

"I think this is a huge public benefit," commented Mr. Donaroma. "I can't find any reason not to accept his offer," he said, referring to Mr. Kupersmith's offer in his letter of October 16. As far as the Land Bank was concerned, he said, the Windfarm property constituted "possible open grasslands with public vista." Additionally, it connected to other Land Bank properties. The golf balls were still going over the nets, and as undeveloped land, the property would not pollute the Lagoon, Mr. Donaroma concluded.

Mr. Donaroma then made a **Motion To Accept The Pledge Contained In The October Sixteenth Letter To The Selectmen**. Ms. Greene offered a Second. The Motion carried with 14 Ayes, one Nay (T. Israel) and two Abstaining (J. Best and M. Ottens-Sargent).

Ms. Brown recommended that the Commission **accept the Applicant's offer of a Conservation Restriction, stated as the second option outlined in the memorandum**

of October 10, upon the receipt of all approvals but before obtaining a Building Permit. *[See in the meeting file the memorandum from James G. Ward of Nutter, McClennen and Fish to Brian Lafferty, the Applicant's agent.]* Mr. Wodlinger, Commission Counsel, suggested a Conservation Reservation that would be superior to all mortgages and all liens on the property. He recommended the wording "**a CR acceptable to Commission Counsel.**" "I make that Motion," said Ms. Greene. Mr. Schweikert offered a Second.

Ms. Warner confirmed with Mr. Wodlinger that with the Conservation Restriction in place, even if the Windfarm and DEM purchases did not go through, the gray areas on the site plan would be preserved. Ms. Ottens-Sargent confirmed with Ms. Greene that her Motion did not rule out the Common Scheme. That's right, answered Ms. Greene, that is, if Commission Counsel chose to do that.

Ms. Warner asked if the three-year-moratorium offer by the Applicant was moot. Ms. Cini, an attorney, explained that in fact that was "part of the mix," since the Common Scheme required the participation of a "public actor."

Ms. Brown wanted to have clarified whether the Applicant had offered to put the gray area under a CR or if only the green area would be subject to it. Brian Lafferty, the Applicant's agent, replied that Exhibits A through D of the Settlement Agreement laid that out and that, yes, the gray area would be under a Conservation Restriction.

Ms. Warner inquired if the Applicant was going to be held to the schedule of house construction dictated by the third recommended Condition on page 2 of the Rand Offers & Conditions document. Ms. Greene responded that the Commission was accepting the offer of the 16 rental units, but conditioning the rate at which they would be built, which was one four-unit affordable building per two market-rate units.

The Commission turned to Mr. Wilcox's list of offers and Conditions entitled "Down Island Golf Course DRI #556, W. Wilcox Staff Notes, October 2002." *[Said document will be referred to hereinafter as the Wilcox Staff Notes. See the meeting file for a copy.]*

Mr. Wey asked if all the green would be lined. Mr. Wilcox answered yes and referred him to Item 17 on page 7 of his Staff Notes.

Ms. Ottens-Sargent wanted to know where the testing of the leachate from the greens was covered in Mr. Wilcox's list of Conditions. Mr. Wilcox referred her to pages 8 and 9 of his Staff Notes, which contained nine Conditions related to the monitoring of the various turf types on the golf course.

The Chairman pointed out that Condition 20 on page 8 required pan-type lysimeters. Mr. Wilcox explained that there had been some trouble getting samples with the suction-type

lysimeters at the Vineyard Golf Club and that he hoped using the pan-type lysimeters would provide more opportunity to sample the leachate.

Ms. Ottens-Sargent asked if the summer's drought had had anything to do with the difficulties surrounding the monitoring at the Vineyard Golf Club and, were that the case, if that was addressed in the Conditions. Mr. Wilcox related that he had tried to address that through the timing of the sample collection in recommended Condition 20 on page 8. He also pointed out that no recharge during the summer was, in fact, a good thing because then the fertilizers and pesticides would not get down below the root zone and the nitrogen and chemicals would not get into the groundwater. Mr. Wilcox then spoke briefly about the non-selectivity of non-organic pesticides.

Regarding irrigation, Ms. Warner inquired about the difference between the 120,000-gallon-per-day figure offered by the Applicant and Mr. Wilcox's figure of a 167,000-gallon average maximum in Condition 8 on page 4. Mr. Wilcox explained that the Applicant's figure was an average spread out over either a 240-day period or the whole year. In reality, he noted, the Applicant would not be irrigating for at least five or six months of the year. His own figure had been arrived at by taking the maximum per-year amount of irrigation water and dividing it by the six months of the year that irrigation would take place.

Responding to another question from Ms. Warner, Mr. Wilcox explained that the limit on drawdown would take precedence during a drought period. He referred her to Condition 11 on page 5. Ms. Warner strongly urged the Commission to require a complete shutdown of irrigation operations if the Town ever placed a ban on watering lawns, rather than the proportional ratcheting down of the amount, as outlined in Condition 11. Ms. Sibley agreed. "If we get to the point where we're clearly experiencing severe drought, *all* nonessential use of water should cease," she declared.

Ms. Ottens-Sargent returned to the point that there was a relationship between the amount of stress to which the turf was subjected and the need to use pesticides. "And I still don't have a strong sense of what sort of concentrations of pesticide, what would develop based on various conditions that we're talking about," she said. "But if we're talking about a golf course that is going to try to maintain some biodiversity and some habitat, ... the limiting of watering is going to increase the need for pesticides."

Mr. Donaroma observed that it was obvious to him that if there were water limits placed throughout the Town due to drought, then the Water Department would order the Applicant to stop irrigating the course. "It's not the end of the world not to water your golf course for a while," he said. In addition, he pointed out, turf diseases were associated more with over-watering than with drought.

A discussion ensued about turf maintenance issues in time of drought, at the end of which it was agreed to include Ms. Warner's suggestion about shutting down irrigation of the course whenever a lawn-watering ban went into effect in the Town.

Turning to Condition 20 on page 8, Mr. Israel argued for more random sample testing than was being proposed by Mr. Wilcox.

The discussion moved on to whether or not the Commission should require the turf maintenance products to be strictly organic. Responding to a question from Mr. Woodruff, Mr. Wilcox related that from the beginning this Applicant had not proposed a "strictly organic" approach, as the Vineyard Golf Club Applicant had. "This proposal has, pretty much from the start, I believe, been a mix of synthetic and organic fertilizers," he said.

Mr. Israel asked if the Applicant would be planting drought-tolerant grasses. "I think they are," answered Mr. Wilcox. "They're bent grasses. As far as golf course choices [go, they] are drought-tolerant."

Mr. Wey wanted to know who would collect the data from the lysimeters. Mr. Wilcox explained that the Watershed Protection Committee (WPC) would hire an independent consultant to collect the samples, get them to the laboratory and collect the results. Who would pay for this? wondered Mr. Wey. The club would, replied Mr. Wilcox.

