



Minutes of the Commission Meeting Held on June 17, 2010 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

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|---|--------------------------------------|
| - Bill Bennett (A- Chilmark) | P Katherine Newman (E –Aquinnah) |
| P John Breckenridge (E- Oak Bluffs) | P Ned Orleans (A – Tisbury) |
| P Christina Brown (E - Edgartown) | P Camille Rose (A - Aquinnah) |
| P Peter Cabana (E – Tisbury) | P Doug Sederholm (E – Chilmark) |
| - Martin Crane (A – Governor Appointee) | P Linda Sibley (E – West Tisbury) |
| P Fred Hancock (A – Oak Bluffs) | P Brian Smith (A – West Tisbury) |
| P Lenny Jason (A – Dukes County) | P Holly Stephenson (E – Tisbury) |
| P Jim Joyce (A – Edgartown) | - Andrew Woodruff (E – West Tisbury) |
| P Chris Murphy (E – Chilmark) | |

Staff: Mark London (Executive Director), Paul Foley (DRI Coordinator), Bill Wilcox (Water Resource Planner), Christina Flynn (Affordable Housing Planner)

Christina Brown opened the meeting at 7:00 p.m. She welcomed Brian Smith, the new member appointed by the West Tisbury Board of Selectmen.

1. WIND ENERGY SITING REFORM ACT

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, , L. Jason, J. Joyce, C. Murphy, K. Newman, , N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson

Christina Brown reported on the Wind Energy Siting Reform Act and circulated the draft of a letter she proposed that the MVC send to the Speaker of the House.

- A version of the Act passed the Senate. A different version of the Act being considered by the House of Representatives would eliminate some of the provisions preserving local control which had been requested by the MVC and had been agreed to by the Administration and Senate.
- The letter states that Commissioners believed that it would review land-based wind turbines and appeals by applicants to Commission decisions would go to court rather than to the Energy Facilities Siting Board (EFSB). The House version has been changed so that appeals would not go to the courts.

Mark London said that there is also a provision in the House version that appeals to decisions would go to the Department of Energy rather than the EFSB. There is a concern about due process in having the department mandated to promote these projects be the arbiter as well.

Peter Cabana said that the separation of powers is clearly stated and he believes that the letter doesn't enhance the Commission's position. He thought it was very unlikely that there would be a facility of the scale on Martha's Vineyard that would trigger the application of this law.

Doug Sederholm said the letter should be sent to reaffirm the Commission's authority over commercial-scale, land-based turbines, even if it's unlikely that they would be built on the Island.

Chris Murphy said this is a home-rule issue, not a wind issue.

Ned Orleans moved that the Commission endorse the letter as written.

- **Doug Sederholm** added that he has great respect for Peter Cabana's expertise on the issue. He just doesn't want to take the risk that he's wrong about the possibility of commercial land-based wind on the Island.

A voice vote was taken. In favor: 13. Opposed: 1. Abstentions: 0. The motion passed.

2. AFFORDABLE HOUSING

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock,, L. Jason, J. Joyce, C. Murphy, K. Newman,, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson

Christine Flynn stated that members of the Joint Affordable Housing Group had asked to meet the MVC. The purpose for tonight's presentation was to introduce the various housing organizations as well as update the MVC on recent projects and programs and perhaps provide some insight on where the greatest housing needs are now and future challenges to addressing those needs. Ms. Flynn stated that there was a packet with a handout from each of the speakers as well as some groups that were not able to attend tonight's meeting. Ms. Flynn welcomed those present and introduced David Vigneault as the first speaker.

David Vigneault, Executive Director, Dukes County Regional Housing Authority (DCRHA) presented information about the DCRHA. Mr. Vigneault referenced DCRHA's handout that highlights the variety of town efforts on the Island and the ways in which the Housing Authority supports those efforts.

