

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF JANUARY 19, 1989

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Regular Meeting of the Commission on Thursday, January 19, 1989 at 7:00 p.m. at the Commission's offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

Mr. Early, Chairman, opened the meeting and welcomed the members of the West Tisbury Planning Board. He stated that Commissioners had a copy of a document sent to the W. Tisbury Planning Board and MVC from Vicky Lowell, W. Tisbury Planning Consultant. This document consisted of a comparison of the 12/9/88 Flexible Development Draft with Current Draft Dated 1/5/89 and a copy of the Redraft of the proposed Flexible Development and Affordable Housing amendments. Mr. Early then introduced Ginny Jones, West Tisbury Planning Board Chairman.

Ms. Jones introduced the other members of the Planning Board and Mr. Craig Saunders who they hope will be joining them soon. She began by saying that the flexible development and affordable housing issues have been dealt with in two separate amendments. They are separated because one may be more difficult to pass than the other and we want each one to stand on its own merit. We have talked to various town boards and the Chilmark Planning Board. We hope this will become a model for other Towns on the Island. Vicky Lowell, as the author, will explain the document in more detail later. In our last meeting with the Chilmark Planning Board Randall Arendt from the Center for Rural Massachusetts (CRM) was present and he was very complimentary of the proposal and sent us a letter to that effect. We asked the Commission to examine this proposal and give us any input you may have and also to examine possible interactions with the DRI checklist. She then introduced Ms. Lowell.

Ms. Lowell opened by stating that she is delighted to be before the Commission tonight and she hopes to see a Cape Cod Commission by year's end. She then went on to discuss display which represents the possible development of a parcel of land using conventional and flexible zoning techniques. She stated that although this is not a radical concept it can be difficult to carry out. This is similar to cluster development but with more flexibility. Typically you have to go to the Zoning Board of Appeals for a special permit and then the subdivision has to go to the Planning Board therefore it was not as widely used as we had hoped. This is a tool to protect rural character more than is possible by requiring each house to sit on a 3 acres parcel with open space. Although there has been a lot of

development in West Tisbury there are over 50 parcels of over 30 acres that aren't subdivided. We will stick to the 3 acres per house requirement but allow flexibility as to where the houses sit on the parcel. This Flexible Development proposal would be mandatory for all subdivision over 5 lot within a 5 year period. So through this special permit process we can look at the land and decide how best to develop it. This allows a wide range of possibilities. There are no set requirements on the amount of common land or percent to be set aside for open space. Each parcel would be looked at individually to best decide how to develop it. We have included design criteria with goals being to protect open space, pastures, land along water ways, rare species, trails, agriculture land, etc. Although we require 1/6 of the base number of lots or dwelling units to be affordable housing these could be multiple dwelling units of up to 4 units. There are potential bonuses for more units if, for instance, public access is granted or if the Conservation Commission and the Planning Board wants land over 6 acres set aside, in this instance 1 additional unit would be granted. One question to the Commission, is this incentive necessary since most of these subdivision will be DRIs? Bonuses for these items would be to protect rural character. In essence rather than purchase rights you would tradeoff for trails, open space, etc. There is a limit on the bonuses of 25%. We have divided subdivision into major and minor categories. Minor meaning less than 5 lots in a 5 year period would have the option to come in to discuss flexible development. Major would be mandatory. The way we would decide how many lots could be on the land would be to take the total amount of land subtract any exclusions (Land Bank, Wetlands property) then multiple by .9 for roads and divide by 3 acres and this would give you the basic density. An environmental impact study would be done almost as a precondition. The subdivision will be based on the specific attributes of the land, what should be protected and the design guides on pages 3 and 4. Less than 1/2 acre lot size would require Board of Health approval. The building setbacks would be flexible within the subdivision so the buildings could be closer together but abutting setbacks would not be closer and may in some instance have to be further away to decrease a significant view of the neighborhood.

