

THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission Minutes for the Special Meeting of December 6, 2001

[The tape recording of this Meeting did not begin until Mr. Toole's report on the All Island Selectmen's Association. Thus, the material for the first portion of the Meeting comes from the shorthand notes of the Staff Secretary.]

The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, December 6, 2001, at 7:30 p.m. in the first floor conference room of the Commission Offices, Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts.

At 7:37 p.m., a quorum being present, the Meeting was brought to order by James R. Vercruyse, the Commission Chairman and a member at large from Aquinnah. He welcomed the members and expressed the hope that they were "going to roll through stuff tonight."

[Commission members present at the gavel were: J. Athearn; C. Brown; M. Cini; M. Donaroma; D. Flynn; T. Israel; J.P. Kelley; M. Ottens-Sargent; K. Rusczyk; L. Sibley; R. Toole; J. Vercruyse; K. Warner; A. Woodruff; and R. Zeltzer. Mr. Best arrived at 7:51 p.m.]

Approval of Meeting Minutes.

Christina Brown, a Commission member at large from Edgartown, made a **Motion To Approve The Meeting Minutes Of November 15, 2001 As Written**. Said Motion was seconded by Daniel Flynn, the County Commission representative. With no corrections or additions forthcoming, Chairman Vercruyse conducted a Voice Vote on Ms. Brown's Motion, resulting in 14 Ayes, no Nays and Mr. Donaroma Abstaining.

Discussion/Vote: F&M Realty Trust 2000 Written Decision (DRI #546).

Chairman Vercruyse referred the Commission members to the Written Decision for the F&M Realty Trust 2000 Development of Regional Impact (DRI #546). *[See the Full Commission Meeting File of December 6, 2001 (the meeting file) for a copy of the*

Decision.] The Chairman as well as Richard Toole, an Oak Bluffs member at large, pointed out that in Condition 1(a) on page 3 the word "member" should be changed to "number".

James Athearn, a Commission member at large from Edgartown, wanted to know why – if this was a simple subdivision and not construction – the final paragraph of the Decision referred to substantial construction having to be started within two years from the date of receipt of the document. Commission Executive Director Charles Clifford replied that much of the beginning as well as the end of each Written Decision was boilerplate text. "It just covers everything," he explained. "You can't cover every single thing."

Ms. Brown pointed out that in the unlikely event that the Applicant did not record his subdivision plan after two years, he would have to come back and get the Planning Board to sign its approval again.

Mr. Clifford noted that the Planning Board could always ask the Commission Staff if the Written Decision was still valid. He then offered the example of a subdivision's being approved by the Commission with no roads or utilities included. If the Applicant were to sell that land to another party, he said, that second party would still be held to the provisions of the Written Decision and would have to apply for a Modification if he then wished to build on the land.

Ms. Brown added that in many Towns, including Edgartown, the approval of a subdivision was valid for two years only.

Robert Zeltzer, a Commission member at large from Chilmark, made a **Motion To Approve The F&M Realty Trust 2000 Written Decision As Corrected**. Said Motion was duly seconded and carried unanimously by voice vote. *[All 15 Commission members present were eligible to vote. Mr. Best had not yet arrived.]*

Reports.

For his **Chairman's Report**, Mr. Vercruysse announced a meeting in Hyannis on Thursday, December 13, on the future of environmental and regional issues. The invitation had come from Arthur Bergeron, Special Assistant Secretary at the Executive Officer of Environmental Affairs.

Kate Warner, the West Tisbury Selectmen's Appointee, read into the record an invitation to an ice cream sundae party for Commissioners and Staff. The event would take place, she read, on Thursday, December 13, at 7:30 p.m. at Sodapops.

Chairman Vercruysse reported that a date had been set for the **MVC-sponsored public workshop on Chapter 40B issues**, to be presented by attorney Mark Bobrowski. The date, he said, was January 26, and the location and time had yet to be determined. Mr. Clifford noted that the event would take place either in the Baylies Room of the Old

Whaling Church or in some comparably sized meeting space. "All the Town Boards will be invited," he added.

