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**Minutes of the Commission Meeting
Held on June 11, 2009
In the Stone Building
33 New York Avenue, Oak Bluffs, MA**

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

- | | |
|--------------------------------------|--------------------------------------|
| - James Athearn (E – Edgartown) | - Ned Orleans (A – Tisbury) |
| P Bill Bennett (A- Chilmark) | P Jim Powell (A – West Tisbury) |
| P John Breckenridge (E – Oak Bluffs) | P Camille Rose (A - Aquinnah) |
| P Christina Brown (E - Edgartown) | P Doug Sederholm (E – Chilmark) |
| - Peter Cabana (E – Tisbury) | - Casey Sharpe (A – Oak Bluffs) |
| - Martin Crane (A – Governor) | P Linda Sibley (E – West Tisbury) |
| P Carlene Gattling (A –County) | P Holly Stephenson (E – Tisbury) |
| P Chris Murphy (E – Chilmark) | - Andrew Woodruff (E – West Tisbury) |
| - Katherine Newman (E –Aquinnah) | |

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Analyst/Planner), Christine Flynn (Economic Development and Affordable Housing Planner), Mike Mauro (Planner – Transportation)

The meeting was called to order at 7:30 p.m.

1. 1986 EVELYN WAY REALTY TRUST: DRI NO 576-M – WRITTEN DECISION

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, C. Gattling, C. Murphy, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson

Christina Brown explained that the full Commission had voted for approval of the project and that the written decision should reflect the project that was approved.

Commissioners made the following changes:

Section 6.1, Line 40 , . . . approval. The conditions contained in this approval shall be incorporated in any permit issued by the Town. The language is included in Line 299, but should be stated at the beginning of the approvals and the written decision.

Commissioners agreed by consensus.

Line 26 amended to read . . . one office, three shop bays for truck repairs and servicing, a staff apartment above the office and related activities including parking and servicing of trucks and trash dumpsters.

Line 95 amended to read . . . the site is an odd-shaped lot.

Line 155 . . . no physical or health hazards.
 Line 186 and 187 needs agreement correction.
 Line 215. John Breckenridge. add Christina Brown.
 Line 221, the vote of the Commission was on June 4th.
 Line 64 Fill in the x.
 Line 65 Town correction
 Line 257 a

Commissioners agreed that the following conditions have to be confirmed before a certificate of occupancy is issued: 1.1, 1.4, 2.1, 4.1.

Doug Sederholm moved, and it was duly seconded, to approve the written decision with corrections. A voice vote was taken. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.

2. TOWN OF OAK BLUFFS HARBOR GAS STATION: DRI NO 621 – DELIBERATION & DECISION

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, C. Gating, C. Murphy, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson

For the applicant: Michael Dutton, Oak Bluffs Town Administrator; Todd Alexander, Harbormaster

Linda Sibley gave the LUPC report.

- After some discussion, LUPC voted unanimously to recommend to the full Commission approval of the project with the offers of the applicant.
- LUPC recommended accepting all the offers as conditions, with the applicant's following clarifications to the offers.
 - In .1 ii, . . . is open in the office season (Labor Day through Columbus Day) and harbor opening (April 1 until Labor Day).
 - .1 i, . . . has been assured in writing to the satisfaction of the Board of Selectmen . . .
 - .1 viii . . . with all private boats at a distance as determined by the state fire marshal regulations.
 - vii . . . the facility shall be operated only on a temporary basis.
 - The tanks and pump shall be removed within two years of installation.
 - Should the applicant want a permanent installation, the town shall apply at least three months prior to the proposed installation.
 - The above ground tanks shall be refilled after 8:00 a.m. and before the arrival of the first Island Queen at 9:30.
 - A detailed spill prevention plan and vapor recovery plan as required by state law stamped by a professional engineer shall be submitted to and is subject to the approval of the Oak Bluffs fire chief. The approved plans shall be filed with the MVC prior to the installation of the tanks. A) The plan shall include such procedures for the management and prevention of small scale loss of fuel and B) the plan shall include procedures for the safe handling of the fuel tanks in the event of an impending major storm.
 - The applicant shall post no smoking signs in the area.

Commissioners discussed the hours for refueling in relation to foot traffic from ferry arrivals and departures.

Commissioners discussed the necessity of stating requirements for spill prevention.

Doug Sederholm moved, and it was duly seconded, to add the condition that the fuel station design, construction, and operation shall comply with the best management practices of the Massachusetts Clean Marinas Guide, Section 4.5, Fueling, and so certify to the Commission.

- **Jim Powell** said the best management practices are consistent with Section 10A.
- **Doug Sederholm** said his concern is that the Commission has received correspondence referencing serious safety issues. The guide details best management practices related to safety.
- **John Breckenridge** said any conflict between the Coastal Zone Management best practices and the State Fire Marshall's requirements can be dealt with.
- **Linda Sibley** said in general the guidelines detail the applicant's testimony.

A voice vote was taken. In favor: 9. Opposed: 0. Abstention: 1. The motion passed.