Ms. Lowell went on to say there are potential pros and cons to this proposal and discussed each. Cons: Possibility for too much Planning Board Authority, too much room for arbitration. However if there are set constraints it might not best serve the land. There is also room for the developer to option to develop his land at a slower rate than 5 units in 5 years and thereby bypass this process and be subject to standard Planning Board review. Is it worth the risk? Randall Arendt, CRM, says yes, it is worth the risk. I have spoken to a few communities that have developed similar proposals and though I have heard no horror stories there is not much experience with them yet. We might end up with a few more dwelling units on the Island than we would by requiring each house to be on 3 acres. It could promote the kind of development we want by making it more profitable. The MVC could do this with the tools it has but it is my understanding that while the Commission could require a developer to say set aside 5 acres for open space they could not then state the remaining acreage could be built at 1 house per 2 acres.

Ms. Lowell stated that the Commission did make the Island different from any other area in Massachusetts. She went on to discuss the pros of this proposal. This allows the potential for development that is responsive to the historic and natural features of the Island. There is more positive incentive for developers to preserve these historical and natural features therefore the economic value of the land or the development is not decreased. It permits a variety of housing and therefore of price ranges with some houses on larger lots and some on much smaller lots. There may also be some arguments that it allows more leeway to the Commission in its decision of a subdivision as a DRI.

Mr. Young, Commissioner, asked on that line at what point would the Planning Board deem the application complete? For instance, the developer would come with plans, possible several plans, there will be a site analysis, discussions of design criteria, and after some haggling they will wind up with a plan that will then be submitted to the Commission. Ms. Lowell responded that she thinks the developer might come in with more than one type of Form B and discuss it, then once it is discussed he could submit a Form C. Mr. Young then asked so it could come as a Plan B special permit or as a Form C? Ms. Lowell responded yes. Mr. Young then stated then the worst case scenario would be the developer who wants to get his 3 acres with conventional planning and doesn't want to deal with this. He makes a Form C submittal of the conventional plan which then is referred here. Ms. Lowell said he can not develop more than 5 lots in 5 years without filing for the special permit. Mr. Young said so say he submits a horrendous plan, it could get through the Planning Board and come to the Commission? Ms. Lowell responded yes, you could then use the tools. Ideally the developer should try to get the support of the local boards. Mr. Early stated it could then, if horrendous, be denied on the basis is doesn't conform to the goals of the town's plans.

Ms. Eber, Commissioner, asked how much actual designing will the Planning Board be doing? Ms. Lowell responded that the design criteria will act as a guide. They will specify which areas of the parcel they want saved and where they want the development but will not be designing it themselves.

Mr. Jason, Commissioner, wanted to comment on the bonus lots proposal. He stated that the one fall back Edgartown encountered with a similar proposal was that it was not mandatory. I think the bonus lot theory should be mandatory. Ms. Lowell stated there has been much discussion regarding removal of the bonuses.

Ms. Sibley, Commissioner, stated she has read this document several times and that she doesn't understand the bonuses. The MVC and possibly the Planning Board has the authority to impose these standards. In essence a man with a plain piece of land will only get what he gets now, but if there is an extra on the land West Tisbury will let you cluster your development and might also give you bonuses over and above what the Commission might allow. I don't think the people of the Town will like giving the developers bonuses. Ms.

Lowell responded that maybe they don't need the bonuses with the MVC. We have seen them aid goals elsewhere when the developer says he is losing values of the land they usually allow him to do similar things anyway. Ms. Sibley stated her argument to them would be that flexible development raises the values of the property and MVC already has the power to enforce these standards.

Mr. Saxe, MVC staff, Do you or have you required public access? Mr. Filley responded yes, Priester's Pond. Mr. Early stated they had conditioned this in several developments. However, I do think that the better the 1st plan a developer submits is, the better off we all are. What often happens now the developer might get mixed signals. This proposal allows us to start off in the right direction and then negotiate. I think it would reduce the time the MVC, the Planning Board, the Developers and all of their staff spends on developments and DRIs. I think it is a great proposal and I'm not sure the bonuses are all bad.

Ms. Sibley stated she could be comfortable with the bonuses if there was some additional wording that made it clear that you had to be getting a pretty special consensus to qualify for them.

