

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF AUGUST 23, 1990

## MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Special Meeting Thursday, August 23, 1990 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

Mr. Filley, Chairman, opened the special meeting at 8:07 p.m. and proceeded with agenda items.

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

ITEM #2 - Old Business

Mr. Filley introduced Theophillus Nix, Jr., Director of the Regional Housing Authority.

Mr. Nix thanked the Commissioners for their time, introduced himself and gave a summary of the projects that the Housing Authority is currently undertaking. He reviewed the concerns of the individual towns on the Island and the ways in which the Housing Authority plans to address these concerns. There was discussion regarding the possibility of revamping existing structures rather than building new ones. Mr. Nix stated that the State is currently unwilling to fund such projects due to past experience with skyrocketing maintenance costs. The Housing Authority has, and will continue, to examine this approach. Mr. Nix stated that he wants to work with the Commission in any and all ways the Commission sees fit. It was stated that his input would be appreciated when and if the Commission reviews any residential subdivision applications to determine the best way to address the affordable housing issue. There was discussion regarding contact with the Tribal Council and the Land Bank. There was also discussion about the possibility of the Housing Authority working jointly with developers on specific residential projects.

Mr. Filley thanked Mr. Nix for coming to the meeting and offered him the use of the Commission's resources in his work.

Mr. Filley then reminded Commissioners that nomination papers and Ethics Commission reports for the Commission election are due to the Secretary of State Tuesday, August 28th at 5:00 p.m.

ITEM #3 - Minutes of August 16, 1990

It was motioned and seconded to approve the draft minutes as presented. This motion passed with no opposition, 1 abstention, Colebrook.

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Chairman of the Land Use Planning Committee (LUPC), reported that on August 27th we will be meeting again with the working session on the DRI checklist on the agenda. There will be no meeting on September 3rd because of Labor Day. We will meet September 10th to continue discussion on the DRI checklist. At the meeting on Monday, August 20th, we met with Vineyard Assembly of God requesting LUPC to approve, according to conditions, some of their changes. Mr. Saxe, MVC Staff, will give us an update on that. Ferryboat Village was also on the agenda but no one was there to represent them. We want to see a copy of the Conservation Commission's Orders of Conditions pertaining to that. We also had a letter regarding Spring Cove Realty Trust basically requesting that the one test boring done be accepted in place of the 5 conditioned in the decision. Mr. Saxe will also bring us up to date on that. Any other Committee members can comment if they wish. He stated that he has a letter regarding Vineyard Assembly of God that he will read when Mr. Saxe is finished.

Mr. Saxe stated that regarding the Vineyard Assembly of God they gave us a landscaping plan and a traffic and access plan. I mostly looked at the landscaping plan and they have proposed a lot more landscaping than they had before, although it predominately screens the parking and paving areas. There still really isn't any screening at all between the play area, the building and the Kingsbury property. So we have asked the applicant to come back to us with a plan showing us exactly what is there now. Unfortunately I didn't have the opportunity to make a site visit. The condition from the decisions does say they will come back to LUPC when they are going to apply for an occupancy permit, not a building permit, however they were hoping to get the landscaping approved prior to the building permit.

Ms. Colebrook, Commissioner, asked how does that relate to the Tisbury Planning Board who apparently agreed to some conditions. Now they come back to LUPC and those conditions are changed. Will the Tisbury Planning Board have the final review? Mr. Saxe responded that the condition was that they provide a landscaping plan. Specifically with regard to the location of the building next to the Kingsbury property that condition refers to prior to the occupancy permit. Perhaps members of LUPC can comment on this.

Ms. Green, Commissioner, stated that they are going to leave natural screening between the church itself and the Kingsbury property. We strongly suggested that they put in some sort of heavy growth evergreen for acoustical as well as visual screening. We asked them to come back to us.

Ms. Eber, Commissioner, stated that as I recall, in answer to Ms. Colebrook's question, the Tisbury Planning Board approved the landscaping and parking plan. Ms. Colebrook stated that is my question. What happens if they approved it and LUPC changes it?

