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**Minutes of the Commission Meeting
Held on October 2, 2014
In the Stone Building
33 New York Avenue, Oak Bluffs, MA**

IN ATTENDANCE

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

P Tripp Barnes (E-Tisbury)	- Leonard Jason (A-County)
P John Breckenridge (E-Oak Bluffs)	P James Joyce (A-Edgartown)
P Christina Brown (E-Edgartown)	P Joan Malkin (A-Chilmark)
P Harold Chapdelaine (A-Tisbury)	- W. Karl McLaurin (A-Governor)
P Madeline Fisher (E-Edgartown)	P Katherine Newman (A-Aquinnah)
P Josh Goldstein (E-Tisbury)	P Doug Sederholm (E-Chilmark)
P Erik Hammarlund (E-West Tisbury)	P Linda Sibley (E-West Tisbury)
P Fred Hancock (A-Oak Bluffs)	P James Vercruysse (A-Aquinnah)

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

Chairman Fred Hancock called the meeting to order at 7:00 p.m. and welcomed new Commission member Harold Chapdelaine the newly appointed member from Tisbury.

1. MINUTES

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

Joan Malkin moved and it was duly seconded to approve the minutes of September 18, 2014 as written. Voice vote. In favor: 12. Opposed: 0. Abstentions: 2. The motion passed.

Fred Hancock noted the minutes of September 4, 2014 are available to be informative only for the Lagoon Ridge Subdivision Deliberation and Decision, and will be adopted at the next meeting.

2. FINANCE COMMITTEE

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

Fred Hancock, Chairman appointed the members to the Finance Committee; James Joyce, Joan Malkin, Harold Chapdelaine, Katherine Newman, Linda Sibley, Leonard Jason and Fred Hancock.

John Breckenridge, Finance Committee Chairman noted the first meeting is scheduled for October 30, 2014.

3. WAVE LENGTHS MODIFICATIONS – EDGARTOWN DRI 623-M2 MODIFICATION REVIEW

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

For the Applicant: Colin Young

3.1 Staff Report

Paul Foley presented the following:

- The project was approved a couple of years ago.
- The location was reviewed in detail.
- The approved project is for a three-story building with retail on the first floor, offices on the second floor, and residential on the third floor.
- The change is to the second floor. Instead of having offices the modification is for two, two bedroom apartments.
- The modification will generate less traffic than having offices on the second floor.
- There are no changes to the exterior and the landscaping.

3.2 Commissioners' Questions

Christina Brown asked if the current approval has many more years with the Permit Extension Act. **Paul Foley** said approximately four years.

Erik Hammarlund asked if there are any changes to the exterior. **Colin Young** said there are not. They have received a number of requests for housing on the second floor and thought they could be part of the solution of the need for more housing.

Fred Hancock asked if it will be market rate housing. **Colin Young** confirmed that it is.

James Joyce questioned that the plan does not show any windows in the bedroom. **Colin Young** said the plan has not yet been done with an architect and the bedrooms will have windows.

There was a discussion about seasonal rentals.

- **Fred Hancock** suggested that if the modification is voted to approve, there should be language that the housing is not seasonal rentals.
- **Erik Hammarlund** questioned the suggestion.
- **Fred Hancock** said the Island has a need for year round housing.
- **Colin Young** said all types of housing are needed.

James Joyce moved and it was duly seconded that the modification is not significant enough to require a public hearing.

- **Christina Brown** said she would vote for the motion as it is within the intention of the original approval and has a lesser impact on traffic.
- **John Breckenridge** said it should be noted that a member of the Edgartown Planning Board is present at the meeting.
- **Bob Sparks**, Edgartown Planning Board said the modification was discussed at the Planning Board and the Board would like to see the final plans and has no problem with the change.
- **Paul Foley** noted the \$3,309 affordable housing monetary offer remains in place with the modification

Voice Vote. In Favor: 13. Opposed: 0. Abstentions 1. The motion passed.

Josh Goldstein moved and it was duly seconded to approve the modification to change the second floor to two, two bedroom apartments.

- **Fred Hancock** noted that Paul Foley will check to be sure all conditions of the prior approval are intact with the modification.
- **Erik Hammarlund** asked that there be no outstanding compliance issues.

Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, M. Fisher J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman D. Sederholm, L. Sibley, J. Vercruysse. Opposed: none. Abstentions: H. Chapdelaine. The motion passed

4. BRENNAN MIXED-USE/MARINER'S LANDING – EDGARTOWN DRI 648 PUBLIC HEARING

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

For the Applicant: Mark Nicotera, Chuck Sullivan

Linda Sibley, Public Hearing Officer opened the Public Hearing at 7:15 p.m. and read the Public Hearing Notice. The location is 3 Mariner's Landing, Edgartown, Map 21 Lot 34.223. The proposal is to construct a 24,000 g.s.f. (8,000 s.f. footprint) building with four 2,000 s.f. commercial condominiums on the ground floor and eight 1,000 s.f. apartments on the second floor.

4.1 Discussion of the Hearing Notice

There was a discussion about the posting of the public hearing.

- **Doug Sederholm** questioned the location in the public notice as his office is located at 3 Mariner's Landing.
- **John Breckenridge** noted a recent story in the MV Times about the accuracy of meeting postings.
- **Joan Malkin** said the notice has the correct map and lot numbers
- **Linda Sibley** suggested the MVC hold the public hearing, consult with counsel and if the hearing was not posted correctly, the public hearing can be redone.

- **Fred Hancock** noted if the public hearing is re-advertised just the Map and Lot number would be used.
- **Mark Nicotera** thought the public hearing should be held.
- **Linda Sibley** suggested the MVC conduct other business while trying to contact counsel regarding the matter.

Linda Sibley, Public Hearing Officer, recessed the public hearing at 7:30 p.m. and reconvened at 7:40 p.m.

Linda Sibley, Public Hearing Officer said the MVC counsel could not be reached. The Commission will let the applicant make a presentation since it is a benefit to the public to hear what the project is about, and then the MVC will continue the public hearing. There is some information not yet present so the hearing has to be continued in any case. If counsel advises that the MVC needs to, the Commission will hold the public hearing over again.

Doug Sederholm recused himself since he is a direct abutter

4.2 Staff Report

Paul Foley presented the following.

- The packet of information includes the affordable housing offer and the plans.
- The zoning is B-2 Commercial.
- The project is the construction of a 24,000 g.s.f. (8,000 s.f. footprint including the basement) building, with four 2,000 s.f. commercial condominiums on the ground floor, eight two-bedroom 1,000 s.f. apartments on the second floor, and four 2,000 s.f. storage units in the basement. The Brennan HVAC Company and Paul Pertile would each occupy one of the four commercial condominiums.
- The site plan, location and floor plans were reviewed.
- The key issues are the following.
 - Traffic: will the proposal mixed-use development have a significant traffic impact?
 - Buffer: is there a sufficient buffer between the proposal and the residential abutters?
 - Impact: how will this project impact the surrounding businesses in the area?
 - Intensity: is this too much intensity of use for this site?
 - Construction: how would the construction process be mitigated so as not to negatively impact the surrounding businesses?
- The site is currently mostly cleared and used for parking. There is a small buffer of existing trees along the back of the property. Some mature trees in the back could be retained but the building comes within 25 feet of the property line at the closest and will need some room for rear access during construction.
- The location is not a National Heritage Endangered Species Program habitat.
- The applicant plans to plant and possibly replant an evergreen buffer in the back.
- There would be a small lawn in the back.
- The building has been staked out on the site and it was reviewed. The majority of the building is on the big open area. From the corner of the building to the property line is approximately 25 feet.
- The applicant has submitted samples of proposed lights on October 2, 2014.