Mr. Schweikert asked if the club would have to limit play severely if it were strictly organic. Mr. Wilcox explained that having a partially synthetic fertilization program gave a club a little more flexibility with regard to the amounts of nitrogen that could be applied. Addressing another question from Mr. Schweikert, Mr. Wilcox related that if there was a significant amount of public play, the Applicant would likely have to use some synthetic pesticides.

Mr. Woodruff expressed reservations about the effectiveness of the proposed monitoring system, say, 10 years in the future. Would it not be better simply to have a strictly organic turf management program that would not require so much monitoring? he inquired. Mr. Donaroma said that he liked the sound of "organic," but he thought that the Commission had to be reasonable in this case. He explained how an Integrated Pest Management (IPM) program worked and how the pesticides would be applied very selectively.

Mr. Oglesby strongly recommended that the Commissioners follow the recommendations of Staff with regard to turf maintenance. He then urged the members to vote on this issue and move on. Ms. Brown disagreed, pointing out how adamant the Commission had been about the Vineyard Golf Club's course being strictly organic. She hoped, she said, that the additional stress from public play could be handled very specifically in limited

physical areas with very specific chemicals that may be non-organic, but that otherwise the course should be organic.

After more discussion, Mr. Wey made a **Motion That The Golf Course Be Organic.** Ms. Greene asked how he defined organic, and Ms. Brown suggested they use the definition from the Vineyard Golf Club Written Decision that Mr. Wilcox had formulated. Mr. Wilcox suggested that the Commission deal with this Motion in two pieces: the fertilization program and the pest management program. When Mr. Wilcox explained that the use of synthetic fertilizers was not as critical, Mr. Woodruff argued that synthetic fertilizers adversely affected the biology of the soil.

After more discussion, Ms. Brown suggested an Amendment to Mr. Wey's Motion, That Any Exceptions To The Organic Rule Had To Be Reviewed On A Case-By-Case Basis By Commission Staff. Mr. Wey did not accept the Amendment.

Ms. Greene wanted to know whether Mr. Wey's Motion was, in effect, encompassing the entirety of page 2 of Mr. Wilcox's Staff Notes. "I would suggest we vote on the whole thing," said Mr. Woodruff. It was agreed that a Vote for the Motion would be to accept the Conditions proposed on page 2.

Mr. Oglesby asked, "Didn't they say if they go organic, there'd be no public play?" Mr. Wey encouraged the members simply to vote on the Motion before them. By Voice Vote, the Motion carried, with 13 Ayes, four Nays and none Abstaining.

Ms. Warner wondered if the Commission could work further on the composition of the Watershed Protection Committee. "Bill [Wilcox] has some recommendations," noted Acting Principal Planner William Veno.

Mr. Woodruff suggested that if there were any inconsistencies between the Settlement Agreement and what Mr. Wilcox was proposing in his Staff Notes, those points should be clarified. "We're not bound by the Settlement Agreement or considering the Settlement Agreement," countered the Chairman.

Ms. Warner again turned to the composition of the Watershed Protection Committee. She wanted, she said, to be able to add to the WPC. As an example, she recommended that the Town of Edgartown and the Town of Tisbury be represented, since the bodies of water affected by the proposal were in more than one Town. Perhaps, she recommended, someone from the Board of Health of those Towns could serve. The Commissioners turned to page 10, Condition 27 of Mr. Wilcox's Staff Notes.

Ms. Brown suggested having one Edgartown representative from any of the Town boards listed in Condition 27 and one from Tisbury. Mr. Israel did not see why a representative from the Commission was necessary. He also encouraged the inclusion of Conservation Commission members from Tisbury and Edgartown. "I would suggest that we leave it up

to the Towns to decide who their representative is going to be," said Ms. Greene, adding, "We could suggest [someone from] Shellfish, Conservation or Health." Mr. Israel agreed with this recommendation, as did Ms. Brown.

After more discussion, it was decided to leave in the representative from the MVC, with Ms. Greene suggesting that it should be the Commission's Water Resources Planner.

The members turned to Condition 26 on page 9, which addressed the funding for the consultant who would work with the Watershed Protection Committee. Mr. Woodruff commented that he did not feel it was appropriate to refer to an Integrated Golf Course Management Plan. Mr. Wilcox explained that this was the title assigned to the plan by the Applicant. "Why don't we just say, 'the Golf Course Monitoring Plan,'" suggested Ms. Greene.

Ms. Warner wanted to know if the funds provided in Condition 26 were adequate. Mr. Wilcox replied that if it was going to be an organic course, there would not be many "tough issues" to review, mainly the monitoring program and the response to it.

Mr. Wilcox also explained that the $20,000 was an upfront payment to the consultant for going over the monitoring plan. This would be followed by $10,000 annually for three years to cover the cost of overseeing and interpreting the data. At the end of that period, he said, funding would be provided if there were any modifications to the plan. So there would be funding to review that, Mr. Wilcox assured Ms. Warner. The golf course would pay for all monitoring devices, he added.

So where was the funding for the testing? Ms. Warner wanted to know. Mr. Wilcox replied that the Applicant would responsible for that and that the cost for it would run between $50,000 and $75,000 per year. Ms. Warner wondered where this was provided for in the Conditions. Ms. Brown pointed out that this had been an offer from the Applicant himself. Mr. Wilcox said that he would make sure that the acceptance of that offer was included in the final water-related Conditions document.

Mr. Israel stressed that the Conditions should make clear that the consultant who was hired had to be "truly independent." Mr. Wilcox explained that the WPC, and not the Applicant, would hire the consultant.

Ms. Ottens-Sargent inquired if there would be funding beyond the three years provided for in the Conditions. Ms. Brown suggested that Mr. Wilcox add wording that would make the requirement for testing (and not for the interpreting of the results) permanent for the life of the golf course.

James Athearn, a Commission member at large from Edgartown, wanted to know if the WPC was in addition to the committee proposed in the Settlement Agreement or was a

replacement for it. *[See the first item on page 10 of the Wilcox Staff Notes, under "Enforcement and Resource Protection."]* "Instead of," answered Mr. Wilcox.

Mr. Wey asked how much funding would be available after three years for the WPC's activities. Also, what would happen after seven years, when the sampling sites would be reduced? "I mean, is that wise?" he wondered. Mr. Wilcox responded that the Condition requiring sampling could be written for the life of the golf course. The option of reducing the sampling sites at the end of the seventh year would be up to the committee, he explained.

Mr. Wey declared that he thought it important to continue the funding. "I wouldn't disagree," said Mr. Wilcox. Ms. Warner agreed with Mr. Wey's suggestion. She also recommended that over the first three years a manual on how to interpret the data be produced in order to guide those serving on the committee in the future.