Mr. Morgan stated that as far as parking and the driveway I will read a letter in a few minutes. Mr. Morgan recommended that we not discuss

this, not make a decision, and try to bring it up on September 10th LUPC agenda primarily because of this letter and other questions that are before us. We have to talk more about the screening. Mr. Morgan read a letter from Mr. Tom Zinno, dated August 23, 1990, RE: Vineyard Assembly of God. It states that the Planning Board agreed to review his concerns by their next meeting, August 29. He requests that the Commission not act on the LUPC recommendations until the Tisbury Board has had the opportunity to properly address his concerns for traffic safety. He proposes that the entry, exit and stacking be done solely on the applicant's property. (This letter is available in its entirety in the meeting and correspondence files at the Commission offices.) He stated that acting on anything is up to LUPC according to the decision. It looks like as the plot thickens we might bring this back to the full Commission. Mr. Morgan recommended that LUPC take no action on the parking, which will also involve the screening, until the Tisbury Board has acted on Mr. Zinno's request.

Mr. Morgan asked Mr. Saxe to show the plan submitted by the applicant and explain Mr. Zinno's request. Mr. Saxe showed the plan and explained the request.

Mr. Morgan then discussed Spring Cove Realty Trust and stated that the Committee members do not feel we should give in on our demands for 5 test borings. At present nobody agrees on what is adequate. We asked Mr. Saxe to find somebody that knows much more about it than we do. He asked Mr. Saxe to discuss this.

Mr. Saxe stated we finally got the final order of conditions from the Department of Environmental Protection (DEP) on the appeal and we also got a letter from Mr. Adler which details 8 documents wherein he claims the theory that there is a perched wetland on the site is refuted. He therefore feels that 5 test borings aren't necessary to determine whether or not there is a perched wetland. I have gone through all the documents and at LUPC I gave a very specific critique of each of them. I don't completely agree that they make a determination of whether or not there is a perched wetland. Certainly the conditions from DEP don't say anything about whether or not there is a perched wetland. I had Peter Odgen in, who is a geologist and very familiar with the area. His P.H. thesis was on the cranberry bog adjacent to this property. After reviewing initial materials, he didn't read the testimony or the public hearing documents, he reviewed topographic maps and the existing soil boring that was done for DEP, he feels that while 5 test borings may not be completely necessary, the one that was done certainly doesn't give us enough information to negate the five. He will submit a letter soon describing what he thinks the proper procedure would be for determining whether or not there is a perched wetland. He believes we can avoid putting heavy machinery in the wetland but that we still need to do tests in the wetland. His concern was that there might not be a point of refusal. That there may be a kettle hole there and that the pilings would go a lot deeper than the engineering firm is proposing. We will have a letter from him soon describing more specifically what should be done in the wetland that won't involve heavy machinery.

Ms. Colebrook asked how deep do they have to drill? Mr. Saxe stated that the proposal for the bridge is to drive the pilings 20 ft. The boring which was taken just outside the wetland, therefore a little above the wetland although they did not give us a specific location, was 24 ft. and it was largely sandy. But the test boring didn't give a grain size analysis so you couldn't tell how stable it would be. Ms. Colebrook stated well if you only have to go 20-25 ft. the person's reluctance certainly isn't the cost of the boring. What seems to be his reluctance? Mr. Saxe responded that Paul Adler would say that he would do damage to the wetland with the 5 test borings and therefore it is better to go ahead and build the bridge. He calls very frequently on this and he has never mentioned the expense. Ms. Colebrook asked how often are those samples to be drawn? Mr. Saxe responded that the Commission's condition only says 5 test borings in the area of the bridge which is a 12 X 70 ft. area to be taken to the point of refusal. Mr. Ogden was concerned that there might not be a point of refusal since it is a kettle hole area. Several Commissioners stated in that case there would be no bridge.

Mr. Schilling, Executive Director, stated that Mr. Ogden is more concerned that the pilings might hit a strata that would be so fluid or so loose that the pilings would drop on through and the 20 ft. might not be adequate to put a bridge there. It would be cheaper and more productive to take an inch pipe with a 20 pound sledge hammer, putting them together and poking that through to find out if you do have loose soil that is going to allow that to fall down through.

