

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF NOVEMBER 18, 1993

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Regular Meeting on Thursday, November 18, 1993 at 7:30 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA.

Linda Sibley, Chairman of the Land Use Planning Committee, noting that a quorum was present, called the meeting to order at 7:40 P.M. She then noted that due to various statutory requirements and the fact that two Thursdays had been lost to holidays in November a large number of hearings had to be scheduled for the 18th and all but the Herring Creek continued hearing would be continued until the 2nd of December.

She then read the notices of the hearings as listed.

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:35 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA on the following:

Applicant: Jesse Steere III
Box 326
Vineyard Haven, MA 02568

Location: off State Road
Vineyard Haven, MA

Proposal: construction of a retail building qualifying as a DRI since the proposal is for a structure with a floor area greater than 2,000 square feet.

Following the reading of the notice at 7:44 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:36 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA on the following:

Applicant: Hugh Taylor
RR 1, Box 171
Gay Head, MA 02535
and
David Thompson
P.O. Box 510
Chilmark, MA 02535

Location: Menemsha Harbor
Gay Head/Chilmark

Proposal: operation of a bicycle ferry service from and to Gay Head and Chilmark across Menemsha Harbor qualifying as a DRI since the MVC has so designated the same pursuant to § 14(e) of Chapter 831.

Following the reading of the notice at 7:45 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:37 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA pursuant to § 14(e) of Chapter 831 of the Acts of 1977, as amended, to determine whether the following should be designated as a DRI:

Proposal: installation of utilities and septic system for existing facility.
Tisbury Wharf Co.
Beach Road
Tisbury, MA

Designation
Requested By: Conservation Commission
Town of Tisbury

Following the reading of the public notice at 7:46 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:38 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA pursuant to § 14(e) of Chapter 831 of the Acts of 1977, as amended, to determine whether the following should be designated as a DRI:

Proposal: conversion of commercial recreational facility to a movie theater
off Vineyard Haven-Edgartown Road at the Triangle,
Edgartown, MA.

Designation
Requested By: Board of Selectmen
Town of Edgartown

Following the reading of the public notice at 7:47 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:39 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA pursuant to § 14(e) of Chapter 831 of the Acts of 1977, as amended, to determine whether the following should be designated as a DRI:

Proposal: construction of two bedroom residence
North Water Street, Edgartown, MA.

Designation
Requested By: Board of Selectmen
Town of Edgartown

Following the reading of the public notice at 7:48 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

The Martha's Vineyard Commission held a continued hearing on Thursday, November 18, 1993 at 7:30 P.M. in the Olde Whaling Church, Main Street, Edgartown, MA on the following Development of Regional Impact (DRI):

Applicant: Herring Creek Farm Trust
c/o General Investment & Development Co.
600 Atlantic Avenue, Suite 2000
Boston, MA 02210

Location: Slough Cove Road
Edgartown, MA

Proposal: subdivision of 215 acres into 54 lots and one private club qualifying as a DRI since the proposal is for the division of a related ownership of land into ten (10) or more lots.

Ms. Sibley read the public hearing notice and opened the hearing for testimony at 7:50 P.M. She called upon the applicant to make a brief summary of the previous testimony.

Catherine Shortsleeve discussed the proposal and the persons who had done the work and their backgrounds. David Hirzel, Sasaki Associates, summarized the characteristics of the plan. He discussed the way the plan followed Vineyard traditions and provided protection to the resources of the area. Ms. Shortsleeve raised a number of points regarding what she felt should not be considered during the public testimony.

Ms. Sibley called for staff report.

John Schilling, MVC staff, discussed the changes to the previous staff report and indicated where the changes occurred on the plan. He noted that there were approximately 6-8 acres in questionable ownership. He cited the removal of certain features such as a beach club, one access road and the relocation of other lots.

Mr. Schilling discussed the 25-acre open space lot and the ownership thereof.

He then discussed the affordable housing offer. He then discussed water, sewerage and other utilities. He then discussed the sluiceway problem and how it relates to the proposal. He felt there were certain conflicts with the Regional Policy Plan with respect to agriculture.

He then discussed the correspondence that was submitted.

Mr. Jason raised an issue of how the affordable units would be allocated - 10 units sold or 10 units transferred.

