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**Minutes of the Commission Meeting  
Held on July 16, 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)	- Joan Malkin (A-Chilmark)
- Christina Brown (E-Edgartown)	- W. Karl McLaurin (A-Governor)
- Harold Chapdelaine (A-Tisbury)	P Katherine Newman (A-Aquinnah)
P Robert Doyle (E-Chilmark)	- Doug Sederholm (E-West Tisbury)
- Josh Goldstein (E-Tisbury)	P Abe Seiman (E-Oak Bluffs)
P Fred Hancock (E-Oak Bluffs)	P Linda Sibley (E-West Tisbury)
P Leonard Jason (A- County)	P Ernie Thomas (A-West Tisbury)
	P James Vercruysse (E-Aquinnah)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner, Affordable Housing), Priscilla Leclerc (Transportation Planner), Jo-Ann Taylor (Coastal Planner).

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

**1. OLD COACH ROAD SPECIAL WAY, WEST TISBURY – ISLAND ROAD DCPC – AMENDMENT OF BOUNDARY – CONTINUED PUBLIC HEARING AND VOTE**

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Commissioners Present: T. Barnes, J. Breckenridge, R. Doyle, F. Hancock, L. Jason, J. Joyce, K. Newman, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse.

**James Vercruysse**, Public Hearing Officer opened the continued Public Hearing at 7:00 p.m.

**1.1 Staff Report**

**Jo-Ann Taylor** presented the following.

- The Commission voted the designation as nominated by the Town. The Town Meeting then chose to modify the area of designation, invalidating the regulation unless the Commission also agrees to modify the designation. On June 4, 2015 the MVC public hearing was opened on the amendment. Correspondence in opposition was received from the MV Land Bank. The MVC continued the public hearing to give the Town of West Tisbury a chance to respond.
- The following correspondence has been received.
  - Emails between Ginny Jones West Tisbury Planning Board Chairman and Jo-Ann Taylor.

- Correspondence submitted by Cynthia Aguilar et al and accepted into the record by MVC Chairman Fred Hancock.
- Correspondence from the West Tisbury Planning Board which included a copy of the Bangs’ easement.
- Rez Williams of the West Tisbury Byways Committee submitted correspondence between the Planning Board and the Bangs family and regarding the easement for the Bangs family over the roads of the Island Farms subdivision.
- At the West Tisbury Planning Board meeting on July 13, 2015 the Board stood by truncation and does not intend to participate in the Commission hearing. Interest was expressed in updating the regulations as offered by the Commission in its updated Goals and Guidelines but not until Old Coach is settled.
- The Planning Board’s letter indicates confidence in the stewardship of the owners of the 450 foot section as a reason why the designation may not be necessary even though the resource is indeed special in accordance with the MVC’s standards.
- The MVC decision on this as any other DCPC item must be based on a comprehensive consideration of the standards set out in the Critical Planning District Qualifications.
- There is a concern and one point of contention appears to be the conviction by some that designation would deprive the owner of access.
- The MVC put in concerted effort in 2011 and 2012 to update the Special Ways to reflect updated circumstances unforeseen in 1975 to recognize that ways used modestly by vehicles can still be protected from inappropriate development such as paving. The MVC distributed the new Goals and Guidelines to the towns, noting the choice to update or not to update the regulations lies with each town. It would appear in this case that the update might be a very helpful solution to any perceived ambiguity regarding owners with existing vehicular use.
- Because of their ties to the Island’s past, Special Ways may have exceptional historic, cultural or symbolic importance. The visual character of these ways is crucial to this importance. To retain this importance, however, they must not be altered in a manner that destroys their essential character.
- Although there isn’t anything in the regulations to support the fears expressed regarding future uses by the Bangs family, it might be helpful for the Town to consider amending the regulations in keeping with the updated MVC Goals and Guidelines as amended in 2012.
- The MVC’s Decision on Designation is based on the criteria and is guided by the Critical Planning District Qualifications.
- The MVC options after closing the hearing include;
  - Vote to amend the boundary. (In other words, to rescind the designation of the 450 foot portion). This would end the moratorium on the 450 foot section and it could not be re-nominated for a year.
  - Decline to vote the amendment. The moratorium would remain in effect for the 450 foot section for up to one year from March 19, 2015. (The bangs family has not expressed objection to a continued moratorium, as there are no plans for development in the coming year.)
    - Keep the designation and moratorium in place for the 450 foot portion until no later than March 19, 2016, allowing the Town ample time to come