- DCRHA is not your typical housing authority. They oversee only eight public housing units.
- The 2000 housing forum was a galvanizing event for housing on the Island. Five years later when he got involved, he had the pleasure of implementing the goals that were developed in 2000.
- Housing needs on the Island are varied and unique. People who need rental, ownership or emergency support are from varied economic backgrounds with rapidly changing needs.
- The seasonal and rural character of the Island rule out many typical housing funding mechanisms. The Island has responded by meeting rental and ownership needs, as well as creating transitional or shelter options.

- The Housing Authority is most effective supporting town efforts which are varied and individual. Consensus and direction from within a town remain the clearest path to maintaining a housing objective on the Island.
- Each of the assortment of organizations on the Island is most efficient when it's expertise is used to specific purpose with respect for organizational capacity and avoidance of replication of roles and responsibilities
- Housing need is highest at incomes at 100% of median income (about \$83,000 for a family of four) or lower. The significant effort to offer housing for 150% AMI has not been met by need. The current homebuyer clearing house has 303 households, two-thirds of which are at between 60 and 100% of median income.
- Development efforts are being re-focused on populations where rental is more practical.
- There are programs to meet many needs. For every program that might not gain support, there's an opposite one that will. Much has been accomplished, much needs to be done.

Ron DiOrio presented as Chair of Oak Bluffs Affordable Housing Committee. The Town of Oak Bluffs established a Municipal Affordable Housing Trust Fund at April's Town Meeting. They have not yet met as a trust.

- The Oak Bluffs Affordable Housing Committee's recent project converting the old library into three affordable rental apartments and a pharmacy, which used CPA monies and a grant from the Department of Housing and Community Development. The Town has turned over the management of the apartments and the pharmacy to the Duke County Regional Housing Authority. It's a great collaboration. The actual construction was handled by The Resource, Inc. (TRI). They've done a terrific job. At a personal level, he's really pleased with what the Town has done.
- In terms of where Oak Bluffs needs to go in the future, as we merge into the trust, we need to focus on rental properties and not homeownership. The economic downturn has created a drastic shift in need. The 140 to 150% median income houses have no takers because those income levels can do better on the open market. We're focused on 60% of median income and below. We're focused on scattered sites of two or three units throughout the town. We'll then enter into an agreement with the Dukes County Regional Housing Authority who will manage and select properties.

David Vigneault gave a run-down of projects and programs happening at the town level, since several of the town committees were not able to attend.

- Aquinnah is about to start a lottery process for its sixth homesite. Tribal housing which has 31 units is a huge addition but limited to members of the Wampanoag Tribe. He thanked Camille Rose personally for suggesting that Aquinnah use its CPA reserves to not only pay half of Aquinnah's rental assistance for April but also cover other costs to be used Island-wide.
- Chilmark has the oldest tradition of homesite ownership on the island. They've added seven recently. They have the possibility of four homesites. They're putting their efforts into Middle Line with the six rental units and six ground leases
- Edgartown had done an incredible range of things from zoning to demolition delays that have resulted in house moves and materials recycling. There has also been lots of ownership activity from 40B projects to lotteries to Habitat activities and development of

60 rental units at Morgan Woods. The home buy-down program is very creative and about to begin, using funds generated by the MVC's DRI review of the Field Club. Edgartown is pinpointing need at 100% to 140% and they're trying to match need and ability with what is on the market.

- Tisbury is just about to complete the lottery for four units developed by the Island Housing Trust. The Town is finalizing development of six ownership units at Lake Street. They're also working on making substandard lots available and using 40R zoning district for some creative use. Six of the ten of the Housing Authority units are in Tisbury.
- West Tisbury has focused on turn-key units. West Tisbury has done resale of homesites set for foreclosure. There was the development of three homes at Bailey Park. They have creatively used zoning to create accessory apartments which are monitored by DCRHA. West Tisbury has also allowed the use of homesite subdivision off of larger parcels.

