The Martha’s Vineyard Commission held a Special Meeting on Thursday, December 5, 2002, at a special time — 7:20 p.m. — in the first floor conference room at the Commission Offices in the Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts.

At 7:26 p.m., a quorum being present, the Special Meeting opened. Presiding was Richard J. Toole, a Commissioner at large from Oak Bluffs, Chairman of the Land Use Planning Committee (LUPC) and the Hearing Officer that evening. [Commissioners seated at the gavel were: J. Athearn; J. Best; C. Brown; M. Cini; T. Israel; A. Schweikert; L. Sibley; R. Toole; K. Warner; R. Wey; and A. Woodruff.]

Auditor’s Report.

[The entirety of Side A of Tape One of the recording of this Meeting was blank. Thus, from the start of the Meeting until Mr. Wehner’s testimony on page 5, the Minutes are taken from notes prepared by Executive Director Mark London, who was present at the Meeting.]

Richard Dionne, a member of the firm Antiss & Co. and the Commission’s auditor, presented the Financial Statements for Fiscal Year 2001-2002 and made the following comments:

That the Commission had received an unqualified clean opinion, the highest rating possible;

That the financial health of the agency was beyond the scope of the audit;

That, like any government agency or non-profit, the Commission generated a small profit;
That the Commission had limited control over its profitability, since many expenses, such as legal fees, are unpredictable; and

That the Financial Statements were designed primarily for the use of granting agencies and not for the Towns, resulting in the presentation of the agency’s overhead in a particular way.

Elaborating on the last point, Mr. Dionne described how upon first looking at the statements, it appeared that local-share money was used to subsidize grants. However, he explained, the allocation of indirect costs as shown was allowed by the granting agencies. The Commission was not billing for these indirect costs, he stressed, and the granting agencies were comfortable with the rate because they set the permitted percentage for overhead.

Mr. Dionne added that if the Commission wished to see an evaluation of the spending with respect to the specific use of Town assessments, he could organize the statements and the allocation of indirect resources to address that.

Reopened Public Hearing: Tisbury Fuel Services, LLC (DRI No. 552).

The Commission members seated for the Reopened Public Hearing were: J. Athearn; J. Best; C. Brown; M. Cini; T. Israel; A. Schweikert; L. Sibley; R. Toole; K. Warner; R. Wey; and A. Woodruff.

Mr. Toole read into the record the Notice of Public Hearing for the Reopened Public Hearing for the Tisbury Fuel Services Development of Regional Impact in Tisbury (DRI No. 552). [See the Full Commission Meeting File of December 5, 2002 (the meeting file) for a copy of the notice.]

Applicant’s Presentation.

Present on behalf of the Applicant were: Sean Conley, Michael Jampel, Steven Wehner and William White, partners in the Tisbury Fuel Services enterprise; traffic engineer William Scully of MS Transportation Systems of Natick; and Hilary S. Schultz, an attorney.

I. Sean Conley and William White on the Economic Overview and Benefits.

At the request of Tisbury Selectmen’s Appointee Tristan Israel, Mr. Conley confirmed that he was comfortable with moving ahead with the Hearing despite the fact that two potential voting members – Michael Donaroma and Robert Zeltzer – were absent that evening. It was noted that 11 still-eligible members were seated, two more than the required quorum of nine members.
Responding to the question from Ms. Schultz, it was confirmed that the Commission member who had recused herself—Megan Ottens-Sargent—was not present.

Mr. White read into the record a statement summarizing the benefits of the proposal. Among those benefits were:

- That the business would reduce Island fuel prices;
- That the business would protect a sound local economy;
- That the facility would offer Tisbury residents the option of avoiding the Five Corners intersection area when they had to fuel up;
- That the facility would help promote the Tisbury Park-and-Ride, selling tickets for it at the station;
- That the station would be located 500 feet off State Road and not right on it, as a previous proposal had been; and
- That the Applicant would be making a donation to the Town of Tisbury Fire Department.

Mr. Conley summarized a report he had submitted to the Commission entitled Report to the Martha’s Vineyard Commission: The Impact on Gas Providers and Consumers if a New Gas Station Opens in Tisbury at High Point Lane; DRI #552: Tisbury Fuel Services, Inc.; Submitted by Tisbury Fuel Services, Inc., November 15, 2002. [See the meeting file for a copy of the report.]

In 1970, when the year-round population of the Island was 6,117, fifteen different fueling locations were available to Vineyard residents, began Mr. Conley. He went through a list of those stations, noting which of them had since closed.

The key to his proposal, Mr. Conley continued, was the lower fuel costs that the facility could offer. This was a major benefit to the Island, he stressed, particularly in view of the fact that one third of Vineyard Haven households made less than a moderate level of income.

The report had been based on other major studies, said Mr. Conley, that had shown that key criteria for choosing a gas station are convenience and close proximity to the station, that is, within a two-to-three-mile radius. In calculating the future need for vehicle fuel, he emphasized, he had used the lowest rate of growth—2 percent—rather than the 3 percent annual growth rate that the Island had experienced between 1992 and 2002.

