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## **Minutes of the Commission Meeting Held on March 28, 2012 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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

P Bill Bennett (A-Chilmark)	- Chris Murphy (E-Chilmark)
- John Breckenridge (E-Oak Bluffs)	- Katherine Newman (E-Aquinnah)
P Christina Brown (E-Edgartown)	P Ned Orleans (A-Tisbury)
- Peter Cabana (E-Tisbury)	P Camille Rose (A-Aquinnah)
P Martin Crane (A-Governor)	- Doug Sederholm (E-Chilmark)
- Erik Hammarlund (E-West Tisbury)	- Linda Sibley (E-West Tisbury)
P Fred Hancock (A-Oak Bluffs)	P Brian Smith (A-West Tisbury)
P Leonard Jason (A-County)	- Holly Stephenson (E-Tisbury)
P James Joyce (A-Edgartown)	

Staff: Bill Veno (Senior Planner), Paul Foley (DRI Planner)

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

**Fred Hancock** noted that the MVC asked the State Ethics Commission for a ruling regarding how to proceed with the Cronig's Solar Canopies project, since a majority of the Commissioners were members of the Vineyard Power cooperative, co-applicant in the Cronig's Solar Canopies project. The Ethics Commission advised that a quorum of Commissions would be available to act on the proposal if the four appointed Commissioners that were also Vineyard Power members received letters from their respective appointing authority that it did not consider there to be a conflict of interest and to allow the appointee to participate in the review. This has been done and the eight appointed Commissioners, plus the sole elected Commissioner who is not a Vineyard Power member, provide the quorum to act on the Cronig's proposal.

### **1. CRONIG'S SOLAR CANOPIES – TISBURY – (DRI-321-M3) CONTINUATION OF PUBLIC HEARING**

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Commissioners Present: B. Bennett, C. Brown, M. Crane, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, B. Smith.

For the Applicant: Steve Bernier (d/b/a Cronig's Market), John Abrams and Derrill Bazy (South Mountain Company), Rob Meyers (Energy Services Manager), Richard Andre (Vineyard Power)

At 7:05 p.m., Christina Brown, Hearing Officer, opened the continued Public Hearing, recessed from March 27, and reread the Public Hearing Notice.

The Applicant is Steve Bernier d/b/a Cronig's Market, the Co-Applicant is Vineyard Power and the agents and installers are John Abrams and Derrill Bazy of South Mountain Company. The proposed location is State Road, Tisbury Map 23A Lot 23, 26 and 63 (2.44 acres). The proposal is to install three "Solaire" solar canopies above the existing parking lot supporting 12,200 square feet of solar panels.

## **1.1 Staff Report**

**Paul Foley** gave the updated Staff Report:

- The packet of information includes the Land Use Planning Committee (LUPC) notes, a copy of the plans and the signed offers.
- The project would be built in two phases. The first phase would be the two canopies in the lot in front of Healthy Additions in the spring 2012. The second phase would be the canopy in the front lot next to State Road in autumn 2012.
- The proposal is to install three "Solaire" solar canopies above the existing parking lot supporting 12,200 square feet of "Sun Power" PV solar modules.
- The three canopies are estimated to generate 250,000 KWh of electricity per year. This amount is estimated to be about one-quarter of the supermarket's annual electric consumption.
- There would be six charging stations for electric vehicles.
- The support columns and footings should not significantly alter the existing parking layout.
- The applicant proposals that several existing young trees in the parking lot, which are actually an invasive species (*Acer platanoides* "Crimson King"), would be removed and one mature oak street tree would be removed. Five native street trees (*Acer rubrum*) would be planted along the State Road streetscape.
- The electrical supply systems would be housed in Cronig's basement.
- The applicant feels that the appropriate place for solar panels is on disturbed and already developed lands such as parking lots or landfills, rather than farm fields or cutting down woods.
- A DRI referral was from Ken Barwick, Tisbury Building Inspector on December 22, 2011 based on Checklist item 1.2 "Once a DRI always a DRI".
- The applicant's agent requested foregoing a modification review and going straight to Public Hearing.
- Some key issues are:
  - How will the canopies fit the character of the area?
  - How will they maintain the street tree and vegetation along State Road and throughout the parking lot?
  - Can an existing mature street tree along State Road coexist with the canopies?
  - Is there a less imposing alternative?
- It is not a National Heritage Endangered Species Program (NHESP) priority or estimated habitat.
- Open space is not a planning concern since the proposal is in a parking lot.
- They are taking the "dark sky" approach to lighting. They will keep the existing eight lamp posts. They may have to shorten or possibly move a few of them. In addition they plan to wire the columns and install LED cylinders to provide light if needed. They would be energy-efficient, 16 watt bulbs.
- The HVAC system installed in 2007 was a brand new boiler system that operates at 96% efficiency.
- The vehicle-charging systems are intended to partially recharge cars while customers are shopping, not as independent, quick-charge stations for passersby.
- No additional wastewater is expected with this proposal.
- Rainwater will be channeled through the canopies directly to existing storm drains.
- Parking is not an issue since the plan is designed to not lose any parking spaces.
- LUPC waived the need for a traffic study.
- The proposal does not trigger the MVC Affordable Housing Policy.
- The Applicant has tried to make the proposal economical, replicable, and aesthetically acceptable in order to become a model for others.
- Correspondence has been received from the public; some is in favor and some is opposed. The correspondence was summarized and the letters are also available on the MVC website.

