

# THE MARTHA'S VINEYARD COMMISSION

BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453, FAX 508-693-7894 [INFO@MVCOMMISSION.ORG](mailto:INFO@MVCOMMISSION.ORG)

## Minutes of the Special Meeting of April 3, 2003

Held in the Olde Stone Building,  
33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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**Commissioners:** Jim Athearn, Chairman (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected – Edgartown), Linda DeWitt (Appointed – Edgartown), Jane A. Greene (Appointed – Chilmark), Tristan Israel (Appointed – Tisbury), Katherine Newman (Appointed – Aquinnah), Deborah Moore (Elected – Aquinnah), Douglas Sederholm (Elected – Chilmark), Richard Toole (Elected - Oak Bluffs), Alan Schweikert (Appointed - Oak Bluffs), Linda Sibley (Elected – West Tisbury), Paul Strauss (Appointed – Dukes County), Andrew Woodruff (Elected -West Tisbury), Robert Schwartz (Appointed – West Tisbury)

**Staff:** Mark London (Executive Director), Christine Flynn (Regional Planner), Jennifer Rand (DRI Coordinator), Jo-Ann Taylor (DCPC Coordinator), Bill Wilcox (Water Resources Planner), Bill Venno (Regional Planner).

At 7:26 a.m. Jim Athearn, Chairman, opened the meeting by introducing Robert Schwartz, the new West Tisbury appointed representative, and Jacqueline Campbell, the new secretary.

### 1. HILLSIDE VILLAGE III (IEH), (DRI No. 564) - PUBLIC HEARING

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*Commissioners present for the Public Hearing: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, T. Israel, D. Moore, K. Newman, R. Schwartz, A. Schweikert, L. Sibley, D. Sederholm, P. Strauss, R. Toole, A. Woodruff.*

*Representatives of the Applicant: Carol Lashnits, Island Elder Housing executive director, Peter Zcrzi, architect, Doug Hoehn, civil site engineer.*

At 7:40 p.m., there being a quorum present, Christina Brown, Hearing Officer, opened the meeting and read the Notice of Public Hearing.

#### 1.1 Applicant's Presentation

Peter Zorzi distributed presentation documents on the proposal.

- They have funding from HUD to construct a five-unit building.

- The proposed building is 4,600 sq. ft., a one-story slab on grade construction. The architecture of the building is similar to Hillside buildings, and has R-19 insulation, natural white cedar siding with white trim, double-hung windows, architecture in keeping with the type of buildings of this character.
- The site is basically on the north side of Hillside property. One long wall will have a southerly orientation, and they intend to submit an application in the future for solar panels that would face in on the courtyard.
- There are seven parking spaces in front of Building A, and they will be adding three parking spaces for a total of about 10. The need for parking is very low in this kind of complex.
- SP-1 Drawing. A survey prepared by Doug Hoehn which locates the proposed building on the site, and the key issue of the exit driveway which will be realigned to go straight out onto Clover Hill Drive, further away from the intersection which he feels is a safety feature. It also allows them enough land to place the building in that particular location.
- With very little grade in that area, there is a series of dry leeching wells for impervious surface area runoff and the roof water from the building.
- SP-2 Drawing. This shows the footprint of the building, some proposed landscaping to reinforce the buffer that is already there, and one additional post light near the corner of the new Hillside building. The post lights that are in Hillside now are the traditional lantern style and they plan on matching that with the new lighting. They plan to shield that lighting so that it does not go into any abutter's property. They plan on placing a small sign at the entrance identifying the Hillside Project.
- A-01 Drawing. These are architectural floor plans. All units are connected by a rear corridor, and have a front door. The population in the building can travel through the corridor to a small entry and office area without going outside. This corridor has fenestration, some architectural elements and also some egress doors.
- A unit's maximum area is 540 sq. ft. based on HUD requirements; interior features are especially suited to the elderly such as lower kitchen counters, wall oven, soundproofing between all units, emergency pull chains in bathroom and heat lamps.
- All units are readily adaptable for wheel chair use. They all have 3' wide doors, reinforcing in the walls for grab bars and special features required making the unit ready for other access contingencies.
- There are a small management office, one public toilet for staff, and the electrical, mechanical and sprinkler rooms. The building will be fully installed with a sprinkler system and automatic fire alarm system. It is a hot water/gas fired heating system, baseboard heat and it has R-38 roof construction.
- Elevations Drawing. On the front elevation, both of the wings of the elevation have been broken on the parking lot side with gables that project out and offer protection for the entry doors into the units. On the elevations facing the street, they have added some windows, and introduced a gable end on the diagonal portion with a double door, so that there is a sense of entry from the intersection of Clover Hill Drive and the Edgartown/Vineyard Haven Road.
- A-06 Drawing. This is a fully accessible unit. It has a turning radius for a wheelchair. It is a unit widely accepted by HUD. The construction is primarily truss, the exterior walls

