

THE MARTHA'S VINEYARD COMMISSION

P. O. BOX 1447, OAK BLUFFS, MASSACHUSETTS 02557 • PHONE (508) 693-3453 • FAX (508) 693-7894

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Martha's Vineyard Commission Minutes for the Special Meeting of July 12, 2001

The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, July 12, 2001, at 7:30 p.m. in the first floor conference room at the Commission Offices in the Olde Stone Building, 33 New York Avenue, 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. Donaroma; T. Israel; M. Ottens-Sargent; K. Rusczyk; L. Sibley; R. Toole; J. Vercruysse; K. Warner; A. Woodruff; and R. Zeltzer. Mr. Best arrived at 7:46 p.m.]*

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

Chairman Vercruysse turned over the gavel to Robert Zeltzer, a Commission member at large from Chilmark and the Chairman of the Process and Procedures Committee. Mr. Zeltzer referred the members to a memorandum dated July 12 from Staff to himself regarding MVC Guidelines and Public Testimony Policy. *[See the Full Commission Meeting File of July 12, 2001 (the meeting file) of a copy of said memorandum.]*

In meeting with Staff, said Mr. Zeltzer, a topic had come up, to wit, the advisability of the Commission's trying to refocus in their DRI deliberations on the regional issues discussed in Section 15 of Chapter 831. Hand in hand with this, he continued, would be a cultivation of respect for Town Boards, allowing them to control their own jurisdictions, over which the Commission sometimes trod rather heavily. The first section of the memorandum covered both these subjects. *[Mr. Best arrived at this point, 7:46 p.m.]*

The second section contained a Public Testimony Submittal Policy presented to Staff by Governor's Appointee Richard L. Taylor. Said policy had grown out of a discussion on the limits of acceptable testimony in the Special Meeting a week earlier. *[See page 5 of the July 5, 2001 Minutes.]* The bottom line was, Mr. Zeltzer explained, that it was difficult to write a policy that was neither too loose nor too restrictive. "And there is the

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position of, Let's trust the Chairman or the Officer running the Public Hearing," he noted. This was the position he was taking, he added.

Kate Warner, the West Tisbury Selectmen's Appointee, took issue with the first sentence of the memorandum, which stated: "I am concerned about the MVC developing guidelines for energy use or landscaping." She declared: "To say that energy policy does not have an impact on the environment of the Island – with the fact that at this point most people think that climate change and global warming is a reality, and it is particularly a reality for an island, where there is a threat of rising sea levels, increased hurricanes, et cetera – is really shortsighted."

Ms. Warner continued: "And had I known that you were going to write this like this, I would have written my own statement ... and I also don't think it's up to you [Mr. Zeltzer] personally...." Mr. Zeltzer stressed that he was not in fact setting any policy, and Chilmark Selectmen's Appointee Jane A. Greene pointed out that the memorandum had been written by Commission Staff.

Mr. Zeltzer went on: "This is the result of a discussion ... It's from the Staff to me. It's something for us to consider. This is not, at this point, any recommendation. But I think at some point we should really consider, by following the guidelines of 831 more carefully and more closely than we have, we might find ourselves being more effective, more efficient, and really turning some of this back to Town Boards."

"I would agreed with that," said Ms. Warner. "But if I were addressing the Staff, I would say to the Staff, again, that energy policy *is* a regional issue and is *not* a Town issue for the most part and is not under the statutes of what zoning bylaws can accomplish... It just staggers me."

Mr. Zeltzer spoke of the uncertainties surrounding the estimated energy use of a proposed development. Ms. Warner pointed out that there were different standards for different kinds of uses and different classes of buildings. "And you can work with those standards and go on from there," she said. In addition, except for Water Resources Planner William Wilcox to some degree, the Commission had no one on Staff with any expertise on this topic, she noted.

Regarding the same sentence in the memorandum, where landscaping were referred to, Tisbury Selectmen's Appointee Tristan Israel spoke of the "continuity with what's here" provided by having native shrubs and plants. The Commission's concern, he said, was to one, plant things that would survive in this environment, and two, plant things that were in character with Island flora and fauna. "I see that as regional planning," he added.

West Tisbury Commission member at large Linda Sibley pointed to what she considered the incorrect premise underlying the first section of the memorandum. Chapter 831 stated, she said, that while deliberating, the Commission members were to consider, *among other things*, the interests referred to in clauses (a) through (h) of Section 15.

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"This is taken out of context," she observed, "and it's really wrong." [The precise wording Ms. Sibley was referring to is: "In evaluating the probable benefits and detriments of a proposed development of regional impact the [C]ommission shall consider, together with other relevant factors, whether: (a) ..."]

Moreover, continued Ms. Sibley, in Chapter 831 language followed which indicated that the Commission could consider other things that were difficult to quantify. [Section 15 states: "Such probable benefits and detriments shall be considered even if they are indirect, intangible or not readily quantifiable."] "To suggest that we are limited to (a) through (h) by the Act is simply to turn the Act on its head," declared Ms. Sibley. "These are the things we're required to consider. But we are allowed to consider other things."