- The site plans were reviewed and since the last discussion the Applicant has removed the undersides of the panels.

## **1.2 Applicants' Presentation**

**Rob Meyers, John Abrams** and **Richard Andre** gave an overview of the proposal:

- A year ago, Vineyard Power issued a competitive RFP for a supplier for solar power and Cronig's was selected.
- The roof was evaluated and the structure is not compatible to the installation of solar.
- South Mountain has looked at installing solar in parking lots for some time.
- Once it was decided that the parking lot would be the solution, they had to find a company that would provide the proper product.
- The Solaire product has a central spine and is designed that at the low side it is 13 feet tall. It also provides a water management system with a central collection gutter. This product was the most beautiful that they found in the marketplace.
- The element that they struggled with the most was the white decking on the undersides, so they worked with Solaire and the decking has been removed. The revised underside was shown and it will now have a translucent effect.
- They are now proposing to tone down the structural posts and perhaps they will be in a gray tone.
- The first phase will start this spring and phase two will be in the fall. They want to move forward with this project and to do it with care and intelligence.
- They will be taking a parking lot and move it into productive real estate.
- They have looked at 13 locations on the Island which can provide significant power, and thank Steve Bernier for having the foresight for doing this.
- Vineyard Power was born out of a recommendation from the MVC. It is a community owned cooperative with 1200 members.
- The solar power projects are a small part in maintaining renewable energy for the Island. Offshore wind could produce 75% of the Island's energy, producing jobs as well as local sustainable energy.
- 25% of Cronig's energy will be green energy from this project.
- Vineyard Power is working with the Town of Aquinnah, where it hopes to be the first in the state of Massachusetts to build a solar array on a capped landfill.

## **1.3 Commissioners' Questions**

**Ned Orleans** asked for clarification with regards to the correspondence received from Trevor Good on what the impact of this project would be in comparison to a gas station on Beach Road. **John Abrams** said there is a different look and it is a different project with a different aesthetic. In addition, the main look of a gas station canopy is now gone.

**Brian Smith** asked for clarification on why panels are not being placed on the roof. **Rob Meyers** said it is not structurally compatible and in order to do so it would require removing the roof and you would need to rebuild the building. In addition the line of mature trees in front of the front canopy roof would have to be removed if solar panels were placed on that section of roof. **Steve Bernier** noted that if they can get the project going, he is open to revisit placing panels on the front canopy roof. The building was built in 1994 and they were told by the engineers that the dead load capability is too close to accept more weight.

**Brian Smith** noted that this project will provide Cronig's with the equivalent of 25% clean power.

**Fred Hancock** asked if there was any concern regarding bird nesting. **John Abrams** noted that it has been reviewed and it is not a large problem. **Steve Bernier** said they will need to see how the structure comes together and then they may need to use a distraction to discourage nesting.

