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Minutes of the Commission Meeting Held on July 12, 2012 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

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

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

Chairman Chris Murphy called the meeting to order at 7:00 p.m. He welcomed Tim Carroll the newly appointed Commissioner for Chilmark.

1. MINUTES

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, H. Stephenson.

Fred Hancock moved and it was duly seconded to approve the minutes of June 21, 2012 with corrections as noted. Voice vote. In Favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

2. SOUTH MOUNTAIN SOLAR-WEST TISBURY (DRI 463-M3) MODIFICATION REVIEW

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, H. Stephenson.

For the Applicant: John Abrams

2.1 Staff Report

Paul Foley presented the Staff Report:

- The packet of information includes the Land Use Planning Committee (LUPC) notes of July 2, 2012, data sheets, aerial views and an image of the proposal.

- The project is a solar PV installation project at the shop and office building of South Mountain.
- The location is 13 Red Arrow Road, West Tisbury, Map 8 Block 37.
- The project entails the installation of a 38.84 kW solar PV array comprising 120 modules that are approximately 39" x 60" each.
- It will be fixed to the existing roof over the shop.
- There will be no change to the overall height or profile of the building.
- Before and after views were shown.
- South Mountain has spoken to the Building Inspector and they plan to apply for a Minor Work Permit.
- The LUPC voted to recommend to the full Commission that the addition of the solar array as proposed was not significant enough to warrant a public hearing and that it be approved as a modification.

Peter Cabana questioned why it needs to come back to the MVC for review since it is on the roof and not out of the ordinary, while the MVC is not reviewing other huge projects on the Island. **Paul Foley** said because it is an existing DRI it comes back to the MVC.

Linda Sibley moved and it was duly seconded that this change to the previous Development of Regional Impact (DRI) is not substantial enough to require a public hearing. Voice vote. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded to approve the change to the Development of Regional Impact (DRI). Roll call vote. In favor: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, J. Joyce, K. Newman, C. Rose, D. Sederholm, L. Sibley, H. Stephenson, T. Carroll. Opposed: none. Abstentions: none. The motion passed.

3. IRIE BITES FOOD TRUCK-TISBURY (CR 3-2012) CONCURRENCE REVIEW

*Commissioners Present:*J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, H. Stephenson.

*For the Applicant:*Peter Simon

3.1 Staff Report

Paul Foley presented the Staff Report:

- Peter Simon is the applicant.
- The location is the northeast corner of the building on 151 Beach Road, Vineyard Haven and perpendicular to Beach Road.
- The use is a mobile food truck take out service.
- The hours of operation are from 8:00 p.m. to 2:00 a.m. daily as weather and the operators schedule permits.
- The dates of operation are from approximately July 15, 2012 to Labor Day weekend 2012.
- They will employ three people.

- They would like to hang Christmas style lights around the truck to help illuminate the truck at night and to draw attention.
- There will be a small boom box playing reggae music that will not be loud and can only be heard 50 feet from the truck.
- Sufficient garbage cans will be provided and will be emptied nightly.
- Bathrooms for staff only will be provided at 151 Beach Road.
- There is sufficient parking for 20 cars.
- The truck will be 23 feet long by 12 feet wide.
- Two or three benches will be provided for customer seating.
- The site plan was reviewed.
- An email was received from the Tisbury Planning Board giving their verbal consent and a public hearing was scheduled for July 11, 2012.

3.2 Land Use Planning Committee Report

Doug Sederholm said that the project was discussed at the meeting and the concerns were whether it will spill over onto the neighbor's property, but that is not a regional issue and it would be taken care of by the town. It would be unwise to have the project go forward without written consent from the neighbors. It was voted not to concur since it is not a regional issue.

Fred Hancock asked if it was referred by the Planning Board. **Paul Foley** said yes and it is a food establishment outside the B-1 district.

3.3 Applicants Presentation

Peter Simon said the food truck is very successful on Main Street during the day but it is desolate in the evening. He made an agreement with Thomas Wallace to use the 151 Beach Road property. I have addressed the issue with the Planning Board and we are all taking a wait and see approach. If it becomes a contentious issue we will pack up and move out.

3.4 Commissioners Questions

Kathy Newman asked if the same truck will be used in the evening location or is it a second truck. **Peter Simon** said it is the same truck which will be relocated in the evening.

Holly Stephenson asked about the hours and the sound. **Peter Simon** said it is from 8:00 p.m. to 2:00 a.m. and the music will not be loud. If anyone complains they will turn it off.

Linda Sibley noted that the music will be inside the truck with the workers so it can't be loud or they will not be able to hear the customers.

