Minutes of the Commission Meeting
Held on November 6, 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)
P John Breckenridge (E-Oak Bluffs)
P Christina Brown (E-Edgartown)
- Harold Chapdelaine (A-Tisbury)
- Madeline Fisher (E-Edgartown)
P Josh Goldstein (E-Tisbury)
P Erik Hammarlund (E-West Tisbury)
P Fred Hancock (A-Oak Bluffs)

P Leonard Jason (A-County)
P James Joyce (A-Edgartown)
P Joan Malkin (A-Chilmark)
- W. Karl McLaurin (A-Governor)
P Katherine Newman (A-Aquinnah)
P Doug Sederholm (E-Chilmark)
P Linda Sibley (E-West Tisbury)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Jo-Ann Taylor (Coastal Planner).

Chairman Fred Hancock called the meeting to order at 7:00 p.m.

1. MINUTES


Linda Sibley moved and it was duly seconded to approve the minutes of October 6, 2014 as written. Voice vote. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.

2. TOM’S NECK FARM – EDGARTOWN DRI 483-M MODIFICATION REVIEW


For the Applicant: Ann Floyd

2.1 Staff Report

Paul Foley presented the following.
- The packet of information contains the Staff Report, LUPC meeting notes and the plans.
- The project is off Dyke Bridge Road, Chappaquiddick, Edgartown, Map 32 Lots 1.121, 1.122, 1.123, 1.124, 1.127, 1.128, 1.51, 1.52, 1.53, 1.61, 1.62 and 1.63. Lots 1.61, 1.62 and 1.63 are open space lots.
• The proposal is to sell four of the nine buildable lots and one of the Common Area lots (Common Area C) in a 57 acre subdivision to the Land Bank and carve off a 2.5 acre beach lot which is part of Common Area C and sell that to the neighbors.
• In 1999 the MVC approved with Conditions a plan on Chappaquiddick to subdivide 57.2 acres into nine building lots and three open space lots.
• The Conditions included preparing a survey of whether there were any breeding sites for the Northern Harrier (1a) and the Papilloset Nut-Rush (1b - a perennial sedge) and an intense archeological survey.
• A donation of $1,000 to an Island affordable housing organization was part of the Conditions.
• The Conservation Restriction will continue to cover all parts of the Common Area C including the 2.5 acre beach lot being sold to the neighbors. The only difference will be that the newly acquired land by the Land Bank will no longer have some of the restrictions to public access that currently exist such as time of year and written request for access.
• A secondary part of the plan is to eventually re-subdivide two of the remaining five lots resulting in seven buildable lots on the remaining 18 acres of which eight will remain as open space. That is not in front of the MVC at this time.

2.1 Land Use Planning Committee (LUPC) Report

Linda Sibley, LUPC Chairman presented the following.
• After considerable review it was determined that the only piece the MVC has to be concerned with is the new lot that is under the conservation easement and is being sold to the neighbors.
• LUPC unanimously recommended to the full Commission that the sale of the four buildable lots and Common Area C to the Land Bank and subdivision of land to allow the sale of the 2.5 acre piece to the neighbors does not require a public hearing review as a DRI and should be approved as a minor modification.

2.2 Applicant’s Presentation

Ann Floyd presented the following.
• There are four owners involved that are tenants in common.
• The project has been in the works for twenty two years.
• With approval of the project, the owners will be giving up the ability to sell the four remaining lots to private owners, accounting for thirty bedrooms. The land will forever be protected.
• With the help of the MVC the project will be a dream come true.

Josh Goldstein moved and it was duly seconded that the modification is not significant enough requiring a public hearing as a Development of Regional Impact. Voice vote. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

3. PACKER DEMOLITION – TISBURY C.R. 4-2014 CONCURRENCE REVIEW


For the Applicant: Ralph Packer

3.1 Staff Report

Paul Foley presented the following.
  - The packet of information includes the L UPC meeting notes and the plans.
  - The proposal is to remove an existing two-story building behind a new building.
  - The location is 199 Beach Road, Tisbury, Assessor lot 10-B-1.
  - The purpose of the Concurrence Review is to review the project and decide whether or not this proposal requires a public hearing as a Development of Regional Impact.
  - Ralph Packer had explained to the MVC that the building was built of mostly used wood in 1946 and 1947. It was originally located where Winds Up is now but was moved to its current location. It was built before the building code, electric code, the plumbing code and before zoning so it would need a lot of work to bring it up to any of those codes. It is in the Flood Plain (velocity zone) and is appraised at $110,000 so any expenditure over $55,000 would require it to be jacked up five or six feet.
  - Ralph Packer had told the MVC that the location would probably be parking and storage and used as the rest of the property is used. This is the working waterfront and they need space for temporary storage and maneuvering; he might put a storage container there.