**Martin Crane** asked if there is a significant rainstorm will the volume overwhelm the one main drainage channel to the catch basin. **John Abrams** said it is designed to take a maximum rainfall and if it did not, it will fall over the side and might possibly fall onto the parking lot as it does now. It would still drain to a central drainage area.

**Leonard Jason** said he likes the project and supports solar power but now the oak tree will be taken down and asked if there isn't a way to leave the oak tree. **John Abrams** said there is not a way to leave the tree without a major sacrifice. **Steve Bernier** said that planting the red maples may be a better solution for the future.

**Leonard Jason** asked if there isn't a better way to locate the canopies. **John Abrams** noted that the panels do not need to face in any particular direction since they are basically flat and they are running in the direction of the existing parking lot.

**Bill Bennett** asked how much power will be lost if the oak tree is left. **John Abrams** said 15%, approximately 14,000 KWh. **Bill Bennett** estimated that would be equivalent to a loss of \$2300 a year in energy created, not counting incentives, and questioned if the money saved by cutting down the oak tree is justified. **Rob Meyers** noted that with incentives it is estimated to be \$9300 per year in lost energy.

- **John Abrams** noted that the loss to Vineyard Power and the investors that are making this happen would be large, about 15%.
- **Christina Brown** asked what is the cost of saving the oak tree and letting it shade the solar panel and will it cut down on the solar panels by 15%. **John Abrams** said that over ten years the cost would be \$50,000 to \$150,000. **Bill Bennett** agreed with the numbers but felt it would be in the lower range.
- **Leonard Jason** noted that the tree will die if you cut it back, so you might as well take it down.
- **John Abrams** noted that at the last discussion, the MVC said why not cut it down from 70 feet to 30 feet and see how it goes. If it doesn't die, review how it looks and if needed they can go to the Tisbury Planning Board and ask to cut it down.
- **Brian Smith** asked who makes the decision if it is ugly. **John Abrams** said that is why the offer was made to go to the Tisbury Planning Board to make the decision if it should be cut down. It is in number six of the offers.

**Brian Smith** asked how much power does an average house use. **John Abrams** said the state average per house is 7100 kw/yr. By cutting the tree down you get the equivalent power for two houses over a year.

**Camille Rose** asked if the panels handle the snow. **John Abrams** said that any melt and slide will be towards the middle. The only snow that will come off is at the edge.

#### **1.4 Testimony from Public Officials**

**Christina Brown** asked what other town approvals does the project need. **Ken Barwick**, Building and Zoning Inspector for the Town of Tisbury, said the application is subject to a site plan review by the Site Plan Review Committee who will give written advisory to the Planning Board and the Building Department, a building permit, and permission from MassDOT for any trees cut down within ten feet of the shoulder of the state highway, which this tree is.

There was a discussion of the charging stations.

- **Ken Barwick** asked for clarification as to whether the six charging stations are on existing parking spaces and is there a time duration for their use.
- **Richard Andre** said they were.
- **Steve Bernier** said the use is during a customer's shopping trip.

- **Ken Barwick** asked if they are designated spaces.
- **Steve Bernier** said they will see how it goes; each post can support four spaces. They will be reviewing it and anyone can park in those spaces.
- **Ken Barwick** asked if these are considered an auto refueling depot.
- **Christina Brown** said no, the proposal is in front of us as a modification to a DRI. This is part of the entire proposal, some of which may or may not be approved. It is an interesting question, but not relevant to this proposal to the MVC's review.
- **Ken Barwick** understands the primary use and brings up the refueling since the site plan and the initial referral did not indicate a certain number of spaces for recharging the cars. It may have been an incomplete referral.
- **Christina Brown** said that it did not have it, but it now has the recharging and all the parts of the project will be reviewed.

### **1.5 Public Testimony**

**Christina Brown** summarized in detail each letter and email submitted from the public. In addition, she read the letter from the Town of Tisbury Planning Board co-chairs (as distinguished from being from the entire Board) in its entirety.

