

THE MARTHA'S VINEYARD COMMISSION

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Minutes of the Meeting of May 13, 2004

Held in the Stone Building,

33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: James Athearn (Elected - Edgartown), John Best (Elected - Tisbury), John Breckenridge (Appointed - Oak Bluffs), Christina Brown (Elected - Edgartown), Linda DeWitt (Appointed - Edgartown), Jane A. Greene (Appointed - Chilmark), Katherine Newman (Appointed - Aquinnah), Ned Orleans (Appointed - Tisbury), Megan Ottens-Sargent (Elected - Aquinnah), Robert Schwartz (Appointed - West Tisbury), Doug Sederholm (Elected - Chilmark), Linda Sibley (Elected - West Tisbury), Paul Strauss (County Comm. Rep.), Richard Toole (Elected - Oak Bluffs), Andrew Woodruff (Elected - West Tisbury)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Analyst)

1. ISLAND ROADS DISTRICT – RESCISSION OF EXPANSION – PUBLIC HEARING

Commissioners present: J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff

James Athearn recused himself from the issue because he owns land on one of the roads under consideration.

Linda Sibley opened the public hearing and explained the technicality of rescinding the approval. Edgartown at the Town Meeting did not approve the amendments to the Island Road District and the article was indefinitely postponed. Rescinding the Commission's approval would end the building moratorium, which began when the Commission voted to consider the amendments to the Island Roads District.

Mark London said interest in the proposal was expressed at Town Meeting but the proposal did not pass. The Edgartown Planning Board is interested in working with the Commission and other boards in an Island-wide look at the Island Roads District.

Hearing no testimony, Linda Sibley closed the public hearing.

2. ISLAND ROADS DISTRICT – RESCISSION OF EXPANSION – DELIBERATION AND DECISION

Commissioners present: J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff

John Best moved and it was duly seconded that the Commission rescind the approval of the proposed boundary amendment to the Island Roads District and the district designation for the following roads:

- *Meetinghouse Way from Edgartown-West Tisbury Road to Slough Cove Road;*
- *Slough Cove Road from Herring Creek Road to Meetinghouse Way;*
- *Litchfield Road from Chappaquiddick Road to School House Road;*
- *Clevelandtown Road from Mill Hill Road to Road to The Plains;*
- *Meshacket Road from Edgartown-West Tisbury Road to Road to The Plains.*

A roll call vote was taken. In favor: J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: None. Abstentions: None. The motion carried.

3. 4 CAUSEWAY ROAD: DRI NO. 574 – PUBLIC HEARING

Christina Brown advised the Commission that the public hearing would not be taking place. The applicant is changing the plan and will be returning at a later date with a new plan.

4. VINEYARD TENNIS & FITNESS CENTER – CONCURRENCE REVIEW/ MODIFICATION VOTE

Commissioners present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff

For the Applicant: Ken Martin, co-owner

The modification was referred to the Commission from the West Tisbury Board of Health.

Ken Martin presented the proposed modification:

- VTC wants to add a food service, serving healthy meals and snacks from 8:00 a.m. to 2:00 p.m., for club members only who have requested the service.
- The Airport Commissioners have approved the proposal, with one dissenting vote, and the applicant is working with the Board of Health on the Airport Commissioners' conditions.
- The modification does not impact parking, lighting, or drainage.
- The only construction would be a half wall.
- The VTC has a catering license but not a restaurant license
- The proposed restaurant would be self-serve, with a capacity of 24; it would use disposable cutlery and china and would require an additional 50 gallons of water a day, which is within the 750-gallon limit.
- The Airport Commissioners had three conditions for approval:
 1. only members would be served;
 2. no additional signage would be erected;
 3. the sludge interceptor must be checked regularly.

In response to a question from Paul Strauss as to whether the Board of Health has required any changes, Ken Martin indicated the following.