Referring to the fourth bulleted item under "Enforcement and Resource Protection" on page 10, Ms. Ottens-Sargent wanted to know if Mr. Wilcox was suggesting that the Commission not accept the Applicant's offer of a $10 million environmental damage insurance policy. Mr. Wilcox answered no, that he would in fact agree with accepting that offer.

Responding to another query from Ms. Ottens-Sargent, Mr. Wilcox explained that it would be "exceptionally difficult" to establish a link between pollution in one of the ponds and the golf course operations. Had Staff looked into what management at other golf courses had done with regard to insurance? asked Ms. Ottens-Sargent. No, replied Mr. Wilcox, although he could look into that.

More questions about the environmental insurance policy followed, and Mr. Donaroma objected to the fact that they seemed to be going on and on and getting nowhere. The Chairman agreed.

Moving on to the Condition regarding a performance bond, Ms. Brown suggested that the bond cover the completion of the course, as suggested by Mr. Wilcox, *or* the restoration of the land, whichever the Town of Oak Bluffs preferred. Mr. Wilcox agreed, as did Ms. Ottens-Sargent and Ms. Sibley.

Mr. Zeltzer recommended that the affordable-housing units being proposed be kept affordable as long as it was legally possible, with as much of a preference for Oak Bluffs residents as was legal. Ms. Rand explained that a 70 percent preference was allowable.

Mr. Zeltzer also suggested that if the number of market-rate houses were reduced to 10, then all of them should be seasonal, coinciding with play on the course. But what would be the mechanism used to enforce that? wondered Ms. Sibley. Mr. Schweikert observed

that some things were best "left to nature and the force of economics." Mr. Zeltzer disagreed.

Ms. Brown urged the Commissioners to accept the Applicant's "offer of intention" regarding the affordability of some of the houses and the seasonality of the market-rate houses and to let Commission Counsel work out the details.

Mr. Best pointed out that in the case of the Vineyard Golf Club, the Commission had required flat-out that there be no market-rate housing associated with the course. Ms. Greene referred the members to page 9 of the Settlement Agreement, where the Applicant laid out his plans regarding affordability and seasonality. Mr. Wey recommended eliminating the market-rate houses.

Ms. Brown related that 10 market-rate houses, each on a 20,000-square-foot development envelope and selling for around a million dollars each would bring in about $100,000 to $150,000 of tax revenue for the Town of Oak Bluffs each year. That revenue, then, would come from five or six acres out of the entire plan, she stressed.

Mr. Athearn argued that the fragmentation and change in the wildlife habitat could not be measured by the number of acres. Ms. Warner pointed out that the Remand Plan and the plan before them were the same, except for the addition of the houses.

Ms. Sibley wanted to be sure that provision was made to prevent homeowners from cutting down trees to clear their viewshed. Mr. Schweikert argued that the proposal had been carefully planned to place the houses between the holes and that to deny the Applicant permission to build the houses showed an insensitivity to what the loss of $100,000 to $150,000 annually would mean to the Town.

Chairman Vercruysse remarked that he felt taking out the Windfarm component and thus cutting down the number of houses to 10 would, in fact, be a real benefit. Mr. Donaroma agreed and again objected to the Commissioners going "round and round" on the issue. He argued that the Commission would, in effect, be denying the project if the Applicant were not allowed the build the market-rate houses. In any event, he added, what were 10 houses on almost 300 acres?

The discussion on the market-rate-housing element continued, with Ms. Sibley, Mr. Best and Mr. Woodruff arguing against its inclusion. The Commissioners also considered what the site plan would look like with only eight houses. After still more discussion, Mr. Wey made a **Motion To Eliminate The Market-Rate Houses**, seconded by Mr. Best.

Following discussion of the Motion, a Hand Vote was conducted by the Chairman. The Motion failed to carry, with five Ayes, nine Nays and three Abstaining.

The Chairman called for break. The time was 10:15 p.m.

At 10:25 p.m., Chairman Vercruysse reopened the Meeting, and the Commissioners returned to Mr. Donaroma's original Motion, which was to approve the proposal with conditions. Mr. Donaroma amended the Motion slightly: **That The Commission Approve The Application And Accept The Offers Made By The Applicant As Discussed And That The Approval Be Subject To The Conditions As Discussed**. The original Second, Ms. Greene, accepted the Amendment.

Chairman Vercruysse asked if there were any more Conditions that the members wished to address. Ms. Ottens-Sargent expressed concern that the Applicant had not entirely completed the MEPA process with regard to the wildlife habitat. For instance, she said, the Commission had required the Vineyard Golf Club Applicant to conduct intensive studies of the habitat before breaking ground.

Moreover, Ms. Ottens-Sargent emphasized, testimony at the Public Hearing had addressed the fact that the wildlife inventories done by the Applicant were very limited. *[Ms. Ottens-Sargent was referring to a letter by Paul Z. Goldstein, Ph.D. dated May 10, 2000 and resubmitted for the record on October 2, 2002. See the meeting file for a copy.]* She spoke for some minutes about the "web of life" that would be sundered by the project and objected to the Applicant's dismissal of the possibility that the site was habitat for the Imperial moth.

Mr. Donaroma argued that there was "plenty of room" for wildlife habitat. Mr. Israel expressed agreement with Ms. Ottens-Sargent, insisting on more intensive habitat studies before ground was broken. "That's a small price to pay if the golf course is approved," he said.

Ms. Greene observed that one could do all the studies in the world but that they would be meaningless if the Decision did not contain Conditions to address what was found in the studies.

Mr. Woodruff pointed out that with the current plan, numerous stands of pitch pine would be destroyed. Ms. Ottens-Sargent asked for studies not only of the Imperial moth habitat but of the habitat for interior-woodland birds.

Had Staff made recommendations on this? asked Mr. Schweikert. Mr. Wilcox referred him to Condition 18 on page 8 of his Staff Notes, which read: "The Applicant shall incorporate into the MEPA Notice of Project Change an offer to prepare a mitigation and monitoring plan for State listed species for approval by [the] Natural Heritage and Endangered Species Program." Isn't that adequate? wondered Mr. Schweikert.

Ms. Ottens-Sargent argued for studies that went beyond the scope of the Natural Heritage requirements. "I was hoping that working with Natural Heritage would work," countered

Mr. Donaroma, who added, "At the last moment you ask for another study." Ms. Sibley inquired if the more intense studies would shape the location of elements on the site plan. Yes, replied Ms. Ottens-Sargent. "The Applicant has offered to do that," said Mr. Donaroma.

Ms. Ottens-Sargent related how the State had characterized the Southern Woodlands as core habitat. In addition, she said, "When I read that an Imperial moth wing was found there, I didn't feel the Applicant was thorough enough." The Chairman asked Mr. Wilcox is he had any further recommendations to make in view of Ms. Ottens-Sargents's observations.