- Lighting for the commercial entry was reviewed and there will be outdoor wall lights for the residential units.
- The proposal is intended to showcase several energy savings strategies.
- One of the condominiums to be occupied by Brennan & Company LLC will be modeled to achieve a net zero energy consumption through the employment of offsetting energy produced by solar water and photovoltaic panels.
- The proposal will be connected to the Edgartown Wastewater Treatment facility.
- The applicant has said that the stormwater retention system is already largely in place. MVC staff has requested an as-built plan and any additional plans.
- The applicant has prepared a traffic report with some assistance from MVC staff. Since the final Traffic Report was not received until October 1, 2014 a final staff assessment of the Level of Service (LOS) and analysis of the tables has not been concluded.
- The revised site plan submitted on October 2, 2014 shows 44 parking spaces on the site of which 13 already exist.
- The B-2 Commercial District in Edgartown requires one spot per residential apartment and four spots per 1,000 s.f. of commercial space. Under zoning this proposal would require 40 parking spaces and a rack suitable for 14 bicycles. The total ITE peak parking demand for the proposal is 41 spaces. The proposal has four more parking spaces than required by zoning and three more than required by ITE.
- The sightlines are adequate.
- The traffic counts recorded for DRI 171 "Edgartown Lofts" indicate that the road volume is 12,400 per day in summer. The estimated total daily trip generation for the proposed is 135 (using the ITE rate) to 176 (using the MVC rate). The proposal would result in a 1.08% (ITE estimates) or a 1.42% (MVC rate) increase to the total volume on the Edgartown-Vineyard Haven Road. An estimate of 16 additional trips can be expected to occur during the PM peak hour.
- The LOS during the summer peak is currently rated as "B" at the Mariner's Landing intersection and "C" at Mariner's Way.
- The impact on traffic through the "Triangle" intersection appears to be an additional five trips toward Upper Main Street and two trips from Upper Main Street toward Mariner's Way and Landing intersections at peak hour.
- The revised traffic study will be posted on the MVC website.
- A review of the Mass Highway Crash Report for the latest available three year period 2010-2012 revealed 24 crashes in the vicinity but only 3 on Edgartown Road. No serious injuries were reported.
- The VTA provides bus service along Edgartown-Vineyard Haven Road.
- There are sidewalks and a separate Shared Use Path along Edgartown-Vineyard Haven Road.
- The recommended monetary mitigation for a 24,000-square-foot mixed-use building is \$39,000 according to the MVC Affordable Housing Policy. The noted that the basement is passive storage. The top floor is eight residential units that is less than the threshold of ten which would trigger the affordable housing requirement. The applicant has offered to contribute \$7,000 to an Island affordable housing group based on the 8,000 s.f. of commercial space.
- The proposed project will provide commercial and residential ownership opportunities.

- Hours for the commercial units are likely to be in the range of 8:00 a.m. to 5:30 p.m.
- The potential impacts to municipal services such as police and fire are likely to be minimal since the site is located within a densely developed area.
- The proposed project will generate additional property tax revenue for Edgartown once the building has been developed.
- The mixed use combination of residential housing units and commercial units in an Opportunity Area is consistent with smart growth principles and the MVC's Island Plan.
- The proposed project will create new temporary jobs in the construction and professional service sector industries.
- The building site will be visible from the Mariner's Landing curb cut on the Edgartown-Vineyard Haven Road.
- The building would be built into a slope and would appear as a two and a half story building in front and a one and a half story in back.
- The proposal is designed by an architect to fit in with the commercial vernacular of the area.
- Currently, several of the tenants of the neighboring commercial businesses park on the mostly vacant lot.
- Residential neighbors are concerned that an adequate buffer be maintained and one neighbor came to the LUPC meeting.

There was a discussion about the traffic.

- **Linda Sibley** said as written, the traffic information is a little confusing and it would be better if impacts could be expressed by each intersection.
- **Paul Foley** said the MVC Staff will clarify for the next session of the public hearing.
- **Erik Hammarlund** noted that having sat in summer traffic outside Mariner's Landing, he does not understand how the LOS could be a "B".
- **Paul Foley** said Priscilla Leclerc will thoroughly review the traffic report.

4.2 Applicant's Presentation

Mark Nicotera presented the following.

- The two principals of the project will each occupy one of the commercial units and the rest will be for sale.
- The other commercial units are designed to be showrooms and professional offices.
- Mr. Brennan is very interested in green energy, so the rest of the units will benefit from that.
- The applicants will be able to operate their businesses in the location.
- The sewer is already in place as well as the stormwater retention system.
- The location is a perfect back lot for this project.
- Two apartments will be Net Zero so those were able to be modeled and they are what Mass Code uses to meet the Stretch Code.
- For the commercial buildings an energy rating will be matched.
- For the residential units the applicant has printed certificates for the written record and the units will be built to that.

Chuck Sullivan presented the following.

- The parking plan was reviewed.

