Martha's Vineyard Commission
Minutes for the Special Meeting of
September 23, 1999

The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, September 23, 1999, at 7:30 p.m. at the Commission Offices in the Olde Stone Building, New York Avenue, Oak Bluffs, Mass.

At 7:44 p.m., a quorum being present, Richard Toole, Chairman of the Commission and the Selectmen's Appointee from Oak Bluffs, opened the Meeting. Mr. Toole would also serve as the Hearing Officer for the first Public Hearing of the evening.

Public Hearing: Cell Tower Amendment to the Standards and Criteria for DRIs.

Mr. Toole opened the Public Hearing for the Cell Tower Amendment to the Standards and Criteria for Developments of Regional Impact by reading aloud the Notice of Public Hearing, which read as follows:

"The Martha's Vineyard Commission, pursuant to Section 12 of Chapter 831 of the Acts of the Commonwealth of 1977, as Amended, will hold a Public Hearing on an amendment to the Standards and Criteria for Developments of Regional Impact, said proposed amendment to read as follows: 'Construction or erection of any personal telecommunications tower as set forth in the Federal Telecommunications Act of 1996 and which would exceed thirty-five (35) feet in height as measured from the natural grade of the site upon which the tower is to be located, but not to include the reconstruction of or replacement of an existing tower on the same site, provided that the height of the replacement or reconstruction does not exceed the height of the existing wireless telecommunications tower.'

Date and Time: Thursday, September 23, 1999, at 7:30 p.m.

Place: Martha's Vineyard Commission Offices
Olde Stone Building
New York Avenue, Oak Bluffs, Mass.
Copies of the proposed amendment are on file at the Commission Offices for public inspection. Written testimony may be submitted prior to or during the Hearing.

This Hearing is held in accordance with Section 12 of Chapter 831 of the Acts of the Commonwealth of 1977, as Amended, and Chapter 30A, Section 2 of the General Laws of the Commonwealth as modified by said Chapter 831."

Presentation by the Cell Tower Study Group.

Mr. Toole then turned the floor over to the Cell Tower Study Group. Michele Lazerow, the Chair of the study group and a Commission member at large from Oak Bluffs, presented to the full Commission a draft document enumerating the purpose of the amendment, the application requirements and the guidelines in reviewing. Such guidelines included: visual impact on public vistas; public safety; compatibility with neighborhood; alternative not feasible; monitoring; and bond for removal. [Copies of the draft document can be found in the Meeting File of September 23, 1999, as well as in Staff member Andrew Grant's Cell Tower File.]

Christina Brown, a member of the Cell Tower Study Group and a Commission member at large from Edgartown, provided some of the history of the amendment, emphasizing that the amendment was simply "a first step."

Ms. Lazerow referred to a sheet that had been distributed which listed the tallest structures on the Island, as well as to a posted map called "Survey of the Tallest Structures on Martha's Vineyard." [Copies of the first document can be found in the Meeting File of September 23, 1999, as well as in Staff member Andrew Grant's Cell Tower File.] She also spoke of planned future efforts to unite all six Island Towns in planning cell tower placements. Finally, she proposed that some sort of application fee be considered that would cover the expense of hiring an engineer who could assist the Commission in reviewing proposed cell tower placements.

Questions from Commission Members.

Michael Colaneri, a Commission member at large from West Tisbury, wanted to know how much the fee Ms. Brown had just mentioned would be. Ms. Brown explained that the study group had spoken about having a simple application fee, plus another fee for the engineer's study. The second fee, she noted, was allowed by the Commission's enabling legislation. As for Mr. Colaneri's question, Ms. Brown said that it would "not be an unreasonable amount of money."

Mr. Colaneri also wanted to have clarified whether the height of 35 feet was measured from the ground. "Thirty-five feet from mean grade," replied Ms. Brown. Copies of the
Marcia Cini, a Commission member at large from Tisbury, had questions about indemnification by the Applicant from loss or damage. She wondered if the bond for removal could also be applied for damage. The onus should be on the Applicant, she noted.

Benjamin Hall, Jr., a Commission member at large from Edgartown, said that the guidelines that Ms. Lazerow had presented had not been published with the Notice of Public Hearing. Ms. Brown explained that the sheet from which Ms. Lazerow had read was simply a compilation of notes, a very rough draft. "Do we have such a policy for any other Checklist item?" asked Jane A. Greene, the Selectmen's Appointee from Chilmark. No, replied Ms. Brown, that was why it had been presented as simply notes about things that the study group had been thinking about.

Testimony from Town Boards.