Tisbury Selectmen's Appointee Tristan Israel suggested that the room where the workshop was held should contain tables or desks, "someplace where we can scribble and take notes." Ms. Brown recommended the Tisbury Senior Center. *[Mr. Best arrived at this point, 7:51 p.m.]*

Chairman Vercruysse reported that the **Executive Committee** had met on Tuesday, December 4, to discuss the transition from the tenure of Mr. Clifford to that of a new, not-yet-appointed Executive Director. "Chuck has agreed to extend the deadline on a month-by-month basis," said the Chairman, referring to the date of December 31 that had been settled on originally.

Chairman Vercruysse added that he would be talking to Commission Counsel Ronald Rappaport about amending the Executive Director's Separation Agreement to reflect this new development and that the full Commission would have a chance to react to whatever changes were made.

The Executive Committee, the Chairman continued, had also discussed the appointment of an Interim Executive Director, who would be trained by Mr. Clifford. This way, he said, Mr. Clifford could leave his options open and there would always be a sitting Executive Director in place.

Responding to a question coming from several members at once, Mr. Toole – another member of the Executive Committee – explained that the Interim Executive Director would be someone currently on Staff. Mr. Zeltzer remarked that there was an inherent problem with this proposal, since it might create in that Staff member the expectation of a permanent position as Executive Director. Chairman Vercruysse assured him that the temporary nature of the position would be made perfectly clear to whoever chose to take it.

The Chairman reported that the **Search Committee** had not met, but that the advertisements for the Executive Director position would be published in mid-December.

Marcia Mulford Cini – a member at large from Tisbury and Chair of the **Finance Committee** – reported that Commission Administrator Irene Fyler had done "yeoman work" on the budget, which had been discussed when the committee had met earlier that evening. She noted that the budget increase would be an "astoundingly small" 4 percent and that the committee would be meeting again on January 3 to finalize the numbers.

Discussion: High School Budget.

Mr. Toole reported on the meeting the night before of the **All Island Selectmen's Association (AISA)**, during which the school committee had presented the high school

budget. Said budget contained only a 4.84 percent increase, he said, partly because enrollment had not increased as anticipated and partly because of the Chapter 70 monies coming from the State.

Mr. Toole related that among the statistics presented were: that the eighth grade this year contained 202 students; that over the next decade seven to 10 teachers would be retiring each year; and that currently 80 students or 10 percent of the high school population participated in the English as a Second Language program. *[The tape recording began at this point.]* He noted that Oak Bluffs had taken "the biggest hit" as far as the Town assessments were concerned.

Oak Bluffs Selectmen's Appointee Kenneth N. Rusczyk remarked that although total enrollment at the high school for Fiscal Year 2002 was increasing by only 19 or 20 students, the number from some Towns had decreased, while Oak Bluffs had had an increase of 21 students.

Mr. Rusczyk recounted how he had asked at the AISA meeting if anyone was keeping track of the migration of households with children from Town to Town, and Superintendent of School Kriner Cash had answered yes, that Oak Bluffs was the affordable Town and that that was where the renters and the people who work go to. Tisbury, on the other hand, would have a decrease of 16 students. "Guess where they went?" Mr. Rusczyk asked.

"I think we share an unfair burden in that," declared Mr. Rusczyk, "and that when we talk about affordable housing, we should talk about it over a wide spectrum of the Island."

Mr. Toole reported that the FY 2003 budget totaled \$9,028,000. Mr. Rusczyk clarified that it was an \$11 million budget but that Chapter 70 monies and transportation reimbursements from the State had resulted in a net reduction.

Mr. Israel mentioned that he had proposed to the All Island Selectmen's Association that they form an Island-Wide Finance Subcommittee to oversee the School Committee's Budget Subcommittee. The group had not agreed to this idea, he noted. Although Tisbury would have fewer high school students in the coming year, Mr. Israel pointed to the increase in the elderly population in his Town and remarked that Tisbury was the closest Town demographically to Oak Bluffs.

Mr. Israel stated that, in any event, Tisbury Town Officials had participated in the budget process "from day one" this fall, and he encouraged other Towns to get members of their Finance Committees involved next year.

Mr. Rusczyk explained that all of the staff increases at the high school had been built into last year's budget, which accounted for the rise in costs for FY 2002. Another subject that had been raised, he said, was whether the state of the national economy was affecting the school population, specifically with regard to the Brazilian population on the Island.

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The Superintendent, he said, had answered that there had been no decrease in that group's numbers thus far.