Mr. Thomas, W.Tisbury Planning Board, suggested the Commissioners take the time to read this carefully. The 6 acres that may be set aside has to have merit to it. It is not as simple as it may sound. There has to be some agreement by the Conservation Commission and the Planning Board not to see houses on that 6 acres. It is not automatic. On page 4 it states that the 5-20% increase "may be" granted, not shall be. For instance if public access were granted to Great Pond we may be looking at the 20% end of the range, whereas Seth's Pond we may look at the 5% end, since we already have access there. This proposal allows for a lot of give and take. The merits of the development balance the bonuses. Plus there is a cap on the amount of bonuses.

Ms. Sibley asked if there were any mathematical projections done on a hypothetical or real piece of land?

Ms. Bryant, Commissioner, asked if the 5-20% increase for public access was meant to exclude fishing and hunting? Ms. Lowell said it was not meant to exclude it, however they are looking more at access through the land. Ms. Bryant stated that is important here.

Ms. Jones stated concerning the bonuses issues, this is the thing we've had the most problems with. However this does give us a negotiating stance. It gives us a lot of power concerning endangered species, agricultural land, things the Planning Board now only has the right to look at and consider only subjectively. This would constitute enabling legislature. It gives us a way to deal with the "intangibles" of a parcel of land. She closed by saying they will address the Commission's comments and hopes there will be more discussion at a future date. They will hold a public hearing and will provide a final draft of the proposal to the Commission before the

Town meeting. She urged Commissioners not to hesitate to call with any comments or provide written comments to us before the Town Meeting forum.

Mr. Jason, Commissioner, stated you expressed interest in extending the shore zone by 100'. Also regarding 3rd item on Page 4, how would you enforce this? What about abutters? The response was this is not to preserve every view, just views on the property? Mr. Jason said this is not specified in the guidelines perhaps it should say public vista? Ms. Lowell stated that enforcement was always difficult, but you could condition such things in the decision. Mr. Jason asked you stated a 200' buffer from surface water. Is your goal to extend? The response was yes.

Ms. Jones stated that Mark Racicot from Vineyard Open Land Foundation read and commented on the proposal. He said it was very good. I asked him if he would consider it a fair analogy to say that Nat's Farm and Sweat Water Farm are examples of the types of proposals that this would cover even though they were not under flexible zoning.

Mr. Morgan, Commissioner, stated that he has no problem with the bonuses. He thinks that flexible zoning is a great idea and suggests that at the public hearing they come up with ideas why bonuses would be awarded and give examples.

Mr. Filley, Commissioner, asked when you look at different issues, vistas, will you incorporate the Open Space Plan, the Master Plan, and/or the Conservation Commission? How will you define your guidelines or will it be case by case? The response was all of the above. We will be using each one not specific one or two.

Mr. Early stated that in response to the first questions of affordable housing and the 1/6 and whether it would be advantageous to us. Our regional housing policy of 10% would be difficult to enforce without town guidelines and policies throughout the Island. When these are in place in a town it makes the MVC's job easier to obtain that goal.

This portion of the meeting was adjourned at 8:10 p.m.

After a short recess the meeting opened at 8:20 p.m. for the following public hearing:

The Martha's Vineyard Commission, pursuant to Section 12 of Chapter 831 of the Acts of the Commonwealth of 1977 as Amended, will hold a Public Hearing on Amendments to Criteria and Standards for Developments of Regional Impact including fee structure and application package.

The Public Hearing will be held at the Martha's Vineyard Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts on January 19, 1989 at 8:00 p.m.

Mr. Early read the Public Hearing Notice, opened the hearing for testimony, and introduced Carol Borer, Executive Director of the MVC, to make her presentation.

