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## **Minutes of the Commission Meeting Held on March 26 , 2015 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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Commissioners: (P= Present; A= Appointed; E= Elected)

P Tripp Barnes (E-Tisbury)	P James Joyce (A-Edgartown)
P John Breckenridge (A-Oak Bluffs)	P Joan Malkin (A-Chilmark)
P Christina Brown (E-Edgartown)	- W. Karl McLaurin (A-Governor)
P Harold Chapdelaine (A-Tisbury)	P Katherine Newman (A-Aquinnah)
P Robert Doyle (E-Chilmark)	P Doug Sederholm (E-Chilmark)
P Josh Goldstein (E-Tisbury)	P Abe Seiman (E-Oak Bluffs)
P Fred Hancock (E-Oak Bluffs)	P Linda Sibley (E-West Tisbury)
- Leonard Jason (A- County)	- Ernie Thomas (A-West Tisbury)
	P James Vercruysse (E-Aquinnah)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Priscilla Leclerc (Transportation Planner), Sheri Caseau (Water Resource Planner).

**Chairman Fred Hancock** called the meeting to order at 7:00 p.m.

### **1. EXECUTIVE DIRECTOR SEARCH COMMITTEE REPORT**

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Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, A. Seiman, L. Sibley, J. Vercruysse.

**Doug Sederholm**, Chairman Executive Director Search Committee presented the following.

- The committee met this evening (March 26, 2015) to vote on the finalists to recommend to the full Commission for interviews.
- The committee voted unanimously to recommend four candidates for interview by the entire Commission. Their names and resumes will be posted on the MVC web site by tomorrow (March 27, 2015).
- The four candidates, in alphabetical order, are:
  - Deborah Melino-Wender who is the Director of Planning for the Town of Dartmouth, MA.
  - Peter Temple who is a resident of Aquinnah and is the Executive Director of the Martha's Vineyard Donor Collaborative and Chairman of the Aquinnah Planning Board.
  - Adam Turner who is the Planning Director for the Town of Colchester, CT.

- Bradford Washburn who is the Assistant Director of the Executive Office of Energy for the Commonwealth of Massachusetts.
- Interviews will be conducted on April 8, 2015 and April 9, 2015.
- The Executive Director Search Committee will meet one more time on Tuesday March 31, 2015 at 5:45 p.m. to finish formulating the questions to be asked of these candidates by the full Commission.

**Fred Hancock** noted that the meeting on April 8, 2015 will be held at 5:00 p.m. and three interviews will be conducted. The meeting on April 9, 2015 will be at 6:00 p.m. for the fourth interview and the Commission will make its decision.

## **2. MULLEN WAY SUBDIVISION C.R. 1- 2015 CONCURRENCE REVIEW**

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*Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, A. Seiman, L. Sibley, J. Vercruyse.*

*For the Applicant: Michael Kidder, Doug Hoehn (Surveyor), Skip Tomassian (Attorney), Michele Casavant (Attorney/Project Manager).*

**Doug Sederholm** recused himself as he has done some work for Michael Kidder on this property although it had a different view in mind. Doug Sederholm also noted that he is recusing himself from the Cottage City Bowling Alley as his business partner has represented the applicant in the liquor license for the project with the Town of Oak Bluffs.

**Christina Brown** disclosed to the Commission that until eight years ago she had worked for the Edgartown Planning Board. She did not make any decisions for them she executed the duties that were asked of her by the Planning Board.

**John Breckenridge** noted that the applicant's counsel had requested that he be recused from the project based on his knowledge of Christina Brown working for the Edgartown Planning Board. The MVC's counsel does not feel that this rises to the level of a conflict of interest. John Breckenridge feels he has full objectivity and has filed notice with the Town Clerk, Town of Oak Bluffs. He has also put in writing to the Edgartown Planning Board that he can be impartial.

**Linda Sibley** noted that she also received a request to recuse herself based on her knowledge of a letter that was written by Christina Brown regarding this property when Christina Brown was employed by the Edgartown Planning Board. Linda Sibley said she was unaware that Christina Brown was the staff person who wrote the letter. She feels she can judge impartially on this project.

**Christina Brown** said since it has been mentioned that she had written a letter regarding the property when she worked for the Edgartown Planning Board she wanted to clarify that issue. There was a letter that the Chairman of the Planning Board wrote to the MVC on a project on this land but she did not write the letter, she sent it on the Chairman's request.