The report submitted by RKG Associates had been generally favorable, Mr. Conley went on, although the consultant had questioned the annual growth rate used by the Applicant,
being of the opinion that 2 percent was too conservative. In addition, the consultant had not addressed the issue of trade area. An example of this, noted Mr. Conley, was the success of Up-Island Cronig's in West Tisbury, which was doing well because people were not willing to travel the four miles to the State Road Cronig's Market in Tisbury.

Mr. Conley also pointed out that the consultant's estimate of the Tisbury Fuel Services facility's impact on other stations had been based upon the assumption that the other stations would not lower prices. If they did, he explained, the impact of the new station would be less, and the overall lower prices would benefit the consumers.

West Tisbury member at large Linda Sibley wanted to know how many vehicles drove past Up-Island Cronig's to shop elsewhere. Mr. Conley responded that he did not know but that the fact that Up-Island Cronig's was still in business meant that for many people proximity was a significant factor.

West Tisbury Selectmen's Appointee Kate Warner asked where the Applicant's figure of 11.5 million gallons of annual overall gas consumption on the Island had come from. Ms. Schultz replied that the figures had come from Airport Mobil owner Michael Rotondo in Public Hearing and from Al Norman of Sprawl-Busters. She had also gotten data about suppliers Drake, Ralph Packer and Piper Fuel Supply in the context of a Department of Energy study.

Ms. Schultz emphasized that the only evidence that could be considered was what was contained in the Public Record; the rest was hearsay. She related that she had sent registered letters asking for information on gas sales to all Island gas station owners and had received no replies.

Mr. Conley then displayed three illustrations. The first was a map of Vineyard Haven which demonstrated that 99 percent of the Town's population and 73 percent of traffic coming from the Steamship Authority terminal was on the north side of the Five Corners intersection. Next was a map of Vineyard Haven showing developed and undeveloped areas. The third illustration was an aerial photograph showing the location of the proposed facility.

II. Steven Wehner on the Proposed Pricing Structure.

Mr. Wehner related that he had spoken to Bill Ronald, who works for the parent company that controls Drake Petroleum. Mr. Ronald had reported that the ExtraMart Citgo was pumping 1.3 million gallon a year. Mr. Wehner then passed around a handout showing rack price, distribution costs and so forth, which, he said, demonstrated how gas could in fact be sold on the Island for only 9 cents above the rack price or around 50 cents less per gallon than was usually charged.

Mr. Wehner explained in detail how the cost per gallon of gas brought to the Vineyard was based on a rack price of 84 cents, taxes of 39.4 cents, Steamship Authority ferry
costs of 4 cents, wholesaler and trucking costs of 5 cents and a Super Fund contribution of 5 cents, for a total cost of $1.33 per gallon for delivered product. Tisbury Fuel Services would add to that 36 cents (including 1 cent per gallon for donation to the Regional Housing Authority) for an Islander Price of $1.69 per gallon.

Next, Mr. Wehner went over a chart that compared the rack wholesale costs and the retail cost at the pump at the ExtraMart Citgo on May 8 and June 22, 2001. The figures demonstrated, he said, that although the rack cost during that period had declined from $1.34 per gallon to 99.4 cents, the cost at the pump had risen from $2.32.9 to $2.39.9 per gallon. Thus, the markup had increased from 98.9 cents per gallon to $1.45.5. A second comparison in November 2002 showed a similar pattern. The point was, Mr. Wehner stressed, in a competitive environment, when the market went down, the price of product followed suit.

While the normal net-profit margin in New England was 11 cents per gallon, Mr. Wehner continued, on the Island it was nine times as much. Although operating costs might be higher on the Vineyard, he noted, they were certainly not eight or nine times as great as on the mainland.

West Tisbury Commissioner at large Andrew Woodruff inquired about a comparison of the price per gallon Tisbury Fuel Services intended to charge as a so-called Island Price with the price charged to those who did not qualify for the discount. “I don’t have a good answer for you,” replied Mr. Wehner. “Michael Jampel [another partner] has instructed me that if we ever get to the point of an Approval with Conditions, we could talk about a fixed profit margin to the summer residents. We’re deathly afraid because of traffic that if we include them now, that this project will be denied because of traffic, and the Island resident, [who] is stuck with this all year, will get nothing.”

Mr. Wehner related how he had met five times with Jim O’Hearn of Drake Petroleum and how Mr. O’Hearn had described the Vineyard as “a ripe peach ready for the picking.” Mr. O’Hearn had also offered the opinion that Tisbury Fuel Services would never get an Approval from the Commission, but that if the facility did open, Drake would drop prices so low that TFS would be put out of business.

Mr. Wehner also stressed that Al Norman of Sprawl-Busters was a consultant paid by Drake Petroleum, and he had, he said, a signed statement to prove that.