will be prefabricated and shipped over in panel systems, similar as what has been done at Woodside 2 & 3.

Jane Greene asked whether there was a possibility that HUD would install air conditioning and automatically operated doors. Peter Zorzi said these items are only paid for by HUD if mandated by the Commission.

Tristan Israel asked about zoning. Peter Zorzi said they would seek a waiver for minimum lot size frontage, setback, parking requirements and an application fee. We are approximately 6' from the property line on Clover Hill Drive, at the closest point on the Edgartown/Vineyard Haven Road we are 38', and the building is approximately 19'6" from the floor to the peak. They would have liked it further back from street but there wasn't room.

Jim Athearn asked the distance from Building A. Doug Hoehn said approximately 20'.

## 1.2 Staff Reports

Jennifer Rand gave the staff report.

- The minimum lot size is 20,000 sq. ft., but that for a multi-unit dwelling, they would need 100,000 sq. ft. for five units. The minimum parking spaces are one per unit, so that there would be five; they are requesting three. The minimum lot frontage would be 130'; they have 152' of frontage on Clover Hill Drive, but they have only 90.9' of frontage on Edgartown/Vineyard Haven Road, and on corner lots, they need the minimum frontage on both streets. The minimum setback is 20' which they don't meet because it is 5 or 6' back from the property line.
- David Wessling did a traffic analysis. The trip generation for this project would be one or two trips in the peak hour, which would not be expected to worsen delay times on the Edgartown/Vineyard Haven Road, or the Clover Hill Drive intersection, nor on the flow of traffic in general. The sight distances are adequate and the proposed building would not lessen the sight distances. Since the project will not provide the amount of parking spaces required by the zoning bylaw, Island Elderly Housing intends to request a waiver as part of its "40B" application. On the relocation of entry drive, Jennifer Rand commented, that it actually improves the alignment of what is currently, a zigzag through the property.
- There was a packet of letters in support of this project, from MV Coop, CBC, Senator Kennedy, Representative Delahunt, Executive Office of Elder Affairs, SEDEC, Dukes County Regional Housing Authority, The Tribe, The Board of Selectmen from West Tisbury, the Oak Bluffs Council on Aging, The Housing Assistance Corp., Elder Services of Cape Cod, MV Community Services, Vineyard Nursing, Island Clergy, First Congregational Church, NAACP, one citizen and one resident of the project. Those support letters invariably mentioned the tremendous job that Island Elderly does, and how good they are in what they do and how they continue to support each of their projects. Also received were two letters of concern, one from many abutters on Clover Hill Drive with concerns about the number of waivers being asked for, the size, scale, location of buildings and the movement of the driveway further up Clover Hill Drive. The second letter, which came in today, was from an individual abutter with very similar concerns.

Jane Greene disclosed that the Wampanoag Housing Authority support letter was sent to HUD, not to MVC. Jennifer Rand said that was correct. These letters are in support of the project addressed to HUD, but sent to the MVC.

Bill Wilcox reported that the runoff from roof water and parking was estimated at 9,500 square feet and would go to leaching pits. As far as the waste disposal, the nitrogen loading in the Lagoon Pond district, is considered at its' maximum limit. He estimated the loading of the project at 11.7 kg plus less than 1 kg for landscaping, which meets the guidelines, calculating it only for this part of the project.

John Best said that the property is not presently subdivided and that they are applying for a subdivision through a comprehensive permit. Is this correct? Jennifer Rand said that it is part of the application. Island Elderly pieces off each time for each project. John Best said that originally it was one contiguous piece, however, they did buy another piece from Dean Swift. So they did have one lot and added another lot that was at the MVC two years ago. This is a new subdivision that does not meet current zoning, but is being applied for under a comprehensive permit. He then asked Bill Wilcox about the concerns the MVC had with the Lagoon watershed in the past, and wanted to know how Island Elderly Housing stacks up in its entirety. I think it would be justifiable to do a calculation for all those units. Bill Wilcox said he would do that calculation.