Jessica Burgoyne, Executive Director, Morgan Woods

- The Community Builders (TCB), is the largest not for profit urban housing developer in the country, owns and operates Morgan Woods. The Town of Edgartown owns the ground lease.
- Morgan Woods has sixty units with four income tiers. The broad income range creates a well-balanced community.
- They struggled to fill some of the market rate units when Morgan Woods was first opened. To address that issue, Edgartown provided financial assistance to help fill those units. There is now a healthy wait list in all of the income levels.
- Fourteen children have been born in Morgan Woods since 2007. Residents include six educators, five law enforcement personnel, two EMTs, two firefighters, and other actively involved community members, workers and professionals.
- They offer a broad range of services, supporting financial, health, and community needs.
- TCB's commitment is to be active caring members of the Island community.

Bob Russ, President, Bridge Housing.

- Bridge Housing was started to create more affordable housing. They bought 14 acres and applied and received permits to build 22 homes for families at income levels between 80 and 140 percent of AMI with priority given to Tisbury residents, employees of the hospital, schools and town government.
- Bridge Housing Project meets many of the planning objectives of the Tisbury's Master Plan and targets current population underserved by the current market.
- They intended to apply to the state for additional funding for the project, but all funding was curtailed due to the economy. Bridge Housing partnered with another housing fundraising entity, but have not received the necessary funds needed to develop the project.
- Bridge Housing is trying to regroup and find capital. They also want to make sure that the public is aware of Bridge Housing and what they're trying to accomplish.
- Bridge Housing still hopes to build.

Neal Sullivan, Executive Director, Habitat for Humanity, Martha's Vineyard.

- Habitat was established on Martha's Vineyard in 1996. They are on their eighth house.

- Their mission is to build simple decent, affordable housing for families in the lowest income range.
- The homes are built with volunteer labor, donated materials, and charitable donations. Habitat believes that addressing the lack of affordable housing one house at a time will keep our Island a healthy vital community.
- Their funding is from CPA, private donations, grants, rebates, donated materials free in-kind donations, services, and volunteer labor. They had 2000 volunteer hours on their last build.
- They serve first-time home buyers between 30% and 80% AMI for Dukes County. They have a family selection process with three criteria as opposed to a lottery. The recipients are required to meet a number of financial and volunteer requirements.
- Acquiring land is the most difficult and expensive part of the process.
- Building costs are 50 to 70% less than standard costs.
- Unlike the Island Housing Trust where the land is conveyed and the IHT service the ground lease at \$50 a month per unit paid by the recipients. The recipient families pay an interest-free mortgage to Habitat for Humanity which is the mortgage holder.
- The house price is based on the recipient's actual income at that time. Recipients must meet a number of requirements, including volunteering hours.
- Affordability restricts future purchase of properties to families earning 80% AMI or less. The Island Housing Trust restricts the future sale price to the base price plus 4% per year over the 99 year lease.
- Habitat has partnered with the Island Housing Trust in a number of efforts. It's worked with Edgartown Affordable Housing Committee and West Tisbury Affordable Housing Committee. They look forward to continuing the collaborations.
- The challenges Habitat sees are informing the public of the need for affordable housing for a stable community, identifying what the affordable housing community is, planning how we serve this need, and developing sustainable funding sources.

Ewell Hopkins, Executive Director, Island Affordable Housing Fund (IAHF), pointed out the Fund's new chairman, John Early, in the audience and said that this is truly a new day.

- Mr. Hopkins thanked Bob Huss of Bridge Housing for being judicious in referencing the fundraising entity that did not make good on promises.
- The Island's Community Housing targets have been established by the Island Plan to create a stable year-round population. There are environmental, social, and economic challenges. We're about halfway to meeting the goals set by the Island Plan.
- Most Islanders understand that just achieving a certain number of units does not make for an effective housing target. The target of 1300 units is defined as a combination of community housing and affordable housing and is split between ownership and rental.
- To date, private giving has been narrowly defined and poorly cultivated. Public funding efforts haven't properly prioritized off-Island agencies and government bureaucracies. The Community Preservation Act does not enjoy passionate support from Island officials.
- The Island Affordable Housing Fund is committed to "people preservation now more than ever". We will be successful by first establishing a committed approach to private fundraising, broadening the outreach of private fundraising, embracing state and federal

bureaucracies, and convincing state and local officials to provide on-going support of the CPA.