Mr. Toole asked for testimony from Town Boards. Jo-Ann Eccher, a member of the Aquinnah Cell Tower Study Group, reported that both the Aquinnah Planning Board and the Aquinnah study group had endorsed the amendment. She provided some background on the formation of the study group. In Aquinnah, she explained, they were looking particularly at the visual impact of any possible cell towers and were learning more about new technology that allowed telecommunications structures to blend into the environment.

Ms. Eccher submitted a letter from the Aquinnah Cell Tower Study Group dated September 22, 1999 for the Public Record. [A copy of this letter can be found in the Meeting File of September 23, 1999, as well as in Staff member Andrew Grant's Cell Tower File.]

Peter Cronig, Chairman of the Tisbury Planning Board, wanted to know where the Commission staff had gotten the measurements of the highest structures on the Island. Were they from building plans or were they from actual readings? he asked. Andrew Grant, MVC Staff member, explained that the measurements were actual ones.

Further Questions from the Commission Members.

There being no testimony from the General Public, Mr. Toole returned to the Commission members. Linda Sibley, a Commission member at large from West Tisbury, wondered if the structure at the airport indicated on the map of tallest structures was the airport tower. Mr. Grant thought so. Ms. Sibley noted that no antennas would be allowed to hang from the airport tower. Ms. Lazerow responded that the map was designed simply to indicate
where all of the tallest structures are, not that every one of them could have antennas hung from them. Ms. Sibley then noted that there were already cell phone towers out at the airport.

Mr. Hall wanted to know, if someone were to put telecommunications equipment on any of the tall structures indicated on the map, would they then not be subject to consideration as a DRI? If they were simply antennas, no, replied Ms. Lazerow.

Mr. Toole asked for a Motion to Close the Hearing. Mr. Colaneri made the Motion, which was duly seconded. Mr. Toole closed the Hearing at 7:59 p.m.

**Decision: Cell Tower Amendment to the Standards and Criteria for DRIs.**

Mr. Toole asked the Commission members if they wished to vote on the amendment right then and there. They did. Ms. Sibley made a Motion to Approve, duly seconded. The roll call vote went as follows:

**AYES:** J. Best; C. Brown; M. Cini; M. Colaneri; J. Early; J. Greene; B. Hall, Jr.; L. Jason, Jr.; M. Lazerow; L. Sibley; R. Toole; J. Vercruysse; and R. Zeltzer.

**NAYS:** None.

**ABSTAINING:** None.

**Public Hearing: MVY Realty Trust (DRI #507), Town of Tisbury.**

Ms. Brown, Co-Chair of the Land Use Planning Committee, was the Hearing Officer for the MVY Realty Trust Public Hearing. She opened the Hearing by reading aloud the Notice of Public Hearing for this DRI. It read as follows:

"The public is invited to a Hearing concerning the following Development of Regional Impact (DRI #507):

**Applicant:** MVY Realty Trust  
c/o Schofield, Barbini & Hoehn, Inc.  
Post Office Box 339  
Vineyard Haven, MA 02568

**Location:** Massachusetts State Highway (State Road)  
and Holmes Hole Road  
Tisbury Assessor’s Parcels 22-A-1, 1.1, 2, 2.1 and 2.2
advised that the 1.5 acre parcel was the last property in the Isbryn Business District.

Then Mr. Hoehn described the proposal. MVV Realty Trust has owned the property for

The proposal can be found in the back of September 23, 1999, as well as in DHR File.

The proposal, as well as a copy of such a copy of the weekend plan of the proposal, was passed out to each of the members.

Mr. Brown outlined the sequence of the public hearing. The hearing is held in accordance with Section 4 of Chapter 831 of the Revised

Commission Offices. Written testimony may be submitted prior to or during the

Copies of the application and plan are available for public inspection at the

Place:

Date and Time:

Synopsis:

To subdivide 2.15 acres of land for the purpose
Mr. Hoehn then outlined the previous uses of the site, which was currently vacant, and noted that the site was commonly known as "the Nobnocket site." The old Nobnocket building, which had been removed, had been the site of a garage, an artist's guild, a restaurant, studios, offices and a number of combinations of the preceding types of businesses, he said.

The property was between 90 and 110 feet in elevation. Groundwater was between 10 and 20 feet in elevation. "So we're about 80 feet above groundwater for most of this site," said Mr. Hoehn.

The site lay in three Zoning Districts: the B-2 Zoning District; the new Groundwater Protection District; and, "Board-of-Healthwise" (as Mr. Hoehn put it), a Zone II, which is an area of contribution around the West Spring Street Well.

The B-2 Zoning District was for light manufacturing, retail uses, multiple-family residential uses and a whole list of specially permitted uses.