- The green space is already established and it is hoped to maintain a ten foot no cut zone in the back. Anything that is cut will be replanted.
- The location of the trash dumpsters was reviewed and they will not be visible from the street. The commercial dumpsters are located at the basement level and the two smaller ones for residential use are enclosed by a fence.
- Lighting will be kept to a minimum, post lights will be 18 inches above the deck and on the back side of the retaining wall small lights will be built into the wall.
- Lights will be by each residential unit according to code and operated by a switch at the door. For the commercial building the lighting will also be to code.
- Residential units will have access from the front porch and a second means of egress from the back deck.
- Most of the traffic will be kept out of the back yard area.

4.3 Commissioners' Questions

Erik Hammarlund asked about the drainage in the ramp area. **Chuck Sullivan** said all the natural water will be directed around the building and into a catch basin. Roof runoff will also go to catch basins through gutters and PVC conduit to underground drainage pits.

John Breckenridge asked if the decking in the back is just egress decking or for residents' use. **Chuck Sullivan** said each unit has a 3 x 6 foot area and the deck has only a little area that might hold a small café table. The deck is not set up as a big area or a commercial area.

Josh Goldstein noted the project provides eight residential units and is green and made a motion to approve. **Linda Sibley** said a motion to approve cannot be made since the MVC has not completed the public hearing.

Joan Malkin said the MVC still needs the traffic information.

Linda Sibley noted the MVC needs the energy information since the Commission did not receive it until just before this hearing.

There was a discussion about the ownership of the apartments.

- **Katherine Newman** said there are eight apartments and each owner will take two for a total of four. She noted that none of the other apartments was offered toward affordable housing and asked about the possibility of employees getting first dibs on the remaining apartments.
- **Mark Nicotera** said each individual commercial owner of a condominium has first right of refusal and if declined it goes back to the LLC. It would be difficult economically to take one of those apartments for affordable housing.
- **Joan Malkin** said the LLC would continue to own the apartment and receive the rent or the purchase price, so in theory they could make one apartment available for affordable housing.

4.4 Testimony from Public Officials

Linda Sibley said the public hearing tonight is essentially informational. She will take public testimony with the understanding that if counsel says there is a problem with the posting of the public hearing notice, it may need to be redone.

Bob Sparks, Edgartown Planning Board had a very detailed site visit with the applicant. The applicant came to the Planning Board with a detailed presentation; it was reviewed and the concerns that the Board had were reviewed. The applicant has kept the Planning Board informed with the conversations they had with the abutter. The Board is happy the project was modified immediately to address the abutter's concerns with parking and the green area in back. The Edgartown Planning Board is awaiting the decision of the MVC but is pleased with what it has seen.

4.5 Public Testimony

Joyce Schwartz spoke on behalf of herself and her husband Russell Schwartz. They are the abutter and the project will affect them very much. They have talked with Jim Brennan and have lived at the property since 1979. They built on top of the hill to get away from the business district but it seems the business district is coming up to them. Their concern is the lighting and the noise. They have no idea how high the building will be in their backyard and what they will see when they are on their porch. They would like to make sure that covenants are written for the building so the upstairs is built to be residential use forever. The applicant did address the parking concern and said they would plant the evergreen buffer to protect us. They are concerned about the noise from the HVAC systems. The lights will send light into their house. The lights will be lit all night so hopefully lighting will be worked out with the applicant and the Planning Board. They would like the frame staked so we can see what it will look like, we need to visualize the massing. They want to know how close the nearest dumpster will be to the property line.

4.6 Commissioners' Discussion

There was a discussion about the abutter's concerns.

- **Linda Sibley** noted that the MVC does not often get frames erected but does often ask for poles to show the height.
- **Chuck Sullivan** said the dumpsters are in the parking area and are fenced in. The highest grade is 32 and the dumpster elevation is 23 so they will be about 10 feet lower. The abutter will look over the dumpsters and there will be a 10 foot no cut zone.
- **Joan Malkin** asked if you stood at the abutter's house would the top of the dumpster be seen.
- **Mark Nicotera** did not think so.
- **Katherine Newman** asked why the lights have to be on all night.
- **Chuck Sullivan** said each apartment would control their lights. All lights submitted are dark-sky rated lights. The closest light is about 50 feet from the property line.
- **Katherine Newman** asked what the peak of the roof is.
- **Chuck Sullivan** said it is 54 so that is about 23 feet 4 inches from the grade at back to the deck.
- **Harold Chapdelaine** noted the grade at the back of the deck to the ridge is about the same as an average Cape.
- **Christina Brown** said the maximum height in the Edgartown B-2 District is 32 feet.
- **Chuck Sullivan** asked if the MVC would like the applicant to survey the abutter's house.
- **Joan Malkin** asked if the applicant can show the MVC how the elevation is visible to the abutter.
- **Mark Nicotera** explained the elevations.