- The major requirement is a 49-cubic-foot refrigerator.
- The sludge interceptor is adequate for restaurant use but must be checked regularly.
- One of the employees of the VTC is taking the required 'person in charge' class at the high school.
- The hot water temperature, prep area, sinks and ventilation are all within requirements.
- John Powers said the VTC is in good shape. In 1999 when the VTC put in the kitchen, Mr. Powers helped the VTC meet Board of Health requirements.

Jane Greene said that the Commission had originally approved only a tennis center and there have been several expansions since. She asked what the VTC's long-term plan is. Ken Martin said that his passion is tennis but he and the co-owners discovered that the indoor courts were not paying for themselves and they could not have stayed in business without expanding services.

- A fitness component became necessary to support the tennis.

- One benefit of the revised business plan is that the cost of playing tennis hasn't gone up since opening eight years ago.
- Last year, the VTC came before the Commission with a major addition to house the fitness component, a move that has helped turn the VTC from a marginal business into a profitable business.
- 850 people are now members of the club.
- 34 courses are currently being offered at the VTC.

Doug Sederholm stated, for the record, that he is a member of the VTC but, not having a financial interest, he isn't in conflict.

Linda DeWitt said that she is concerned about disposables and expects environmentally friendly products will be used. Ken Martin explained that no Styrofoam will be used and paper and plastic will be recycled to the extent possible.

Christina Brown reported that the LUPC found that there was no change to parking, drainage, or lighting. LUPC's recommendation is that this is not a substantial change requiring a public hearing and it is consistent with the original approval of the Commission.

Linda Sibley motioned and it was duly seconded that this is not a substantial change requiring a public hearing.

- Jane Greene said that she believes that a restaurant requires a public hearing. The public needs the opportunity to comment and the Commission needs to look at this modification very carefully, referring back to the original decision.
- Megan Ottens-Sargent commented that no increase in impact would eliminate the need for a public hearing.
- Jim Athearn said that the restaurant is not open to the public. Doug Sederholm said that the staff report describes the modification as a 24 seat café serving club members only. Because it does not serve members of the public, the proposal does not have regional impact.
- Ken Martin reiterated that the café will only serve members. It is not open to the public. As approved by the Airport Commissioners, the café will serve members only.
- Jane Greene asked how a person becomes a member. Ken Martin said that to become a member for a day with use of all facilities is \$20. The VTC may have two or three one-day members per day.

Paul Foley read the staff report that outlined the conditions of the last approval.

- Phase One was approved in April 1996 for tennis.
- Phase Two added the kitchen in 1999 and fitness center in 2000.
- Conditions included the planting of shade trees as screening and restricting uses at the facility to those related to the tennis club and not to include such things as weddings, large scale functions or similar activities.

- In response to **Jane Greene**, **Paul Foley** explained that food service had been discussed at previous public hearings but no condition addressed food service.
- At the LUPC meeting, the VTC said that carryout food would be available through the café.

The Commission discussed the proposal.

- **John Breckenridge** said that at LUPC more concern would have been raised if the restaurant were on the first floor. Instead it's tucked away on the second floor, making it accessible to members only.
- **Linda Sibley** said she couldn't see people using the one-day membership, paying \$20 for the opportunity to buy self-serve breakfast or lunch.
- **Paul Strauss** asked about catering. **Ken Martin** indicated that they don't really cater; they have the kitchen available for pot-luck meals after tournaments or to heat up pizza. Tennis players might use the kitchen to make popcorn for an after game get-together.
- **Doug Sederholm** said he is concerned with the creeping expansion, but it is a great facility and very well run. He hopes that they would not use the facility for large parties, given the conditions of previous decisions.
- **Ken Martin** said the biggest gatherings are perhaps forty people who get together after the Hospice Tournament. The highest number eating at the facility has been forty. **Ken Martin** assured the Commission that the new exercise room with its \$15,000 floating floor of Danish beech would never be used for weddings.

A voice vote was taken on the motion that the modification is not a substantial change requiring a public hearing. In favor: 14. Opposed: 1. Abstentions: None. The motion carried.