The Groundwater Protection District, voted in at Tisbury Town Meeting the preceding April, prohibits things that would be potentially harmful to the groundwater, such as landfills, junkyards, and storage of hazardous materials, continued Mr. Hoehn. It allows most other uses that are allowed in B-2, with the provision that any impervious surfaces over 2,500 square feet or 15 percent of the lot itself require Special Permits from the Planning Board.

Zone II involves Title V and Department of Environmental Protection issues. The property under discussion fell completely within Zone 2 of the West Spring Street Well, and this had implications as to wastewater flow, explained Mr. Hoehn. The property owner could have 440 gallons of wastewater flow per 40,000 square feet of land area. The total allowable wastewater flow, then, for the 5.15 acres would be 2,468 gallons per day. One can increase that to 660 gallons per 40,000 square feet if one uses alternative treatment for the wastewater. With that treatment, the allowable wastewater flow would be 3,702 gallons per day for the site under discussion. Generally, on a site like this, the numbers for the site would be determined for the site as a whole, before it was subdivided.

By way of comparison, bedrooms are 110 gallons per day (that is, a four-bedroom house would be 440 gallons/day); 50 gallons per 1,000 square feet per day for retail uses; 75 gallons per 1,000 square feet for office space; and 35 gallons per day per seat for restaurants.

The property, Mr. Hoehn explained, had been the subject of previous DRIs, two for bank and market proposals on the entire site, and the third one, in 1988, for a four-lot Form C subdivision with a road lot, for which a road would have to be created. (Holmes Hole Road was not a Town layout at that time.) Mr. Hoehn showed on the site plan where the
proposed road had been planned back then. He then outlined the types of businesses that currently existed on the lots abutting the property.

In 1995, Mr. Hoehn continued, some of those business owners had petitioned the Tisbury Planning Board to lay out Holmes Hole Road as a Town way. Eventually, this was approved at Town Meeting in the spring of 1996, and the road was completely redone. It has a 40-foot layout, is 25 to 26 feet wide, has Town water and Town drainage, and runs almost to the Town line. The new road made the entrances to the lots easier and more logical, he noted, so the Applicant could abandon the curb cut on State Road. Mr. Hoehn then described the topography of the four lots, all of which would now be entered off of Holmes Hole Road.

Mr. Hoehn then explained how he had made some revisions to the plan that David Wessling, the MVC Staff member who facilitates DRI's, had not yet seen. The revisions were based on Mr. Wessling's comments, he said. The Applicant's intent was for two of the lots to share a driveway easement, so that a visitor to the site would not be entering the first lot from a location too close to State Road.

The Land Use Planning Committee had requested that the Applicant obtain letters from various Town Officials, which, Mr. Hoehn noted, had been difficult to get. He had spoken to the Fire Chief, the Police Chief and the Tisbury Department of Public Works head, Fred LaPiana. The Fire Chief had said that there was easy access to the site and that there was plenty of water all around the property. The Police Chief said that there was not much to comment on since it was not yet known who the tenants would be. He did note, though, that the removal of the curb cut from State Road was a positive step. Mr. LaPiana said that the road had been set up for access off it. He did want to be consulted before any curb cuts off Holmes Hole Road were made.

At LUPC Mr. Hoehn had discussed traffic, and he noted that the Applicant would not be submitting a traffic study with this particular proposal. Instead, they had looked at the numbers from the DRI from 10 years before, compared them to information given to them by Commission Transportation Planner Andrew Grant, and concluded that those numbers were "basically the same." "The numbers haven't really changed," Mr. Hoehn pointed out. The actual impact on this intersection would depend on what was actually proposed on the lots, so the Applicant would prefer to defer any traffic study until each and every one of the development proposals was actually on the table.

Mr. Hoehn then outlined various things that the Applicant had offered: 1) that any future proposal on any of the lots would be a DRI; 2) that the State Road curb cut would be abandoned; 3) that lots 1 and 2 would share a common entrance somewhere along the lot 2 frontage in a place that would make sense, particularly to the Tisbury DPW; 4) that traffic studies would be done and submitted as part of any DRI Application for any of the development proposals on the lots ("There'll be four traffic studies, I guess you could say,"
noted Mr. Hoehn; 5) that the Applicant would provide a monitoring well usable by the 
Tisbury Board of Health (In response to a question by Ms. Greene, Mr. Hoehn replied that 
the Town of Tisbury would be doing the monitoring); and 6) that the Applicant would 
drive an affordable housing contribution of $1,000 per lot to the Dukes County Regional 
Housing Authority at the sale of each lot, even though such contribution was not required.

