

THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS
MASSACHUSETTS
02557
(617) 693-3453

MARTHA'S VINEYARD COMMISSION MINUTES OF JANUARY 28, 1988

The Martha's Vineyard Commission held a Special Meeting of the Commission at the Commission office, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts on January 28, 1988 at 8:00 P.M.

John G. Early, Chairman of the MVC, opened the Special Meeting of the Commission.

ITEM #1 - Chairman's Report - Mr. Early announced Martha's Vineyard has been designated a Sole Source Aquifer.

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes of January 21, 1988. Motion to approve as written - Seconded. The motion carried with 2 abstentions (Filley, West).

ITEM #4 - Committee Reports

Land Use Planning Committee - James Young, Chairman of LUPC, indicated the Committee met on January 25, 1988 and discussed the Leland/Rogers DRI, the Dockside Inn - Marc Hanover DRI and the Howland DRI which comes up for a vote later.

ITEM #5 - Discussion

Weston Howland DRI - Melissa Waterman, MVC Staff, referenced a handout to Commissioners. She stated at the time of the public hearing four items were requested by the Commission as follows: visual impact of lot 5 to abutter Reed; restrictions regarding height; percentage of lots 8A and 8B which is suitable for building and the question of any archeological sites on site. Ms. Waterman then stated in a letter from Mark Racicot, VOLP, dated January 13, 1988 the above questions were answered as follows: to visual impact on neighbors and height restrictions the letter states the town by-laws allow a maximum of 24' or 28' if the structure will be historic style and the Howland's proposed subdivision covenants limit the height of new buildings to a maximum of 20' and states none of the 3 possible new structures should be visible from State Road. Further, regarding the percentage of lots 8A & B which are buildable two areas of the 28.4 acres (A & B combined) are usable for both house and septic systems totalling 1.09 acres or 4% of the entire 28.4 acres. However, placement of wells and septic on lots 2 and 5 may make these two areas unbuildable, due to separation requirements and wetlands boundaries were not precisely set for 8A & B because no houses were proposed, thus the wetlands may be slightly larger.

Ms. Waterman stated to the question regarding archeological sites on site that there was a dig, (Peterson Dig) north shore of Squibnocket, 35' elevation (lot 8A of property), 1966.

Mr. Young, Chairman of the LUPC, stated the Committees recommendation is for approval with conditions as follows:

1. That any future subdivision of lots 8A & B will come before the Commission for review as a DRI;
2. That the Archeological Site be shown on the subdivision plan.

Mr. Filley, Commissioner, questioned if there should be a condition protecting the archeological site. Mr. Young stated that the site is inactive as there has been an extensive dig.

There being no further discussion Mr. Early moved to the next item.

ITEM #6 - Possible Vote

Weston Howland, Jr. DRI

Motion to instruct the Executive Director to draft a written decision approving the Howland DRI with conditions as above stated. Seconded. The motion carried with a vote of 11 in favor, 4 abstentions (West, Custer, Wey, McCavitt) Marie Allen - in favor.

ITEM #4 - Committee Reports

District of Critical Planning Concern (DCPC) Committee Report:

Mr. Early asked for the Staff update of correspondence. Melissa Waterman, MVC Staff, referenced and read a handout to Commissioners, which summarized all letters submitted to the MVC following the close of the public hearing. (Staff summary and letters are on file at the Commission).

Following Ms. Waterman's summary Mr. McCavitt, Commissioner, noted that Mr. Richard Binder had been asked to submit all letters he eluded to in his testimony, during the public hearing, which stated landowners were opposed to the moratorium and noted only one letter had been submitted even after many requests from staff for this information.

Mr. Early then clarified the procedure which will be followed. He stated that there will be a possibility of three votes taken on this item: A vote will be taken to designate or not designate, if the MVC votes to designate then a vote on the guidelines of the designation will be taken and then a vote will be taken on the guidelines for exemptions. He further stated that discussion is for the Commissioners and staff only.

James Young, Chairman of the DCPC Committee, referenced a handout entitled Designation of the Martha's Vineyard Commission, and stated that this document does not declare the Commission has made a Decision, however in the case that the Lagoon Pond is Designated a drafted document had to be prepared.

