The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, August 8, 2002, at 7:30 p.m. in the first floor meeting room at the Commission Offices in the Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts. At 7:39 p.m., a quorum being present, Richard J. Toole – a Commission member at large from Oak Bluffs, the Chairman of the Land Use Planning Committee and the Hearing Officer that evening – called the Special Meeting to order.

[Commission members present at the gavel were: J. Athearn; J. Best; A. Bilzerian; C. Brown; M. Cini; M. Donaroma; J. Greene; J.P. Kelley; T. Israel; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.]

Continued Public Hearing: Gervais-Goldsborough Fueling Center (DRE #489-2).

Mr. Toole read into the record the Notice of Public Hearing for the Gervais-Goldsborough Fueling Center in the Town of Tisbury (DRI No. 289-2). [See the Full Commission Meeting File of August 8, 2002 (the meeting file) for a copy of the notice.]

The Staff Secretary read aloud the names of the Commission members present who had attended the first session of the Public Hearing on June 20, 2002. They were: J. Athearn; J. Best; C. Brown; M. Donaroma; T. Israel; C.M. Oglesby; M. Ottens-Sargent; L. Sibley; A. Schweikert; R. Toole; J. Vercruysse; R. Wey; A. Woodruff; and R. Zeltzer.

Jane A. Greene, the Chilmark Selectmen’s Appointee, stated that she was abstaining completely from the proceedings. Then she left the meeting room. Ms. Cini, also ineligible, left the room. [Ms. Cini did not return to the Special Meeting.] Mr. Toole then outlined the Hearing procedure.
Applicant Presentation.

Tom Gervais, who, along with partner Bobby Goldsborough, was the Applicant, introduced himself and referred the Commission members to a Supplemental Report included in the members' packets as well as to a document containing answers to a number of questions posed by Commissioners in the first Hearing session. [See the meeting file for copies of these materials.]

Nancy Fitzpatrick, a member of the Applicant's team, provided a brief overview of the contents of the Supplemental Report. The report, she said, covered data about increases in the number of registered cars on the Island as well as material that addressed questions about expected traffic generation from the project.

Reading from the introductory letter from Mr. Gervais that prefaced the Supplemental Report, Ms. Fitzpatrick said, "As we stated during the initial Public Hearing, our intent is to have not only the most attractive fueling center on the Island, but also to provide a safe service business, one which fulfills a real need without adding undue burden to the State Road commercial area."

Continuing, Ms. Fitzpatrick read, "We appreciate the Martha's Vineyard Commission's responsibility in evaluating the potential environmental impact posed by any new Island business. But we are confident that the Commissioners will bring an intelligent fairness to the table and that we will have provided the information essential to the Decision process."

The first section of the report, Ms. Fitzpatrick went on, looked at the increase in the number of cars registered on the Island, which was, in fact, much greater than the Applicant had originally projected. Section two addressed fuel safety at gas stations, and section three contained photographs of Island gas stations from the 1930s and 1940s, she said.

From the Energy Information Administration, related Ms. Fitzpatrick, the Applicant had received the information that had gone into the next section, which included a primer on the components of the retail price of gasoline, why the price fluctuated and why the price differed by region of the country. The same section, she said, contained an article from The Wall Street Journal on what had happened when Wal-Mart decided to discount its gas prices, as well as data on consumer buying habits.

Section five looked at the economic impact of tourism, with "a dollar-and-cents overview of how the growth on the Cape and Islands has impacted all the needs for ... increased services," said Ms. Fitzpatrick, and the final section provided information on new technologies that would alter the configuration of gas stations in the future.

Next, Mr.Gervais answered a number of questions that had been posed by Commissioners during and after the first Hearing session. First addressing questions
from Tisbury Selectmen’s Appointee Tristan Israel, Mr. Gervais took up the issue of the actual pumping capacity on the Island and whether it had increased or decreased since 1980. Unfortunately, he said, it had been impossible to ascertain that because (a) new emission standards made current gas pumps physically different from those of 1980, and (b) such information was, in fact, proprietary.

As for the size of tank trucks delivering fuel, Mr. Gervais continued, major supplier Noonan had two truck sizes: 10,500 gallons and 11,000 gallons. He pointed out that the 80,000-pound limit on ramp loads for Steamship Authority landings would prohibit a tanker from holding more than 10,500 gallons.

Mr. Israel had also wanted to know how often fuel would be delivered, and Mr. Gervais said that he expected deliveries to occur every two to five days, depending upon the season. Turning to a question about the distance of the proposal site from the Zone II Area of Contribution, Mr. Gervais referred the members to Water Resources Planner William Wilcox’s Staff Report, which had indicated that the site was 250 feet from the wellhead contribution zone.

Addressing the query about the peak hour for traffic flow, Mr. Gervais said that the peak occurred from 4:30 to 5:30 in the afternoon. As for the question about whether the station would be filling tractor trailers, Mr. Gervais said that no, his station would not be doing that. Then he explained that the local tractor trailer units had their own fuel filling tanks in their yards and that those that traveled off-Island used truck stops.

Linda Sibley, a Commissioner at large from West Tisbury, had asked about a comparison between gasoline usage on-Island in 1980 and usage now, Mr. Gervais went on, and the answer to that was, again, this was proprietary information. “Campbell and Packer were the only two that were on the Island in 1980, so we have nowhere to get a basis for that,” he said.

Mr. Gervais then covered some other issues that had arisen in the Public Hearing session of June 20. Regarding his assumption that the rate of vehicle growth on the Island had matched that of the population (60 percent), Mr. Gervais stated that he had been mistaken and that the actual increase in the number of registered vehicles had been 134 percent, from 9,492 in 1980 to 22,272 in 2000.

As for the number of vehicles using the Tisbury Park-and-Ride facility, Mr. Gervais explained that the Town did not have this data, since there were both seasonal and annual passes and the tickets were sold at a number of outlets. Mr. Israel, a Tisbury Selectmen, announced at that point that short-term parking at the facility would be free.