Ms. Sibley asked Mr. Hoehn if he had read the previous Decision on the property from 
1988 (he had) and whether he had any problem with any of the Conditions in that 
Decision. Mr. Hoehn said he did not. Ms. Sibley read from that Decision about the 
combined impact of all four lots on the groundwater, for instance, and how that impact 
would have to be considered when planning future development. "That puts a burden on 
anyone who purchases a lot, to possibly share in the mitigation of future development," 
she said. Mr. Hoehn repeated that he had no problem with the previous Decision.

Referring to the access coming off Holmes Hole Road into lot 4, Mr. Hall wanted to know 
what sort of gradient that entry would have. "It's pretty gradual," replied Mr. Hoehn. In 
fact, there had been a road there earlier, which was now overgrown, he said. He pointed 
to where that was on the map.

Staff Reports.

**David Wessling, Commission Staff member**, went through some details of the previous 
subdivision of the property, which was illustrated in his Staff Notes of September 21, 
1999. [A copy of the Staff Notes can be found in the Meeting File of September 23, 
1999, as well as in DRI File #507.] The lots ranged in size from .86 acres to 1.81 acres, 
he said. There was nothing remarkable about the site. The soil characteristics posed no 
significant constraints on low-density development land uses. The uncleared portion of 
the site was oak woodland with an understory dominated by huckleberry. In addition, 
there were pine, beech and poplar trees on the site. There were no wetlands, no rare 
species habitats and no endangered species habitats.

The subject of traffic had been discussed at length during the Land Use Planning 
Committee meeting on August 23, continued Mr. Wessling. The members of that 
committee had asked the Applicant to present at the Public Hearing an affordable housing 
offer; letters from Towns Officers as to public safety; a list of possible land uses; and an 
outline of traffic impacts.

Also included in the Staff Notes was a memorandum from William Wilcox dated 
September 23, 1999, with observations about the site geology and Zone II groundwater 
issues.

In the only piece of correspondence had been submitted during the Hearing, Rachel Orr, 
Co-Chairman of the Tisbury Byways Committee, wrote that her committee recommended
having a 10-foot easement for the westernmost portion of the site. The easement would be reserved for bicyclists, pedestrians and equestrians. [A copy of this letter can be found in the Meeting File of September 23, 1999, as well as in DRI File #507.]

Ms. Sibley wanted to know how large a building could be put on one of the lots. Mr. Hoehn explained that because there were different parking requirement for different uses, he could not say. What about for retail? asked Ms. Sibley. Mr. Hoehn replied that retail required one parking space for every 100 square feet of retail area, plus one for every employee. Moreover, once the Applicant reached a certain number of parking spaces, he was required to go to the Planning Board and show that Board certain buffer zones. On the other hand, said Mr. Hoehn, retail did not produce much wastewater. So perhaps one would get a 3,000-square-foot retail development on one of the lots. Anything that was a large wastewater generator or traffic generator "would basically be out," added Mr. Hoehn.

Mr. Hall wanted to know how a bike path would come out on State Road, coming straight downhill right into the State Road layout. It would also be used for pedestrians, Mr. Wessling pointed out. William Veno, a Commission Staff member who had been working with the Tisbury Byways Committee, was asked by the Hearing Officer to comment. That committee, he said, thought the property was an important link between the north side of Tisbury via William Norton Road and the byways running to West Tisbury and Oak Bluffs. They had discussed a connection across the westerly lot that would end up across from West Spring Street on State Road.

The committee, Mr. Veno continued, was well aware of the steep bluff at that point. It would not be a paved bicycle path but would be an earthen path. A discussion ensued about the dangers of having cyclists coming down such a steep incline and crossing that portion of State Road. Mr. Veno spoke briefly of the bike path easement, which was referred to in his memorandum to David Wessling dated September 22, 1999 and was included in Mr. Wessling's Staff Notes of September 23, 1999. He noted that the Tisbury Open Space Plan called for continued efforts to plan a bicycle path for that area.

Had they looked into using Holmes Hole Road? asked Mr. Colaneri. That road was too busy now, noted Ms. Greene. Ms. Sibley agreed. Mr. Toole commented that it was much nicer to walk or to ride a mountain bike in the woods than along a paved highway. He thought that with Mr. Veno's help, something could be worked out, noting that there was currently no safe place to cross State Road in that area.

Testimony from Town Boards.