As for the issue of landscaping, Ms. Sibley found the memorandum's first sentence ironic in view of the fact that they were about to review revisions of the *Standards and Criteria* that included the concept of Island Identity Corridors. She continued: "And I think the thing that makes our business districts different from the famous [Route] 28 on the Cape is precisely what we have fought hard to maintain – the vegetative edges and [to] soften the buildings and not to allow ourselves to have that cold, suburban, strip-mall look. And very few of the Towns have regulations that would allow them to make that kind of requirement."

Mr. Zeltzer then referred the members to the seventh draft of the *Standards and Criteria*, (marked "Draft Six" with a red star in the upper right corner) where the revisions that had arisen out of the July 5 Special Meeting were marked with a star in black pen. [See the meeting file for a copy.]

Chairman Vercruyse asked what the timeframe was for the final approval of the revised *Standards and Criteria*. Executive Director Charles Clifford explained that when the Commission was finished with the revisions, copies would be sent out to the Town Boards and a full Public Hearing would be scheduled and advertised.

Aquinnah Selectmen's Appointee Megan Ottens-Sargent offered the opinion that a word or two about enforcement by the Towns should be inserted at the bottom of page 1. After some discussion, a consensus was reached to leave the wording as it was.

Regarding Definition 2.12, Development, Ms. Sibley pointed out that the second item in the list should be split, so that the following would appear as the third item: "OR a change in the intensity of a use of land such as an increase in the number of dwelling units in a structure." Mr. Clifford offered that the Act did not, in fact, separate off that phrase. But Ms. Sibley made the argument that at every point where a semicolon appeared in the Act, the word "OR" appeared to start a new item. The members agreed to make the change she had suggested.

Moving on to Definition 2.13, Change of Use, Edgartown Commission member at large Christina Brown remarked that she was still "uncomfortable" with the revisions. "The

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'such as' makes it less than straightforward for a referring board to use," she commented. "But if you take out 'such as,' don't you put blinders on it so that the board loses the ability to look beyond the specifics?" inquired Mr. Zeltzer. "Because we can't anticipate every potential use," he added. Ms. Brown explained that in her experience with local boards, a form with boxes to check had been useful. "The more definite an item is as a 'Yes-No' question, the more sure we are of what we want and the more sure we are that local boards will understand it and send it," she said. The discussion continued.

Ms. Ottens-Sargent wondered if Ms. Brown had any problem with the way this definition had been worded in the 1999 version of the *Standards and Criteria*. Ms. Brown responded that the 1999 version was "halfway there." Edgartown Commission member at large James Athearn suggested that the only way to avoid a long list was to find a phrasing that described all the changes in use. This point was discussed for some minutes.

Ms. Sibley observed that perhaps it was difficult to see how this definition caused problems when one considered it in isolation from its trigger in the main body of the document. Also, if the Commission could not come up with the perfect solution that evening, she said, they could ask for input from the public, board members and officials. In the past, she reminded them, they had changed languages in the *Standards and Criteria* in response to input offered in the Public Hearing.

Mr. Israel asked if the case of affordable housing being changed to a commercial use was covered. "Residential to commercial," answered Ms. Ottens-Sargent. Ms. Brown pointed to the change-in-use trigger in Section 3.301(d), just alluded to by Ms. Sibley. After more discussion, the members reached the consensus that the definition was not perfect but was workable and that they would listen at Public Hearing for input on this from the Towns.

Chairman Vercruyse interrupted the proceedings to point out that the Commission lacked a quorum to vote on the Carroll's Realty Trust proposal (DRI #532). The Staff Secretary noted that the Oral Vote on that DRI had to be taken by July 19. Ms. Brown suggested that, based on an earlier discussion, the Carroll's DRI should go back to the LUPC for further review pending the Oral Vote.

Regarding Definition 2.13.1, Increase in Intensity of Use, Mr. Israel wanted to know if a boat could be considered a vehicle under Clause (a). He suggested that they add "marine vessels" to that clause. Ms. Sibley recommended the term "marine traffic," and this was the wording agreed upon.

Moving on to Definition 2.15, Farmland, Mr. Zeltzer pointed out that the phrase "the commercial growing and sale of trees" had replaced the term "tree farm." Edgartown Selectmen's Appointee Michael Donaroma recommended that the word "plants" replace "trees." Mr. Zeltzer noted that the term "nurseries" was already included, and he offered "commercial tree-growing operation." Ms. Brown wondered if by "farmland," the

definition was referring to anything that fell under Chapter 61(a), and she suggested that Staff look into that. Mr. Zeltzer agreed.

Turning to Definition 2.16, Floor Area, John Best, a Tisbury Commission member at large, raised a question about taking the measure of a second floor footprint. He pointed out that in Tisbury the second floor of a structure whose base measured 30 feet by 20 feet was also considered to be 30 feet by 20 feet, even if the presence of eaves on the second floor cut back considerably on the amount of usable space.