Responding to a query from Ms. Sibley, Mr. Wehner clarified that Drake Petroleum was the wholesaler and retailer for the ExtraMart Citgo and thus pocketed all of the markup. Mr. Wehner explained to Ms. Warner about the fixed gross-profit margin shown on his chart. “And that’s for the Island discount?” asked Oak Bluffs Selectmen’s Appointee Alan Schweikert. “That’s correct,” said Mr. Wehner. “But for the other people, that’s undetermined?” wondered Mr. Schweikert. “That’s correct,” answered Mr. Wehner. “We’re willing to discuss it, but I just can’t take a chance and deny the Island residents this opportunity.”
Mr. Wehner then provided some background on Drake Petroleum, describing a map in the company president’s office that showed the 3,000 stations they delivered to. “To be a Drake station, you’ve got to pump a million gallons,” he said. “They actually turned down Michael [Rotondo of Airport Mobil] years ago because they thought in the middle of nowhere he wouldn’t do anything.”

Drake Petroleum was also the distributor for the two Mobil stations in Edgartown, Mr. Wehner continued. “And even if those guys wanted to lower prices, ... they would be starting a gas war with the distributor, and that’s biting the hand that feeds you,” he observed.

Another reason he was taking on Drake Petroleum, Mr. Wehner explained, was that the ExtraMart Citgo charged $1.95 per gallon for regular, while Packer Fuel charged $1.86. However, Drake trucked in its project, which was cheaper than using a barge operation, as Packer Fuel did.

Mr. Wehner also pointed out that at the ExtraMart Citgo, 90 percent of the customers were right-hand-in and right-hand-out and that the Applicant had found this to be true of other stations on the Island. Responding to a question from Mr. Woodruff, Mr. Wehner said that the Applicant had not calculated the percentage of turns into the proposed station that would be right-hand ones.

Ms. Sibley observed that even though Tisbury Texaco, right down the street from the ExtraMart Citgo, charged 9 cents less per gallon, customers continued to patronize the latter station. So why did the Applicant think that customers would change their buying habits and go to the new facility for a lower price? Mr. Wehner replied that the price difference between the new station and the older ones would be greater, plus the access would be easier, as compared to the Five Corners stations.

Responding to another question from Ms. Sibley, Mr. Conley estimated that the breakdown in the gas consumption of Island customers versus seasonal ones was 35 percent versus 65 percent. Michael Jampel, another of the TFS partners, interjected that the price per gallon at Tisbury Texaco had only dropped in the last day or two and that prices would adjust in a few days.

Ms. Sibley also wondered if angry seasonal customers would head to the ExtraMart Citgo to retaliate against the price differential between Island Price customers and seasonal ones. Mr. Conley answered that that might be true during the summer.

Mr. Wehner then related how he had spoken to the Jenkinsons, owners of Up-Island Auto, and that they had had no idea that other distributorship options were available. He had spoken as well to Michael deBettencourt, who runs a gas station in Oak Bluffs. Responding to another Commissioner question, Mr. Wehner stated that it was not true
that fuel-delivery load could not be split; this was only true if when speaking of different brands.

Mr. Wehner also stated how he would be willing to help the Jenkinsons with information about alternative contracts and delivery schedule. Mr. Jampel said that their supplier in Falmouth would offer the same price – $1.45 per gallon – to other Island independents. When Mr. Jampel began to relate what the Jenkinsons had said, James Athearn, a Commissioner at large from Edgartown, cautioned the Applicant that he could talk about what he had said but that his passing on what others had said amounted to hearsay.

Mr. Wehner remarked that many people had wondered how a single new station could make a difference in a pricing structure that had been operating for 25 years. Both the ExtraMart Citgo and Tisbury Texaco were retailers as well as distributors, he pointed out, and as a true independent, Tisbury Fuel Services could put pressure on those two stations, which were in his trade area, to lower their prices.

Responding to a question from Mr. Israel, Mr. Wehner said that he expected 99 percent of the new facility’s customers to come from Tisbury and not from up-Island. In addition, he emphasized, Island people would feel loyalty to the Jenkinsons, the Carrolls and the deBettencourts because of the length of their relationship and the good service they delivered. To him, this explained why the Airport Mobil station had not been able to attract sufficient customers to merit keeping their prices low, something they had done in their first six months of operation.

Mr. Wehner also noted that the people of Vineyard Haven could find everything they needed but gas in the section of the State Road corridor that the High Point Lane site was part of.

Responding to a query from Mr. Athearn, Mr. Wehner restated that Mr. Norman of Sprawl-Busters was a paid consultant for Drake Petroleum.

Ms. Sibley asked if Mr. Wehner knew the volumes sold by the other stations on the Island. Mr. Wehner estimated that the Airport Mobil sold around 2 million gallons annually. Mr. Jampel reported that out of the 10 gas stations in Falmouth, three sold over a million gallons per year, while the rest sold less than that. He added that the volume numbers on the Island were considered very good compared to those for Falmouth.

Ms. Sibley also wanted to know if the two prices for gas at TFS – both the Island Price and the seasonal price – would be posted. Mr. Conley answered that per Commonwealth law, they would be obliged to post both prices. Visitors would have to understand, he said, that the discount was for residents and that if they were to retire to the Island, they could benefit as well.

Mr. Wehner pointed out that the Vineyard had the highest gasoline prices in the nation; even the islands of Nantucket and Hawaii had lower prices.
Mr. Israel inquired if the total flow rate had increased over the past 10 years. Mr. Wehner replied that except for Airport Mobil, Island stations had an older pump design.