3.2 Land Use Planning Committee (L UPC) Report

Linda Sibley, L UPC Chairman presented the following.
  - At the L UPC meeting, there was some discussion about the proposal including the visibility from the water.
  - L UPC unanimously recommended to the full Commission that the proposal does not require a public hearing as a Development of Regional Impact and to not concur with the referral and return it to the Town of Tisbury.

3.3 Applicant’s Presentation

Ralph Packer presented the following.
  - The building was built in 1946 and at the time there were no building or septic codes.
  - The building has served its purpose and is not being used and is shabby.
  - He would appreciate the MVC approval to demolish the building.

Christina Brown asked the applicant if he takes the building down and his successors want another building does the approval to demolish the building now jeopardize re-building in the future. Ralph Packer said he has worked with the engineer and he has two years to re-build the building so he has time to think about that issue.

Linda Sibley moved and it was duly seconded that the proposal does not require a public hearing as a Development of Regional Impact and return the referral to the Town as not a concurrence. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, J. Goldstein, E. Hammarlund, F. Hancock, L. Jason, J.

4. OCEAN PLAN MANAGEMENT LETTER – REVIEW AND APPROVAL


Fred Hancock, Chairman noted there was a presentation of an updated Ocean Management Plan and the MVC staff is compiling response to that plan. The MVC staff is looking for approval from the MVC to send the letter out on behalf of the Commission. If it is okay with the Commissioners the MVC could give the Chairman approval to make small changes since there is a time requirement to get the response to the towns so they can also respond.

Jo-Ann Taylor said the deadline for comments is November 25, 2014.

4.1 Commissioners’ Discussion

Erik Hammarlund said he has read the letter and it is very well done and felt the letter should be sent with Fred Hancock’s approval of refinements.

Joan Malkin suggested and there was agreement that under Offshore Sand Mining the word “sharply” should be removed.

There was a discussion about the designated Wind Energy Area.

- Christina Brown asked if on page 4 on the first sentence if “dropping the designation” refers to the Martha’s Vineyard area.
- Mark London said yes and the letter should state the Martha’s Vineyard area; “dropping the designation of the Martha’s Vineyard Wind Energy Area”.
- Jo-Ann Taylor said it could still work as stated if Gosnold agrees.
- Doug Sederholm suggested making the word area singular.

There was a discussion about wind turbines.

- Christina Brown asked for an explanation of up to 17 turbines in Dukes County.
- Jo-Ann Taylor said the recipients of the letter will understand the number of turbines. Martha’s Vineyard as a region has been allotted up to 17 community turbines and they can go anywhere. In the Ocean Plan, the only difference between commercial and community is the number of turbines which is the 17.
- Doug Sederholm noted that any turbines in the water would be an automatic DRI referral and that the MVC has the right to regulate this development by determining its “appropriate scale”.

There was a discussion about sand mining.

- Fred Hancock noted there will be a meeting about offshore sand mining in the Ocean Management Plan is at 5:30 p.m. on November 13, 2014 and anyone on the Island is invited.
- Fred Hancock said the latest version of the plan marked two areas for potential sand mining that were not previously in the plan.
- Leonard Jason asked how sand mining is done.
- Jo-Ann Taylor said sand mining is done in Rhode Island and requires permits from the Army Corp of Engineers and is also federally regulated. It has to be engineered like other dredging projects. It can be done using a dredge, depending on the depth.
- Doug Sederholm noted sand mining could also be for commercial use.