Ms. Warner explained how the West Tisbury Zoning Bylaw had addressed this issue. Said bylaw stated: "Basement or attic space used in connection with the principal or accessory use will be counted in the calculation of floor area, unless such space is used exclusively for storage or has a ceiling height of less than 54 inches."

Ms. Sibley pointed out the "nooks and crannies" of commercial structures did get used, and she wondered how enforceable the bylaw was. "It has to be strongly worded with the presumption that usable space is, in fact, usable space," she said, since even the smallest spaces could be "extraordinarily useful" to a commercial enterprise. After more discussion, the Commission appeared to accept the wording from the West Tisbury Zoning Bylaw.

Regarding Definition 2.23, Fast Food, the members discussed the phrase "normally resulting in a time lapse of less than 10 minutes." Mr. Best noted that one generally could not get a pizza in less than 10 minutes. Mr. Zeltzer proposed that perhaps if the preparation took 20 minutes, then it was take-out, but not fast food. The definition remained as it was.

Moving on the Definition 2.23.1, Mr. Israel pointed out that there were take-out establishments that had seating. After some discussion, it was decided to place a period after the word "premises" and delete the remainder of the definition.

There were no revisions proposed for Section 3.301. Ms. Sibley had concerns about Clause 3.102(c), since it was her impression that the airport was going to expand its business park even further. The way the clause was worded, she said, could suggest that anything that was outside the present business park did not have to be referred. After some discussion, it was agreed that Ms. Sibley would think about this and come up with a new wording.

Ms. Sibley also pointed out that the outline had "slipped" and that Section 3.102 should, in fact, be Section 3.2, since the heading of Section 3.100 was In-Town, Between-Town and Island-Wide Referrals. After some discussion, Mr. Clifford suggested that Clauses 3.102(c) and 3.102(d) be moved to Section 3.301 as Clauses 3.301(f) and 3.301(g), in each case adding the wording "with the concurrence of the Commission."

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In the interest of making the *Standards and Criteria* more user-friendly, Ms. Warner recommended that the phrase "Once a DRI, always a DRI" be included somewhere in Clauses 3.102(a) and 3.102(b). The others agreed to this addition.

Mr. Zeltzer turned to Clause 3.102(d), which would become Clause 3.301(g) after the current set of revisions was completed. He explained why his committee had adopted the list of high-higher-highest traffic generators. The members then agreed to the moving of Clauses 3.102(c) and 3.102(d) to Section 3.301.

Turning to Section 3.105, Ms. Warner wondered if Clause (a) was already covered under Town jurisdiction. Ms. Sibley responded that unlike a Conservation Commission, the MVC could review more than the Coastal District itself. After much discussion, it was agreed that they would leave it as it was, with an eye to amending it later on, after Staff had looked into the Towns' jurisdiction in these matters.

Regarding Section 3.109, Mr. Athearn wanted to know what was meant by "commercial" in Clause (b). For instance, would that include the fuel tank on his farm? DRI Coordinator Jennifer Rand replied that she did not think so, so long as he was not selling the fuel. Ms. Sibley suggested the wording "facility for the retail or wholesale of fuel." Following discussion, the wording agreed upon was "a facility for the retail or wholesale of fuel and/or for hazardous materials."

Moving on to Section 3.205, Mr. Zeltzer related that there had been concern that the paragraph immediately following Clause (c) could result in an action tantamount to a taking. Ms. Rand pointed out that provided the clause was used as a trigger and not as a decision-making tool, this was not an issue.

Next, the members reviewed Clause 3.301(b). Ms. Rand explained that the figure of 1,000 square feet had been settled on as a compromise between 750 and 1,500 square feet. Ms. Sibley pointed out that with that wording, the Commission would be reviewing a 750-square-foot addition to a 500-square-foot building, while a new 1,250-square-foot building would not be referred by the Town. "I think the resulting total building should at least equal the 2,000 square feet that is our trigger for a totally new structure," she said.

Ms. Sibley noted that she also had concerns about having the square-footage accumulate over eight years in Clauses 3.301(a) and (b), since it did not matter how quickly or slowly incremental development occurred. The Staff Secretary pointed out that the eight-year phrasing had come from former Commission member Leonard Jason, Jr. during the last Commission's review of an earlier draft of the *Standards and Criteria* in December 2000. Following further discussion, Ms. Sibley suggested for Clause 3.301(b) the following wording: "any addition resulting in a structure of over 2,000 square feet," deleting the wording about accumulation over eight years in both (a) and (b).

Mr. Zeltzer noted that the intention had not been to restrict this clause to the original building, but also to additional buildings on the same lot. More discussion followed, and it was agreed that Staff would work on the wordings of Clauses 3.301(a) and (b).