**Harold Chapdelaine** recused himself since he is currently employed by a family member of this project.

**Fred Hancock**, Chairman noted that this is a Concurrence Review to determine if the project requires a public hearing. It is the MVC's duty to decide if the Commission concurs with the referral and if the MVC does concur then a public hearing would be required.

## **2.1 Staff Report**

**Paul Foley** presented the following.

- The packet of information contains the MVC Staff Report, LUPC meeting notes, a letter from NHESP, the site plans, correspondence received by the MVC and an applicant package that has been submitted tonight March 26, 2015.
- The applicant is Michael Kidder (MRK Mullen Realty LLC), Doug Hoehn (Surveyor/Agent), Skip Tomassian (Attorney), Michele Casavant (Attorney/Project Manager) and Ina Andre (MR Kidder Assistant). The project location is portions of 19 and 23 Mullen Way, Edgartown Map 29-A Lot 97 (7.2 acres) and Map 29-A Lot 57 (1.1 acres).
- The proposal is the subdivision of one 7.2 acres lot into 9 lots and was referred by the Edgartown Planning Board.
- Two other lots were recently subdivided and sold from the same contiguous related ownership.
- The zoning is R-20 residential.
- The surrounding land uses are residential, a cemetery, woods and conserved open space.
- On June 24, 2005, Map 29-A Lot 57 (1.1 acres) was purchased by MRK Mullen Realty LLC. The only public access to this back lot was an 18 foot wide pipestem strip from Mullen Way. The total area of the property owned by MRK Mullen Realty LLC was 8.3 acres.
- In 2006 a nine lot subdivision for the contiguous 8.3 acres property called "Tall Trees" was referred to the MVC by the Edgartown Planning Board as a Discretionary Referral. The DRI was withdrawn without making it to the LUPC when Mullen Way was nominated to be a DCPC (which was rejected by the Commission).
- In August 2014 the entire property was re-subdivided into three lots consisting of two ½ acre lots on Mullen Way (A and B) and a remaining 7.2 acre lots (C) in the back. The reconfiguration also relocated the pipestem access to the rear parcel (Lot C), enlarging it to a 30 foot wide access and a 50 foot plus frontage making the rear property subdividable. (Without this new access, there could be one house and guest house.) Lots A and B were sold in December 2015.
- In January 2015 the Edgartown Planning Board approved a slightly different plan to create ten additional lots, beyond the two previously subdivided and sold, including one open space parcel. This approval was rescinded after letters from the MVC and Edgartown Town Counsel advised them that the plan had to be referred to the MVC for DRI review based on the DRI Checklist. The applicant subsequently withdrew the ten lot plan and resubmitted a nine lot plan which incorporated the open space into two of the building lots.
- On February 11, 2015 the Edgartown Planning Board referred the current plan to the MVC for DRI Review under Sections 2.5 (Division of Habitat) and 8.4 (Significant Habitat) both of which are Concurrence Reviews. The Edgartown Planning Board noted in their referral that both triggers that they sent the project under are "with MVC Concurrence"

and that “the Planning Board hopes the MVC is able to complete this request prior to March 10, 2015 when a public hearing has been scheduled for this project”.

