

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF JULY 25, 1991

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Special Meeting on Thursday, July 25, 1991 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

Jennie Greene, Chairman, called the meeting to order.

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

ITEM #2 - Old Business - there was none.

ITEM #3 - Minutes of July 18, 1991 were not available.

A discussion of whether items on the agenda could be voted upon without the minutes followed. It was noted that nothing in the missing minutes were part of any decision or other business to be conducted.

ITEM #4 - Committee and Legislative Liaison Reports

PED - there was no report.

A brief discussion of the proposed nomination of the Ocean Park DCPC followed.

LEGISLATIVE REPORT - Ms. Bryant discussed the visit of Secretary Taylor to the Island and the airport which would occur on Friday. She discussed why the Secretary was coming. She asked for an up-date on the status of the Business Park Feasibility Study. Mr. Clifford explained that all was expected to start in August. He noted negotiations between EOCD and the Town regarding various minor points.

LUPC - Mr. Schweikert discussed the last meeting and the letter from Ernest Boch regarding a proposed parking lot in Tisbury. He discussed each of the items in the letter and what the next move may be. He also noted that the Fisher proposal was up for discussion later in the meeting. He discussed a letter from Herring Creek and a future meeting to discuss the various aspects of the proposal. He expressed his feeling that any applicant should be allowed to meet with the LUPC as often as necessary.

ITEM #5 - Discussion - Island Elderly Housing

Ms. Greene noted that the Island Elderly Housing (IEH) group was

meeting with the Oak Bluffs Board of Appeals at 9:00 P.M. and has asked if the written decision could be taken up prior to that time. She then moved to ITEM #6 for the IEH written decision. Mr. Clifford noted that there was one minor change to be made and that was to change conjugate to congregate housing.

ITEM #6 - Written Decision - Island Elderly Housing - Possible Vote -

Ms. Bryant asked to have the written decision changed to include air conditioning. Mr. Hall concurred. A discussion of how such a condition should be worded followed. Mr. Lee asked if there had been any plans for such submitted. A discussion of this matter followed. Mr. Wey discussed combined systems - hot air, ventilation. A discussion of this issue followed. Mr. Early agreed with the intent but noted that it was a radical change and felt that a strong recommendation was better. He felt it was a great deal of money. Ms. Sibley thought that an air conditioned room, i.e, common room, would be adequate. Mr. Early raised the issue of appropriateness of such a change at this time. Ms. Bryant discussed her feelings. Mr. Sullivan felt that perhaps there could be some point of compromise and have units only for those that may need them. Ms. Greene suggested using a heating system that could be converted later. Mr. Hall offered the idea that it had already been partially addressed in the decision. He suggested an addition to pp. 20-21 by noting that all common rooms should have air conditioning. Mr. Best did not feel comfortable with the change. Mr. Hall discussed what types of air conditioners he envisioned. Mr. Early moved to condition for air conditioners, seconded by Ms. Bryant. Mr. Hall's amendment was duly seconded. Mr. Early offered the laundry room also to be air conditioned. All agreed. Mr. Colaneri felt that perhaps the messing with the proposal may harm the proposal. Mr. Hebert discussed whether there could be changes to the decision later if certain items could not be met.

On a voice vote, the amendment was approved. A discussion of who was able to vote or not followed. A discussion of the past votes and actions of the Commission followed. Ms. Greene reviewed the persons eligible to vote. Those eligible to vote did so. Mr. Sullivan suggested some form of direction from counsel.

ITEM #5 - Discussion - Boch DRI -

Mr. Schweikert discussed the meeting of the LUPC and the concerns of the Committee. Mr. Early did not feel the applicant had been responsive enough. Mr. Early moved denial, seconded by Mr. Sullivan. Ms. Sibley felt that the applicant had come a good distance but not far enough. She felt that there were parts missing and that certain issues were left unaddressed. Mr. Hall questioned how the items was referred. It was noted that under the 6,000 square foot outdoor commercial the application was referred. Mr. Hall discussed the issue of reason and the use of conditions.