Ms. Borer explained the 4 handouts as the Draft Checklist, the original green checklist, the one page addition to the checklist and the draft Standards and Criteria. She stated the principal focus of her presentation would be the checklist. The Standards and Criteria are approved by the Secretary of Environmental Affairs and are used when drafting Commission decisions by referring to Standard & Criteria sections. All of the Standards and Criteria, which is in statement form, is incorporated into the Checklist, which is in the form of questions. She stated this is not the same document given to the Town Boards in December and gave examples of the minor changes. She stated they would run through the checklist number by number and stated that the stars indicate changes from what was distributed to the Town Boards for comments. The first star indicates the addition of the words "by written decision". #1 of the draft checklist is the same as it appears on the green one (existing checklist). #2 the underlines are changes. Mr. Filley, Commissioner, asked if we have defined related? Ms. Borer stated we have contacted counsel and this should have been supplied today, it will be defined in the definition section and discussed prior to a vote. Ms. Sibley asked if we could get an example of the rough definition? Ms. Borer responded that it would include more than what is in the dictionary. Mr. Ewing, Commissioner, asked if an example of related might be the Surfside and the Captain's Table? The response was yes. Ms. Borer went on to state that LUPC has been working with the Staff since August for further definitions and identifying problems with the checklist and that is how some of this evolved. The lowering of the threshold of 30 to 20 came after a survey of the undeveloped lands and the finding that there are many between the 20-30 acre limits. #3 is the same. #4 has added the words "related or". #5 we have added "or long term goals", #5 has never been used to refer a DRI. There is the possibility this may be abused. There was no discussion on that.

Mr. Dunkl, Public, stated that as far as long term goals, most Towns have Master Plans that are pretty good but when they aren't approved at a public meeting it doesn't amount to a hill of beans. Anything that adds legal clout to the Open Space Plan and Master Plans and relates those to this body is definitely a step in the right direction.

Ms. Borer continued, #6 a,b,c there are underlines on the changes. We have added slashes between and/or. The addition of the word "storage" was based on LUPC and staff discussion that it was difficult to include various types of storage facilities whether they are gas tanks, water towers, etc. It was difficult to come up with a threshold for these so we included the word storage. Mr. Early asked if this would also include unused space, for instance an unused second floor, that would not presently fall under our standards? The response was yes it is incidental to the commercial space. Mr. Saxe, MVC staff, asked if commercial uses with residential facilities would be covered under 6 a & b? Ms. Borer responded that a building in a business

district with 2 or 3 bedrooms used as boarding house rooms, hotel rooms, etc. they would be commercial in that sense. Mr. Saxe then asked but apartments above a storefront would not be? Correct if permitted in that district. Mr. Ewing asked what if the apartment was later converted to a different use, then what? Mr. Jason stated that if it was a 3,000 or 1,000 sq. ft. change of use it would come back.

Mr. Morgan asked hypothetically where would this prevent someone from building under the threshold by not using the 2nd story? Mr. Early stated that by adding the word "storage" the 2nd story would be subject to the threshold. There was discussion among the Commissioners as to whether this would prevent what they want prevented. Mr. Early stated he was talking about original construction. Mr. Jason stated it prevents developers from saying they are not using the space if it is just for storage. Now the foundation and the attics can be taken in, it gives us more ground to be considered in floor area. There was discussion as to whether access is provided would this constitute a floor. Mr. Wey stated if it is being put up it should be considered whether it is used or not, it should be counted. Ms. Borer stated that it could be included as floor area if it is say taller than 8-10 ft. if it is say 6 ft. tall it would not be considered a floor.

Mr. Ewing stated that whether or not he has access to it, it still impacts the community. Mr. Wey stated they could slowly take use of it. If they are not going to use the space they shouldn't put it in.

Ms. Sibley if commercial zoned we could require all sq. footage be included regardless of its use, period. Can we do that? Any structure over 3,000 sq. ft. in the commercial area should be examined to determine it's impact or potential impact on the district.

Mr. Young, most of the review of new construction in a commercial district deals primarily with the architecture of the structure and how it fits in. I think it is in fact, appropriate to review private houses in this area because they do impact the district in similar ways. Mr. Jason stated that is not true, what about traffic? Mr. Young stated that the building still has the potential to create the same traffic because it is in the commercial district? Mr. Jason asked how a single family could produce the same amount of traffic as a commercial usage? Mr. Young responded that the usage could change and I think the trigger should be the construction not the change of use.

Mr. Ewing asked could the Commission determine the applicability of proposals? Maybe plans could be reviewed to determine if they warrant a full hearing.