As for Clause 3.301 (d), Ms. Sibley thought that the wording should emphasize more that the concurrence of the Commission was required. The Staff Secretary suggested putting a comma after the word "use" and adding the words "but only." Thus, the clause would read: "(d) any change of use or increase in intensity of use, but only with the concurrence of the Martha's Vineyard Commission." The members agreed to the change.

Also with regard to Section 3.301, Ms. Sibley pointed out that the Island Identity Corridor trigger had been removed from the section. She had, she said, a suggestion for the wording of a trigger: "any new commercial construction within X feet of or visible from those roads identified as the Island Identity Corridors." Mr. Zeltzer wondered if perhaps the concept of Island Identity Corridors would be redundant in view of the Island Harbors and Highways Infrastructure District of Critical Planning Concern. Mr. Clifford stressed, though, that these were two separate activities.

Ms. Brown suggested that the Commission wait until after the Harbors and Highways DCPC discussions were over. "They can parallel each other," said Mr. Clifford. He added that the Commission could amend the *Standards and Criteria* as the DCPC regulations developed.

Mr. Athearn wondered why Ms. Sibley had included the word "commercial" in her recommended trigger. Ms. Sibley responded that, in fact, the Commission might decide to do "the really radical thing," which would be to review residential developments along the Island Identity Corridors. She pointed to the Town of Aquinnah DCPC, where this had been done. Ms. Warner said she thought the Commission was going to leave that up to the Towns.

Ms. Sibley offered a suggestion for an additional clause under Section 3.301: "any combination of outdoor commercial space and new construction totaling more than X square feet." Another new clause she recommended was "conversion of basements or attic storage spaces or any other exempt floor space to active floor space."

Mr. Zeltzer turned to Section 3.501. Regarding the exemptions that followed Clause 3.501(c), Ms. Sibley had the following questions: Did "individually owned" mean that the piers referred to therein could not owned by a corporation or a real estate trust or business? "No," answered Mr. Clifford.

And what if the pier were owned by an individual who then leased those rights to others in the same subdivision, for instance? asked Ms. Sibley. Was that commercial or private? Although not strictly commercial, she added, the use of a pier by large numbers of people could have a regional impact. The members decided to have Staff look further into this and come up with wording to cover such a case.

"We actually presume to regulate the ocean?" wondered Mr. Athearn, referring to Clause 3.501(c). Mr. Clifford explained that this clause had been inserted when there had been talk some years before of oil drilling off the coast of the Vineyard.

Regarding Appendix B, which contains a list of traffic-generating businesses, Ms. Warner offered the opinion that items like discount superstores, which did not apply to the Island, be removed from the list. She also suggested that the "High," "Higher," and "Highest" categories be reduced to a single category. Mr. Best agreed with her recommendations.

Following discussion, it was agreed to change the wording of Clause 3.102(d) to "is on the list of high traffic-generating businesses provided in Attachment B." Ms. Brown commented that the attachment constituted a useful catchall.

Mr. Zeltzer then referred the members to the Environment Impact Checklist, directing them to review it and to send any proposed revisions to Ms. Rand.

Ms. Sibley suggested that the heading for Section 3.600 should be "Private and Public Facilities and Places of Assembly." In Section 3.700, she proposed that they add "associated parking facilities and/or ticket offices" to the end of the note that followed Clause 3.700(b). No objections to these recommendations were heard.

Moving on to the proposed Energy Impact Analysis Checklist, Ms. Warner noted that she had a general idea that she had been working on with a consultant for the Cape Light Compact, that being how one would define various aspects of energy use. When that outline was done, she added, she would bring it to the full Commission for feedback.

The gavel was returned to Chairman Vercruysse, who called for a short recess. The time was 9:14 p.m.

Discussion/Vote: Tisbury Service Center Modification (DRI #489-1M-3).

[Mr. Donaroma, Ms. Sibley and Ms. Warner left the meeting room at this point. Ms. Cini had arrived at the Meeting. Thus, the Commission members seated for this segment of the Special Meeting were: J. Athearn; J. Best; C. Brown; M. Cini; T. Israel; M. Ottens-Sargent; K. Rusczyk; R. Toole; J. Vercruysse; A. Woodruff; and R. Zeltzer.]

At 9:25 p.m., Chairman Vercruysse reopened the Special Meeting. Next, the members moved to Item 5, Possible Discussion: Tisbury Service Center Modification (DRI #489-1M-3).

Richard Toole – an Oak Bluffs Commission member at large and Chairman of the Land Use Planning Committee – reported that the LUPC had recommended a Denial, with three in favor, two opposed and one abstaining. Among the concerns raised were: that

there were already too many uses on the property; that there were safety issues; that the Commission should not be trying to "accommodate the automobile"; that much traffic was already generated by the Park-and-Ride lot nearby; and that the proposal might affect adversely the Steamship Authority freight traffic situation.

Mr. Toole continued that some of the reasons for Approval provided in the minority report were: that the new plan could work; that it would provide competition and perhaps bring down the price of gas; and that the facility would use state-of-the-art technology with a number of redundant safety features.