Regarding the tenants in the former Vineyard Clay House, Mr. Gervais related that the Chinese antiques dealer who had occupied the building at the time of the first Hearing session had vacated the premises. Currently, he reported, the Golden Door antiques
business was a tenant, and that lease would end on September 2, 2002. “A copy of the lease is on file with the Commission,” he added.

Moving on to the subject of landscaping, Mr. Gervais remarked that the drought and heat had taken its toll on the grass and that in the fall the Applicant planned to “bring the grass up to its potential.” As for the buildings on the site, the larger building toward the rear had a fresh coat of green paint on its doors, he related, and the following week the High Point Lane side of that building would be painted white.

Regarding the change in the High Point Lane curb cut, Mr. Gervais explained that the new cut would be 92 feet from southeast corner of the property line, with the new location providing three benefits: a better view of vehicles leaving the gas station; a larger staging area on High Point Lane for vehicles exiting the station; and more room so that a fuel delivery truck would not have to cross over into the other lane when turning.

To demonstrate the last benefit, Mr. Gervais asked Mr. Goldsborough to show the members a drawing of how the fuel delivery truck would enter and exit the site, while Mr. Gervais provided an oral description and answered a few questions about it [out of earshot of the Staff Secretary and the range of the nearest microphone]. Mr. Israel wanted to know for what time of day the fuel deliveries would be scheduled. “First thing in the morning,” answered Mr. Gervais, “the first boat, the second boat.”

Mr. Gervais mentioned that he had spoken with Public Works Superintendent Fred LaPiana, “and he foresees no problem with the new location of the cut.” He added that the present curb area would provide a good bus stop or passenger staging area.

As for the issue of drainage and the new curb cut, Mr. Gervais said that engineer George Sourati had to be off-Island that evening, although Mr. Sourati had called up Water Resources Planner William Wilcox to discuss it. “George Sourati said there’s no problems with it, and if you’ve got questions, Bill [Wilcox] said he would field answers on his behalf,” reported Mr. Gervais.

“I know that it may never rain again, so this may not be a problem,” said Mr. Israel. But had the problem of water pooling in the corner of the property after normal rainfall been addressed? he wondered. “Ah yes, I’m assuming that they would bring that up to grade with fill,” replied Mr. Wilcox, “so that that will no longer be a low point.” “That’s in our drawings,” noted Mr. Gervais.

Turning to the subject of the location of the monitoring wells, Mr. Gervais displayed a drawing showing their siting. He explained that there would be four monitoring wells around the fuel tanks. He showed a drawing of a monitoring well and riser. [The tape recording ended at this point and did not pick up again until the end of Ms. Rand’s Staff Report. See page 7 of these Minutes. Thus, this next portion of the Minutes was prepared solely from the Staff Secretary’s notes.]
James Athearn, a Commission member at large from Edgartown, remarked that the monitoring wells did not extend very far into the ground. Mr. Gervais explained that the wells would be monitoring vapor leaks from the tank, with one monitor inside the Petrogard liner and the other three were outside the tank.

Mr. Gervais also related that, following Mr. Wilcox’s advice, they had switched to a brand of spill-cleanup material – EnviroSorb – different from the one that had been proposed originally. In addition, also at Mr. Wilcox’s suggestion, they would be using a more advanced leak detection system, the Veeder Root TLS 350.

Next, Mr. Gervais asked Mr. Goldsborough to address the subject of safety at the gas pumps and common accidents. Mr. Goldsborough said that he had just celebrated the seventh anniversary of his facility in Maryland and that during that time customers had driven off with the fuel handle still in their tank six times. Because of a quick-release mechanism, though, no fuel had been spilled, he stated. In addition, the Maryland facility offered self-service and the 412 State Road facility would have attendants, so this is even less likely to happen in the case of the new project.

The subject of traffic generation was covered by traffic engineer Ken Petraglia, who answered some Commissioner questions that he had culled from the Minutes of the first session. Ms. Sibley had asked him to work up the numbers for a complete no-build situation, that is, under the circumstance where neither the 412 State Road facility nor the one proposed on High Point Lane (DRI No. 552) would be built. “That’s not what we usually do,” he remarked.

Nonetheless, he had done the requisite calculations, said Mr. Petraglia, and he had concluded that in a no-build situation the Level of Service on that part of the State Road corridor would be an “E” rather than an “F.” “So it would be slightly better,” he noted, adding, “and only building one gas station would be better than building two.”

Mr. Petraglia continued that Mr. Israel had inquired about the amount of traffic that one could expect to be generated if the Town’s sewage treatment plant at the end of High Point Lane were to be maximized. According to Public Works Department Superintendent Fred LaPiana, Mr. Petraglia reported, there would be one employee at the plant, and truck traffic would consist of two trucks per day, plus one truck per week to take the waste away.

Mr. Israel had also wanted to find out about how long it would take trucks filling up on diesel fuel to exit the facility and then get back onto State Road. Mr. Petraglia related that he had studied the gap data and had found that trucks required on average a gap of 10 seconds to exit, while passenger cars required one of six to seven seconds.

“Why would your location on State Road be more beneficial than the location on High Point Lane?” asked Alan Schweikert, the Oak Bluffs Selectmen’s Appointee. Mr. Petraglia replied that the only difference was that at the 412 State Road site, all the
vehicles would be entering from one curb cut on one road (State Road) and would be exiting from another curb cut on a different road (High Point Lane). In the case of the Tisbury Fuel Services project, he said, all the traffic would be entering and exiting that facility at High Point Lane.

But what is the benefit? repeated Mr. Schweikert. “There’s an advantage to that splitting of the traffic,” answered Mr. Petraglia.

What was the Level of Service on that part of State Road? inquired Mr. Israel. “It’s failing by any traffic definition today,” responded Mr. Petraglia, who added, “You don’t need numbers to go there and see it.” He explained that current analysis tools were not sophisticated enough to factor in the sorts of gaps that occurred there, most notably the cases of vehicles stopping to allow other drivers to take left turns.