to a resolution that is comfortable to the boards and the stakeholders. (Note that this would not work for the April Annual Town Meeting. If the Town were to bring this back it would have to be at a Special Town Meeting.) The Town could take this time to consider amending its regulations (after public hearing and vote by the MVC) in keeping with the updated MVC Guidelines that clarify the disposition of already-travelled ways, thus perhaps assuring a comfort level beyond that of the present regulations.

- Since June 4, 2015 a letter from the West Tisbury Planning Board addressed one criteria for designation that the area is one pristine area that should be protected. The Planning Board addressed another aspect of the criteria that the 450 feet does not need to be regulated the same as the rest of the area.

**Mark London** asked what happens if the MVC does not act before March 19, 2016. **Jo-Ann Taylor** said the moratorium can go no longer than one year so the moratorium would not last until the next West Tisbury Annual Town Meeting.

**Mark London** asked what happens if the Town never adopts the regulation. **Jo-Ann Taylor** said then the Commission has no choice but to rescind the designation and that section could not be re-nominated for another year.

**Mark London** noted that the MVC could truncate or not truncate.

**Fred Hancock** said because this was approved at Town Meeting with the shorter section if the MVC confers with that it does not then go back to Town Meeting. **Jo-Ann Taylor** confirmed that would be correct.

**Fred Hancock** said the MVC is deciding to agree to make the MVC Decision to match that of Town Meeting.

**James Vercruysse** asked if the MVC actions are to accept the amended district or not. **Jo-Ann Taylor** said the MVC would be voting to rescind or not rescind or to not take action on the 450 feet.

## **1.2 Testimony from Public Officials**

**Matt Merry** of the West Tisbury Planning Board said the West Tisbury Planning Board was asked by the Board of Selectmen at the last minute to designate. Originally it was thought that the Bangs property accessed off of State Road but it was later found that it did not and it was from Old Coach Road. Ginny Jones (Chairman, West Tisbury Planning Board) spoke with Ron Rappaport and he said with a Special Permit the Bangs would have access from Old Coach Road. The Bangs family came back to the Planning Board and they still felt they would have a loss of access. The Planning Board felt that by truncating it would give the Bangs family access to their property for any possible future development. The basis on the vote to truncate was that they have been stewards of the land and have not done development of the land and most likely would not.

## **1.3 Public Testimony**

**Paul Bangs** said that one point is missing. The Planning Board granted us our truncation not so much on our stewardship. It states with town regulations we would not be able to access our land

based on the way it is written. We are five generations of owning the land and we have done the right thing in the preservation of the land.

**JC Murphy** said attorney Rappaport miss represented the truth at Town Meeting and all the people of the town voted on the wrong truth. He thought the MVC checked to see that the procedures are proper in the Town and apparently the MVC does not and after he checked he found they are not correct. The decision has no validity as a precedent for other cases because the decision was not published. He thinks attorney Rappaport should be disbarred for his presentation to the Town as it was done illegally. It is an unpublished decision so it has no validity.

- **Linda Sibley** said she did not entirely understand if JC Murphy was arguing that Special Ways cannot be designated yet but the hearing is about truncation.

**Harriet Bernstein** is the Chairman of the West Tisbury Byways Committee. The main question is do we believe in Special Ways. Do we want to maintain them? Giving the truncation establishes a bad representation for the future. If we believe in Special Ways then we need to protect them.

**Jay Bangs** is Paul Bangs brother. According to how the by-laws were presented to us for the Town of West Tisbury we will have an easement across Island Farms to our property and we will not be able to use our property the way we have done for years. He hoped the MVC is here to make a decision about this one case and how it affects this one family and this one property owner. He hopes the MVC makes their decisions based on the facts involved for this particular case.