III. William Scully on Traffic Issues.

When Mr. Israel objected to traffic engineer William Scully’s taking the floor, DRI Coordinator Jennifer Rand explained that the purpose of the Hearing session was to discuss the economic study, plus any new information that had come in since the previous Hearing session. Mr. Israel again objected.

Mr. Scully related that he had carried out a traffic study and simulation a few years before and that he had brought with him that evening a short video clip of the simulation. He observed that in that area of State Road, the traffic flowed reasonably well. Although there were times when it appeared to be sluggish or somewhat congested, he said, often drivers stopped to allow other vehicles to take left turns. The result of this, he stressed, was that delays on State Road were generally lower than what was projected by computer models for the area.

Mr. Scully turned to the video clip of a simulation carried out in the summer of 1999, from 3:00 to 4:00 p.m. on Friday, July 9, and from noon until 1:00 p.m. on Saturday, July 10. He had simulated approximately 100 vehicles in and 100 vehicles out. The video, he noted, would show the left-turn movement from State Road into the 412 State Road property.

The drivers, Mr. Scully related, were not professionals, and the demand he had simulated was, in fact, 30 to 50 percent higher than what he had used in his traffic analysis, which was already probably about 60 to 80 percent higher than what national guidelines would suggest. In addition, the skies were overcast, that is, these had not been beach days.

The 10-minute segment that the Commissioners would see, continued Mr. Scully, contained both build and no-build scenarios. The clip would also demonstrate, he said, that VTA buses were able to turn into and exit from High Point Lane. He then ran the clip, offering comments almost constantly and stressing particularly the nature of the delays, which were different in type and duration from the delays on State Road between the Edgartown-Vineyard Haven Road and Main Street or the ones at the Five Corners intersection.

As the tape continued to run, Mr. Scully pointed out that Cronig’s Market had the most significant traffic impact on this section of State Road, although it was plain that State Road drivers often stopped to let vehicles take left turns when entering and exiting from the Cronig’s lot. He also mentioned that the simulation was based on a 50-50 split between left and right turns.
Ms. Sibley wondered why Mr. Scully had assumed a 50-50 split, since the population density was far greater down-Island of this point than up-Island of it. Mr. Scully referred to a study he had used, the name of which was not audible.

Two major points that one could pick up from the simulation, stressed Mr. Scully, were one, that State Road was “clearly not overly congested,” and two, one would be hard-pressed to see any noticeable difference in flow between a build condition on the simulation and a no-build condition, this despite the fact that under the build condition, the amount of expected traffic had almost doubled.

Responding to a question from Mr. Israel, Mr. Scully reiterated details with regard to how the simulation was done.

As the tape continued to run, Mr. Scully related that the average delays were from 16 to 20 seconds per vehicle, with traffic flowing close to the 30-miles-per-hour limit.

Mr. Israel posed another question: If there was a 2 percent increase in overall traffic annually, could the Commissioners assume that the numbers for the summer of 2002 would have been 6 percent greater than the numbers deduced from the simulation? Mr. Scully replied that although the 2 percent annual increase was true of some parts of the Island, those studying State Road had not seen as great an increase on this particular segment of the corridor. He added that the traffic counts for August 2002 had actually been lower than the August 1999 counts.

Mr. Scully mentioned a report from MVC Transportation Planner David Wessling that he had just received, which he had not had a chance to look at. He related that he had worked closely with Mr. Wessling, who had proposed mitigation measures, including the posting of a traffic officer during peak hours.

Another area Mr. Scully had discussed with Mr. Wessling was whether the proposed facility would take traffic out of the Five Corners intersection. “It would be very difficult to come up with a hard number,” he remarked. His report had indicated a reduction of 20 to 30 vehicle trips per day, while Mr. Wessling’s estimate was 13 to 17 vehicle trips per day. However, Mr. Scully noted, Mr. Wessling’s figure did not take into account the driver who went through Five Corners to get gas on Beach Road and then drove back through that intersection to continue his trip.

Mr. Scully finished up: “In concluding, we demonstrated that this section of road in the B-2 zone is not overly congested, [and] traffic flows in a worst-case condition, result in fairly low delays. We’ve demonstrated that the delays under the build conditions ... will be at reasonably and relatively short levels [and] any additional traffic will not create deficiencies at the adjacent drive. The project will result in a very small net new amount of trips added to the corridor, and the roadway system can certainly handle that level. And on top of that, there will be likely some reduction in flow down at Five Corners, which ... again, we’re moving in a direction, not solving the problem.”
IV. Sean Conley Offers a Summary.

Mr. Conley reiterated his position that the presence of the new facility would not irreparably harm other gas stations on the Island. And even if those station did not change their pricing as a result of the new development, they would continue to do well. Addressing Mr. Israel, Mr. Conley stressed that the 2 percent expected increase was in overall traffic and that the annual increase to be expected during peak hours was only 1 percent.