Mr. Filley stated that the reason for the Commission's decision was to assess whether the driving of pilings would actually do damage to the wetlands. Mr. Morgan stated yes, whether it would poke a hole and drain it. Mr. Saxe stated that the decision was that the test borings would be taken and then come back to LUPC for approval. The result of the test boring might result in not being able to build the bridge. That determination lies with LUPC. Mr. Saxe stated that Mr. Adler asked for my concurrence on 8 facts regarding whether or not there is a perched wetland and I don't agree with them just looking at them in general. Of course I am not a geo-hydrologist. Pete Ogden is going to give us a letter specifying the test borings and how they should be conducted without putting heavy machinery on the wetlands.

It was asked if he will be recognized as being an expert? Mr. Saxe stated that Mr. Adler was not present at the LUPC meeting where the staff was asked to find an expert that was not previously involved. I would consider him to have sufficient expertise.

Mr. Morgan stated we will keep you up to date.

Mr. Early, Chairman of Planning and Economic Development (PED), reported that we will meet Tuesday, August 28th, at 5:00 p.m. to discuss the Oak Bluffs Planned Development District.

Ms. Sibley, Chairman of the West Tisbury Special Ways DCPC, reported that the West Tisbury Planning Board opened its public hearing on the proposed DCPC regulations on Tuesday night. A lot of people attended. The testimony was mostly positive but there were clearly some concerns

and also some confusion. One person in particular was concerned because his portion of the special ways is being utilized almost exclusively as a motor bike path. There were questions as to whether or not this process was attempting to create rights of way, even though it was clearly stated it was not. The Boards is going to try get some clarification within the limits of what they can do. The hearing was continued to a later date.

Mr. Sullivan, Chairman of the Roads DCPC, reported that they met with the Tisbury Planning Board and 2 of the Selectmen at the Tisbury Town Hall Annex. We had a wide ranging discussion of ideas, theories, opinions on the DCPC options. There was a lot of informational exchange. Mr. Simmons, MVC Staff, was very instrumental in offering information. We came away further enlightened. There will be another DCPC meeting on August 27th at 6:30 p.m. after LUPC.

Mr. Jeff Benoit, Director of Mass. Coastal Zone Management (CZM), thanked those members of the Commission that participated in the program review a few weeks ago. The State office of CZM received grants from the Federal Government. Part of our obligation under those grants is for them to come in and review our program. They come down for about a week. We spent a day on the Vineyard about 2 weeks ago. I want to thank everyone. It went very well. We will forward their report to you when it is received.

Mr. Filley stated that we need a Commissioner to serve on the Land Bank Open Space Advisory Committee. We have a contract with the Land Bank to do an Open Space plan which will then be incorporated in our Regional Plan. Part of our agreement with them was to serve on this committee. If anyone is interested please let me know later. We will be having a meeting on August 28th at 4:00 p.m. at the office.

Mr. Simmons, MVC Staff, reported that regarding the traffic counts, we will have all counts completed for the Tisbury Corridor from West Tisbury to the Oak Bluffs town line by Labor Day. There was a around of applause. He continued by stating that the Marine Transit Symposium has been scheduled for Saturday, October 27th. The invitation lists developed by the Committee members will be going out in the next couple of days. The Harborside Inn has donated the use of their facilities for the meeting.

ITEM #5 - Discussion - Reviewing of the final interviews for Executive Director

Mr. Early asked how do you propose to proceed with the next two agenda items? Mr. Filley responded that I will asked for a report from the Search Committee, followed by discussion, I want all Commissioners to have the opportunity to talk and make comments, then we will move to Item #6 for a possible vote.