Mr. Israel made a Motion to Move to Item 6, Possible Vote. He then made a Motion to Deny the Tisbury Service Center Modification proposal (DRI #489-1M-3), seconded by Ms. Ottens-Sargent.

Mr. Israel provided his reasons for denying the project. The intensity of use on the property was already a problem, he said, and there were rarely fewer than 20 vehicles on the site and sometimes as many as 40. In addition, he noted, the Hinckley's truck was still using the lot.

Mr. Israel continued that the original proposal had called for an inspection station, a service station and a repair shop; the service station had been dropped in a later Application (DRI #489-1). *[Note: The Application that had been approved was the third Application submitted (DRI #489-1); the first one (DRI #478) had been withdrawn, and the second (DRI #489) had been denied.]*

Mr. Israel explained that the Vineyard Clay House had been added as a modification to the Application that had been approved. *[The Vineyard Clay House modifications are DRI #489-1M and #489-1M-2.]* He pointed to the apparent success of the Clay House, with people coming in for coffee in the morning, many children using the clay shop, and now entertainment being offered in the evening. Mr. Israel noted that he had "no problem with any of that, but it attracts a lot [of cars] ... The parking lot is always filled there. There are children going in and out of this place."

The repair shop appeared to be very busy as well, said Mr. Israel. In addition, he related, there had been a tent rental business, now gone, on the site, and the Applicant had not offered any definite plans for the future use of that space.

Returning to the subject of the Clay House, Mr. Israel described how during her first appearance before the Commission, owner Lisa Spain had testified that she had no plans for take-out. "With all of these uses on this property," he declared, "it is maxed now, I would maintain. To add to this mix a gas station to me is just [too much]... It's enough."

Mr. Israel maintained that there were other locations more appropriate than this one for a gas station. The State Road corridor, he said, had been given a Level of Service grade of D. Something else to consider, he went on, was that in its own Business District, the

Town of West Tisbury allowed just about everything except gas stations. And although he agreed with the Applicant that much of the customer traffic would be drive-by, that still left, say, 25 percent that was not drive-by. He himself thought it might be more than that. So, he said, this new use was also going to attract traffic to the property.

Mr. Israel then drew attention to the traffic configuration in the area. A single truck or bus waiting to exit High Point Lane already caused problems with cars trying to get in and out, he explained. So now the Applicant wanted to add to that mix cars flowing in and out of a gas station, with the exiting vehicles not being able to get onto High Point Lane because of the traffic already backed up there.

Mr. Israel also pointed out that since 1996 traffic levels had not increased on State Road; what had increased were the number of businesses and the number of curb cuts. Moreover, just across the street from the proposal site were the Radio Shack and Island Video complex, Colonial Lane and Cronig's State Road Market. On the same side of the road were Shirley's and Island Cove Mini Golf. Add to that the Town landfill, the Park-and-Ride and the Department of Public Works trucks on High Point Lane, and you wound up with "an extremely high-traffic area," he declared.

As far as need was concerned, Mr. Israel offered the opinion that developers should not be building things to accommodate the automobile. "We have nine gas stations on the Island," he said, "and I think, you know, if you build it, they will come... I don't believe in building by-pass roads. I think we should be doing things to encourage alternative forms [of transport]. This is not something the Island needs."

Mr. Israel concluded that the mix of children, take-out food, a repair shop, a service station, "a question mark" (where the tent business had been), as well as the Hinckley's truck on the property in question would be "an unmitigated disaster to approve."

Oak Bluffs Selectmen's Appointee Kenneth N. Rusczyk pointed out that one of the things the proposed gas station would do would be to relieve some of the traffic down at Five Corners. In addition, did the Island not need another inspection station? he asked. Ms. Ottens-Sargent noted that the inspection station was not part of the current Modification request.

Responding to Mr. Rusczyk's comments, Mr. Israel stressed that if 75 percent of the traffic into the gas station was drive-by, then in fact very little relief would be provided to Five Corners traffic. Secondly, he said, the proposal site area was already starting to bottleneck up like Five Corners. "Are we robbing Peter to pay Paul?" he wondered. Thirdly, Mr. Israel concluded, he was not of the opinion that the Island needed another gas station.

Ms. Ottens-Sargent commented on the in-and-out traffic that would be generated by the gas station and the possibility that cars would cue up in the parking lot and onto State Road.

Mr. Zeltzer stated that he agreed "in significant part" with what Mr. Israel had said. He was familiar with the proposal site, he continued, because he drove by it probably four times a day, and it struck him that the lot could not accommodate any more activity, particularly when the weather was inclement. In addition, the Applicant's claim that he would be bringing pricing improvements to the Island was really not so, he said. Describing the Applicant's proposal to issue discount cards, Mr. Zeltzer pointed out that the bottom line was, this was not a discount but a marketing strategy.