Mr. Israel asked about the gaps that Mr. Petraglia had referred to earlier. Mr. Petraglia reiterated that a car needed a six-to-seven-second gap to turn, while a truck needed about 10 seconds. “Have you looked at the impact of your station, though,” asked Mr. Israel, “because there are problems there now.” Mr. Petraglia answered that his analysis had not taken into account the proportion of trucks to cars expected to use the proposed facility and so could not say what the total required gap time would be.

Mr. Israel pointed out that when a truck or bus exited High Point Lane, cars on State Road in the opposite lane had to wait. Mr. Petraglia replied, “I would say that it may be true of trucks waiting on High Point Lane and then another truck wanting to turn in, then there’s a problem.”

Michael Donaroma, the Edgartown Selectmen’s Appointee, wondered if, in fact, fewer curb cuts on State Road would be better. He inquired if the Applicant had considered putting both the entrance and exit curb cuts on High Point Lane. “In general, I agree,” said Mr. Petraglia, “but in this case, High Point Lane is too narrow.”

“Would it be a Town issue to widen High Point Lane?” inquired Andrew Woodruff, a Commissioner at large from West Tisbury. “Yes,” murmured two or three unidentified Commissioners at the same time. “What’s the width of High Point now?” asked Roger Wey, the County Commission representative. “Twenty-two, twenty-three feet,” said Mr. Gervais. “But what is the right of way?” asked Mr. Wey. “I don’t know,” replied Mr. Gervais.

Mr. Woodruff related that he had heard talk about having a bypass road that would allow drivers to avoid the intersection of the Edgartown-Vineyard Haven Road with State Road. “We’ve looked at having a parallel road,” said Mr. Israel. Is it going to happen? asked Christina Brown, a Commissioner at large from Edgartown. “Not in the next five years,” said Mr. Israel, who added that there had also been talk of having a road from the Edgartown-Vineyard Haven Road to the Tisbury Park-and-Ride as well as of using
Evelyn Way or Old Holmes Hole Road as a bypass. [Ms. Warner left the meeting room at this point, 8:18 p.m.]

Mr. Gervais moved on to the subject of pricing, a topic they had not discussed in the earlier Hearing Session, he explained, because they had not yet made any contractual arrangements with a supplier. What he had done, though, was to include in the Supplemental Report some pricing information. “I can and will say that our pricing will be fair,” declared Mr. Gervais, adding, “We believe in giving our customers value for their dollar spent.”

Lastly, Mr. Gervais provided details on a new affordable housing contribution offer, something that had evolved after listening to housing advocate JuleAnn VanBelle at the June 20 session. The amount recommended by the Commission’s Affordable Housing Policy was $2,000, he said, and this was the amount the Applicant had offered to the Tisbury Affordable Housing group. However, he and his partner had now decided to change that offer to $6,000 upon the opening of the filling station, followed by $6,000 per year for the next four years, for a total donation of $30,000. “That’s $500 a month for a five-year period,” Mr. Gervais emphasized.

Staff Reports.

DRI Coordinator Jennifer Rand reported that since the session on June 20, new information had been submitted on the monitoring wells, which the Applicant had presented that evening. In addition, she said, the Executive Director of the Dukes County Regional Housing Authority had written a letter expressing concern about the adequacy of the Applicant’s offer to mitigate the project’s impact on the availability of affordable housing. However, Ms. Rand stressed, that letter had been written based upon the Applicant’s earlier offer.

As for other correspondence, Ms. Rand related that she had received four letters, of which one was not in favor of the project and three considered the new facility an asset. One other letter – from Up-Island Auto – had been received that afternoon, after the Staff Report had been written. It was a “25” (that is, the correspondent had submitted 25 copies of the letter) and had been included in the Commissioner packets, she added. [The tape recording resumed at this point]

The Hearing Office asked Water Resources Planner William Wilcox if he had anything to add regarding wastewater and drainage issues. “Just pretty much what Tom [Gervais] already summarized,” replied Mr. Wilcox. “There are four monitoring wells. Three are outside the liner… so these would be vapor-monitoring wells as opposed to groundwater. [The groundwater]’s about 100 feet below grade at this site. One well would be situated within the liner to monitor spillage before it got outside the liner system.”

Mr. Wilcox continued that the Applicant had offered to increase the sensitivity of the leak-detection system to 0.2 gallons per hour. “This is a good thing,” he remarked. The
Applicant had also listed the contents of the spill kit, including pads, mini-booms, the EnviroSorb that Mr. Gervals had mentioned, as well as transportation drums for used materials. “And I would suggest that we require that that [the kit] be on hand,” he said.

Mr. Wilcox related that he had spoken with engineer George Sourati about the stormwater-handling system, which would be the Vortechs system. This would remove the sediments and some of the hydrocarbons from the wastewater. From there the wastewater would go into the leaching pits. If the Vortechs system was designed for less than 30 gallons per minutes per square foot, it would remove roughly 85 to 90 percent of the hydrocarbons, he explained. “So I think that ought to be another requirement,” he added.

Mr. Israel wondered if there was any data on what was typically found on former gas-station sites. Mr. Wilcox answered that generally 21E-type investigations were ordered for sites of gas stations when the property changed hands. “I’m not sure if that’s proprietary information,” he said. “I don’t have any of that kind of information.”

Mr. Wilcox explained that a certain amount of drippage went along with fueling vehicles but that the fueling-pump stations would be on a cement-pad surface, where evaporation would account for the predominant loss of gasoline and diesel. As for oil, there might be some runoff, he said.

Mr. Israel reworded his question, and Mr. Wilcox replied again that he did not have any specific information on that. “I can investigate that,” he added.

Mr. Goldsborough offered the information that when a gas station closed down, the tanks were removed. When his own station in Maryland had been rebuilt in 1990, he went on, the fiberglass and steel tanks that were put in were in place of the older tanks that were, nevertheless, still good.

Responding to another question from Mr. Israel, Mr. Goldsborough offered details on the design of the cement pad under the fueling stations, which contained grooves to catch spills. “It doesn’t absorb the gas,” he emphasized. “It’s not an asphalt pad, it’s a cement pad.”

