

THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission Minutes for the Special Meeting of July 5, 2001

The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, July 5, 2001, at 7:30 p.m. in the cafeteria of the Martha's Vineyard Regional High School, Edgartown-Vineyard Haven Road, Oak Bluffs, Massachusetts.

At 7:43 p.m., a quorum being present, James Vercruysse – a Commission member at large from Aquinnah as well as the Chairman of the Commission – called the Special Meeting to order. *[Commission members present at the gavel were: J. Athearn; C. Brown; M. Cini; D. Flynn; J. Greene; E. Horne; T. Israel; C.M. Oglesby; K. Rusczyk; L. Sibley; R.L. Taylor; R. Toole; J. Vercruysse; K. Warner; A. Woodruff; and R. Zeltzer. Mr. Best and Ms. Ottens-Sargent arrived at 7:44 p.m. Mr. Donaroma arrived at 8:05 p.m.]*

Public Hearing: Down Island Golf Club, Inc. Two (DRI #543).

At 7:44 p.m. Richard J. Toole – an Oak Bluffs Commission member at large, the Chairman of the Land Use Planning Committee (LUPC) and the Hearing Officer that evening – read into the Record the Notice of Public Hearing for the Down Island Golf Club, Inc. Development of Regional Impact (DRI #543). *[See the Full Commission Meeting File of June 28, 2001 (the meeting file) for a copy of said notice. The Commission members seated for this segment of the Meeting were: J. Athearn; J. Best; C. Brown; M. Cini; D. Flynn; J. Greene; E. Horne; T. Israel; C.M. Oglesby; M. Ottens-Sargent; K. Rusczyk; L. Sibley; R.L. Taylor; R. Toole; J. Vercruysse; K. Warner; A. Woodruff; and R. Zeltzer.]*

Mr. Toole then read a prepared statement which addressed the fact that some concerns had been raised by the Down Island Golf Club Applicant regarding whether certain Commission members had a conflict of interest. On the advice of Counsel, he read, the Public Hearing was being continued to a date unspecified, until the members in question had received a definitive ruling on their status from the State Ethics Commission. No testimony or comments were being taken that evening, the statement concluded. "This Hearing is therefore continued," declared Mr. Toole, with a bang of the gavel. The time was 7:46 p.m. *[Mr. Israel left the Special Meeting at this point.]*

Comments from Two Commission Members re: the Hearing Continuation.

Daniel L. Flynn, the County Commission representative, requested that those members who had (alleged) conflicts state for the record what they were doing to clear up their status. Chairman Vercruysse indicated that this matter would not be discussed that evening. Mr. Flynn again asked that anyone with a conflict of interest, as alleged, make a statement about what steps they were undertaking to clear up the issue. "We are stalling," he declared. "It should be moving forward."

When Mr. Flynn persisted, the Staff Secretary informed him that the five members in question were all in touch with Commission Counsel and that the proper procedure for addressing the matter was being followed.

Kenneth N. Rusczyk, the Oak Bluffs Selectmen's Appointee, also expressed deep concern that the DRI review process was being stalled and that the Commission members were not being kept fully apprised of the conflict-of-interest situation. He then left the meeting area. *[Shortly thereafter, Mr. Rusczyk returned to the meeting area, sat at the table for a few minutes and then left the Special Meeting for good.]*

Chairman Vercruysse called for a short recess while the members of the public who had come for the Down Island Golf Club Public Hearing left the cafeteria.

Continued Review of the Commission's Regulations.

At 7:54 p.m. Chairman Vercruysse reconvened the Special Meeting and turned the gavel over to Robert Zeltzer, a Chilmark Commission member at large as well as the Chairman of the Process and Procedures Committee. Mr. Zeltzer began by commenting on an account of something he had said on June 28 about conflicts of interest as presented in a local newspaper. "Sometimes we say things that come out differently than we intended," he noted.

Mr. Zeltzer then referred the members to a memorandum dated June 21, 2001 by Executive Director Charles Clifford regarding a number of *Regulations* issues raised in the Regular Meeting of April 19. *[See the meeting file for a copy.]* The first point in said memorandum concerned the fact that there was no prohibition in Chapter 831 against the submittal of essentially the same DRI proposal following denial of an Application. This being straightforward, there was no discussion.