Mr. Young stated the DCPC Committee unanimously recommends a designation of a district for Lagoon Pond area as amended and shown on map

and described within the draft MVC designation document and further stated this is not without reservations. Mr. Young described the change of boundaries which now includes all lands within 1,500' of mean high water excluding the Tisbury Commercial District as requested by the Town of Tisbury and including the waters of the Lagoon. He stated 1,500' has been chosen as this is a critical area as far as nitrate input to the pond from septic systems. He noted the drafted guidelines in the document. Mr. Young stated that the Committee has determined that problems do exist in the pond; that controlled development around the pond will control these problems furthermore, the land and waters in the district do have regional significance. Mr. Young further stated the Committee feels existing regulations are not enough to assure protection and the purity of the Lagoon Pond water.

Mr. McCavitt questioned number 8 within the guidelines regarding the meaning of lay monitoring. Mr. Young explained this means non-scientific persons such as towns people could do the monitoring. Further, he stated the Committee has left open guidelines for possible change in the future.

Mrs. Eber stated that the DCPC could apply to topics other than building restrictions such as insecticide use and fertilizer use.

Mr. Ferraguzzi stated that he agrees with the recommendation to designate however, states that guidelines for the future must be more specific and that the process can't end here. Further that Regulations for Towns hopefully will be a start.

Mr. Filley questioned enforcement of regulations for use of insecticides/pesticides. Mr. Young stated that this will be left to the Town with MVC help if needed. Further, he stated the Commission has information regarding trusts, funds, grants and other information which the Towns may find helpful.

Mr. Early recessed the meeting for 10 minutes for the Commissioners to review the draft MVC Designation document. Following the short recess Mr. Early reconvened the meeting at 9:15 P.M. and opened the meeting for general discussion.

Mr. Morgan made a motion to Designate Lagoon Pond as a District of Critical Planning Concern as described in the draft decision (Designation of Lagoon Pond) and depicted on the map. Seconded.

Amendment Attached to back of minutes
Mr. Wey questioned what will happen in a years time and stated that it is a known fact that there are problems with septic systems, acid rain, roadwater runoff, that the Pond needs a better flow of water and that pesticides an insecticides should be restricted. He stated he feels Town officials must start implementing the existing rules and regulations.

Mr. Widdiss stated he feels exclusion of Tisbury's Commercial District is inappropriate and further feels that the Towns must start implementing rules and regulations which exist and stop worrying about personnel gains.

Mr. Evans stated why he feels the DCPC process will help the Towns in balance and coordination of Regulations. He further stated that this

process could also be used to help people become educated to problems which surround a water body.

Mr. Morgan stated that he feels Martha's Vineyard is fortunate to have Chapter 831 which allows the MVC to take this step toward accomplishing problem solving of the Pond. Further that exemptions within this district can still be considered as in the past month.

Mrs. Custer asked the Commission to consider exemptions to District for projects which the towns have begun in improving the Lagoon Pond. Mr. Young stated that the exemption guidelines are liberal.

Mr. Filley noted that during the public hearing procedure and time since very few people have denied that there is a problem within the Lagoon Pond and that the use of this process can give the time for Towns to review and establish remedial activities. Further he stated that the concern for enforcement of regulations must be addressed through an educational program and the sooner this is accomplished the sooner the Pond can be used for full activity.

Mr. Early restated the motion to designate the Lagoon Pond District as amended a District of Critical Planning Concern.

On a roll call vote the motion carried with a vote of 12 in favor, 2 opposed and one abstention (West) Mrs. Marie Allen also voted in favor.

Mr. Early then stated the next vote will be to approve the guidelines beginning on page 8 of the draft designation decision.

Mr. Young stated that the general guidelines leave a fair amount of grey area which gives the public and Town Boards parameters to look at when reviewing Rules and Regulations. Further, that these guidelines will be more specific in time, therefore the MVC will be voting on the concept of the guidelines as they are subject to change.

There was discussion regarding finalizing the Guidelines through Committee review and Town Board input. There was also discussion of the time frame in which the guidelines will be finalized. Mr. Young stated up to a year however, the consensus of the Committee is to have them finalized as soon as possible.