Peter Cronig, Chairman of the Tisbury Planning Board, outlined how the Applicant had come before his board in late July for a Form A division. The board had reviewed it and then sent it on to the Commission and was awaiting the Commission's Decision.
Ms. Brown referred to the correspondence from the Tisbury Byways Committee into the Public Record. **Judy Miller, a member of that committee,** said that everything the committee had to say about the proposal was contained in the aforementioned letter. She offered to answer any questions from Commission members. Ms. Sibley wanted to know if the particular location of the path as proposed by the committee was a specific request or could its location be moved. Ms. Miller replied that the route across the property was "not graven in stone." The time was 8:45 p.m.

**Testimony from Members of the Public.**

**Miles Carpenter of Tisbury** said he was neither for or against the proposal. If the division of the land met the rules and regulations of the Town, he thought then that it was fine. He cautioned, however, that the Commission had to be very careful with the general area of the proposal. "It's exceedingly critical," he remarked. He spoke then of the Merchant's Mart 100 yards up the street and how nobody had envisioned what would happen in that area. "And now you've got a very dangerous situation ... with pedestrians walking across the street from the Black Dog to the Black Dog gift shop and back again," he said. "There isn't even a crosswalk there." He was concerned, he said, that any new development would further increase the pedestrian traffic. He added that there had to be a crossing for bicycles as well. "It doesn't necessary mean that people are going to be following that," he noted. "People walk like chickens."

**Jerry Goodale, an abutter to the property in question,** said he was neutral at that point. He asked Mr. Hoehn if the back road that was going in on the site would be abutting his driveway. "It is abutting your driveway for a little ways, yeah," replied Mr. Hoehn. Mr. Hoehn clarified for the Commission members where that driveway was in relation to the back road. Mr. Goodale said that he had concerns about the lighting there, that it could change the character of the neighborhood. Also, there was a "nice old beech" where the driveway is proposed that he hoped could be saved.

**Margaret Wolontis of Tisbury** said that she drove past that area frequently and thought that it was "very essential" that an up-to-date traffic study be done. "That's one of the worst traffic jams on State Road," she noted.

**Margaret "Peg" Goodale, another abutter and Jerry Goodale's spouse,** remarked that she had seen many cyclists "a-huffing and a-puffing" coming up that section of State Road towards Tisbury and that there was no bicycle path at that point. "Death has occurred on that section," she continued, "so that would truly be a very hazardous place to have that bike path or ... walkway through there."
Questions from the Commission Members.

Mr. Jason asked Mr. Hoehn why the Applicant had not considered more shared curb cuts. And why would they run the back road next to Mr. Goodale's driveway? he wondered. Mr. Hoehn outlined some of the options available, and Mr. Jason, Ms. Cini, Ms. Sibley and Ms. Greene made some suggestions. Mr. Hoehn said that it did make sense to have at least one other shared curb cut, and he clarified with the Goodales where their driveway was situated.

Mr. Jason then suggested that the Hearing Officer not close the Hearing and that the Commission work out with the Applicant issues such as the shared curb cuts. The public should be able to see, he remarked, where the planned access roads would be. Further discussion of that issue ensued, with Ms. Greene suggesting that perhaps the lot lines would have to be changed to produce an acceptable plan.

Ms. Sibley said that she agreed with Mr. Jason. Another option was to close the Hearing and leave the Public Record open. She added that a site visit was in order. It was not just the question of access, she noted, but also the issue of the trail.

Ms. Brown believed that the Hearing ought to be continued, remarking that it was only fair if the Commission was going to work with the Applicant to change the design significantly. It was agreed that the Hearing would be continued in "no less than three weeks, subject to [Mr. Clifford, the Executive Director] setting a date" and that a site visit would be arranged.

Robert Zeltzer, a Commission member at large from Chilmark, suggested that William Veno meet with the Tisbury Byways Committee about possible path configurations. Mr. Hall thought that Commission Staff should meet with Tisbury officials and interested citizens about having a bike path on that section of State Road. Mr. Colaneri requested that the proposed access roads and curb cuts be flagged on the site before the site visit by the Commission members. "The Hearing is continued. That's it," declared Ms. Brown, banging the gavel. The time was 9:04 p.m.

Mr. Toole called for a five-minute break. The Meeting reopened at 9:11 p.m., with Mr. Toole chairing. [Ms. Greene left the meeting room immediately after the Hearing and did not return for the remainder of the Meeting. Mr. Early, who had left the meeting room during the MVY Realty Trust Hearing, returned to the room after the break.]

Item #3: Approval of the Meeting Minutes of August 26, 1999.

Mr. Colaneri made a Motion to Approve the Meeting Minutes of August 26, 1999, duly seconded. There was no discussion. The vote went as follows.
AYES: C. Brown; M. Colaneri; J. Early; L. Jason, Jr.; L. Sibley; R. Toole; J. Vercruyssse; and R. Zeltzer.