Mr. Toole asked Transportation Planner David Wessling if he cared to comment on Mr. Petraglia’s traffic report. Mr. Wessling referred to his addendum to his original Staff Report. The Staff Secretary noted that this had been included in the latest mailing. [See the meeting file for a copy.]

Mr. Donaroma inquired if Mr. Wessling agreed that High Point Road was too narrow to have both entering and exiting vehicles using it. Mr. Wessling replied that the proposal site was a corner lot and that the traffic pattern had always been having an entrance on State Road and an exit onto High Point Lane. “I didn’t get the answer out of that,” remarked Mr. Schweikert.
Mr. Donaroma reworded his query: “My question is, if we close off the entrance so he has no entrance or exit on State Road, both entrance and exit on High Point … the gentleman said that High Point’s not wide enough. Did you find that same thing in your [evaluation]?” “That’s true,” said Mr. Wessling.

Referring to Mr. Wessling’s addendum to his original Staff Report, Mr. Israel wanted to know if he had meant to type “2002” instead of “2007.” Mr. Wessling indicated that Mr. Israel was correct.

Ms. Sibley wondered if it were possible to calculate the theorized reduction in traffic at Five Corners if the gas station were to be built. “Yes, you can,” answered Mr. Wessling, who explained that one would have to calculate the trip generation for the whole spectrum of uses at Five Corners. One thing to keep in mind, he said, was that if a space was created due to some reduction, another car would simply fill it. “They’re not going to avoid it because there might be a gas station up the road,” he stressed.

Mr. Sibley pointed out that the Applicant was talking about traffic that was expected to be coming from Up-Island, that would stop at the proposed facility and then go no farther. “Can you calculate whether that would have a measurable impact on the congestion at Five Corners, for the moment assuming that nobody rushed in to fill the gap?” she inquired. “I think the answer to that,” said Mr. Wessling, “is that there may be some reduction in the traffic at Five Corners … but it may not be enough to make a difference.”

“And do you have a judgment on that?” asked Ms. Sibley. “No,” responded Mr. Wessling. “Could you have a judgment on that?” wondered Ms. Sibley. Mr. Wessling explained that although it could be calculated, he did not believe that the effect would be significant.

Mr. Israel requested that Mr. Wessling provide his assessment of the stretch of State Road where the station would be located. Mr. Wessling replied that he was not a traffic engineer. “I’d say it’s real busy,” he remarked.

Mr. Schweikert asked Mr. Wessling if he could give his opinion on the benefits versus the detriments of a gas station on High Point Road versus one on State Road. “They’re about the same,” said Mr. Wessling.

The Hearing Officer asked for testimony from Public Officials; there was none. He then asked for testimony from members of the public in favor of the proposal.

Testimony from Members of the Public For and Against the Proposal.

Steve Bernier, owner of Cronig’s Market, stated, “Hearing the comments about Five Corners, I don’t think we have to be rocket scientists to understand that in this area we
have a cluster of homes that have vehicles, trucks or whatever and we have to travel down to Five Corners to go get gas. If we had a gas station over here, they wouldn’t all have to travel that distance down through Five Corners.”

Mr. Bernier went on, “And the same vehicles have to go do their errands, go do their business, go to work, go to school, whatever. To be traveling a shorter distance to go get gas, we’re going to reduce traffic. Does it really matter … what percent applies to it? We’re going to improve the environment that we’re living in.”

Mr. Bernier continued, “So I think we need a gas station on State Road. It’s going to cause less overall traffic in the Town of Vineyard Haven.” [The tape recording was cut off at this point and did not pick up again until 9:06 p.m., just following the recess. See page 12 of these Minutes.]

Mr. Bernier added that “in an ideal world, we should move one of the ones at Five Corners.” He then concluded: “But we need a gas station in that area. You don’t need a traffic engineer to tell us that.”

Ms. Brown asked Mr. Bernier where his delivery trucks gassed up. The large trucks gassed up off-Island, replied Mr. Bernier, and the other trucks filled their tanks at Five Corners.

Constance Mesmer stated that she did not believe that the Island needed another gas station. “When I need gas,” she said, “I see where I am and get it nearby.” She added that she did not ever see any real lines of vehicles waiting to gas up at the existing stations, except, perhaps, at the Airport Mobil.

Mr. Israel requested that Mr. Bernier comment on what he believed would be the impact on State Road traffic if the gas station were to be built. “It is what it is,” answered Mr. Bernier. “Nothing’s going to change that. Planning needed to be done 20, 40 years ago.” He added that he thought that High Point Lane was too narrow to have both entering and exiting traffic using it. Was it a Town road? he asked Mr. Israel. Yes, it was, replied Mr. Israel.

High Point Lane definitely needed to be improved, Mr. Bernier pointed out. When the Coca-Cola distribution center had operated at the 412 State Road property, it had generated quite a bit of traffic, he said. “This location [for the gas station] doesn’t make more cars,” he observed. “This or the other one won’t increase the traffic in our area and will reduce the Beach Road traffic.”

Mr. Bernier concluded: “The bigger issue is the future growth of the Park-and-Ride.”
More Questions from Commission Members.

There was no other testimony from members of the public. Mr. Israel inquired whether the Hearing and/or the Public Record would be closed that evening. The Hearing Officer replied that he would get to that after the Applicant's summary.

Mr. Woodruff wanted to know about the possibility of another business operating out of the former Vineyard Clay House building toward the front of the property. Mr. Gervais replied that any new business in that building would have to come before the Commission as a Development of Regional Impact.

Ms. Brown mentioned that there was, in fact, currently a tenant – The Golden Door – in the former Clay House building. “If the gas station happens, those buildings are empty,” answered Mr. Gervais.

Mr. Donaroma asked if Mr. Gervais had ever considered having a gas station that would be open only during the summer season. “You can close down [your business] in summer, can you?” responded Mr. Gervais.

Applicant's Summary.