Mr. Rusczyk continued that the Budget Subcommittee had started out with "some very hefty increases," around 10 percent. "So they really did sharpen their pencils and do quite a bit of work to help save the Island a lot of money," he observed. He credited West Tisbury and Tisbury Finance Committee members for a good part of that decrease. "If someone's looking over their shoulder, at least they realized there was pressure," he said.

Mr. Zeltzer made a recommendation: "I strongly suggest that they reach out to some of the Towns on the Cape and on the mainland because it's been my observation – and I've very limited experience – that school populations cycle." Mr. Toole responded that Arthur Flathers of Tisbury had brought up this very idea in the November AISA meeting. "They've done that," he said, "and they're going to continue to do that."

As for government funding, Mr. Rusczyk pointed out that while Chapter 70 monies were still available for FY 2003, the funds for the construction of new schools would be affected by the paring of the State budget.

Mr. Israel remarked that if the Island were to regionalize more than they already did, excess students in one Town could be shifted an elementary school in another, thereby mitigating the need to building new facilities. "There should be a way where we can share costs and resources, which we don't right now," he said. To make the extent of the imbalance more real, Mr. Rusczyk pointed out that his Town would have a \$280,000 increase in its assessment for Fiscal 2003.

"I've always been in favor of a well-written regional agreement," observed Ms. Sibley, "and would like to point out that most of the resistance to regionalizing the school system comes from people's fear that they will lose control over their local schools. But if you look at large cities, you realize that even where you have one governmental entity, you can build an agreement that has a good deal of community involvement and community councils that center around the schools and still preserve community control over the neighborhood schools."

Ms. Sibley agreed with Mr. Israel that an advantage of regionalization would be the ability of elementary-school students to cross political borders. A more radical consideration, she suggested, would be to have a regional school system that was financed according to the equalized valuation scheme.

Under this plan, Ms. Sibley explained, instead of a Town paying by the number of students, all students would be in a school system that belonged to the entire Island and all of the costs would distributed across the Island essentially based on the value of the properties. This system, she said, would be much more stable and less threatening to individual Towns.

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Reports [Continued].

Ms. Brown reported on the activities of the **Island of Chappaquiddick DCPC** weekly planning workshops in Edgartown. The four Town Boards responsible for creating the District regulations, she said, were now looking at what articles should go on the Town Warrant for 2002 and which should be considered in subsequent years. "Some of the issues are not easily boiled down to a new regulation right away," she observed, "but I think that we're making a lot of progress."

Chairman Vercruysse mentioned that on December 20 the Commission would be voting on the question of whether to hear the Nominated Amendments to the **Menemsha-Nashaquita Ponds DCPC**.

Reporting on the **Land Use Planning Committee**, Mr. Toole related that the committee had met and had "a great discussion," but that the Applicant had failed to show up. "A little confusion on the time," he remarked. The following Monday, December 10, at 4:00 p.m., he added, the LUPC would visit the site of the County Sheriff's Department Community Corrections Center (DRI #547), and afterward they would make a recommendation.

Ms. Sibley reported that the **Planning and Economic Development Committee** had met the preceding week to discuss the Island Harbors and Highways Infrastructure DCPC. Said District would expire soon, she noted. Mr. Clifford had shown the committee a video on Island roads, she continued, and he had suggested that, after the District expired, the planning activities could continue and that as more tangible regulations or Guidelines were created, the mechanism for their implementation could be through modification to the Island Roadside District.

Ms. Sibley also announced that the committee would be meeting that evening after the Full Commission Meeting to discuss the building permit caps and their expirations.

As for the **Affordable Housing Policy Review Subcommittee**, Ms. Cini reported that they had "pretty much given up on Mr. [Patrick] McGovern." She and Mr. Clifford were approaching John Ryan to do the nexus study, she said. It was possible, Ms. Cini noted, that Mr. Ryan could use the analysis and data of his recent affordable housing needs assessment study and could re-format that into a format suitable for the purposes of the nexus study.

For the **Legislative Update**, Mr. Clifford reported that the Legislature was "still messing with the budget." He also mentioned that he was going up to the State House in January to see about getting funds from the State related to the Governor's five Appointees, including one voting member. "The State has never carried its own load for the last 10 years," he remarked.

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Megan Ottens-Sargent, the Aquinnah Selectmen's Appointee, asked if it would be appropriate to approach the Governor's Appointees to help obtain the funds. "We're going to need some support from the folks who got appointed," responded Mr. Clifford.