Mr. Zeltzer moved to the second point, this regarding the issue of time limits for public testimony, and he commented that per the memorandum there was no reason the Commission could not impose such time limits. He pointed out that this would force people to think about what they were saying, although it might not be the kindest way to do it.

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Megan Ottens-Sargent, the Aquinnah Selectmen's Appointee, expressed the opinion that it would be helpful for the Applicant and members of the public to be guided by Commission Staff regarding the nature and length of their testimony. Mr. Zeltzer referred the members to *Regulations* Section 2.620(b), Draft Five, wherein were provided mechanisms whereby the Hearing Officer could extend the amount of time allowed for testimony. *[See the meeting file for a copy of said draft Regulations.]*

Richard Taylor, a Governor's Appointee, remarked that he was delighted to see some structure being imposed on Public Hearing testimony. He pointed to the relative natures of verbal and written records and concluded: "As long as that factor of flexibility is there, I'm very comfortable with it."

Mr. Toole noted that the time limits were definitely worth trying and that if the system did not work, it could be amended. Edgartown Commission member at large Christina Brown commented that the guidelines would be helpful but that they should be guidelines only. She suggested, therefore, that the numbers be dropped from Section 2.620(b) so that the Hearing Officer would not be limited as to the number of minutes allowed. *[Mr. Donaroma arrived at this point, 8:05 p.m.]*

West Tisbury Commission member at large Linda Sibley expressed concern that perhaps members of Town Boards were not getting enough time to testify. In addition, she said, both proponents and opponents paid considerable amounts to have experts testify; so more time should be allotted in those cases as well.

Mr. Zeltzer thought that the *Regulations* should stick with a definite amount of time, keeping it short but allowing it to be extended at the discretion of the Hearing Officer. Ms. Ottens-Sargent pointed out that at Town Meeting, one could ask the Moderator to allot a specific time for one's testimony.

Chilmark Selectmen's Appointee Jane A. Greene stated that a Public Hearing was for the public to hear the Applicant. Limiting the Applicant to 90 minutes, she said, could leave the Commission members "high and dry" if there was more testimony that they needed to hear. The Applicant should be allowed to ask for additional time, she concluded, although this should be arranged with Staff beforehand.

Mr. Zeltzer said that he would consult further with Staff on this section, although he was still convinced that the Applicant should start off with 90 minutes. Ms. Greene noted that it should be written into the *Regulations* that additional time could be requested by the Applicant.

Chairman Vercruyse expressed concern that granting the Applicant extra time would move him in the direction of offering "a lot of fluff" as testimony. But Ms. Greene pointed to the example of the Martha's Vineyard Hospital's wastewater plant, where the Commission had needed an entire evening to receive sufficient testimony upon which to

base their decision. Mr. Zeltzer emphasized that anyone could make the request for additional testimony time.

Tisbury Commission member at large John Best said that he saw no provision for Commission members to ask for such an extension. He wondered if a member could make a Motion to give the person offering testimony additional time. Ms. Greene responded that a member could request that the Hearing Officer or Chairman make an extension.

West Tisbury Selectmen's Appointee Kate Warner said that she liked the proposal by DRI Coordinator Jennifer Rand to limit the Down Island Golf Club Applicant to 90 minutes of testimony on a particular aspect of the project in question. By setting such limits, she noted, the Applicant would be careful not to repeat himself.

Ms. Sibley said that she agreed with Ms. Greene's recommendation that language be inserted in Section 2.620(b) to the effect that "you get this much time and you get more time if Staff and the Hearing Officer agree to it."

Mr. Zeltzer pointed to the example of the Chappaquiddick Island DCPC Public Hearing, where only a handful of people had dominated the opposition testimony during both sessions. "With a limit, the Chair could stop that," he observed. Edgartown Commission member at large James Athearn remarked that limits were good, but wondered what would happen if a particular person wished to address more than a single aspect of a complicated proposal. "If someone really has something to say, fine," replied Mr. Zeltzer.

