The Martha's Vineyard Commission (the MVC or the Commission) held its Regular Meeting on Thursday, August 22, 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.

[Note: Normally, the Regular Meeting would have been held on the third Thursday of the month, that is, August 15. However, because the meeting room was unavailable that evening, the full Commission had voted on July 25, 2002 to move the August Regular Meeting to the following Thursday. See page 17 of the Minutes for the July 25, 2002 Special Meeting.]

At 7:40 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 Regular Meeting to order.

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

Continued Public Hearing: Tisbury Fuel Services (DRI No. 552).

Mr. Toole read into the record the Notice of Continued Public Hearing for the Tisbury Fuel Services Application in the Town of Tisbury (DRI No. 552). [See the Full Commission Meeting File of August 22, 2002 (the meeting file) for a copy of the notice.]

Jane A. Greene, the Chilmark Selectmen’s Appointee, announced that she would excuse herself, since she had missed the first session of the Public Hearing.
Applicant’s Presentation.

Sean Conley, one of the principals of the Tisbury Fuel Services partnership, introduced himself. He began by outlining the major change his team had made to the plan since the first Hearing session on July 18. By changing the surface grade, he said, the 17-foot-high retaining wall that had been planned originally had been replaced by a terraced area with two 6-foot walls. “So it’s much less visual impact,” he remarked. He pointed out that the highest part of the wall would then be visible only from the back of Shirley’s Hardware, located on State Road.

Mr. Conley continued that they would plant cedars along the terraced part of the site, and after construction, 40 trees would remain between their lot line and the construction area, and another 40 trees would remain on the other side of the lot line.

Mr. Conley then pointed out that with the angle of slope going up the hill on High Point Lane, State Road was at about 110 feet above sea level and the grade of the proposal site would be about 134 feet. “So, that means about a 24-foot difference,” he said, “and the canopy [over the pumping stations] is 24 feet, so the canopy will be 48 feet above State Road.”

William Scully of MS Transportation Systems started by providing an update on activity since the July 18 Hearing session. He had met with Commission Transportation Planner David Wessling on August 12, he related, “and while his comments, which you have probably seen, touched on several areas and we put detailed responses to each one of them, our understanding after meeting with Dave and going over his comments was that really the major issue was better detailing of mitigation and some of the improvements that are proposed by the project.”

Mr. Scully said that he would not be going through in detail what he had covered in the previous session, although he could certainly answer questions. “The overall effect of the project on High Point Lane is clearly we’re adding traffic on High Point Lane,” explained Mr. Scully. “While the analysis has assumed that a large portion of the project-related traffic ... will come from the State Road traffic stream, obviously, those patrons will turn onto High Point Lane and turn off High Point Lane, and they haven’t been there under current conditions.”
Mr. Scully continued, “However, with the width of that road approximately 22 feet, very low volume right now, projected to be a very low volume, it certainly has the ability to accommodate the additional traffic on High Point Lane.”

Mr. Scully referred to a letter from the Town of Tisbury regarding High Point Lane and the Town’s opinion that the road could accommodate the added traffic. “Delays would be expected normally, coming out of High Point Lane onto State Road,” he said, “because we are adding traffic. Everyone that comes into this facility is going to leave by High Point Lane. It’s going to result in more traffic exiting out at that point. So delays would be expected to increase over today.”

Mr. Scully went on: “However, we’ve shown – we’ve had actual simulation out there, more than a hundred vehicles on High Point Lane exiting onto State Road, simulations, though they were done in ’99, they were done in July, Friday p.m., Saturday mid-day, a non-beach day, high-volume condition – and it showed that average delays coming out of High Point Lane will be in the range of about 16 to 20 seconds on average, which is certainly manageable.”

Mr. Scully added that the computer model did not necessarily work adequately in that particular section of road because of the type of driver behavior seen there, specifically, drivers stopping and allowing vehicles waiting to make a turn to go ahead. This had been confirmed with the same type of study on Colonial Drive next to Cronig’s Market across State Road.

“And the model tends to overstate the delays substantially,” Mr. Scully declared. For instance, the report had a vehicle waiting to exit out of Cronig’s Market taking over five minutes, something that in his experience simply was not the case.

Tristan Israel, the Tisbury Selectmen’s Appointee, questioned Mr. Scully’s claim that it did not take five minutes to exit from Cronig’s Market. “That’s my opinion, my observation,” responded Mr. Scully.

“In conclusion,” said Mr. Scully, “the project will result in minimal or low increases in traffic on State Road, have very little impact on the operating conditions on adjacent drives and intersections, there’ll be moderate delays incurred by vehicles, mostly coming to the site, but vehicles on High Point Lane to exit back out onto State Road, and there’ll be virtually no effect from the project during the non-summer period.”

Some of the mitigation measures recommended by Mr. Scully were stop-sign control at the driveways and keeping landscaping set back or low-lying to maintain visibility. He spoke also of the public restroom on the site and the sidewalk that would lead to it, as well as plans for a bus stop there with information about alternate transportation.

In addition, Mr. Scully went on, the facility would sell Tisbury Park-and-Ride tickets. “Right now, most of that is towards town, bringing additional traffic,” he noted. The
Applicant had also agreed to improve the corner radii at State Road, provided this complied with the wishes of the Town and the Massachusetts Highway Department.

In addition, Mr. Scully reported, the Applicant had offered to work on a parking management plan for the Tisbury Park-and-Ride facility, with recommendations to go to the Town in the hope for increased usage of the lot.

Finally, said Mr. Scully, the Applicant had agreed to fund — and the Tisbury Chief of Police had concurred — a police officer at the intersection of State Road and High Point Lane Friday afternoons and mid-day Saturday.

Mr. Scully then outlined some of the concerns expressed by Staff in the past about having a service station at the 412 State Road site and how the Applicant believed the Tisbury Fuel Services proposal for High Point Lane addressed those issues. [See DRI Nos. 478, 489, 489-1, 489-2 and their Modifications for proposals for the 412 State Road site.]

First, said Mr. Scully, there was the potential for multiple uses at the 412 State Road site, which would in theory add to vehicle conflicts on site. The layout of the pump stations there would result in possible vehicle blockage, and queuing on High Point Lane of cars waiting to turn onto State Road could be expected.

Truck and fuel deliveries could potentially affect the use of the pumps at 412 State Road, Mr. Scully continued, and fuel trucks exiting onto High Point Lane might have to maneuver diagonally from the exit towards State Road to make the turn. In addition, the visual impact of being close to State Road had also been an issue.

Mr. Scully summed up the advantages of the High Point Lane site: “What this project has done — and they have the room to do it, it’s obviously a virgin site — they were able to go with a single use on-site, design it so that fuel trucks can get around the site, even if they are dumping fuel when the station is open and people are at the gas pumps. There’s no blockage of the pumps. All the pumps are accessible to enter and exit with a truck there.”

Mr. Scully continued, “The public restroom is on the far corner near the Park-and-Ride, spaces for using the public restroom are about 60 to 70 feet away from ... the pumps, no conflict is envisioned between any use there with the use that’s taking place at the pumps.”

Mr. Scully emphasized that if his numbers were correct (and they were conservatively high, he noted), on average 12 vehicles would be on-site during peak hour, with six fueling and six waiting to fuel. “We’ve got the ability to easily queue 18 to 20 vehicles without any type of blockage of people entering or leaving the site or maneuvering through the site or affecting the restrooms,” he declared.

Next, Mr. Scully reiterated a number of his arguments regarding the advantages of the High Point Lane project site. Then he added, “Let’s say we’ve got good visibility, site
drive is going to operate at Level of Service A, and that includes adding in traffic to the sewage treatment plant, adding in substantially more users at the Park-and-Ride – It still functions at Level of Service A.”

Other aspects of the proposal that Mr. Scully considered beneficial were the sale of Park-and-Ride tickets on-site, thereby reducing trips to other sites that sell passes, like the Cumberland Farms at Five Corners, and the presence of a gas station in the B-2 Zone, which would encourage people in the “Up-Island Tisbury” area to fuel at that end of town. The time was 7:59 p.m.

