Minutes of the Commission Meeting
Held on June 4, 2015
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  James Joyce (A-Edgartown)
P  John Breckenridge (A-Oak Bluffs)   P  Joan Malkin (A-Chilmark)
P  Christina Brown (E-Edgartown)    - P  W. Karl McLaurin (A-Governor)
  - Harold Chapdelaine (A-Tisbury)   P  Katherine Newman (A-Aquinnah)
  P  Robert Doyle (E-Chilmark)      P  Doug Sederholm (E-Chilmark)
P  Josh Goldstein (E-Tisbury)       P  Abe Seiman (E-Oak Bluffs)
  - Fred Hancock (E-Oak Bluffs)    P  Linda Sibley (E-West Tisbury)
P  Leonard Jason (A- County)       P  Ernie Thomas (A-West Tisbury)
P  J a m e s  V e r c r u y s s e  ( E - A q u i n n a h )       P  James Vercruysse (E-Aquinnah)

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

Acting Chairman James Vercruysse called the meeting to order at 7:00 p.m.

1.  OLD COACH ROAD SPECIAL WAY – WEST TISBURY DCPC – AMENDMENT OF BOUNDARY – PUBLIC HEARING AND VOTE


James Vercruysse, Public Hearing Officer, opened the public hearing at 7:00 p.m. and read the public hearing notice. The purpose of the public hearing is a proposed boundary amendment of Old Coach Road. To amend the boundary “within twenty feet of either side of the centerline of Old Coach Road: beginning at the intersection with Old Holmes Road a.k.a. Old Mail Road at the eastern corner of Assessors Map 16, Lot 125.20 and proceeding southwesterly and westerly approximately 1,850 feet to the southwestern boundary of Assessors Map 16, Lot 118 between Lot 122 and Lot 123 of Assessors Map 16, Lot 16” as follows: Replace ‘and westerly approximately 1,850 …’ with “… and westerly approximately 1,450 feet to the southwestern boundary of Assessors Map 16, Lot 118 at the juncture of lot 125.28”.

1.1 Staff Report

Jo-Ann Taylor presented the following.
  • On February 5, 2015 the nomination was received from the West Tisbury Planning Board.
On February 19, 2015 the nomination was accepted for consideration by the Commission. After a Public Hearing the MVC voted the designation as requested on March 19, 2015.

On April 28, 2015 the West Tisbury Annual Town Meeting voted for Old Coach Way as a Special Way but with an amendment shortening the length.

The West Tisbury Planning Board felt that the 450 feet did not need to be regulated.

The West Tisbury Planning Board is unable to attend the Public Hearing on June 4, 2015.

A letter was received from the Land Bank Commission requesting that the MVC not concur with the West Tisbury Town Meeting vote.

The 450 feet in question is still under moratorium. Jo-Ann Taylor suggested continuing the public hearing until July 16, 2015 to give the West Tisbury Planning Board a chance to meet and agree on a statement as to why the 450 feet does not need to be regulated.

1.2 Commissioners’ Discussion

Katherine Newman asked from the MVC perspective has the Commission in the past designated only part of a road as a special way. The premise of the letter from the Land Bank Commission is to protect the resources irrespective of ownership. Jo-Ann Taylor said part of Old Coach Road has already been modified in a subdivision. The designation is done based on the criteria.

James Vercruyssse said it is a nomination by the Town not the Commission.

Joan Malkin asked Jo-Ann Taylor to clarify procedurally about the abbreviated portion of the road, what are the MVC options. Jo-Ann Taylor said the MVC could agree with the Town that the part in question does not need protection and rescind the designation of the 450-foot section. Alternatively, 450-foot could be kept on the books for a year and the MVC could discuss with the Town if the Town wants to go to Special Town Meeting in the fall and re-vote.

Linda Sibley felt Jo-Ann Taylor is right and the MVC has to continue the public hearing. She was surprised that the West Tisbury Planning Board was not at the public hearing. The Commission should stop discussing the merits.

Bill Veno said he had spoken with the West Tisbury Planning Board Assistant this afternoon (June 4, 2015) and with the letter that was received from the Land Bank Commission the MVC could probably continue the public hearing. The West Tisbury Planning Board is expecting to come to the MVC at a later date.

Josh Goldstein moved and it was duly seconded to continue the public hearing.

• Doug Sederholm asked if removal of the 450 feet at Town Meeting was done on the floor or by the Planning Board.

• Jo-Ann Taylor said it was proposed by the Planning Board on the floor.

1.3 Public Testimony

J.C. Murphy said he was at Town Meeting and the issue was not discussed. He has paid an attorney to find out if the 450 feet can be removed. Alexander Dawson is an expert on ancient ways. Legally there is no such thing as an ancient way. He is concerned by what the Town of West Tisbury is doing and what the MVC is doing to reinforce the Town. You cannot first make a way a special way without making it a public way. The point of law is you can’t do just a portion
of the road you have to do the whole road. By first making it a public way it then a taking and can be made a special way. He referenced the Hall family issue with special ways.