- MVC staff reviewed the application to see whether it triggered other items in the DRI Checklist, in addition to Sections 2.5 and 8.4. The project history raises the possibility that this could be considered part of an eleven lot subdivision which would be a mandatory DRI under Section 2.2. The factors that suggest that it is part of an eleven lot subdivision include:
  - The entire 8.3 acre property was in contiguous related ownership when laid out.
  - The layout and August 2014 re-subdivision of the front lot was done to provide improved access to the rear lot which otherwise would have only been allowed to have one house and a guest house.
  - The creation of the two front lots in the August 2014 re-subdivision included land which had originally been in both the front and rear lots, to make the two front lots buildable. Natural Heritage Endangered Species Program (NHESP) application and approval is for the entire 8.3 acres.
- LUPC met on March 2, 2015 and voted 5 to 2 to recommend that the MVC concur with the referral and review the proposal as a DRI.
- Key issues include:
  - DRI Review: Does this project have potential regional impacts requiring a DRI public hearing? Does the project trigger Mandatory DRI Review?
  - Habitat: Although the proposal has been approved by NHESP for conformance to state standards, does it meet local standards for habitat protection?
  - Traffic and Adequacy of Roads: Does the single lane Mullen Way provide adequate access to the existing and proposed number of dwellings? Are there any other traffic impacts?
  - Affordable Housing: Does the proposal adequately mitigate the project’s impact on the supply of affordable housing?
  - Character: Would the increased traffic and possible physical changes to Mullen Way to accommodate it change the character of the neighborhood.
- The property is almost completely wooded and is designated as NHESP habitat.
- The subdivision plan does not identify development areas or include any restrictions or guidelines for landscaping.
- The applicant plans to develop the houses.
- No information about lighting has been submitted but it is thought that the applicant will be proposing downward shielded lighting.
- The project would be on town water.
- The site is in the Katama Bay Watershed which has a nitrogen loading budget of 16.5 kg/acre/year. The applicant proposes to install enhanced denitrification on all lots in order to be able to accommodate five bedrooms in each house. Without denitrification the applicant would have been limited to half of the houses with three bedrooms and half with four bedrooms. The proposal requires a variance from the Board of Health Regulations which might be able to be approved based on the proposed denitrification. The acceptable bedroom count based on applicable regulations has not been finalized.
- The site is accessed from a new relocated and enlarged easement off of Mullen Way. Mullen Way is an old, narrow road with an official Right of Way of 17 feet which is

significantly less than contemporary roadway standards. The actual existing road narrows at points to as little as 12 to 14 feet wide.

- The applicant has offered that trucks and cars on Mullen Way could continue onto the private subdivision road to turn around on the cul-de-sac.
- A traffic study submitted by the applicant for the similar 2006 subdivision suggested that Mullen Way would require some type of infrastructure improvements to accommodate the new development. The study discussed a “conventional approach” (bringing the road to modern standards) or a “context sensitive treatment” of Mullen Way. The other transportation issues would be addressed at a larger stage if the Commission determines that the proposal is a DRI.
- The proposal includes a cul-de-sac turnaround that has been sized to accommodate emergency vehicles.
- The applicant would pay for the cost of extending town water supply and has offered to install a water main for the surrounding neighbors to improve fire safety on Mullen Way.
- The proposed project would generate additional property tax revenue for Edgartown when the lots are developed.
- Several residents of Mullen Way have expressed concerns about the impact of the project, especially traffic on the existing street and character.
- A number of letters have been received by the MVC and they were summarized. Some are in favor of the project and some are opposed to the project.

**Joan Malkin** asked if an ANR (Approval Not Required) was filed and if the other two lots were on an earlier ANR. **Paul Foley** said it was in August 2014 and showed the ANR plan. The other two lots previously existed (1.1 acres in the front and 7.2 acres in the back). There was a house on Lot A. The ANR in August 2014 was a division into a three lot subdivision.

**John Breckenridge** asked when the house on Lot A was taken down. **Paul Foley** said within the last two years.

## **2.2 Applicant’s Presentation**

**Michael Kidder** presented the following.

- He is a full time resident of Edgartown for twenty years and owns the property on Mullen Way. He is not a real estate developer.
- Over a decade ago Margie Wheeler was approached by two contractors for a high density 40B development on this property. The neighbors were upset and a team of Edgartown professionals found a way to preserve the area and stopped the development and filed a Tall Tree application.
- This team secured preliminary approval from the Edgartown Planning Board in 2005 but was unable to secure the financing.
- He (Michael Kidder) became involved and helped to prevent the 40B but he was simply the bank.
- The Tall Tree team had dispersed and he realized he had bought into someone else’s plan but needed to develop his own plan.
- What is before the MVC is his vision for the property. He has worked with the Fire Department, Police Department and the Board of Health to provide improved fire protection, better water quality and septic.

- His proposal includes opening up the Landbank walking trail.
- He has worked closely with NHESP and the Mass Division of Fisheries and Wildlife. The project is in compliance with all rules and regulations and he has received sign off on the permit.
- The Edgartown Planning Board has had two long hearings on the project.
- Earlier this month he met with LUPC and presented the new plan but the referral was based on the old 2006 application.
- The new application is thoughtful, responsible and appropriate.
- The project is not a regulatory issue it only affects the Town of Edgartown.
- He thanked the Commission for their consideration and time and would like the MVC to decline the referral.