Michael Jampel, president of Tisbury Fuel Services, described himself as a resident of Vineyard Haven and an Island business owner. Mr. Jampel stressed that all present knew that it was “very expensive to live on Martha’s Vineyard.” He pointed out that a recent study of fuel prices found that Hawaii, at $1.65 a gallon, had the highest gas prices in the country. “But nobody checked here,” he said. “We were 23 cents a gallon higher on Martha’s Vineyard, making us by far the highest in the country.”

Mr. Jampel continued that the reason for the high prices was not the Steamship Authority. The proposed business, he said, would provide the opportunity to have lower gas prices on the Vineyard for the next 30 years. “It may be the last opportunity we get,” he declared. “This is not just about selling gas. It’s a very sincere benefit to the people of Martha’s Vineyard.”

Moreover, Mr. Jampel said, selling gas at a reasonable price would be a sound business decision that had been thoroughly researched. On the Cape, he had found, gasoline delivery charges ranged from three to five cents a gallon; delivery to Martha’s Vineyard added another five cents a gallon.

“So in other words,” Mr. Jampel explained, “we should be paying only five cents per gallon more than the stations on the Cape, for a total of 10 cents per gallon for delivery to our tanks. The profit spread is large enough that we can offer a fair price without losing money.”

Mr. Jampel also stressed that the price of doing business on the Island was comparable to that on the Cape, with both having tight labor markets and high real-estate costs. To those Vineyard gas-station owners who claimed that lowering the price was not possible, Mr. Jampel suggested that perhaps they were paying too much to their distributors.

In any event, Mr. Jampel said, the lower prices at his station would eventually cause other Island stations to lower their prices, another benefit for the people of the Vineyard. “We are talking about money that will stay in circulation on Martha’s Vineyard,” he added. “Two million dollars saved at the pumps will be a major boost to the economy and to all of us.”
Referring to the *Binding Offer by Tisbury Fuel Service, Inc., to the Martha's Vineyard Commission*, Mr. Jampel pointed out that the Commission had considered the economic benefits of projects in the past, for example, in the case of the Vineyard Youth Tennis project (DRI No. 539). The partners' attorney was present, he said, to answer any questions about the contract.

Mr. Jampel went on that the partners planned to have three fuel deliveries a week during the summer, with the trucks coming over on the six a.m. ferry and leaving on the nine-forty-five. Because of the project site's proximity to the ferry terminal, very little of that time would be spent driving on Island roads, he stressed.

The cost for the ferry was $419 round-trip in season, Mr. Jampel reported, and $372 round-trip off-season, and this cost was included in the delivery fee. Reservations were made by November 15 for the following year, a 10 percent deposit was required and there was no problem obtaining space.

One condition of his involvement with the project, Mr. Jampel emphasized, was that they would offer a discount to year-rounders, "because gouging at the pump is not fair to Islanders." Another condition of his involvement was that the business had to be financially viable, he said, "and the financials have been thoroughly researched."

In fact, the Islander discount was so important, Mr. Jampel continued, that the partners had adopted a corporate resolution by unanimous vote of the shareholders that Tisbury Fuel Services, Inc. would offer an economic benefit to year-round residents in the form of discounted fuel; and further, that the corporate officers were authorized to set prices for fuel offered for sale by the enterprise. Mr. Jampel then repeated a number of his arguments regarding the benefits of the proposal.

Mr. Conley referred to a bar graph – updated since the July 18 Hearing session – showing existing gas prices versus prices with the Tisbury Fuel Services discount. *[See the meeting file for a copy.]* The binding offer document has also been revised. Part of the proposal, he said, had been to have a penny per gallon, up to a maximum of $20,000, go toward affordable housing. The partners, he reported, had changed the contract to make it instead a continuous contribution, up to an annual maximum of $20,000, for the duration of the 20-year lease.

Mr. Conley remarked that he knew that some people felt that building a gas station was "a step backwards" and that the partners should be using solar-hydrogen fuel cells. "We'd all love that," he said, "but this is only 2002, not 2022, not 2032, it's only 2002. We still all need gas for our cars."

Mr. Conley pointed out that the station would be selling bio-diesel fuel, a mixture of soy product and diesel that burned much more cleanly than regular diesel fuel. Although it was a little more expensive, he noted, with the discount the price would come down.
He and his partners were concerned about high-season traffic on State Road, Mr. Conley went on, but this project would have at peak hour 71 customers, and about 30 of those will have been traveling on State Road anyway. During the same peak hour, about 1,400 cars in all traveled that stretch of State Road, “so we don’t have a lot of impact on State Road itself,” he said. As far as the waiting time to turn onto State Road was concerned, only two and a half minutes would be added per hour of delay time as a result of the station, he stated.

Mr. Conley also pointed out that the increase in traffic on State Road would be offset by a reduction in the number of cars going down to Five Corners for gas. In addition, that increase for six weeks each summer also had to be weighed against the year-round benefit for the other 46 weeks. Moreover, the station would be “almost invisible from State Road,” he said; so there would be no addition to the commercial strip in the area. Mr. Conley then repeated some of the benefits already touted by Mr. Scully.

Questions from Commission Members.

Mr. Israel referred to Mr. Scully’s claim that average delays coming out of High Point Lane would be in the range of about 16 to 20 seconds. What was the Level of Service rating for that stretch of State Road? asked Mr. Israel. Mr. Scully replied that to give that part of State Road an LOS rating was really not a good way to evaluate the roadway. If one were to look at, for instance, urban-like criteria, that section of road would be considered to have a fairly high Level of Service. If looked at as a two-lane highway, he said, it would be rated as being at 60 percent capacity and therefore able to accommodate more vehicles.

In addition, continued Mr. Scully, there were variations in the Level of Service along State Road. For example, exiting at the Black Dog Bakery-Café down the road was a Level of Service C, while exiting from Cronig’s Market was a Level of Service F, based on calculations during the peak season. But because of the “wave-through” factor on that corridor, the actual conditions did not conform to some of the computer models, he said.

What he had done, Mr. Scully explained, was to set up a simulation, “loading up” the street with over 100 vehicles exiting High Point Lane at peak time and measuring the delay, and that delay had amounted to 16 to 20 seconds or Level of Service C.

Did that not also delay the cars on State Road? wondered Mr. Israel. Moreover, would there not be a delay as well for cars waiting to turn left into High Point Lane? he inquired. Mr. Scully answered that in the latter case, the delay would be about half what it was for vehicles exiting from High Point Lane onto State Road. “Because they have the right of way,” he added.

Responding to Mr. Israel’s first question, Mr. Scully explained that the delays incurred exiting from the side street would be very small incremental changes in delay. So
someone coming out of Shirley’s Hardware after the station opened would not see much of a change from present conditions.

Answering another question from Mr. Israel, Mr. Scully related that the numbers on State Road tended to be higher in mid-July than they were in August.

Marcia Mulford Cini, a Commissioner at large from Tisbury, wanted to know about the number of gallons the partners expected the station to pump. Mr. Conley answered that they expected to pump about a million gallons the first year, improving to 1.3 or 1.4 million gallons annually in subsequent years.

Ms. Cini asked if Mr. Conley knew anything about the volumes pumped by other stations on the Vineyard. Mr. Conley responded that it was hard to get that information, although it was their feeling that a total of about 10 to 12 million gallons was sold on the Island annually.

Christina Brown, a Commission member at large from Edgartown, inquired if Mr. Conley expected his station to add over time to the overall volume of gas pumped or if he was assuming a steady market. The latter, answered Mr. Conley, although there would of course be an incremental increase in the number of gallons sold Island-wide as more and more vehicles came to the Vineyard.