Ms. Borer asked how should 6a be changed? Mr. Young stated you could say new construction and or use of land "in a commercial district" or for commercial, office..... that way it covers new construction in commercial districts and it also covers commercial use outside of the commercial district. Mr. Early stated it still doesn't solve the 2,999 sq. ft. house in the commercial district. Mr. Young responded

no, maybe we should look at the 3,000 sq. ft. threshold. Ms. Medeiros, Commissioner, stated that the value of commercial property is too high for people to consider building a house in a commercial zone. Ms. Sibley stated that mixed usage with any part being commercial should be looked at. Ms. Medeiros stated that it seems the Commission has a lot of work now and to throw in residential would create a lot more.

Ms. Borer moved on and stated that #7 is a new threshold recommended by LUPC. The towns might use the Commission for land planning through the DRI process. Mr. Jason asked this could be form a or c? Ms. Borer responded yes. Mr. Morgan suggested adding is the land "that is the" subject of the application... to make it more clear.

Ms. Borer continued and stated that draft #8 was #7 on the green checklist, there are no changes. #9a changes are underlined and you can compare it to #8 on the old checklist. Additions are included to reclarify barrier beach exemptions. Mr. Jason asked is this to cover Marina's? Ms. Borer responded yes and commercial and private piers and buildings on barges. She then referred to the single sheet of additions for changes to 9b. Some of the language has been written.

Mr. Morgan asked what had inspired these changes? Ms. Waterman, MVC staff, responded that currently we can't look at changes in intensity of use or changes in the piers themselves. For instance, Pier 44. This is to get a handle on change of use of pier or facilities servicing piers.

Ms. Eber, Commissioner, stated that we still have no jurisdiction over what lands at the piers. Ms. Waterman stated that it would allow us to look at the uses. Mr. Early asked how will we identify changes? Ms. Waterman stated that is why we defined physical changes.

There was further discussion on 9b and staff discussion about what permit applications would trigger it coming to the Commission.

Mr. Ewing asked, Pier 44 will probably need to be completely rebuilt in a few years would that be considered a DRI? The response was if it is referred by the Conservation Commission under 9a.

Mr. Early asked what if it was wiped out by natural causes, are there some exemptions? Ms. Borer responded no, there would still be a notice of intent through the Conservation Committee, it is possible they could declare it an emergency and then grant an emergency order of conditions.

Ms. Eber asked if the Machine & Marine Pier which is currently before the Planning Board with a project to renovate a building would fall under this? It was asked if the building services the pier? Mr. Morgan stated it would depend if it is a change of use, an expansion, or just a renovation? It was stated that if it was just a renovation this would not apply.

Ms. Borer continued by stating that #10 is the same as the old #9, #11 is the same as the old #10, and #12 is the same as the old #11. #13 has underlined additions which we added because we have been asked to clarify this. #14 is similar to the old #13 with the exception of the words (as defined by town by-laws) with the intention of deleting the definition of Coastal District in the definition section.

Mr. Dunkl, public read from the MVC developmental policy statement, 1975, sections 2.602 and 2.604. Mr. Early stated he has a 1975 document and asked he be given the recent handout. Mr. Dunkl continued by stating that it is never asked if the development is in a Coastal or Watershed area. This could lead people to believe that the Commission doesn't care about wetlands unless there is a paved road proposed. Something should be put in the application materials in bold so that the applicants know that the Commission is concerned about these issues.

Ms. Borer continued with the definitions sections and noted there is a new definition for "Area of Use" and stated this definition may be expanded and explained the possible addition. We will add a definition of related. Referring to the single addition sheet, we will add the proposed definition of "Development Permit" which will relate to a new # added to the checklist as noted under that definition. There was positive response to this addition.

Mr. Filley asked if under definitions a definition of additions and new construction should be added since they are not always agreed upon? It was then asked if we go by definitions under the building code? Mr. Jason responded yes. Mr. Jason thought what needs to be clarified is whether it is net or new. Ms. Borer stated in response to Mr. Filley's question, I'm not sure we want to tie ourselves to a strict definition, we should leave it to the discretion of the town boards. There was discussion on this issue and the fact that leaving it to the discretion of the town official doesn't always work. Ms. Borer said there would be discussion on that issue later in the regular meeting agenda.