**Fred Hancock** noted that he was at the LUPC meeting and LUPC did not make their decision based on the 2006 application. LUPC reviewed the project based on the new proposal and the actions of LUPC were based on that review.

**Skip Tomassian** presented the following.

- The property at the end of Mullen Way has always been two separate lots. Peggy Street owned one lot as recorded property. The other lot that was divided into two lots was owned by the Walker's and was registered property.
- Both lots were bought in 2005 and there was a letter from the Edgartown Planning Board approving in 2005. The Planning Board liked what was proposed to be done.
- The current plan did not involve an ANR.
- The house on Mullen Way was in dilapidated condition and the applicant received a tear down permit from the Building Inspector, Leonard Jason.
- Michael Kidder forever believes the goodness in people. He did someone a good deed with this property and was not rewarded for it.
- The two lots total about 8.3 acres.
- The property was nominated as a DCPC by the local residents and the MVC rejected it.
- The current plan is not the same plan as the 2006 plan and is slightly different than the 2014 plan. The large protected lot (for NHESP) was divided down the middle.
- The applicant did not realize that the Commission's definition of a lot is not the same as the statutory definition of a lot "an area of land in one ownership with definite boundaries used or available for use for one or more buildings". That definition was used to make sure the applicant had nine lots. The MVC definition is considerably different.
- A parcel is defined as a piece of real estate on which a structure can be erected but the MVC defines a parcel as a piece of real estate that may or may not be a buildable lot, so the applicant submitted a new plan. The protected lot was divided in half and each half was added to each of the adjacent lots. This was done to make sure the applicant had nine buildable lots.
- The ANR lots should not be considered because that happened before the plan was filed.
- With regards to the DRI and the DRI Checklist he believes Mark London spoke about this and said intent should be looked at but that is a problem as applicants rely on the checklist.

- The project has changed for the better. There are no guest houses, no tennis courts and all will have enhanced septic systems. Michael Kidder will retain control on how the houses are built and the look of them on the lots.
- Michael Kidder is adding an eight inch water main and the Water Department said that will provide better drinking water for the entire neighborhood. From the Fire Chief's perspective it is a great improvement to the neighborhood as it will provide better water pressure and the neighborhood will be able to have a fire hydrant. All of these are great assets.
- There is an unused dormant trail easement for the Landbank and Michael Kidder has agreed to have it to go through his lot to get to the Edgartown recreational area.
- All of the things written by the opponents talk about Island roads and safety as children are on the roadway. Mullen Way is a public way and not a private way. The road is narrower than 17 feet in some places and that is partly due to hedges and plantings, but nevertheless it is a public way.
- The houses are being built in the back of Mullen Way.
- A letter has been received from Tom Teller. He has lived in the neighborhood for 59 years which is more than several of the land owners combined. He was in favor of the proposal in 2006 and is still in favor and feels the new plan is a better plan.
- It is interesting about the letters received that are pro and con about the proposal. None of them agree it being a Development of Regional Impact. The letters talk about what is going on in "our neighborhood". Those are the main issues. To say otherwise is wrong.
- Edgartown has a Planning Board that is comprised of officials that are elected by the town's people and the members of the Planning Board are very familiar with the area.
- It use to be if you had a problem you went to the town boards but now we have Mandatory Referrals that send projects to the MVC but does that make it a regional impact.
- The applicant is here due to the issue of the moths and the applicant is working with NHESP to come up with a plan. The applicant has heard that the MVC has more stringent standards than NHESP and he didn't think that NHESP would like to hear that. Are there really any moths present?
- Having checklists can be a good thing but they need to be condensed. The towns may want projects to come to the MVC so the Commission can hold the applicants feet to the fire but this project is an issue of local impact not regional impact.
- We ask the MVC to not concur this proposal as a Development of Regional Impact and to please send the proposal back to the town.

**Doug Hoehn** presented the following.

- Much of the information that Michael Kidder and Skip Tomassian has given is information the MVC would probably hear in a public hearing.
- I want to go back to what was reviewed at LUPC. The two things that triggered the referral deal with the division or development of two or more acres of significant habitat.
- Over two years ago I started working with NHESP on this plan. It has changed numerous times and the proposal is the end result.
- Part of the no disturb buffer spills into the land that Michael Kidder no longer owns, because he sold the lots before this referral.

