

# THE MARTHA'S VINEYARD COMMISSION

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## *Martha's Vineyard Commission Minutes for the Regular Meeting of November 18, 1999*

The Martha's Vineyard Commission (the MVC or the Commission) held its Regular Meeting on Thursday, November 18, 1999 at 7:30 p.m. at the Katharine Cornell Memorial Theatre, 51 Spring Street, Vineyard Haven, Mass.

At 7:42 p.m., a quorum being present, Michael Colaneri, the Vice Chairman of the Commission, a Commission member at large from West Tisbury, as well as the Hearing Officer that evening, opened the Regular Meeting.

### **Public Hearing: Vineyard Haven Harbor District of Critical Planning Concern.**

Mr. Colaneri opened the Public Hearing for the Designation of the Vineyard Haven Harbor District of Critical Planning Concern (DCPC) by reading aloud the first part of the Public Hearing Notice. *[See the Meeting File of November 18, 1999 for a copy of said Notice.]*

*"The Martha's Vineyard Commission will hold a Public Hearing on Thursday, November 18, 1999, at 7:30 p.m., at the Katharine Cornell Theatre, 51 Spring Street, Tisbury, pursuant to Section 8 of Chapter 831 of the Acts of 1977, as amended, and Massachusetts General Laws, Chapter 30A, Section 2, and the Standards and Criteria regarding Designation of a District of Critical Planning Concern, adopted by the Commission and approved on September 8, 1975 by the Secretary of Communities and Development, to hear testimony and receive evidence as to whether the Commission should designate certain lands and waters in the Town of Tisbury as a District of Critical Planning Concern (DCPC)."*

Mr. Colaneri stopped reading at that point and asked Charles W. Clifford, Executive Director of the Commission, if he should read aloud the detailed description of the area being designated contained in the Notice. Mr. Clifford replied that shortly Staff member Jo-Ann Taylor would be using an aerial view and a map to show that area. So Mr.

Colaneri skipped the detailed description of the proposed District and read the remainder of the Notice.

***"A copy of the nominating petition and map of the proposed District entitled 'Vineyard Haven Harbor District of Critical Planning Concern - Area Under Consideration' [is] on file at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts, for public inspection. Written testimony may be submitted prior to or during the Hearing."***

Ms. Taylor then used an aerial view and a map to describe the boundaries of the proposed District. [See the Vineyard Haven Harbor DCPC File (Administrative folder) for a copy of the map.] **Marie Laursen, a member of the Tisbury Planning Board**, asked if the District would include the water surface area. "Yes, it does," replied Ms. Taylor. Mr. Colaneri explained that the District would encompass the area 100 feet in on the commercial side and to mean high water for the rest.

#### **Presentation by the Nominators (Board of Selectmen, Town of Tisbury).**

Mr. Colaneri asked if the Nominators, that is, the Tisbury Board of Selectmen, had anything to say. Speaking for the board was **Tristan Israel, a Tisbury Selectman** as well as the Selectmen's Appointee from that Town. Mr. Israel described how the Board of Selectmen had felt that there was "a lot of pressure on the harbor." Although there were some rules and regulations that the Town could utilize, they did not think that those were far-reaching enough to handle the vast increases in private freight and ferries coming into the harbor.

Mr. Israel described the harbor as "unique" and "a jewel" and expressed the hope that with help from the Commission the various users of the harbor could co-exist peacefully. He also emphasized that it was the Board of Selectmen's intent to look at the water, the uses on the water and their effects on the shore.

**Peter Cronig, Chairman of the Tisbury Planning Board**, asked how far up on West Chop the area of the District would lie. Ms. Taylor replied that the District went up to Huzzelton Head, the point that traditionally separated the outer harbor from the inner harbor.

**Thomas Pachico, another Selectman from Tisbury**, asked where 100 feet from mean high water boundaries would be. Ms. Taylor explained where the commercial property ended and the residential property began. The separation was just beyond the Steamship Authority, she added.

Mr. Israel remarked that this Designation was an opportunity for Tisbury and for the Island as a whole to look at ways to preserve the character and the integrity of the area.

**Edmond G. Coogan, the third Tisbury Selectman**, wished to add to Mr. Israel's statements that Tisbury did have "excellent" harborfront zoning but that their regulations had taken them "as far as we can go." He pointed out that the harbor had changed "radically" over the past 20 to 40 years and that this was what had driven the Selectmen to designate the District. They were hoping that the DCPC Designation would allow them to "control the level of activity in the harbor" and to "establish new and broader guidelines to preserve what we think is a very special place."