**Ned Orleans** noted that the Planning Board would not normally be involved prior to the MVC being involved. The Applicant voluntarily went to the Planning Board. **John Abrams** noted that the letter was written prior to the first Public Hearing and Tony Peak was present at that meeting. **Paul Foley** noted that the Planning Board could not be present tonight due to another meeting.

**Bill Venore** reminded people that this is a new public hearing for the project and anything that was said before tonight that might be the basis for evaluating the proposal should be repeated here at this hearing.

**Christina Brown** asked, in response to the correspondence received, asked the applicant to address what they doing to restore the plantings along State Road and the issue regarding solar panels on the roof. **Rob Meyers** showed the new site plan with the replanting of the red maples; they will be 30 feet high and will be kept at 30 feet. He also stated that the idea of having solar panels on the roof is the most common concern and that is why it was addressed up front; the roof cannot support the panels.

**Mark Rosenbaum**, an employee of South Mountain stated that with regards to the trees, the effects of how we now create power, causes acid rain that affects our trees. At some point we have to decide where we want renewable energy. Everyone wants it, but not next to them. We are talking here about parking lots and capped landfills, but what the MVC has not heard about is putting solar panels on agricultural land and that is a poor societal choice. He cannot think of a better place where you can get a dual use. It is not taking virgin land or agricultural land.

### **1.6 Commissioners' Discussion**

**Martin Crane** asked how long the construction period is and how will that affect the parking at the market. **Steve Bernier** said the work on the side lot needs to be done by Memorial Day and phase two will be after Labor Day.

**Peter Cabana**, speaking as a member of the public, asked to address the recharging stations. Off Island he drove an electric car and he asked the dealer how long it takes to refuel the car. If plugged into a normal wall socket it takes 18 hours. With the connection that is proposed it will take 8 hours.

**Christina Brown** noted that the Commission always reviews parking. **Paul Foley** stated that currently Cronig's has 127 spaces, more than enough to meet ITE standards.

**Martin Crane** asked if it is a necessity to have these recharging stations for the 10-40 minutes spent in the market. Is it the icing on the cake or is it something that is needed. **John Abrams** said it is a way to expose it to the public and is to boost the power for someone who needs it on their way home. There is nothing to regulate them like liquid fuel.

**Martin Crane** asked if this is complicating this particular process and project. Someone who is driving an electric car would be paying attention to their meter.

**Ned Orleans** suggested to reword the statement such as the parking spaces would be equipped with charging capability while shopping.

**Brian Smith** asked what is the difference is between this and a filling station regardless of gas pumps. When technology improves and recharging is quicker, will this change this to a filling station?

**Leonard Jason** said it is a nice touch and not a filling station as it could always be disconnected.

**Fred Hancock** asked if it is written in the offers that they will provide charging stations and if they don't, would they need to come back for a modification. **James Joyce** noted that if it is put in as a condition, they would need to come back for a modification.

**Brian Smith** asked how do we protect ourselves 15 years down the road from this becoming a filling station. **Christina Brown** said that one way for the community to be protected is an offer from the applicant to clarify it, such as what Ned Orleans suggested regarding use while they shop. **John Abrams** clarified that the offer could be that the charging stations will be available to shoppers while they shop.

**Steve Bernier** said it will cost him if the public uses them, but we are introducing this to promote electric cars and there is a switch to turn it off in the evening when the store is closed.

**Bill Bennett**, as a point of order, noted Brian Smith expressed an opinion that does not necessarily reflect the whole board.

**Christina Brown** asked the applicant to clarify if they were adding offer number eight. **John Abrams** said yes.

**Camille Rose** said that perhaps the offer could include that the six charging stations that customers are permitted to use is an accommodation. **John Abrams** thought the offer should be if the chargers are installed they will be available only to shoppers while they shop. **Steve Bernier** noted that it is actually 24 spaces that can be used for recharging as one station can service four spaces.

**Martin Crane** noted that he is a little uncomfortable with this. Why wouldn't it be considered a filling station; it would if it were propane. The words "as they shop" does not change the process.

**Steve Bernier** felt it was healthy looking at these paradigms of the situation. He would like to continue the conversation and include Ken Barwick so we can flush out what is said.