- In our opinion the issue in front of the MVC is strictly whether or not the applicant has dealt adequately with the habitat and it has been with NHESP.
- At this point in the process the applicant has adequately addressed the issues with NHESP and therefore feels the proposal does not rise to the level of a Development of Regional Impact.

**Josh Goldstein** asked Trip Barnes who Tom Teller is. **Trip Barnes** said he was Clerk of Courts and his letter sums up everything and he read Tom Teller's letter. The Commissioner's sat through the review of this proposal at LUPC and he does not think it rises to the level requiring a public hearing.

### **2.3 Land Use Planning Committee (LUPC) Report**

**Linda Sibley**, LUPC Chairman presented the following.

- LUPC wandered into some legal weeds when reviewing the proposal but got out of them and focused on the question that is before the MVC tonight.
- The concurrence referral and the question is if there are regional impacts that cannot be handled locally which is the moth habitat.
- Skip Tomassian asked the MVC tonight if there are still any moths there at all.
- LUPC learned how NHESP does their job. NHESP identifies the habitat by looking at Google maps and they make their decisions based strictly on acreage.
- The key point is whether the MVC review of this same topic could be more context sensitive. The MVC looks at design and NHESP does not.
- LUPC did discuss other regional impacts; traffic, water quality and community character.
- Other interested parties also felt there could be regional impacts and the MVC could handle them.

### **2.4 Commissioner's Discussion**

**James Joyce** said after listening to everything in his opinion if this was really determined to be a regional impact then almost every subdivision on the Island would be a regional impact. To him this proposal does not rise to the level of regional impact.

There was a discussion about the number of lots.

- **Katherine Newman** said she is a little confused about the 9 lots versus the 11 lots.
- **Linda Sibley** said that LUPC decided not to go there. The proposal was referred but not for a lot count.
- **Robert Doyle** said he is confused why the proposal doesn't get triggered as a DRI by having 11 lots.
- **Fred Hancock** said at one point it was talked about the idea if the applicant carved off 2 lot parcels with the intent of avoiding coming to the Commission that would be a concern.
- **James Joyce** said the applicant has made it abundantly clear the property has always been 2 lots from the beginning.
- **Paul Foley** said the property went from 2 lots to 3 lots and showed the site plan.
- **Fred Hancock** noted that the applicant took other land from the other lots to make the other lots buildable lots.

**Joan Malkin** said she thinks the division/subdivision is messy. The MVC could postpone that issue by dealing with the concurrence. She is sympathetic with the MVC and the applicant's position with regards to regional impact. NHESP is almost as regional as it gets. Bio diversity is important on the Island so potentially the project has regional impact. If something comes before the MVC as a concurrence does the MVC look at the other issue(s). When a project comes in on a concurrence you look at the issue it brought to the MVC but are you free to look at other issues. Safety is an issue she is concerned about.

There was a discussion about habitat protection.

- **James Joyce** said he understands about the moths but that is addressed and the people most concerned about it are happy with the plan.
- **Joan Malkin** said the way NHESP protects habitat is not how the MVC may look at it. The Commission needs to look at how the MVC is protecting the abutting conservation land. NHESP may or may not have provided the greatest protection and it is something worth looking at.

**Katherine Newman** said the MVC has a DRI Checklist and it was created after a lot of deliberation. This is almost like the "Emperor's New Clothes" and it is a dilemma for her.

**John Breckenridge** said the applicant has utilized the space on the front two lots as part of their NHESP calculation. Almost by the applicant's own admission we are not talking about 9 lots, they are using the other 2 lots to make the project happen.

**Josh Goldstein** asked for a quick clarification about the denitrification systems. **Doug Hoehn** said the watershed is Katama Bay which has a high nitrogen load. The Edgartown Board of Health is more stringent than the MVC which is unusual so enhanced systems have to be added. Edgartown considers it a variance to increase the number of bedrooms by using an enhanced system. Based on MVC regulations for enhanced systems you can have 1.1 kg nitrogen per bedroom.

**James Vercruysse** said even though he thinks there is regional impact with this project it appears the applicant worked really hard to craft this proposal under the MVC regulations and thresholds. Since the applicant is using the MVC thresholds the Commission has to stick by them. He is wondering what the Commissioners think the MVC can do over the town boards. Everyone is affected even if there is a rental community.