Peter Simon noted that they want to be a good neighbor and not cause issues for the community.

Chris Murphy noted that the Applicant limited his application severely for the time frames and he would have to come back if any changes were necessary and suggested that the MVC needs to approve this more generically. If we voted not to concur and next year he wants to increase his hours, he would have to come back to the MVC, so perhaps we should expand this. **Fred Hancock** noted that it states just the year 2012 so even next year the applicant would have to come back.

Linda Sibley said she does not think this use has a regional impact.

Doug Sederholm moved and it was duly seconded that the MVC not concur in this referral on the basis of the dates of operation being approximately July 1st to September 10th each year and the hours of operation from 8:00 p.m. to 2:00 a.m. Voice vote. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

4. ARTS MARTHA'S VINEYARD

*Commissioners Present:*J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, H. Stephenson.

Ann Smith presented the following informational update:

- Mark London and Christine Flynn have served on the steering committee.
- They received a grant from the Massachusetts Cultural Council to study arts and culture on Martha's Vineyard.
- They learned that arts and culture make up 4% of the Martha's Vineyard economy and the creative arts, including things like design and architecture, make up 10% of the economy.
- They want to encourage more people to come to the Island for the culture and the arts.
- Priority projects for the coming year include:
 - To build visitation and bolster business in the shoulder seasons. They are implementing an Island-wide Fall for the Arts program this October, to engage and entice visitors in our diverse arts and cultural activities.
 - Making a robust website to service as a gateway to arts and culture destinations and activities on the Island.
 - Building the Collaborative ability to support a wide range of initiatives.
 - Designing downtown Tisbury as a Cultural District through the Massachusetts Cultural Council.
- She thanks the Commission for allowing Mark and Christine to be a part of the committee.

5. LEAF MIXED USE-EDGARTOWN (DRI 637-2) PUBLIC HEARING REVIEW

*Commissioners Present:*J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, L. Sibley, H. Stephenson.

*For the Applicant:*Doug Hoehn (Engineer), Chuck Sullivan (Architect)

Doug Sederholm opened the Public Hearing at 7:25 p.m. and read the public hearing notice. The project location is 284 Upper Main Street, Edgartown and is to remove an existing residential house and guest house and replace them with a three-story mixed-use building.

5.1 Staff Report

Paul Foley presented the Staff Report:

- The site plan was reviewed.
- Local permits needed are a Building Permit and a Special Permit from the Planning Board.
- A similar slightly larger project at this location by the same applicants was referred on March 28, 2012. The Applicants chose to withdraw their proposal from the MVC and re-apply with a revised plan.

- The new proposal would be a three story mixed-use building with a full basement.
- The new proposal would be 1,268 square feet of commercial space on the 1,892 square feet first floor with up to three units. The second floor is 1,697 square feet and would have 1,280 square feet of office space with two office units. The third floor would be a three bedroom 1,261 square foot apartment.
- The building would be 4,850 square feet not including decks, balconies and the basement.
- All commercial and residential units would be sold as condominium units if possible.
- Key issues include:
 - The exit into the Park and Ride runs along the property lines removing all of the vegetative screening and increasing the impact on the abutters. The Town of Edgartown is requiring the applicants to use and build this exit.
 - Does the proposal fit the streetscape and the neighborhood?
 - Is this too much intensity of use for the ¼ acre at a busy intersection?
 - The proposal develops the majority of the site with either building or parking.
- This is not designated as a National Heritage Endangered Species Program (NHESP) habitat.
- A mature cherry tree in the front would be retained and plantings on the border are to be retained.
- Most existing trees and plants within the property would be removed. The applicants have said that they will plant additional street trees along Upper Main Street in front of the new building.
- Lighting is to be downward shielded and on motion detectors. A minimum is required by code.
- The proposal is a new high efficiency building that will surpass the required Mass Energy rating by 20%.
- They would be connecting to town sewer.
- A traffic study was approved by the Land Use Planning Committee (LUPC) on April 9, 2012. Charlie Crevo of C3 Consulting did the Traffic Impact Analysis (TIA) and with the new proposal the acceptable levels will be slightly improved.
- A review of crash data revealed no crashes associated with this address.
- Based on the existing and the proposed use at this location, the proposed use will generate an additional 112 daily trips. Because of the proposed entrance only at the site driveway, these trips will not significantly impact the intersection of the proposed site drive and Upper Main Street.
- The site plan shows 14 parking spaces including one for handicapped. There is also a truck delivery area.
- Although this will be located near one of the most congested intersections on the Island, the proposed enter only driveway should not create a problem or add to it.
- According to the MVC Affordable Housing Policy, the recommended monetary mitigation for a commercial development of 4,850 total square feet is \$2,850.
- The applicant has offered to sell the three bedroom condominium residential unit at a reduced rate to a year round employee who is the construction project manager and will be the future on-site manager of the condominium association.