Mr. Conley explained that they were assuming that half of their market share would come from stations that were currently trucking in gas, and one could expect the opening of the new station to reduce by 60 to 70 the number of trucks coming to the Island or by about 1.2 trucks per week.

The main benefit of the development, Mr. Conley continued, was the price. If the station were open that very day, regular gas would be selling there for $1.69 per gallon. In addition, he said, the Applicant was offering a firm 30-year-contract that would limit the amount the station could charge. Moreover, for each gallon sold, 1 cent of the price would go to the Dukes County Regional Housing Authority. So, the sale of 1.4 million gallons a year would mean a contribution of $14,000 to the housing authority that year. "It's not just a one-time thing," he stressed, "but each and every year for 30 years."

Mr. Conley then provided the example of an Island family with two cars who purchased 15 gallons of gasoline a week for each car. By saving on average 20 cents per gallon, the family would save from $300 to $500 annually. "That is real money," he declared. "We're not just joking around here."

Lastly, Mr. Conley offered to answer any questions the Commissioners had about the contract. The time was 9:42 p.m.

Staff Reports.

Transportation Planner David Wessling reported that possibly the hiring of a traffic officer to work at peak hours at the intersection of High Point Lane and State Road would be a mitigative factor. As for the question of how the project might impact the traffic at the Five Corners intersection, Mr. Wessling offered the opinion that there would not be a perceptible difference. He clarified this statement with Mr. Schweikert.

Mr. Israel wanted to know what the Level of Service was for the stretch of State Road in question. Mr. Wessling explained that usually the term Level of Service applied to a particular intersection, where turns had to be made, rather than to a stretch of road. His guess would be, he said, that that segment of State Road had a Level of Service D. Mr. Wessling asked Mr. Scully for his opinion.
Mr. Scully observed that the Level of Service for that section of State Road would be hard to analyze. One thing to consider, he continued, was the context. If this were an urban artery, for instance, the Level of Service would be B or C. He agreed with Mr. Wessling that as a Business District II road, that is, a two-lane highway, it could be assigned a Level of Service D.

Mr. Toole asked for testimony from Public officials; there was none.

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

Anne Greenwell of Oak Bluffs presented a petition in favor of the Tisbury Fuel Services proposal containing 415 signatures. These were in addition, she stated, to the 650 signatures already presented to the Commission in August.

Ted Box of Tisbury offered the opinion that the issue was not the number of cars that went through the Five Corners intersection, but the stress that driving through it produced. “Ninety-nine percent of us in Tisbury live on the other side of Five Corners,” he said, “and I have thoughts about you guys when I have to go through Five Corners to get gas in the summertime.”

Mr. Box remarked that he was certainly not the only person in the room who had been raised in poverty, “and $500 means a lot. It can mean the difference between Christmas presents, having your teeth cleaned. And most people, if they’re in that position, they’ll come up and speak for it.” Thus, he concluded, the Commission should be considering the 30 percent of Tisbury citizens who lived below the poverty level.

Art Spengler of West Tisbury described himself as a typical 66-year-old retired resident of the Island who had been coming to the Island for 32 years. When people asked him how he was enjoying his retirement, he would reply that he liked it a lot but would always add, “It’s an expensive place to live.”

“What you need to do,” Mr. Spengler continued, “is ask these families [the other gas station owners] for their tax returns for the last three years. Then you’ll see how they’re really doing.” If the Commissioners did not have that information about the Applicant’s competitors, he stressed, then they would be making an uninformed vote. “So obviously, I’m for this proposal,” he concluded.

Roger Greeley of Chilmark urged the Commission to give the proposal a full analysis and to give much thought to the Decision. The members were supposed to represent the people of the Island, he said. He reminded his listeners that the proposal had received some publicity in The Cape Cod Times and possibly even The New York Times and that the Island wanted to attract the types of people who would keep it vibrant – school teachers, policemen, “the people that make a community a real community.” Lowering the average price of gas on the Vineyard would help make living here more affordable, he concluded.
Victoria Phillips of West Tisbury offered the opinion that the location of the proposal was a good one and that its presence would help with the flow of traffic, especially in the summertime. It would be convenient, she said, to be able to fill up in the area where she shopped. She agreed that the Application should be looked at closely, pointing out that there had been a gas station proposal in the ‘90s that had given promises about discounts and had not fulfilled them.

Teresa Mello of West Tisbury identified herself as Mr. Conley’s wife and as a kindergarten teacher on the Island for the last 19 years. She had seen some families leave the Island, she said, because they could not afford to live on the Vineyard any longer. In many families, both parents had to work many, many hours, “which is affecting the children,” she remarked. She had also observed people newly arrived to the Island – high-paid consultants, for instance – who commuted to work for a week or a month at a time.

One of the mandates of the Martha’s Vineyard Commission, noted Ms. Mello, was to help all the people of the Vineyard. “I think that this is a step in that direction,” she said, adding that the proposal had an important affordable housing element. “If this station can’t work, if those kind of price decreases can’t work, then what is anyone worrying about?” she asked. “It won’t succeed... If it can work, then why isn’t it working elsewhere?” [Applause] The time was 9:53 p.m.