Mr. Colaneri wondered why the entire harbor had not been nominated for Designation. The boundaries had already been extended once, he noted, when the Nomination had been accepted by the Commission in the Special Meeting of October 7, 1999. *[See the Meeting File of October 7, 1999 for a copy of the Minutes of that Meeting.]* Mr. Colaneri thought the Town should consider expanding the District even farther.

Mr. Coogan responded that this had, in fact, been discussed and that he, for one, would certainly like to see the District go as far as the West Chop Lighthouse. "It makes perfect sense to me," he said, "and I personally would like to see Oak Bluffs join us."

Mr. Colaneri asked Ms. Taylor to show him on the map where the Oak Bluffs jurisdiction met that of Tisbury; Ms. Taylor complied. Mr. Israel observed that he had some concern about an expansion of the District at this point because he felt obligated to present that possibility to the voters of Tisbury before any decision was made.

Michael Donaroma, the Selectmen's Appointee from Edgartown, noted that if the boundaries were changed, the Designation still had to go back to the Town for the final okay. Jane A. Greene, the Selectmen's Appointee from Chilmark disagreed; she said that once the Commission designated the boundaries, it did not go back to the Town. Lenny Jason, Jr., the County Commission representative, clarified with Mr. Coogan that the Town was considering expanding the District all the way to Oak Bluffs. "Absolutely," responded Mr. Coogan.

There being no more questions for the Nominators from the Commission members, Mr. Colaneri asked for the Staff Report.

**Staff Report: Jo-Ann Taylor.**

Ms. Taylor referred the Commission members to her staff notes on the DCPC before them. The notes were entitled "Proposed District of Critical Planning Concern, Vineyard Haven Harbor District, Staff Notes for Public Hearing 11/18/99 (Taylor)." *[See the Meeting File of November 18, 1999 or the Vineyard Haven Harbor DCPC File for a copy of this report.]* Ms. Taylor began her report by outlining the Designation Criteria. In making its Designation Decision, she said, the Commission would hear testimony from the public and would also be guided by the Critical Planning District Qualifications. Also

included in the report were excerpts from the Nomination Papers submitted by the Tisbury Board of Selectmen.

The area being considered for DCPC Designation had been nominated as: 1) a Fishing Resource District (shellfish and finfish); 2) a Wildlife, Natural, Scientific or Ecological Resource District (spawning flounder; eelgrass beds and submerged aquatic vegetation; and juvenile bay scallops); 3) a Cultural or Historic Resource District (protection of waterfront life and its connection to the village; harbor water quality; small-town Main Street character; and Lake Tashmoo and Lagoon Pond resources); 4) a Economic or Development Resource District (as the major commercial/business area in the Town); and 5) a Major Public Investment District (the Steamship Authority terminal, public transportation center and limousine services; a spectacular viewscape; sailing and swimming recreation; a major public access boat-launching ramp; Owen Park; and the harbor itself, with a long history of dredging and protective construction).

Next, Ms. Taylor went over her documentation for what she saw as the resources of the District. Then, under General Qualifications, Ms. Taylor addressed whether or not the Nominated Area formed a logical unit for regulation for the primary concerns of the Nomination. Her response to this question was that indeed it was logical to look at water uses and the relation of water uses and their immediate impact along the shoreline.

Also mentioned in the Nomination had been vista protection. But, noted Ms. Taylor, regulations for the Nominated Area would not protect harbor vistas from Water Street and Beach Road, as proposed by the Nominators. Protecting the first 100 feet could not meet that need. However, existing regulations in the form of site plan review for the Waterfront/Commercial District could be expected to perform that function.

Moreover, continued Ms. Taylor, regulations for the first 100 feet of waterfront would not protect the boatyard industry, a land-intensive use in competition for limited waterfront space. (Boatyards had been identified in the Nomination as being in need of protection.) The final General Qualification concerned whether or not the Nominated Area formed a convenient and recognizable boundary; Ms. Taylor reported that it did.

The time was 8:08 p.m.

Next, Ms. Taylor's report addressed the need for Designation. There had to be a special need, she said, above and beyond what the Town already had in place. Tisbury had the relatively new Waterfront/Commercial District, the Marine Districts and the Designated Channels District, all found within the Nominated Area.

The firm of Kopelman and Paige had done a report for the Town, the purpose of which was to ensure that the Town had available to it "clear, consistent and defensible controls, sufficient to protect one of the Town's most valuable resources -- Vineyard Haven

Harbor." The firm had concluded that "[t]he Town presently has sufficient regulatory powers to limit or prevent many of the negative effects on the Harbor area of sea planes, personal watercraft and high-speed ferries, provided the existing regulations and bylaws are strictly and uniformly enforced."