- The applicant is working with the Edgartown Affordable Housing Committee to begin compliance with the Edgartown Demolition Delay By-law for both the house and the guest house to see if there is a possibility to move one or both of the housing units off site.
- The Wavelengths Salon would move into one of the two office spaces on the second floor. The current hours of operation are 10:00 a.m. to 6:00 p.m. Tuesday to Saturday and 9:00 a.m. to 5:00 p.m. on Monday.
- The creation of new commercial condominium units will provide business owners an opportunity to purchase commercial space.
- The proposed project will generate new commercial tax revenue for the town.
- The applicant has supplied two street elevations showing the proposed building to scale on the site, showing the building setback 31 feet and 40 feet.
- The proposal is within the required setbacks in the B-II zoning of 20-40 feet back from the paved road edge. This proposal is at 31 feet.
- The proposed building is designed appropriately for the area and use.
- The proposed vehicular access/exit into the Park and Ride required by the Edgartown Planning Board would negatively impact the direct residential abutter by removing vegetative screening and increasing the amount and proximity of traffic to their backyard.

Linda Sibley asked to compare the proposal to the existing building. She asked if it could be shown on the site plan. **Paul Foley** indicated the position of the buildings. **Doug Hoehn** noted that it will be forward of the existing building.

Peter Cabana said that the Town is requiring the access road and asked if there are not any other options that the Town could evaluate. **Paul Foley** said that they do not appear to want to.

Doug Sederholm said to keep in mind that if we condition this, to do an alternate plan on the town land, it could kill the project. We should not impose these types of conditions on the applicant.

5.2 Applicant's Presentation

Doug Hoehn and **Chuck Sullivan** presented the following:

- There were some loose ends that needed to be closed on the other plan. They opted to do a new application rather than reopening the prior proposal.
- The main changes are as follows:
 - They turned the building 90 degrees.
 - It is reduced 10% in size.
 - The front is decreased 38 feet along Upper Main Street.
 - The turning of the building allows them to keep the cherry tree and add additional trees.
- He believes that the concept of the service road originated in 2008 when Al Alexander was proposing something. The Planning Board and the Selectmen as well as the Police Chief came out with the idea and made the decision at that time for the three lots. They have created an alternative; they cannot go out straight along the back but we could do an access out in the corner of the property. The Selectmen did not want to go there, they wanted to stay with their plan.
- The Selectmen did ask for vegetative screening.

- The orientation of the building was done to reduce the frontage.
- The square footage was reduced about 10% but the program of the building remains the same.
- The proposal meets the Town by-laws regarding fire code limits, height limits and the ten foot side setback.
- The Planning Board has not formally had a meeting about this but they do have all of the information. They have not formally reviewed it as a Board.

Doug Sederholm noted that by not closing the Public Hearing it will give the Planning Board the opportunity to do that.

Doug Sederholm asked Chuck Sullivan to address the setbacks and the back sidewalks.

Chuck Sullivan noted the following:

- The main reason for the setbacks as proposed is for the project to be financially feasible. You need a certain amount of square footage to make it feasible.
- There is a five-foot sidewalk and part of the discussions with the Town is to allow public access to the Park and Ride and Upper Main Street. It allows the project to function properly and it was reviewed on the site plan.

Peter Cabana asked if the movement of the building from 31 feet to 40 feet jeopardizes the walk. **Chuck Sullivan** said it would, we need the 31 feet to make it work.

Holly Stephenson said if you consider the building unchangeable and move the entire building back it won't work but perhaps you could reduce the building by nine feet to make it work. **Doug Hoehn** said that from the applicant's viewpoint it does not work to reduce the size of the building in order to make the project financially viable.

John Breckenridge noted that the applicant is trying to address part of the concept of massing with the footprint. It would be helpful if we knew the frontage for comparison.

Katharine Newman asked what does it mean "units sold as condominiums if possible".

Chuck Sullivan said that if they have a tenant who wants to rent, they could, but then potentially they could buy it as a commercial condominium. **Doug Sederholm** said it is expected that it will be condos but how that will be done, will be determined by what the market will bear. **Doug Hoehn** noted that it does not change the intensity of use. **Doug Sederholm** noted that it will all be rental or a condo. You could buy the condo and then rent it out.