NAYS: None.

ABSTAINING: J. Best; M. Cini; B. Hall, Jr.; and M. Lazerow.

Item #4: Reports.

Mr. Toole provided the Chairman's Report, beginning with an announcement that the Planning and Economic Development (PED) Committee would be meeting with members of the Dukes County Selectmen's Association at the Old Whaling Church the following Thursday at 6:00 p.m.

Mr. Toole asked the members to take home and read a memorandum from Mr. Clifford regarding the Pier 44 Development of Regional Impact. Also, the DCPC Nomination for the Vineyard Haven Harbor had arrived earlier in the week, he announced. [Copies of all of the memoranda referred to under "Item #4: Reports" can be found in the Meeting File of September 23, 1999.]

Mr. Toole also directed the members' attention to another memorandum from Mr. Clifford about compliance issues; this was discussed briefly. Mr. Colaneri disagreed with Mr. Clifford's conclusion that the Staff should only look into those DRIs where it was suspected or known that the Applicant was not in compliance with the Commission's Decision. Mr. Jason noted that Staff member Christine Flynn was already working on studying the files for compliance with the Affordable Housing Action Plan. As for other compliance issues, "If you know a DRI's not in compliance, let him [Mr. Clifford] know," Mr. Jason said.

Ms. Sibley believed that Mr. Clifford's memorandum in fact skipped a step, that Town Officials should not be queried as to the status of the proposal until the Commission itself had studied the Decision. Ms. Sibley also had some questions about the procedure that should be followed if an Applicant was clearly in violation of, for instance, the landscaping Conditions of a particular Decision. Mr. Jason clarified this process for her.

Mr. Colaneri spoke of the possibility of placing an encumbrance on the property, which would encourage the Applicant to comply with the Decision. It was then agreed that Commission members should make their "personal lists" of Applicants not in compliance and submit them to Mr. Clifford. Mr. Hall suggested that a Compliance Committee be set up; this was not pursued.

Mr. Vercruyssse asked about the status of the Housing Authority money and whether a report on the matter was forthcoming. Yes, replied several members at the same time.
Mr. Colaneri revisited the idea of the Applicant's having to have a Certificate of Compliance issued before an occupancy permit could be issued. "The idea's good," noted Mr. Jason, "but in practice it's not easy." Further discussion of this issue ensued.

Talk then turned back to the Housing Authority and their failure to respond to the Affordable Housing Subcommittee's query about the allocation of funds given to the authority by DRI Applicants. "Essentially, for the moment, they told us it's too much trouble," said Ms. Cini, Chair of the subcommittee. On a broader note, Ms. Cini thought that Mr. Clifford should write a memorandum on how compliance operates after the Commission's Decision. Mr. Toole suggested a compliance procedure sheet. Further discussion regarding compliance issues followed.

Continuing the Chairman's Report, Mr. Toole referred the Commission members to another memorandum by Mr. Clifford regarding setting up a joint meeting with members of the Nantucket Planning and Economic Development Commission. This possibility was discussed, and the consensus was that the morning of the big high school football game (around Thanksgiving) would be ideal for this purpose. Mr. Clifford was asked to find out what was good for the Nantucket people and to arrange the meeting.

Mr. Toole then described the goings-on at that morning's monthly Steamship Authority Governors Meeting. Discussed during that meeting were freight issues and the elimination of the standby policy.

Providing the Land Use Planning Committee (LUPC) Report, Ms. Brown, the Co-Chair of the committee, noted that there had been no meeting that week.

In the absence of Chairperson Greene, Mr. Zeltzer provided the Aquinnah DCPC Exemption Committee (ADEC) Report, noting that the next meetings of the committee would be on Monday, September 27, at noon and on Tuesday, October 5, at 5:30 p.m. Ms. Brown asked when the Town would be getting its DCPC regulations together. Jim Vercruysse, a Commission member at large from Aquinnah and a member of ADEC, replied that there was a meeting the following Monday to start writing the regulations.

John Early provided the Planning and Economic Development (PED) Committee Report. He said that the Dukes County Selectmen's Association's Subcommittee on Freight and Growth had not met with the PED Committee the week before because of the storm. That meeting was rescheduled for Thursday, September 30, at 6:00 p.m. at the Old Whaling Church.

At the PED Committee meeting earlier that evening Mr. Early had distributed the draft document containing the Rate of Development DCPC Guidelines that Staff and Counsel had drawn up. It was decided to show this to the Selectmen's group, despite the fact that
Mr. Early and the majority of the committee did not feel that this DCPC was still a viable option.