Ms. Brown asked about Mr. Jampel’s claim that $2 million would be saved at the pumps each year because of the discount program. Mr. Jampel explained that with his station selling fuel at a discount price over a period of, say, a year, other stations would probably end up also dropping their prices. “And because of that, the savings would go to that level or even higher,” he said, “so that’s not just from our station.”

Not considering the Islander discount, would the basic price of gas at the station be expected to be lower than the price at other stations right now? wondered Ms. Brown. “No, our basic price will be ... competitive with what the other stations are charging,” said Mr. Jampel.

Kate Warner, the West Tisbury Selectmen’s Appointee, observed that based on her visit to the site and the drawings submitted by the Applicant, it seemed there would be an awful lot of fill brought to the site. “Yes, we’re going to raise it an average of 4 foot,” replied Mr. Conley. They would take a lot from the hill that was already there, moving it down, he explained. Responding to another question from Ms. Warner, Mr. Conley said that the upper entrance to the site would be about 140 feet above sea level.

Nick Balboni of The Tyree Consulting Group related that the existing grade on the far end of the lot was about 117. So for the moment there was a 23-foot drop across the lot? asked Ms. Warner. Yes, said Mr. Balboni, who then laid out how the main criterion for the grading within the service station was to keep the area around the pumps relatively flat. “So we do have a grade coming into the site at the dispensers,” he added.
“What percentage grade is that?” inquired Ms. Warner. “About a 6-to-7-percent grade,” answered Mr. Balboni, who explained that it started at 140 and then went down to about 138. At the exit drive, the grade was about 4 or 5 percent, he said.

Andrew Woodruff, a Commissioner at large from West Tisbury, posed a question that was inaudible on the tape. Mr. Jampel’s answer was that they would model the discount program on the Steamship Authority’s Profile program. In other words, if a person had an SSA Profile Card, he would be eligible for the discount, he said, the assumption being that the Steamship Authority would be checking the information on local residence submitted by its Profile program members. [See page 12 of these Minutes, where the Applicant’s attorney corrects this statement.]

Mr. Woodruff also wanted to know about the legality of the binding offer from the Applicant. DRI Coordinator Jennifer Rand replied that she had spoken to Commission Counsel Eric Wodlinger, who had expressed the opinion that the document and this type of program were legal. He had recommended, she said, that the discount be a percentage discount and not a fixed-price one.

Michael Donaroma, the Edgartown Selectmen’s Appointee, noted that during the site visit, there had been some talk about moving the entrance and exit, which had been staked out, farther away from State Road. “Did you look at that at all?” he asked. Mr. Conley answered that to do that would require even more fill, plus the more centralized locations that they were proposing would enable them to retain more trees.

How many feet along the property line would remain undisturbed? inquired Mr. Donaroma. Pointing to the site plan, Mr. Conley said that there would be about 15 feet of untouched woods and then there would be cedars all along the terraced area. There followed more discussion about the grading of the site.

Robert Zeltzer, a Commissioner at large from Chilmark, remarked that often fuel distributors helped to finance the construction of a gas station and then would add a few cents a gallon to get paid back. Was that how the Applicant’s project was financed? he wondered. “If we financed it through the fuel provider,” responded Mr. Jampel, “that cost that’s added to each gallon of gas would come after our cost. In other words, it wouldn’t figure into that chart at all.”

Mr. Zeltzer also wanted to know if the Applicant was, in effect, planning to gouge off-Islanders to save year-round residents money. Mr. Jampel explained that it was unusual that they lived on an Island where, when the price of gasoline was lowered and called ‘discounted,’ the price would actually be lowered to what would be considered normal off-Island.

“Our concern with lowering it for everybody,” Mr. Jampel said, “is several-fold. It might end up affecting the profit that we might be able to make. It might erase the profit. And
also, we have traffic considerations, you know, in terms of selling it. If we dropped the price across the board for everyone, I think that we’d become a destination and possibly overload High Point Road.”

But lowering the price for all would create a competitive situation and other gas stations would follow, said Mr. Zeltzer. This would create some true competition on the Island, he added. From what he was told by people in the business, Mr. Zeltzer related, the average markup around the country was seven to 11 cents per gallon over the rack price and the cost of getting the gasoline to the station and into the tanks.

“And you’re looking at well over 50 cents a gallon, in some cases, 60 cents a gallon,” Mr. Zeltzer stressed. “Well, the other stations …” interjected Mr. Jampel. “And you’re looking for a profit margin of how much?” wondered Mr. Zeltzer. “Thirty-six cents,” replied Mr. Jampel, “with one cent going to affordable housing and 35 cents …” “Which is still three to five times what the average gas station on the mainland gets,” said Mr. Zeltzer. “Sure,” said Mr. Jampel.

Mr. Zeltzer also wanted to know very specifically how the discount price would compare to the price per gallon in Falmouth or Bourne. “Would you consider, let’s say, 12 to 13 percent over the average price in Falmouth plus five cents for the additional freight, and that should be the price at the pump?” asked Mr. Zeltzer, who added, “I would suggest that land on the highway in Falmouth is probably worth as much as land on High Point Lane.”

“What we’re doing is, we’re guaranteeing a low price … to year-round residents,” said Mr. Jampel. “Our other pricing ought to be competitive and will fluctuate in terms of whether it’s going to go up or it’s going to go down. And the … financial profile on the station shows that it’s basically break-even for us at a little over a million gallons.”

Mr. Jampel explained, “Our cost per gallon, assuming it’s about a dollar forty-five to bring it here to our tank, to that we have to add another 35, 36 cents to pay for labor and all the other overhead that goes along with it. So our actual cost is actually a dollar seventy-four, and we have to sell at least a million gallons, a little over a million gallons, before we can start breaking even.”

Mr. Jampel continued that he did not know what would happen if they dropped the price for all customers. But the Applicant was making the discount program the keystone of the presentation, countered Mr. Zeltzer. “Would it be reasonable for us to see a pro forma?” he inquired. An unidentified party indicated to Mr. Zeltzer that it was not. Mr. Jampel went through the numbers once more.

Mr. Zeltzer then posed a question to Mr. Scully: At what point would all the small increments in traffic take the rural road system of the Vineyard and bring it to gridlock? “That’s a good question,” responded Mr. Scully. One thing he had seen, he said, was that
the level of increase in the traffic at peak hour on this particular corridor over the last 10 years had “not been high at all.”

For instance, Mr. Scully went on, in 1990 there were 1,200 to 1,300 vehicles per peak hour on State Road in the area of Cronig’s Market, and a recent count had indicated that the number currently was in 1,300-to-1,400 range during peak hour. He added that people were, for instance, “trip-chaining” and doing several errands in the same area, and things like this affected the increment of change. “You know, a two-lane road in theory can accommodate twenty-eight hundred vehicles in an hour,” he said, adding that in Centerville he had seen that number reach 3,000.

Mr. Scully spoke further about the special characteristics of the part of State Road in question and how it differed from, say, Five Corners. “Is the road really broken? No, it’s not,” he said. “Are there things we can do to enhance it? Well, there are things that we talked about back in the 1990 plan to enhance it and to move traffic differently and enhance things for bicycles, and those things haven’t been done, weren’t advanced.”

Linda Sibley, a Commissioner at large from West Tisbury, wanted to know if the Applicant knew how many gallons per year a typical gas station on the Cape pumped. Mr. Jampel replied that on the Cape a station that was pumping over a million gallons was considered to be doing pretty well. He provided figures he had learned about from an owner of 18 stations on the Cape and pointed out that in many cases these stations had other businesses on the property, like a convenience store or a car repair service.

“And how many stations are there on the Vineyard now?” wondered Ms. Sibley. “Nine,” said an unidentified person. So if about 10 to 12 million gallons were sold yearly on the Island, everyone was breaking even, Ms. Sibley observed. “Some stations on the Island pump a lot less,” noted Mr. Jampel.

Ms. Sibley pointed out that generally when businesspeople sold less volume, they had to make up for it by charging more. “So I don’t see the math that’s going to have everybody paying less,” she remarked, adding that as far as she could see, the only people paying less would be those with the Island discount cards.