**Joan Malkin** asked James Vercruysse to clarify what he thought was a regional impact with this project. **James Vercruysse** said the applicant will be putting nitrogen into the Island ponds but technically the MVC is not supposed to look at this for this concurrence. The applicant used the MVC regulations to their advantage.

**Trip Barnes** said there is a right and a wrong for this project. The applicant brought the whole Edgartown Planning Board with them to this Concurrence Review. The MVC should fill the holes that the town boards can't and he respects that and it should not be overlooked.

**Joan Malkin** asked if there are things that are relevant to this development that only the MVC can address and she would appreciate someone's views on that.

**Fred Mascolo**, Chairman of the Edgartown Planning Board said the board takes safety very seriously and when the project was brought before the board. The applicant offered to have the

trail connected through their property to get to the Boys and Girls Club and that will keep the kids off the road. The Water Department said the water pipe on Mullen Way has corroded down to two inches and the pipe dead ends but the applicant will be bringing safer water into the neighborhood so there will be better quality and less rust as well as fire safety prevention. The Planning Board voted unanimously not to send the project to the MVC but counsel said the board had to send it. The MVC counsel said it was a 50/50 issue.

***Linda Sibley moved and it was duly seconded that the MVC concur with the referral of the Edgartown Planning Board that the proposal rises to the level requiring a public hearing because the proposal may have substantial enough regional impact and raises other issues with regional impacts such as traffic, water quality and safety.***

- **Doug Hoehn** said the applicant has given everything to the MVC as requested. He clarified that he did not mean to portray NHESP as making their decision only with Google maps at the LUPC meeting. Moth habitats come down to vegetation. NHESP does regulate and thoroughly review. The MVC DRI Checklist has changed several times over the years and concerning incremental subdivision the proposal does not trigger incremental subdivisions issues. With regard to the Edgartown Planning Board subdivision regulations they primarily deal with traffic and safety at the planning board level. All of the discussions that might be regional impacts are good discussion issues but the applicant is here due to habitat.
- **James Joyce** said that James Vercruysse wondered if the proposal came to the MVC how much would the Commission actually change. It has been proven that the Town of Edgartown has stricter regulations so the applicant still has a lot of hurdles to overcome. He is not sure what effect the MVC would have if the project came to the Commission as a DRI.
- **Christina Brown** said she is concerned about the habitat and is wondering why the applicant didn't put protected habitat next to already existing habitat. It surprises her that NHESP didn't do that with the applicant.
- **Joan Malkin** noted that the proposal being presented has to stay as is and if the MVC does not concur it is on the premise as presented.

***Roll call vote . In favor: J. Breckenridge, R. Doyle, F. Hancock, A. Seiman. Opposed: T. Barnes, C. Brown, J. Goldstein, J. Joyce, J. Malkin, L. Sibley, J. Vercruysse. Abstentions: K. Newman. The motion did not pass.***

***Christina Brown moved and it was duly seconded that the MVC does not concur with the Edgartown Planning Board referral.***

- **Fred Hancock**, Chairman noted this is an informal vote and has no force of law. A yes vote is to send the project back to the Town of Edgartown.

***Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, J. Joyce, J. Malkin, L. Sibley, J. Vercruysse. Opposed: F. Hancock, A. Seiman. Abstentions; K. Newman. The motion passed.***

**Fred Hancock**, Chairman recessed the meeting at 8:40 p.m. and reconvened at 8:45 p.m.

**Harold Chapdelaine** rejoined the meeting.

### **3. OAK BLUFFS BOWLING DE-NITRIFICATION/CONNECTION TO SEWER DRI 645-M MODIFICATION REVIEW**

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*Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse.*