Laura Barbera of Tisbury, who owns a business off Colonial Drive near to the proposal site, stated that she would be impacted by traffic flow in that neighborhood. “I think it’s a wonderful area for it,” she said. “It’s the B-2 District, commercial, it is meant for it. And from what I saw tonight, the traffic issue has been addressed.” She finished by offering her “enthusiastic support” for the project.

Kevin Lahey related that he had moved to the Island a year before. “And when I moved here, I couldn’t believe the gas prices, but I just live with it,” he said. “So I’ve lived with it, but I think this is great, and this’ll probably keep me on the Island more than anything.”

Robert Sawyer of Tisbury, speaking strictly as a private citizen, said he lived in the Lambert’s Cove area and thought “that the project is just wonderful. The highest gas prices in the nation? Shame on us!” With two cars in his household, the presence of the new station would save his family around 100 trips through Five Corners annually. “And it isn’t just diminishing the traffic on Five Corners,” he said. “For us to go drive through Five Corners throughout the year, particularly in heavy traffic times – This is a wonderful savings for us. And make no mistake about it. I’d love to save that $500 a year. That would be very meaningful.”

James Kozak of Tisbury described himself as one of the signers of the petitions that had been referred to earlier. As a landscaper, he said, he used gas as fuel for his pickup, his
car, his saw, his weed-whacker, his brush-cutter, his lawnmower and so forth. “It’s just insane what my gas bill is,” he exclaimed. Lowering the cost of gas would help to protect the Island way of life, he added, and he could pass the savings on to his customers. “Shame on us if we protect this system!” he concluded.

Patrick Irwin of Oak Bluffs stated, “For me, it’s all about the price. It’s a big difference in money.”

Testimony from Member of the Public in Opposition to the Proposal.

Pat Jenkinson, co-owner of Up-Island Auto, declared, “I can honestly say I’ve never charged a dollar and made a dollar a gallon. I’m not a rich man. I make between 40 and 45 cents a gallon. That’s the God’s truth. These guys are going to do it for 36? I’ve got to make a living. We’ve all got to make a living. You know how things are. I’m not ripping anybody.”

Mr. Jenkinson asked Mr. Conley if he intended to sell name-brand gas. “Probably Gulf,” replied Mr. Conley. “Well, I don’t know anything about that stuff,” countered Mr. Jenkinson, adding, “I could never get gas for a dollar thirty-three cents a gallon. If I did, I’d pass the savings on. We’re getting punished the most, and we’re probably the most honest outfit. I’ve been 10, 15 cents cheaper than the others downtown sometimes. I’m not ripping anybody off. All these people say I’m a thief. I’m not a thief.”

Joan Jenkinson, the other owner of Up-Island Auto, testified that at times she and her husband made only 38 cents a gallon. Furthermore, she said, Mr. Wehner’s testimony contained many inconsistencies and untruths. “We did not have a conversation in the parking lot,” she declared. “We never met him out there. All we said to Mr. Jampel was, ‘It’s really going to hurt us,” and his basic reply was, ‘It doesn’t matter,’ and that was it.”

Ms. Jenkinson said that she did not have the luxury of shopping around for gas, lacking the storage capacity or the $200,000 needed to revamp the station to get big tanks put in. “So, we are the cheapest on the Island,” she said. “We’re not rich. We don’t take huge vacations, and we don’t want to lay off our help, which we would have to do if all these people that are for it are going to go there. They’re our customers now.”

“We have been in business 32 years,” Ms. Jenkinson stressed. “These people have never been in the gas station business. They don’t know [that] a lot of things that they are talking about are untruths. A big untruth is the number of gallons they think are being sold on the Island.”

Ralph Packard stated that the residents had a wonderful Island but that things had changed. He related that the Jenkinsons purchased gasoline from his company and that there was no contract; so they could purchase product from someone else if they wished to. He had been supplying the Jenkinsons for 20 years, and it was true, he said, that they
did not have a lot of storage and that it would be “a very expensive ordeal” for them to expand their storage capacity.

Mr. Packer commended the Jenkinsons for the job they did and for their service to the West Tisbury community and other parts of Up-Island. He had met with them many times, he related, because they had experienced the same thing that he had experienced: unit cost. “What we do is, we find out what we sell each year, we find out what it costs to sell and we come up with so many cents a gallon that’s going to keep us in business,” he explained. “Their unit cost has gone up every year, like ours.”

Mr. Packer continued: “And I’ve been to ... Patrick [Jenkinson] and said, ‘What are we going to do?’ They have been concerned. I must say this for them. One of the main things in every service station on the Island except Up-Island [Auto] has a convenience store. So we proposed to Pat to have a convenience store...” Mr. Packer reported that Mr. Jenkinson’s response to this proposal had been, “What Alley’s sells, we’re not going to sell. End of subject.”

Mr. Packer described his background in the business and the origin of his barging operation, the purpose of which was to keep the unit price down. He had considered, he said, trucking the fuel to the Island, and in fact his business was equipped to do this. However, the Steamship Authority schedule did not work for him, and he had been unable to work out an agreement with the SSA.