### 1.3 Testimony from Public Officials

Ken Barwick, Tisbury Building Inspector, noted that they also are requiring a variance from the Island Road District for height vs. setback. Also, creating additional subdivided lots on Clover Hill Drive might be seen as overburdening the road.

### 1.4 Public Testimony with Concerns about the Proposal

Marie Laursen said she had not found a single public official in Tisbury who had seen these plans, that the plan in the folder of the ZBA is a very different plan. There is a very confusing problem here in that the applicant has given the MVC a plan that is dramatically different from the plans that are in the ZBA office. Everyone she spoke to had not received any information on this project; that is why there is no one here to comment. She suggested that when the MVC published the public hearing notice, it send a copy of the plan back to the Town referring board with a cover letter saying these are preliminary plans which we are reviewing, please notify your relevant officials. The public and town officials need to be involved to resolve this issue.

John Best said that this brings up a few disturbing things. As a 40B comprehensive permit, it only goes to the ZBA who can consult with other boards. This hearing cannot close tonight, and must be continued to allow comment from Town boards. The applicant should rapidly put this plan into the hands of Town officials to solicit their input. They need to be given adequate time to react, the previous plan has no resemblance to this plan. Tristan Israel said he didn't see this plan either.

Doug Sederholm asked what the elevation at the ridge was. Doug Hoehn said it was 19' 6" above grade.

Arthur Dickson, of Clover Hill Drive said he saw foreseeable problems.

- He said the water drains from Clover Hill Drive down the lower side of the lot. On the location of the existing road, there will be an abandoned road. The road will move up hill by the end of the units. It is a very difficult area because of the visibility on the sharp curve when you come onto Clover Hill Drive and start down. They already had an accident there a few years ago, and this will increase chances of another, especially with snow and ice on the road.
- It is too close to the edge of Clover Hill Drive, but they say they are exempt from our by-laws that say nothing can be built within 40'.
- They will pump up to the leaching field right next to abutters land.
- They will be cutting down 20 to 30 large oak trees and some white pine, and there will be leaching fields that have to be vented and will emit an odor.
- He read a letter from Clover Hill Drive Association, which supported the project in Hillside, but not the proposal to build a L-shape building on the corner, or to move the entrance further up the steep hill. He stated that they are good neighbors, but this was a poor plan. The original plan was to back it up into the hill with a retaining wall.

Fella Cecilio, of Clover Hill Drive, stated that he had a few problems with the project.

- The amount of traffic that goes in and out of Clover Hill Drive. As it stands now the VTA bus that comes off on the Edgartown/Vineyard Haven Road swings into Clover Hill Drive and into that development. If the bus or an elderly person swings around that takes up the whole road, drivers have to stop on the bike path to let a bus or an elderly person swing out. It is very dangerous especially in summertime. They are already maxed out as it is. This is over-development. Everyone has a car nowadays, so five units mean five cars, maybe 10 people.
- Moving the driveway just below the sharp curve is dangerous. There is plenty of land in Woodside Village. This is a neighborhood. It will be an eyesore and even though the corner is cut off, it is still dangerous. The setback of 6' is too small.

Marie Laursen, an abutter on Clover Hill Drive, noted that Island Elderly Housing is building 38 units this year and this hearing is about the smallest project, a five-unit building. She read a letter into the record.

- Clover Hill Drive is a private road. Access was given when Hillside Village I had 40 units. The association met and decided it was opposed to the project. It questioned the legality of unlimited addition to the private road access.
- She questioned the large number of variances, massive size, proximity to the street, traffic safety, runoff problems and taking away open space and destroying stands of trees. The setback should be 30' as a multi-family unit.
- According to HUD requirements, they must control access to a public way, but they do not since Clover Hill Drive is a private way. The granting of usage was limited to the original

5.44 acre lot, not for this new project. She read the lease, giving the right of way.

- Doug Sederholm asked whether Island Elderly is a member of the road association? Marie Laursen said yes, they have two shares and if this is approved, they would have third share.