Next, the Commission members considered the concept of a Public Hearing Guidelines manual, referring to a sheet containing a list of possible areas to be included in such a manual. *[See the meeting file for a copy of the list.]* Mr. Zeltzer noted that the Commission already had a Site Visit Checklist as well as an Affordable Housing Policy; so the establishment of Public Hearing Guidelines was not a stretch. Ms. Warner wondered if a subcommittee should be formed to work on such guidelines. "Creating a committee makes me shutter," remarked Chairman Vercruyse, who expressed doubt that this was needed just yet.

Ms. Sibley observed that although she liked the list, its various elements seemed to be "mixing policies" and that areas like the Landscaping Policy and the Affordable Housing Policy should be kept separate. "But they can all go into the same manual," suggested Mr. Zeltzer. Ms. Brown recommended that the manual include a "Do You Have a Complete Application?" list. "We have that," responded Ms. Rand. "Then put it in the manual," said Ms. Brown.

Mr. Flynn made the point that if the Commission were holding true to Section 1 of Chapter 831, then an Economic Impact Analysis list would be in order.

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Mr. Taylor noted that many of the Commission members had been struck by the personal nature of some testimony (which the Hearing Officer had curtailed) that had been introduced in the Tisbury Service Center Modification Public Hearing. He suggested that the Hearing Guidelines state explicitly that testimony amounting to character assassination was not acceptable.

"That makes sense," agreed Ms. Rand, who added there had been a similar piece of correspondence related to the same DRI where the writer had not wanted her name to appear in the record. Ms. Rand noted that she had returned the letter to the correspondent with an explanation.

In another instance regarding the Tisbury Service Center Application, the correspondent had signed his name, continued Ms. Rand. But since she did not consider the testimony particularly appropriate, Ms. Rand had left it in the DRI file but had not reproduced it in the *Staff Notes*. Mr. Taylor pointed out that such situations put Ms. Rand in a difficult position. "So, clearly, a policy is needed," he said.

Ms. Sibley remarked, "I don't think as a matter of policy we should accept testimony about character. But if someone had a track record of environmental pollution and negligence, for instance, that would be relevant. We should write that out as a policy." Mr. Zeltzer suggested the wording "factual, historical information pertinent to the Application," pointing to the testimony by a former landlord about polluting perpetrated by the same Applicant. "That was valid," he said. "Otherwise, leave the rest to the Chair."

Marcia Mulford Cini, a Commission member at large from Tisbury, pointed out that the legal standard in these cases was relevance. "The character of the Applicant is generally not relevant," she said. Chairman Verduyck noted, "Also, how great someone is – that's equally irrelevant."

Regarding the parameters of acceptable testimony, Mr. Flynn expressed the opinion that the Commission had to allow "a lot more latitude." "We weight the testimony ourselves," he said. Edgartown Selectmen's Appointee Michael Donaroma suggested that the Chairman could ask if the members wished to hear a particular piece of testimony. "The core issue is relevance," offered Ms. Sibley, "and talking about character is rarely relevant." She added that it was not enough for the language in the testimony guidelines to use the word "relevant"; it should include as well the word "character."

Ms. Warner requested that Mr. Taylor draft a few sentences for the manual regarding this issue, and he agreed to do that. Ms. Cini pointed out that every piece of correspondence that came in was part of the Public Record, and she recommended that they get guidance from Counsel on this matter.

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Returning to Mr. Clifford's June 21 memorandum, Mr. Zeltzer moved on to the third point, which concerned documentary information submitted for Public Hearing. He explained that this item had come out of a discussion with Staff, adding that he could not recall anything of any significance ever having come in after a Public Hearing was closed with the Written Record kept open. Ms. Greene pointed out that in some instances the Record had to be kept open, for example, when the Commission had requested specific information from the Applicant or correspondence from Town Boards.

Ms. Sibley suggested that in such cases the Hearing Officer should simply keep the Hearing open; that way there was always the opportunity for people to react to the new submissions, if the need should arise. A discussion of this point ensued.