Ann Wallace, Executive Director, Island Elderly Housing (IEH), referenced IEH's handout and outlined several aspects of IEH and current challenges

- IEH is a vital part of the community with over 165 units, serving the elderly, very low income, and non-elderly disabled.
- Regarding waiting lists, there are fifty people on the elderly list and seventy to eighty for non-elderly disabled. The people on the elderly list are placed within about a year. Those on the disabled list are placed after a minimum of five to seven years.
- The challenge for Island Elderly Housing is connecting Woodside Village with wastewater treatment. Our challenge is the cost which is \$42,000 per apartment. Almost as staggering is the annual usage fee which amounts to \$63,000 a year – about twenty times what we pay now. They are working with HUD. Hooking up to town sewer is a staggering endeavor but would free up 2.5 acres of land for development.
- The final point is to help Commissioners understand the changing focus for HUD money. Instead of putting money into new projects, they're shifting the funding to create assisted living within existing projects.
- Ms. Wallace then introduced John Early as President of Island Elderly Housing's Board of Directors.

Philippe Jordi, Executive Director, Island Housing Trust (IHT), explained that they are land stewards, as well as land developers.

- IHT has done over thirty units, rental and ownership, often with partnership with other groups. The fundraising has been through the Island Affordable Housing Fund and CPA funds.
- Mr. Jordi referenced the handout which includes the housing investment report and a homeowner profile that gives a picture of who they're serving, between 80 and 120% AMI.
- We are focused on home renovations and new-builds using local designers, buildings and suppliers with greater efficiency and cost-effectiveness, re-investing money back into the economy.

Melissa Vincent, Program Manager, The Resource, Inc. (TRI)

- TRI gets to give away money that doesn't have to be paid back, in the form of deferred, forgivable loans to those making less than 80% of AMI and wanting to make needed home repairs.
- TRI is a non-profit and has been on the Vineyard for ten years. Through the state's Community Development Block Grant (CDBG), TRI receives funding that starts at the federal Office of Housing and Urban Development which gives federal funds to the Massachusetts Department of Housing and Community Development (DHCD) where that state funding is administered by municipalities throughout Massachusetts through the state's Community Development Block Grant (CDBG).
- This year TRI received two CDBG grants for two towns. They are administering \$780,000 in Edgartown and \$780,000 in Oak Bluffs with Chilmark, Tisbury and Aquinnah.

- The Rehab Program serves homeowners and can do housing work up to \$35,000, creating safe, secure, energy-efficient homes for the next twenty to twenty-five years. We don't put on additions, or new construction. We've been working with SOMAC for funding additions up to \$60,000.
- We serve a program on the Vineyard by helping people stay in their houses by making them safe and warm.

Christine Flynn reported that this concluded the presentations from the affordable and community housing advocates. She thanked her colleagues and opened the floor to questions.

Peter Cabana said the Island Housing Trust has been building very energy-efficient homes and suggested that they come up with the six most effective energy-efficiency standards, as guidance for others. He asked about energy audits. **Melissa Vincent** replied that TRI has been doing energy audits, but not with Cape Light Compact because the process was too slow. **Peter Cabana** encouraged them to try contacting Cape Light again

Philippe Jordi said the Trust is trying to monitor energy through the bills and track the efficiencies in order to know what the returns are for different techniques.

Chris Murphy asked Ron DiOrio asked why the library renovation didn't come before the Commission. **Ron DiOrio** responded that town officials' understanding was that no Commission review was necessary.

3. WAVE LENGTHS SALON: DRI NO. – PUBLIC HEARING (CONT.)

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock,, L. Jason, J. Joyce, C. Murphy, K. Newman,, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson

Linda Sibley continued the Wave Lengths Salon hearing to July 15th to give the Planning Board and the applicant the opportunity to meet and discuss the project.