In addition, Kopelman and Paige had suggested updating the Harbor Plan to make the present regulations even more effective. Lastly, the firm had recommended that the Town petition the Commission to establish a DCPC "which targets the protection of the Harbor through limitation of the kinds of activities permitted."

Ms. Taylor then outlined the regulatory framework available to the Town of Tisbury. This included the Marine District and the Designated Channels zoning districts, where there was some possibility of further regulation.

There had been one piece of correspondence, from Tisbury Harbormaster John M. Wilbur II, expressing his support for the Designation of the Vineyard Haven Harbor DCPC. *[See the Meeting File of November 18, 1999 or the Vineyard Haven Harbor DCPC File (Correspondence folder) for a copy of this letter.]*

Ms. Taylor also referred the Commission members to a salmon-colored sheet which contained the Draft Goals and Guidelines for the DCPC. *[See the Meeting File of November 18, 1999 for a copy of this document.]*

#### **Testimony from Members of the Public.**

Mr. Colaneri then asked for testimony from members of the public in the audience.

**Anne Good of the Tisbury Conservation Commission** expressed her support for the concept of a Harbor DCPC.

At this point, Ms. Greene asked the Hearing Officer if the Commission members could hear from members of the public on the issue of expanding the District up to the West Chop Lighthouse. Instead, though, the Meeting then turned into a question-and-answer session about DCPCs, the questions being asked of the Commission members by various Tisbury Town board members who were present.

#### **Questions from Tisbury Town Board Members.**

**Thomas Pachico, a Tisbury Selectman**, had some questions about the moratorium for the District that could last for up to a year. He wanted to know what exactly the criteria would be for exemptions to the moratorium. He expressed concern that for the period of the moratorium the permit-granting process would be "out of the Town's hands."

Mr. Colaneri, Ms. Greene and Robert Zeltzer, a Commission member at large from Chilmark, explained the exemption process and the workings of the exemption committee that would be formed that evening. Mr. Colaneri then read aloud Section 9 of Chapter 831 concerning the exemption process. Mr. Zeltzer explained that once a waiver was issued by the DCPC Committee, it was up to the Town to handle the permit application as it saw fit.

Ms. Greene then outlined the process followed once the Commission had issued the Guidelines for the DCPC. It was the Town, she said, that wrote the regulations. She also explained the composition of the Vineyard Haven Harbor DCPC Committee, which would be issuing the exemptions.

For the benefit of the Town board members, Christina Brown, a Commission member at large from Edgartown, raised the issue of the types of permits that would be subject to the moratorium. Mr. Colaneri replied that permits covered by the moratorium would be those "for any of the uses [for which] the Town now requires a permit." Ms. Greene and Mr. Israel gave some examples of such permits.

Mr. Israel also mentioned that the wastewater system had been expressly excluded from the DCPC because "we didn't want to get that bound up."

**Peter Cronig, Chairman of the Tisbury Planning Board**, had a question: If a project triggered the DRI Checklist, did the Town have to wait until the moratorium was over before it referred the proposal up to the Commission? Mr. Colaneri explained that if there were, say, a renovation on an affected site which was permitted under zoning regulations, that project would have to be referred to the DCPC Committee. The Applicant might or might not get the exemption. If he did, then the Application would go through the usual Town process and get referred up to the Commission.

Mr. Zeltzer asked Mr. Clifford to outline for the Tisbury board members present what some of the advantages were to having the Harbor designated as a District of Critical Planning Concern. Mr. Clifford explained that there were certain things that the Town could put into DCPC regulations which it could not do under standard Massachusetts law. Moreover, the Town could make the regulations more specific than was generally allowed. The DCPC also set up a framework for area-wide control. "We would also have the energy and the expertise of the Martha's Vineyard Commission Staff," added Mr. Israel.

Linda Sibley, a Commission member at large from West Tisbury, noted that there was no need for the moratorium to last an entire year. "It's merely a question of how long it takes the Town to put together the regulations," she said. In this particular case, the regulations should be straightforward. She added that there could be a tremendous amount of work

for the DCPC Committee and it was certainly the desire of all concerned -- both the Town and the Commission -- to move the process along speedily.

### **Correspondence.**

Next, Mr. Colaneri read aloud the aforementioned letter from the Tisbury Harbormaster. *[See page 5 of these Minutes.]* Then, elaborating on what Mr. Clifford had said earlier, Mr. Colaneri remarked the DCPC would allow the Town to regulate the area better than it could do on its own, that is, if the Town wanted the DCPC.

Mr. Colaneri asked for more comments from members of the public. When no one from the audience spoke, Mr. Israel noted that the Board of Selectmen, of which he was a member, had done "some of the legwork" on the regulations already and that his board expected to take the regulations to Town Meeting in April.