- **Linda Sibley** said she got the general idea but it was not perfectly clear.
- **Mark Nicotera** said there will also be trees and shrubs planted at the property line that you will not see through.
- **Trip Barnes** asked if a story pole will be put up to judge the height.
- **Linda Sibley** said the pole would be put up.
- **Trip Barnes** asked how many feet the building is from the Schwarz's property line.
- **Chuck Sullivan** said the building is 25 feet from the property line.
- **Harold Chapdelaine** noted it was mentioned that the residential lights will be operated by a switch at the door but how is the deck lighted.
- **Chuck Sullivan** said deck lighting will be low lighting that is directed away from the residential units.

Harold Chapdelaine wondered why not do zero energy throughout the building and the entire project. It would be a more attractive thing to market as well as a very responsible thing to do.

Mark Nicotera said it would cost a lot of money to do that and then the MVC is conditioning the sale of a project and that might not make it feasible.

Christina Brown asked that at a later date, the applicant provide more information to the MVC about the solar aspect of the project as well as the two apartments being built with zero energy capacity and if in the future the other apartments could be built that way.

There was a discussion about the B-2 zoning.

- **John Breckenridge** asked when the B-2 zoning went into effect for the area.
- **Paul Foley** said the Master Plan has been since 1989.
- **John Breckenridge** asked the Schwartz's when they bought their house was this area zoned commercial.
- **Joyce Schwartz** said the area was zoned B-2 and residential was not allowed. But the commercial was zoned for offices only.

Joan Malkin asked Joyce Schwarz if it would be okay to go to their property and review the site. She would also like information about the HVAC noise from the applicant at a later date.

Joyce Schwartz said the Commission is welcome to come to their property and view the location. Their property is way above from the bank and when the trees lose their leaves they see the lights which is why they are concerned about this project.

Linda Sibley said Joyce Schwartz is talking about a project the MVC did not condition and the MVC is stringent about lighting. The MVC needs details about how the porch will be safely lit and will the lights on the second floor be lit all night. The MVC needs information about the HVAC noise, the nature of the evergreens on the property line as well as information about the dumpsters. Can the other six apartments be retrofitted for zero tolerance? The Commission wants more information for the next meeting.

James Joyce said perhaps staff can help with the question that came up at the site visit regarding parking. Because parking is being used by the other businesses the abutter might not know exactly where the property line is. Did these other businesses come before the MVC? There are eight or nine spaces with cars. Were some of those spaces earmarked for other buildings? The same space can't be used twice. **Paul Foley** said a theater was proposed for the site but that has expired so staff will look into it.

Doug Sederholm spoke as a direct abutter and his law office is located at 3 Mariner's Landing. He would like the applicant to explain any restrictions put on parking numbers 27-38. Those are spaces that face the rest of Mariner's Landing and are frequently filled. He does not believe there are any dedicated parking spaces for Mariner's Landing. He would like some explanation on if the applicant plans to have dedicated parking spaces and if there will be assigned spaces for the tenants. Given the fact that people working in the area have used those spaces, it will have an impact. The issue could migrate from Post Office Square and the Edgartown Lofts. He cares about the parking and the traffic. In summer people jump the queue by going through Post Office Square and Mariner's Landing and people drive through there fast and these facts won't show up on the traffic study.

Linda Sibley, Public Hearing Officer, continued the Public Hearing until October 16, 2014. If the MVC is advised by counsel that the posting of the Public Hearing Notice was in error the MVC will have to start the public hearing process over at a later date. That should be known by Monday October 6, 2014.