4. MINUTES

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock,, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson

4.1 Minutes of June 3, 2010

Lenny Jason moved, and it was duly seconded, to approve the minutes of June 3, 2010, as written. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

4.2 Minutes of May 20, 2010^h

Commissioners made the following corrections:

Page 4, Line 134 *Jim Joyce*

Page 7, Line 248-250

Add: *Bill Bennett indicated reasons to oppose this recommendation.*

Page 3, Line 119

Temahegan.

Ned Orleans moved, and it was duly seconded, to accept the minutes as amended. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

5. NOVA VIDA/ALLIANCE COMMUNITY CHURCH TENT: DRI NO. 603-M – PUBLIC HEARING

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock,, L. Jason, J. Joyce, C. Murphy, K. Newman,, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson

For the applicant: Pastor Valci Carvalho, Darran Reubens (architect), Rosemarie Haigazian (attorney).

5.1 Staff Report

Paul Foley gave the staff report on the proposal to erect a 50' x 50' tent on the site in which to hold services three nights a week.

- Surrounding land uses are a residential neighborhood, the high school, and the Church of Latter Day Saints property.
- Prior to 1996 it was a single family house. Then it was converted into a boarding house. It was also a dance studio.
- The Hospital daycare is located in the building.
- The MVC had previously approved a application allowing the church to redo the building, keeping the daycare on the first floor, relocating the church to the second floor and using the basement for community activities. No residential or boarding was allowed.
- The church ran into financial difficulty. In the meantime, they've been meeting in the old Catholic Church annex, which they can't do this summer. The Church is applying for a permit for a 50 x 50 foot tent in which to hold services with amplified music on Wednesdays, Fridays and Sundays from about 6:30 to 9:00 p.m.
- Apparently, the Church is also applying to the Town for a rooming house license for eight rooms.
- Key issues are:
 - Noise: A condition of the prior approval is no outside amplified music. The service calls for amplified music and drums.
 - Intensity of use: There would be the impacts from the daycare during the day starting early in the morning and outdoor services at night.
 - Wastewater: The site is using twice as much water as they were approved for.
 - Parking: The tent would displace the overflow parking areas and there may not be as much as indicated.
- They put up a stockade fence at the rear facing the neighbor, but did not carry out the other landscaping conditions associated with the original project approval, such as re-

creating the site's roadside buffer and putting in a hedge. There are number of piles of landscaping materials on the site.

- Open space: the tent would occupy some of what is currently open space.
- Exterior lighting: There will be downlighting at the entrance to the tent.
- Noise: The service uses amplified music including drums. The Commission asked an acoustical engineer to take a look at the situation and he suggested that the Commission consider the following suggestions to minimize the noise: prohibit amplified music, prohibit any use of drums, allow unamplified music with no drums only, possibly allow one microphone only for speaking.
- There are ten gravel parking spaces with fourteen potential spaces in the dirt parking between Ryan's Way and the building. They did not create the other parking on the original approved plan. It is questionable how much actual parking there is. They suggest that they could park 55 cars but this would likely be with a chaotic arrangement with parking along the road, which was not allowed in the original decision.
- Ryan's Way access is not generally a high traffic area along Edgartown-Vineyard Haven Road. The sight lines are adequate. The traffic impact would be the same or slightly less than what was approved previously.
- Several church members live in the building.
- The Commission has an unwritten policy not to apply the affordable housing policy to religious organizations.
- Economic impact: The designation of church use exempts the site from property taxes but uses unrelated to religious practice, such as daycare, will require payment of taxes.
- Impact on abutters: Ryan's Way residents have expressed dissatisfaction with the project and uses of the site for a long time.
- Commissioners have received letters from the Oak Bluffs Selectmen, Sean Murphy, and Dr. John Campbell.
- Paul Foley presented a slide show of the site showing aerial views, photographs, and plans.

Peter Cabana asked what the piles of dirt are for.

Bill Wilcox reported on water issues.