Mr. Colaneri then read aloud the aforementioned Draft Goals and Guidelines for the DCPC. *[See page 5 of these Minutes.]* Mr. Colaneri asked if anyone had any comments on the Goals document; no one did.

Marcia Cini, a Commission member at large from Tisbury, asked to be reassured that the moratorium would not include something as minor as a regular mooring permit for a private sailboat. "I think it will be," said Mr. Colaneri. Even if it was something that came up every year? asked Ms. Cini. No, said Mr. Pachico, the Selectmen, that would be a renewal, not a new permit. Mr. Israel pointed out that a new commercial mooring, though, would require an exemption under the moratorium.

Mr. Colaneri asked for more questions and/or discussion. Mr. Pachico said that he had been looking through the original charter for the Commission. He was not necessarily against the DCPC, he said, although as a Selectman he had voted against the Nomination. He had been told that the Commission may have "more teeth" with regard to regulations. He wondered, though, what kind of regulations they would be.

There followed a discussion of Edgartown's harbor zoning and how that Town had first done the Secretary's plan and then harbor zoning. Mr. Jason mentioned that under a DCPC the regulations did not have to be approved by the Attorney General, confirming this with Mr. Clifford.

Could the new regulations be written so that the New Bedford ferry couldn't come into the Vineyard Haven Harbor? asked Mr. Cronig. Not if the Steamship Authority does it, said Mr. Jason. Mr. Colaneri added that the SSA was not under the control of the Commission.

Mr. Colaneri asked if he could close the Hearing. No one objected, so the Hearing was closed at 8:28 p.m.

Richard Toole, the Chairman of the Commission and the Selectmen's Appointee from Oak Bluffs, took over the Meeting at that point and called immediately for a five-minute break.

**Designation Vote: Vineyard Haven Harbor District of Critical Planning Concern.**

At 8:43 p.m. Mr. Toole re-opened the Regular Meeting. He asked for a Motion to Designate the Vineyard Haven Harbor as a District of Critical Planning Concern. Mr. Jason provided that Motion, and John Early, the Selectmen's Appointee from West Tisbury, seconded it.

Ms. Greene proposed an amendment to the Motion, namely, that the District should extend all the way up to the West Chop Lighthouse. Ms. Taylor showed on the map where exactly that was. Ms. Sibley said that if they had a Motion for the amendment, she seconded it. *[Such Motion was not audible on the tape, nor was it found in the Secretary's notes. However, the acoustics at the theater were poor, and the Motion might very well have been made.]*

Mr. Jason remarked that although he supported the concept of the extension of the District, the Commission had heard testimony from the Tisbury Selectmen that evening that they would like to work with the Town of Oak Bluffs before extending it further. "We have a District now that they're comfortable with," he said. "It can always be expanded.... It seems to me that both Towns should work together." Ms. Cini said that she agreed.

Mr. Israel said that he was "concerned about process" and that he did not wish to "circumvent the process" in Tisbury. He did, however, support expanding the District eventually. Mr. Colaneri thought that it was not a question of what Oak Bluffs was going to do and what Tisbury was going to do. "You've nominated, essentially, half of the harbor," he said. "I would think that you'd nominate the entire harbor." Although it would be desirable for both Towns to have the same regulations, he observed, Oak Bluffs would still have to have its own Public Hearing and so forth. There followed a discussion of the DCPC procedure, the Guidelines that had been presented, and what area the current Tisbury Harbor Plan covered.

**Judith Miller, a member of the Tisbury Byways Committee,** asked if expanding the District would mean a delay in the Designation. "I don't believe so," replied Mr. Colaneri. Mr. Israel reiterated his view that the process should be taken one step at a time and that the District should not be expanded at that point. Michele Lazerow, a Commission member at large from Oak Bluffs, said she agreed that for the time being it would make sense to stick with the area that had been nominated. Although it was desirable for

Tisbury and Oak Bluffs to work together in the future, she added, it would be good to take this first step now.

Anne Harney Gallagher, a Governor's Appointee to the Commission, asked if the Lagoon was included in the District. They're two separate areas, responded Mr. Clifford.

Mr. Toole asked if anyone wished to discuss further the amendment to Mr. Jason's Motion. Megan Ottens-Sargent, the Selectmen's Appointee from Aquinnah, asked Mr. Israel why the outer harbor had not been included in the District in the first place. Because they were concentrating on the area of commerce, replied Mr. Israel.

Mr. Toole asked if the members were ready to vote on the amendment, which he described as "a Motion to Amend the boundaries of the District to extend it out to the tip of West Chop and then across the outer harbor to the Oak Bluffs town line." John Best, a Commission member at large from Tisbury, said that they needed to know what the top bounds would be. It was agreed that it would be a line drawn between the two lighthouses. Mr. Clifford then conducted a roll call vote on the amendment to the original Motion to Designate. The Motion went down, 12 Nays to 4 Ayes.