Mr. Schweikert, Commissioner, stated I would like to hear from some of the staff members also. Would that be appropriate? Mr. Filley stated it is usually discussion for Commissioners only but if a Commissioner feels that he/she would like to ask staff they can request it through the Chair. Mr. Schweikert stated that would be a question I would

have. I would like to hear from staff members if the other Commissioners don't object. Mr. Filley asked if the Commissioners feel comfortable with that? Ms. Bryant stated they have to work with him too. Mr. Sullivan stated that they might be putting themselves in a bad position. Mr. Schweikert stated that it puts the Commissioners in a bad position too if that is the way you want to look at it. It was stated that the Executive Director can't fire Commissioners. Ms. Sibley stated that not all Staff were at the interviews and they might not want to discuss their opinions. Mr. Morgan stated this is a very unusual request. Ms. Colebrook stated she likes it. Mr. Morgan stated you have your elected or appointed officials asking for the advice of employees to lead you into your decision process. I think it is unusual. I will not oppose it but it is a most unusual request. Several Commissioners recounted experiences where they were interviewed by potential employees.

Mr. Filley began by thanking the Search Committee for their efforts in this regard. He asked for their report.

Mr. Young, Chairman of the Search Committee, reported that he got together with Norm Friedman, Administrator, on two consecutive afternoons and made a number of background calls to places of work of both of the applicants. I will give you a brief description of how we spoke to and what they had to say. There were no surprises. With Mr. Clifford we spoke to people in the Town of Hollis which was where he worked previous to his current job. We spoke with Louise King who is on his referral list. She is the administrative assistant to the Selectmen currently. She gave a high recommendation. She specifically said that he related well to the town boards. The circumstances of his leaving were due to health. He did not leave with a cloud. He did an excellent job there as town planner. We spoke to Ann Caldwell, who is currently on the National Regional Planning Commission and worked with him in the past in the Town of Hollis. She also gave a high recommendation. She specifically said that he had an ability to see both sides of issues. That he established a good rapport with everyone regardless of what side of the issue they stood. He is professional, fair and she especially commended his ability to lobby legislature. In the Town of Pembroke, his current job, we were a little hesitant to call people, not knowing who they were, especially with the circumstances of his current situation. What we did was limit it to the former Chairman of the Planning Board who also serves on the Central New Hampshire Regional Planning Commission. His name is David Harrigan. He gave a strong recommendation. He commended Mr. Clifford for seeing Pembroke through the biggest development boom in the Town's history, which apparently was quite a phenomenal boom. Apparently he did a good job of guiding them through it. He also strongly commended him for his ability to get along with different factions, developers as well as conservation people. Regarding Mr. Koulet, we started out by verifying his degrees. We spoke to the 2 organizations in Colorado that he worked for. At the Colorado Dept. of Natural Resources a Mr. Ron Cantani, Director, gave a strong recommendation. Particularly commended him on his ability for the work that he did on diversifying the economy and doing growth impact studies, infrastructure costs versus revenues. He stated he has a good working style. The assistant there who worked

for Mr. Koulet as a clerical assistant, called him a perfectionist, that he had high energy, that he commended him for his ability to see projects through to their conclusion. In the Northwest Colorado Council of Government we spoke to Linda Fentaroni who is the current executive director there, they worked as equals at the time he was there. She commended him for his computer skills, she also said that he was good at seeing projects through and his ability to establish and maintain ties at the State House. Both applicants asked us early in the process to not make inquiries at their current places of work. Since I had requests from many Commissioners asking that we do make such inquiries I spoke to both applicants again. Mr. Clifford had no problems with me making inquiries at Pembroke. Mr. Koulet asked that I continue to honor his request that I not make inquiries in New Hampshire. However we did get some assessments of his current performance from a couple of people. One quite by accident and one we deliberately called. The Ann Caldwell that I discussed with regards to Mr. Clifford also knew, through her current position, all of the Executive Directors in New Hampshire. We discussed Search Committees and she gave me a quite candid assessment of all 9 executive directors and Mr. Koulet was one of them. Some of them she was quite blunt about, 3 of them she said were first rate executive directors and Mr. Koulet was one of them. She stated he was very dynamic, again that he follows projects through, and generally said he was a first rate executive director. Mr. Friedman and I called a Bill Clubin who is currently the executive director of the Central New Hampshire Commission and who had worked with Mr. Koulet and knows of his current work. He commended him for his innovative planning leadership in the State. He called him a feisty leader in organizing towns to lobby the State. What we have is two highly qualified candidates. They can't be faulted on their qualifications. Clearly they do have enormous strengths. They do also have weaknesses. The technical weaknesses are, Mr. Koulet has no coastal experience, Mr. Clifford is weak in computer skills. Those are the weaknesses I think they have. Otherwise Mr. Koulet's salary requirements might be a problem. I don't know if we want to go ahead and vote disregarding his salary requirements hoping we can work it out or whether we would consider that a factor.