Mr. Israel related that someone had asked him to inquire if the Applicant had considered doing car inspections. “It is something we definitely have discussed, because we know well that it’s needed on the Island,” said Mr. Conley, “but for the time being, it’s just a gas station.”

Mr. Israel also wanted to know if the Applicant anticipated that the opening of his gas station would increase the amount of gas sold on the Island. No, said Mr. Conley. But would there not be more trucks coming over to the Island? wondered Mr. Israel. No, because there would be fewer trucks coming to the other stations, replied Mr. Conley. The total number of trucks would stay the same, said Mr. Jampel, and the trucks to the other stations would be coming less often.
"Is the discount applicable to Island residents exclusively?" inquired Governor’s Appointee Emanuel P. Horne. Yes, answered Mr. Jampel. Mr. Horne remarked, “Normally when you hear the word ‘discount’ for those in the regional business, that means a lot of volume. In this sense, the way I can understand it, the word ‘discount’ simply means ‘applicable to Island residents.’ So in the truest sense of the word it’s not a discount.” “Well, for Islanders it is,” said Mr. Jampel.

The exchange between Messrs. Horne and Jampel continued. “It’s like a membership,” said Mr. Jampel. “You mean a person is going to purchase a membership card?” asked Mr. Horne. Mr. Jampel answered, “The card will be $10, and they have to show us their registration and they have to show us …” “Okay,” interjected Mr. Horne, “I was just mystified by the term ‘discount.’”

“Ten dollars a card? I never heard that,” said Mr. Israel. “Which is, two fill-ups would pay for it,” explained Mr. Conley, who added that the business would have processing costs. So I could just come to you and show you my Steamship Authority Profile Program card? asked Mr. Israel. “No,” said Hilary Schultz, the Applicant’s attorney, “you don’t show the Steamship Authority card. That’s their card, that’s their proprietary … stuff. You show your driver’s license and your automobile registration and you fill out a form.” The time was 8:45 p.m.

Staff Reports.

**DRI Coordinator Jennifer Rand** reported that she had not received the landscaping plan yet. What she had received were 600-plus form letters in support of the gas station as well as two individual letters in support and three in opposition. In addition, the Regional Housing Authority had sent a letter. “Apparently, they’re negotiating with the Applicant, and they’re happy with the offer,” she said. Furthermore, the Island Affordable Housing Fund had written to say that it supported the concept of the Islander discount and encouraged the Applicant to pay a living wage.

Ms. Rand described correspondence from the Applicant stating that they would be selling bio-diesel fuel, which, the literature indicated, was 80 percent diesel fuel and 20 percent vegetable oil.

**Water Resources Planner William M. Wilcox** referred to his Staff Notes, which had been included in the Commissioners’ packets. [*See in the meeting file the document labeled “DRI 552: Tisbury Fuel Services, Staff Notes Update: William Wilcox, Water Resource Planner, 22 August 2002.”*] He had received, he said, information from the Applicant on erosion and sedimentation control prior to and during clearing and grading. “I think the primary thing that I was pleased to see,” he reported, “was that they are proposing a hay bale-silt fence combination around approximately the lower two-thirds of the property prior to beginning to disturb the soil.”
Mr. Wilcox said that the Applicant had also included stabilization schedules for permanent stabilization within 15 days of final grading.

Mr. Wilcox reported that he had received information about the retaining wall, which would drop in two steps instead of the single drop described in the first Hearing session. The wall would be reinforced with a geo-synthetic material, he noted, although he was not aware of the details about that.

Mr. Wilcox related that he had also received more clarification on the handling of stormwater on the site, although he did not yet have any material from the manufacturer indicating the percent of hydrocarbon removal for the Stormceptor treatment system being proposed. The figure he had on file was that the manufacturer had indicated a 60-to-80-percent removal of hydrocarbons, “which is pretty good,” he said, although, he added, this was not well documented.

What he had received, Mr. Wilcox went on, was a maintenance plan for the Stormceptor system, which would be inspected four times a year, with sediment and oil removed if necessary. The maker recommended annual maintenance, and Mr. Wilcox recommended that the Commission make this a requirement in the Written Decision.

John Best, a Commission member at large from Tisbury, wanted to know if there was any hazard associated with installing fuel tanks and associated paraphernalia into ground where there was so much fill. Would it be possible for the Applicant to place them in undisturbed soil without having to go too far down below grade? he asked. “Only if they went to the uphill side of the site could they get into, essentially, native soil materials,” answered Mr. Wilcox.

He did not think, Mr. Wilcox went on, that the tanks would be situated in undisturbed material, although he believed there were construction techniques that would adequately stabilize the fill in terms of slippage. “But I don’t know an awful lot about that, to be honest with you,” he concluded.

Mr. Wilcox turned to a question posed by Mr. Israel in the previous Hearing session about the kind of contamination historically associated with former gas station sites. “Just briefly, it’s a hard question to answer because a lot of the material that I’ve been looking at was from more than just a gas station,” said Mr. Wilcox, for instance, facilities that did oil changes and so forth.

What he had found, though, was that sedimentary materials in soil at gas stations sometimes contained components of petroleum products, “those materials that would be trapped in the sediment retention system on site,” reported Mr. Wilcox. The other materials found were ones associated with spills or leakages, he said, although this proposal included liners and a leak-detection system.
Transportation Planner David Wessling reported that he had received that day a memorandum from Mr. Scully that outlined the latter's responses to Mr. Wessling's previous Staff Notes. A new element introduced to the traffic mitigation measures, he continued, was the stationing of a police officer at the intersection of State Road and High Point Lane at peak times. He compared that solution to what occurred at the A&P on Upper Main Street in Edgartown.

[The next few minutes of the tape contained practically indecipherable exchanges between Mr. Wessling and what sounded like Mr. Woodruff and Ms. Sibley.]

Mr. Israel referred to the Staff Notes by Mr. Wessling entitled "Review of Traffic Impact and Access Study, Tisbury Fuel Services, Inc., DRI #552, Rejoinder" and requested that Mr. Wessling go through its main points. [See the meeting file for a copy of the notes.] County Commission representative Roger Wey asked Messrs. Israel and Wessling to speak up.

Responding to Mr. Israel's request, Mr. Wessling stated, "The basic premise is a syllogism. The conclusion is mitigation." His own studies, he continued, had shown that on State Road there had been a 4 percent increase in traffic in the last two years. "Now, does it happen all at the peak hour?" he asked rhetorically. "No, what we're saying, I think, as a trend is that rather than thinking of a peak hour in the afternoon, instead think about a peak period, a longer period of time in the afternoon, so that the bubble is bigger and longer."

Mr. Wessling summed up by saying that looked at from this perspective, it seemed to him that the trend was toward a bigger and longer bulge of heavier traffic on that part of State Road.

Again, there were complaints that Commissioners could not hear Mr. Wessling. "I think Bill [Scully]'s been very frustrated by my criticism," Mr. Wessling remarked, "and I think it shows in his memo today, and I think, again, he points out a lot of small things that I think, to my mind, show that the structure of his argument and the content are rather weak. I think it all changes now that they have a much stronger mitigation offer."

Mr. Zeltzer discussed with Mr. Jampel some of the break-even figures the latter had presented earlier. What he wanted to know, said Mr. Zeltzer, was if any of the $350,000 net profit that the business would have to make to break even would be going to the investors. "No, absolutely not," answered Mr. Jampel, who explained that if they sold a million gallons of fuel over the first year of operation, all their expenses, like labor, would be covered but that there would be no profit.

Responding to some other comments from Mr. Zeltzer, Mr. Conley said that the partners were assuming that 30 percent of the fuel sold would be to Islanders in the discount program. Mr. Jampel said that it was their hope that some other stations would accept the Islander card.
Mr. Best wanted to know how the Islander program might be impacted if the business were to be sold or be foreclosed upon. “Well, you can make it a Condition of Approval that it will have to run with it,” suggested Mr. Conley.