Over the years, Mr. Packer went on, he had worked with former SSA Governor Ronald Rappaport and State Representative Eric Turkington on ways to move fuel transport off the ferries. But nothing had been worked out. Thus, he was left with an expensive operation.

Mr. Packer related how he had supplied his competitor, Michael Rotondo of Airport Mobil, with gas when Mr. Rotondo had run out. Last summer, he said, every station on the Island that relied on fuel delivery by truck had run out of fuel by a Sunday afternoon, and he had been able to help most of them. “Now, I call that Vineyard cooperation,” he said.

“By terminal do you mean more storage tanks?” asked Ms. Warner. No, answered Mr. Packer, he was referring to his existing terminal, which had the capacity to supply four times the Island’s fuel needs. He then explained how if too much gasoline was transported by truck, it would be even more difficult to keep his unit cost in line with theirs.

Mr. Packer began to wrap up. “I really believe,” he said, “that the last thing we want to do on Martha’s Vineyard is to have a price for ourselves and a price for those who visit us.” He emphasized that the Island’s economy was based on its visitors, and he kept that in mind, he noted, when he was traveling through the congested Five Corners intersection during peak season.
Mr. Packer then held up cards with the prices for regular gasoline from each of the Island’s stations: Drake’s Citgo, $1.95.9; Cottage City Texaco, $1.98.9; Airport Mobil, $1.96.9; Edgartown Mobil, $1.94.9; Depot Corner, $1.94.9; deBettencourt, $1.91.9; Marshall Carroll in Menemsha, $1.89.9; Tisbury Texaco, $1.89.9; and Up-Island Auto, $1.89.9.

Mr. Schweikert clarified with Mr. Packer why the Island needed Mr. Packer’s terminal. Mr. Packer explained as well how the fares for the trucks coming over on the ferries were subsidized by passenger-ticket revenue.

“Are you competitive with the trucks, do you deliver at the same price, essentially?” wondered Mr. Schweikert. “We are unable to deliver at the same price as a 12,000-gallon transport coming out of the Providence by the Steamship Authority…” answered Mr. Packer. Responding to another question from Mr. Schweikert, Mr. Packer said that he could not talk about the prices that others paid.

Mr. Israel wanted to know how many additional trucks would come over on the ferries if Mr. Packer’s terminal was not operating. In answering, Mr. Packer first listed all the products his barging operation brought over. He then stated that the SSA had done a study related to the New Bedford fuel-transport operation, with the study concluding that an additional 8,000 tractor trailers per year would have to come via ferry if his terminal closed.

Replying to another question from Mr. Israel, Mr. Packer explained that around 20 percent of the cargo his operation handled was gas. He had diversified his business, he added, in an effort to keep down prices.

Nancy Fitzpatrick of West Tisbury had a question. As she recalled it, the Commission had requested that the Applicant do a study and have an independent study done as well to back up the Applicant’s economic necessity argument. DRI Coordinator Jennifer Rand explained that the Applicant had done the study and that the MVC had hired RKG Associates at the Applicant’s expense to review that study.

Ms. Fitzpatrick also wondered how an Applicant could come before the Commission and propose to do “all kinds of wonderful things for Island residents and screw the tourists.” “I can’t buy the sincerity aspect of that,” she remarked.

Thirdly, Ms. Fitzpatrick argued that Mr. Scully’s 1999 simulation was not, in fact, new information and should not have been included in that evening’s Public Hearing session.

Michael Rotondo, owner of Airport Mobil, stated that he did not sell 1.4 million gallons of gas annually and that he probably did not even pump 750,000 gallons. Secondly, he continued, the chart offered by Mr. Wehner had not taken into account a number of expenses, for instance, insurance and stay-over costs for the truckers. “We’re
making a decent living," he said, "but we’re not getting rich." His profit per gallon was 38 to 42 cents a gallon, and he explained how if he wanted to lower prices, he would have to change over to self-service and fire five of his 11 employees.

“But I don’t find any gouging here,” Mr. Rotondo declared. “I don’t find any dishonesty. All I see is a man getting up every morning and going to work to earn a living, and I do believe that Joan [Jenkinson] would get hurt and impacted greatly as a result of this.”

As the Jenkinsons and Mr. Packer had, Mr. Rotondo spoke about Up-Island Auto’s limited storage capacity. “And there’s a precarious balance between the Steamship Authority and Mr. Packer,” he said. “He barges his fuel, we truck our fuel. To think that you can upset that balance by putting another thousand trucks on to fuel three different gas stations – this system has taken 30 years, I don’t know how long, to file itself down. I don’t think you can just throw in different aspects and not upset the apple cart greatly.”

Tom Gervais of West Tisbury stated, “Their contract can be no different than numerous other contracts in the United States. And there are 20,000 ways to break any contract one week later, five weeks later. So, just think about that when you’re thinking you’ve got a contract and it’s solid. It can’t be solid. You’re living in the United States.”

Mr. Rotondo offered additional testimony, distributing a plan showing the location of the proposed station and three nearby Town wellheads.

Questions from Commission Members.