Jim Pringle, who lives on Clover Hill Drive, stated it is a dangerous road with buses and trucks. He asked whether the Martha's Vineyard Commission is legally liable if it approves the project after having heard all the problems, and there is an accident.

Tristan Israel stated that the traffic issue should be clarified.

Fella Cecilio, felt that there should be an independent traffic study, and invited the Commissioners to come and see how many cars go in and out each day. There are 24 lots on the top of the hill and 40 units on bottom.

Tristan Israel asked what are the criteria for Island and Tisbury residents? Is there any consideration of payment, in lieu of taxes, since it requires a lot of services?

John Best had several questions and comments.

- Do residents pay utilities? The answer was yes.
- Do the plans meet the Energy Star requirements? Peter Zorzi said he was reviewing the plans with NStar and expects to conform and get rebates.
- He would like to see a plan that showed the surrounding buildings on the site: the rest of Hillside Village and the surrounding lots on Clover Hill Drive.
- He asked about recontouring. Doug Hoehn said there is almost no regrading.
- He had concerns about public facades, that he sees the new building on Lagoon Avenue as almost a bunker facing the road. In this case he said, there are a few small windows.
- He stated that Hillside Village is a good neighbor but the site is getting very dense.
- He also asked what is the demonstrated need? What is the affordability? What about the absence of sidewalks?

Doug Sederholm asked how far the entrance is being moved up the road? Doug Hoehn answered about 70 to 75'.

Rose Abramson, an abutter, said the building will be over a hundred feet long. A big facility with no aesthetic quality.

Alan Schweikert asked, do you have other property you could build on? Carol Lashnits said all of the land on Woodside is used or has projects being built or about to be proposed, for a total of 98 units.

Paul Strauss asked whether there would be more development on the site? Carol Lashnits said that this is the last project here.

Arthur Dickson said that he had called today and was told there was a two-acre site available.

Carol Lashnits said that this is a lot that can't be built on. There will be 38 units built and there are 120 people on the waiting list. Marie Laursen noted that much of the housing will be for elderly.

Hilda Illingworth, lives in Hillside Village I, A Building, and doesn't agree to a building right in front. She likes Hillside the way it is.

Linda DeWitt asked about the setback, saying as you turn onto Clover Hill Drive, what will the headlights of your car hit?

Jane Greene wondered if the Commission should require architectural betterments.

Carol Lashnits replied to the questions:

- Only 5 out of 123 units have two people. They are maxed out at Woodside. The original intention was to put the building onto the hill, that is why after here, it will go to the ZBA so that all boards can see the plan. When the MVC approved Hillside II, it insisted on a one-way access, which works well.
- Eligibility requirements are that a person has to be over 62, and must be in the 50% median level (most are in the 30 % median, which is a very low income).
- Hillside I was funded by Farmers Home that required taking disabled individuals. The newer HUD-funded projects are for elderly only. Island Elderly Housing used to make a payment in lieu of taxes and then the town started to assess taxes. They appealed and won. The assessors are taxing new projects but this is now under appeal. Island Elderly Housing represents 90% of the Tisbury's affordable housing.

Paul Strauss asked if HUD would pay for a retaining wall. Doug Hoehn explained that they originally looked at putting the project on top of the hill, but there was not enough room. Then they thought of setting it into the hill but it required a retaining wall 16' high. They thought it could be used as a wall of the building, but it wouldn't meet HUD requirements. Paul Strauss asked if there was another location that could accommodate the building.

Mark London asked them to address the question of why the project has to have five units, and not four.

Hearing Officer Christina Brown closed this session of the Public Hearing and continued it to April 17, 2003, at 7:45 p.m. A plan will be sent to the Town planning board for their review and comments, and she invited people to submit their questions to Jennifer Rand in advance.

## 2. CHURCH STREET LANDING, (DRI No. 567) PUBLIC HEARING

*Commissioners present for the Public Hearing were: J. Athearn, C. Brown, L. DeWitt, J. Greene, T. Israel, D. Moore, K. Newman, R. Schwartz, A. Schweikert, D. Sederholm, P. Strauss, R. Toole, A. Woodruff. (John Best had a conflict and recused himself. Linda Sibley left the meeting, due to being unwell).*

*Present for the Applicant's were: Russ Urban, owner and Judy Federowicz, tenant.*

Hearing Officer Christina Brown opened the Public Hearing at 9:15 p.m.