Erik Hammarlund moved and it was duly seconded to send the letter with the corrections and editorial notes, but not substantial corrections, as approved by Chairman Fred Hancock. Voice vote. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

5. EXECUTIVE DIRECTOR SEARCH COMMITTEE UPDATE


5.1 Committee Report

Doug Sederholm, Executive Director Search Committee Chairman presented the following.
- The committee met on November 6, 2014 and made good progress.
- A Request for Proposal was sent out to three recruiting companies specializing in governmental and municipal positions.
- The search committee will be interviewing two of the companies by video conferencing.
- The search committee is asking the MVC to approve up to $20,000 to hire a recruitment firm.

5.2 Commissioners’ Discussion

There was a discussion about a local candidate search.
- Erik Hammarlund said there are people around here with extensive land management experience. Would the MVC want to see the level of local interest first to find out what local candidates are around?
- Doug Sederholm said the committee wants to have the search done on a reasonable schedule and have the candidate on board in a timely fashion. A local search would take a minimum of three months and if it didn’t work, that would not give the MVC adequate time to get a candidate on board.
- Fred Hancock said he had also been interested in doing a local search first, but after looking at what the search firm could provide, including vetting candidates, he feels it is highly beneficial to hire a search firm.
- Trip Barnes asked why the MVC can’t put an ad in the local paper. He is against hiring an outside firm. He does not see how it could take three months if someone locally is well qualified.
- Doug Sederholm respectfully stated the process is a more sophisticated endeavor than Trip Barnes has expressed.
- Joan Malkin said the committee is open to local candidates but if only looking at local candidates an ad needs to be formulated with the qualifications and search criteria. A search firm screens candidates and helps to affirmatively recruit. A search firm has a data base of qualified candidates and they know the market and salary ranges and are very
helpful with the selection criteria. A search firm can also provide guidance on where to advertise and receive resumes in a confidential way.

- **Trip Barnes** said as an outside agency, a search firm could be helpful in acting as a good guy versus bad guy. But as a unique situation of being on Martha's Vineyard he believes the MVC could do a good interview.
- **Joan Malkin** said the final interviews will be with the full Commission.
- **John Breckenridge** said the Commissioners received an offer from Chairman Fred Hancock to have any Commission members who wanted to be on the search committee and the committee has a good cross section of Commissioners. The search committee has thought through many of the same questions being posed tonight and the committee unanimously voted to hire a search firm to stay on the timetable.
- **Trip Barnes** stated again he would like to see a local ad go out.
- **Linda Sibley** said an ad would be done.
- **James Joyce** asked if the ad would be placed before the Commission hires the search firm.
- **Joan Malkin** said no.

There was a discussion about the search process.

- **Leonard Jason** said the MVC has done this type of executive search before. Being hands on is a good process rather than using an outsider.
- **John Breckenridge** said the search firm gives guidance.
- **Linda Sibley** said the consultant helps the MVC with the process. One of the purposes of the search firm is to keep track of the process but the MVC does the decision making. The search firm would however save the MVC time by looking at potential candidates and eliminating those that are not qualified.
- **Erik Hammarlund** believes the MVC needs the outside party but his concern is that the firm may seek to tell the MVC what the qualifications should be.
- **Doug Sederholm** said if that happens, shame on the MVC. It is a legitimate concern but the search committee is adamant that the MVC determine the qualifications.
- **Christina Brown** asked if the search firm would be writing the profile of what the MVC wants the candidate to be.
- **Fred Hancock** confirmed that would be the process.
- **Joan Malkin** said the candidates will want to see the job description so that will be done.

There was a discussion about the role of the search committee.

- **Fred Hancock** noted there are detailed procedures in the MVC By-Laws for searching for an Executive Director including having a search committee. The search committee does not determine who will be hired. The hiring process includes participation of the full Commission.
- **Christina Brown** asked if any of the Commissioners can attend the search committee meetings.
- **Fred Hancock** said with a proviso. There cannot be a quorum because then the committee would be acting as a full Commission. Therefore, there are only eight members on the search committee.
• **Erik Hammarlund** asked if the search committee would be open to poll the Commission on some of their early questions.

• **Fred Hancock** said the MVC has a search committee because you are delegating certain items for the search committee to complete. The committee was formed by volunteers.