For his summary, Mr. Gervais went through his evaluation of the benefits and detriments of the proposal. Regarding the issue of whether the project was appropriate for Martha’s Vineyard, he pointed out that there was no other location farther Up-Island on State Road where the Zone of Contribution would not be violated. Secondly, the existing gas station on the Island did not have the space to expand to meet the growing demand.

As for whether the development would have a positive environmental impact, Mr. Gervais related that almost half of the site was covered with trees, shrubs, flowers and grass to create what he described as “the most beautiful filling station on Martha’s Vineyard.” In addition, he said, the project would incorporate a special third containment phase for all pumps and tanks, which was more than was required under State and Federal law. Lastly, he explained, the property had ample space to be adapted to the more environmentally friendly types of fuels used in fuel cells and other hybrid engines.

Moving on to the subject of whether the development would favorably affect people and property, Mr. Gervais testified that people would be relieved of the hassle of fighting traffic while passing the intersection of State Road with the Edgartown-Vineyard Haven Road and then on through the very congested Five Corners area. Moreover, he added, the property was favorably enhanced by its park-like landscaping.

Turning to the issue of the development’s effect on the availability of affordable housing, Mr. Gervais referred to his offer of $30,000 to a low- or moderate-income housing fund and stressed that it far exceeded $2,000, the amount calculated using Commission’s Affordable Housing Policy formula.
Another positive aspect of the proposal, Mr. Gervais continued, was that it would not burden the taxpayers of the Town of Tisbury, since the buildings already existed and there would be few or no changes in the infrastructure supplying water and electricity. Additionally, he said, he would build a new septic system at his own expense.

Addressing the subject of whether the development would unduly burden public facilities over the next five years, Mr. Gervais related that the projected road usage increase during that period would fall within the expected norm of 2 percent.

Mr. Gervais also spoke about how the development would aid in the Town’s general plan by reducing traffic congestion at the Edgartown-Vineyard Haven Road intersection as well as at Five Corners. Furthermore, it would save the public’s time by providing this service in the “Up-Island Tisbury” business district.

Lastly, Mr. Gervais stated that the development would in no way contravene the land development objectives and policies of local, regional and State agencies.

“With these thoughts in mind,” Mr. Gervais said, “I hope you will have a positive view of our proposed filling station and vote for its Approval. A ‘yes’ vote will benefit everyone on Martha’s Vineyard.” He thanked the Commissioners and Staff for their time and consideration.

Mr. Israel argued the viewpoint that the Written Record should stay open so that the Commission members could go through the new materials that the Applicant had submitted just that evening. After some discussion, Mr. Toole closed the Public Hearing, keeping the Written Record open for two weeks. The time was 8:53 p.m. James Vercruysse, a member at large from Aquinnah and the Commission’s Chairman, called for a brief recess.

Vote: Vineyard Tennis Center and Fitness Club Written Decision (DRI #425M-2).

[Ms. Greene returned to the meeting room, as did Ms. Warner. Thus, the Commission members seated for the remainder of the Special meeting were: J. Athearn; J. Best; A. Bilzerian; C. Brown; M. Donaroma; J. Greene; T. Israel; J.P. Kelley; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer. The tape recording resumed at this point.]

At 9:06 p.m., the Chairman reopened the Special Meeting. Mr. Israel made a Motion To Move To Item Six, Possible Vote, duly seconded. The Commission members spent a few minutes looking over the text of the Written Decision for the Vineyard Tennis Center and Fitness Club Modification (DRI #425M-2). [See the meeting file for a copy of the Written Decision.]
Ms. Sibley made a Motion To Approve The Vineyard Tennis Center And Fitness Club Modification Written Decision As Written, duly seconded by Ms. Brown.

Ms. Greene pointed out that the Condition stipulating that there were to be no parties on the fitness-related and/or the tennis-related premises had been left out. [See page 23 of the Full Commission Meeting Minutes of July 18, 2002.] DRI Coordinator Jennifer Rand explained that she and Acting Principal Planner William G. Veno had felt that it was unnecessary.

The Staff Secretary provided Ms. Greene with a draft of said Condition, which Ms. Greene read aloud and accepted. The Condition read: “That the Commission accepts the testimony of the Applicant at Public Hearing that the uses of the facility shall be restricted to those related to the tennis center and fitness club and shall not include such things as weddings, large-scale functions or similar activities.”

Ms. Sibley amended her Motion: To Approve The Vineyard Tennis Center And Fitness Club Modification Written Decision, As Amended, with Ms. Brown amending her Second.

The Staff Secretary then conducted a Roll Call Vote on the Motion, with the following results:

AYES: J. Athearn; J. Best; C. Brown; M. Donaroma; J. Greene; T. Israel; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

INELIGIBLE: A. Bilzerian; J.P. Kelley; and C.M. Oglesby.

The time was 9:12 p.m.

New Business: Discussion of a Proposal from the Oak Bluffs Selectmen – New Down Island Golf Club Application (DRI #556).

Chairman Vercruysse said that the next piece of business to attend to was a discussion of a proposal from four of the five Oak Bluffs Selectmen related to the new DRI filing by the Down Island Golf Club (DRI #556). “Is there a new filing?” asked John Best, a Commission member at large from Tisbury. “There is,” answered Chairman Vercruysse. “Today we got the new DRI/DIG in house. And along with that, from the Selectmen’s office came a request to expedite the Hearing process, and I want to discuss that.”
The Chairman continued that he had spoken to Commission Counsel Eric Wodlinger about the Selectmen’s proposal, “and he advised us that it would be fine to do an exped[ited] process... In my talks with [Board of Selectmen Chairman] Todd Rebello, I’ve agreed to discuss it with the full Commission. There weren’t any promises made or decisions made. It’s something I think we need to discuss ...”

Mr. Israel interrupted and asked if it had been the Selectmen specifically who had requested the expedited process. “Both the Selectmen and the Applicant,” replied Chairman Vercruysse. “Is there a letter?” inquired Megan Ottens-Sargent, the Aquinnah Selectmen’s Appointee. “No, there’s no letter,” answered the Chairman, adding, “Todd [Rebello]’s here, though.”