Mr. Wilcox responded that Natural Heritage may have been one of the State agencies that had put together the BioMap, and he reminded the members that it was the same agency had not allowed the flyover at the frost bottom proposed by the Vineyard Golf Club. Mr. Israel argued that the bird inventory submitted by the Applicant had not been carried out at the right time of year. "Why do you think that the Condition doesn't cover it?" the Chairman asked Mr. Israel, who replied, "Because the wildlife inventory wasn't adequate."

Mr. Athearn and Ms. Ottens-Sargent suggested wording the Condition along the lines of requiring "more intensive wildlife inventories as recommended by an independent wildlife biologist." Ms. Sibley pointed out that Condition 18 on page 8 did not provide for an independent, more exhaustive study. She added that the Condition should include the stipulation that the Applicant return to the Commission for Approval of the wildlife study before he could proceed with construction. DRI Coordinator Jennifer Rand recommended that the Commission allow Natural Heritage to determine if more studies were needed.

Ms. Ottens-Sargent then made a **Motion That An Independent Biologist Conduct An Adequate And Exhaustive Study, Covering Various Seasons And More Intensive Than Was Required By The Natural Heritage and Endangered Species Program; That The Study Should Be Done By An Independent Biologist And Should Be Paid For By The Applicant; And That The Applicant Had To Return To The Commission With The Results Of The Study And Obtain The Commission's Approval Before Construction Could Begin**. Mr. Israel provided a Second.

Ms. Greene asked Ms. Ottens-Sargent to define "adequate." "We're paying Staff," Mr. Schweikert objected, adding, "Why are you trying to make it more complicated?" Ms. Brown offered praise for the work done by Natural Heritage. "They're terrific, and I don't see a conflict," she remarked. "Let them decide if further study is needed." She then recommended that putting the decision in the hands of that agency should be added to the Motion.

Ms. Ottens-Sargent withdrew her Motion and Mr. Israel his Second for a new Motion by Ms. Brown, the same as Ms. Ottens-Sargent's but adding the following **Amendment: That *If The Natural Heritage And Endangered Species Program Deemed It Necessary*, An Independent Biologist Would Conduct An Adequate And Exhaustive Study, Covering Various Seasons And More Intensive Than Was Normally Required By The Natural Heritage and Endangered Species Program**. Said Motion was duly seconded and carried by Voice Vote.

Ms. Warner made a **Motion To Accept The Applicant's Offer That The Access To The Town Parcel Would Be Only For The Purposes Of Open Space And Recreation**. Mr. Best argued that without residential access, the property would be valuable only to the golf course owner. "I think it's an incredible oversight in the Settlement Agreement," he remarked. He then asked Mr. Wodlinger if the Town could take access by Eminent Domain. "Towns change their minds," noted Mr. Wodlinger. Mr. Best commented that the Town should not have its hands tied.

But the Condition would be moot if the Town could take access by Eminent Domain, Ms. Sibley pointed out. Restricting the access, argued Mr. Zeltzer, would protect the environment.

It being 10:55 p.m., Ms. Sibley made a **Motion To Suspend The Eleven O'Clock Rule And Remain In Session Until As Late As Eleven-Thirty**, duly seconded by Mr. Donaroma. The Motion carried by Voice Vote.

Ms. Greene stressed that the Commission could not write a third-party Condition, and Mr. Woodruff said that he thought the Town Parcel was to be swapped or traded. After still more discussion, Ms. Warner withdrew her Motion. (A Second had not be offered.)

Ms. Ottens-Sargent confirmed with Mr. Wodlinger that the Town could take access to the Town Parcel by Eminent Domain across land that was subject to a Conservation Restriction. Mr. Wodlinger noted that only if the CR were held by the State would not be the case.

Ms. Greene suggested a Condition that the strip of land between County Road and [inaudible] be maintained so that fire trucks could go in. There were no objections.

"Move the question," said Ms. Greene, referring to Mr. Donaroma's Motion To Approve. *[See page 16 of these Minutes.]* Mr. Israel suggested that they go around the table, allowing those who wished to to speak.

James Athearn, a Commissioner at large from Edgartown, was the first to speak. The Applicant had returned to the Commission with many changes to the earlier proposals, he began, yet he had not yet addressed Mr. Athearn's main concern. "My main concern is the character and identity of Martha's Vineyard," he said, "that the

addition of golf courses is contrary to the character and identity that we're trying to preserve on Martha's Vineyard."

Mr. Athearn continued: "The regional plan speaks to it in many ways. 'V-12. Preserve and enhance the rural quality of life on Martha's Vineyard and the unique character of each Town. Reject qualities that are suburban and urban.' It seems to me that a golf course is the epitome of a suburban symbol of leisure and affluence."

Mr. Athearn related that he had often heard that the Commission should consider the question of whether or not the proposal was good for the Town of Oak Bluffs. "It's a very important question," he said, "but we're all here today to decide whether it is good for *Martha's Vineyard*. And that's spoken to somewhere here, in Section I, Goal C, 'Conserve and manage resources on an Island-wide basis for regional purposes rather than solely within Town boundaries for local purposes.'"

Mr. Athearn proceeded: "It goes on to talk about in I-2, 'To promote sound local economies by conserving the Island's unique values. The Island's natural attributes and its heritage are its most valuable economic resources.' And that's my point – I don't have to belabor it much further – that we derive the wonderful economy we have here and the good life that we enjoy from the natural qualities of Martha's Vineyard that are enjoyed by people from all over the world who come to passively walk and fish and bird-watch and enjoy the land without amusement parks on it."

Mr. Athearn went on, "And so I feel that we just approved a new golf course [and] I don't want to approve another one so soon. I don't think we want this to turn into a resort like those we've learned about where golf courses take over."

Regarding water issues, Mr. Athearn said that he had to admit that the proposal "was so extensively developed that it seems as if all the safeguards are in place. But I live next door to the Edgartown sewer plant, and all the engineers that put that together swore that it was going to clean the water and it'd be safe to drink, and now we have a giant plume of nitrogen that's headed to Great Pond. It's just [that] Murphy's Law always holds, that if something can go wrong, it will."

"A lot of the assurances of this plan," Mr. Athearn elaborated, "are based on a sewage treatment plant with its advanced denitrifying techniques, and it probably won't fail. There's a very small chance that it ever could. But even [with] that small chance, the implications for failure are huge."

Mr. Athearn concluded: "Martha's Vineyard has an excellent economic engine – it's our seasonal visitors – that runs quietly and very powerfully. But it needs tender loving care to keep it going. We've taken good care of it so far. I think we need to continue."

Andrew Woodruff, a West Tisbury member at large, remarked that Mr. Athearn had eloquently summed up his own feelings. "This is sort of *déjà vu* all over again," he said. "I believe that we're looking at the same plan, but actually it's worse [because of] the intensity of development with the housing [and] there's so many unknowns about the 24-acre parcel in the middle."

The place that he kept returning to, Mr. Woodruff related, was "whether this proposal was essentially or especially appropriate, given the alternatives. Is it more favorable on the environment than the alternative types of development? And that's what I would like to concentrate a little on here."