AYES: J. Best; M. Colaneri; J. Greene; and L. Sibley.

NAYS: C. Brown; M. Cini; M. Donaroma; J. Early; T. Israel;  
L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; R. Toole;  
J. Vercruysse; R. Zeltzer; and A. Harney Gallagher.

ABSTAINING: None.

Then Mr. Clifford conducted a roll call vote on the Motion to Designate the Vineyard Haven Harbor as a District of Critical Planning Concern. The vote was a unanimous 16 Ayes.

AYES: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma;  
J. Early; J. Greene; T. Israel; L. Jason, Jr.; M. Lazerow;  
M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse;  
R. Zeltzer; and A. Harney Gallagher.

NAYS: None.

ABSTAINING: None.

The time was 8:58 p.m.

**Item #3: Approval of Meeting Minutes.**

Mr. Toole asked for a Motion to Approve the **Meeting Minutes of October 7, 1999**. Mr. Colaneri made the Motion, which was duly seconded. The vote went as follows:

AYES: C. Brown; M. Colaneri ; M. Donaroma; J. Early; J. Greene; T. Israel; M. Lazerow; L. Sibley; R. Toole; R. Zeltzer; and A. Harney Gallagher.

NAYS: None.

ABSTAINING: J. Best; M. Cini; L. Jason, Jr.; M. Ottens-Sargent; and J. Vercruysse.

Mr. Toole then asked for a Motion to Approve the **Meeting Minutes of October 21, 1999**. Mr. Colaneri provided said Motion, which was duly seconded.

Ms. Greene asked for a correction. On page 2, paragraph 7, sentence 1, she wished to delete the words "and had not sat in on the first session of the Hearing" so that the sentence would read: "John Early, the Selectmen's Appointee from West Tisbury, announced that since he was an abutter to the site, he would excuse himself from the second session."

Mr. Toole took a vote to approve the Meeting Minutes of October 21, 1999, as Amended; it went as follows:

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

NAYS: None.

ABSTAINING: M. Donaroma; J. Early; T. Israel; M. Ottens-Sargent; and A. Harney Gallagher.

**Item #4: Reports.**

Providing the **Chairman's Report**, Mr. Toole spoke about the meeting of the Executive Committee on November 10, during which the budget had been discussed. The committee had looked at three versions of the budget: a "pie-in-the-sky" one, a "middle-of-the-road" budget and a "bare bones" budget. The committee would consider incorporating some of the thoughts that had been expressed during the discussion of November 4 about the future of the Commission, he said.

Mr. Toole then announced the meeting planned for Saturday, November 20, with members of the Nantucket Planning and Economic Development Commission. Also, there would be no Full Commission Meeting the following Thursday, November 25, which was Thanksgiving Day. Finally, the next All Island Selectman's Association meeting was set for Wednesday, December 1, at 7:30 p.m. at the Regional High School. The school budget would be discussed. Mr. Toole added that he found the AISA meetings both informative and interesting, especially because attendees got to see some productive interaction among the members.

The Commission members then took a vote on whether to reschedule the Full Commission Meeting of December 16, since Oak Bluffs had scheduled a Public Hearing on the same evening at 7 p.m. Mr. Clifford explained that by statute they were obligated to meet on the third Thursday on each month, although the members could choose the time. Ms. Brown suggested that they meet at 5:30 p.m. -- instead of 7:30 p.m. -- and this was the time settled on.

Mr. Donaroma provided the **Land Use Planning Committee (LUPC) Report**. The committee had met the Monday before, November 15, during which they had looked at the proposal of **Edgartown National Bank** to build a full-service branch at the site of what was now a car wash on the Edgartown-Vineyard Haven Road in Tisbury. Mr. Colaneri, a member of LUPC, added some details about the proposed parking plan. Mr. Donaroma listed some of the committee's concerns, among them the big, open parking lot in front of the building; the failure to plan for enough trees; traffic numbers; the hours of operation; and an inadequate affordable housing contribution.

Mr. Donaroma continued that members of the Tisbury Planning Board had attended and had stated that they had voted unanimously that this project was an expansion of a pre-existing, non-conforming use and that such expansion was not allowed according to Town bylaw. (The project had been referred by the Zoning Board of Appeals.) The LUPC had not taken up that issue, it being a Town issue, Mr. Donaroma added.