Ms. Brown said that she agreed that leaving the Public Hearing open was a good thing if the new submission was something that people would want to "process and respond to." But if the submission was a specific technical fact, she added, then only the Written Record should be left open.

Ms. Rand recommended that the Commission adopt as a policy exactly what they had done with the recent Tisbury Service Center Modification, when the Hearing had been left open so that a legal question could be answered and then said Hearing was closed without taking any verbal testimony. "We'll come up with wording for that with Staff," said Mr. Zeltzer.

Regarding the opening and immediate closing of the Tisbury Service Center Modification Public Hearing on June 28, Mr. Toole wondered if a Commission member who had not been present for that occasion but had attended all other parts of the Public Hearing would be eligible to vote on the proposal. Ms. Rand replied that Commission Counsel had indicated that this was allowed, so long as no testimony had been taken in the abbreviated Hearing session.

Ms. Greene made the point that in doing this, the Commission was taking away the people's right to speak. Ms. Ottens-Sargent thought that if a submission came in after the Hearing had been closed but the Written Record had been kept open, some parties might want to testify regarding that document. She pointed to the example of the bird study submitted by the Down Island Golf Club Applicant after the Record had been closed. "We never looked at that," noted Ms. Sibley. Mr. Zeltzer pointed out that it was up to the Chairman to decide in such cases if the Hearing and/or Record should be reopened.

The discussion continued along these lines for some minutes. Mr. Donaroma expressed the opinion that leaving the Record open was a good tool. "Everybody calms down," he observed. Mr. Zeltzer noted that the opposite view was this: if the Hearing was left open, then the public could still respond to a document that was submitted at the last minute. Ms. Sibley recommended that the Commission ask Counsel for advice on this matter. The time was 8:53 p.m.

Review of the Revisions to the Commission's *Standards and Criteria*.

[The Commission members present for this segment of the Special Meeting, as well as for the Reports and Vineyard Clay House segments, were: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; D. Flynn; J. Greene; E. Horne; C.M. Oglesby; M. Ottens-Sargent; L. Sibley; R.L. Taylor; R. Toole; J. Vercruyse; K. Warner; A. Woodruff; and R. Zeltzer.]

Mr. Zeltzer referred the members to the sixth draft of the revisions to the Commission's *Standards and Criteria*. *[See the meeting file for a copy of said draft.]* The review began with a look at the last paragraph on page 1, which stipulated that the Town could not issue a Certificate of Occupancy until the Commission had signed off on a Final Certificate of Compliance.

Mr. Best wondered if they could use something other than the Certificate of Occupancy as the document whose issuance depended upon final certification by the Commission. Mr. Flynn wanted to know if, in fact, the Commission could "make law for the Town Boards." "Yes, we can," answered Mr. Zeltzer. Ms. Greene observed, "It occurs to me that in some instances, the Applicant might not need a Certificate of Occupancy. So I suggest you add 'or the equivalent' to the wording."

A discussion followed about whether Commission Staff would determine for each particular development what certificate from the Town would be held up until final certification by the MVC. Ms. Sibley suggested the wording "Certificate of Occupancy or other final approval," changing that later to "the last final approval by the Town." Ms. Brown pointed out that although the Planning Board gave final approval, there were occasionally some other stages that the Applicant had to go through.

Ms. Greene recommended that Executive Director Clifford spend some time on the paragraph and come up with the wording, and Ms. Brown offered to help him with that. Mr. Best suggested that Staff or the Commission itself could choose the final Town certificate for each particular development approval. The consensus reached was that Staff should identify what the final certification document issued by the Town would be.

Moving on to the choice of four actions the Commission could indicate for a Town to take after review and Public Hearing (also on page 1), Ms. Sibley stated that the wording was confusing. She suggested that the following be substituted for the four points: "... 1) The Commission has approved the Application; or 2) The Commission has approved the Application with conditions; or 3) the Commission has denied the Application."

Then, instead of the fourth point, Ms. Sibley recommended the following sentence: "If the Commission approves the Application, the local authority may continue the permitting process and issue the permit with no additional conditions or with additional conditions, or may deny the Application at their discretion." She then remarked, "It says the same thing, but just explains it more clearly."