**Katherine Neman** said she feels there is a lot of information for this issue that is not clear.

**Linda Sibley** noted that if the Town of West Tisbury chooses to change the by-law making it clearer the issue could be clarified.

**JC Murphy** said he tried three times to meet with the Town in hopes of clarifying the Town by-law and he was not allowed to speak. The Town cancelled two meetings and would not allow him to speak at the third meeting. He humbly speaks when he says the Planning Board wanted to push this through and he adamantly noted discontentment with the Town's attorney.

**Leonard Jason** asked JC Murphy to speak to the issue and not about the attorney.

**James Vercruysse**, Public Hearing Officer also asked JC Murphy to only speak to the issue.

**Cindy Aguilar**, West Tisbury Byways Committee said vehicular access is allowed if folks have used the Special Way and that right does not change. Access to the Bangs property can be achieved with the Special Permit process.

**Paul Bangs** said the Special Permit process is done by the Planning Board and our family does not know who that will be in the future. We would have to beg to use our property and that is demeaning. If this passes we can't go on our property. We have not done anything wrong and hope the MVC will look at this carefully.

**Harriet Bernstein** said she lives in the West Tisbury Historic District and has to go through the Planning Board to do anything with her property and feels that Special Ways fall under a similar

set of rules and integrity. The Planning Board seemed amenable to look at the regulations and changing them.

**Trip Barnes** said he lives up the street and is familiar with the Bangs family. Their point is a hard one to argue. It is a complicated scenario and yet we are all trying to protect the environment. He doesn't see why the family should be put through a costly process to try and save their property for their family.

**Bill Veno** said he accompanied Jo-Ann Taylor to the Planning Board meeting. Glen Provost was representing the Bangs family and he felt the regulations allowed the family to develop the lands for access but it would require them to get a Special Permit. The MVC is perplexed about the Town allowing the truncation since they have been the foster child for the Island for Special Ways and does not understand why the Town thinks they cannot do this. If a future Planning Board didn't grant a Special Permit the Bangs family could state that they felt it was unreasonable. The MVC is being asked to un-nominate a certain area not because it is not special but because of a land owner and it diminishes the importance of the MVC deciding what is and is not a DCPC.

**Jay Bangs** said this kind of uncertainty is exactly what has our family concerned and we would like a no vote. The Bangs family has no intent of denying access to that slice of the road and we are really afraid of that kind of verbiage that we have just heard.

**Jo-Ann Taylor** said there was concern that the whole area including the Bangs property is special. No one is saying it is not special but there is criteria that needs to be followed, but in this case the MVC could listen to the West Tisbury Planning Board. The criteria gives the MVC the ability to look beyond if the area is special.

**Paul Bangs** said the Planning Board granted the truncation because the designation denies us the access to our property not because we are good stewards of the land. This was an important piece of property to his father and he never denied access to it, such as letting people hunt with permits. The Planning Board did the right thing and the simple thing. This issue is an encumbrance on us.

**Harriet Bernstein** said it has never been stated that the Bangs family would not have access to their property. Special Ways does not state access has to be allowed.

**Katherine Newman** asked if there is some way to be sure the Bangs will not be suffering by this decision. **Linda Sibley** said that would be for discussion after the public hearing.

**JC Murphy** said this is what these people are worried about and the MVC has to address the law. The MVC is breaking the law.

**James Vercruyse**, Public Hearing Officer closed the Public Hearing at 7:45 p.m.

#### **1.4 Commissioners' Discussion**

**Linda Sibley** said there are two issues and noted she is not only a Commissioner but is also a resident of West Tisbury. If this was in a town other than her own she would hesitate to be part of a MVC vote that would ignore a Town Meeting vote; the truncation. The MVC is talking about a unanimous Planning Board vote and a Town Meeting vote and the MVC has to respect that. It is not clear to her that the Bangs family would be denied access, it is not a very clear by-law. The Bangs family has a very legitimate cause and to be anxious and a Special Permit can be denied.