Mr. Toole asked for testimony from Town Boards and Public Officials; there was none. The time was 9:12 p.m.

Testimony from Members of the Public in Favor of the Proposal.

Tom Pachico, a Tisbury Selectman who was not speaking, he said, in any official capacity, disclosed that the property in question was owned by his family, who had paid taxes on it, though unused, for over 50 years. He was hearing a lot about trees, he said, but there was not a one at the Island Cove Mini Golf facility and only about five on the Shirley’s Hardware lot, and at least three of those were “50-50 on the line.”

Mr. Pachico pointed out that the Applicant was doing his best to keep the facility from being highly visible. At the same time, the Applicant was proposing a discount program to help draw in customers.

Mr. Pachico referred to the other gas station proprietors who were seated in the audience and remarked that they had not been present for the Hearing on the Gervais-Goldsborough Application (DRI No. 489-2). “So obviously they fear that the discount card may affect them,” he said, adding that those businesses were welcome to use the same card. “And if all the prices end up being lower, then so be it,” Mr. Pachico stressed.

Making reference to real estate salespeople, flower sellers and electronics businesses, Mr. Pachico said that he had not heard about any of those businesses offering a discount. “Everybody’s trying to make a living,” he declared. “This is a business.”

Mr. Pachico reiterated a number of his arguments about the inconspicuousness of the proposed facility and the number of people who would benefit from its operation. In addition, he pointed out that the businesses in the area of Tisbury where it would located currently contained every amenity a consumer could want except for gasoline. Moreover, having the facility on High Point Lane would help reduce traffic at Five Corners, he said.

Mr. Pachico also stressed the number of people who worked in that area and drove cars who needed a place nearby to buy gas. Furthermore, he noted, a lot of the businesses there had moved up from the downtown area because this area was more accessible. “The gas station is just something that’s needed up in that area,” he said, remarking that he would go to any gas station on the Island other than the ones at Five Corners, in order to avoid the traffic down there.

Lastly, Mr. Pachico repeated his earlier arguments, adding the new observation that there would be plenty of room for cars to queue up in both directions at the proposed facility.
Testimony from Members of the Public in Opposition to the Proposal.

**Emmett Carroll of Chilmark** observed that “a couple of things didn’t compute.” For one thing, he said, the profit margin at his own station had gone down over the past 30 years. For another, if the distributor had to pay $419 to bring only 9,000 gallons of gasoline over on the ferry, it would cost the distributor money. “So I don’t think the numbers jive,” commented Mr. Carroll.

**Al Norman of Greenfield** stated that he was speaking at the request of Joel Ehrensweig [sic?], who ran the Martha’s Vineyard pet shop. He had submitted a statement that included his biography, he said, and this was the third time since 1999 that he had come to the Vineyard to protest the building of additional gas stations. Mr. Norman encouraged the Commissioners to look at “the larger picture” rather than at the smaller details of the proposal.

Mr. Norman remarked that he was having trouble understanding what the Applicant’s discount pricing plan had to do with whether or not the proposal was, in fact, a good land use. Having looked at Sections 14 and 15 of Chapter 831, he said, he could not see how the discount plan was relevant to a zoning decision.

In looking at benefits and “deficits” as indicated in Section 14, Mr. Norman observed, the Commission was supposed to consider the series of criteria listed in Section 15, and nowhere in Section 15 did he see anything about “economic impact of pricing structure.... It talks about, Is this location essential or not?” He then listed some of the other criteria.

“I guess that what I’m saying is that I think this is largely immaterial for your Decision,” Mr. Norman declared, “and while I think that it’s been an interesting discussion ... I think that if you come up with findings of fact that suggest that you want to approve a project because an Applicant is offering a discount, I think you’re in legal problems, I think you have a legal problem, because I don’t think you’re guided that way by your ordinance.”

The issue to him, continued Mr. Norman, was the question of probable benefits versus probable detriments, namely, 1) was it an essential or especially appropriate use; 2) would it favorably or adversely affect other persons and property; and 3) would it contravene land development policies and objectives on the Island.

By the Applicant’s own statements, stressed Mr. Norman, this was not an essential project. “I will try to show you that there’s absolutely no need for a tenth gas station on the Island,” he said, “and that not only is this project nonessential, it has no claim to being indispensable.” He then refuted the argument that a 60 percent increase in the population automatically meant a 60 percent increase in the number of cars on the Island.
Looking at census figures, Mr. Norman explained, the Island had a higher number of stations per capita than most places in Massachusetts, and the gas-station-per-capita ratio on the Island (one per 1,665 people) was 58 percent more intense than the Commonwealth average (one per 2,635 people).

Even more telling, Mr. Norman went on, was his second point, which related to the number of gallons being pumped. These figures were proprietary, he said, but he did have figures for three of the Vineyard stations. What the figures showed was that between 1996 and 2001 those stations had actually lost volume after the opening of the Airport Mobil station. [See page 3 of Mr. Norman's submittal in the meeting file.] “In fact, this suggests that you have a saturated market in which a new entrant takes from the existing retailers,” Mr. Norman argued, “and the Applicant has confirmed that tonight.”

Mr. Norman also provided figures on the estimated gallonage sold per year on the Vineyard in 1999 (about 7.5 million gallons) and currently (about 8.0 million gallons). “This to me is more compelling than any kind of reference to, ‘Well, our population seems to be growing, maybe the number of cars seems to be growing.’ No, the retailers on the Island are losing volume,” he said.

Mr. Norman acknowledged that the discount plan might have some kind of short-term benefit for the people of the Island, with other stations following suit. “But someone’s going to lose, and someone’s going to go out of the business,” he emphasized, which would then bring the problem of digging up the tanks and cleaning the site of the station(s) that failed.

It also seemed contradictory to him, continued Mr. Norman, to be building more gas stations when public policy was headed in the direction of reducing the number of cars driven on the Vineyard. His understanding was, he said, that the Steamship Authority was trying to hold the number of cars ferried to the Island to the 1997 levels. “That suggests to me you’re trying to restrict the availability of private cars on the Island, and I commend you for doing it,” he commented.

Turning to how the proposed development would adversely affect other property, Mr. Norman laid out how by reducing the market share of its competitors, the new gas station would cause the value of those businesses to drop. “I suggest it’s voodoo economics if you suggest that everything’s going to be fine if you add a tenth station with another million gallons if the volume isn’t there,” he said. “Already, stations are losing volume with the nine stations.”

It was obvious, Mr. Norman went, that the project would contravene the Island’s land development objectives as well as its transportation land use policies and growth
management strategies. He provided examples of this and then summed up, following closely the “Summary” section of his submittal.

Mr. Norman added some comments about State Road and the difficulties of taking left turns and how many more left turns would be taken as a result of the development. “And my opinion is that if this traffic flow on this corridor, which is already seriously failing at some intersections, if this was an MCAS test, it would not graduate,” he concluded.

Lastly, Mr. Norman introduced Jeff Pertullis, a traffic engineer he had worked with on his report.

Mr. Conley asked who was paying Mr. Norman. “Yes, I’d be happy to do that,” responded Mr. Norman, “and I hope you’ll disclose the, you know, what you’re doing with your consultants.” He explained that his “Sprawlbusters” practice was about nine years old, and he provided some of its history. His speaking fees helped him to do things like give testimony at this Hearing, he said. “Point of Order, Mr. Chairman,” interjected Ms. Schultz. “He’s a hired gun.” Ms. Schultz was gavelled down.

Mr. Norman revealed that Mr. Ehrensweig was not paying him but that he had corporate sponsors and individuals who helped support the concept of Sprawlbusters. He pointed out that his Website was mentioned in his submittal as well as his background. He had been featured on “Sixty Minutes” as well as in The Wall Street Journal, he added.

“I am here out of my conviction to help stop sprawl,” Mr. Norman declared. “I’m not losing money. I have underwriters who pay for my time. Therefore, I don’t have to charge people like this gentleman, who called me because he knew I had been here before… I have not asked local people to pay for my time. I don’t need to. I’m fortunate to be able to do that.”