Joyce Schwartz noted that she and her husband need to leave the Island on October 6, 2014 due to previous obligations and doctor appointments. They had made the effort to be on Island for tonight's meeting.

Linda Sibley said written testimony can be submitted. Unfortunately the MVC cannot rearrange the public hearing due to the abutter's schedule and the Commission deeply understands their concerns.

Linda Sibley asked the applicant to erect the height poles before the Schwartz's leave on October 6, 2014.

Fred Hancock, Chairman recessed the meeting at 8:50 p.m. and reconvened at 8:55 p.m.

Doug Sederholm rejoined the meeting.

5. OAK BLUFFS FISHIG PIER DRI 628-M2 WRITTEN DECISION

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

Fred Hancock, Chairman noted the MVC voted for the modification and this is a review to be sure the Written Decision is in fact what was approved.

2.3 Description of Proposed Amenities

Erik Hammarlund asked if there is a better way to describe the approved light rather than the current language "The sample provided was housed in stainless steel" and suggested language such as "the light the MVC approved was the sample housed in stainless steel". The light should be specified as much as possible since there are not any model numbers or exact specifications.

Josh Goldstein moved and it was duly seconded to approve the Written Decision as amended. Roll call vote. In favor: T. Barnes, J. Breckenridge, M. Fisher, J. Goldstein, J. Joyce, J. Malkin, K Newman, J. Vercruysse, E. Hammarlund, F

Hancock. Opposed: none. Abstentions: C. Brown, L. Sibley, D. Sederholm, H. Chapdelaine. The motion passed .

6. AMICUS BRIEF IN SUPPORT OF THE TOWN OF TISBURY

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

Fred Hancock, Chairman said the Town of Tisbury asked the MVC to write an Amicus brief in their favor regarding an issue that is affecting the Town of Tisbury as well as many other communities. Since this will require funding from the Commission, and is not a case of the Commission defending itself from a lawsuit, he is presenting the issue to the full Commission.

There was a discussion about supporting the brief.

- **Mark London** said he attended a meeting of the Massachusetts Association of Regional Planning Agencies last week and they voted to support the brief and contribute funds; other regional planning boards may also contribute. Since then, we have heard that the Massachusetts Association of Planning Directors and the Massachusetts chapter of the American Planning Association have also agreed to sign onto the brief, but would not contribute to the funding. MVC counsel would write the brief and the cost is about \$6,000.
- **Fred Hancock** said the brief would be in support of the Town of Tisbury.
- **Erik Hammarlund** said the brief is looking for people with strong positions to support the law.
- **Trip Barnes** said he would like to hold off on this issue until he has more information. **Linda Sibley** noted that a memo said she respectfully disagrees with Trip Barnes. The memo was sent to the Commissioners by email a while ago and there is no reason why anyone here could not have known about this and had time to ask staff questions.
- **Christina Brown** asked whether MARPA or the individual agencies would sign on the brief.
- **Mark London** said the planning directors were ready to sign individually or collectively, and he would leave this up to counsel.
- **Fred Hancock** said the issue is related to the ability of planning boards to deal with certain building permit applications and affects all of the Island towns.
- **Joan Malkin** said if the MVC can be of use to the towns of the Island she agreed with supporting the brief though she does not really understand the issue. She does understand protecting the Island.
- **Doug Sederholm** said the Supreme Judicial Court has invited Amicus briefs. They want public and community entities and have invited friends of the court. Per Mark London, it will cost the MVC a maximum of \$4,500 and it benefits all six towns.
- **Trip Barnes** said the Tisbury Board of Selectmen did not call the Tisbury Commissioners to ask for support of the Amicus brief.
- **Linda Sibley** said no one called anyone.

Doug Sederholm moved and it was duly seconded to approve the writing of the Amicus brief under authorization of the MVC. Voice vote. In favor: 12. Opposed: 0 Abstentions: 2. The motion passed.

7. DRI REGULATIONS AND BY-LAWS REVISIONS

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, H. Chapdelaine, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruysse.

7.1 (4.3) Terms of Office for Officers

Fred Hancock, Chairman noted that the term of office starts immediately upon election but the correct practice is the officer takes office the first of the year. The revision would make the By-Law conform with the MVC practice.