Katharine Newman asked if the MVC wants to say in the proposal the possibility of the space allocation. **Doug Sederholm** noted that the Commission is more interested in how the space is used rather than the number of spaces.

Holly Stephenson asked about the size of the building noting that the Commission understands that the developer wants to maximize profit. At what point can a developer assert that the economics of the project are so big that it overrides other factors. **Doug Sederholm** said that he does not think they are suggesting that the Commission has to accept it. They are just stating how they are balancing the factors involved.

Doug Hoehn said the reality is that there are a certain amount of fixed costs regardless of the size of the building. The only way to make sure it is viable is with a certain size building and it has to be done with regulations.

Chuck Sullivan noted that from the original application the project was downsized 10% and now it is downsized another 10%, so the applicant is trying to be flexible to make it fit.

Christina Brown noted that the Commission and the Edgartown Planning Board has a lot of judgment calls to make about the architecture. She asked that the applicant explain what they are thinking with regards to the Upper Main Street Plan. She read excerpts from the Upper Main Street Plan and asked the applicant how they dealt with the concepts the Town accepted. **Chuck Sullivan** stated the following:

- There are two ridgelines on the building. The gable end faces Upper Main Street as well as the open front porch with balconies and the carved out space in the upper gable.
- The roofline is broken up with the dormers as well as from the eave side. The windows and doors provide relief as well.
- They have designed simple trim-line and an overhang on the eaves and the gable ends.
- They have white painted trim and posts.
- The design fits in with the new building that is across the street.
- The design is typical to what Edgartown is known for.

Christina Brown noted that the applicant has put a lot of thought into the project and the design.

5.3 Public Testimony

Arthur Smith a direct abutter said that the current structure is a residential structure and has always been a residential structure. He feels the proposed building is too big for the lot size and the intensity. It is three stories and other buildings in the area are not. The intensity will go up to 112 trips a day and that is a huge increase. The notes say it is a business district, it is and it isn't, it is with Special Permits. This area is different from the Stop and Shop area. This area has a lot of smaller houses. All parking has been moved over to his side and traffic is a big concern. He has been at his office for 20 years and trying to get to it can be difficult. He knows the Town wants this traffic access but he doesn't think it is a good idea. There are a lot of people who cut through now and it will continue and perhaps increase. There have been accidents in this area. A car was totaled last year across from his office. The area is over built right now. Most buildings are rented but some are empty on a regular basis. There are plenty of commercial spaces already in existence there. Considerations are as follows:

- Will the basement always be a basement with no further development of the space?
- The lot is almost entirely the building and parking lot and he is concerned there is not enough of a buffer on his side.

Colin Jones noted that he is the Project Manager and he wanted to point out that Mr. Smith does not live there. The building is rented as commercial and residential.

5.4 Commissioner's Discussion

John Breckenridge said that the zoning is currently B-II and asked if historically it has been B-II. **Christina Brown** said it has, since Edgartown adopted zoning in 1968, 1972 and the Upper Main Street Plan in 1989.

Linda Sibley noted that there have been a couple of instances in the Commission's history where there was a hearing and then a new hearing. There may be intense comment during the

first hearing and not the second time. The public comments from the first hearing do not carry over to the second hearing. She hopes that the public understands that the comments do not carry over and particularly for Mrs. Mahoney who has expressed concerns during the first hearing.

Doug Sederholm noted that we will be continuing the hearing and we invite the public to come in and state their comments.

Christina Brown said it has been our working policy in the past that the public can ask that their prior comments and written information be moved to the second hearing and be part of the record.

Doug Sederholm asked what was the planned use of the basement. **Chuck Sullivan** said it was passive storage. **Doug Sederholm** asked if they would be willing to include that in the offers and that it will not be retail or office space. **Doug Hoehn** said that they would.

Peter Cabana had a technical comment; Mr. Smith made a mention about reverse flow. There is a solution; have spikes that could be installed in the exit and enter area and he wanted the public to know that the Commission does listen.

John Breckenridge asked if it is written that there will not be any food. **Doug Hoehn** said that in the Special Permit application you would have to specifically site a food service.

Camille Rose asked how many square feet is Mr. Smith's lot. **Arthur Smith** said it is 15,600 square feet with a frontage of 82 feet and noted that it is a long lot.

Doug Sederholm continued the Public Hearing until August 2, 2012.

Linda Sibley excused herself from the meeting.

6. OAK BLUFFS FISHING PIER (DRI 628) TWO YEAR EXPANSION

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, H. Stephenson.