- The site is in the Sengekontacket Pond watershed; it is a nitrogen-sensitive coastal pond.
- One of the original conditions was that the water usage would be limited. The site was approved for 139,000 gallons per year plus a 10% grace.
- Water records indicate that between 2008 and 2009, use was 329,000 gallons, and for the next nine months, use was 229,000 gallons.
- The original conditions stipulate that if the 139,000 gallons are exceeded, they have to begin some kind of denitrification program. One of the stipulated options to reduce the nitrogen impact would be that the project could tie into high school sewer line if it were available. Alternatives are to consult with LUPC to come up with an alternative that could involve payment to a fund or improve nitrogen removal or install nitrogen denitrification.
- They clearly exceed the limit we had in place.
- With the added tent, water use would probably increase.

Pastor Carvalho said that services moved out of the site in mid-December.

Ned Orleans asked what the focus of the Commissioners' discussion is. Is it a modification of the previous project or a new proposal? Do the previous conditions apply?

Linda Sibley said there are issues related to that original decision that are being raised. The question is whether we can address those questions. She thinks that the water issue is applicable because it is a condition with which they need to comply that may be affected by a change in conditions. However, there are some other things that may not be appropriate to wander into.

Doug Sederholm said the scope is not just the tent; it is also the nature of the use of the tent. Commissioners have to keep in mind that it is a temporary use.

Kathy Newman spoke to the question of compliance and how to review the new proposal.

Fred Hancock said it would be useful to understand what the actual use of the property will be.

John Breckenridge said the applicant has broadened the scope of what the Commission is looking at. In the applicants narrative they are making a very specific statement that this will only be used for church and daycare use. Now we hear that they are also asking the town for permission for an 8-room boarding house.

Darran Reubens clarified that this application is for the tent as temporary structure to be used from the end of June through October for church services. The church has tried several other locations. The only option they have for the congregation is the tent.

5.2 Applicant's Presentation

Pastor Bruce Jackson came to speak on behalf of the church.

- He represents the New England District of the Christian and Missionary Alliance. The Alliance Church is part of a worldwide alliance.
- This church is independent but is also backed by Christian and Missionary Alliance.
- They support the project and stand behind its' implementation.

Rosemarie Haigazian, attorney, spoke on behalf of the church.

- The church Pastor Bruce represents is willing to stand behind the church. They do have other support.
- There have been requirements that this church has not been able to meet. The elevator and some requirements came in much higher than they thought. They're hopeful for the future.
- She's very concerned about the nitrogen reduction. She's not prepared right now to comment on it. It's a regional issue that has to be addressed.
- The question of whether the church can have a tent is related to whether they can hold services. They're trying to be good neighbors. They built the fence in the back.
- This will be a temporary use strictly for church services. There is a hope that the choir will be able to practice in the tent.
- She spoke to Sean Murphy. He has some concerns but his information may not be accurate.
- She's aware that the town has concerns, particularly about noise.

- The police department has a decibel meter. Certainly, the decibels should fall within the requirements. She recognizes that the acoustical engineer recommended no amplified music. They are willing to walk away from the drums and the amplified music for this temporary situation.
- There are time restraints.
- As far as the total use of the property for the future, they don't know. They did have hopes that they would be approved by the Commission.
- They're asking that the Commission recognize that they are compromising. This is something that meets the dire needs of the congregation.
- They presently have 39 parking spaces, including two handicapped spaces. They have the possibility of 16 more spaces for parking for the 50 by 50 tent.
- The lighting is not an issue; it will be at the doors. The expectation is to use the exterior lighting from 6:30 to 9:00 p.m.
- There are presently two people residing in the building as custodians. The rest of the house is not a rooming house; it's a daycare.
- They are asking that the Commission approve this particular application. Those issues can be addressed several different ways, including that the police have the ability to address noise with the decibel meter.
- There is no expectation that they'll bother the neighbors.
- Dr. Campbell's house is on the market.
- They were not able to comply with the original approval and this is a fallback position to try to serve the needs of this particular community.

Jim Joyce asked whether the group is in the process of applying to the town for a boarding house permit for 8 persons. **Pastor Carvalho** said the house residents help take care of the building and help pay the expenses of the church.