"I would suggest first that the Approval of the Vineyard Golf Club has eased the demand for play," Mr. Woodruff went on, "and if in fact vacancies still exist today, clearly there's still opportunity for more golf. But if we approve this plan simply because we have reached the end of our ropes on the issue of additional golf courses and feel this is the best or only option for this land, I believe we will have shortchanged our imaginations of alternative forms of development."

Mr. Woodruff then proposed a land use for the site in question that would have considerable public benefit while significantly reducing the potential for environmental damage: a combination of clustered affordable and market-rate housing with conservation land and possibly a nine-hole municipal course. "To accomplish this," he said, "I believe it would take a consideration of the entire Southern Woodlands, plus or minus 375 acres, and the effort to bring all the concerned parties – including Town leaders, State and local conservation groups, citizens' groups and the developer – to the table and mediate in good faith a solution. To date this has not happened."

Those concerned also had to recognize, Mr. Woodruff said, that the plan before them was more intensive than the last one and "at best we can only condition it to be similar to the last proposal, which we denied. I ask, 'How can we approve this?'" He believed, he went on, that Chapter 831 was created specifically to deal with this kind of difficult decision-making, "and in this case I believe there is Island-wide support to deny this project."

Mr. Woodruff concluded, "This plan does not enhance the unique natural character nor does it improve the cultural fabric of our community."

Linda Sibley, also a Commissioner at large from West Tisbury, noted that Messrs. Athearn and Woodruff had said much of what she had wanted to say. So she would concentrate, then, on a couple of other aspects of the project. The Written Decision for the Denial of the Remand Plan (DRI No. 543) "was extremely eloquent," she said, "in explaining why this was an inappropriate development. Every piece of it still holds, except for the piece on affordable housing. There is now an affordable housing component which is, I think, virtually the only unmitigated improvement."

"I'm extremely distressed by the disregard for the importance of this woods, both as a woods and as a habitat," Ms. Sibley remarked, "and it's been dissed by the Applicant. Their reports say it's uninteresting and it's boring, and I see it exactly the opposite way. I think it's an incredibly important resource. There are not many large, unbroken blocks of upland woods left anywhere on the Island, and it's the last one in Oak Bluffs."

Ms. Sibley continued, "The Applicant has said that this is going to enhance habitat. Quite the contrary. It enhances habitat for very ordinary suburban birds, birds that are flourishing in the modern world because of so much suburban development, and it removes habitat further in decline. [That a species] may not have been found in huge numbers doesn't mean anything. This is still excellent habitat for them. They're not here now. They might have to move in when someone destroys their habitat someplace else to build God knows what."

"I'm very distressed by the Applicant's unwillingness to limit their membership to people with Island ties," Ms. Sibley declared, "at least a large percentage of that membership. Failure to have that kind of a restriction means that we can anticipate a substantial increase in air traffic."

Ms. Sibley went on, "The Applicant said at the last Hearing that he doubted that 40 percent of the Nantucket course was members who were not attached to the island. Well, in 1998, The Boston Globe reported that, in fact, 40 percent of the members of the new Nantucket club had not so much as a place to hang their hat on Nantucket. They fly in, they play golf and they leave. And that this had resulted, according to the airport manager, in a substantial increase in air traffic."

As a former member of the Airport Commission, Ms. Sibley reported, she knew that already people who lived under flight paths were complaining about "the incredible intrusion on their lives of jet flights, especially private jets. They're the loudest. And I think that if we approve this and in fact a great many people are flying in and out from off-Island, that our names will be cursed by everyone who lives under those jet paths."

As for water issues, Ms. Sibley remarked, "I personally find that the amount of water being used is ... wasteful and offensive. And I was ridiculed – I don't remember whether it was the first or second session – for suggesting that Cape Cod might need to import water from us in the future because of our abundant clean water. I would point out that there was recent article in the *Globe* in which they said that Italy is planning to import water from Albania across the Adriatic Sea. So I guess my idea that water might be [imported] is not quite that ludicrous."

"I just think that water is this planet's most scarce resource," Ms. Sibley stressed. "And we happen to have an abundance of it, and we should save it."

Moreover, Ms. Sibley argued, the Applicant had provided no evidence that the golf course would be an economic engine for the Town of Oak Bluffs. And finally, she said, she believed that there were many economic uses for the land, "ways to develop the property that would preserve far, far more of that natural resource and still be economically viable." The Vineyard Open Land Foundation had demonstrated that this could be done, indicating that developers had a lack of imagination if they could not find a way to make money off that land and still preserve most of it, Ms. Sibley concluded.

Megan Ottens-Sargent, the Aquinnah Selectmen's Appointee, noted that there were clearly aspects of the Island Regional Plan that the Applicant had tried to adhere to. However, she said, there were a number of priorities contained therein that had not been addressed to her satisfaction.

In terms of Section 15 of Chapter 831, she interjected before returning to the regional plan, "I feel like the development's proposed location is not essential or especially appropriate in view of the available alternatives, and that (b) the development in the manner proposed will have an adverse effect on the environment in comparison to alternative manners. And I think that I'm going to leave it at that for now..."

Ms. Ottens-Sargent then itemized sections of the Island Regional Plan that the Applicant had not addressed. "Under land management and water use and growth management, (a) under Land Use, IV-1, '... new land use should conform to the traditional land use pattern and enhance traditional land uses.' And I think others have spoken to the fact that this Application does not do that in terms of our agricultural heritage, our shellfish heritage, what have you, and just the culture of the Island."

Ms. Ottens-Sargent continued: "Then we go on to Critical and Vulnerable Lands, specifically, IV-8, 'Land uses affecting the Island's sole source aquifer should be managed to preserve the purest possible groundwater and surface water.' I still think it's debatable whether this project can do that."

"And then IV-9," said Ms. Ottens-Sargent, "'Habitats for species that are threatened, rare or of special concern on Martha's Vineyard have regional significance, in New England and nationally. Planning for development affecting these critical habitats or species should acknowledge that they are extremely vulnerable and require strictest protection.'"

Ms. Ottens-Sargent went on: "And then IV-11, which is again under Critical and Vulnerable Lands, which core habitat indicates this is, beyond the fact that it's the last open space of woodland in the Town of Oak Bluffs, and as has been said, there is not a great deal of upland woodland on the Island, except specifically in this area, and it *is* different from the State Forest, it *is* different from the land across Barnes Road."

Ms. Ottens-Sargent then read Section IV-11: "Where private development of critical lands is unavoidable, preserve the capacity of the land for agriculture, water supply or

community needs to the greatest extent possible through cluster development and by limiting the intensity of uses." "Again, this is a highly intensive land use plan," she remarked. "There really won't be any habitat left, in my opinion... At least that's my concern."

Continuing from the same section, Ms. Ottens-Sargent read, "Offer incentives to land owners whose development plans are compatible with the land's inherent values." She noted that Mr. Athearn had read Section IV-12 about enhancing the rural quality of life on the Vineyard.

