

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF SEPTEMBER 13, 1990

## MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a special meeting on Thursday, September 13, 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 8:08 p.m. and proceeded with agenda items.

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

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes of August 30, 1990

It was motioned and seconded to approve the draft minutes of August 30, 1990. This motion passed with no discussion, no opposition, 4 abstentions Colebrook, Wey, Sullivan, Lee.

ITEM #1 - Chairman's Report

Mr. Filley returned to this item to introduce a new MVC Staff member, Jan Wheaton, who has taken the cartographer/planner position at the MVC. Commissioners welcomed Ms. Wheaton.

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Filley opened by stating that Mr. Cotnoir, for who some expressed concern regarding his recall into service relating to the Persian Gulf situation, was at the Commission offices this week and he is well. He submitted a letter on the Adler DRI.

Mr. Schilling, Acting Executive Director, also reported that Ms. Davis', Commissioner, father had passed away today on the Island. Commissioners expressed sympathy and asked an appropriate message be sent.

Mr. Morgan, Chairman of Land Use Planning Committee (LUPC), reported that on September 10 they met with Mr. Adler regarding the Spring Cove Realty Trust DRI. Mr. Adler is still requesting a change relating to the 5 test borings. The information received by Mr. Odgen, geologist, was incomplete. We recommend that we wait until all the information is complete before we make a recommendation on the modification of that condition. We also had a preliminary discussion on a possible DRI by Steven Rattner for a Form A, which changes and adjusts the lot lines. This was discussed with his agent and we suggested that it

might be a DRI. We requested they send it to the MVC. They stated they will request a waiver of the filing fee. We also continued discussion on the DRI checklist.

Ms. Sibley, Chairperson of the Special Ways DCPC Subcommittee, reported that she had not attended the continued public hearing and requested that Jinny Jones, W. Tisbury Planning Board, is in the audience and can report on that.

Ms. Jones stated that we had a presentation from Ben Reeve. He had submitted a written document. There were some considerations raised about how special regulations would be enforced. We have met individually with people who had very specific concerns. We hope to make a presentation soon to the Commission.

Mr. Simmons, MVC Staff, reported that a consultant with relevant previous experience, Martha Reardon of the Harbor Consultancy, has accepted the invitation to speak at the Marine Transportation Symposium on October 27 at the Harborside.

ITEM #5 - Discussion - Road Corridor DCPCs

Mr. Filley asked the subcommittee to make their report.

Mr. Sullivan, Chairman of the Road Corridor DCPC Subcommittee, reported that the committee voted unanimously to recommend a non-nomination status. Mr. Sullivan referred to a document entitled "Road Corridor DCPC Subcommittee recommendations for Cooperative Agreement in Lieu of Acceptance of Nominations for Consideration". Mr. Sullivan stated that the subcommittee believes that this is the best way to accomplish the desired goals. It will allow more flexibility and avenues for cooperation. We feel this will more likely accomplish true and meaningful changes to the road problems.

Ms. Green, Committee member, stated we are suggesting the cooperative agreement between the Commission and the Town as a process of resolving the problems.

Mr. Simmons, MVC Transportation Planner, stated that the committee met several times with the Tisbury Planning Board and it became apparent that the DCPC process, which runs for one year, might be too restrictive for what we were looking at, that the Tisbury Boards felt ill at ease with the moratorium, and that some of the things that we were looking at would not be assisted by the DCPC. The DCPC would mostly help to serve the zoning regulations. In that light I drew up this proposal in lieu of the DCPC to work cooperatively with the Boards of Tisbury with feedback from the other towns. To work with a task force to study all the aspects of the area and come up with some recommendations. It recommends that we work cooperatively and in good faith. It recognizes that at some point we may have to nominate a DCPC to get any necessary by-law changes or to establish a legal framework for an impact fee program. There is a recommended time line at the end to show how we could go through the process. We presented this to the Tisbury Planning Board Monday evening and they discussed it last night and voted unanimously to approve this proposal.