Doug Sederholm moved, and it was duly seconded, that the Commission approve the application, accepting the offers, with the Clean Marinas Guide compliance condition as voted.

Commissioners discussed the benefits and detriments of the project.

- The overriding benefit is that the Harbor would suffer economically if there weren't a fuel supply.
- It appears to be necessary in view of the lack of an alternative. If the applicant is assured, in writing to the Board of Selectmen, that an alternative will be available, the applicant will not proceed with the project.
- Regarding the environment, the facility will meet state fire codes, Coastal Zone Management recommendations, EPA regulations, and will be reviewed by the Conservation Commission. The area is impervious.
- Any fueling service has the potential to be a detriment.
- The proposal will have no greater impact on the natural area than what is already there.
- Regarding traffic and transportation, the project has been designed to the benefit of the surrounding area. The design has been done to mitigate the detriment of the additional traffic and activity. The benefit to the local economy clearly outweighs the detriment of the additional traffic and activity.
- The detriment of additional traffic and activity will be shifting from commercial abutters to residential abutters. The number of people potentially impacted in private delivery areas is greater, but there is a greater risk in terms of proximity for commercial areas.
- Because the tanks are smaller than those at Church's, there is more traffic and activity impact.
- The fueling of these tanks may have less exposure than fueling at Church's.
- The project is in line with the existing Island Plan goal of promoting tourism, fishing, and character which provides substantial income to local economies.

- Oak Bluffs Harbor is a DCPC. This project protects the harbor environmentally, and protects the economic, recreational, and residential viability of the area in accordance with the DCPC.
- The transfer of the trucks to the tanks and the tanks to the boats is not a major source of fumes. The use of the fuel in vehicles of all kinds adds to air pollution, not the fueling of the vehicles.
- The project has a positive impact on the marina's budget and on the town's revenue stream of continuing to encourage boats to come to the harbor.
- Boaters are encouraged to come to Oak Bluffs with a consistent supply of fuel and are encouraged to use the regional transit system.
- The detriments are outweighed but it needs to be mentioned that the container will be unsightly, any fueling operation is a threat to environment, and to the natural community. There will be noise. There is a small impact to transportation and traffic. It will have an impact on abutters. However, maintaining a good working harbor is a benefit.

A roll call vote was taken on the motion to approve the project with the offers and conditions as discussed. In favor: B. Bennett, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson. Opposed: None. Abstentions: None. The motion passed.

Two people have asked for party status: Gallison and DeBettencourt. **Christina Brown** explained that, to be in a position to appeal Commission decisions, parties must request party status.

Linda Sibley moved, and it was duly seconded, to grant party status to the two parties making the request. A voice vote was taken. In favor: 9. Opposed: 1. Abstentions: 0. The motion passed.

Linda Sibley said it's unfortunate that people wanting to appeal have to go through this process, but it is state law.

3. SHARED-USE PATH STUDY

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson

Bill Veno reported on the Shared-Use Path study that was recently completed.

- The effort was carried out in collaboration with the Martha's Vineyard Joint Transportation Committee and its Bicycle and Pedestrian Advisory Committee, which is made up mostly of interested volunteers and meets the third Tuesday of the month at 5 p.m.
- The fact that what are commonly referred to as bike paths are used by other means of transportation is very important. The paths are crowded with pedestrians and roller bladers, etc. This explains why many bicyclists don't use the paths.
- Bikers have every legal right to be on the roads, even when a bike path is available. The Bicycle and Pedestrian Advisory Committee is trying to get the message out that vehicles have to share the road with bicyclists.

- A few years ago, the emphasis was on creating paths. There are now 37 miles of paths. It would be nice to complete these links so there is a continuous shared-use path network. At the same time, it is important to ensure that bicycles are safely accommodated on the roads.
- Consultant Mike Diaz of Greenman-Pederson looked at options to complete seven gaps in the part of the SUP network that links Tisbury, Oak Bluffs, and Edgartown with each other and with the State Forest.
 - Between Sanborn Way and IFP,
 - Between R.M. Packer and Lagoon Pond,
 - Between Lagoon Pond Bridge and County Avenue,
 - Between Eastville and County into Oak Bluffs,
 - Out of Oak Bluffs where the bike path picks up,
 - Where three bike paths converge in Edgartown and ending in the area near South Beach.
 - Extension of bike paths to the west near Morning Glory Farm
- Two objectives were driving the study. One was to complete a network linking down-Island towns, recognizing that the paths probably won't be able to get to the center of down-Island towns. The committee still wants to get as close to the center of towns as possible and to identify alternative routes for cyclists.
- The engineers looked at different design guidelines. Most of the Island's SUPs are 8 feet, versus the recommended 10 feet. As the paths continue to be used by a greater variety of users, the 8 foot width is becoming more of a problem.
- A 5 foot buffer with traffic is recommended.
- He showed maps of options for each of the seven areas.
- Next steps are to prioritize different areas, do some counts, and meet with town boards to set priorities.