Katherine Newman moved and it was duly seconded to approve the change to 4.4 Terms of Office for Officers as presented. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

7.2 (8) MVC Decision Process

Fred Hancock, Chairman said when reviewing the MVC By-Laws it was realized that some issues were covered by DRI Regulations. It was felt it would be better to revise the DRI Regulations rather than adding the revisions to the By-Laws. The revisions were reviewed.

Joan Malkin said the revisions are complicated but noted that the committee met on many occasions and went through every complication so she felt the Commission might be inclined to trust the committee regarding the revisions.

Doug Sederholm noted that in fairness to the entire Commission all three attorneys on the MVC were on the committee and the revisions were word-smithed to death.

Katherine Newman moved and it was duly seconded to approve the revisions to the DRI Regulations as presented. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

James Vercruysse and Harold Chapdelaine excused themselves from the meeting.

8. LAGOON RIDGE SUBDIVISION – OAK BLUFFS DRI 464-M2 DELIBERATION AND DECISION

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley.

Fred Hancock, Chairman noted this is a Form B proposal and the applicant has to come back to the MVC with a Form C proposal which would include the detailed conditions.

John Breckenridge asked if the MVC is saying these components will be in the applicant's Form C. **Fred Hancock** confirmed that is correct.

8.1 Offers

There was a discussion about section 1.1.

- **Paul Foley** said 1.1 should be clarified that Custer C and B will be attached to the nitrogen removal system.
- **John Breckenridge** said the system is not an enhanced system; it is a wastewater plant with an enhanced nitrogen removal system.
- **John Breckenridge** suggested language for 1.1 to revise "enhanced nitrogen removal system" to "onsite wastewater treatment facility with the wastewater removal system".

John Breckenridge said 1.8 needs to be more specific. **Fred Hancock** suggested adding "onsite plant" to the language.

Doug Sederholm suggested adding the word "wide" to "(20) foot" for 1.10.5 3a

8.2 Conditions

2 Subdivision

John Breckenridge suggested revising the word "areas" on line 39 for section 2.1 to "envelopes" because the envelopes are different by each area and the language would then be more specific.

3 Phasing

John Breckenridge said a critical factor is the building and implementation of the wastewater treatment plant and asked if that should be included under section 3.1 or under section 8.0.

David Danielson said he has to have phasing and show the Town of Oak Bluffs that he can operate it financially.

4 Covenants

There was a discussion about section 4.1

- **John Breckenridge** said the MVC had discussions about common areas versus development areas. The MVC can't enforce homeowners using native species but can enforce for the common areas.
- **Erik Hammarlund** asked if there are a lot of common areas.
- **Linda Sibley** said the MVC tells commercial businesses what they can and cannot plant.
- **Doug Sederholm** said the MVC conditions of Form C are enforceable.

5 Landscaping

There was a discussion about section 5.3.

- **Christina Brown** said she did not remember the MVC talking specifically about section 5.3 and would like more discussion about it.
- **Fred Hancock** said the MVC did talk about the section.
- **Christina Brown** said the Polly Hill list is one list but not necessarily the MVC list.
- **Fred Hancock** said the MVC could talk in detail about section 5.3 when the applicant comes back to the MVC with Form C.

8 Wastewater

There was a discussion about section 8.3.

- **Doug Sederholm** said with regards to "quarterly or as required by DEP" the language should say whatever is more restrictive.

- **Paul Foley** noted the applicant thought the DEP was less restrictive and the DEP has not gotten back to Sheri Caseau.
- **Fred Hancock** said the engineer testified that testing will be dependent on when there will be a full load.
- **Erik Hammarlund** said section 8.3 should be tailor made when the MVC knows what the system will actually be.
- **Doug Sederholm** felt that would be okay as long as it can be detailed at the Form C.

There was a discussion about section 8.4

- **Erik Hammarlund** suggested adding language to section 8.4 "or otherwise take steps to reduce the nitrogen load" or delete the word monetary.
- **Fred Hancock** said the MVC wants the applicant to fix the problem.

There was a discussion about section 8.5.

- **Joan Malkin** thought the MVC had talked about septic systems being pumped.
- **Christina Brown** remembered that it was said the Town of Oak Bluffs Board of Health has a requirement.
- **Doug Sederholm** said he did not believe the Board of Health has a requirement.
- **Linda Sibley** said the applicant can propose a solution with the Form C.