Mr. Early also spoke of Mr. Clifford's memorandum regarding planning priorities after the enactment of the building permit cap. The first priority was an economic base study update, and the second, an update of the Affordable Housing Action Plan. Copies of that memorandum were then distributed to all Commission members.

"Speaking as one person, I don't believe the DCPC process is dead," remarked Mr. Jason. "I think there's still ample opportunity to get that approved. I think we have a responsibility to convince the Towns that that is the way to go." Mr. Zeltzer commented that those Commission members who were at the Chilmark public meeting on the building permit cap thought that one of their Selectmen had presented a picture of the way the Townspeople felt about the Island-wide DCPC that was "not quite in agreement" with what he, Mr. Zeltzer, had observed. "There was unanimous support and a standing vote for a DCPC and a building cap at the special meeting," he said, "and the Selectmen seemed less enthusiastic than the voters."

Mr. Colaneri noted that support for the Rate of Development DCPC had clearly not been unanimous in West Tisbury. "... [T]here wasn't much of a turnout and ... there wasn't much of an overwhelming enthusiasm," he said. "There were more questions than answers." "Tisbury was the same," remarked Ms. Cini.

More discussion regarding the outcomes of the Town public meetings followed. "People are scared to death of the moratorium," observed Mr. Early. Mr. Colaneri thought that the referendum question of the spring before had been poorly worded. Faced with a better defined proposition, they were less enthusiastic, he thought. Perhaps they had been confused by the question on the ballot. "That doesn't negate the action," said Mr. Jason. "Usually if voters are confused, they vote no, not yes."

Delivering the Cell Tower Study Group Report, Ms. Lazerow said that in addition to the Commission's having voted on the amendment to the Standards and Criteria earlier in the evening, she had also learned more about "new technology out there" that enabled the servers to attach antennas directly to the cable. Ms. Brown provided further information on that technology. "The problem always is visual impact versus potential exposure, being so close to home with the low-hanging things that you don't see but you may feel," remarked Ms. Lazerow. There ensued a discussion of whether or not any harm was in fact done by the microwaves emitted by the cell towers.

Providing the Affordable Housing Committee Report, Ms. Cini said that the committee had met the evening before and had worked on a draft of the updated Affordable Housing Action Plan, which would take more than the month they had expected it to take to complete. She noted that the members of the committee had a difficult time working
together at that meeting, particularly since there were in attendance three members of the Grace Church Outreach Committee, three members of the Dukes County Regional Housing Authority and only two Commission members, Richard Toole and herself. She referred to the "relentless agenda-pushing by parties who have an interest in the outcome."

Mr. Toole remarked that the committee needed some of the Commission members who had been involved in the original formulation of the policy. "That would really help us," he said. Ms. Cini announced that the next meeting of the committee would be on Tuesday, October 5, at 5:30 p.m. at Commission Offices.

Ms. Cini then spoke of the difficulty of structuring commercial exactions; she felt that the first priority should be to fund a professional study of commercial projects so the committee could properly justify its conclusions. Further discussion of this issue followed.

**Item #7, Old Business: Windfarm Golf Practice Facility.**

Mr. Hall mentioned that Elisha Smith, an abutter of the Windfarm Golf Practice Facility in Oak Bluffs (DRI #432 and DRI #432M), was now complaining about the whistling of the new, higher nets at the facility. Moreover, golf balls were still coming over the nets at the same rate as with the 40-foot nets, and the guy wires had been stretched out onto Mr. Smith's property. Mr. Hall had also heard that Mr. Smith intended to obtain an injunction against the operators of the facility.

**Item #9: Correspondence.**

The Commission members referred to a copy of the first three pages of the Call For Action petition, which had arrived at Commission Offices on September 9. (The other 56 pages contained the names of the petitioners.) [A copy of the full petition can be found in the Growth Management File; a copy of the petition text can be found in the Meeting File of September 23, 1999.]

Ms. Lazerow noted that it seemed that the Call For Action petitioners were not interested in funding studies for anything less than a full Island-wide moratorium on permits. Ralph Graves, one of the original "Group of 15", identified himself in the audience. Ms. Lazerow asked him if her conclusion was correct. "Not correct," replied Mr. Graves. He explained that the group needed to know what the proposition was before they would consider funding any studies. "We don't want to buy wastebaskets," he said. "We would like to know what you're doing."