*For the Applicant: Sam Dunn*

#### **3.1 Staff Report**

**Paul Foley** presented the following:

- The packet of information contains the MVC Staff Report, the modification request, correspondence, conditions and an email regarding the wastewater approval from the Oak Bluffs Wastewater Department. Gail Barmakian asked that the MVC put off a decision for modification until the Wastewater Commission has reviewed the agenda items at their meeting on March 26, 2015 which includes clarification of the bowling alley approval. Diane Street submitted a letter to the MVC with her concerns.
- The proposal is to modify the DRI 645 Conditions to allow the bowling alley to connect to the town sewer rather than install a septic system with enhanced de-nitrification. The proposal is to modify 3.1, 3.2 and 3.3 of the Conditions for DRI 645.
- The Oak Bluffs Wastewater Commission voted 2-1 to allow the applicant to connect to the sewer on March 19, 2015 and there was a follow up discussion on March 26, 2015.
- Key issues; more nitrogen would be removed with connection to the sewer but some have expressed concern that the new leaching beds are in the Lagoon Pond watershed.
- LUPC voted to recommend to the full Commission that the proposal to connect the bowling alley DRI 645-M to the town sewer does not require a public hearing as a DRI and voted to recommend to the full Commission approving the minor modification with the added condition (to the original DRI Decision) 3.7 which will state "The Applicant shall either implement Conditions 3.1-3.3 above or connect to the Oak Bluffs sewer system before a Certificate of Occupancy is issued". The motion passed unanimously.

#### **3.2 Oak Bluffs Wastewater Commission Meeting Report**

**Sheri Caseau** presented the following.

- It appears that the Leonardo beds will go on line and will go into Lagoon Pond.
- The Lagoon Pond watershed needs a 44% reduction in nitrogen and the Oak Bluffs Harbor is in good condition. Sunset Lake still has some nitrogen problems and it is at its limits.
- It was confirmed at the meeting that the bowling alley will be connected to the sewer as soon as possible.
- When the Leonardo beds go online two new wells will need to be put in and regularly tested at a cost of \$20,000.00 per year. Sam Dunn offered funds to the Wastewater Commission for the testing.

#### **3.3 Commissioner's Discussion**

**Katherine Newman** asked if the bowling alley is going to connect to the sewer as soon as possible but the Leonardo beds are not done so will the bowling alley be connected to Ocean Park. **Sheri Caseau** confirmed and said Ocean Park has the capacity.

**Katherine Newman** asked when the nitrogen load is reduced by 65% what happens to the 35 % nitrogen that is still left. **Sheri Caseau** said the 35% goes into the groundwater and ultimately to the watershed that the property is located in.

**Joan Malkin** said she thought that a sewer system removed nitrogen and perhaps this was a misconception.

**Fred Hancock** said a sewer system removes 95% of the nitrogen. The MVC concern with the bowling alley proposal was about treating the nitrogen on the property. If the MVC intent is to reduce nitrogen as much as possible then the Commission should be in favor of the sewer.

**Joan Malkin** said after reading the letters that were received by the MVC it would seem that people should be pleased with the connection to the sewer so perhaps they are misinformed as she was about reducing the nitrogen.

**Fred Hancock** said that many people are concerned about the capacity of the sewer system.

**Sheri Caseau** noted that the system that was going into the bowling alley was with a provisional permit which is almost like a pilot system and eventually would need to be hooked up to the sewer.

**Abe Seiman** asked what watershed the remaining nitrogen will go to for the bowling alley.

**Fred Hancock** said some of the leaching fields are in Ocean Park but the town is trying to have additional fields in the Leonardo property. It cannot be determined if the remaining nitrogen would go to Lagoon Pond or Ocean Park.

**Trip Barnes** asked Sam Dunn if the bowling alley has been approved to hook up to the Oak Bluffs sewer system. **Sam Dunn** said the bowling alley has been approved.

**Linda Sibley moved and it was duly seconded that the modification for the Oak Bluffs Bowling Alley to connect to the Oak Bluffs sewer does not rise to the level requiring a public hearing. Voice vote. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.**

**Linda Sibley moved and it was duly seconded to approve the minor modification with the added condition 3.7 (to the DRI 645 Decision) that the applicant shall either implement Conditions 3.1 – 3.3 of DRI 645 or connect to the Oak Bluffs sewer system before a Certificate of Occupancy is issued. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse. The motion passed.**

#### **4. DESIGNATION OF OLD COACH ROAD AS A SPECIAL WAY IN WEST TISBURY – WRITTEN DECISION**

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Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse.

**Linda Sibley moved and it was duly seconded to approve the designation of Old Coach Road as a Special Way in the Island Road District of Critical Planning Concern - Special Ways Zone in West Tisbury. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.**

**Josh Goldstein** excused himself from the meeting.

## **5. MINUTES**

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*Commissioners Present:* T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse.