Referring to the chart that Mr. Wehner had passed around, Ms. Sibley said that it looked to her as if the Applicant’s gas prices could be as little as 9 cents less per gallon and not the 20-cents savings being promulgated. Mr. Conley responded that yes, it could be as low as 9 cents a gallon but as high as 40 or 50 cents a gallon. “Well, that’s not what it shows in your contract,” said Ms. Sibley, who added that she thought it was important for people to be aware that the possible savings were only an estimate.

Ms. Sibley also pointed out that the July prices that Mr. Wehner had quoted were not representative of the entire Island. “I think it’s important to get on the record that the material you submitted to us does not support the certainty of a ... 20-cent-per-gallon [reduction],” she declared. “Higher,” interjected Mr. Wehner. “And possibly lower,” said Ms. Sibley.

Ms. Schultz, the attorney, explained that the contractual undertaking was in the numbered paragraphs of the contract. Ms. Sibley reiterated her concerns about its being clearly understood that the price could be as little as 9 cents a gallon less than the competition’s. Ms. Schultz argued that the numbers offered in testimony and the numbers in the contract were different but that “snapshots” of the industry taken at different times resulted in a different picture.
If there were a bankruptcy or reorganization, would that supersede the 30-year contract? inquired Mr. Israel. “Theoretically, it could,” replied Ms. Schultz, adding, “You have the option when you go into bankruptcy to disavow a contract, but you don’t have to and there’s no requirement that you do so.” Mr. Conley pointed out that if the contract were a Condition of the Commission’s Approval, it would go with the property.

**Tom Pachico, representing Ernest Pachico, owner of the site in question,** testified that the contract between the Applicant and his family was a binding contact, no matter who ran the station. The contract had been run through attorney James Gillis’ office, he added. “They cannot change players and they cannot change contract without approval from our whole family,” he stressed.

**Mr. Gervais,** who had spoken earlier, declared that if the business went into bankruptcy, “it’s a trustee who’s going to say it. Nobody on this Island is going to say what happens, okay?” “You do not automatically have a trustee,” responded Ms. Schultz.

**Applicant’s Summary.**

Mr. Conley remarked that all those who had spoken against the proposal were competitors. He also expressed incredulity that Mr. Packer would threaten to close down his terminal.

Mr. Conley explained that the Applicant had chosen to do a year-rounder discount because that would not affect the other gas stations as much and it would not create “a traffic issue,” with visitors streaming there in high season to get discounted gas. If the new station took away, say, 10 percent of another’s business, the latter business would recover that loss in four or five years, he said.

Mr. Conley pointed out that summer visitors paid higher ferry fares than year-rounders and that Tisbury charged a higher property-tax rate to summer people. This was not unusual on the Island, where, he noted, summer people could appreciate the fact that they helped support the year-round population, including by paying 1 cent per gallon to support the Regional Housing Authority.

Mr. Conley also related that 60 percent of summer volume was summer people, whereas in the off-season, around one-seventh of the gas consumption was by visitors. So overall, about 65 percent of annual gas sales were to off-Island people.

“If you deny us, no one else is going to try to put in a gas station, ... and we’ll condemn the people of Martha’s Vineyard to high prices,” Mr. Conley concluded.

At 10:39 p.m., Mr. Toole brought down the gavel and closed the Public Hearing. Immediately, Ms. Sibley and Mr. Israel requested that the Written Record be kept open. Ms. Sibley argued that she had questions for the independent consultant. After some
discussion, it was agreed to leave the Written Record open until Wednesday, December 11, at 5:00 p.m.

Ms. Rand, the DRI Coordinator, asked Mr. Toole if the Land Use Planning Committee would be able to proceed with its Post-Public Hearing Review of the Application on Monday, December 9. “That’s okay, right?” asked Ms. Rand. Yes, said Mr. Toole.

Ms. Rand then reminded the members about the 7:00 a.m. and 9:00 a.m. site visits to the Wintertide Building on the following day.

Approval of Meeting Minutes.

Mr. Toole retained the gavel. Mr. Best made a Motion To Approve The Full Commission Meeting Minutes Of September Twenty-Sixth Two Thousand Two, duly seconded. There being no revisions offered, the Motion carried unanimously by Voice Vote, with 11 Ayes, no Nays and none Abstaining.

Mr. Best made a Motion To Approve The Full Commission Meeting Minutes Of September Nineteenth Two Thousand Two, duly seconded. The Motion carried by Voice Vote, with nine Ayes, no Nays and two Abstaining (K. Warner and A. Woodruff).

The Special Meeting adjourned at 10:58 p.m.

PRESENT: J. Athearn; J. Best; C. Brown; M. Cini; T. Israel; A. Schweikert; L. Sibley; R. Toole; K. Warner; R. Wey; and A. Woodruff.

ABSENT: A. Bilzerian; M. Donaroma; J. Greene; E.P. Horne; J.P. Kelley; C.M. Oglesby; M. Ottens-Sargent; R.L. Taylor; J. Vercruysse; and R. Zeltzer.

[These Minutes were prepared by Staff Secretary Pia Webster using notes taken by Executive Director Mark London as well as a tape recording of the Special Meeting.]