The Chairman went on that he had spoken with Acting Executive Director Irene Fyler and DRI Coordinator Jennifer Rand about scheduling, although that would be irrelevant unless the Commission members agreed to the expedited process proposal.

Mr. Israel commented, “Talking about an expedited process – that can mean a lot of different things. I mean, it can mean no process and just everybody voting. That’s certainly an expedited process.... I think that, for myself, ... I’m not averse to trying to hurry things along. But I think that it’s important that the public be accommodated, you know, be accommodated with an ability to be able to say they love it or hate it or whatever, enough [for the Commissioners] to listen to that somewhere along the line.” He emphasized that he would not want to see a process that did not provide for that.

“What’s the definition of an expedited process?” inquired Mr. Schweikert. “There’s no definition,” replied the Chairman. Mr. Best asked, “Do they move ahead of people?” In response, Chairman Vercruysse said that he would like to hear from Board of Selectmen Chairman Todd Rebello, who was present that evening.

“I think you know we’ve been three or four years in this process, you longer than I,” began Mr. Rebello, “and the Selectmen have various reasons. We have grant applications that we are starting to fill out and file. We have State monies that will be available. We don’t want to put the Town through another long, drawn-out process that takes, you know, weeks in between Hearings.”

Mr. Rebello continued that he wanted the process to be expedited in the sense that the Commission would accommodate the Selectmen by hold two Hearing sessions one week and two the next week. “We feel the public process is very important,” he stressed. “Everyone should have the opportunity to be heard, that the Commission would put into place rules that have been in place in the past, which gives a certain amount of time for a person to speak, not as we did the last time.... So expedited just means moving the process along and not put[ting] the Town through a long, drawn-out process.”

“There are, as I said, dates that are very important, to get these filings in,” Mr. Rebello went on. In addition, he noted, the legislative hearing on the Town’s withdrawal from the
Commission was set for September 12. "We’d like to see if we can get something accomplished before then," he said. "That’s not the objective [of getting it] expedited. That date is there. We want a process that everybody can feel comfortable [with], not feel threatened, get putting a gun to anybody’s head, but we move it along."

“What are the important dates?” asked Ms. Brown. “Well, the 12th, I think Jim [Vercruysse] had mentioned that in a newspaper article, that was the legislative hearing,” replied Mr. Rebello, adding, “I don’t think that was necessarily the most important stuff to us.” He pointed out that the State did not move as quickly as one would like them to, and he mentioned monies that had already been approved to be put into a bond issue. “And the monies have to be appropriated before the end of the year,” he noted.

Robert Zeltzer, a Commissioner at large from Chilmark, remarked, “It’s clear the Commission would not enter into anything that did not have adequate public input, that does not involve discussion from the public.” “That is correct,” said Mr. Rebello. “On the other hand,” Mr. Zeltzer continued, “many grants are applied for. I can understand the end of the year. You can apply for a grant and then they turn it down.”

Mr. Zeltzer recommended that some overall guidelines be created by either a subcommittee or the Executive Committee and that they be brought to the full body and be posted. “Create a system where we can get this thing done,” he said, “get all the input, and then have our discussion in front of the public and make a determination. We always do.”

Ms. Sibley stated that she agreed that it was reasonable to try to expedite the Hearing process. She granted, for instance, that the Commission would be concentrating largely on the changes to the proposal, comparing it to the earlier ones from the same Applicant (DRI Nos. 515 and 543). “I think it is extremely important, however, that we do our process in full, unless we set some sort of precedent,” Ms. Sibley stressed, adding, “So we have to do it carefully.”

Ms. Sibley also expressed concern that not all the Commission members would be able to attend two Hearing sessions a week. To schedule sessions that would exclude certain members, she cautioned, could be seen as distorting the process.

Ms. Ottens-Sargent commented that she agreed with Mr. Zeltzer that grants could always be turned down. “So with that said, I would like to have a better explanation as to why this needs to be expedited,” she said. Mr. Rebello referred to the fact that the Oak Bluffs Town Boards had gone through a Settlement Agreement with the Applicant. “We didn’t expect this body to go through that Settlement Agreement the way that the Town did,” he explained, “because the Town was in an absolutely different position.”

Referring to the September 12 legislative hearing, Ms. Ottens-Sargent asked, “Is there not a Town Meeting vote?” Yes, responded Mr. Rebello, within 45 days of the Legislature’s acting. Ms. Ottens-Sargent pointed out that when the earlier Town Meeting vote on
possible withdrawal from the MVC had taken place, the prospect of a huge Chapter 40B project was hovering over the voters. "And there still isn't a resolution because there are appeals," countered Mr. Rebello, "and secondly, our Settlement Agreement brings resolution to Oak Bluffs."

Mr. Rebello described discussions with attorney Mark Bobrowski during which the latter had assured him that the Settlement Agreement "makes 40B go away all at once." The 16 units of affordable housing that came with the new golf course proposal, the Selectmen said, would get put into a formula. "And it makes 40B go away," he repeated, "so the protection we need from 40B, yes, you have a view, I respect that, I think that's good to have that extra layer. But if 40B's not a threat because somebody can't bring it because we've already met our criteria ..." [Mr. Rebello's voice trailed off.]

Mr. Best pointed out that during this third Down Island Golf Club Application, the Applicant could -- as had been done during the second Application process -- enter into the record testimony from the earlier proposals. "However, the public in general," he said, "has to come back and re-testify for their input to be received, unless they write a letter. I think they can write a letter to us and say, 'Please re-enter my testimony.' But I'm not so sure even that's valid."

Mr. Best requested that Ms. Rand check the record and find out when, in fact, the first Down Island Golf Club Application had been referred to the Commission. He did not think, he said, the process had been going on for three or four years, as Mr. Rebello had claimed. [See page 14 of these Minutes.]

Mr. Israel made three points: 1) that although Mr. Rebello did not want to put the Town through another drawn-out process, it should be recognized that the Commission had also been going through a long process reviewing golf course Applications over the past few years; 2) that there might be some perceived detriments associated with the new plan; and 3) that the Commission had to keep its process separate from what the Town was doing with respect to the possibility of withdrawal. "We've got to do that process without all that over our heads," he concluded.