Rosemarie Haigazian said they don't expect more than 100 people.

Kathy Newman asked if anyone knows what the high use of water is caused by. **Pastor Carvalho** explained that the water numbers for at least two months was a problem under the deck with a leak. They'll have better use numbers in six months. The leak occurred between the meter and the building. The meter is in the basement, the leak is under the deck.

Doug Sederholm asked that the applicant provide the date the leak was repaired.

Bill Wilcox said he would have to check on that but that the numbers represent several years so that a couple of months wouldn't explain the overall numbers.

Kathy Newman asked about parking. **Darran Reubens** said the daycare ends at 5 p.m. so all the parking spaces, except boarders, would be available.

Pastor Carvalho said there would be no music at their services on Fridays. There will be music on Wednesday and Sunday nights and at some choir practices.

John Breckenridge asked whether the applicant is moving forward with the boarding house application. On the one hand, the applicant indicates that the site will be used for services and day care; on the other, additionally there is a proposal for eight boarding house rooms.

Darran Reubens explained that they are in the process of applying for the eight room permit, but they had to withdraw due to a technicality and have not re-submitted that yet.

Rosemarie Haigazian said that the boarding house rooms, if approved by Oak Bluffs, would have to come before the Commission for approval.

Rosemarie Haigazian spoke about the cease and desist order. **Paul Foley** explained that there have been two cease and desist orders.

5.3 Testimony from Town Boards

John Bradford, Chairman of the Oak Bluffs Planning Board, explained the zoning.

- A special permit from the zoning board of appeals for daycare is a permit for one or two year periods. The special permit granting authority is given to the applicant, not to the property. If the church were to sell the property, the permit wouldn't carry with it. It's unclear whether the daycare license was granted to the hospital or to the church.
- If the tent did not meet the required setback, it would need a variance from the ZBA.

Darran Reubens said as far as the Town is concerned, as long as the tent meets the 50-foot setbacks, the building inspector will issue the permit.

5.4 Public Testimony

Kris Chvatel commented on the project.

- Originally the tent was proposed as summer use – June through September. Now it's proposed for late June to October. He asked specifically what are the times and dates for the tent.
- The applicant has also added choir practice at unspecified times.
- Pastor Carvalho has said that 80 people attend services, but the capacity of a 2500 square foot tent, at 8 square feet per person, is 400 plus people.
- The attorney mentioned 55 parking spaces. He can't see 55 parking spaces. He'd like the applicant to point them out.

A resident of 15 Ryan's Way commented that an approved project down the street at the World Revival Church is required to have air conditioning and closed doors. At the World Revival Church noise has become a problem with open doors. Churches are allowed by law but there's the issue of quality of life. We have to live in that neighborhood. It's not a normal church when you meet several nights a week.

Anthony Cappelli, abutter, said the fence that went up was not put up by the applicant because they wanted to be good neighbors but because they were forced to put it up through many, many trips by himself to the building inspector. The applicant doesn't want to work with the neighbors in the neighborhood. The Dover Amendment allows the church to worship inside the home. He doesn't think that extends to a tent.

Russ Wendt, 19 Ryan's Way, wanted to give his perspective.

- Ryan's Way is a private road. It is ten property owners. Seven of the owners have lived there for twenty to thirty years. These families enjoy living there. It is 1.5-acre zoning.

- They abut the high school and the Church of Latter Day Saints property which could be left as a natural buffer if it weren't built.
- Leslie and Chris Look got permitted for an 11-room boarding house, and upgraded the septic to increase the value of the house, but never actually had a boarding house.
- As you come down Ryan's Way it's a dead end street. Any parking issue becomes a traffic issue for all of us on the street. Every one of us has to go by Dr. Campbell's property to exit Ryan's Way. Anyone who can't find parking might continue down the street to the cul de sac to turn around.
- Because of the proximity of the road, the noise inside the tent will probably go up because they will have to contend with road noise.
- He was in the tent business for 17 years. So some statements are fact, some are opinion.
- Tent parties are very loud. Everyone wants to go to them. There is amplification, there are electric cords, noise and lighting and the parties go on all night. Any structure that is more than 125 square feet and up for more than 24 hours requires a permit. Load on the roof, flame retardancy and electricity are all issues to consider.
- To this point in the last four years there has been a lot of disrespect by the applicant. They haven't done what they said they were going to do in terms of the fence and vegetative buffer. They can probably rent the sailing camp. The applicant doesn't actually live at this site so maybe he should put the tent up on his property in Meadowview farms. Everything is getting dumped on this piece of property.
- We haven't heard from the fire chief, the police chief, and the other boards about putting a tent up on this piece of property.