Ms. Ottens-Sargent read Section IV-13: "Test development proposals against this rural standard. Development proposals must contribute to the rural quality of life on Martha's Vineyard. This policy allows unlimited opportunities for the social and economic advancement of the people of Martha's Vineyard." "And I think that is very pertinent and has been addressed inadequately...," Ms. Ottens-Sargent concluded.

Marcia Mulford Cini, a Commissioner at large from Tisbury, observed of Mr. Athearn, "Jim and I always sit each to each other, and frankly I agree with him to the extent that I appreciate this Application and the enormous anxiety that's stemmed from its review as a clash of cultures. But I'm reaching a different conclusion."

Ms. Cini explained: "I strongly believe the environmental concerns have been addressed to the Staff's satisfaction, and I appreciate the hard work they put into it, and I credit what they're telling me. I believe this Application has significant, meaningful Town support."

"I actually was one of the ones who didn't think we needed that October 10th Hearing," Ms. Cini went on. "But I'm glad we had it, because there was a young man whom I've never seen before named Al Mahoney who basically called it out in a way that I hadn't heard before... I won't repeat it, but it was persuasive to me. And I'm seeing more benefits than detriments in this package. I see environmental mitigation, I see affordable housing, I see open space, and I see public play." *[See pages 19-20 of the October 10, 2002 Full MVC Meeting Minutes for Mr. Mahoney's testimony.]*

"I believe that this Commission has shown that we're as good as our word, and I think we should put the Applicant to the test and see if he's as good as *his* word," Ms. Cini concluded.

John Best, also a Tisbury member at large, remarked that one of the reasons the Commission members felt so pressured by this Decision was "basically, for the first time in the 12 years I've served on the Commission, we are denying development with two golf courses. And I think the habit we've had for the longest time is to condition development, and basically operating under the assumption that we can pretty much condition almost any development."

"But things are changing," Mr. Best continued. "We're into more or less an endgame as far as development on Martha's Vineyard. If Martha's Vineyard is going to survive as the place that, as someone pointed out, you know, the economic engine of all that drives this place is the attraction of people from all over the world. And, you know, to say the economic engine here *is* this development, then I would represent to you that the fuel is going to run out in our lifetimes and in our children's lifetimes."

"We can't rely on development to continue to feed our budgets and everything else," Mr. Best argued. "We have to rely on what we have here, which is a place that draws people from all over the world, and maybe we can't continue to expand that. Maybe there will have to be some changes in how we see things. But basically I see this as a case where in the future you're really going to have to be very, very selective about what we allow to happen and what we don't allow to happen to the very limited resources we have left as far as undeveloped land, as far as the environment."

Mr. Best went on, "And I just can't feel stronger about this. It's not to say that there is no alternative, except for open space here. I don't believe that. But there still has not been answered to my satisfaction as to what is the best way we could put ... 18 holes of golf on this property. The question kept coming back over and over again: Is it better to fragment it, or is it better to push it to one side or the other and leave the greatest mass open? That question was never really addressed by anyone, and I don't think that's a question a Condition should have to address.

Mr. Best concluded, "I think that's a question that needs to be answered before we can conceive of 18 holes of golf on this 270 acres. So that hasn't changed since the last Application, and I can't change my mind since the last Application as a result."

Robert Zeltzer, a Commission member at large from Chilmark, commented that he kind of felt as if he was "spitting into the wind because it seems that all the minds are made up anyway..." He himself, he noted, had not been locked into any particular opinion about the development of a golf course. "I voted against the first proposal; I voted *for* the second proposal," he said.

Mr. Zeltzer then recounted the progression of his views on the Applications. However, he emphasized, his present point of view had only begun to set once the affordable-housing element had definitely become part of the proposal and once he had seen great support for the mitigation of nitrogen loading from the high school.

Chapter 831, Mr. Zeltzer pointed out, charged the Commissioners with considering, among other factors, whether the proposed development would favorably or adversely affect: other persons or property; the need for low- and moderate-income housing for Island residents; and the provision of municipal services and the burden on the taxpayers.

In each one of those cases, the development before them would be "pretty positive," he remarked.

"I'm not voting to destroy the Southern Woodlands," Mr. Zeltzer declared. "It's going to be developed one way or other. We can mess around with it forever. A golf course, to me, is better than almost any kind of a housing development ... because land that big is not going to be one cluster. It's going to be a bunch of clusters. It's going to be roads connecting and then the driveways, and I don't know that anyone will put in a nitrogen-mitigation system to deal with the septage in groups of clustered houses. Overall, I think it is a responsible use of the land."

Mr. Zeltzer proceeded, "And I just have to say one thing, that those of you who attended all the Meetings – and I've talked to all the Commissioners here – we have not been impacted by whether or not Oak Bluffs is going to go in or go out of the Commission. That wasn't part of the rationale. It's a little offensive to hear people telling us that they're going to go out, because that's not how we make decisions here. Whether I agree with the people around this table or not, we all work pretty hard ... and we all try our very best to represent the Island."

Mr. Zeltzer also wished to stress that he had been subject to no pressure from the developer. "The only pressure I got was the opponents of the development," he reported. "I got mail at home, I got phone calls at home, I got stopped in the street. So, in fact, if I'm going to be pressured, I would be in favor of voting it down rather than voting for it."

"Whether I agree with the guy next to me or not," Mr. Zeltzer concluded, "it doesn't make any difference. We work for the Vineyard."

Michael Donaroma, the Edgartown Selectmen's Appointee, commented, "I like everything Bob [Zeltzer] says, especially the last part there about being persuaded or feeling pressured. But everybody reads the papers, so no big deal."

"The important thing to me," Mr. Donaroma stated, "is benefits and detriments. It's a big part of Chapter 831, and it's a big part of how I make my Decision." He recounted how he had read a list of the development's benefits during the deliberations for the first and second Applications. "And they've gotten longer and longer, in my opinion," he said.

Among those benefits, Mr. Donaroma went on, were: the conservation lands that would be protected; the Conservation Restriction; the protection of the trails; protection of the archaeological sites; the possibility of public play; the purchase of open land and the work with DEM and the Land Bank; taxes to the Town of Oak Bluffs; monies provided for studies of the ponds; the possibility of reducing nitrogen loading from the high school; affordable housing; and money for development of the traffic circle proposal. "And it goes on and one," he said.

"I think that in this case there's clearly some detriments," continued Mr. Donaroma, "but the reality is, even in [Chapter] 831 it states when a piece of property is to be developed, there's no way around, there's no way around or it's unavoidable that a piece of property's going to be developed – I think this is the case." He related that the Town had had a number of opportunities to purchase the land or take it by Eminent Domain. "And I think if the Town really wanted it, it's still – even if we approve this project or deny it – the Town still has the option of taking it if it wants it. That hasn't happened," he said.