Ms. Ottens-Sargent wondered if this part of the *Standards and Criteria* document was the place to lay out enforcement issues. "This is the wrong document," responded Ms. Greene. Ms. Ottens-Sargent also wanted to know what recourse there was if an Applicant in fact carried out the Commission's conditions and the project still did not work. "You're out of luck," noted Ms. Sibley.

Mr. Zeltzer emphasized that the Towns were the enforcement agents and that without a strong, ongoing relationship with Town Boards and officials, the wishes of the Commission as expressed in their Written Decisions would probably not be carried out. Mr. Toole observed that if the local officials did not agree with the mission and decisions of the Commission, then enforcement of the conditions was not likely.

The Commission moved on to the Definitions sections of the *Standards and Criteria*. Regarding Definition 2.15, Floor Area, Ms. Warner observed, "I would like it to say that the gross floor area on the perimeter of the outside walls or at the perimeter of the outside walls, because this definition encourages waste." She explained that in situations where a square-foot limit was set, if it was the inside of the perimeter walls, people were apt to add dimensions, like 28 feet 4 inches. However, since building materials were often modular, setting the dimensions at 28 feet would be less wasteful, she said.

Regarding the same definition, Ms. Sibley recommended that the second sentence be revised to state that basement and attic space used entirely for storage would be excluded from the total square-footage. The issue of habitable space arose, and after some discussion, Ms. Sibley offered to settle on the addition of the word "uninhabitable."

Regarding Definition 2.13, Change of Use, Ms. Brown suggested that instead of using the term "such as," the full list of categories be spelled out for the Towns. Ms. Greene recommended the wording "including but not limited to" before the listing of the categories. Ms. Sibley questioned whether the aspect the Commission was trying to capture was a greater intensity of use, and she pointed out that if one listed the categories, then the implication was that anything else would not qualify. She also suggested adding the words "or the addition of take-out to an already existing restaurant."

Mr. Zeltzer questioned the wisdom of listing all possible categories. With general guidance, he said, the Town could decide whether or not to refer a project. Ms. Brown countered that unless the definition was specific, the Towns would be referring proposals that need not be referred. Mr. Zeltzer responded that a) the definition noted that the Town Boards and officials could call the Executive Director for assistance in making such decisions; b) it was simple enough to send an inappropriate referral back to the Town; and c) it would be near-impossible for the Commission to come up with every possible change-of-use category.

As for Definition 2.12, Development, which was taken directly from Chapter 831, Ms. Sibley pointed out that there was a piece missing. Quoting from Section 6 of the Act, she noted that the following phrase was missing: "or a change in the intensity of use of land,

such as an increase in the number of dwelling units in a structure..." That phrase, she said, should be inserted between what were currently the second and third items listed in the definition.

The discussion returned to Definition 2.13 and the list of categories proposed by Ms. Brown. Mr. Athearn suggested the addition of categories like religious, agricultural and recreational structures. Ms. Warner remarked, "The point is, this list could be very, very long." Mr. Zeltzer responded, "I have no trouble with just using 'such as' and leaving it at that."

Ms. Rand referred the members again to the final sentence of the definition, which indicated that if a referring board or official was uncertain about the appropriateness of the referral, he or she could call the Executive Director for assistance. Mr. Donaroma proposed that the definition simply state "any change of use." Pointing once more to the last sentence of the definition, Mr. Zeltzer emphasized that this note was included because one could not anticipate every type of change in use.

Ms. Sibley said that she agreed with Ms. Brown and that the insertion of the term "such as" was leading the officials and boards not to be careful about referring every appropriate project. She suggested that "such as" stay but that the list be added. Mr. Zeltzer recommended that if the members had any specific items they wished to add to the list, they submit them to Ms. Rand.

Moving on to Definition 2.13-1, Increase in Intensity of Use, Ms. Sibley proposed that two more categories be added: "g) energy use; and h) parking requirements." Mr. Flynn suggested adding the words "or consumption" to the energy use category.