Ms. Warner announced that the **Wind Project Presentation** was set for January 15 in the Baylies Room of the Old Whaling Church, from 6:30 to 8:30 p.m.

The Staff Secretary requested that the Commission members look over the green sheets containing the **schedule of deliberations for the Down Island Golf Club proposal** (DRI #543) and contact her or DRI Coordinator Jennifer Rand if any of them were unable to make any of the sessions.

Mr. Clifford referred to a document from John Pagini, Executive Director of the Nantucket Planning and Economic Development Commission in which were listed the top issues being proposed for discussion at the **Cape and Islands Planning Forum** on January 25, 2002. *[See the meeting file for a copy.]* "In theory we're all going," he said. A brief discussion ensued.

A Statement by Daniel A. Flynn about his Departure.

Mr. Flynn read from a prepared statement, beginning by expressing his "mixed feelings" about not getting reappointed as the County Commission representative. *[See the meeting file for a copy.]* "I am offended; no, I am [made] livid, by the actions of several elected and appointed officials both on this body and others who have used manipulative tactics and philosophical agendas to orchestrate my departure," he read. "One does not want to think that he has wasted several hundred hours of his life in vain."

Mr. Flynn spoke of his belief that his failure to be reappointed had been precipitated by what others had perceived to be his position on the Down Island Golf Club proposal. He had attended all the Hearing sessions, LUPC meetings and site reviews, he said, and had been "genuinely interested in all points of view and empirical data." Mr. Flynn also expressed concern that the Hearing Officer would leave the record open until after his departure.

He had taken offense, Mr. Flynn remarked, to the stall tactics used subsequent to the filing of this DRI, specifically, opening the Hearing on July 5, 2001 and then immediately continuing the Hearing to a later date to seek opinions from the State Ethics Commission. Those issues should have been settled before the filing, he said.

Mr. Flynn also objected to the stretching-out of the Hearing sessions, with a fourth session set for December 20. That session could have taken place on December 6, he said, but three or four people had grumbled about that date. He then noted that only two Commission members were missing that evening. "Another 14 days wasted," he remarked.

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Mr. Flynn concluded: "Obviously, I am not departing in as graceful a manner as I would have liked. However, the circumstances leading up to my departure, in my opinion, necessitate this action. For that I apologize. I apologize to those of you who were not participants in these manipulations and behind-the-scene tactics. My remarks should not have any reflection on Staff. I have enjoyed working with you. Your commitment to excellence and your commitment of time are unsurpassed. Thank you for taking the time and for having the patience teaching 'the new guy' what he needed to know."

Mr. Zeltzer said that he wanted to thank Mr. Flynn personally. Although he had disagreed with Mr. Flynn as much as he had agreed, he continued, the County Commission representative had done his homework and had carefully thought things through. "I've been very grateful for his participation, and I'll miss it," he remarked.

Mr. Zeltzer added that he was "disappointed, troubled, virtually depressed by the fact that so much has happened here in the last year or so, and Dan is the latest victim, where we've politicized this body to a great extent and much of the activity has taken place outside the Meetings and has in fact been geared so that we've become a one-issue Commission, and I'm very saddened by that."

Ms. Brown commended Mr. Flynn: "Your work in getting this Commission going again in its transportation planning has been invaluable. And we are not a one-issue Commission right now, we don't believe that, whether or not you agree with me." Ms. Brown thanked Mr. Flynn for his work with transportation and his getting the Commission thinking about long-term transportation planning, opening their eyes to the good things that could be done with coordinated planning. "We're going to miss you," she concluded.

Staff Secretary Pia Webster remarked that as a Staff member, it made little difference to her whether she agreed or not with how a Commission member voted. The standard she looked at, she said, was whether the Commissioner read the Minutes, had a good attendance record, got involved with committees and talked to Staff to find out more about what they were doing. "And in all those categories Dan has been fantastic," he said. "He has shown this year more interest in what the Staff is doing than, I think, any other member, and he makes us all feel pretty good. So I want to thank him for his service this year.... [H]e's put in a lot of good, hard work."

Transportation Planner David Wessling commented, "I'd also like to say what Pia just said, but also would like to remind you that we're losing a Commissioner with a great deal of expertise." Mr. Flynn told the members that he had let Mr. Wessling know that he would be helping out with the Joint Transportation Committee. "You know, I have too much of an interest in transportation not to do that," he said.