Linda Sibley moved and it was duly seconded to approve the VTC's request for modification from a catering facility to a restaurant facility serving breakfast and lunch to members only and reiterating the conditions in the Airport Commissioners approval.

- **Jane Greene** asked for reassurance that the restaurant will be closed when the public is in the building because the restaurant will be open to members only.
- **Ken Martin** said that the VTC runs two or three tournaments a year. He can't guarantee that a person who is at the tournament isn't going to buy food, but he'll do his best to keep the restaurant serving members only.

A roll call vote was taken. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: Jane Greene. Abstentions: None. The motion carried.

5. PACIFIC COTTON: DRI NO. 579 – PUBLIC HEARING

Commissioners present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff

For the applicant (Bryan Walker): Carol Hunter, James Moffat, Mark Hutker – architects; Molly McGee, store manager

Christina Brown opened the public hearing and read the hearing notice.

5.1 Applicant's Presentation Carol Hunter explained the applicant's proposal:

- Demolish a 2254 square foot building in poor condition; the building is 2.5 stories with retail space on the first floor and a rental unit on the second and third floors.
- Build a new code compliant structure of 4774 square feet with retail space on the first floor, three apartments on the second and third floors
- The first floor is expanded but doesn't exceed setbacks except in one tiny corner; the existing building does exceed setbacks.
- The first floor will have a handicap accessible bathroom; the existing first floor has no bathroom.
- The first floor will have more dressing rooms, a handicap accessible dressing room, and a second exit; the existing building has no second exit.
- There will be three apartments on the second and third floors with a total of four bedrooms; the existing building has one three bedroom apartment with substandard plumbing and septic.

5.2 Staff Report

Paul Foley gave the staff report:

- He reported on the setbacks and the project's need for approval by the Zoning Board of Appeals.
- The existing building was built in 1900.
- The footprint of the new building remains about the same; the square footage of the building is doubling but it fits in with the streetscape.
- A key planning issue is how the demolition and construction will affect downtown businesses; demolition will begin in October and construction will be complete by May. The schedule is ambitious.
- In response to LUPC's request for information about apartments above downtown stores, of the 35 buildings between The Mansion House and Le Grenier, ten officially have apartments but at least 32 have two bathrooms.
- The old septic will be removed and the building will be connected to town sewer.
- The site has no parking, but its location would allow people to live on the Island without the need for a car.
- Traffic may increase slightly because of the increased residential space.

- For affordable housing, the applicant has agreed to contribute the recommended amount of \$2900. The proposal creates more living units without taking up more land.

Mark London spoke about other options for affordable housing.

5.3 Commissioner Questions

Linda Sibley asked about the rental status of the other units on Main Street, whether they are seasonal, or year round. In terms of affordable housing, she wanted to know if this renovation could have a negative impact on the stock of low to moderate income housing on the Island.

Carol Hunter gave further information on the project:

- The applicant has committed to set aside the smaller one bedroom apartment for employee use either on a seasonal basis or year round.
- The existing apartment is substandard in every way that's conceivable. At some cost to the applicant, the one apartment will be replaced with new, safe, living spaces that meet code.
- Molly McGee, store manager, said that the existing apartment, although three bedroom, can only be rented to one person because of the substandard septic.

In response to James Athearn's request for a detailed plan for demolition and construction, particularly in terms of containing dust and debris during demolition, Carol Hunter gave the following details:

- The plan is to have the foundation in 3-4 weeks after demolition at the end of October so the area can be enclosed by Christmas and the heavy work can be done by March.
- The applicant has been in touch with construction companies and police about procedures for any disruption of regular traffic from demolition or construction.
- He wants to wait until the end of October to begin demolition to minimize impact on businesses in the area.

John Best asked whether Pacific Cotton is open year round, which it is.

Linda DeWitt asked if the building was to be yellow as in the plan. The building will be white cedar shingles.