Mr. Schweikert agreed with Ms. Sibley and felt that there were items that needed to be addressed. Ms. Sibley felt that the missing items included a site plan. Mr. Jason discussed conditioning site plans. Mr. Colaneri felt the LUPC meeting was a good meeting and had hoped that the applicant would respond favorably. A discussion of what had been requested of the applicant followed.

Ms. Greene read a listing of the items that were deficient and that could be used for denial.

Mr. Clifford noted that he felt that the Commission needed to return to the original proposal since it appeared that the Commission had rejected the letter as meeting the change. Mr. Hall disagreed and stated his reasons. Mr. Colaneri also felt that the proposal had been changed. Ms. Sibley felt that the letter should be judged as the application and stated her reasons therefore.

Mr. Jason felt that it was up to the full Commission to decide whether there had been changes or not and suggested a review of the letter point by point.

Ms. Greene read the point regarding the reduced size of the lot. A discussion of the number of dedicated spaces needed followed.

Ms. Sibley noted the points that she felt had not been adequately addressed. She discussed dedicated boat storage and the use of the lot for half day parking. She was concerned about high turnover lots.

Mr. Jason felt that some of the concerns could be addressed by conditions.

Mr. Colaneri discussed the differences between the letter and what had been submitted. He discussed a graphic study by a third party. He did not feel that the two were compatible.

A discussion of procedures followed.

Ms. Sibley felt that there were possibly six conditions that may be put on should there be approval and was that reasonable.

Mr. Jason discussed whether projects had merit and how the benefits and detriments should be judged.

Ms. Greene discussed the confusion over the plans and statements and uncertainty of what was proposed.

A discussion of procedure followed.

Ms. Sibley discussed how the process with Island Elderly Housing worked and she felt that this one would need too many conditions.

Mr. Lee suggested action on the motion.

Ms. Greene explained what she was seeking.

Mr. Lee suggested modification to the wording.

Ms. Greene noted the notion on the floor and asked for reasons of denial.

Mr. Hebert felt the letter was vague; Ms. Sibley felt it was not predominantly a marine use.

A discussion of the items offered in draft form followed.

Mr. Early cited a number of items as denial conditions:

- reduce land available for marine uses.
- danger to harbor from petroleum contaminants
- traffic would be increased in an already overloaded area.

He felt the detriments outweighed the benefits.

The vote was called by Mr. Jason.

Mr. Colaneri discussed the differences between the letter and the plan.

Mr. Hall disagreed with the reasons for denial and discussed why.

Ms. Sibley added the fact that she felt a parking lot would encourage more cars and not transit.
On a roll call vote the Commission voted 8 yea, 2 nay and 4 abstentions (Wey, Lee, Bryant, Schweikert) to deny the Boch DRI.

ITEM #5 - Discussion - Fisher DRI

Mr. Schweikert discussed the LUPC meeting. Mr. Hall left the table and the room. Mr. Schweikert read down the items of Section 15 of the Act and indicated whether the Committee felt the impact would be adverse or not. He indicated that because of 15b and 15c, the proposal was too big in too small an area and the use was an overintensification of the property.

Mr. Hebert asked about any agreements with the abutter regarding the Right of Way (ROW). Ms. Greene indicated nothing had been worked out. Mr. Donaroma indicated that the Committee felt that that was between abutters.

Ms. Bryant questioned whether the project had been reduced or would be reduced. Ms. Greene indicated that it had been reduced once. A discussion of the LUPC report followed. Mr. Schweikert noted that the number of shops was a concern.

Mr. Donaroma discussed the problem with the size of the building and the intensity of use. He discussed possible plan changes. A discussion of any conversation with the applicant followed. Mr. Colaneri discussed the issue of size vs the other points which had non adverse impacts.