## 2.1 Applicant's Presentation

Judy Federowicz said that she is the owner of Landmarks Real Estate and will be the primary tenant.

Russ Urban is a resident of Vineyard Haven.

- Both he and Judy have been looking for a place for her office for years. The NStar building became available.
- Margaret Curtin is architect, and designed renovations to blend in with the area. Judy is on the Historic Commission.
- He showed photos and explained his aim to break up the mass of the building.
- They originally planned to have fewer offices, but an arrangement with a dentist group fell through. Now they are aiming for smaller offices. The plan allows for nine leases.
- At LUPC, they had proposed a parking plan that had 15 spaces, plus handicapped parking. All spaces were angled so cars would have to back out. The revised parking has one fewer space, but allows people to turn around. It is currently asphalt; they will put in a Title V Septic System and then a peastone surface.

Judy Federowicz stated that the building is concrete and they will maintain the stucco surface. The exterior lights will be on a timer so the parking lot can be used by the Vineyard Playhouse. The lights on the side entrance will be on motion detectors after 11:00 p.m. or midnight.

Jane Greene asked whether they could shut off the lights when there were no performances and whether the lights could be on motion detectors. Russ Urban stated that he wanted to let the neighbors use the area and ensure that it is safe. He agreed that the lighting could be on motion detectors and said that they are taking out the overhead pole and replacing it with residential scale lighting.

Tristan Israel asked if they have adequate parking. Judy Federowicz said there is no zoning requirement and the building will be a real service for people in the area. Not everyone will drive.

## 2.2 Staff Reports

Jennifer Rand gave the staff report.

- She noted a letter of support by fax received this evening from the Vineyard Playhouse saying they were pleased with the renovation and found it a benefit to have parking available.
- The only thing that has not been discussed is the affordable housing donation. She stated that the applicant is already committed to contributing \$500 a year for the years 2002 to 2006 through the Business Initiative for Housing Solutions. The suggested contribution according to MVC's policy would be \$2,100.

Bill Wilcox stated that he did not have any problem with this plan and that it was better than what was on site, from, a water resources point of view.

### 2.3 Public Testimony in Support of Project

Paul Henderson, on William Street, stated that this would house a professional, year-round business and be a real asset for the town. It is architecturally successful and the added parking will be an asset.

Judy Federowicz submitted letters of support from *Rainy Day*, *The Vineyard Playhouse*, *Paul Henderson* and *The Bunch of Grapes*.

Hearing Officer Christina Brown closed the Public Hearing at 9:39 p.m.

*Jim Athearn assumed the Chair.*

*Tristan Israel moved and it was duly seconded that the Commission approve the project with conditions and accepting the offers made by the applicant.*

*Jane Greene moved and it was duly seconded that the following condition be imposed -- after 8 p.m., the exterior lights would go on with motion detectors -- and that the offer be accepted that the applicant continue to make a \$500 annual donation through the Business Initiative for Housing Solutions for the next five years in lieu of the affordable housing contribution.*

Jim Athearn asked whether motion detectors were used downtown. Jane Greene noted that motion detectors would be good for safety since police can see if there is activity in an area.

*Roll call vote on the amendment and on the main motion. In favor: J. Athearn, C. Brown, L. DeWitt, J. Greene, T. Israel, D. Moore, K. Newman, R. Schwartz, A. Schweikert, D. Sederholm, P. Strauss, R. Toole, A. Woodruff. Opposed: none. Abstentions: none. The motion carried.*

Judy Federowicz complimented Jennifer Rand for making her job easier.

Jim Athearn declared a recess to the Meeting at 9:55 p.m. and resumed the Meeting at 10:00 p.m.

### 3. APPROVAL OF MINUTES OF PREVIOUS MEETINGS

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The Commissioners took minutes home to review.

### 4. CAPE POGE DCPC – VOTE ON CONFORMANCE

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*Commissioners present: J. Athearn, C. Brown, L. DeWitt, J. Greene, T. Israel, K. Newman,*

A. Schweikert, D. Sederholm, P. Strauss, R. Toole, A. Woodruff.

Jane Greene moved and it was duly seconded a motion to accept as conforming to its Guidelines for the Cape Poge District of Critical Planning Concern the proposed Amendments to the Town's Regulations for the District; that the MVC suggests that the Town seek the opinion of Town Counsel about the relationship between the proposed amendment to the Town regulations and MGL Chapter 40A, the Zoning Act; and that the MVC notes that a clause allowing for exemptions to those criteria, where the impact of the proposed development would be minimal, would also be in conformance with those guidelines.