Mr. Saxe, MVC Staff, asked under change of use does this cover changes that would not require changes to the structure, i.e. changing a car dealership to a moped rental use? The response was if the town requires a permit, license, authority, yes.

Ms. Borer moved on to the next section of the checklist, materials to be submitted and stated it has been expanded. She went on to say that the changes in what is to be submitted will require the applicant to do some work for us and will hopefully speed the completeness of the application and answer some of the questions that come up during the public hearing from the Commissioners. Ms. Borer then discussed the changes to the filing fees.

Mr. Filley asked if a refiling fee is required? Ms. Borer responded yes, usually it is. For instance the MSPCA has been before us three times.

Ms. Colebrook, Commissioner, asked if there is any change in the refiling fee? Ms. Borer said no, not now but we can grant waivers for government agencies. If the applicant withdraws before it is advertised we will return the filing fee. Ms. Borer went on to say that the floor plans are now required to show sq. ft. dimensions and be labelled with proposed and existing uses. They now also require a purchase and sales agreement. She stated that the filing fee is more sophisticated and that the square foot measurement required in 6 a & b area of use are not incorporated into the filing fee.

Mr. Early read the following 2 pieces of correspondence for the record: TO: MVC, FROM: West Tisbury Planning Board, DATED: December 12, 1988. The Planning Board discussed revision fro the MVC - DRI checklist at their meeting held on December 5th. The Board has the following comments: #1 and #8 are unclear as presently written. #12 uses the word "development" which is defined as meaning "any building". #6 should state commercial if that is your true intent. Thank you for allowing us to give input on this matter. Sincerely, Virginia C. Jones, Chairman. TO: MVC, FROM: West Tisbury Conservation Commission, DATE: January 19, 1989. The West Tisbury Conservation Commission received the Draft DRI checklist and would like to comment on the following: In paragraph 2 of the instructions, the last sentence should include how local authorities will be notified. Perhaps by stating "in writing", this would be clarified. The second comment is a suggestion, and concerns DRIs in the case of immediate families. Could the MVC find a way to waiver the DRI filing fee for family gifts of land to their kin? The fee seems unfair to families when they want to give land to their children. We look forward to seeing the new amendments. Sincerely, Margaret K. Littlefield.

Mr. Early asked if all of these comments have been addressed? Ms. Borer responded yes with the exception of the family estate waiver. If fees are to be waived it should be put in the regulations not the checklist. Mr. Early responded that is true, it would probably create a lot of estate planning. Ms. Borer stated that perhaps waivers are better left up to the discretion of the Commission on a case by case basis.

Mr. Dunkl stated that concerning requested information for the applicant to submit, what about roads to the developments from public roads. The developer should furnish fire, police, and ambulance response times, etc. The Commission shouldn't have to pry this information out, it should be clearly asked for on the checklist. This would make the MVC's job easier. Mr. Early stated that he had made some good testimony and asked him to submit it in writing.

When there was no further testimony Mr. Early closed the public hearing at 9:15 p.m. with the record remaining open for 1 week.

Mr. Early turned the gavel over to Mr. Young who read the following notice of hearing:

The Martha's Vineyard Commission will hold a Hearing concerning its FY 1989 - 1990 budget on Thursday, January 19, 1989 at 8:30 p.m. at the Commission offices, Old Stone Building, New York Avenue, Oak Bluffs, Massachusetts. Copies of the proposed budget are available at the Commission offices.

Mr. Young read the hearing notice, informed Commissioners that the budget information is supplied in their packets, and introduced Norm Friedman, MVC Administrator to make a presentation.

Mr. Friedman stated that as required by Chapter 831 each January we must estimate the expenses for the Commission for the upcoming Fiscal year beginning in July and certify these to the Towns involved. I have taken our anticipated expenses, based on previous track record which is calculated at \$385,000, subtracted any anticipated income, calculated by reviewing current and future grants, contracts and any additional income calculated to be \$265,000, which leaves a remaining balance. This will be assessed to the towns as the local share of expenses, \$120,000. The page entitled Equalized Valuation shows how the assessment formula works. The Commonwealth come out with a valuation of each town every 2 years. We average them to get the percentage we use for assessments. The last page shows a break down of the local tax assessment by activity and town. I want to point out that this budget is higher by only .028 over last years'. In essence all of the towns' assessments are raise only .0285 over last year. By statute we are not required to hold a hearing but we have always done so to show everyone where the money is going.