Mr. Israel asked Mr. Norman who was paying him, and Mr. Norman provided the same answer.

Jeff Pertrullis, a traffic engineer from Springfield, disclosed that he was being paid by Mr. Norman to help him with his cause. He recounted how he had worked with Mr. Norman in Greenfield to help fight “a bad gas station project, a predator gas station project, which I felt deserved some attention.” Then he provided his background as a traffic engineer, construction analyst and expert witness.

Mr. Pertrullis related that he had spoken with Mr. Wessling and that he agreed with the latter’s analysis of the growth percentages. He had questions, he said, about trip generations and impacts on State Road. According to Mr. Scully’s 1999 report, that stretch of State Road accommodated 14,000 to 20,000 vehicle trips per day; morning peak hours had about 1,400, and evening peak hours, about 1,500.
Mr. Pertrullis then listed some of the elements of the proposal: 1.2 acres of wooded land being redeveloped, with six gas pumps, a 1,700-square-foot gas-station canopy, 38,000 gallons of fuel, a 570-square-foot attendant-transaction building; a 480-square-foot public restroom, a 250-square-foot retaining wall and parking for 10 cars. He apologized if any of those elements had changed since he had seen the plan.

Mr. Scully's study, Mr. Pertrullis continued, had concluded that during peak hour on Friday there would 140 vehicle trips generated by the facility, and at peak hour mid-day Saturday, about 103 cars.

What the study had not talked about, though, were the daily numbers, he continued. To put this in perspective, on the low end, the facility would generate about 1,000 trips a day on High Point Lane, and a lot of this would be associated solely with gas sales. He himself believed that the potential was there for the number of daily trips to be even greater.

For instance, Mr. Pertrullis went on, the strategic pricing could potentially generate much more traffic. Moreover, the attendant-transaction building, which measured 24 feet by 24 feet, was unusual, because usually stations that only sold gas had 6-foot-by-8-foot kiosks. "The question that I ask is, what is the potential for this building to do other things than just house a register?" he asked. "The potential [exists] for selling cigarettes, lottery tickets, beer or wine, soda, basically, convenience items. There is a potential, and those will generate trips."

As for the public restroom, said Mr. Pertrullis, he supposed it was being put there because there was a need for the 400-square-foot bathroom. "I presume there will be an attraction associated with that," he observed. In addition, the site provided 10 parking spaces, and he had to assume that these would be used for something.

Mr. Pertrullis stated that he agreed with Mr. Scully's report that many of the trips to the station would be pass-by trips. But what had not been identified in the report, he said, was the adoption of single directional flow at the gas stations on the Island. As for the argument that the facility would take trips away from Five Corners, Mr. Pertrullis explained that people going to Five Corners were probably on a "trip chain" and had other places to go at Five Corners. "I don't see that there's any great benefit at all in reducing trips," he stressed.

Turning to the Level of Service, Mr. Pertrullis pointed out that all trips to the station would have to be diverted off State Road and onto High Point Lane, which meant more left turns coming and going. Of the five intersections studied by Mr. Scully, the Level of Service of three of them would drop as a result of the development. At the lowest rate that he would expect, noted Mr. Pertrullis, 250 cars a day would be taking a left turn onto High Point Lane. "There is no way of getting around traffic as it is waiting at that left turn," he said.
Mr. Pertrullis related how Mr. Scully had tried to discount the increased delay times by claiming that the generally accepted models did not really apply to the special characteristics of State Road drivers. “I have never been able to get away with that,” he said, adding, “An F is an F. About impact, we are bound by the tools that are accepted nationally.”

Mr. Pertrullis explained that the no-build situation would involve less than 60 seconds of delay at High Point Lane, while the build situation would entail 190 seconds of delay. “Even if this thing is not exactly accurate, we’re looking at no-build versus build,” he stressed. “There is a big discrepancy. There will be an impact, a dramatic impact.”

The primary delay he was talking about, Mr. Pertrullis said, was the delay of taking a left turn out of High Point Lane onto State Road. If a police officer were placed there, the 190 seconds of delay would basically be spread out and would stop traffic on State Road. “Now State Road has to stop, whether they want to or not,” he declared. So, essentially, easing the delay on High Point Lane for users of the gas station would burden the people on State Road not using the gas station.

Mr. Pertrullis then summed up all the points he had just made.

Pat Jenkinson of West Tisbury introduced himself as well as his wife, Joan, and stated that they owned Up-Island Auto. They had been born and raised on the Island, he said, and had owned the gas station for 32 years. They had always been fair to their customers, he continued, and their prices were usually lower than everyone else’s. “We treat everyone the same, whether you come from the Island or not, and our prices are all the same,” he declared.

Mr. Jenkinson related that he bought his gasoline from Ralph Packer, who employed Island people. “The tank truck guys don’t employ nobody here, and I haven’t seen savings at any other stations that buy it from the tank guys,” he said. “We’re not the bad guys as far as pricing goes. We don’t gouge the public, as some people would like you to believe. We keep our prices as low as we can to make a living, and we’ve done that for years... You can trust us to keep doing that.”

Mr. Jenkinson added, “These new stations are going to beat us to death. They won’t put us out of business, but they’ll beat us to death. We’ve been there a long time. Just think of that when you’re making your decision.”

Michael Rotondo, owner of the Airport Mobil gas station, referred to the letter he had submitted that had been signed by most of the Island’s gas station owners. [See the meeting file for a copy.] “I’m the new kid on the block. I’ve only been here for five years,” he said, “so apparently I was the one that put the 10, 15 percent dent in [name inaudible]’s living.” He apologized for that, although, he added, it was not something he had anticipated.
Mr. Rotondo said that there did not appear to be a need for another gas station on the Vineyard. No one, it seemed, had more business than they could handle. As for the discount program, anyone who owned a small fleet of business vehicles knew that they already got a 3 percent commercial discount, which right now would save seven or eight cents a gallon. Some of the bulk buyers, like the diesel buses, got off as much as 11 cents a gallon. “Discounting to create new business is certainly not a new concept,” he remarked.

Regarding the Applicant’s affordable housing offer, Mr. Rotondo pointed out that all of the Island gas station owners contributed to the local charities of their choice. As for Mr. Conley’s contention that the presence of the new station would not increase the number of tank trucks being ferried over, Mr. Rotondo stated that this simply was not true. If he, for instance, needed only a 8,000-gallon load, that load would still be brought by a truck that had a capacity for 10,000 gallons. “So no matter how much you divide up the pie, you’re going to see another 200 trucks,” he said. [The rest of Mr. Rotondo’s testimony was inaudible.]

Joan Jenkinson of Up-Island Auto, who is also the Animal Control Officer for West Tisbury, testified that she went in and out of High Point Lane to go to the pound about 10 or 12 times a day in the summer. “And, believe me, it’s more than a 15-second wait out of there,” she said. Moreover, people coming from Vineyard Haven trying to make a left turn onto High Point Lane sometimes had to wait four to five minutes, she reported.

Questions and Comments from Commission Members.

James Athearn, a Commission member at large from Edgartown, asked Mr. Rotondo about his theory regarding the number of tank trucks being ferried to the Island. He confirmed with Mr. Rotondo that each gas station owner had to have the fuel brought over in a separate truck, even if the truck was not filled to capacity. Did his theory hold water? Mr. Athearn wondered.

Mr. Rotondo explained that there were Citgo stations, Mobil stations, Texaco stations, in other words, the stations were “branded” and they would not share a tanker with someone buying a different brand. But wouldn’t the owner wait until he needed a full tanker before he ordered the delivery? asked Mr. Athearn. “Optimistically,” replied Mr. Rotondo, “but sometimes it’s a time-performance kind of thing, where you’re scheduled for Monday, Wednesday and Friday, you’ve got advance reservations, which are made close to half a year in advance.”