There was discussion of monies and manpower available to initiate Regulations.

Mr. Filley stated that the Towns and Commission should work toward a Management Plan for Lagoon Pond which will allow for shellfishing and recreational uses to continue.

There was a motion to approve guidelines as written in the draft document of designation of Lagoon Pond DCPC. Seconded.

On a roll call vote the motion carried with a vote of 14 in favor, and 1 abstention (West) Marie Allen also voted in favor.

Mr. Early stated that the Commission will now vote on guidelines of exemptions and referenced a draft handout.

Commissioners discussed the exemptions process of which the Committee has been working with during the DCPC nomination process and other alternatives. Commissioners decided that the process which has been used is a fair way and an orderly way of review.

There was a motion to approve the exemption guidelines. Seconded.

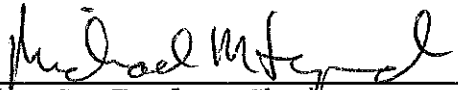
On a roll call vote the motion carried with a vote of 14 in favor and 1 abstention (West) M. Allen also voted in favor.

Mr. James Young, Chairman of DCPC Committee, then stated he has been given copies of letters from two Real Estate offices to land owners within the boundaries of the Lagoon Pond as nominated. He read both letters in their entirety: one from Ed Pierce of Harborside Realty and one from Richard Binder of Metes and Bounds Real Estate. Following the reading of the letters he stated that he feels these letters are incredibly irresponsible and designed to build up opposition. He requested that both these agencies send all the information that was voted on at this meeting to the people that received the first letter so that the public may be properly informed. Further he asked that the press publish his statement.

ITEM #7 - New Business - There was none.

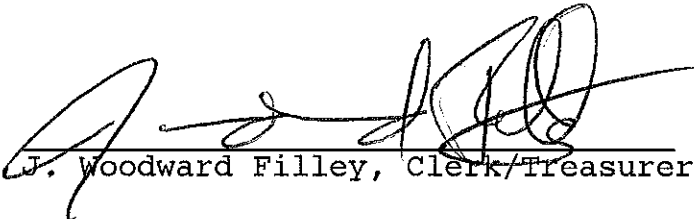
ITEM #8 - Correspondence - There was none.

ATTEST



~~John C. Early, Chairman~~
Michael M. Lynch, Vice Chairman

2/11/88
Date



J. Woodward Filley, Clerk/Treasurer

2/11/88
Date

Present: Lynch, Widdiss, Filley, West, Young, Eber, Ferraguzzi, Evans, Scott, Early, Custer, Wey, Lee, Morgan, McCavitt, Allen

Absent: Jason, Ewing, Delaney, Ewing, Geller, Harney, Harris

Amended as requested by Roger Wey regarding testimony given by Mr. Wey on page 3 - paragraph 8 of the above minutes.

Addressing John Early, Chairman -

"I want to know what will happen in a years time, as we propose this DCPC and a years moratorium, what we will know in a years time other than what we know now about this? I think we all know failing septic systems around the Lagoon have to be corrected, we all know that road runoff has to be corrected, there has to be a better flow in the Lagoon, Lagoon has to be dredged, we have to cut another culvert from the Lagoon into Vineyard Haven Harbor, we have to restrict use of pesticides along the Lagoon. My concern is what will a year bring us? We know what the problem is now. I was at a Shellfish Committee Meeting previous to this meeting. I asked some of the Shellfish Committee Members what their feelings are on this? Why the pollution of the Lagoon? And the consensus was that there are 3 or 4 sandbars out there that is a restriction with the Lagoon itself and is unable to flush. My concern is that having such a large area even though its' cut down in size, if somebody wants to build a house 1,000' from Lagoon with an Engineered Designed Septic System - I don't think there is any information that would say that building on distance from Lagoon that they would pollute the Lagoon. I think the pollution is coming from road runoff, acid rain, restriction of the Lagoon, and many other areas we already know about. And my only concern is - what will we know a year from today other than implementing rules and regulations that the Boards within the Towns could do with the help of the Commission."