Mr. Young asked if there were any questions on this budget? Ms. Colebrook, Commissioner, asked what is meant by fringe benefits? Mr. Friedman responded Blue Cross/Blue Shield, retirement, sick leave, etc. It was then asked what if the anticipated grants don't come through? Mr. Friedman responded that we have to bite the bullet, once the certifications are done that is it.

Mr. Early commended the administrator for doing an excellent job anticipating expenses in advance. He stated that Mr. Friedman has always been able to operate under or within the budget and he doesn't know how he can do it.

Ms. Sibley asked if it is a policy or a nicety not to go back to the Towns with further assessments? Mr. Friedman said what would happen is that they would run a deficit, though the use of loans (interest is a line item in the budget), and carry the deficit into the next years budget.

When there were no further question Mr. Young closed the hearing at 9:25 p.m.

Mr. Early opened the regular meeting of the Commission and proceeded with agenda items.

ITEM #1 - Chairman's Report - There was none.

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes of January 12, 1989

It was motioned and seconded to approve the draft minutes as prepared. The motion carried with no opposition, no abstentions.

Ms. Sibley, Commissioner, asked if the informational packets are available for Commissioners review prior to the meetings. Ms. Borer responded that they are always ready 1/2 hour before the meetings and Commissioners are urged to arrive early to allow time for this review.

ITEM #4 - Committee Reports

Mr. Young, Chairman of Land Use Planning Committee, stated there would be a meeting on January 23rd to discuss the Wesley Arms DRI in preparation for the January 26th hearing, and to discuss the Bourne DRI in preparation for deliberation of the decision.

Ms. Borer reported that the Cape Pogue DCPC subcommittee had met to review the exemption request for the Leland Subdivision. This exemption was granted. Regarding Section II.2.b. of the DCPC guidelines approved on July 14, 1988, the Committee maintains that this large tract of land has been in the same ownership for over 40 years, heirs should have some rights to their land, approximately 100 acres of their property is utilized by the public, the process for the division of land began well before the DCPC process as noted on their earlier plan dated February 1987 and the land includes upland character that differs from other sections of the DCPC. The Leland's understand that this preliminary plan will be formally referred as a DRI to the Commission in the very near future by the Edgartown Planning Board.

Ms. Skiver, MVC staff, reported on the Joint Transportation Committee (JTC) by saying there are 2 handouts in the Commissioner's packets. The first entitled "Falmouth, the Steamship Authority, 1989, and the Year 2000" and is a policy statement distributed at the request of the people of Falmouth for review. It is not a JTC adopted policy. The 2nd handout is a draft of the working program of the MVTA done with assistance of the MVC. JTC has reviewed and approved this and sent a letter of support which is on file. Funding for this has not yet been received from EOTC.

ITEM #5 - Discussion - MVC Budget FY 1989 - 1990.

There was no discussion on the budget so Mr. Early moved to the next item.

ITEM #6 - Possible Vote - MVC Budget FY 1989 - 1990.

It was motioned and seconded to approve the budget as prepared. This motion carried with no opposition and no abstentions.

ITEM #5 - Discussion - Lagoon Pond DCPC Regulations.

Mr. Early stated there are draft copies of Lagoon Pond regulations for both Tisbury and Oak Bluffs in your packets. Also included is a copy of a letter from Mr. Doug Dowling. Mr. Early went on to state it is my understanding that the DCPC Committee wants to defer the vote until next week, is that correct? Mr. Young responded that is true. Mr. Dowling's letter suggests some good amendments and we would like to discuss incorporating some of them. We would also like to refine the pier regulations and possibly change them according to the depth of the water in the specific area of the Lagoon.