The Commissioners discussed parking. Megan Ottens-Sargent pointed out that in Edgartown, the Commission has insisted that parking be provided where space is leased. Paul Strauss said that traffic would be impacted because residents may increase from one to three or four

Bob Schwartz asked about stairs to the apartments. The apartments will be accessible from the back by exterior stairs. The applicant hasn't decided on the kind of stairs to install.

John Breckenridge pointed out that the footprint will be the same but the second and third floor will be extended over the existing porch.

Beth McIlhenny of Triple Five Gallery across the street from Pacific Cotton spoke on behalf of her business and Moonstone next to Pacific Cotton. The owner of Moonstone has been assured by the owner that if any damage were done to her building during construction, that it would be covered by the owner of Pacific Cotton. **Beth McIlhenny's** concern is about the project disrupting holiday business.

Vasca Fahna of Brickmans is concerned about parking for delivery people and workers during the project.

Jane Greene said that the Commission should be informed about schedule of deliveries and materials being stored on site. **Carol Hunter** said that police would be informed about the schedule of deliveries, which should take place as early in the morning as possible and storage of materials will be off-site. The owner will have to rent off-site to stockpile materials. Once the foundation is in, materials can be stored within the footprint.

Claudia Kennedy asked whether there was a two-year moratorium on expanding the sewer.

Carol Hunter explained that each building has a sewer allotment. Pacific Cotton's is 530 to 550 gallons per day, which the new structure won't exceed.

James Athearn asked if there were plans for routing pedestrians. **Carol Hunter** said that they will have to barricade the hole but the sidewalk and other businesses will be as accessible as possible.

James Athearn asked for further clarification on the second exit. **Carol Hunter** explained that the back access would be accessible from the street along the side of the building. Steps will be put in place to manage the grade.

Jane Greene asked whether the fire chief had submitted a letter on the project. **Carol Hunter** said that she's been working with the fire chief. She is to contact him when she's ready to install smoke detectors, etc.

Christina Brown asked whether any town board members were present to comment on the project.

Ned Orleans talked about the Main Street project:

- There is more work to be done on the Main Street project, including adjustments to sidewalks and sewer hook-ups. He doesn't have a schedule but he imagines that that Pacific Cotton will not be the only project disrupting downtown.
- Other buildings on Main Street may benefit from re-building.
- The town is working on the Master Plan for Main Street.
- No effort is being made to tie residential construction to parking.

Mark Hutker said that through B-1 zoning no additional parking is to be added to this district.

Kathy Newman stated that she felt the affordable housing issue is resolved.

Linda Sibley said that she is satisfied that this is an improvement and suggested that the Commission accept the offer that one bedroom be reserved for an employee either seasonally or year round. She asked what would happen to the apartment should it not be needed by an employee.

Mark Hutker commented that the applicant is dealing with the issue of affordable housing. He is creating three units of decent, affordable code-compliant housing. These apartments will not command high rents.

Andrew Woodruff asked what would happen if there is no need for employee housing.

Carol Hunter explained that the need for worker housing is seasonal. The applicant is not planning to rent on a weekly basis.

Mark London posed a condition that all units would be rented on a seasonal or year round basis and that one unit is seasonal or year round for an employee. The applicant has made a clear verbal offer.

James Athearn suggested that a condition include specific plans for dealing with dust and debris and for routing pedestrians. Jane Greene and Christina Brown suggested that the condition require the applicant work with the Board of Health.

John Best asked if the foundation would be pile-driven. Carol Hunter explained that there is an existing foundation that Pacific Cotton's would be built inside of.

Christina Brown closed the public hearing.

6. PACIFIC COTTON: DRI 579 - DELIBERATION & DECISION

The Commissioners agreed to postpone deliberation and decision until the draft conditions are written and can be debated and/or revised as necessary. The project is to be discussed at LUPC on Monday, May 17th, and is on the Commission agenda for May 20th.

The Commission recessed briefly.