Regarding Definition 2.14, Development Permit, Mr. Zeltzer pointed out a typographical error: the "n" in "alternation" should be deleted; the word should be "alteration."

As for Definition 2.15, Ms. Warner responded to a question from Mr. Athearn, explaining that the gross floor area included the floors, the hallways, the stairs and so forth. She recommended that the word "at" replace the word "of" in the phrase "within the perimeter at the outside walls..." After still more discussion, Mr. Zeltzer directed Ms. Warner to write up a recommendation for this definition and submit it to Ms. Rand.

Turning to Definition 2.16, Municipal Land Regulatory Agency, Ms. Greene recommended that a clarification be forthcoming about whether or not an entity like the Wampanoag Tribe of Gay Head (Aquinnah) would be considered a municipal agency. She noted the tribe's recent claim that they had the ability to grant permits. A discussion ensued regarding the joint jurisdiction of the tribe and the Town of Aquinnah over certain areas. It was agreed that Staff would look into this and, if necessary, make the definition more inclusive.

Definitions 2.16 and 2.17 stayed as they were. Regarding Definition 2.19, Contiguous Ownership, a question arose as to why the phrase "or may cross zoning district boundaries" was being inserted. Regional Planner William Veno, who had recommended the addition, explained that in communities where he had worked before, instances of abutting lands belonging to different zones had arisen. Ms. Sibley remarked, "It's a good thing to put in here." No one objected to its inclusion.

No changes were proposed for Definitions 2.20 and 2.21. As for Definition 2.22, Island Identity Corridor, Mr. Zeltzer explained that this new element in the *Standards and Criteria* would bring in many more referrals, like Nancy's restaurant or the new buildings on State Road in Tisbury, just past the Black Dog Bakery/Café. Ms. Sibley commented that she liked the concept but had been unable to find the corresponding triggering mechanism in the body of the *Standards and Criteria*. After some discussion, Mr. Zeltzer directed Ms. Rand to come up with the trigger.

Ms. Greene remarked that she had a problem with the use of the word "signature" in the Island Identity Corridor definition. A discussion developed about whether or not residences along the corridors would be referred. Ms. Warner pointed out that the Towns already had the ability to regulate residences.

Regarding Definition 2.23, Fast Food, the outcome of the discussion was the insertion of the word "normally" just before the word "resulting," so that the definition read in part, "... or take-out which has been totally or partially pre-prepared, normally resulting in a time lapse of less than five minutes ..."

The discussion wound down, and no other specific changes to the definitions were proposed. The time was 9:37 p.m.

Reports.

For his **Chairman's Report**, Mr. Vercruysse referred the members to their copy of a letter to Mr. Clifford from Mary K. Ryan of Nutter, McClennen & Fish regarding the issue of the **Down Island Golf Club Remand Order and whether or not the Applicant's second submission constituted a new Application or a modification of the older one**. The Staff Secretary related that Mr. Clifford had instructed her to tell the members the following: that this was simply a reiteration of the position stated in Ms. Ryan's earlier letter and that this was simply a case of differing legal opinions. Commission Counsel stood by its original position, she added.

Mr. Toole provided the **All Island Selectman's Association Report**, describing how in their June 6 meeting, the group had voted to reconstitute the pilot freight program subcommittee. All members of the Association, which included the Martha's Vineyard Commission, had been asked to offer their input on the program, something he was asking them to do that evening. Mr. Flynn wondered why the Commission had to get "in the middle of it," since this issue concerned mostly the internal service model.

Ms. Warner countered that the Commission was supposed to be in the business of transportation planning. "We need to have some input on this," she said. A discussion about this issue ensued. Mr. Athearn pointed out that the Commission had to "speak more to the principles we want to serve as a regional planning body." It was agreed that the members would think about the matter and come up with some consensus in the next Special Meeting, on July 12.

Chairman Vercruyse reminded the members that those who had alleged conflicts of interest needed to decide that evening whether or not to work with Commission Counsel on their submission to the State Ethics Commission.