A discussion of working the matter out with the applicant followed. Mr. Early discussed the type of tenancy creating intensity of use. Mr. Colaneri discussed the zoning criteria for the area and the fact that many issues would be addressed at the local level. Ms. Sibley discussed various uses and their impact and the possibility of reducing the number of stores. A discussion of this matter followed. Mr. Lee felt the proposal was ill-designed, over used and not good for the area.

Ms. Bryant questioned whether the applicant would be willing to deal with the concerns expressed.

Mr. Cuetara indicated yes.

Ms. Sibley discussed negotiations and sought a revised application.

Mr. Schweikert wished to see the proposal at LUPC. A discussion of when the hearing closed and when a decision should be made followed.

Mr. Jason felt the Commission should make it very clear what was being sought and that the public hearing needed to be reopened.

A discussion of the applicant withdrawing the proposal or re-opening the hearing followed. The applicant wished to continue with a re-opened hearing and revise the plan. A discussion of the next move for the applicant followed.

The Commission took a brief recess to permit the written decision of Ernest Boch to be formulated.

Ms. Greene reconvened the Commission following the brief recess.

ITEM #6 - Written Decision - Dukes County Regional Housing Authority

Mr. Lee moved approval of the written decision, duly seconded. On a roll call vote the Commission approved the written decision by a vote of 11 yea, 0 nay, 3 abstentions (Jason, Lee, Hall).

ITEM #6 - Written Decision - Cape Cod Company

Mr. Early moved approval of the written decision, duly seconded. Mr. Lee raised a question regarding a wildlife management plan and discussed the reason for that question. He noted the significance of the wildlife population in the area. He felt that such a plan or program should be included in the development. He further discussed his reasons for being concerned with the maintenance of the existing animal populations. A discussion of this matter followed. Mr. Schweikert questioned what type of statement or plan was being sought. A discussion of this issue followed. Ivo Meisner indicated that there was such a section in the EIS. Mr. Sullivan discussed what had been presented at the public hearing. A further discussion of this matter followed. Mr. Lee felt that there should be some mention in the conditions. Mr. Colaneri raised an issue of what was contained in the written decision. Ms. Sibley felt also that there should be some form of management plan submitted. Mr. Lee discussed what was contained in the EIS and his hope that individual habitats would have been recognized. A discussion of this matter followed. Ms. Sibley felt that there should be a parallel to the rare plant maintenance program overseen by some knowledgeable agency. Mr. Best discussed his feeling of what should be included in the program. A discussion of confusion over rare and endangered species followed. Mr. Colaneri discussed the various statements found in the written decision and wondered if they should not be stronger. Mr. Schweikert discussed the need to be specific on rare or endangered species or plants but felt comfortable with recognition of other habitats through stronger statements. Mr. Hall raised the issue of waterfowl management and wondered if it shouldn't be sent to LUPC. Mr. Early discussed his feelings on the matter and felt that specific concerns should be addressed but not general concerns. A discussion of what form any statement or condition should take followed. Mr. Meisner explained how the inventory of wildlife was done and the measures being proposed by the applicant to address habitat protection. Mr. Donaroma felt that the main points had been addressed and felt much work had been done. A discussion of this matter followed. Mr. Clifford asked if the addition of certain wording such as "and indigenous animal habitats and" would be sufficient. A discussion of this matter followed. Mr. Clifford further explained the reason for the addition of such wording. All agreed to the change. Ms. Greene noted that she wished to have condition added that would ensure the continuation of the various bird counts such as the bird counts at Christmas and the goose bandings. A discussion of this matter with the applicant followed. Mr. Meisner had a problem with such a condition being in the recorded instrument. A discussion of accepting the offer of the continuation of such counts followed. A discussion of the language of such a condition followed.

Mr. Jason felt that there were potential problems. A general discussion followed. Mr. Hall offered some specific wording. All agreed to the wording.

Ms. Bryant felt that there was insufficient money for the Housing Authority and that the comparative values were not equal and therefore more money was needed. She wished to have the decision amended to read \$150,000 in place of \$100,000 and \$200,000 in place of \$150,000. It was thus moved by Mr. Early, duly seconded.