Ms. Colebrook asked isn't there another alternative? Mr. Young stated there is a third alternative which is if both candidates are found to be unacceptable for one reason or another there is the alternative of re-advertising. Ms. Colebrook asked isn't there a way we could meet Mr. Koulet's salary demands? Mr. Young stated that what I told him in discussions was that he would have to come in within the range that we offer. As Mr. Friedman is going to be phased out shortly after the new executive director starts, that is what he requested, this will free up a certain amount of salary. Mr. Filley stated this is something that we should not be discussing tonight.

Mr. Morgan stated there was another important issue regarding contracts. Mr. Young stated that Mr. Koulet would be more comfortable signing a contract that was for 3-4 years.

Ms. Green stated that I indirectly happened to be speaking to my cousin who hired Mr. Koulet as chairman of the commission up there.

He said he was a terrific guy but that he had personnel problems with his employees the first year he was there. There were real problems. He did not say if people actually left as a result of it. But it was a serious problem.

There was general discussion amongst the Commissioners regarding the two candidates centering on past experience, strengths and weaknesses of the candidate in respects to coastal planning and computer experience, mediation skills, lobbying skills, and lobbying done to Commissioners both opposed and in favor of Mr. Clifford. Several Commissioners discussed the fact that more extensive background checks should have been done and that they felt it was unacceptable to not check the current employers. There was discussion of checking references once the choice was made. Several agreed this should not be done. One Commissioner felt that a field of two candidates was too narrow and that we should begin the process again.

The MVC Staff was asked to comment. Their comments centered on the following issues: need to hire somebody now, 3 month selection process has overburdened the staff, inappropriateness of devoting money not yet available to a new executive director when the Commission has other staff and needs unfulfilled due to budgetary constraints, last executive director's lack of computer experience, current staff situations and turnover, working relationship with the new executive director, need for supervision but not interference with ongoing projects such as constant staff meetings, need to plan head rather than react, need for vision and foresight, desire that new executive director to have relevant planning expertise in light of the fact the regulatory part of the Commission's work is decreasing while the planning is increasing, the executive director needs to be skilled in planning not just mediation, lack of advertising in planning journals.

ITEM #6 - Possible Vote - Selection of a new Executive Director for the Martha's Vineyard Commission

It was suggested that each Commissioner vote for his favored candidate rather than motion one and then have to vote in favor or against a candidate. This was agreed.

The vote for the Executive Director was as follows: 11 votes for Mr. Charles Clifford, 5 votes for Mr. Kimon Koulet, 1 abstention, Sullivan. (Geller voted for Mr. Clifford). Mr. Charles Clifford was selected as a new Executive Director of the Martha's Vineyard Commission.

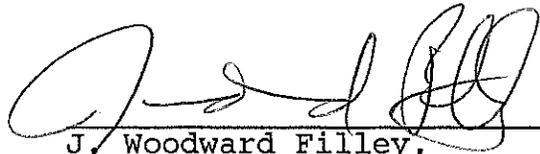
ITEM #7 - New Business - There was none.

ITEM #8 - Correspondence - There was no additional correspondence.

Mr. Filley reminded Commissioners that the Executive Committee of the Cape Cod Commission would be visiting us next Thursday.

The meeting was adjourned at 10:20 p.m.

ATTEST

  
J. Woodward Filley, 8/30/90  
Chairman Date

  
Albert O. Fischer, III, 8-30-90  
Clerk/Treasurer Date

Attendance

Present: Bryant, Colebrook, Early, Eber, Durawa, Filley, Fischer, Green, Jason, Lee, Morgan, Schweikert, Sibley, Sullivan, Wey, Young, Benoit, Geller.

Absent: Allen, Harney, Davis.