Doug Sederholm moved and it was duly seconded to accept the offers and conditions as discussed.

8.3 Benefits and Detriments

Benefits

- Open Space:
 - The applicant is acting on the request of the Land Bank.
 - By clustering the applicant is leaving open space.
- Wastewater: the applicant is meeting the MVC guidelines.
- Night Lighting is being mitigated as much as possible.
- There will not be a significant increase in traffic in the area.
- Scenic Value:
 - There will be more trail access.
 - The applicant is giving the public an opportunity to see parts of the Island that are really beautiful.
- Availability of moderate income housing.
- A donation is being made to Habitat for Humanity.
- The town will receive more revenue with the increase in the tax base.
- The applicant has made use of the Oak Bluffs By-law for cluster development.
- The proposal has achieved regional guidelines with regard to nitrogen.
- The project conforms to the DCPC.

Detriments

- Wastewater:
 - The project is adding Nitrogen to the Lagoon.
 - Four units will not be on the wastewater treatment plant.
- Abutters will be impacted visually.

- There will be an impact on the schools with more families with children moving to the area.

Doug Sederholm amended his motion and it was duly seconded to include a revision to the language for Condition 14.1" to "Alterations: There shall be no substantive alterations without the approval of the Martha's Vineyard Commission."

Roll call vote on the motion to approve the Form B application as conditioned. In favor: T. Barnes, J. Breckenridge, C. Brown, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley. Opposed: M. Fisher. Abstentions: none. The motion passed.

9. NEW BUSINESS

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley.

9.1 Executive Director's Report

Mark London informed the Commission that he will be retiring at the end of next summer. He noted that there are two other executive directors of Massachusetts regional planning agencies who will be retiring next year and, once a search committee is set up, he will give them information about their search processes.

Fred Hancock said he would appreciate anyone that is interested to volunteer for the search committee.

Linda Sibley said she hoped the search committee would not be limited since there may be new Commission member in January 2015.

Fred Hancock said it would not be limited and anyone can participate, even new Commission members.

9.2 Planning and Economic Development (PED) Committee

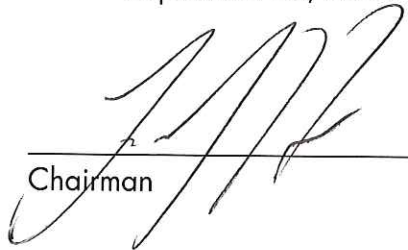
Christina Brown, PED Chairman, said the next meeting is to become more educated on the Transportation Improvement Program and the Uniformed Planning Work Program process. It is at 5:30 p.m. on Thursday October 9, 2014 at the MVC meeting room. The public is welcome to attend.

The meeting was adjourned at 9:55 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on September 18, 2014
- Minutes of the Commission Meeting – Draft, Held on September 4, 2014
- Memo from Colin Young to Paul Foley, Martha's Vineyard Commission, Dated September 18, 2014, Subject: Modification Wavelengths Project

- Modification to a Decision of the Martha's Vineyard Commission Draft 9/23/14, DRI 628-M2 Oak Bluffs Fishing Pier Modifications to Add Seasonal Safety Lights on the "L", Hand Pump for Seawater Wash and Bait-cutting Surfaces
- Martha's Vineyard Commission DRI #648 Brennan Mixed-Use, MVC Staff Report – October 2, 2014
- Mariners Landing DRI 648 Affordable Housing Offering
- Brennan Mixed-Use 3 Mariner's Way, Edgartown Floor Plans, Elevations and Site Plans
- Memo to Martha's Vineyard Commission from Bill Veno, Senior Planner, Dated September 4, 2014, Subject: Proposed Amendments to DRI Regulations and MVC By-Laws
- Memo to Commissioners from Mark London, Executive Director, Dated September 30, 2014, Subject: Proposed MVC Support to Tisbury's Call for Amicus Briefs Relating to ANR and Nonconformities Case
- Draft Offers and Possible Conditions for Lagoon Ridge Form B – LUPC 9/22/14
- Martha's Vineyard Commission Land Use planning Committee Notes of the Meeting of September 22, 2014


Chairman

11-4-14
Date


Clerk-Treasurer

11/6/14
Date