**Brian Smith** said it is his opinion that when you start charging for it, it becomes a filling station. Can there be a condition for this. **Rob Meyers** noted that you cannot charge for electricity unless you are a utility company or a municipality. This is to help alleviate range anxiety, not a refilling station, and there is no cost to the shopper.

**Ned Orleans** noted that we are not dealing with gas or propane, we are dealing with electricity and that is the application. For anything different it would have to come back for approval.

**Martin Crane** asked Ken Barwick if this is a fueling station after the discussion that he has heard.

**Bill Veno** said the MVC's concern with fueling stations is that they are high traffic generators. This proposal will not create a high traffic issue as it will not generate any more traffic than would otherwise visit Cronig's.

**Christina Brown** asked Steve Bernier to better state his suggestion, as one was that they will clarify their offer and the other suggestion was continuing the public hearing. **Steve Bernier** said he did not want to continue the public hearing, just the discussion. **Christina Brown** asked if he wanted to continue the discussion within the framework of the public hearing or outside of it. **Steve Bernier** said he is interested in how Ken Barwick has to deal with it and needs to wait for Ken to do his homework and come back to us with his information. **Christina Brown** asked if he was asking the MVC to continue the Public Hearing. **Steve Bernier** said no, let's move on.

**John Abrams** reworded the offer; If the proposed six chargers are installed, that they are to be used only for shoppers while they shop at no cost.

Christina Brown, Hearing Officer, recessed the hearing at 8:45 p.m. and reconvened at 8:50 p.m.

**Bill Veno**, speaking as a member of the public, said he is not sure that everyone would agree that the unfinished look of the canopy is more acceptable than the decking.

**Rob Meyers** restated the offer that use of the proposed six chargers beat no cost to the shoppers.

Christina Brown, Hearing Officer, closed the Public Hearing at 8:55 p.m.

**Leonard Jason moved and it was duly seconded to go directly to the decision and waive the Land Use Planning Committee (LUPC) review. Voice vote. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.**

## **2. CRONIG'S SOLAR CANOPIES – TISBURY – (DRI321-M3) DECISION AND DELIBERATION**

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Commissioners Present: B. Bennett, C. Brown, M. Crane, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, B. Smith.

**Camille Rose moved and it was duly seconded to go directly to Benefits and Detriments. Voice vote. In favor: 8. Opposed: 1. Abstentions: 0. The motion passed.**

### **2.1 Benefits and Detriments**

**James Joyce** noted that this is a business venture and the public will have to put up with this visual eyesore in order for them to make money. He doesn't find this attractive at all. Another thing that bothers him is that they are doing this due to the federal money and credits. It is not totally green as a lot of energy is used to build the infrastructure. The roof today that cannot support solar panels may be able to in ten years with advances in technology.

**Brian Smith** said that he shares many of Jim's concerns. It is an eyesore to the gateway to our Island. Put it in the Park and Ride lot and he agrees with the project. The Commission has spent a lot of time to make this parking lot attractive with the plantings and the trees. He is not sure the benefits outweigh the Fort Lauderdale effect. The public correspondence in opposition states it does not reflect the character of the Island.

#### Benefits:

- **Bill Bennett** said it is appropriate in view of the alternatives. In the meantime we have to do something, to do nothing is unacceptable. The owner should be applauded for doing something. It is appropriate.
- **Brian Smith** agrees with Bill, but would wholeheartedly if the power generated fed clean energy to the Island as a whole.

- **Martin Crane** said that sometimes we have to take the first step towards renewable energy and this is a step. There is some financial gain and the roof is not feasible at this time.
- **Leonard Jason** noted that someone will benefit by them producing the energy.
- **Camille Rose** said that part of what we should be looking at is educating the public about alternative energy sources and the visibility of this installation will help to do that.
- **Fred Hancock** said that some shading of cars will be provided.
- **Fred Hancock** noted that there is no impact to abutters, no transportation/traffic issues, it does not affect wastewater, and there are no issues with lighting and noise.
- **Fred Hancock** noted that it does not adversely affect the tax rate because it is on private property.
- **Martin Crane** said it is an improvement on the property so more taxes will be paid to the town.
- **Brian Smith** said it is consistent with state plans and objectives for renewable energy.
- **Ned Orleans** noted that it is consistent with the Island Plan.