Mr. Filley stated we are also looking to bring in the other towns' boards, as well as public forums, to get input as to the regional issue. Mr. Simmons stated that the proposal includes wording that it should be a regional effort and that ideas of the other towns on the Island will be necessary and also that we should work up similar agreements with the commercial districts of other towns that are not in the Island Road District, so we will be looking at other areas as well, in the future.

Ms. Sibley stated that at the DCPC Committee meeting I had requested, and think it would be very helpful, to have some sort of public forum as soon as possible. The one thing I was uncomfortable with was that by not even nominating we skip the process of a public hearing. We did have a citizens' petition. There is obviously a lot of involvement by the citizens. I think this is the right thing to do but I also think it is very important to have some form of public forum early on to explain to the citizens what the process is all about and hear from them. We have a responsibility to hear from them since they obviously cared enough to petition for nomination. If we are not going to nominate I think we should get a relationship with the public as well.

Mr. Filley asked the Tisbury Planning Board members if they have any comments at this time.

Mr. Barwick, Chairman of the Tisbury Planning Board, stated of the many meetings we attended we did vote to fully support the content of the document that I believe you all have in front of you. I don't know if you are going to read it in its entirety. We trust we will receive your full support.

Mr. Filley stated that copies are available but I will read through it. Mr. Filley read the document entitled "Road Corridor DCPC Subcommittee Recommendations for Cooperative Agreement in Lieu of Acceptance of Nominations for Consideration".

When there was no further discussion Mr. Filley moved to Item 6.

ITEM #6 - Possible Vote - Road Corridor DCPCs

It was moved and seconded that the Commission accept the recommendation of the Road Corridor Subcommittee. Discussion on this motion was as follows:

Mr. Young, Commissioner, stated that he wants to ask one question of the Tisbury Planning Board. They seem to stress the involvement of other towns' planning boards or boards, particularly the language in #4 of the document which states "The recommendation is made on the condition that the Tisbury Board of Selectmen, Tisbury Planning Board, and any other Boards or groups deemed necessary by those Boards or the Martha's Vineyard Commission, act cooperatively and in good faith to plan and take action on the State Road Corridor within the Town of Tisbury, according to an agreed upon time-line, and example of which follows". Exactly what does the Planning Board see as the

participation of other towns' boards? Mr. Barwick responded that we hope to receive some continuity from the other 5 towns on the Island who are major contributors to our road corridor problem. They have as many concerns about that problem as we do. We hope that they will become part of this task force committee to give us their concerns and some ideas and resolutions to the problems. I am unsure of how the people would be chosen. I am not quite sure what you meant by your question? Mr. Young stated that it says "and any other Boards or groups deemed necessary by those Board or the MVC". Mr. Barwick stated we would like to see at least 1 or 2 members from each Planning Board in each member town on the Island participate in this effort. Mr. Young asked and if they don't? Mr. Barwick stated we hope they will be cooperative and will serve.

Ms. Jones, member of the West Tisbury Planning Board, stated that their board would willingly volunteer 1 member.

Mr. Lee, Commissioner, added as would the Gay Head Planning Board.

Mr. Engle, audience member, stated I think you can count on Chilmark too.

Mr. Young stated I guess this answers my question but I don't like the language in the document.

Mr. Filley stated this document is a guide, a general understanding. We are not voting on this document per say. We are voting on whether to accept the nominations.

Mr. Early, Commissioner, stated I would like to support the motion. I think it is unusual that we have this type of consensus on an issue that is as controversial as this is. This is very similar to the Oak Bluffs Harbor non-DCPC which was a very productive exercise for the Commission and the Town. I think the details of the language can be worked out. It is refreshing to see something as hot as this get dealt with in such a constructive fashion.

Ms. Sibley stated I would like to say that we are so close on the document that we could discuss the changes and vote on the document too. We will have to accept the document.