Mr. Colaneri, however, thought that the zoning issue was, in fact, a Commission issue. If a project was not allowed by zoning by a special permit or a variance, then it should not come before the Commission, he said. Then Mr. Clifford responded, "My first opinion, Michael [Colaneri], is that it should never even have come up.... I don't think you have a right to override their zoning when it's very clear that it [the project] doesn't meet the zoning." Further discussion about the referral -- and how it compared to the Inn on the Harbor referral some years before -- ensued.

Before continuing with the round of reports, Mr. Toole said that during the Chairman's Report he had forgotten to encourage the Commission members to read the Meeting

Minutes of November 4, which contained a good synopsis of the Future of the Martha's Vineyard Commission discussion.

Ms. Greene delivered the **Aquinnah DCPC Exemption Committee Report**. The committee had met on November 16 and had reviewed two emergency well situations, both of which they had approved. They had not approved a application for a deck extension because they did not think it constituted an emergency. However, they had approved an application for the replacement of a rotting deck, as well as an application for a roof overhanging a deck. The committee would probably meet again in a couple of weeks, she added.

Returning to the subject of the Vineyard Haven Harbor DCPC, Mr. Toole mentioned that a **DCPC Committee** had to be formed to review exemptions. The three Commission members from Tisbury -- Ms. Cini and Messrs. Best and Israel -- would serve, Mr. Toole said. Then he asked for two more members. Ms. Lazerow and Ms. Brown volunteered.

Providing the **Affordable Housing Subcommittee Report**, Ms. Cini described briefly the subcommittee's meeting on Tuesday, November 16. She reported that the residential section of the reworked Affordable Housing Policy was "in place" and that work had begun on the commercial side. Ms. Cini expected that the commercial work would be completed in one more session and that this would be followed by a summary session. The next meeting would be on Tuesday, December 7, at 5:30 p.m. at the Commission Offices.

Mr. Early reported that the **Planning and Economic Development (PED) Committee** had not met since the last Full Commission Meeting. They were considering a meeting on December 2, he said.

Ms. Lazerow reported that the **Cell Tower Study Group** had not met since the last Full Commission Meeting.

"We have a budget," declared Mr. Clifford, beginning the **Legislative Update**. The Governor had not gotten his pay raise. More importantly, the transportation bond bill had been passed and had included a provision for two trips a day between the Island and New Bedford during the summer months and one trip a day for the remainder of the year. The program would be at the cost of the Steamship Authority for a period of at least two years, and no fewer than nine trucks would to be carried on each trip.

Mr. Clifford continued that the State Senate would be looking at the bill after the first of the year. He added that he would be meeting with Peter Weber in a week about getting the Commission into the budget. Mr. Clifford then provided an update on the Community Preservation Act, supplemented by comments by Ms. Cini. There followed a discussion

about the funding of the bill, the deletion of Barnstable from the bill, and the real estate transfer tax.

Mr. Clifford also spoke briefly about the Sustainable Development Act, which he expected would resurface in the next session of the State Legislature.

**Items #6, Decision: MVY Realty Trust Written Decision (DRI #507).**

*[Messrs. Early and Israel and Ms. Cini left the room during the discussion of and vote on the Written Decision.]*

Mr. Toole asked for a Motion to Move to Item 6, Possible Decision, with regard to the MVY Realty Trust Written Decision (DRI #507). Mr. Colaneri made the Motion, which was duly seconded. Then Mr. Colaneri made a Motion to Approve as Written, duly seconded.

Ms. Brown made a Motion to Amend Condition 1.e. of the Written Decision. *[That there shall be no changes of grade level of Lot 4 along the entire length of the northerly boundary.]* She moved to change the wording to the following: *That there shall be no change of grade level anywhere within the boundaries of Lot 4 as shown on the Plan.* Ms. Brown's Motion was seconded. The voice vote went as follows:

AYES: J. Best; C. Brown; M. Colaneri; J. Greene; L. Jason, Jr.;  
M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole;  
and A. Harney Gallagher.

NAYS: None.

ABSTAINING: M. Cini; M. Donaroma; J. Early; and T. Israel;  
J. Vercruysse; and R. Zeltzer.

Ms. Greene then raised the subject of the buffer along State Road, described in Condition 1.f. *[That an easement of not less than ten (10) feet wide adjacent to the Massachusetts State Highway and along the entire length of the northern boundaries of Lot 4 and Lot 1 shall be offered to the Town of Tisbury for the purposes of a future walking and/or bicycle path.]*

Ms. Greene moved that Condition 1.f. be amended to include a 20-foot buffer and the northern part of the parcel: *That there shall be an easement of not less than ten (10) feet wide along the entire length of the northern boundaries of Lot 4 and Lot 1 plus a thirty (30) foot wide buffer along and adjacent to the Massachusetts State Highway; said buffer to consist of a ten (10) foot wide easement and a twenty (20) foot wide no-cut, no-build buffer; and said ten (10) foot wide easement shall be offered to the Town of Tisbury for*

*the purposes of a future walking and/or bicycle path.* Ms. Greene's Motion was seconded. The voice vote went as follows:

AYES: J. Best; C. Brown; M. Colaneri; J. Greene; L. Jason, Jr.;  
M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole;  
and A. Harney Gallagher.