Ms. Sibley made two suggestions for expediting the process, if allowed by Commission Counsel: 1) that the Applicant could stipulate the inclusion of all previous testimony, pro and con, and it would be left up to the Commissioners to look at that testimony and thus people would only have to testify to the changes in the plan; and 2) that the Applicant should get all their technical material to the Commissioners immediately so that members of the public who wanted to review and respond to those materials would have time to absorb them. "I agree," said the Chairman.

Ms. Greene pointed out that the earlier testimony from the public could not be automatically resubmitted because the plan had changed. Then, responded Ms. Sibley, it was "really, really important to reach out and let the public know that their testimony would not carry over." She recounted briefly the circumstances surrounding an
Application that had been denied, where the Applicant had reapplied and his proposal had been approved without the public having known that their earlier testimony was not part of the record for the second Application.

Mr. Donaroma said that, as he understood it, the Selectmen, the State and the Applicant had worked on the new plan. One proposal that had been offered was for the Applicant and the Commission to deal with the issues in litigation. “We made it clear that the Commission feels we need to have public input in everything we do,” he stated. “So this plan has been in front of the boards in Oak Bluffs, it’s been in the newspapers … and I was under the understanding that – and I may be wrong, I don’t know – that this plan, the golf course, I assume, hasn’t changed, it’s this plan that’s changed.”

Mr. Donaroma stressed that he was confused and wished to clarify whether the plan that had come in earlier in the day as a Development of Regional Impact was, in fact, a new plan, that is, significantly different from the Remand Plan (DRI #543). “I don’t know what’s on the table,” he said. The Chairman responded, “Well, we just got it.” The Chairman explained that all he was looking for that evening was the earliest date on which the Public Hearing sessions for the latest plan could begin.

DRI Coordinator Rand explained that she had received part of the new Application, specifically, the Settlement Agreement and the yellow referral sheet, and that the remainder of the submission was expected to arrive the following Monday, August 12. As had been discussed earlier, the black binder containing the Remand Plan would be carried forward, she said, and the Applicant would submit addenda stating any pertinent changes that made the new plan different from the Remand Plan.

Ms. Rand reiterated that the changes had not been received yet, but that her understanding was that if the Commission were to approve an early starting date for the Public Hearing, the complete package would arrive on Monday.

Mr. Donaroma expressed support for expediting the Hearing process. “I stand as a Commissioner that’s in favor of working this thing through the best way possible for Oak Bluffs,” he declared.

“What I’m hearing is, we’re not going to change or shorten the process. Is that what I’m hearing?” wondered Mr. Toole. “Yes,” answered the Chairman. Mr. Toole continued, “If that’s the case, at the moment I will be the Hearing Officer unless someone wants to take over that job – feel free – but if I’m going to be the Hearing Officer, I want Land Use Planning to meet or some group to meet, write down rules and regulations that I am going to follow.” “As Bob [Zeltzer] said, I agree,” said Ms. Sibley. Mr. Toole emphasized that he would comply strictly with whatever guidelines were set.

Ms. Sibley asked Ms. Rand if the addenda she had referred to would be recalculating the impacts of the various components of the new project. “I don’t know,” responded Ms. Rand. “Well, I should say I think it’s got to,” declared Ms. Sibley. Transportation
Planner David Wessling pointed out that if the new plan had an additional housing component, then a traffic impact that had not figured into the earlier Staff calculations would have to be considered.

The Chairman again explained that all he was looking for that evening was the soonest the process could start and the shortest period possible in which the process could be completed. Ms. Rand had submitted to him a proposed schedule that started with the Applicant meeting with the Land Use Planning Committee on Monday, August 26, for a Pre-Public Hearing Review and with the first two Hearing sessions scheduled for Wednesday, September 4, and Thursday, September 5.

Ms. Sibley made a Motion That She Thought The Chairman Should Appoint A Committee To Set The Ground Rules And To Look Into Whether The Speeded-Up Process Might Violate The Principle Of Including People. For instance, she said, already the idea of meeting on a Wednesday was being proposed, and she wondered if all Commissioners and members of the public who wished to would be able to attend.

Mr. Woodruff commented that he did not like the idea of back-to-back Hearing sessions and wanted to have time to digest what he had heard. After further discussion, Ms. Greene pointed out that the Commission would not be meeting again for two weeks, which was too long to put off coming to some decision on the scheduling.

Ms. Brown said that she would like to second Ms. Sibley’s Motion, with an Amendment, namely, that the Commission could schedule the LUPC meeting for August 26, at which point the members could assess whether the Applicant was ready for Public Hearing and establish the ground rules for the Hearing. This having been accomplished, the first Hearing session could be set for Wednesday, September 4, and another session on September 5, unless any Commission member could not attend on those days. "I absolutely agree with Linda that the public needs to have a chance to see the complete Application," said Ms. Brown, who then added, "If the Application’s not complete, all bets are off."

Ms. Brown also included in her Second that the Applicant should made many copies of the Application so that the public would be able to study it.

Ms. Sibley accepted Ms. Brown’s Amendments. Mr. Israel remarked that he would have to check to see if he could attend on September 4. Ms. Brown added further to her Amendment: That the Commission vote that evening to have the LUPC meeting on August 26, that the Commission would hold a September 5 Hearing session and that the Commission would hold a Hearing session on September 4 if it was determined that all members could attend.

Governor’s Appointee Joseph P. Kelley wanted to know if, since the Commission members had already heard so much of the testimony, it would be possible for them to
miss one or more of the Hearing sessions. Ms. Sibley indicated that according to case law this was not possible.

Ms. Greene asked about the dates Ms. Rand had proposed for the second week of Hearing sessions, September 9, 10 and 11. “Why does this have to be voted before the 12th?” declared Mr. Wey, who stressed, “It’s a public comment period.”

Ms. Sibley, whose Motion it was, made it clear that if the Hearing was conducted on September 4 and 5, she rejected the possibility that the Hearing could be closed on September 5. “I said that, absolutely,” said Ms. Brown. “That’s why I don’t want to go any further than that,” noted the Chairman.