Mr. Filley stated that we are agreeing on the concept and intent of this document. We can address any word changes when we have a more definitive time line.

Ms. Sibley stated that my motion to accept the subcommittee's nomination included acceptance that we go forward with this type of process. Not necessarily these exact words.

Mr. Sullivan stated yes to accept this draft.

Mr. Young stated I understood that to be the motion. It seems to me that a vote to reject the 2 nominations would be a vote to accept this process. I support this 100%. Mr. Filley made a very good point in the subcommittee meeting which is that sometimes the DCPC process by

virtue of its strict format can inhibit. I think this process is innovative and will probably be extremely creative and I absolutely support it. I think it is a very good idea. The one reservation that I have is related to a criticism that has been leveled against the Commission before which is that sometimes processes appear to be going on out of the view of the public. I think that this is a classic example of it. The public submitted a petition to the Commission, the Commission has met at subcommittee meetings that the public has not been a party to, and has now come up with a recommendation to reject the petition and also reject another DCPC proposal and given an alternative which is something that will come out in the press tomorrow. I think it is something that we have to be very careful of. It has lead to public skepticism as well as suspicion of the Commission process. Ms. Sibley made the point before that we should probably go ahead with the nomination process, vote to nominate, have the public hearings and then vote not to designate. That is what I think should be the proper process. Mr. Simmons pointed out to me that the drawback to this is that if we do that and then the Tisbury Planning Board drags its feet and we want to go ahead and force the designation, we would have to do so by a 2/3rds vote if we wanted to do that within the course of the next year. If we don't vote not to designate we can then designate by a majority vote. I think that is a strong argument in favor of going ahead and rejecting the 2 nominations and adopting this idea in concept. So I would support this but I believe it is something that we need to consider in the future.

Ms. Bryant, Commissioner, asked why wasn't the process public. Mr. Young stated the meetings were public but this is a document that is new to all of us except the subcommittee and the Tisbury Planning Board. It will be brand new when it comes out in the paper tomorrow. I am uneasy with the idea of the public having instigated a process which all of the sudden is resolved in a way that is totally different from the DCPC process.

Mr. Filley stated that part of the reasons is that usually we would just accept or not accept. This is a special situation where it is important that if we do not accept we have a clear definition of how we would enter into a cooperative venture. I think from the perspective of building a good foundation here, a cooperative agreement, I think we have a lot of opportunity to do things which might not be possible under a normal DCPC process. There is a chance for innovative planning, to make this a pilot for what I hope will go to other parts of the Island and I certainly welcome the overtures of the Tisbury Planning Board and look forward to working with them.

Ms. Sibley stated that one of the reasons it is new to everyone is that it is really a compromise that was worked out after weeks of meetings. We met an unusually number of times. It is an excellent resolution. It did come at the last minute. I am in favor of an early public forum.

Ms. Colebrook, Commissioner, stated that when the time line is finalized one of the ways to apprise the public is to advertise the time line.

Mr. Engle, testified as a supporter of the public proposal, the process as has been described in this document sounds to me to be an excellent approach. I am glad you have been able to get this much cooperation and hope that it will continue all the way through.

Mr. Simmons stated he recommended this to the subcommittee before and would like to bring it up now, perhaps at some point the Commission could address that when a nomination is a citizens' petition the person filing the petition or 3-4 people who sign the petition could be designated as a public agency so they could receive phone calls, notices, whatever. Right now what I have is a petition with 114 names on it. When the subcommittee was discussing this petition we couldn't call up 114 people. We have no mechanism to have one person be in charge of this and that would bridge the communication breakdown.

Mr. Filley asked Ms. Jones to speak as the nominator.

Ms. Jones stated that I was not the nominee it just happens that my name was the first on the petition. I might also point out that 4 members of the W. Tisbury Planning Board did sign the petition as members of the public. One of our concerns that the Tisbury Planning Board had was that by nominating so many roads all over the Island it might drag the thing down by its shear weight and extensiveness. We hope to stimulate something such as this agreement. I was rather surprised to find out that I was the designated person because I signed first.