NAYS: None.

ABSTAINING: M. Cini; M. Donaroma; J. Early; and T. Israel;  
J. Vercruysse; and R. Zeltzer.

Mr. Colaneri then made a Motion to Approve the entire Written Decision, as Amended. His Motion was seconded, and a roll call vote was conducted by Mr. Clifford.

AYES: J. Best; C. Brown; M. Colaneri; J. Greene; L. Jason, Jr.;  
M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole;  
and A. Harney Gallagher.

NAYS: None.

ABSTAINING: M. Cini; M. Donaroma; J. Early; and T. Israel;  
J. Vercruysse; and R. Zeltzer.

*[Ms. Cini and Messrs. Early and Israel re-entered the room.]*

The time was 9:39 p.m.

**Item #8: New Business.**

The first task on the Agenda under Item #8: New Business was the **Acceptance of the Nominations of Building Permit Cap DCPCs in the Towns of Chilmark and West Tisbury.** Ms. Sibley made a Motion to Accept the Building Permit Cap DCPC Nominations from the Towns of Chilmark and West Tisbury. Her Motion was duly seconded.

Mr. Clifford informed the Commission members that he had received a telephone call from West Tisbury Planning Board Assistant Simone DeSorcy, who said the her board was meeting the following Monday (November 22) to draft regulations for the West Tisbury District.

There was some discussion of where to hold the joint Public Hearings for the DCPCs on December 9. Mr. Colaneri thought that the Howes House dining room, which had been

secured for that purpose, was too small. It was agreed that Commission Staff would look into reserving the Chilmark Community Center or the Grange Hall for the Public Hearings.

Ms. Greene made a Motion to Accept the Nominations of the Building Permit Cap Districts of Critical Planning Concern for the Towns of Chilmark and West Tisbury. Her Motion was seconded by Ms. Sibley. Mr. Toole asked for discussion. "I'd just like to caution everyone that we may be invoking the Law of Unknown Consequences here," remarked Mr. Colaneri. There being no further discussion, Mr. Clifford conducted a roll call vote on Ms. Greene's Motion, which carried 15-1.

AYES: J. Best; C. Brown; M. Cini; M. Donaroma; J. Early;  
J. Greene; T. Israel; L. Jason, Jr.; M. Lazerow;  
M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysee;  
R. Zeltzer; and A. Gallagher.

NAYS: M. Colaneri.

ABSTAINING: None.

Next under New Business was the **Nominating Committee Report**, delivered by the Chair of that committee, Ms. Sibley. She reported that they had been unable to come to an agreement on the Nomination of a Vice Chair of the Commission, although they did have a Nomination for Chairman (Richard Toole) and for the Clerk/Treasurer (Jane A. Greene). So, she said, the Nomination for the Vice Chair was coming to the floor that evening.

Mr. Zeltzer nominated Michael Colaneri for the position of Vice Chair of the Commission; Mr. Jason seconded the Nomination. Mr. Israel nominated Marcia Cini for the Vice Chair position; his Nomination was seconded.

There was a brief discussion of procedure, which Mr. Clifford elaborated on. There would be a vote on written ballot during the Regular Meeting of December 16, he explained. Then Mr. Jason moved to close the Nominations, duly seconded. Mr. Toole asked for all in favor of the Nominations being closed. All present voted Aye.

AYES: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma;  
J. Early; J. Greene; T. Israel; L. Jason, Jr.; M. Lazerow;  
M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysee;  
R. Zeltzer; and A. Gallagher.

NAYS: None.

ABSTAINING: None.

Then the Commission members took up the next piece of New Business: **Tar Kiln Subdivision (DRI #470)/Edgartown Zoning Board of Appeals Change of Condition.** *[Ms. Cini left the room during the discussion and vote.]* Mr. Clifford had distributed to those present a copy of a letter faxed earlier in the day by Pamela M. Dolby, Assistant to the Town of Edgartown Office of Zoning Board of Appeals. The letter described the granting of a variance by the board to the Tar Kiln Applicant. This variance was contrary to Condition 1.a.(2) of the Written Decision for the Tar Kiln Subdivision.