A discussion of how the numbers were derived followed.

A discussion of what youth lots normally were acreage wise followed. Ms. Bryant explained her reasons for the change request. A discussion of price of lots followed. Mr. Schweikert discussed his feeling on the matter and how the original value was derived. He felt there was a point of counter productivity. Ms. Bryant discussed the density of the development and the problems being created.

On a roll call vote the amendment passed by a vote of 7 yea, 4, nay, 1 abstention (Best).

Mr. Sullivan noted a problem with wording on page 9. He felt the wording should read 'a program' not 'the program'.

There being no further discussion, on a roll call vote, the amended written decision of the Cape Cod Company was approved by a vote of 12 yea, 1 nay, 2 abstentions (Jason, Wey).

Mr. Meisner questioned how one could ask for reconsideration. Ms. Greene explained how the matter worked. Mr. Clifford noted that the applicant, with an extension request, could ask to delay recording the decision while he discussed the matter with his client. A discussion of this matter followed. Mr. Meisner requested that the Commission defer recording of the decision for two weeks. A discussion of how this process worked followed.

ITEM #6 - Written Decision - Boch DRI

Mr. Early moved approval of the written decision to deny the Boch DRI application, duly seconded.

Ms. Sibley asked for removal of portions of the section that pertains to mitigation measures and explained why. All agreed. Ms. Sibley also asked for the inclusion of a statement that relates to the increased use of the automobile. There was disagreement on this matter. All agreed to not make the change. Mr. Lee noted that there may be a typographical error; it should read 2.301 and not 2.201. All agreed that there was probably a typographical error.

On a roll call vote, the Commission approved the written decision to deny the Boch DRI by a vote of 9 yea, 3 nay, 2 abstentions (Lee, Schweikert).

ITEM #7 - New Business - there was none.

ITEM #8 - Correspondence -

Ms. Greene read two letters that had been received regarding the MVC

maps. - one from West Tisbury Selectmen and one from EOTC.

Mr. Schweikert raised a point regarding the function of LUPC in working with applicants and questioned at what point did a proposal require a new public hearing.

Mr. Early discussed his feeling and how the process should work. He felt that if the hearing was kept open and the public free to discuss changes then that was acceptable. If the hearing was closed, then the degree of change should dictate when a new hearing was needed.

A discussion of it being a judgement call followed. Mr. Colaneri felt that there should be recommendations from LUPC regarding the matter.

Mr. Jason wished to see consistency in all matters. A discussion of procedures followed. A discussion of when a new hearing was needed followed.

Mr. Colaneri raised an issue of applicants being at LUPC and not being told of meetings at which their project was discussed. A discussion of existing LUPC policy followed. A discussion of the role of LUPC followed.

Mr. Jason discussed where he saw the problems. He discussed the lack of consistency. A discussion of the way the Commission was operating followed. A number of persons expressed their feelings of how the reviews should be conducted. A discussion of negotiation and the problems created by multiple conditions followed. A discussion of how to work with applicants followed. A number of persons expressed their feelings on how the Commission should work with the applicants.

Ms. Sibley discussed the need for care in working with applicants in expressing the concerns but not telling everyone how to make the proposal acceptable.

Ms. Greene expressed concern for consistency.

Mr. Clifford discussed the lack of consistency in dealing with proposals and the difficulty staff has understanding what the direction of the Commission is at any given moment.

A discussion of how to condition projects followed.

A discussion of dealing with applicants followed as each one expressed his or her concerns.

There being no further business the meeting adjourned at 11:09 P.M.

ATTEST

Jane A. Greene 8/08/91
Jane A. Greene, Chairman Date

Thomas Sullivan 8/8/91
Thomas Sullivan, Date
Clerk/Treasurer

Attendance

Present: Best, Bryant, Colaneri, Donaroma, Early, Greene, Hall, Hebert, Jason, Lee, Schweikert, Sibley, Sullivan, Wey, Harney

Absent: Briggs, Combra, Benoit, Clarke, Allen, Davis, Geller