• **Erik Hammarlund** apologized for missing the MVC meeting when the search committee was nominated. He wanted to be on that committee and now he is not able to attend those meetings, so he is a little concerned about the process.

• **Linda Sibley** said the search committee wants input from the Boards of Selectmen and the public and the committee has discussed how they will obtain that input on what the job should be and the needs of the position. The Commissioners should be the first to give the committee that information.

There was a discussion on the costs of the search firm and what it provides.

• **James Joyce** asked what are the costs incurred so far.

• **Doug Sederholm** said there are no costs so far but they had three proposals, not including travel. The committee eliminated the proposal at $21,600. The other two are $17,500 and $14,000. Because expenses are not included, he asked for up to $20,000 based on the proposals the committee reviewed.

• **Leonard Jason** asked what is provided with the proposals.

• **Doug Sederholm** said one proposal is five pages long and the other is eight pages long, both including a detailed description of what is provided.

• **Leonard Jason** asked how many qualified candidates does the search firm bring to the table.

• **Doug Sederholm** said that is not specifically known yet.

• **Fred Hancock** said when the search committee reviews the proposals, the committee will look at how to minimize costs such as eliminating visits to the Island by the search firm to review processes which can be done by phone.

• **Doug Sederholm** noted the search firm can do background checks on candidates that the MVC is not equipped to do.

• **Erik Hammarlund** noted that the cost of the search firm per the salary base of the candidate is quite inexpensive.

• **Christina Brown** noted that with facing the budget season with the towns it might be helpful to know why the expenditure of $20,000 is necessary.

• **John Breckenridge** said the search committee has spoken with the towns about this, and it has been a transparent approach.

Doug Sederholm moved and it was duly seconded to approve the expenditure by the Executive Search Committee of up to $20,000 to hire an executive director search firm. Voice vote. In favor: 10. Opposed: 2. Abstentions: 1. The motion passed.

6. NEW BUSINESS

6.1 Scheduling

Fred Hancock, Chairman noted the next MVC meeting will be held at 5:30 p.m., November 20, 2014 at the Katharine Cornell Theater. The meeting will include a presentation by the Executive Director of the Cape Cod Commission on wastewater management. The general public and other interested parties are invited to attend.

6.2 Reports from Committees and/or Staff

Executive Director Search Committee

Doug Sederholm said the next meeting will be on November 18, 2014 at 5:45 p.m.

Compliance Committee

Erik Hammarlund said the next meeting for the Compliance Committee will be on November 18, 2014 at 8:00 a.m.

Planning and Economic Development Committee (PED)

Christina Brown said affordable housing will be discussed at the next PED meeting which is tentatively scheduled for January 15, 2015 at 5:30 p.m.

Doug Sederholm recused himself from the meeting. Leonard Jason, James Joyce and Erik Hammarlund excused themselves from the meeting.

7. BRENNAN MIXED-USE/MARINER’S LANDING – EDGARTOWN DRI 648 DELIBERATION AND DECISION


7.1 Staff Report

Paul Foley presented the following.

- The packet of information includes the offers and the Post Public Hearing LUPC Meeting Notes.
- The offers were clarified at LUPC.
  - The spotlights are on motion sensors and are intended solely for the purpose of providing light for anyone exiting the back door in case there is an emergency.
  - The applicant’s offer on lighting was found to be sufficient with the clarification that the commercial units would turn off their lights when their office is not in use.
- LUPC recommended adding offers and conditions that were either offered at the public hearing or are typical MVC safeguards.
  - A final landscaping plan, including an implementation timetable showing plant species and locations shall be submitted for the approval of LUPC before construction begins.
  - Fertilizers and Pesticides: All fertilizers shall be slow-release, water insoluble nitrogen source types. No synthetic pesticides including herbicides, fungicides and/or insecticides shall be used in the maintenance of the landscaping.
  - As offered by the applicant, the project shall be connected to the Edgartown Wastewater Treatment Facility.
- As offered by the applicant, stormwater runoff shall be contained on the site with drywells and catch basins.
- As offered by the applicant, bike racks for fourteen bikes will be provided as shown on the plans.
- The MVC staff has put together possible conditions for consideration.