Mr. Rotondo explained that the decision about the amount of fuel needed could only be made the day before, stressing that an owner could only fill up his fuel tanks to 90 percent capacity. “So that’s a consideration also,” he said.

It was his understanding, added Mr. Rotondo, that in Massachusetts one could not “split loads,” that is, a tank truck could only service one station per load. “So how many Island
stations have their fuel delivered from off-Island?” inquired Mr. Athearn. Mr. Rotondo thought the number was five. [The remainder of Mr. Rotondo’s answer was inaudible.]

Mr. Horne posed this question: Given the Island’s vehicular population, was there any data from anyone that stipulated the acceptable number of pumping stations per vehicular population? “That means, if you’re talking anti-sprawl, where’s the number at?” he asked. “Is it five? Is it 10? Is it 90? Does anybody have anything to say relevant to that? If we had 20,000 vehicles, is there any data or case analysis with any other sector that stipulates how many pumping stations or service stations, if you will, that that should dictate? And I’ll bet the answer is no.”

Mr. Horne mentioned that he was a retired motor vehicle administrator and had spent some time in this field. In addition, he had spent 20 years as a small-business developer, “so on both ends I have never in my experience seen that type of data.”

Mr. Norman responded that the information he had shared was simply stations per capita. “There’s no regulatory body that says, you know, companies’ gas stations have to be limited to a certain number of gas stations per capita. My numbers were only supposed to illustrate in a general way that stations per capita across the Commonwealth are in less frequency that you have them on the Island.” He related some of his own experience in the town he lived in.

“Communities have the right,” Mr. Norman continued, “to turn down stations that in limited numbers would be beneficial to the general welfare of the public, but in proliferation, detrimental. That’s the language of a court case.” He argued further along these lines. The time was 10:03 p.m.

**Applicant Summary.**

Ms. Schultz offered the opinion that Mr. Norman’s comments on Chapter 831 were “not well-taken.” For one thing, she said, he had omitted catch-all language in Section 15 that referred to the fact that the enumerated factors in that section were to be considered as they related to other factors that were not specified. The Commission, she stressed, had to consider Applications on a case-by-case basis.

Moreover, continued Ms. Schultz, Mr. Norman had “glossed over” a section of Chapter 831 that did pertain to the proposal, which was the effect on persons and property. “And we suggest that the economic benefit to Island residents is an effect on persons that you ought to consider,” she said.

Secondly, relative to Mr. Norman’s arguments about the station’s not being essential, a study of Section 15(a) would reveal the words “essential or especially appropriate at this location,” Ms. Schultz went on. “So what you’re considering is not whether the gas station is essential, but whether this proposed development is especially appropriate at this location.”
Thirdly, argued Ms. Schultz, Mr. Norman had characterized the discount program as illusory. On the other hand, he had pointed out that if the station folded, the discount program would disappear. “I guess it’s damned if we do and damned if we don’t,” she said.

Ms. Schultz emphasized that the Binding Agreement would be a Condition of Approval, so that it would go with the land. “And I would ask Mr. Norman, who in fact works for Drake Petroleum, which supplies the X-tra Mart in Tisbury,” she said, “whether he would be here addressing you for Sprawlbusters if Drake was the one making this proposal.”

Fourthly, said Ms. Schultz, she had not heard what Mr. Pertrullis’ credentials were, and she had not been privy to anything he may have submitted in writing. “His comments about the building are issues that, you know, he throws out there sort of like fairy dust,” she declared. “That’s not part of this proposal. If there is future development proposed, this Applicant will be back before the Commission. It’s not something that you should consider now.”

In addition, Mr. Pertrullis’ attacks on Mr. Scully’s report aside, Ms. Schultz pointed out that if one listened carefully, Mr. Pertrullis had agreed with Mr. Scully’s trip-generation numbers “and he was just differing on potential for the site to generate new trips if these other things came into play. Well, none of these other things are before you, and I suggest it is appropriate to limit your consideration to what is, in fact, before you.”

Ms. Schultz pointed out that Mr. Pertrullis’ contention that the delays would longer than 15 or 20 seconds was based not on actual observation, as Mr. Scully’s were, but on computer models. As for the possibility of having a traffic officer at the intersection of High Point Lane and State Road, “I suggest with all due respect that this is an issue for the Town to address,” she said, adding that the Applicant was committed to working with the Town on this issue.

Finally, regarding Mr. Pertrullis’ comments about Five Corners being a destination for many drivers even if there were a gas station on High Point Lane, Ms. Schultz declared, “I suggest it’s speculation.”

Mr. Conley argued that if something was not done now, prices for gasoline would “stay high for a long, long time.” In addition, he said, he and his partners were dedicated to the cause of low-cost housing and had a real interest in helping year-round residents. Admittedly, he continued, some of the other stations would be selling less gas, but, he stressed, they were not going to go out of business. He was confident, he added, that the other sellers would maintain their profit margins, at least during the summer.

Regarding the attendant’s building, Mr. Conley explained that it would contain storage areas for fluids like oil and windshield-wiper cleaner that they would sell. He also gave reasons for the size of the restroom [not audible on the tape].
As for the impact the development might have on State Road traffic, said Mr. Conley, that had to be weighed against the benefit of lower gas prices and a more convenient location for many.

The Hearing Officer closed the Public Hearing and left the Written Record open for two weeks. The time was 10:09 p.m. Mr. Donaroma, who as Vice-Chair would be running the Regular Meeting in the Chairman's absence, called for a short recess.

New Business: Vote to Offer the Executive Director Position to Mark London.

The Regular Meeting resumed at 10:17 p.m., with Mr. Donaroma holding the gavel. [During the recess, Messrs. Schweikert and Wey left the Meeting. Ms. Greene had returned to the meeting room. Thus, the Commission members seated for this segment of the Meeting were: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; E.P. Horne; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole; K. Warner; A. Woodruff; and R. Zeltzer.]

Ms. Greene reported that members of the Commission had interviewed Executive Director candidate Mark London on Sunday, August 18. The Search Committee, she related, had not had time to bring in other applicants. By the end of the interview, the Commissioners still present lacked a quorum to vote on the question of whether to offer Mr. London the position, she said; however, those there had made a unanimous recommendation that the Commission hire Mr. London.

Ms. Greene then made a Motion That The Commission Offer The Position Of Executive Director To Candidate Mark London. “The man has incredible qualifications, and I think he’d make a fabulous Director,” she remarked. Ms. Sibley seconded the Motion. “I want to second Jennie [Greene]’s sentiments,” commented Ms. Warner, “he was incredible. We are so lucky to have him.”

Mr. Israel expressed concern regarding Mr. London’s ability to find housing and to settle on the Island. Mr. Zeltzer responded that in its screening process the Search Committee had looked carefully at this issue and that Mr. London had been “pretty positive” about that.

Mr. Israel related some of the less desirable aspects of having a Town Administrator in Tisbury who lived off-Island and had not yet found a house on the Vineyard in the year and a half he had been looking. Ms. Sibley remarked that she felt confident and that Mr. London felt confident that finding a suitable place to live would not be a problem.

Acting Principal Planner William G. Veno conducted a Roll Call Vote on Ms. Greene’s Motion, which carried unanimously.
already approved it.” She also pointed out that Mr. Rogers had had a hangar reviewed by the Commission in the past.

Ms. Brown posed this question: If at some point the County wanted to tear down the present airport structures and build new ones, wouldn’t the Commission want to review the development? Yes, answered two or three Commissioners at once. Ms. Rand explained that this was why she had not summarily sent the referral back to West Tisbury.

Ms. Sibley related how the Commission had worked out a development agreement with the County for projects in the Business Park and how the addition of Section 3.301(g) to the Standards and Criteria was intended to ensure that developments outside the Business Park would continue to be reviewed. On the other hand, she said, as an airport-related structure, the hangar would be subject to strict FAA regulations and the review of the Airport Commission.