Mr. Donaroma remarked that he felt that the Commission had done "an excellent job" of reviewing the proposal and that it was going to be "a tough Vote both ways." "But it's a *good plan*, I said this last time," he stressed. "We turned it down, and now we have a *better* plan in front of us. Some people may feel different, that it's more intense. But it also gives more to more factions of the Island." He listed conservation, housing, public play and all the other public uses of the land.

If they could, Mr. Donaroma emphasized, he was sure everyone would want the land to remain as it was and to put it into conservation. "But, unfortunately, the real world comes to even the Vineyard sometimes," he said, "and I really don't think this is going to be an attack on the character of the Island either. There's a big difference between people who play golf, people who hunt, people who fish. There are people who don't like hunters, there are people who don't like people who fish, people who don't like people who play golf. But that's not for us to decide."

Mr. Donaroma concluded by stating that he looked forward to approving the project and to working with the Town, the Commission and the developer through the healing process and then moving forward.

The time was 11:32 p.m. Ms. Sibley made a **Motion To Suspend The Eleven O'Clock Rule Further, Until Midnight**, duly seconded by Ms. Ottens-Sargent. By Voice Vote, the Motion carried unanimously.

Oak Bluffs Selectmen's Appointee Alan Schweikert related, "I see this as an opportunity, I guess, to *preserve* this property." He referred to Mr. Mahoney, whose testimony Ms. Cini had cited. "And he kind of hit home with me, above all the other speakers, I think," Mr. Schweikert said. "He represented a lot of people who just don't come to a lot of these Meetings, a regular workingperson in this Town."

Mr. Schweikert went on: "And he made a point that I think was kind of perceptive on his part, that here we have an opportunity to work with one person to manage and have some control over all of this property, whereas the likely alternatives on this property seem to be some kind of housing development or whatever it may be, in which case then we'll be dealing with many other owners whom we wouldn't have control over. So I think that's important." He pointed out that there were numerous Conditions attached to the project that would enable the Commission to control and maintain the integrity of the property.

"And when you're talking about preserving the unique character of the Island," continued Mr. Schweikert, "I think we all want that. But also, further in that same sentence it says preserving the unique character of each Town as well ... The Towns all offer something different. Some of them have [a] much more conservation-oriented environment than others."

"I guess what I'm really trying to say is," Mr. Schweikert observed, "the unique character of Oak Bluffs is, I think, a *mixture* of conservation and recreation, more so than perhaps any other Town on this Island. And it's a mixture of conservation and *public* recreation that I think really makes it attractive and adds to the overall character of this Island. And I feel that this plan does help preserve and follow along with that kind of thinking for Oak Bluffs."

Mr. Schweikert also stated that he believed the development would help maintain sound economies on the Island, and he commented that he did not think that the developer had to "prove what the velocity of money does and how money is generated through the economy here. When lots of people go to a place to recreate and to enjoy themselves, there's money passing through by ways of employment, through food, through all kinds of situations, and that passes right on through the Island, and it increases and it generates itself into millions of dollars."

More than anything, said Mr. Schweikert, he believed that the financial aspects and the financial benefits of the proposal were very real, not to just Oak Bluffs but to the overall Island community. He mentioned the donation to the Martha's Vineyard Ice Arena, the $200,000 a year in lieu of taxes for the Town, and the money devoted to the study and monitoring of the ponds.

In addition, emphasized Mr. Schweikert, "from a social point of view, having affordable housing is very important. I think, like Michael [Donaroma] said, that this plan is better than the last one. I was not involved in the last one, but I think that just the golf course itself benefits just a few people. But I think that the idea that there's some luxury housing that adds to the tax bases of Oak Bluffs and also adds to the luxury housing in Oak Bluffs ... *Other* Towns have it. I think Oak Bluffs should have the opportunity to have more luxury housing also."

Another "extremely important social benefit" of the proposal was the offer of public play as well as the affordable Island memberships, the campground and the environmental aspects of the plan, said Mr. Schweikert. Although he admittedly had to rely upon Staff with regard to the last matter, he believed that the impact of the golf course would not be as severe as it could be. "Another developer or another alternative could be a lot worse," he remarked.

Mr. Schweikert concluded, "I think there's a lot of mitigation there, and I just believe that the developer has made quite an effort and that with our Conditions we can make this a project that I think we can all be proud of. So I'm essentially in favor of it."

Richard Toole, a member at large from Oak Bluffs, began by observing, "To say the least, this has been a very difficult decision." He thanked everyone in the room for "sticking with this process, and really, I think we've all matured during the process and gained a lot of respect for each other, whether we agreed or not."

"This proposal's gone a long way," continued Mr. Toole, "but in spite of all that, in spite of all the changes, it's still an 18-hole golf course. And I cannot approve an 18-hole golf course on that piece of property. It's not an essential or especially appropriate use for the last large tract of undisturbed woodlands in Oak Bluffs."

Mr. Toole stated, "Oak Bluffs already has an 18-hole golf course, almost within a stone's throw of this one. This would be the third golf course on Sengekontacket, contributing to the watershed of Sengekontacket Pond. Oak Bluffs is the second-smallest Town in land area on the Island. This is the last undisturbed tract of land in Oak Bluffs. This contradicts the intent of the Southern Woodlands DCPC of preserving large tracts of forested land."

There were too many Conditions and too many second-party agreements to keep track of, stressed Mr. Toole. And although he hated to say it, he thought that a well-planned cluster development would be a far better use of this land if the land could not be permanently protected as open space.

"I believe this [proposal] contradicts many of the points of the Regional Island Plan," said Mr. Toole, who cited Section I-A-1-9: "Martha's Vineyard is a natural resource whose attraction is based upon environmental quality and its natural beauty."

"For those reasons, I'm going to vote No," concluded Mr. Toole.

C. Mikel Oglesby, the Governor's Alternate, said, "I think the Applicant has put forth a good plan. I think it provides good things for Oak Bluffs, and I trust the Staff Reports, so I won't review them again. But Mike [Donaroma] touched on a lot of the pros and cons, and I think the pros outweigh the cons."

Mr. Oglesby then raised some concerns. First, it appeared to him a lot of Commissioners had already made their decisions prior to these deliberations. "I thought we were sitting down today to listen and to iron out any issues or questions that we may have and *then* come to a conclusion," he said, adding that it seemed that some of the speeches he had heard that evening had been prepared a number of nights before. "And I get a bit concerned about the process," he remarked.

One of the things that had impressed him when the Applicant had come before them with the Remand Plan, Mr. Oglesby went on, was that there had been 130 people who had applied for membership in the club. "Twenty percent of them were minority," he stated. "... and I thought, 'Wow, that's great,' considering that Vineyard Acres II came on board and it was passed in one Vote and I believe it was a lot less than 20 percent... That concerns me also."