Ms. Medeiros, Commissioner, asked about the limiting of bedrooms within the DCPC, she had contact with the Board of Health and was told that an unbuilt piece of land could only have 1 bedroom dwelling? Mr. Young responded that if there is no house yet they can have up to 3 bedrooms, the 4th would require at least 60,000 sq. ft. of lot area. Ms. Waterman stated that the Board of Health regulations in Tisbury may be different. Ms. Colebrook, Commissioner and Board of Health Agent in Tisbury, responded that their language is exactly the same as the Commissions in this respect.

Ms. Waterman stated there is also in your packets a list of questions and answers from last week's hearing.

Ms. Borer asked the DCPC committee if they would be ready for a vote next week? The response was yes. Ms. Borer reminded them that if regulations are not adopted next week the DCPC will terminate.

Mr. Fischer, Commissioner, asked if we can keep seaplanes out of Lagoon Pond and how will we regulate this? Ms. Waterman stated the regulations says unless adverse weather conditions require it seaplanes are not permitted to land. Mr. Fischer if seaplanes require clearance to land? The response was no. Mr. Early said we will have to go on good faith here.

ITEM #7 - New Business

Mr. Filley stated he wanted to address the issue of recent and recurring power outages on the Vineyard. He suggests that maybe ComElectric should address the Commission regarding growth on the Island and ways to avoid these outages.

Mr. Early stated that at the all Island selectman's meeting Ms. Medeiros brought up a recurring problem also. This being the problem of receiving mixed signals from DEQE Boston and DEQE Lakeville.

Ms. Medeiros stated that for years there has been difficulty in this area. They go to Boston and get guidelines, then if part is within a wetland they go to DEQE Lakeville and often get guidelines that don't agree with the ones received in Boston. Ms. Medeiros motioned that the Commission take the initiative and get DEQE Boston, and DEQE

Lakeville together with the town boards and local engineers to sit down and get these regulations out in the open. The Edgartown facility is at a standstill because of this. The Commission has clout to initiate such a meeting. Mr. Filley seconded this motion. Ms. Borer asked for discussion of the solid waste issue? Ms. Medeiros stated for wastewater regulations also. An example could be the fact that Nantucket got permission for open burns while the Vineyard did not.

Mr. Early stated it is motioned and seconded to convene such a meeting however I suggest we wait until the shakedown in Boston has settled. This was agreed.

Ms. Medeiros stated this doesn't solve the problem of Edgartown. Ms. Borer stated should could at least contact the new DEQE director and set up a meeting with them.

ITEM #8 - Correspondence - Mr. Early stated this has been addressed under other items. There is no additional correspondence.

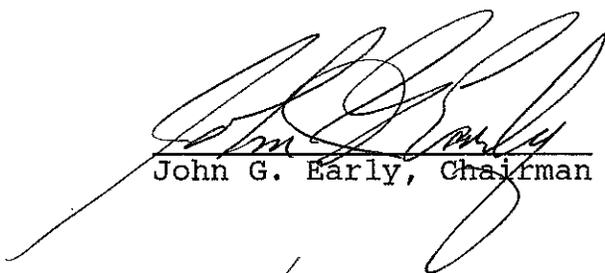
ITEM #9 - Possible vote to enter into Executive Session regarding litigation.

It was motioned and seconded to enter Executive Session and not reconvene the regular meeting. This motion carried unanimously. (McCavitt not present at the table for this vote.)

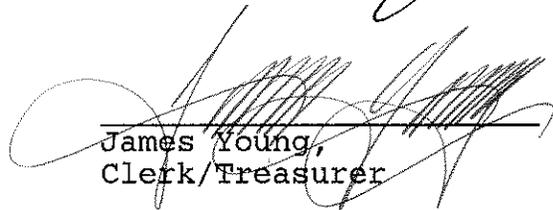
Mr. Jason stated that the Planning and Economic Development meeting is cancelled due to the late hour.

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

ATTEST



John G. Early, Chairman Date 1/26/89



James Young,
Clerk/Treasurer Date 1/26/89

Attendance:

Present: Bryant, Colebrook, Early, Eber, Ewing, Filly, Fischer, Jason, Lee, Medeiros, McCavitt, Morgan, Scott, Sibley, Wey, Young.

Absent: Evans, Delaney, Allen, Geller, Harney.