Kris Chvatal said the attorney mentioned that 6:30 to 9:00 wouldn't affect anybody's sleep patterns, but it would affect his children's sleep.

Mark London said the Commission could have the acoustical engineer expand on his initial opinion. He has said that the DEP standard allowing 10 decibels above the ambient noise level works well for general white noise, provided it is properly measured, but it is not adequate for regulating speech, music, or tonal noise. Music and speech far less than a ten-decibel change from the ambient level could be very annoying.

Linda Sibley asked about the services on Wednesday and Sunday. **Pastor Carvalho** said that the first hour is a music time; the second hour is testimony.

Rosemary Haigazian said the number of people that attend services are between 70 and 90, including the choir and pastor.

- The music is the first hour of the service on Wednesday and Sunday. If the choir has to find another place to practice, it has to find another place to practice.
- The fence was the first thing because it was a priority and that person is not here because he didn't want to take a position and that's a step in the right direction.
- Regarding Mr. Wendt's concern, this is not a tent party. The services will end at 9:00. Certainly by 9:30 everyone will have left.
- Regarding electricity, they will need a licensed electrician and a building permit, and are subject to inspections. Safety is a crucial factor.

- All the boards have been notified. If they had anything to say, they would have written or attended.
- Her clients would comply with acoustical requirements because they want to be good neighbors.
- They will address the other questions about times, parking, specifics on what days things are occurring, specifically choir practice.

Commissioners discussed whether to keep the hearing open.

Linda Sibley closed the public hearing, but left the written record open. Questions should be sent in by Wednesday June 23, 2010 and the responses and other comments should be submitted by Monday June 28, 2010 at noon.

Russ Wendt asked what the tent looks like and who the manufacturer is.

Lenny Jason moved, and it was duly seconded, to suspend the rules for fifteen minutes. A voice vote was taken. In favor: 13. Opposed: 1. Abstentions: 0. The motion passed.

Linda Sibley asked Mr. Wendt to submit requests for information

Chris Murphy suggested keeping the public hearing open.

Russ Wendt requested the following information:

- Manufacturer of the tent, who's going to install it, insure it, what it's going to look like, sidewalls, and interior.
- How many people are living in the house?
- He asked the commission to address the question of whether the conditions are being met. He suggested that the Commission needs to look at the original decision before voting on the tent.

Anthony Cappelli said that Rosemarie is the third attorney he has dealt with in dealing with the church. We have heard many times the applicant say he is going to be the best applicant. He has not been the best applicant.

Kris Chvatal asked, as a modification of an existing DRI, whether all conditions are up for discussion.

Linda Sibley responded that it's a reasonable question and we will have to look at that. There are some that are clearly pertinent. The church has certain rights under state zoning and the constitution.

Chris Murphy commented that a letter should go from LUPC to the Oak Bluffs boards stating that anything that goes to Oak Bluffs regarding this project has to be referred to the Commission.

Barbara Feldman asked whether it is possible to get accurate numbers regarding water usage, the leak, etc.

It was clarified that the hearing officer, upon reviewing the written testimony, can decide to re-open the public hearing.

Camille Rose asked whether Commission can look at the cumulative impact of the project.

Linda Sibley closed this session of the public hearing.

The meeting adjourned at 10:15 p.m.


Chairman

7/15/10
Date


Clerk-Treasurer

7/22/10
Date