Mr. Oglesby added that he thought the Down Island Golf Club had presented a good opportunity for African-Americans in the Oak Bluffs community finally to "get a course that embraces us. A lot of people know that it's tough to become a member. I golf. I know about it. We deal with issues. It was a great opportunity here I've never seen in a proposal – and I've seen a few golf course proposals in my time – where [the] 20 percent minority rate was so high out of the first 130 people."

Mr. Oglesby concluded: "With that in mind, and other issues – but that's one that just popped up [and] really impressed me – I'm going to vote in favor of this project."

Tristan Israel, the Tisbury Selectmen's Appointee, protested Mr. Oglesby's characterization of the decision-making processes of some of the Commissioners. "We're all trying to do the best we can," he said. "The [last] Denial of this was a short while ago. We were asked to listen again to a new plan, and I think we're trying to do our best, all of us."

Mr. Israel related that arriving at his decision had been hard for him and that he believed the developer had tried the best he could "to make this a palatable project." When he had left the third Hearing session, he related, it had been more difficult for him than ever to sort out the issues. "And I really have wrestled with this for the past week," he said.

Citing to Ms. Cini's reference to a clash of cultures, Mr. Israel affirmed that this was particularly true of this project. And in coming to his conclusions, he explained, he had had to strip away many of the external offers associated with the plan and look simply at its core. "For me, I just don't see that an 18-hole golf course of this kind of nature is appropriate in one of the last large remaining tracts of land, even on the Island for that matter," he declared.

Mr. Israel expressed his belief that the Approval of the Vineyard Golf Club proposal had lessened the need for another golf course. Although the public play aspect of the plan had made this decision particularly tough for him, he said, it was clear to him that the layout being proposed in the third Application was worse than those in previous plans.

"I don't think this is the best use for this property," Mr. Israel commented. "I think there are other uses that are more appropriate or could be laid out in a kinder, gentler way, if I may. I have concerns, still, about the impacts to the ponds. It doesn't mean that I don't

listen to our experts. I still have concerns. There's still stuff going into the ponds. They didn't say there wasn't."

Moreover, Mr. Israel went on, he had concerns about 33 million gallons of water being sprayed into the air. Whether or not there was an infinite amount of water under the ground, he said, this amount was extravagant, especially in light of the fact that another golf course had already been approved recently.

Mr. Israel finished up: "I value too much the core habitat and this large contiguous, at this point, piece of property, and I believe that, even as I heard ... somebody say a reasonably sized cluster development maybe would be a better use, I don't know, that's how I feel."

"Move the question," said Chilmark Selectmen's Appointee Jane A. Greene.

James R. Vercruysse, a member at large from Aquinnah and the Commission's Chairman, related that he had voted against the first two Applications but that he intended to vote for the latest proposal. "Because I think it's a better project," he said. "The real big concerns for me were that the nitrogen calculations weren't using real numbers in the first two proposals, and they started using numbers that made sense. They defined the contribution zone better. They were very conservative with that. They moved the holes away from the Lagoon. That was a big concern of mine. They lined those."

Chairman Vercruysse continued, "And ... early in my tenure on the Commission, we were involved in the Herring Creek proposal, and in that proposal there was huge money, huge development, a lot of effort and time went into it. There was a lot of public support for us to turn that down, and there was a lot of Town support in our favor. In this proposal ... it's sort of split, and there's a lot of Town support for this."

"And I've been waiting for someone," related Chairman Vercruysse, "to whisper in my ear, 'We've got this conserved, you can vote against it and it's okay, 'cause we're going to save it in a way that conserves the land.' Nobody's done that."

"I think that this is the best use for this property," Chairman Vercruysse went on, "and I think they'll do a good job with it. I think it's going to benefit the Town. The housing issue, it helps with the housing. It doesn't solve the problem at all, but it's a move in the right direction and I think we've learned a lot from this proposal. And I think it'll be a good thing for the Island."

Christina Brown, a Commission member at large from Edgartown, remarked that she wished she kind of did not have to vote. "I also wish I were as eloquent as most of you," she said. "And I've listened, and I agree with *everybody*." So this had become a particularly difficult decision to make, she related.

Ms. Brown observed that it was easy to pick out from the Island Regional Plan detriments of the project. "It's not the traditional farming and fishing uses of the land," she noted. "It's also easy to pick out some benefits that have to do with economic benefits to the Town, that have to do with [the idea that] when development is inevitable and of course the whole Island isn't going to be saved, we look at what the most reasonable way to develop the land ..."

Ms. Brown continued, "And I am reluctantly, I have come to feel that the most reasonable development for this land, given the options that have come to us, is this plan or that this is a reasonable plan." When she looked at alternatives like cluster housing and when she considered the Commission's history, "we can do clusters and we can cut down on density, but we can't have the controls over the land. Nor can we cut it down so far that it's just a few houses."

The project before them presented them with the opportunity to have long-range control over the land through conservation and the other means of enforcement that the Commission had, said Ms. Brown. So the project would not have the impact on the Island that private homes would. In the latter case, she pointed out, the water would not be tested. In addition, Ms. Brown remarked, the benefits that others had listed were all true benefits.

Mr. Veno then conducted a Roll Call Vote on the Motion To Approve With Conditions, with the following results:

AYES:	C. Brown; M. Cini; M. Donaroma; J. Greene; C.M. Oglesby; A. Schweikert; J. Vercruysse; and R. Zeltzer.
NAYS:	J. Athearn; J. Best; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole; K. Warner; R. Wey; and A. Woodruff.
ABSTAINING:	None.

Ms. Sibley made a **Motion To Deny The Proposal For The Reasons That Were Stated In The Previous Denial, Except For The Language About Affordable Housing, And For The Reasons That Had Been Stated That Evening By Opponents To The Proposal In The Discussion Of The Motion To Approve With Conditions**. Ms. Ottens-Sargent provided a Second.

The only comment offered was Ms. Ottens-Sargent's citing of Section I-12 of the Regional Island Plan: "Foster economic development that costs least in Island resources and puts the most back into the local economy."

Mr. Veno conducted a Roll Call Vote on Ms. Sibley's Motion, with the results as follows:

AYES: J. Athearn; J. Best; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole; K. Warner; R. Wey; and A. Woodruff.

NAYS: C. Brown; M. Cini; M. Donaroma; J. Greene; C.M. Oglesby; and J. Vercruysse.

ABSTAINING: A. Schweikert; and R. Zeltzer.

Ms. Greene made a **Motion To Adjourn**, duly seconded. The Regular Meeting adjourned at 11:53 p.m.

James A. Athearn — 1/16/03
Chairman — Date

Jane A. Greene — 1/16/03
Clerk-Treasurer — Date

PRESENT: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; T. Israel; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzter.

ABSENT: A. Bilzerian; E.P. Horne; J.P. Kelley; and R.L. Taylor.

[These Minutes were prepared by the Staff Secretary using her notes as well as a tape recording of the Meeting.]