7. SWAN NECK: DRI. NO. 296M – PROPOSED SUBDIVISION/CONCURRENCE REVIEW

Commissioners present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff

For the applicant: Tom Wallace

Tom Wallace explained that he is representing the applicant in the request for a subdivision of a DRI:

- The original DRI of 1989 was approved as a subdivision of 77.7 acres on Swan Neck into five house lots and a fifteen-acre wildlife preserve.

- One family purchased the remaining five lots and built a family a home and barn.
- The request for subdivision is to divide Lot 1, which is 8.3 acres, into two lots of 3+ acres each.
- The applicant will sell the new lot to the current caretakers. The sellers will have the right of first refusal if the buyers should decide to sell the property. A deed restriction on the lot will require that the building must be occupied year round so the caretaking assignment can be fulfilled.
- The subdivision is approved for five lots with not more than five dwellings and two guesthouses; it currently has one house and a barn with living quarters. The house is on the 26.6-acre lot. The barn is on a 10-acre lot. If Lot 1 is subdivided, Swan Neck could potentially have six houses and a barn.

Linda Sibley said if the Commission approves this proposal, it is creating a subdivision with the potential for one more house than had originally been envisioned. But the Commission never guessed that one family would buy the entire subdivision. At some point, Swan Neck could be developed and if this proposal were approved, the development would include one additional house than was originally thought. But this proposal adds to the stock of affordable housing by creating a youth lot type plan.

John Best commented that he is not debating the merits of if the proposal, but is questioning whether the proposal merits a public hearing. With ramifications for the Commission, he is inclined to want a public hearing. The Commission would be expanding what has been previously been approved with conditions without holding a public hearing.

Megan Ottens-Sargent asked whether the Planning Board or Great Pond Association would review the proposal. She believes the benefits of the proposal outweigh the detriments.

Christina Brown said that this is an issue of concurrence. Does the Commission concur that this is a DRI? She doesn't see the proposal as a regional impact. The subdivision was already referred to the Commission by the Planning Board as an approval of a prior plan; it was also referred because the proposal is on a road that was previously approved under subdivision control.

Linda Sibley said that she was on the Commission for the original decision. The Commission was concerned about affordable housing and about the fragility of the area. She believes that the Commission would have approved this at the time of the original decision.

Jane Greene said that the Board of Health has the right to require a nitrification system. She supports the proposal.

In response to **Doug Sederholm's** question, **Tom Wallace** explained that an affordable housing lot of 1.7 acres for a single residence was not part of the original subdivision.

John Best said that there is no affordable housing requirement that is being met by the current proposal. It's the subdivision of a lot.

Andrew Woodruff commented that this lot is more similar to a youth lot than an affordable housing lot.

Tom Wallace said that it is intended as a caretaker lot but without restriction.

Christina Brown said that the subdivision has already made a contribution to affordable housing. The affordable housing aspect has is a moot point.

Christina Brown moved and it was duly seconded that the proposal does not require a public hearing and that the Commission does not concur with the referral.

- John Best said that he applauds the family for making the proposal but the proposal is to create a sixth lot. It is a subdivision and, as such, requires a public hearing.
- Katherine Newman pointed out that if the family were to sell the subdivision, then the purchasers of this 'caretaker' lot would still have a place to live.
- James Athearn summarized that the issue is not of affordable housing but about subdividing a lot.

A voice vote was taken. In favor: 9. Opposed: 3. Abstentions: 1. The motion carried.

Christina Brown moved and it was duly seconded that the Commission approve the modification of the Swan Neck Subdivision allowing Lot #1 to be divided into two lots. As proposed by the applicant, lot 1A is to be bought by the caretakers, the sellers have the right of first refusal, the lot will be occupied year round, and the structure will be no more than 3500 square feet.

- Andrew Woodruff stated that he feels the intent of the proposal is very generous. A few additional details could have eased Commissioners' questions.
- Megan Ottens-Sargent said that she feels that this is not a risk to approve. She likes that the proposal can be less regulated.

A roll call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: J. Best. Abstentions: none. The motion carried.