Finally, the traffic study that William Scully had presented was, in Mr. Zeltzer's opinion, "almost absurd ... because there are very few people who go out there and do a traffic study on the 10th of July." He then recounted how the other day he had had to wait well over four minutes to get onto State Road from the Cronig's parking lot. To add anything to that area that would attract more traffic was unacceptable, he said.

Hilary S. Schultz, an attorney for the Applicant, asked for a Point of Order. She asked the Chairman if Mr. Zeltzer wanted to see the tapes of the traffic simulation done by Mr. Scully. Chairman Vercruyssen responded that this was not a Public Hearing. "Just providing information to the Commission," said Ms. Schultz, who then added, "I had the impression that he was addressing me."

Marcia Mulford Cini, a Tisbury Commission member at large, reminded the members that the Town Boards had generally been in favor of the proposal. "I can imagine a gas station operating there with certain restrictive conditions like not putting a new tenant on the property," she said. She noted that she was, in fact, concerned about the Clay House operation and the juxtaposition of those two uses. However, said Ms. Cini, she believed that the gas station could have a good effect on traffic at Five Corners, plus the Applicant was taking state-of-the-art safety measures.

Chairman Vercruyssen asked Mr. Zeltzer if he had been soliciting information from the Applicant earlier. No, he had simply been commenting on the project, Mr. Zeltzer replied.

Mr. Athearn asked Ms. Cini to be more specific about the support of the Town Boards. There had been testimony that the Applicant had been before the Planning Board, answered Ms. Cini. Mr. Israel noted that the Applicant had gone to the Planning Board about the parking configuration on the property. In addition, he said, the Chief of Police had submitted a letter indicating that the plan was a good one. However, he added, the project still had to go before the Board of Selectmen if it was approved by the Commission. Ms. Ottens-Sargent pointed out that the correspondence from the Town had included a letter from the Building Inspector detailing noncompliance issues.

Mr. Israel added to his list of reasons to deny the Application the fact that more tanker trucks would be coming over via the Steamship Authority and up State Road if the proposal were approved.

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Mr. Zeltzer recalled that in the *Staff Notes*, Transportation Planner David Wessling had had some questions about the turning radii of trucks on the lot. The Staff Secretary pointed out that the Applicant had addressed this by flaring the driveways.

Mr. Toole stated that he hoped that the addition of a new gas station would not, in fact, increase the amount of fuel being brought to the Island. "Obviously, it's going to take away from somebody else," he said, "and maybe they wouldn't need deliveries as often. So I'm not so sure this is going to cause an increase in the delivery of fuel." Mr. Toole also acknowledged the amount of work the Applicant had put in to improve the project, as well as the need for another inspection station on the Vineyard.

Mr. Toole added that he thought that the fact that this would be a state-of-the-art facility was a real plus. "The other stations that have been in existence for years and years and years – who knows what the condition of their equipment's like," he observed. And he did think, he said, that the new station would relieve some of the traffic at Five Corners.

Finally, Mr. Toole remarked that he did have some concerns about the Clay House. "Maybe choices are going to have to be made by the Applicant," he said. "I think this proposal could work," he concluded.

Mr. Zeltzer made reference to a piece of correspondence that concerned the Applicant's failure to comply with conditions contained in the earlier Decision (DRI #489-1). Ms. Rand provided him with a copy of that correspondence. Mr. Zeltzer also referred to testimony by the Applicant regarding the Hinckley trucks parked on the lot. The Staff Secretary informed him that the Applicant had testified that if the Application before them was approved, the Hinckley's truck would no longer park there since there would no longer be room for it.

West Tisbury Commission member at large Andrew Woodruff stated that he did not *per se* disapprove of the idea of having a gas station on that site. "But I do have an issue with the cumulative, sort of combined intensity of use on the site," he said. Although the parking situation might improve with the new plan, he continued, when he passed the site on a regular basis, the parking of vehicles appeared to be very haphazard. He questioned, he said, whether having the Clay House as well as the new gas pumps would simply be too much for this location.

Mr. Clifford then conducted a roll call vote on Mr. Israel's Motion to Deny.

AYES: J. Best; C. Brown; T. Israel; M. Ottens-Sargent; J. Vercruysse;
A. Woodruff; and R. Zeltzer.

NAYS: J. Athearn; M. Cini; K. Rusczyk; and R. Toole.

ABSTAINING: None.

The time was 9:52 p.m. Sean Conley, a partner in the Application, asked what the basis for the Denial had been. The Staff Secretary took him aside and explained that the reasons had been stated in Mr. Israel's Motion. "You're talking about 15 cars per hour," Mr. Conley persisted, "and 75 percent pass-by." "What can I tell you?" responded Mr. Israel, "I believe what I believe." Chairman Vercruysse tried to halt the dialogue, noting that this was not a Public Hearing.

Then Ms. Schultz declared, "It's very difficult to sit here and listen to you all quiz each other about what might have been in the record, and Do you remember this? and Do you remember that? And the answers that you all gave each other – not all of you, but many of the answers – were simply wrong."