The Town should revise their by-law to be clear and she strongly urges the Planning Board to do new regulations. She strongly feels the current decision by the West Tisbury Planning Board should be upheld.

**Linda Sibley moved and it was duly seconded to concur with Town Meeting vote to rescind as it is not clear that the Bangs Family will have legitimate access.**

- **Mark London** said some legal issues have been brought up. The MVC has spent hundreds of thousands of dollars to defend Special Ways. The Town board cannot deny a Special Permit if it denies access to the property. It seems problematic to put in wording from the truncation when the MVC has been successfully fighting Special Ways in the courts.

**Linda Sibley amended her motion and it was duly seconded to allow the truncation and respect the vote of Town Meeting.**

- **Abe Seiman** said he is not sure he can vote without knowing if the owner does or does not have access.
- **Linda Sibley** said the by-law is not clear about that.
- **Abe Seiman** said the MVC should delay a vote until the by-law is clear.
- **Leonard Jason** said Town Meeting voted and the Planning Board voted what else does the MVC need to know.
- **Jo-Ann Taylor** asked if Linda Sibley would object to making a motion that added criteria.
- **Linda Sibley** said she would object to adding criteria and also noted that she is not against Special Ways.
- **James Vercruysse** clarified that a yes vote is to agree that the amendment should be truncated.

**Roll call vote. In favor: T. Barnes, J. Breckenridge, R. Doyle, L. Jason, J. Joyce, K. Newman, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: A. Seiman. The motion passed.**

**Fred Hancock**, Chairman recessed the meeting at 7:55 p.m. and reconvened at 8:00 p.m.

## **2. MINUTES**

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Commissioners Present: T. Barnes, J. Breckenridge, R. Doyle, F. Hancock, L. Jason, J. Joyce, K. Newman, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse.

**Linda Sibley moved and it was duly seconded to approve the minutes of June 18, 2015 as written. Voice vote. In favor: 6. Opposed: 0. Abstentions: 5. The motion passed.**

## **3. TRANSPORTATION DOCUMENTS – VOTES TO ENDORSE**

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Commissioners Present: T. Barnes, J. Breckenridge, R. Doyle, F. Hancock, L. Jason, J. Joyce, K. Newman, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse.

### **3.1 Staff Report**

**Priscilla Leclerc** presented the following.

- The Martha's Vineyard Transportation Plan is a four year long range policy.
- The Transportation Improvement Program is a short range program.
- The MVC Unified Planning Work Program is updated annually.

**James Vercruysse moved and it was duly seconded that the MVC vote to endorse the Martha's Vineyard Transportation Plan allowing the MVC Chairman to sign the final document following the close of the public comment period on Monday July 20, 2015 and provide him discretion to review changes. That the MVC vote to endorse the Transportation Improvement Program and the Self Certification allowing the MVC Chairman to sign the final document following the close of the public comment period on Monday July 20, 2015 and provide him discretion to review changes. And also that the MVC vote to endorse the Unified Planning Work Program allowing the MVC Chairman to sign the final document following the close of the public comment period on Monday July 20, 2015 and provide him discretion to review changes.**

- **Fred Hancock** noted that the MVC is the regional planning entity for the Island which is why the MVC has to sign these transportation documents. The MVC has to officially approve the documents.
- **James Vercruysse** added that a presentation was done for the Commission at the last meeting on July 9, 2015.

**Voice vote. In favor: 9. Opposed: 2. Abstentions: 2. The motion passed.**

#### **4. ISLAND SOURCE AIRPORT STORAGE – EDGARTOWN DRI 652 WRITTEN DECISION**

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*Commissioners Present:* T. Barnes, J. Breckenridge, R. Doyle, F. Hancock, L. Jason, J. Joyce, K. Newman, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse.

**Bill Veno** noted that the number of units will be corrected to 152 throughout the document.

**Fred Hancock** noted that the "Plans" will be added on line 65.

**Mark London** presented several changes for Christina Brown who was unable to attend the meeting.

- Add language on line 120 "as stated in the Edgartown Zoning By-law".
- On line 162 add "and the Edgartown Master Plan".
- Add "additionally" at the beginning of line 185.
- Revise the language on line 188 to "in conformance with DCPC regulations ... but is not in a DCPC...".