When there was no further discussion Mr. Filley called the vote to accept the subcommittee's recommendation. This motion passed unanimously.

Mr. Filley asked the Road Corridor subcommittee members to continue to serve on this committee to work out the details of the agreement and the time line.

ITEM #7 - Pending DRI Review

Mr. Schilling, Acting Executive Director, reviewed 22 pending DRIs for the Commissioners information (a summary sheet is available in the meeting file).

ITEM #8 - New Business

Mr. Filley stated that Mr. Charles Clifford will begin as the new MVC Executive Director on Monday, September 17th. He stated he hopes Commissioners will come in and welcome him.

Mr. Filley then appointed the following committee to look into the alternatives for relocation of the MVC offices. He stated the current lease will be up soon. He then appointed the following to this committee: John Early, Jim Young, Lenny Jason, and Alan Schweikert. He welcomed any other Commissioners to talk to him after the meeting if they were interested in joining the committee.

ITEM #9 - Correspondence

Mr. Filley read the following letters: FROM: Charles Cotnoir, RECEIVED: September 13, 1990, SUBJECT: Spring Cove - RE: Letter of Mr. Odgen; FROM: M.V. Shellfish Group, Inc., DATED: Sept. 8, 1990, RE: Requesting endorsement of the purchase of a county-wide dredge. It was motioned and seconded to sign the letter of endorsement. There was no discussion on this motion. This motion passed unanimously.

Mr. Filley then read the following: FROM: Bracken & Baram, legal counsel representing abutters to the Magid Subdivision, DATED: September 6, 1990, RE: Contends that the recent work done to the south of Scrubby Neck Road is in violation of the Commission's condition in its September 18, 1986 Decision.

Mr. Filley stated that we have discussed this briefly. We will check with Mr. Wodlinger, MVC Counsel, to document his interpretation of the dates for our records. I will entertain a motion for action.

Mr. Young stated that if we do get corroborating opinions from Mr. Wodlinger I would suggest that we write a terse letter to Mr. Rosbeck that he cease any further development or action on that portion of land. A copy should go to the Zoning Inspector.

Mr. Early suggested that a representative of the Town and the Commission should make a site visit to determine if this is in fact going on in the place that allege it is going on before sending a terse letter.

It was moved and seconded that after corroborating with Mr. Wodlinger on the March 8, 1991 cut off date that we do a site visit of the property with a town official, and if all is cooerated we send a terse letter to the developer and the Zoning Inspector in the Town asking him to cease actions. There was no further discussion. This motion passed unanimously. Mr. Early and Mr. Young volunteered to make the site visit.

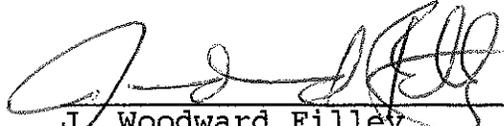
Mr. Early stated that this is Mr. Schilling's last meeting as Acting Executive Director and I would like to thank him for all his efforts. There was a round of applause.

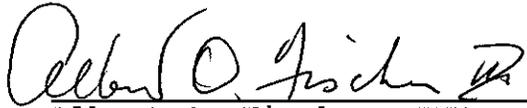
Mr. Schilling thanked the Commissioners and stated that you should also give thanks to our staff without them we couldn't have done it.

Mr. Filley stated you have all done an excellent job and from the public perception they probably didn't even know that things were different here.

The meeting was adjourned at 9:05 p.m.

ATTEST

  
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J. Woodward Filley,      9/20/90  
Chairman                              Date

  
\_\_\_\_\_  
Albert O. Fischer, III,      9-20-90  
Clerk/Treasurer                      Date

Attendance

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

Absent: Fischer, Jason, Benoit, Allen, Geller, Harney, Davis.