**7.2 Land Use Planning Committee Report (LUPC)**

**Linda Sibley**, LUPC Chairman presented the following.
- There were two primary discussions on lighting and the affordable housing contribution.
- The Schwartz's had a concern about the spotlights on the back of the building.
- Fred Hancock had noted that the applicant has bent over backwards to mitigate the singular residential neighbor.
- James Brennan had noted he had maintained communication with the neighbor and they plan to plant evergreens in any gap to cut down providing any visual contact between the two properties and will put a fence along the back property border and make every reasonable effort to maintain a ten foot no cut buffer.
- The spotlights on the back are on motion sensors and are for safety for anyone exiting the back door.

**Fred Hancock** presented the following on the affordable housing contribution.
- The MVC has a series of policies one of which is affordable housing and the policy lays out the mitigation applicants are responsible for with different types of development. The MVC can make exceptions to the policy but needs to note why the exception was made.
- With this project, the applicant made assumptions about the affordable housing contribution which is in conflict with the MVC policy. The applicant based the contribution on the main floor of the building. The MVC policy is based on the entire building including the basement since it is being used for storage.
- The MVC contribution would be $39,000 and without the upper floor of the building it would be $23,000. The applicant has offered $7,000.
- Another issue that perhaps the MVC needs to address in the affordable housing policy is workforce housing. There is a distinction between workforce housing versus affordable housing.
- LUPC suggested the $7,000 contribution is inadequate, though the $39,000 contribution is perhaps too much. There is no assurance that the apartments will be used for workforce housing.
- It was suggested that perhaps the applicant could reserve some of the apartments for workforce housing and the MVC could see that as an offset to the contribution. The MVC would rather see actual housing rather than the money.

**7.3 Commissioners' Discussion**

There was a discussion about the affordable housing contribution.
- **Katherine Newman** said she brought up the affordable housing issue at the end of the last public hearing. At the public hearing it was noted that the owners have two of the units and the condominium owners have the rights for the others so there is no limitation on how the apartments would be used. She agreed with the LUPC suggestion of designating some apartments for workforce housing.
• **Joan Malkin** said the applicant was at the LUPC meeting and was asked what their general feeling was.

• **Mark London** said the offers were drafted and staff checked with the applicant and the applicant wanted to stay with the $7,000 affordable housing contribution.

• **Josh Goldstein** said he would like clarification from the applicant if the project is feasible without selling the apartment units.

• **Fred Hancock** declared that this question is out of order since the public hearing process has been closed.

• **Josh Goldstein** said it is a viable question for clarification.

• **Fred Hancock** said it would be up to the Commissioners to make that determination and they could pose it as a condition.

• **Linda Sibley** said the public hearing is closed so clarification from the applicant is a violation of process. If the applicant didn’t like the condition, the applicant could come back to the MVC for a modification.

• **Fred Hancock** said at LUPC the applicant was given many opportunities to amend their offer.

• **Christina Brown** said if the MVC makes a condition the applicant can come back for a modification. The Affordable Housing Policy is clear about the affordable housing contribution. However, the MVC has been irregular about an applicant using housing for workforce or year-round housing.

• **Fred Hancock** said in this instance, the MVC asked the applicant if they could say some of the apartments would be reserved for workforce housing and the applicant said no. Other applicants (for other projects) have said units would be used in that way and in the Draft Possible Conditions the MVC included like language from projects such as the Edgartown Lofts.

• **Joan Malkin** suggested stating the applicant should pay $7,000 and agree to the restrictions or pay $39,000, which is consistent with the Affordable Housing Policy.

• **John Breckenridge** suggested the MVC make the condition as the MVC feels appropriate and the applicant can appeal the decision or come back to the MVC to modify.

• **Joan Malkin** said she was suggesting to avoid that and let the applicant chose which contribution.

**Joan Malkin moved and it was duly seconded to condition the applicant to make an affordable housing contribution of $7,000 and agree two units be reserved for staff or year-round residency or alternatively at the applicant’s discretion to make a one-time donation of $39,000 to an Island Affordable Housing organization.**

• **Linda Sibley** noted as Christina Brown has stated the MVC needs to be consistent with what the Commission has done in the past. If the applicant does not want to restrict housing and the one-time monetary contribution is burdensome the MVC could phase the contribution to make it more feasible, as the MVC has done in the past, such as making the contributions upon the sale of condos.