A few other points were clarified. Then the Chairman conducted a Vote By Hand on Ms. Sibley’s Motion, with the results as follows:

AYES: J. Athearn; A. Bilzerian; C. Brown; M. Donaroma; J. Greene; J.P. Kelley; C.M. Oglesby; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; and R. Zeltzer.

NAYS: T. Israel; and A. Woodmuff.

ABSTAINING: J. Best; and M. Ottens-Sargent.

New Business: Minutes of August 1, 2002 Executive Session.

Ms. Sibley requested a discussion and vote on whether to release the Minutes of the latest Executive Session, which had been on August 1. “The Minutes won’t be ready until the suits are settled,” responded Irene M. Fyler, Acting Executive Director. “Well, then, I respectfully disagree,” said Ms. Sibley. “I don’t think there was anything we heard that would be detrimental to the litigation.”

Ms. Sibley suggested that the Commission members read the Executive Session Minutes and decide for themselves whether or not they could be released. “That’s definitely a Counsel-type question,” remarked Chairman Vercruysse.

Mr. Israel made a Motion That Staff Contact Counsel And If Counsel Saw No Problem With Releasing The Minutes Of The Executive Session, Then They Should Be Released. Ms. Sibley provided the Second.

A discussion ensued, with the Chairman pointing out that Commission Counsel was on vacation for three weeks. Ms. Sibley noted that in any event the Minutes had to be read and approved by the Commissioners. More discussion followed, after which the Chairman conducted a Voice Vote on Ms. Sibley’s Motion, with these results:
AYES: J. Best; A. Bilzerian; C. Brown; M. Donaroma; J. Greene; T. Israel; J.P. Kelley; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

NAYS: J. Athearn.

ABSTAINING: None.

By this point, Ms. Rand was done looking for the answer to Mr. Best’s question about when the first Down Island Golf Club Application had been submitted to the Commission. [See page 16 of these Minutes.] Ms. Rand said that the DRI Blue Book did not provide an answer but only indicated the date of the Written Decision (July 20, 2000). Her guess, she said, would be that the Application had come in around two and a half years before.

The Staff Secretary told Mr. Best that the Application had been referred in the fall of 1999, that the Application had been deemed complete in February 2000 and that the Public Hearing process had begun in April 2000.

Reports.

Providing the Chairman’s Report, Mr. Vercruysse commented that he no longer knew how many hours he had spent on which Commission issue. He then announced that once they were finished with Special Meeting business, the full Commission would be going into Executive Session to discuss salary issues related to the Executive Director position.

Regarding the Planning and Economic Development (PED) Committee, Ms. Sibley related that they had met that evening and had begun to discuss the Commission’s role in affordable housing on the Island. The committee, she said, had come up with a list of action items related to the Affordable Housing Policy that the MVC should be revisiting or renewing its relationship with. In addition, they had agreed that they should meet with the various affordable-housing advocacy groups on the Vineyard to look at Sections A-1 and B-2 of the Regional Island Plan to get input on updating that plan.

Ms. Sibley continued that the committee had also concluded that the Commission should examine and bring information to the Towns about the circumstances that contribute to a lack of affordable housing, including but not limited to some materials the committee had been looking at from other communities that had grappled with this problem. Furthermore, it had been proposed that the MVC formulate a checklist for DRI Applicants coming before the Commission with affordable-housing projects, especially, though not exclusively, Chapter 40B developments. Said checklist would include goals for moderate-income housing as well as for permanency of deed restrictions.
Noting that it appeared the Commission would be “quite busy” in September, Ms. Sibley suggested that the multi-agency Meeting be considered a priority item when drawing up future Full Commission Meeting Agendas.

Chairman Vercruysse referred the members to a letter in their packets from Executive Director Philippe Jordi of the Dukes County Regional Housing Authority. The letter contained a proposal for a housing partnership among the various affordable-housing agencies on the Island. Ms. Sibley noted that she had requested that Staff member Christine Flynn get copies of Mr. Jordi’s letter to all Commission members “in the least paper-consumptive manner possible.”

The Chairman then recognized Kate Warner, the West Tisbury Selectmen’s Appointee, who had recently received a grant of $50,000 from the Million Solar Roofs program. A goal had been set for 500 solar roofs on the Island by 2010, she said, explaining that this number assumed 1 kilowatt of energy produced per roof. So, for instance, if the high school installed a system that produced 4 kilowatts, that could count as four roofs toward the 500-roof goal.

Ms. Warner continued that she had received commitments from all Island fuel suppliers to provide her with data. In addition, she was trying to get a count of the existing solar installations on the Vineyard.

Also planned, Ms. Warner went on, was a number of meetings with local groups to discuss global warming as well as a speaker series on the same topic on October 8 and 9. Focus groups would be formed to looked at the barriers people faced when considering changing to solar energy, and a community energy workshop would take place in April.

Ms. Warner expressed the hope that all Commission members would be part of the program, and she mentioned that the other New England recipients of the grant were the States of Rhode and Vermont and the cities of Newton and Boston. “So it’s pretty amazing actually that we got a grant,” she said. (Applause)

Ms. Warner finished her report by describing how an advisory board would be formed that would meet every couple of months. The MVC, along with NSTAR, Merit New England, the Cape Light Compact and Self-Reliance, were partners in the original grant process, and Ms. Sibley had offered to represent the Commission on the board, concluded Ms. Warner.

Ms. Rand reminded the Commissioners about the visit to the site of the Tisbury Fuel Service project (DRI #552) on Monday, August 12, at 5:30 p.m.

Ms. Greene made a Motion To Enter Into Executive Session To Discuss Personnel Issues And Not To Return To Regular Session, duly seconded. The Staff Secretary conducted a Roll Call Vote, with the results as follows:
AYES: J. Athearn; J. Best; A. Bilzerian; C. Brown; M. Donaroma; J. Greene; T. Israel; J.P. Kelley; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercreysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

The time was 10:07 p.m.

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