Ms. Greene asked Mr. Clifford if the ZBA had voted on the old plan or the modified plan that Fred Walters, the Applicant, had presented recently to the Commission. The old plan, replied Mr. Clifford, who then explained in some detail how the ZBA preferred that the affordable housing lots that were offered by the Applicant be transferred to the Edgartown Resident Homesite Committee instead of the Dukes County Regional Housing Authority.

Ms. Brown moved that this was "a minor modification requiring no further Public Hearing." Mr. Colaneri seconded her Motion. There was some discussion about how the affordable housing provisions in the Decision had been reached. Ms. Sibley expressed a concern that the Applicant was using those lots as a "bargaining chip with the Town."

The voice vote on Ms. Brown's Motion went as follows:

AYES: C. Brown; M. Colaneri; M. Donaroma; J. Early; J. Greene;  
L. Jason, Jr.; R. Toole; and A. Harney Gallagher.

NAYS: T. Israel; M. Lazerow; and L. Sibley.

ABSTAINING: J. Best; M. Cini; M. Ottens-Sargent; J. Vercruysse;  
and R. Zeltzer.

*[Ms. Cini re-entered the room.]*

**Leah Johnson Smith Watershed Initiative Proposal: Brief Presentation/Discussion.**

Leah Johnson Smith began by briefing the Commission members on the Request for Proposals (RFP) for Watershed Initiatives issued by the Executive Office of Environmental Affairs (EOEA). The State would provide grants of up to \$50,000, and the applicant would have to provide 100 percent matching funds. She then gave a brief overview of her Watershed Initiative Proposal, the objective of which would be to establish for Martha's Vineyard a set of sustainability indicators for the purpose of clarifying the interconnections among water quality, environment, the economy and the social fabric of the community. *[See the Meeting File of November 18, 1999 for a copy of Ms. Smith's Draft Proposal.]*

Ms. Smith explained that with the data gathered during the study, a consensus could be arrived at, which consensus the Commission could then use in its decisions. She referred to the list of public officials and conservation groups that she thought should participate in the study.

Ms. Smith said that she understood that an open bidding process was required in the awarding of the grant, since the Commission itself would be the proposing agency. She referred to the draft budget contained in the proposal and said that she would be asking the Commission to contribute \$4,000 to the project, which could be in the form of "in kind" services.

Mr. Early, the Chairman of the Planning and Economic Development (PED) Committee, suggested that his committee take up her proposal at its next meeting. Since Ms. Smith's proposal had to be submitted to the State House by December 11, it was agreed that the PED Committee would meet at 6 p.m. on December 2 at the Commission Offices to discuss it.

Mr. Colaneri made a Motion that the Commission have a vote of consensus to support the proposal. His Motion was seconded. There was a very brief discussion of the proposal. Then a voice vote was taken. The Motion carried unanimously.

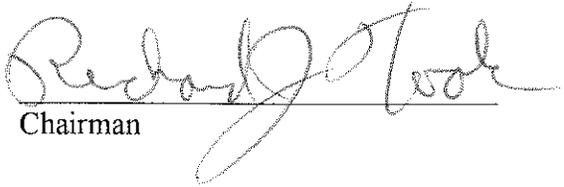
AYES: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma;  
J. Early; J. Greene; T. Israel; L. Jason, Jr.; M. Lazerow;  
M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse;  
R. Zeltzer; and A. Gallagher.

NAYS: None.

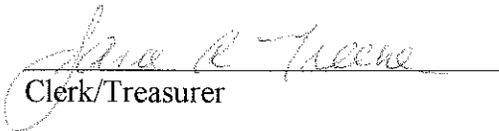
ABSTAINING: None.

Ms. Sibley asked Ms. Smith if she would be available if any of the Commission members had questions for her. Ms. Smith replied that she would be; she distributed her business card to several members.

Ms. Sibley made a Motion to Adjourn the Regular Meeting, which was duly seconded.  
The Regular Meeting was adjourned at 10:08 p.m.

  
Chairman

1-10-2000  
Date

  
Clerk/Treasurer

1-10-2000  
Date

PRESENT: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma;  
J. Early; J. Greene; L. Jason, Jr.; M. Lazerow;  
M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse;  
R. Zeltzer; and A. Harney Gallagher.

ABSENT: B. Hall, Jr.; T. Henson, Jr.; and M. Bolling.

*Summary of Revisions to the  
Meeting Minutes of November 18, 1999  
Proposed by Commission Members  
in the Meeting of December 9, 1999*

[An excerpt from the Meeting Minutes of the Special Meeting of December 9, 1999 follows immediately. It describes the revisions requested by Commission members with regard to the Minutes of November 18, 1999.]

This were no revisions to the Meeting Minutes of November 18, 1999 proposed by Commission members.