Ms. Shortsleeve discussed the matter and indicated that money had to be transferred, a sale in other words, would trigger the affordable housing units. She then discussed the relationship of the affordable housing units to those units for Wallace family members during any deferred development phase.

Ms. Greene discussed the number of affordable units if a certain number went to Wallace family members. Ms. Shortsleeve indicated that it made no difference who the purchaser was, affordable units would be made available in increments of ten (10) sales. If deferred development, then no affordable housing units. Ms. Shortsleeve indicated that after approval, at the beginning of the construction of the development plan anyone to whom a lot would be conveyed would be in the same position as anyone else.

A discussion of the sale or conveyance of a lot followed.

Mr. Sargent questioned whether there was any guarantee of affordable housing. Ms. Shortsleeve indicated contingent upon being built, as approved.

Mr. Sargent questioned whether fourteen (14) units being conveyed to family members after any deferred development period would trigger affordable units. Ms. Shortsleeve indicated yes.

David Wessling, MVC staff discussed traffic issues and in particular the changes to the access/egress points. He discussed the access point and whether it had been satisfactorily reviewed.

Ms. Sibley questioned whether further studies would mean changes. Mr. Wessling felt that the access point had not been evaluated by the applicant.

William Wilcox, MVC staff, discussed the nitrate/groundwater impact. He further discussed the applicant information and the uncertainty of some of the data. He discussed a number of points on which he differed slightly or which was somewhat confusing. He then discussed a Dr. Arthur Gaines study of the Great Pond with respect to nitrate intrusion.

He felt the data would be more realistic if a better recharge figure were obtained and the pond impact related to those new figures and to begin dialog on nitrogen removing septic systems for the site.

Mr. Best questioned whether the groundwater/septic system had been considered. Mr. Wilcox briefly discussed the issue of raised systems.

Mr. Best discussed the unvegetated feed lot and felt that there was no such area and wondered what that meant to the study. Mr. Wilcox noted that there was no such area and the applicant had revised the study to reflect this change.

Mr. Schweikert questioned whether Mr. Wilcox could speak to any potential impact to the sandplain grasses. Mr. Wilcox indicated he did not feel qualified to respond.

Mr. Sargent raised a question regarding the nitrate movement and any impact upon the Great Pond with respect to eutrophication.

Mr. Hall questioned the potential impact upon the mounded systems of a 100-year storm. Mr. Wilcox was unsure exactly what would happen but felt that erosion, loss of usage, exposure; all may occur.

Mr. Clark questioned the number of mounded systems. Mr. Wilcox indicated fourteen (14).

Mr. Clark further questioned the location of same. Mr. Wilcox indicated where they were. A discussion of whether they were in the floodplain followed.

Ms. Sibley then called for town boards.

Ted Morgan, Selectman, Edgartown spoke on behalf of the Board of Selectmen. He indicated that the proposal had received the most attention of any proposal he had ever seen. He discussed the background of the proposal and the various reports and letters generated thereby. He noted that the proposal was basically the same as the previous one - fifty four (54) lots. He then read a portion of a brief of a 1979 filing of a suit regarding development in the area. He questioned how you could preserve the land as is and still build fifty four (54) houses. He further discussed the preservation that had gone on in the area. He asked for a vote against the proposal.

Robert Avakian, Edgartown Conservation Commission, read a statement from the Commission regarding the proposal. The statement noted that the Commission had a problem with the restrictions and covenants being able to fulfill the promised objectives. He then covered a number of points of question or concern. He then noted that a copy of Ron Rappaport's comments were attached. He then asked that all previous testimony submitted under the previous DRI be brought forward.

Mr. Clarke questioned whether there were natural heritage maps available for the area.

Jane Varkonda, Conservation officer, indicated that the barrier beach area and the area closest to Katama had potential habitat.

Steve Ewing, Edgartown Ponds Area Advisory Committee read a statement of concern regarding the development. He cited the various

developments around the pond and the lot sizes created plus the open space created. He noted that the group had concerns over the mounded systems in relation to the Pond and Crackatuxet. He discussed the concerns of a beach club and access from shoreline lots. He felt the proposal exceeded the historical development of the area.

Ms. Sibley questioned how the surrounding developments calculated their densities. Mr. Ewing indicated he had based his figures on the entire area.

