

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF OCTOBER 12, 1989

## MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a continued public hearing on Thursday, October 12, 1989 at 8:00 p.m. at the West Tisbury School Gymnasium, Old County Road, West Tisbury, MA regarding the following Development of Regional Impact (DRI):

**Applicant:** Charles J. Stephens, Ocean Moors  
c/o Richard Barbini, Schofield Brothers, Inc.  
97 State Road, P.O. Box 339  
Vineyard Haven, MA 02568

**Location:** Off Chappaquiddick Road,  
Chappaquiddick Island,  
Edgartown, MA

**Proposal:** Subdivision of land qualifying as a DRI since  
it is a subdivision of greater than 20 acres.

James Young, Chairman of the Land Use Planning Committee, (LUPC), read the Ocean Moors Continued Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Melissa Waterman, MVC Staff, to make her presentation.

Ms. Waterman reviewed the staff notes (available in their entirety in the DRI and Meeting file) using wall maps and displays to depict the lots to be created, existing and proposed trails, septic and well locations, building envelopes, and wetland boundaries. Correspondence was also summarized in the staff notes (available in its entirety in the DRI file). Ms. Waterman then answered questions from the Commissioners.

Mr. Early, Chairman, asked, in reference to the correspondence from the Edgartown Board of Health, what is a bore hole well nest? Ms. Waterman responded that it is a monitoring type well. Ms. Davis, MVC Commissioner, stated that it is a cluster well which shows different layers of the aquifer for monitoring.

Mr. Wey, Commissioner, asked if the new trail on Lot #6 would be in the wetlands? Ms. Waterman responded that this trail exists now and while it is close to the border it is not in the wetlands.

Mr. Filley, Commissioner, asked if the request from the Conservation Commission, that all buildings be kept a minimum of 200 feet from the edge of the wetlands, could be met? Ms. Waterman responded yes, it

could be met. It will be a little tight on Lot #5, she showed the building envelope for this lot in relation to the wetland on the wall display.

Ms. Bryant, Commissioner, asked about the issue of affordable housing? Ms. Waterman stated that the Commission policy is that 10% of the lots be for affordable housing, in this case that would be .6 of a lot.

When there were no further questions for Ms. Waterman, Mr. Young called on Mr. Barbini, agent for the applicant, to make his presentation.

Mr. Barbini, Schofield Brothers, Inc., stated that with regards to keeping buildings a minimum of 200 feet from the wetlands, Lot #5 would be very close, however anything we want to do within 200 feet of the wetlands will have to be approved by the Conservation Commission. Regarding affordable housing the Commission's policy is for a subdivision of 10 lots or more so it does not apply in this case. Regarding the Conservation Commission's concerns with road run-off, the subdivision road stops very short of the wetlands, as you can see from the wall display, and the wetlands will not be effected by run-off. He then answered questions from the Commissioners.

Mr. Filley, Commissioner, asked if it has been decided whether to use septic fields or leaching pits on Lots 4 & 5? Mr. Barbini responded no, it doesn't make a lot of difference, particularly on Lot #4. Lot #5 is the lowest lot.

When there were no further questions for Mr. Barbini, Mr. Young called for testimony from Federal or State agencies, there was none. He called for testimony from Town Boards, there was none. He then called for testimony from the public.

Mr. Cressy, abutter to the proposal, stated that he is not in opposition to the proposal, he feels some good concessions have been made to the MVC and the Edgartown Planning Board, but there are a few issues he would like to address. Mr. Cressy spoke about maintaining the pristine nature of the Pocha Pond and its importance as a nutrient factory for shellfish in Cape Pogue Bay. He discussed the fresh water springs that exist on the Pond and stated that because of these springs the Pond doesn't freeze in the winter and provides the environment for these nutrients. He used a wall map to show the location of such a spring in an inlet near the corner of Lot #6. He stated that it is important to see that these springs are not injured or polluted in any way. He would like to see careful consideration given to the septic arrangements so that nothing will leach into the spring, inlet or Pond itself. He also showed the location of his child's house, on abutting property, and questioned whether this house's septic and well had been taken into consideration when drawing up this subdivision's septic arrangement. He discussed the effects that pesticides and herbicides have had on Eel Pond and again encouraged no lawns be allowed. He stated his concerns over guesthouses and that he believes this has already been addressed. He stated that he thinks the 200 foot setback from the wetlands should be adhered to whenever possible. He closed by discussion the trails and

stated that the trail through lot #6 is on the edge of the wetlands and is often very spongy. He stated that he understands that the applicant doesn't want to have trails through his lots but he has seen it done successfully in the past.

Mr. Jason asked Mr. Cressy, who now owns the land that the spring you referred to is on? Mr. Cressy responded myself and the Land Bank. Mr. Jason asked, none of it is on the applicant's property. Mr. Cressy responded a small bit in the corner of Lot #6.

When there was no further testimony, Mr. Young called on the applicant's agent to make a final statement.

Mr. Barbini stated that we share the same concerns for the pristine state of the springs, pond and wetlands and that is why we chose to lay out the septic systems this way. We also share the concern of maintaining the trail system and we have tried to work this out to the best of our ability.

When there was no further testimony, Mr. Young closed the public hearing at 8:40 p.m. with the record remaining open for one week.