Christina Brown proposed an amendment to the motion to include that the MVC suggests that the Town pursue exploring methods that will be most effective in controlling the impact of structures on public interests; the MVC would welcome working with town boards to review regulations in all current Districts of Critical Planning Concern and review alternatives, toward this end.

With Jane Greene's approval, Jim Athearn accepted the amendment to the motion.

Mr. Athearn called for a roll call vote on the amended motion.

Roll call vote. In favor: J. Athearn, C. Brown, L. DeWitt, J. Greene, T. Israel, K. Newman, A. Schweikert, D. Sederholm, P. Strauss, R. Toole, A. Woodruff. Opposed: 0. Abstentions: 0. The motion carried.

## 5. ISLANDER BUILDING, (DRI No. 444-2) – DELIBERATIONS AND DECISION

Commissioners present: C. Brown, J. Greene, T. Israel, D. Moore, K. Newman, R. Schwartz, A. Schweikert, D. Sederholm, P. Strauss, R. Toole, J. Athearn, A. Woodruff.

Jane Greene assumed the Chair as Jim Athearn had recused himself.

Christina Brown reported that LUPC recommended approval with the offer and conditions as described on a sheet distributed to Commissioners. Tristan Israel asked about drainage. Jane Greene said that the problem seemed to be mostly from Pine complex. Bill Wilcox confirmed that water came from the Pine complex, State Road, High Point Lane, and only a very little from the Cronigs lot and into the drain that Cronigs installed near the entrance. Jane Greene suggested the condition that storm drains be maintained.

Alan Schweikert moved and it was duly seconded to approve the Islander Building (DRI No. 444-2) with the offers and conditions as described on the sheet given to Commissioners.

- Tristan Israel was not sure this would work, and was concerned about abutters. He was concerned about the impact on traffic, especially the car entrance on Colonial Drive. The stop sign will deal with the problem of people speeding out of the lot, but doesn't deal with the traffic.
- Christina Brown said that the opening would be narrowed down to 26', with planters and a

speed bump would be installed.

- Mark London reminded everyone of David Wessling's testimony that it was better from a traffic point of view to split the traffic between two entrances and exits and not close Colonial Drive.
- Tristan Israel asked about the possible uses since the proposal was very broad. Mark London reminded that him a second list of uses had been submitted.
- Jennifer Rand said that the affordable housing contribution will be three payments of \$3,000, with a trigger for the first payment.

*Roll call vote. In favor: C. Brown, J. Greene, D. Moore, K. Newman, A. Schweikert, D. Sederholm, R. Toole. Opposed: T. Israel, Abstentions: 0.*

*J. Athearn, L. DeWitt and A. Woodruff recused themselves from voting. [This vote was invalid because there was not a quorum present.]*

#### 6. SITE VISIT

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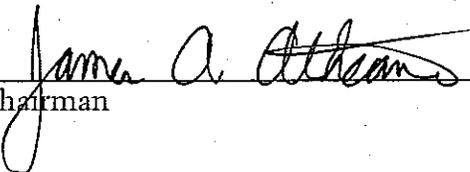
It was noted that the Island Cove Mini-Golf had erected a pole to show the height of the climbing wall.

#### 7. OTHER BUSINESS

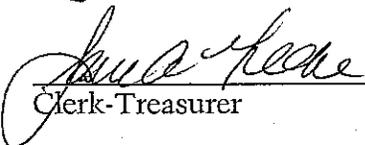
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- Jim Athearn said that the Commission should start reviewing *Looking at the Vineyard* beginning with the short term actions. Commissioners should prepare to discuss it next Thursday and possibly the following Monday.
- Jim Athearn thanked Jane Greene for representing the Commission at the All-Island Selectmen's Meeting.
- Paul Strauss noted that the Oak Bluffs Selectmen will hold a Forum on April 29, 2003, about Oak Bluffs' withdrawal from the Martha's Vineyard Commission.

The Meeting adjourned at 10:50 p.m.

  
Chairman

Date July 10, 2003

  
Clerk-Treasurer

Date 7/24/03