Edith Potter, Edgartown Conservation Commission, spoke about the plains area and the preservation that had taken place within the area. She discussed the quality of the soil in the area and felt it was wrong to lose prime agricultural soil to housing. She felt the underlying problem remained that of density. She felt agriculture was necessary to the Vineyard. She discussed the vulnerability of certain areas on the site. She discussed the value of the natural aspects of the site. She stressed that density was the overriding concern. She asked for rejection with a request for a return to a lower density that more accurately protects the site.

Paul Bagnall, Edgartown Marine Biologist, asked that his testimony on the previous DRI be brought forward. He further discussed his feelings on the proposal. He then discussed the opening of the Great Pond in relation to the various studies that were done by the applicant. He also noted that the small wetland was present because of the Pond opening and not in spite thereof.

Ms. Greene questioned the license for the sluiceway. Mr. Bagnall indicated that he read such as permissive and not obligatory. A discussion of the pond opening and the legislative act that permits it followed.

The MVC took a five-minute break at 9:40 p.m.

Linda Sibley, Chairman of the Land Use Planning Committee reconvened the hearing at 9:47 p.m. She called for public testimony.

Brendan O'Neil, Director, Vineyard Conservation Society, introduced written testimony and asked that previous testimony be brought forward. He then introduced Peter Dunwiddie as the preeminent expert on grasslands.

Dr. Dunwiddie explained several points in the testimony that he had submitted in writing. He then discussed problems that he had found in the inventory work and in the management proposals put forth. He noted that this would be the largest reestablishment of native grasslands ever attempted and how it would be accomplished was never discussed. He further cited other items that were not covered in the management plan. He felt that the proposal was unworkable.

Mr. Clark questioned whether it was necessary to burn grasslands or may they be mowed or cut or what was the most effective maintenance method. Dr. Dunwiddie indicated burning was not the only method and discussed how sheep grazing had been used in years past. He discussed other methods.

Ms. Greene questioned how seed could be obtained. Dr. Dunwiddie discussed the plant communities found in sandplain grasses.

Mr. Sargent questioned whether mounded systems could lead to the eutrophication of the pond and what would happen to the wildlife along the shore. Dr. Dunwiddie indicated that he was not qualified to respond.

Ms. Riggs discussed the hedgerows and what enhancement of sandplain grasses they would have and further discussed the Katama farms and how the native grasses had returned when left alone. Dr. Dunwiddie discussed the development impacts on native grasslands and felt development was deleterious. He noted that there would also be an impact upon animals. Ms. Riggs questioned the need for management. Dr. Dunwiddie discussed the past uses of areas that are now sandplain grasses. He discussed the enrichment of soils as not in best interest of grasslands and felt it would be a long time reverting to grasslands.

He then noted that agriculture and sandplain grasslands can coexist.

Ms. Greene questioned the appropriateness of using agricultural soils for sandplain grasslands. Dr. Dunwiddie discussed the possible methods of making agricultural soils more conducive to sandplain grassland habitat.

Mr. Donaroma questioned whether it was possible given a good management plan, through seed collection and native plant transplanting to establish a sandplain grassland. Dr. Dunwiddie indicated that it was using native plants or local landscapers who use native plant materials.

Ms. Sibley questioned what problem there would be for the so called East Field to function with the Katama plains sandplain grasses. Dr. Dunwiddie indicated that any fragmentation was problematic. He discussed those animals who would and would not interact in fragmented areas.

Peter Auger, research team, discussed their previous meetings with Dr. Dunwiddie regarding the proposal. He indicated that he stood by the research team report. He further discussed the issue of habitats.

John Ebersoll, research team, further discussed the issue of agriculture and sandplain grasses. He discussed the present day agriculture and use of the area. He discussed the alternative agricultural uses possible. He further discussed the possible benefits of the hedgerows. He then discussed the areas that were to be placed into sandplain grasses. He discussed the problem and control of pets and how detrimental pets could be. He discussed several other issues of the proposal that he felt were not noticed by other parties.

Ms. Bryant questioned whether Dr. Ebersoll was a paid consultant when he wrote the letter on UMass Stationary. Dr. Ebersoll discussed his actions in using the University stationary.

Ms. Greene questioned the specialty and experience of Dr. Ebersoll.

He indicated that he was an evolutionary ecologist and had 17 years experience.