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Mr. Early opened the Special Meeting of the Commission and proceeded with agenda items.

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

ITEM #2 - Old Business

Mr. Early announced that the MVC has won the appeal on the Thimble Farms Decision. He called on Ms. Borer, Executive Director, to summarize the Decision. Ms. Borer gave a brief summary of the decision by stating that the Planning Board and Building Inspector appealed the Commission's Decision. A Superior Court Judge ruled our Decision was correct regarding construction of a greenhouse constituting agricultural use. The Town appealed the Judge's Decision and we just received, from the Appeals Court, a judgement reaffirming the Commission's Decision. She also stated that copies of this Decision are available in their entirety at the Commission offices.

ITEM #3 - Minutes of October 5, 1989

It was motioned and seconded to approve the draft minutes as presented. There was no discussion. This motion passed with no opposition, 1 abstention, Ewing. (Davis abstained.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Legislative Liaison, reported that the bill the Town of Tisbury has filed to establish a department of public works has been assigned a number and there will be a hearing Tuesday at 11:00 a.m. He stated that Representative Turkington is working in two areas for MVC funding. He continued that there has been discussion that the

four Governor's appointees to the Commission should be given voting status. Mr. Early stated that this issues would be addressed under Item #7, New Business. Mr. Morgan continued by reminding Commissioners of the November 1st deadline for filing.

Mr. Jason asked how the Cape Cod Commission bill is doing? Mr. Morgan stated that it is out of Ways-and-Means and will be on the House Floor by Monday.

Mr. Adams, MVC Staff, reported for Comprehensive Planning Advisory Committee (CPAC) by stating that they will be addressing the All-Island Selectmen to set up dates for the town board meetings. CPAC will be meeting soon and we will be in touch with the exact time and location.

Mr. Ewing, Chairman of the Edgartown Ponds DCPC, reported that they had met to review 5 exemptions: 3 for proposed new houses, 1 for conversion of a garage, 1 for an addition and 1 for conversion of a barn. There was no quorum so we didn't vote. We hope to vote on these early next week and the date and time will be announced.

Mr. Young, Chairman of Land Use Planning Committee (LUPC), reported that they had not met this week. They will have a joint meeting with the Edgartown Planning Board on October 16 at the Edgartown Selectmen's Meeting Room to discussion the Keyland Trust (Tedesco) and Thomas C. Wallace Commercial Construction proposals, both located in the Town's B-II District.

Mr. Early reminded Commissioners that Congressman Studds will be hosting an open meeting Saturday from 12:30 - 2:00 here at the West Tisbury School Gymnasium. He urged Commissioners and their constituents to attend.

ITEM #5 - Discussion

Mr. Early began by stating that in order for the Commission to vote on a DRI the quorum requirements are that 11 members must be present and of these 11, there must be 1 member from each town. Commission members qualified for a quorum are those members who attended the public hearings. Since we can't meet the quorum requirements for the Surfside Inn and A&P Expansion DRIs, we can't act on these decision this evening. Discussion and possible vote on these items will be placed on next week's agenda. All Commissioners were encouraged to attend next week's meeting so a quorum could be reached.

ITEM #6 - Possible Vote - Written Decision, M.V. Shipyard DRI, Town of Tisbury.

It was motioned and seconded to approve the M.V. Shipyard draft decision as presented. There was no discussion. This vote passed with 13 in favor, 0 opposed, 2 abstentions, Ewing, Lee. (Davis abstained.)

ITEM #7 - New Business

Mr. Early began by stating there has been much discussion about amending Chapter 831 to allow the 4 Governor appointed members to the Commission to vote. He stated that even though these members have to travel much farther then we do, on the whole, they have been very faithful in their attendance, some have better attendance than those who do vote.

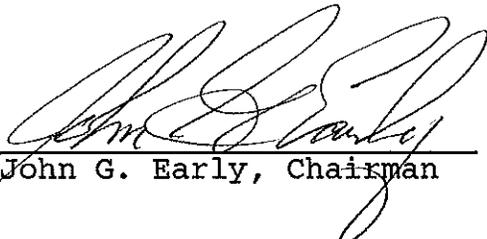
There was general discussion on the following issues: procedure for amending Chapter 831, a public hearing is required; possible changes to the quorum requirement and possible problems arising if such changes are made due to traveling distance for these 4 members; the fact that although these 4 cannot vote they all have Vineyard connections and must all be taxpayers on the Island; and that Commission counsel would review any proposed changes to Chapter 831.

It motioned and seconded to ask the Executive Director and Commission's Counsel to investigate a proposed amendment to Chapter 831. giving the 4 Governor's appointed members voting privileges. This motion passed unanimously.

ITEM #8 - Correspondence - There was none.

The meeting was adjourned at 9:20 p.m.

ATTEST

  
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John G. Early, Chairman      10/19/89  
Date

  
\_\_\_\_\_  
James Young,  
Clerk/Treasurer      10/19/89  
Date

Attendance

Present: Bryant, Early, Eber, Ewing, Filley, Fischer, Greene, Jason, Lee, Morgan, Sibley, Sullivan, Wey, Young, McCavitt, Davis.

Absent: Colebrook, Schweikert, Allen, Geller, Harney.