Ms. Cini, Chair of the **Finance Committee**, reported that the annual audit was scheduled for the first week in August. Mr. Athearn, Chairman of the **Chappapquiddick Island DCPC Committee**, announced that their next meeting was set for July 17. As Chair of the **Affordable Housing Policy Review Subcommittee**, Ms. Cini reported that she had gotten a draft of the nexus study, noting that the consultant appeared to understand the questions but did not seem to have the answers.

Mr. Veno reported on the **Sustainability Indicators Grant**, relating that the Steering Committee had met two weeks earlier and had come up with a list of people to approach about serving on the Citizens' Advisory Committee.

Mr. Flynn reminded the members that a Public Hearing on the **Governor's Steamship Authority legislation** was scheduled for July 12 in Hyannis.

Discussion: Letter Regarding Noncompliance Issues and the Vineyard Clay House.

Next, the Commission members discussed and voted on two documents: a memorandum from Charles Clifford dated July 5 regarding the Vineyard Clay House (DRI Nos. 489-1M and 489-1M-2) and its failure to operate within the limits the Applicant had proposed in her testimony to the Commission; and a draft letter to Kenneth Barwick, Tisbury Building Inspector and Zoning Enforcement Officer, regarding same. *[See the meeting file for copies.]*

Ms. Greene made a Motion to Have Mr. Clifford Send the Letter, duly seconded. By voice vote, said Motion carried, with 15 Ayes, no Nays and one Abstaining (Ms. Sibley). *[Mr. Flynn, Ms. Ottens-Sargent and Ms. Cini, who were not eligible to vote on the Carroll's Realty Trust DRI, left the Special Meeting at this point, 9:52 p.m.]*

Discussion: Draft Written Decision for Carroll's Realty Trust, Inc. (DRI #532).

[The Commission members seated for the final segment of the Special Meeting were: J. Athearn; J. Best; C. Brown; M. Donaroma; J. Greene; E. Horne; C.M. Oglesby; L.

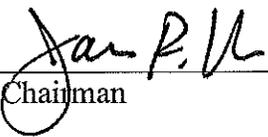
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Sibley; R.L. Taylor; R. Toole; J. Vercruysse; K. Warner; A. Woodruff; and R. Zeltzer. Messrs. Donaroma, Horne, Taylor and Zeltzer were not eligible to vote on this DRI.]

The Commission members looked at a draft of the Written Decision for the Carroll's Realty Trust proposal (DRI #532). *[A copy is in the meeting file.]* Although the oral deliberations had not yet transpired, the members had requested that Mr. Clifford craft a provisional document so that they could better understand how what appeared to be a combination of Approval and Denial would work. "He's written a Denial with Conditions," Ms. Sibley remarked.

Ms. Brown made a Motion That the Commission Send the Proposal and the Draft Decision Back to the Land Use Planning Committee, duly seconded. After a brief discussion, said Motion carried by voice vote, with eight Ayes, no Nays and two Abstaining.

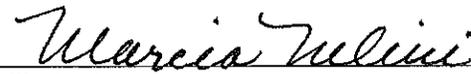
Ms. Greene made a Motion to Adjourn, duly seconded. The Special Meeting adjourned at 9:57 p.m.



Chairman

9.20.01

Date



Clerk/Treasurer

9.20.01

Date

PRESENT: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; D. Flynn;
J. Greene; E. Horne; T. Israel; C.M. Oglesby; M. Ottens-Sargent;
K. Rusczyk; L. Sibley; R.L. Taylor; R. Toole; J. Vercruysse;
K. Warner; A. Woodruff; and R. Zeltzer.

ABSENT: A. Bilzerian; and J.P. Kelley.

[These Minutes were prepared by Staff Secretary Pia Webster using her shorthand notes and a tape recording of the Special Meeting.]

***Summary of Revisions to the
Meeting Minutes of July 5, 2001
Proposed by the Commission Members
in the Meeting of August 2, 2001***

[An excerpt from the Meeting Minutes of August 2, 2001 follows immediately. It describes the revisions requested by the Commission members with regard to the Meeting Minutes of July 5, 2001.]

No revisions were proposed to the Meeting Minutes of July 5, 2001.