Ms. Riggs raised a further issue regarding the usage of Commonwealth stationary and felt that it was a bit of a misleading statement. She further discussed the letter and its contents. A discussion of this matter followed.

Mr. Jason questioned what would happen if the plan did not work. Dr. Ebersoll discussed the evolutionary potential of the area. He felt that sandplain grassland may occur in 5-6 years. He further discussed the restoration issue and noted that such a restoration had not been done. Mr. Jason questioned the average timeframe to return to grassland. Dr. Ebersoll felt it would be difficult to determine exactly.

Mr. Clark discussed what type of land was currently present and what was proposed and what contribution the raised septic systems might have. Dr. Ebersoll indicated that the proposal was for sandplain grassland restoration and that the raised systems would have no contributory value and he would rather not have them. A discussion of this matter followed. A discussion of the problems caused by nitrates followed. A discussion of a lesser density followed.

Mr. Clark questioned whether there was a preference to the type of grasslands on the soils in the area. Dr. Ebersoll indicated no comparison in value of sandplains grasslands to other types of grasses.

Mr. Jason questioned what the first step in restoration. Dr. Ebersoll indicated do nothing or plow under and let soil degrade somewhat. He further discussed the evolutionary process.

Ms. Riggs discussed the issue of domestic animals and related the number of pets in the covenant.

A discussion of whether there would be restrictions on pets followed. Ms. Shortsleeve indicated cats would be restricted and addressed. A discussion of this issue followed. Ms. Shortsleeve felt that the several issues being discussed would be in the management plan. Ms. Sibley questioned whether a ban on cats was being considered. Ms. Shortsleeve indicated yes.

A discussion of whether the hearing would be continued followed.

Gray Bryan, President of Great Plains Conservancy, introduced Scott Horsley and Mark Nelson. Mr. Horsley discussed his background and the materials submitted for the record. He asked that all previous submittals be included in this DRI.

He discussed the use of the carrying capacity of the land and water resources. He contrasted this method against the methodology used. He discussed the mounded systems and how they did not meet the carrying capacity of the site. He then discussed the nitrate loading, the Gaines study of Great Ponds, the overall drainage area of both ponds. He then further discussed the methodology employed and the results of the analysis.

Mark Nelson further explained their review. He explained how the overall numbers for the pond were derived. He noted that their calculations indicated about 2 lb. of nitrogen per acre per year vs the 32.6 lb. of nitrogen per acre per year. He noted that the standard for Crackatuxet was similar. He indicated that the calculations indicated a 2.2 lb. per acre allowable nitrogen vs the 16 lb. per acre.

He then discussed the management proposal which may have a further impact on the pond due to relocation of units.

Mr. Horsley further discussed the zoning in the area as being insufficient to meet standards set forth in analysis.

Mr. Jason questioned how the calculation would work and impact the pond. Mr. Nelson further explained the methodology. A further discussion of this matter followed.

Mr. Sargent questioned what happens when a pond eutrophies. Mr. Nelson explained the eutrophication process.

Michael Wild, abutter, discussed the history of the farm. He discussed the fact that a development could occur on the farm but that the present proposal did not seem to make the grade. He then discussed the visual openness of the area. He then discussed the issue of flooding of the site.

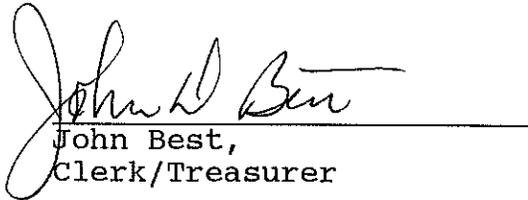
He then noted that he felt the East field was being treated properly but felt that there were many issues with the contracts or promises or covenants.

Ms. Sibley then discussed the matter of continuing with the testimony. A discussion of this matter followed. Following the discussion, the hearing was continued until December 16, 1993 at 7:30 p.m. in the Olde Whaling Church. The meeting adjourned at 11:15 P.M.



Michael J Donaroma,
Chairman

Date



John Best,
Clerk/Treasurer

Date

Attendance

Present: Best, Briggs, Bryant, Colaneri, Donaroma, Early, Greene, Hall, Jason, Marinelli, Riggs, Sargent, Schweikert, Sibley, Sullivan, Clarke, Allen, Gallagher

Absent: Vanderhoop, Bolling, Chapin