8. OTHER

8.1 Oak Bluffs Ferry Terminal Reconstruction

Mark London reported on the Steamship Authority's proposal to reconstruct the Oak Bluffs Terminal.

- The Authority will lease the old Town Hall for ticketing and waiting.
- A small kiosk will replace the current ticket office.
- The pier will be rebuilt at an angle.
- The staging area will be on the North side.
- NEPA has done an on site preliminary study.

- The Oak Bluffs Conservation Commission will review the project but its purview is limited to certain aspects.
- Jo-Ann Taylor is working on summarizing the environmental concerns related to the project.

Paul Strauss said part of Oak Bluffs needs to be looked at carefully. This should be a planning project, not an engineering project. The project doesn't seem to solve the problems of the existing layout. The land the staging area was proposed for may be town land, but it may be park-land. That question was being investigated.

A DCPC would have oversight, but the question remained as to whether the land was town-owned or park-owned. **Jane A. Greene** asked whether the north bluff had become part of the DCPC. **John Breckenridge** said no, the line stops in the middle of the street.

Christina Brown said that this was a major change to Oak Bluffs, particularly in terms of traffic and parking. In the past, the Authority came to the Commission for a planning forum. They may want to do that again.

Mark London said the Authority representatives at the recent meeting said that the Steamship Authority would be interested in whatever public review would be appropriate, but the representatives are new and don't have experience with projects like this on the Island. **Mark London** said he would call Paula Peters.

John Best said he felt that the encouragement for a public forum should come from Oak Bluffs. The issues are critical for the town. **Cassie Roessel** was not particularly enthusiastic about a public forum. **Fred Raskin** may be someone to contact.

Paul Strauss said the project impacts the entire island. Traffic flow at the intersection impacts everyone.

Linda Sibley said that the Authority is exempt from Commission review because the Authority requested an exemption from the Legislature. It is not exempt in Hyannis. She asked whether the Town has any authority over the project.

The Commission was in consensus that the Steamship Authority's project in Oak Bluffs needed a public review of some kind, beyond the Oak Bluffs Conservation Commission review. The project needed a comprehensive traffic study.

Ned Orleans stated that he felt that Oak Bluffs needed the expertise that the Commission has to offer. Would the town want the Commission's expertise?

John Breckenridge said the key component is the traffic study. The goal for completing the traffic study is June 8th, which won't give accurate information; the study needs to take place during the height of the season. Planners need to do the study, not engineers.

John Best said that the Commission should ask Paul Strauss, the appointee of the County Commissioners, to ask the County Commissioners to direct their appointed governor to meet with the Commission.

8.2 Visitor Maps

Mark London reported that the Commission and the Chamber of Commerce, through Valerie Richards, have produced a visitor map that will be distributed through the Chamber of Commerce, and available on the ferry and at hotels.

8.3 Forums

The first forum is Wednesday, May 19 at the Mansion House at 7:30. The title is *Smart Growth: Where Should We Put Coming Development?* The Commissioners will place stacks of notices at the library. Selectmen's representatives should call Selectmen to remind them of the forum.

8.4 Website

Mark London reported that a Beta version would be sent to Commissioners for review prior to the site being available to general public.

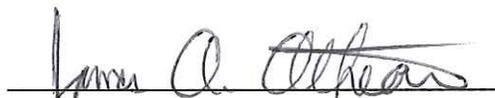
8.5 Community Development Plan

Mark London reported that the staff is very busy on completing the Community Development Plan.

8.6 Site Visit

Paul Foley reminded Commissioners that the site visit to Pennywise Lane is scheduled for Tuesday, May 25th at 5:30. The applicants will be flagging the foundations that are close to the frost area.

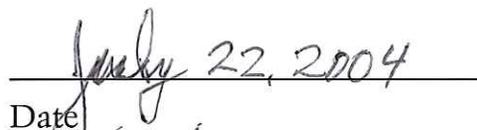
The meeting adjourned at 10:45 p.m.



Chairman



Clerk-Treasurer



Date



Date