John Breckenridge moved and it was duly seconded to approve the two year extension for the Oak Bluffs Fishing Pier. Voice vote. In Favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

7. RYMES PROPANE-TISBURY (DRI 638) WRITTEN DECISION

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, H. Stephenson.

Chris Murphy asked the Commissioners to review the written decision line by line.

John Breckenridge moved and it was duly seconded to approve the written decision with changes as noted; revise the language on line 102 to read "may supply power for use of security cameras" and revise the dates on lines 218-220 to June 21, 2012. Roll call vote. In favor: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, J. Joyce, K. Newman, C. Rose, D. Sederholm, H. Stephenson. Opposed: none. Abstentions: T. Carroll. The motion passed.

8. ISLAND FUELS EXPANSION-TISBURY (DRI 566-M3) WRITTEN DECISION

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, H. Stephenson.

John Breckenridge moved and it was duly seconded to approve the written decision with changes as noted and the conditions. Changes are to revise the dates on lines 209-212 to May 3, 2012 and to delete the language on line 253 “the West Tisbury Town Clerk”. Roll call vote. In favor: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, J. Joyce, K. Newman, C. Rose, H. Stephenson. Opposed: none. Abstentions: D. Sederholm, T. Carroll. The motion passed.

9. NEW BUSINESS

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, T. Carroll, F. Hancock, J. Joyce, C. Murphy, K. Newman, C. Rose, D. Sederholm, H. Stephenson.

9.1 Reports from Chairman, Committees and Staff

Chris Murphy noted that there is some informational material for the Commissioners:

- FY 2013 Community Development Block Grant – Community Development Strategies. The Island had received \$2,000,000 in grants. Christine Flynn helped with the grant work and she is moving into the next round of grants.
- The Executive Office of Energy and Environmental Affairs-Office of Coastal Zone Management has issued a Notice of Public Comment on a Pending Update to Massachusetts Ocean Management Plan: Areas of Concentrated Recreational Boating Activity in the Environmental Monitor: July 11, 2012. **Bill Veno** noted that the 30 day comment period closes at 5:00 p.m. on Friday, August 10, 2012. **Doug Sederholm** asked how they will survey non-state boaters. **Bill Veno** said they would have to mail out to other boaters since it is a response to a mail survey.

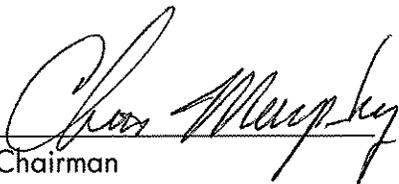
Paul Foley said the Tisbury Wharf Dredge is on the agenda for the next LUPC meeting.

The meeting was adjourned at 8:40 p.m.

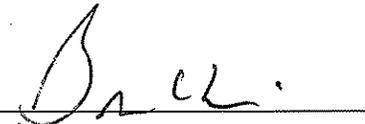
DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft - Held on June 21, 2012
- Memo to Paul Foley from John Guadagno of South Mountain Company
- Martha’s Vineyard Commission, Land Use Planning Committee Minutes of the Meeting of July 2, 2012
- Data Sheets, Aerial View and Proposed Image for South Mountain Company Solar Panels
- Packet of Information for Irie Bites: Email from Pat Harris, Town of Tisbury Planning Board Hearing Notice, Summary from Peter Simon, Correspondence from Thomas Wallace dated June 18, 2012 and site plan.
- Memo dated June 20, 2012 from Arts Martha’s Vineyard
- Arts Martha’s Vineyard Arts and Culture Collaborative Planning Report January 2012
- Martha’s Vineyard Commission DRI #637-2 Leaf Mixed-Use, MVC Staff Report- 2012-07-12

- Decision of the Martha's Vineyard Commission DRI 638- Rymes Propane – Draft
- Town of Tisbury Office of the Selectmen Memo to the Martha's Vineyard Commission c/o Chairman Chris Murphy, Regarding Rymes Propane Dated July 2, 2012
- Decision of the Martha's Vineyard Commission DRI 566-M3 – Island Fuels Expansion – Draft
- Office of Fishing and Boating Access, Memo to the Martha's Vineyard Commission, Dated June 25, 2012
- Martha's Vineyard Commission Memo to All Town Boards Date June 22, 2012 – FY 2013 Community Development Block Grant – Community Development Strategies
- Executive Office of Energy and Environmental Affairs, Office of Coastal Zone Management, Notice of Public Comment on Pending Update to Massachusetts Ocean Management Plan: Area of Concentrated Recreational Boating Activity – Environmental Monitor: July 11, 2012


 Chairman

10/4/12
 Date


 Clerk-Treasurer

10-4-12
 Date