Ms. Sibley then made a Motion Not To Concur With The Referral Of The Rogers Hangar To The Commission And To Send It Back To The Town Of West Tisbury. Ms. Brown seconded the Motion.

The discussion continued for a few minutes longer. [Messrs. Best and Israel made some observations that were not audible on the tape.] Ms. Rand provided the dimensions of the proposed hangar and spoke of a site plan she had seen of the airport which showed where future hangars could be located.

By Voice Vote, Ms. Sibley’s Motion carried unanimously.

New Business: Nexus Study.

[Ms. Cini returned to the meeting room.] Ms. Cini, the Chair of the Affordable Housing Policy Review Subcommittee, referred the members to the document entitled “Proposal to Martha’s Vineyard Commission, MV Nexus Study Completion, August 2002” from John J. Ryan of Development Cycles in Amherst. She then reported on the latest developments in her efforts to get the nexus study done. [See the meeting file for a copy of the proposal. Ms. Cini’s comments at this point were not audible on the tape.]

Mr. Donaroma asked Acting Executive Director Irene Fyler what she thought of the proposal. Ms. Fyler replied that the Commission did not have the money to pay for it. [The rest of her answer could not be heard on the tape.] How much would it cost? inquired Ms. Greene. Ms. Cini answered that the total cost would be $7,800. [The rest of the answer was inaudible.] Megan Ottens-Sargent, the Aquinnah Selectmen’s Appointee, wondered if perhaps the money could come from the charitable trust that was being worked on.
AYES: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; E.P. Horne; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole; K. Warner; A. Woodruff; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

Ms. Greene said that she would contact Mr. London to let him know about the results of the Vote. (Applause) Mr. Israel then paid tribute to Acting Executive Director Irene M. Fyler, who, he said, had “done a tremendous job.” He then commended the other Staff members. (Applause)

Mr. Donaroma thanked the Search Committee for all the work they had done, “which I participated in very little. Everybody worked really hard, and it finally worked out.” The time was 10:23 p.m.

Concurrency Vote: M. Peter Rogers Aircraft Hangar Referral (DRI No. 558).

[Because of a conflict, Ms. Cini recused herself from the Concurrency Vote, staying out of the meeting room during this segment of the Regular Meeting. Also, Ms. Warner left the Meeting at this point. Thus, the Commission members present for the Concurrency Vote were: J. Athearn; J. Best; C. Brown; M. Donaroma; J. Greene; E.P. Horne; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole; A. Woodruff; and R. Zeltzer. Note that as a Governor’s Appointee, Mr. Horne cannot vote on Motions involving DRIs.]

DRI Coordinator Jennifer Rand reported that she had received a referral from the Town of West Tisbury for a hangar at the Martha’s Vineyard Airport. As a building with an area of more than 2,000 square feet, the project had come in under Section 3.301(a) of the Standards and Criteria, she explained.

However, Ms. Rand pointed out, Section 3.301(g) of the Checklist stated that construction outside of the Business Park of non-airport-related business structures at the airport required a Concurrency Vote. This has led her to conclude that the flip side of this, so to speak, was that an airport-related business structure outside the Business Park could also be remanded back to the Town if the Commission so voted. In addition, she stressed, the Town of West Tisbury was not specifically requesting that the Commission review the project.

Therefore, said Ms. Rand, she was recommending that the Commission vote not to concur with the referral so it could be returned to the Town.

Mr. Zeltzer wanted to know if the Airport Commission would be reviewing the development. “Not only are they going to have it,” replied Ms. Rand, “I think they’ve
Ms. Greene expressed concern that a new Executive Director was being hired and there was some question about having the money to pay him. “And now suddenly, to jump into another project that we don’t have the money for really worries me,” she said. “I would like to put this off for a couple of months, when we can make sense of whether or not we can afford to do [this].”

Ms. Brown spoke of alternative sources of funding. [The Secretary could not understand her exact words on the tape.] Ms. Cini said that Mr. Ryan had a particular time slot available to do the work.

“It seems like we’re hearing some people saying ‘waiting’ or did I miss out on something,” remarked Mr. Donaroma. Ms. Cini talked about Mr. Ryan’s schedule for the near future. Ms. Ottens-Sargent again suggested that they look at using the charitable trust to fund the study. Mr. Zeltzer asked how long it would take to set up the charitable trust. Ms. Fyler reported that Commission Counsel Eric Wodlinger had told her the day before that he was starting to work on it. “I don’t know how long it takes to set it up,” she added.

Mr. Zeltzer spoke of prioritizing how the initial monies coming in through the trust should be spent. Clearly, he said, the shortfall related to the new Executive Director’s salary and the nexus study were important things. Mr. Woodruff offered his comments. [Inaudible]

Ms. Sibley emphasized that all monies in the fund had to be donated anonymously. Mr. Toole stressed that the fund had to be set up as soon as possible and that the nexus study had been on hold for more than a year.

Mr. Israel made some remarks. [Inaudible] Mr. Donaroma suggested that it was time to wrap up the discussion and vote.

Mr. Veno provided the wording for a Motion. [This, too, was inaudible. It was not clear to the Secretary who then offered the Motion, how the Motion was worded and who seconded it.] Mr. Veno then conducted a Roll Call Vote on the Motion, with the results as follows:

AYES: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; E.P. Horne; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole; A. Woodruff; and R. Zeltzer.

NAYS: J. Greene.

ABSTAINING: None.
Discussion/Vote: Island Elderly Housing Woodside Village IV (DRI No. 553) and Woodside Village V (DRI No. 554) Written Decisions.

[Ms. Cini left the meeting room for the Votes on the Woodside Village Written Decisions.]

Ms. Sibley made a Motion To Approve The Written Decisions For The Woodside Village IV and Woodside Village V Developments Of Regional Impact, duly seconded.

Mr. Veno pointed out a typographical error in Clause D of both Written Decisions. (“Woodsland” should be changed to “Woodlands.”) He then began to conduct a Roll Call Vote on the Motion, in the middle of which it was discussed whether the requisite nine eligible members were present to vote.

[Those members eligible to vote were: J. Best; C. Brown; M. Donaroma; J. Greene; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; and A. Woodruff. Mr. Vercruysse did not attend the Meeting that evening, and Mr. Schweikert and Ms. Warner had already left the Meeting.]

Mr. Athearn’s name did not appear on the list prepared by the Staff Secretary, although Mr. Athearn recalled having been at the Hearing, albeit having arrived late. The Roll Call Vote was completed for both Decisions, with the Motion carrying unanimously and with Mr. Veno agreeing to put down Mr. Athearn as voting and then to check on whether or not Mr. Athearn was, in fact, eligible.

[Note: See pages 1 through 12 of the Full Commission Meeting Minutes of July 25, 2002. The Public Hearings, which ran concurrently, began at 7:40 p.m. Mr. Athearn took his seat at 8:11 p.m., and the Hearings were closed at 8:36 p.m. When it came time to take the Oral Vote on the proposals, Mr. Athearn abstained.]

Reports.

Ms. Greene reported, “The Search Committee is finis.” Several Commission members cheered and clapped.

Mr. Veno reported that he had been contacted by a group whose aim it was to provide unbiased information on the proposed windfarm in Nantucket Sound. He wondered if the Commissioners would like to meet with the group, which would be appearing before the County Commission. Ms. Greene advised the members to read all materials on the project carefully. For instance, she said, the European windtowers that the proponents referred to were, in fact, half the height of the ones being proposed. “I think we need to talk,” she suggested.
The discussion wound down. Ms. Sibley made a Motion To Adjourn, duly seconded by Ms. Greene. The Regular Meeting adjourned at 10:50 p.m.

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

ABSENT: A. Bilzerian; J.P. Kelley; C.M. Oglesby; R.L. Taylor; and J. Vercruysse.

[The Staff Secretary did not attend the Regular Meeting. These Minutes were prepared by her, using an outline and roll call sheet provided by Mr. Veno as well as a tape recording of the Regular Meeting.]