**Linda Sibley moved and it was duly seconded to approve the minutes of March 19, 2015 with the corrections a noted by Christina Brown for line 570 revising the language to "... is scheduled to be made" and on line 579 to add the last name for the recruiter and also state that the MVC was delighted with the recruiter and the services that were provided by the Collins Center at UMASS Boston. Voice vote. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.**

## **6. WEBSITE DEMONSTRATION**

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*Commissioners Present:* T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse.

**Mark London** presented the following.

- The new Home page was reviewed.
- MVC staff has the ability to update the web page as needed.
- There is a news section on the Home webpage that will be updated regularly.
- The calendar is set up a bit differently and the use of the calendar page was reviewed. If you click the topic/meeting the site takes the user to a page about that meeting or topic and from there the user can access the documents.
- Each new DRI, DCPC and meeting will have its own page with basic information and links to all related documents.
- There are search tools to find documents.
- The Coastal Ponds section has been significantly expanded and there is a new Climate Change section.
- The Resource Center was reviewed. A list of studies by topic has been added and a list by town will also be added.
- The Planning section has been expanded.
- The Search function is not yet super smooth but you can search on a current DRI and how to use the search function was reviewed.
- A Martha's Vineyard plant selector in conjunction with the Polly Hill Arboretum has also been launched. Photographs will be added in the future. Native species are also listed.
- Revisions to the web site will be made over the next few weeks and three types of comments were requested; simple errors such as links that are not working properly,

minors tweaks such as removing the military time and another round of upgrades is being made so any suggestions for expansion or additions are welcomed.

## **7. NEW BUSINESS**

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*Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, R. Doyle, F. Hancock, J. Joyce, J. Malkin, K. Newman, A. Seiman, L. Sibley, J. Vercruysse.*

### **7.1 Reports from Committees and/or Staff**

Land Use Planning Committee (LUPC)

**Linda Sibley**, LUPC Chairman said LUPC will be reviewing the DRI Checklist in the near future. The MVC is required to review the DRI Checklist every two years.

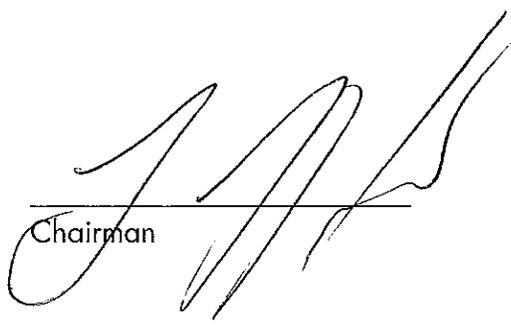
The meeting was adjourned at 9:30 p.m.

### **DOCUMENTS REFERRED TO DURING THE MEETING**

- Minutes of the Commission Meeting – Draft, Held on March 19, 2015
- Martha’s Vineyard Commission C.R. 1-2015 Mullen Way Subdivision MVC Staff Report – 2015-03-24
- Martha’s Vineyard Land Use Planning Committee Notes of the Meeting of March 2, 2015
- Division of Fisheries and Wildlife Letter to MRK Mullen Realty LLC dated March 2, 2015, re: Construction of Nine (9) Lot Residential Subdivision NHESP File No.: 12-31554
- MRK Mullen Realty LLC Plan of Land, Edgartown, MA, Dated August 25, 2014
- NHESP Site Plan, Edgartown, MA, MRK Mullen Realty Trust LLC
- C.R. 1-2015 Mullen Way Subdivision Correspondence Received as of 5:00 p.m. March 24, 2015
- MRK Mullen Realty LLC, Mullen Way Handout distributed at the MVC Meeting of March 26, 2015
- Martha’s Vineyard Commission DRI #645 Cottage City Bowling Connect to Sewer MVC Staff Report – 2015-03-26
- Correspondence received by the MVC for DRI # 645 Cottage City Bowling Connect to Sewer
- Conditions for DRI 645 Cottage City Bowling DRI 645
- Decision of the Martha’s Vineyard Commission Designating Old Coach Road as a Special Way in the Island Road District of Critical Planning Concern – Special Ways Zone, Dated March 19, 2015 Draft 3 25 15

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Chairman

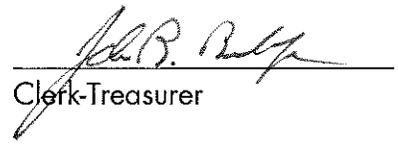
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Date



Chairman

6-18-15

Date



Clerk-Treasurer

6/4/15

Date