#### Detriments:

- **James Joyce** said that this project does not slow down any burning of coal and oil. Solar is only good as long as the sun is shining. They are not going out on a limb with the federal funds they are receiving. It is almost like going against solar or wind. It is as if you have to like it. This is a decent plan but in the wrong location. Once they are there, they are not going away.
- **Christina Brown** noted that there are going to be advances in solar technology. She is not sure the MVC has even done a review for the future such as what will be available ten years from now. Can a project be given an approval for a time period? **Paul Foley** noted that Shirley's containers were given a five year approval.
- **Brian Smith** noted that people could see these and think they are an eyesore and not want them anywhere else.
- **Leonard Jason** did not feel that we needed to look at the aesthetics, this is the future.
- **James Joyce** and **Brian Smith** felt that aesthetics are an important part of the project and the impact on scenic values was a detriment.
- **Christina Brown** felt that this refers to scenic vistas and rolling hills and is not applicable to a commercial installation.
- **Brian Smith** said it is out of character to the Island. **Ned Orleans** asked if he believes that solar panels are appropriate anywhere. **Brian Smith** said yes, but this structure is ugly. It looks like a truck stop in Iowa.
- **James Joyce** said it is a burden to taxpayers. **Christina Brown** agreed that we all pay for these experiments.

## **2.2 Deliberation and Decision**

**Bill Bennett moved and it was duly seconded to approve the application with the offers as presented, with the addition of offer number eight, with no additional conditions.**

- **Leonard Jason** is concerned with item six. He believes the tree will die and the Planning Board is concerned with keeping the canopy on State Road. There must be a way to plant trees on State Road to meet the Town's plan.
- **Fred Hancock** noted that they are planning to replant.
- **Christina Brown** said that their offer says they will replant five trees along the road on either side of the oak tree.
- **Leonard Jason** said let the Planning Board work out the species for the trees being replanted.



- **Ned Orleans** noted that the whole issue was raised by the chairman of the Tisbury Planning Board in the letter that was sent to the MVC. The Planning Board has been and will continue to be involved if needed.
- **Christina Brown** said that if we accept offer six, with regards to the last sentence we are saying it is okay for the Tisbury Planning Board to make the decision regarding cutting down the tree.

**Roll call vote. In favor: B. Bennett, C. Brown, L. Jason, N. Orleans, C. Rose, M. Crane., F. Hancock. Opposed: J. Joyce, B. Smith. Abstentions: none. The motion passed.**

Fred Hancock recessed the meeting at 9:25 p.m. and reconvened at 9:45 p.m.

### **3. CRONIG'S SOLAR CANOPIES – TISBURY – (DRI-321-M3) ADOPTION OF WRITTEN DECISION**

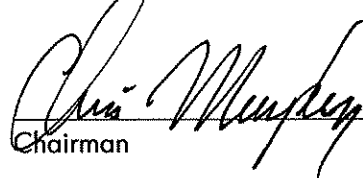
Commissioners Present: B. Bennett, C. Brown, M. Crane, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, B. Smith.

**Camille Rose moved and it was duly seconded to approve the written decision with corrections as noted. Roll call vote. In favor: B. Bennett, C. Brown, J. Joyce, L. Jason, N. Orleans, C. Rose, B. Smith, M. Crane, F. Hancock. Opposed: none. Abstentions: none. The motion passed.**

The meeting was adjourned at 10:00 p.m.

#### DOCUMENTS REFERRED TO DURING THE MEETING

- Martha's Vineyard Commission – DRI #321-M3 Cronig's Solar – MVC Staff Report – 2012-03-28
- DRI 321-M3 – Cronig's Solar – Correspondence
- Cronig's Solar – DRI 321-M3 – Draft Offers; Received March 28, 2012
- Draft decision of the Martha's Vineyard Commission; DRI 321-M3 – Cronig's Solar Canopies

  
Chairman

5/17/12  
Date

  
Clerk-Treasurer

6-6-12  
Date