• **Joan Malkin** said she would like to know how the Commission feels regarding $39,000 being a lot of money for a multi-million dollar project.
• Trip Barnes asked how the $39,000 contribution is determined.
• Fred Hancock said it is a formula in the Affordable Housing Policy.
• Josh Goldstein read the Affordable Housing Policy regarding storage space.
• Fred Hancock noted that one of the applicants had said the basement is for passive storage, but then clarified that he would be working out of the basement.
• Joan Malkin strongly urges the MVC to look at equivalencies in the future and will amend her motion to include the restrictions.
• James Veranyssse asked if Joan Malkin could define her restriction.
• Joan Malkin said the restriction is the second bullet under Affordable Housing of the Draft Possible Conditions.
• John Breckenridge asked if the amendment included the final two bullets under Affordable Housing in the Draft Possible Conditions.
• Joan Malkin said her motion includes bullet 1, 3, 4 and 5 under Affordable Housing in the Draft Possible Conditions for Consideration.
• Katherine Newman asked what the restriction is and how is it a contribution.
• Joan Malkin said it is preventing the owners of the units turning them into an investment such as weekly rentals. The condition is asking for year-round housing.
• Linda Sibley said there is a definition for affordable housing. The Island has a deficit for market housing which is different. If rented year round, it would be serving a segment of the population that is currently underserved.
• Katherine Newman said there needs to be some restriction. How would the rentals be supervised and by whom?
• Linda Sibley felt the rentals would be self-regulated.
• Trip Barnes said it is feasible that someone who works for the applicant would occupy the apartment. The applicant wants to have a choice of what to do with the apartment.
• Katherine Newman said the MVC does not want the applicant to have a choice, the MVC wants a commitment.
• Fred Hancock suggested to Joan Malkin that the restrictions should be part of the master condominium agreement.

Joan Malkin amended her motion to include phasing of the monetary payment in two phases, upon the Certificate of Occupancy and the sale of the first condominium, and to include restrictions as noted in the Draft Possible Conditions under Affordable Housing Bullets 1, 3, 4 and 5. Voice vote. In favor: 6. Opposed: 4. Abstentions: 0. The motion passed.

John Breckenridge moved and it was duly seconded to approve the project as presented with the offers as amended.

7.4 Benefits and Detriments

John Breckenridge noted this was a well thought out project with consideration of the neighbors.

Joan Malkin said she was incredibly delighted with the attention paid to the impact the project would have on the neighbor.
Benefits
- This is a good location for a mixed-use development in a B-2 Commercial District.
- The project will be connected to the sewer and the stormwater will be retained on the property.
- The offers to lighting are detailed and sensitive to minimize lighting.
- Character and Identity: the proposal fits in with its surroundings.
- Impact on Abutters: the HVAC is at 60 decibels.
- Town, Regional and State Plans: this is an infill, mixed-use, Smart Growth development.
- A contributor will be made in accordance with the MVC guidelines for Affordable Housing.
- The project conforms to zoning and there are no DCPC regulations.

Neutral
- The property is in an established commercial district. The applicants are to maintain a buffer between themselves and the residential abutters.
- The traffic study indicated that this project would have a minimal impact on traffic.
- There could be some impact to the one residential abutter but the applicant has made efforts to minimize those impacts.
- The project is likely to contribute to taxes but have no significant burden or impact on services.


The meeting was adjourned at 8:55 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING
- Martha’s Vineyard Commission DRI # 483-M Tom’s Neck Farm Sale to Land Bank MVC Staff Report – November 6, 2014.
- Martha’s Vineyard Commission Land Use Planning Committee Notes of the Meeting of November 3, 2014.
- Mariners Landing DRI 648 Description of Offers to Offset Impacts.
- Martha’s Vineyard Commission Land Use Planning Committee Notes of the Meeting of October 27, 2014.
- Draft Possible Conditions for Consideration – DRI # 648 – Brennan Mixed Use.