Holly Stephenson said this would be a good time to develop a bike path for the connector road being developed in Tisbury. She added that it would be useful to see if the SSA could have a bike carrier bus to transport bikes out of downtown and to the Park and Ride.

John Breckenridge asked about Mass Highway's work on New York Avenue.

Mark London said the Transportation Committee concluded that bikers both need and use the bike path and the road.

- In the case of New York Avenue, improvements were made to the road to widen the shoulder.
- There are three priorities: improve the on-road conditions; improve the off-road conditions; extend the off-road paths.
- They're working with the DPWs for improvements, such as trying to improve the buffers between the SUPs and roads.
- Martha's Vineyard gets approximately \$400,000 a year from Mass Highway and the Federal Highway Administration for the Transportation Improvement Program. The aim of the SUP study was to give us a few years lead time to look at options and prepare plan for SUP extensions to be funded under the TIP.

- By having an overall Master Plan, we'll identify the projects that are the most straightforward and those that are more contentious.

Linda Sibley explained that the Joint Transportation Committee sets priorities and has a representative from each town. The Commission approves the plan and the towns receive the money and do the projects. Projects that have been done are bike paths, road repaving, and repairing bridges.

Bill Veno added that the widening of New York Avenue has been a great improvement, but any solution that involves pedestrians walking in the road is not a good solution.

John Breckenridge agreed that the New York Avenue work is a big improvement.

4. STATE LEGISLATION

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson

Mark London explained staff has been looking at three bills being put forward by the Commonwealth.

- The Oceans Act and the Ocean Management Plan: The most direct issue is that the Act would allow developers, as approved by the Energy Facilities Siting Board, to build very large wind turbines very close to Martha's Vineyard on three sides without local regulation. The Commission has already submitted preliminary comments.
- The Wind Energy Siting Reform Act: It outlines a mechanism to streamline permitting of wind energy facilities at the local and state level. The problem is that local authorities would be trumped by the Energy Facilities Siting Board. Related to the Energy Facilities Siting Board, the Commission should be given some review status.
- There have been several efforts to reform the acts that affect zoning regulations. The Community Planning Act has been sponsored by Rob O'Leary. The Secretary of Economic and Housing has sponsored the Land Use Partnership Act. Commission Counsel reviewed the LUPA; his comments are that the Commission gives the towns the ability to do what the Land Use Planning Act is proposing. Most subdivisions and rate of development is controlled. Approval not required projects are reviewed by the Commission, as is grandfathering. If LUPA goes ahead, the Commission may want to be exempted.
- The Commission should be thinking about how the Commission and towns can best strategize.

Christina Brown said that it will be important to keep the towns informed and the Commission will be looking at the benefits and detriments of the LUPA legislation.

5. TOWN OF OAK BLUFFS HARBOR GAS STATION: DRI NO 621 – WRITTEN DECISION

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, C. Gatting, C. Murphy, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson

Commissioners reviewed the written decision:

- Line 13 *fuel tanks*
- Page 1, Line 18 *two fuel tanks up to 1,500 gallons each*
- Page 1 *Partly buried 2' 6"*
- Page 4, Line 28 *no other reasonable alternatives*
- Page 4, Line 34 *delete that the area will remain impervious.*
- Page 4, Line 34 *DEP*
- Page 4, Line 39 *add and boats*
- Page 5, Line 46 *that refueling the tank may require . . .*
- *Than*
- Page 5, Line 64 *in the event of an accident*
- Page 5, Line 61 *buses, taxis, and private vehicle pickup/dropoff*
- Page 5, Line 68 *no impact*
- Page 5, Line 74 *would have a positive impact*
- Page 6, Line 00 *delete such as those relating to wastewater and additional traffic mitigation*
- Page 5, Line 02 *benefits and detriments*
- Page 7, Line 244 *and the Fire Chief of the town*
- Page 7, Line 256 *correct parenthesis*
- *Towns*
- Page 8 *attendants*
- Page , Line 61 & 80 *Fire Marshal*
- Page 8, Line 61 *non-*
- Line 8, Line 85 *the*
- Page 9, Line 305 *fueling . . . the applicant shall so certify*
- Christina Brown will find and add a date for the Clean Marina Guide.
- Section 6.1 *The applicant will post "No Smoking" signs in the vicinity of the tanks and the pumps.*
- The town shall not start pumping fuel*
- Conditions that must be met prior to pumping fuel are Sections 2 and Sections 5.*

Doug Sederholm moved, and it was duly seconded, to approve the written decision as amended. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm moved, and it was duly seconded, to waive the fee to the town as requested by the town. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 1. The motion passed.

Linda Sibley moved, and it was duly seconded, to make the next meeting the Commission's monthly meeting. A voice vote was taken. In favor: 10. Opposed: 0. The motion passed.

The meeting adjourned at 9:50 p.m.

Chapman
Chairman

J.R. Bell
Clerk-Treasurer

6/3/10
Date

6/3/10
Date