Chairman Vercruysse then announced that the Commission would vote on the Carroll's Real Estate Trust DRI on July 19, and he read aloud the list of those members who were eligible to vote.

Reports.

[Mr. Donaroma had returned to the meeting room. Thus, the Commission members seated for the Reports segment were: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; T. Israel; M. Ottens-Sargent; K. Rusczyk; R. Toole; J. Vercruysse; A. Woodruff; and R. Zeltzer.]

For the **Chairman's Report**, Mr. Vercruysse said he would be leading a discussion later in the Meeting on the Commission's position on Steamship Authority issues in preparation for the two All Island Selectman's Association meetings the following week.

Mr. Toole provided the **LUPC Report**, relating that the **Beach Road Realty Trust Applicant** had returned with "a much-improved plan." In the new design, the building would be broken into three sections of different heights, he said, with each section having its own entrance. In addition, Mr. Toole reported, the building would be set back an additional 20 feet from the road, and the Applicant was now planning much more landscaping. Finally, concluded Mr. Toole, the LUPC was going to meet with framers of the bylaw that had established the Harborfront District.

Ms. Brown, another member of the committee, explained that there had been concern that in approving the originally planned-for single-mass building, the Commission would be inadvertently setting the wrong pattern for new development along that strip. By talking with the framers of the bylaw, members of the Planning Board and members of the site review group, she continued, they hoped to get a better idea of what the Town had intended for the area.

Mr. Best expressed agreement with Ms. Brown's idea, and he related how he had spoken to a member of the Tisbury Planning Board, who had been very enthusiastic about

meeting with the LUPC members. Mr. Israel mentioned that the person who had put the Harborfront plan together had been Carol Borer, who had been working as a consultant at the time. Transportation Planner David Wessling reported that, in fact, Ms. Borer's plan had been turned down. He then listed the Planning Board members who had written the bylaw that eventually had passed.

Mr. Toole emphasized that anyone who had concerns about the parking on the Beach Road Realty Trust building site should attend a future, informal meeting with the Applicant that was planned for August. Mr. Donaroma remarked that it seemed that the spirit of the Harborfront District was to attract businesses whose employees and customers would walk to the site. "It just goes against nature," he commented. The discussion wound down.

Finishing the LUPC Report, Mr. Toole noted that they had also talked about the **Carroll's Realty Trust Application** and had given back the draft Written Decision to the DRI Coordinator for further work.

Providing the **Legislative Update**, Mr. Clifford reported that there had been a Hearing that morning conducted by the Legislature's Joint Transportation Committee on the proposed Steamship Authority legislation. The Hearing had never been posted on the Legislature's Website, he noted. The time was 10:06 p.m.

Approval of Meeting Minutes.

Ms. Ottens-Sargent made a Motion to Approve the Meeting Minutes of May 17, 2001, duly seconded. There was no discussion, and the Motion carried by voice vote, with eight Ayes, no Nays and four Abstaining.

Ms. Brown made a Motion to Approve the Meeting Minutes of June 7, 2001 as Written, duly seconded by Mr. Toole. No revisions were proposed, and the Motion carried by voice vote, with nine Ayes, no Nays and three Abstaining.

Lastly, Ms. Brown made a Motion to Approve the Meeting Minutes of June 14, 2001, seconded by Ms. Cini. There was no discussion, and said Motion carried with 10 Ayes, no Nays and two Abstaining. The time was 10:09 p.m.

Discussion: The Commission's Position on Steamship Authority Issues.

The Commission members then discussed the position that Chairman Vercruysse would take to the All Island Selectman's Association meeting on July 16 regarding Steamship Authority issues. The first topic addressed was whether or not the Steamship Authority should renew its contract for the pilot freight program. Mr. Donaroma observed that although the New Bedford freight route was not a bad idea, it was "a loser" and would cost the Vineyard plenty.

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Ms. Israel stated that his Town wanted some say about the freight boats coming into its harbor. He also believed that the way the pilot freight program was scheduled made it difficult for truckers to use. Chairman Vercruysse agreed that the schedule had to be reworked.

The Staff Secretary referred the members to page 10 of the minutes for the All Island Selectman's Association meeting of June 6, 2001, wherein County Commission representative Daniel Flynn had discussed the reasons he believed the pilot freight program contract should be renewed.

Mr. Donaroma agreed with Messrs. Israel and Vercruysse about the scheduling. Mr. Israel thought it might be worthwhile to look into building a three-tiered ferry coming out of New Bedford. (A three-tiered vessel would carry passengers, automobiles and freight.) "You'd have more continuity and less boats coming in and out," he observed.

Referring back to the scheduling issue, the Staff Secretary pointed out that in the June 6 AISA meeting, SSA General Manager Armand Tiberio had spoken about completely reworking the pilot freight program schedule from a clean slate, looking for inefficiencies and coming up with a responsive schedule. He also planned, she said, to set up meetings with the Towns of Tisbury and Oak Bluffs to identify critical issues and to work on the equalization of traffic between the two harbors.