**Fred Hancock** said for Affordable Housing on line 218 language should be added noting the contribution has to be made before the Certificate of Occupancy.

**Mark London** noted that Christina Brown also said that the organization receiving the contribution should be added to the Affordable Housing language and that organization is the Island Housing Trust.

**Linda Sibley moved and it was duly seconded to approve the Written Decision as modified. Roll call vote. In Favor: R. Doyle, F. Hancock, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.**

## **5. NEW BUSINESS**

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*Commissioners Present: T. Barnes, J. Breckenridge, R. Doyle, F. Hancock, L. Jason, J. Joyce, K. Newman, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse.*

### **5.1 Announcements**

**Fred Hancock** noted that the retirement recognition for Mark London will be from 5:00 p.m. to 8:00 p.m. on August 6, 2015 and details are to follow.

### **5.2 Commissioner's Discussion and Questions**

There was a discussion about public behavior during a public hearing and Special Ways.

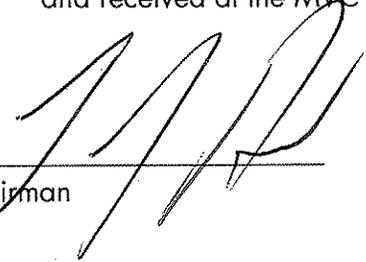
- **Leonard Jason** noted that the gentlemen's behavior during the public hearing was uncalled for and should not be allowed, he should have been removed from the meeting.
- **Linda Sibley** noted that the gentleman is a West Tisbury resident and is opposed to Special Ways in general. She thought he was arguing about what the MVC was doing and not necessarily about the truncating.
- **Mark London** noted that Special Ways do not have anything to do with public access. The MVC designation of a Special Way does not grant public access.
- **Linda Sibley** said the Special Way access could limit the number of lots for development.
- **Ernie Thomas** said he thought the gentleman's argument was horrible and thought he was disrespectful.

There was a discussion about the Southern Woodlands Development.

- **James Joyce** asked if there was any more information about the Southern Woodlands Development.
- **Fred Hancock** said he and Bill Veno went to a meeting today, July 16, 2015 with the Oak Bluffs Planning Board and the new owners of the property. The town identified areas they had concern with. The owners have come back with a proposal of what they want to do and are permitted by the MVC to do what the MVC approved, but it is likely the new owners will come back for a modification. The town of Oak Bluffs Planning Board would like the new owners to do some things as well. The meeting that was attended was trying to eliminate the number of times the owners would have to come back and forth to the Town of Oak Bluffs Planning Board and the MVC. Fred Hancock made it clear at that meeting that the full Commission would be making the decision on the project.
- **Leonard Jason** asked what the new owners may have lost with the recent purchase that was previously approved.
- **Fred Hancock** said the prior owners had received a permit for the subdivision and some access roads were built.

The meeting was adjourned at 8:20 p.m.

- Island Road District of Critical Planning Concern Amendments Voted February 9, 2012 Amendments to Section 4.12 Amendments to Goals and Guidelines.
- Critical Planning District Qualifications
- Letter to the MVC from the Martha's Vineyard Land Bank, Dated June 2, 2015
- Letter to the MVC from the Town of West Tisbury Planning Board, Dated June 29, 2015
- Letter to the West Tisbury Planning Board, Dated March 29, 2015 from Chares D. Bangs and submitted to the MVC by Rez Williams of the West Tisbury By-ways Committee and received on July 9, 2015
- Letter from Paul S. Bangs submitted to the MVC by Rez Williams of the West Tisbury By-ways Committee and received on July 9, 2015
- Letter to the West Tisbury Planning Board Dated July 9, 2015 rom West Tisbury Residents and received at the MVC on July 13, 2015

  
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 Chairman

9-17-15  
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 Date

  
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 Clerk-Treasurer

9/17/15  
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 Date