Mr. Flynn then joked, "As far as, you know, anything else is concerned, I just learned more than I ever knew I didn't want to know in my whole life, and just can't wait to flush it."

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Addressing Mr. Flynn, West Tisbury member at large Andrew Woodruff said, "I just want to say I sincerely hope that, I don't believe that there're stall tactics going on here intentionally, and I sincerely hope that members of your County Commission did not reelect you or reappoint you strictly because of the golf issue. And if any of this has occurred, I think it's a shame. And I recognize some of the things that Staff is saying, and I appreciate working with you."

Update of the Joint Transportation Committee.

Mr. Wessling provided an update on the re-formation of the Joint Transportation Committee (JTC), referring the members to a memorandum he had sent to them the week before. *[See the meeting file for a copy.]*

Mr. Wessling explained that the JTC was a group that provided advice for, among others, the Martha's Vineyard Commission and the Martha's Vineyard Regional Transit Authority and that every year the members had to be appointed. The task of each signatory – one of them in this case was the Commission – was to propose a list of nominees, he said, and so he needed a vote that evening on the list contained in the memorandum.

Mr. Wessling then read aloud the names suggested for membership. The recommended core group was: Richard Combra, Oak Bluffs Assistant Highway Superintendent; Fred LaPiana, Superintendent of the Tisbury Department of Public Works; Dennis Luttrell, Tisbury's Town Administrator; Larry Mercier, Edgartown Highway Superintendent; Woody Vanderhoop, a planner and grant writer for the Wampanoag Tribe of Gay Head (Aquinnah); Michael Wallace, who is involved in the rental of cars, bicycles and mopeds; and David Whitmon, an advocate for bicycling.

The suggested *ex-officio* members were: Sarah Bradbury, the Commission's liaison at the Massachusetts Highway Department; Angela Gompert, Administrator of the Martha's Vineyard Regional Transit Authority; Bridget Tobin, a manager for the Steamship Authority; Beth Toomey, West Tisbury Police Chief; Bill Weibrecht, Martha's Vineyard Airport Manager; and Dan Flynn.

"I think we've got a very broadly representative group," remarked Mr. Wessling. Ms. Brown said she had noticed that there were two recommended core members from the Town of Tisbury, but not a comparable highway department person from either West Tisbury or Chilmark. Mr. Wessling explained that he had sent a letter to each Board of Selectmen requesting nominations, "and I had no response. However, in the *ex-officio* group we do have Beth Toomey, who is from West Tisbury.

Mr. Israel pointed out that Mr. Luttrell had extensive experience as a grant-writer and, secondly, that Tisbury's Highway Department and Executive Branch were separate. Ms. Brown expressed concern that, as had happened in the past, West Tisbury and Chilmark

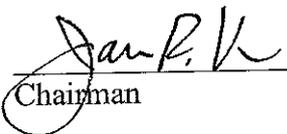
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might come to feel with regard to the JTC "that time has slipped them by." She wondered if perhaps an additional effort could be made to solicit members from those Towns.

"Could I ask you to approve this list, and then I'll seek additional members?" asked Mr. Wessling. Mr. Flynn suggested that Chilmark Executive Secretary Tim Carroll be invited. "I strongly suggest that you go to the Board of Selectmen to appoint somebody," said Mr. Zeltzer.

Ms. Brown made a **Motion To Approve The List With An Addition Of A Member Or Members From Up-Island To The Core Group**, duly seconded. By voice vote, said Motion carried unanimously.

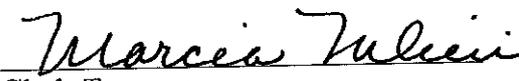
Ms. Sibley made a Motion to Adjourn, duly seconded. The Special Meeting adjourned at 8:36 p.m.



Chairman

2-7-02

Date



Clerk-Treasurer

2-7-02

Date

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

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

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

***Summary of Revisions to the
Meeting Minutes of December 6, 2001
Proposed by the Commission Members
in the Meeting of January 10, 2002***

[An excerpt from the Meeting Minutes of January 10, 2002 follows immediately. It describes the revisions requested by the Commission members with regard to the Meeting Minutes of December 6, 2001.]

The Commissions member did not request or recommend any revisions to the Meeting Minutes of December 6, 2001.