Mr. Colaneri said that the PED Committee had discussed the inappropriateness of funding specific studies, concluding that might be too agenda-oriented. Ms. Sibley noted, though, that, for instance, basic research on the impact of a building permit cap would not be inappropriate and should not affect the public's view of the objectivity of the study. She
felt, moreover, that the Commission should go to the Towns for funding the "nitty-gritty" studies. Perhaps the housing nexus study would be an appropriate proposal for the petition originators to fund.

Mr. Jason asked Mr. Graves for specifics on what the group was proposing. Mr. Graves replied that without the four or five other very active members of the group present, he did not feel it appropriate to comment at that time. "Then how can we all sit down together and do that?" wondered Mr. Jason. Mr. Graves spoke of the postponement of the discussion set for September 30 after the Herring Creek Farm Trust Continued Public Hearing had to be moved to that evening.

Mr. Jason made a Motion that the Executive Director be instructed to set up a meeting where such a gathering could happen, even if that meant the Commission had to meet two nights a week. His Motion was seconded. Mr. Early and Mr. Toole agreed to meet with the Executive Director during the following week to begin to come up with a very specific budget for the two priorities outlined in the Executive Director's memorandum entitled "Future Undertakings" dated September 21, 1999. After further discussion of this matter, the members voted unanimously for Mr. Jason's Motion.

AYES: J. Best; C. Brown; M. Cini; M. Colaneri; J. Early; B. Hall, Jr.; L. Jason, Jr.; M. Lazerow; L. Sibley; R. Toole; J. Vercruysse; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

The time was 9:58 p.m.

**Pier 44 (DRI #505) Procedural Denial.**

Next, the Commission members considered the memorandum written by the Executive Director dated September 20, 1999 regarding the Pier 44 (DRI #505); this document had been referred to earlier in the Meeting during the Chairman's Report. [Mr. Jason left the meeting room for this discussion.]

Mr. Best suggested that the Commission vote for a procedural denial. "That leaves this as not being a DRI?" asked Mr. Best. "No," replied Ms. Sibley, "it's a denial." Ms. Sibley went on to explain why she thought this was so. (Later in the discussion, Ms. Sibley's opinion on this matter changed.) [For the conclusion of the Executive Director regarding the DRI status of the proposal, refer to page 3 of "Decision of the Martha's Vineyard Commission re: Pier 44/Restrooms/Island Transport" dated September 23, 1999.]
The Commission members continued to discuss the question of whether or not the proposal would be a DRI if they decided on a procedural denial. Then Mr. Colaneri made a Motion that the Commission deny the Pier 44 proposal procedurally, duly seconded. The roll call vote on the Motion went as follows:

AYES: J. Best; C. Brown; M. Cini; M. Colaneri; J. Early; B. Hall, Jr.; M. Lazerow; L. Sibley; R. Toole; J. Vercruysse; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

INELIGIBLE: L. Jason, Jr.

A Motion to Adjourn was made and duly seconded. Mr. Toole adjourned the Special Meeting at 10:10 p.m.

Chairman

Date

Clerk/Treasurer

Date

PRESENT: J. Best; C. Brown; M. Cini; M. Colaneri; J. Early; J. Greene; B. Hall, Jr.; L. Jason, Jr.; M. Lazerow; L. Sibley; R. Toole; J. Vercruysse; and R. Zeltzer.

ABSENT: M. Donaroma; T. Israel; M. Ottens-Sargent; T. Henson, Jr.; M. Bolling; and A. Gallagher.
Summary of Revisions to the Meeting Minutes of September 23, 1999
Proposed by Commission Members in the Meeting of October 21, 1999

[An excerpt from the Meeting Minutes of the Regular Meeting of October 21, 1999 follows immediately. It describes the actions taken by the Commission with regard to the Minutes of September 23, 1999.]

<table>
<thead>
<tr>
<th>Page</th>
<th>Paragraph</th>
<th>Sentence</th>
<th>Revision</th>
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<tbody>
<tr>
<td>14</td>
<td>7</td>
<td>1</td>
<td>Replace the term &quot;Action Plan&quot; with the word &quot;Policy&quot; so that the sentence will read: &quot;Providing the Affordable Housing Subcommittee Report, Ms. Cini said that the subcommittee had met the evening before and had worked on a draft of the updated Affordable Housing Policy, which would take more than the month they had expected it to take to complete.&quot;</td>
</tr>
<tr>
<td>15</td>
<td>4</td>
<td></td>
<td>Add to the end of paragraph 4 the following: &quot;At the Regular Meeting of October 21, 1999, Mr. Colaneri wished to report that, contrary to Mr. Hall's report of September 23, the golf balls had not been flying over the nets onto Flisha Smith's property since the higher nets had been installed.&quot;</td>
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