Mr. Zeltzer commented on the problems inherent in having new vessels coming in to Vineyard Haven Harbor. "It's a hell of a problem," he remarked, "and I'm not sure getting people here faster is going to help."

The second topic that the Commission was to address was whether they thought that management was going in the right direction with the Steamship Authority's Future Service Model. Mr. Israel offered the opinion that perhaps the Authority was moving too fast on developing the Model. "I think the discussion is certainly good," he said. "I'm not a big fan of everything in the Service Model, but I think we should keep discussing and working to change things and refining it." Ms. Cini agreed that retaining a sense of flexibility in the Model was a good idea.

Mr. Toole stated that they had to be clear on what Steamship Authority management was trying to accomplish. This was: 1) to reduce vehicle traffic coming through Woods Hole; and 2) to reduce costs, which management saw as increasing in the future, while they expected the ridership to be flat. So running one boat to Nantucket instead of three would reduce costs drastically, and this was why they had proposed the three-tiered vessel for Nantucket, he explained.

Mr. Toole added that he would rather not see the fast ferry to Nantucket or out of New Bedford. Mr. Ruczyk observed that if the three-tiered fast ferry to Nantucket broke down, the whole system would be down. Mr. Israel raised the possibility of having a three-tiered vessel to Nantucket that was not a fast ferry.

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Mr. Zeltzer suggested that management should look at what was being spent on executive salaries, administrative expenses, outside consultants and advertising, instead of pointing at the costs of labor all the time.

Mr. Athearn offered that in general terms Islanders had always acknowledged that a bridge to Martha's Vineyard would be a disaster. "Improvement of the Steamship Authority, either in convenience or in capacity, is on a continuum toward the bridge," he observed. He recommended that instead management should "tweak" things rather than go further down the road toward that bridge. He said that the reality that one had to use a ferry to reach the Vineyard was "our insulator" and "what makes us who we are." He added, "It should be hard to get here. It should be hard to get off."

Mr. Toole pointed to one difference between former Vineyard SSA Governor Ronald Rappaport and the present one, J.B. Riggs Parker: Mr. Rappaport viewed the Authority's ability to control growth and to act as a sort of zoning tool as a legitimate part of its mission; while Mr. Parker believed that the Authority should simply provide a needed service.

Mr. Israel recalled a conversation he had had with Mr. Parker earlier in the year. Mr. Parker, he related, had stated at the time that while he was there to represent the Island, he was there as well for Hyannis, Woods Hole, all the port towns. "We were kind of startled by that, because we were used to the representative who were there representing Martha's Vineyard," said Mr. Israel. "That's a philosophical difference. That is something that has disturbed me... I think that sometime along the line, maybe Martha's Vineyard is getting lost in the shuffle." Mr. Toole noted that Senator Montigny of New Bedford had been quoted as praising Mr. Parker in a local newspaper.

Ms. Brown suggested the following as a question to consider: Did the Commission as a body generally feel that the Steamship should facilitate easier travel to the Island or did they feel that the Steamship should provide basic, necessary travel? To refine that further, Mr. Donaroma recommended that they also look at the question of whether or not one-day day trips should be cut back, something the Authority was proposing to do. He was concerned, he said, that Islanders be able to take emergency trips, for instance. While he agreed with Mr. Athearn about paying the price for paradise, "it's an artery," he remarked, "we have to have it."

Mr. Toole pointed out that part of the reason the costs were going through the roof was that the number of tourist day-trippers who paid \$100 to come over for a brief visit was going down and the number of excursion-rate fares was going up. "It is our lifeline," observed Ms. Brown, "and we may have to pay for it."

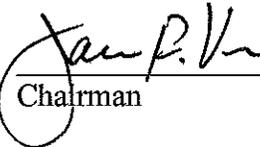
Mr. Best expressed the opinion that the Island should have two representatives to the Board of Governors, since it had two ports. Mr. Israel responded that the Town of Tisbury was lobbying state senators to do just that. He recommended that the SSA Board

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have seven members, with two from the Vineyard, and weighted votes to ensure that the two Islands would have a majority vote.

Mr. Israel also spoke briefly about the oft-discussed idea of having a transportation hub at the airport and how this would harm the economy of his Town.

The discussion wound down. Mr. Israel made a Motion to Adjourn, duly seconded. The Special Meeting adjourned at 10:31 p.m.



Chairman

9.20.01

Date



Clerk-Treasurer

9.20.01

Date

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

ABSENT: A. Bilzerian; D. Flynn; J. Greene; E. Horne; J. P. Kelley; C.M. Oglesby;
and R.L. Taylor.

[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 12, 2001
Proposed by the Commission Members
in the Meeting of August 23, 2001***

[An excerpt from the Meeting Minutes of August 23, 2001 follows immediately. It describes the revisions requested by the Commission members with regard to the Meeting Minutes of July 12, 2001.]

No revisions were proposed by the Commission members for the Full Commission Meeting Minutes of July 12, 2001.