- **James Vercruysse** noted this hearing is not in regards to the Hall matter and thanked Mr. Murphy for his input.
- **Linda Sibley** added that what Mr. Murphy is discussing is not what is before the MVC now.

**Voice vote. In favor 14. Opposed: 0. Abstentions: 0. The motion passed.**

**James Vercruysse**, Public Hearing Officer continued the public hearing until July 16, 2015.

### 2. HUSEBY MOUNTAIN FARM SUBDIVISION DRI 650 DELIBERATION AND DECISION


Leonard Jason, Joan Malkin and Christina Brown excused themselves from the meeting.

**James Vercruysse** noted he is not eligible for DRI 650 and Linda Sibley will be Acting Chairman for Deliberation and Decision.

**Paul Foley** stated the eligible Commissioners are: T. Barnes, J. Breckenridge, R. Doyle, J. Goldstein, F. Hancock (who is not in attendance), J. Joyce, K. Newman, D. Sederholm, L. Sibley and E. Thomas.

#### 2.1 Staff Report

**Paul Foley** presented the following:

- The location and site were reviewed.
- The location is in the Tisbury Great Pond watershed.

#### 2.2 Deliberation and Decision

**Linda Sibley** noted there was a long delay as the MVC had to wait for the West Tisbury Town Meeting to approve the special way that runs along the property for subdivision and the special way is no longer in moratorium. The applicant’s offer 5 is clarified by the MVC condition 1.

There was a discussion about the wastewater.

- **Doug Sederholm** asked if LUPC found that increasing the bedrooms up to ten maximum is acceptable.
- **John Breckenridge** confirmed LUPC did not find it acceptable with the use of the bio barrier system.
- **Doug Sederholm** said he is concerned if Condition 3 equates to the applicant’s offer. The applicant would have to modify offer 5 to meet Sheri Caseau’s concerns which are the last three bullets of DRI 650 Huseby Subdivision Wastewater Update April 2, 2015. The applicant’s offer does not say it in a tight enough way.
- **Linda Sibley** said the offer needs to be worded in a clear and enforceable manner.

**James Joyce** asked what “X” is in the landscape offer. **Paul Foley** said “X” was a variable in an earlier staff note about a potential offer for discussion; LUPC chose not to include this.
Doug Sederholm moved and it was duly seconded to accept the applicant’s offers except offer 5 and substitute the MVC possible conditions 1, 2, and 3 for the applicant’s offer 5; and for condition 3, add if the owner of Lots 1, 2 or 3 wish to increase the bedroom count above six but not to exceed ten a bio barrier system shall be required to reduce the nitrogen to 9 mg/l. Voice vote. In favor: 8. Opposed: 0. Abstentions: 1. The motion passed.

Josh Goldstein moved and it was duly seconded to approve DRI 650 Huseby Mountain Farm Subdivision with the offers and conditions as proposed by Doug Sederholm and approved by the MVC.

2.3 Benefits and Detriments

Benefits
- The project preserves significant open space.
- At one time the property could have had over 100 bedrooms and it is now being limited to 24 with advanced technology so the wastewater has been reduced.
- Lighting and nose is not an issue. The applicant will do standard lighting as necessary by code and security lighting if needed will be on motion sensors.
- Scenic values and character and identity are being kept the same.
- There is no impact on abutters.
- Two affordable lots are being offered.
- The Town will benefit from an increased tax base which will outweigh the burden on public services.
- It conforms to zoning.
- There are no DCPC regulations.
- Traffic and transportation is negligible

Detriments
- No detriments were noted.

Doug Sederholm said it is a very commendable proposal. It is a relatively low impact development considering the size and the applicant has made a real effort to comply with the MVC nitrogen policy with an impaired pond and they should be commended for that.

Ernie Thomas noted that everything the Town asked for the applicants came through with and the project was well received by the Town.


Joan Malkin and Christina Brown rejoined the meeting.

3. CAPE COD FIVE BUILDING – TISBURY DRI 631-MD DELIBERATION AND DECISION

Linda Sibley and Trip Barnes recused themselves as they are direct abutters. Doug Sederholm recused himself as his law partner has done work for Cape Cod Five in the past and may do so in the future.

3.1 Land Use Planning Committee Report (LUPC)

Joan Malkin presented the following:

- LUPC met on May 31, 2015 and are satisfied with the conditions put forth by the applicant.
- LUPC had one concern about the character of the temporary structure due to its impact on the character of State Road.
- It was also noted that there was no deadline made by the applicant as to when the temporary structure would be removed.
- LUPC voted to recommend to the Commission that it approve the project as modified in the plans presented to LUPC with the proposed conditions and that the temporary structure be removed by the end of five years of the approval date.

3.2 Commissioners’ Discussion

Ernie Thomas said the proposal may be setting a precedent for temporary structures that may get the MVC into an issue for later projects.

There was a discussion about the character of the temporary structure.

- Joan Malkin said LUPC felt the proposal was an appropriate use of land regardless of its look. The business proposition in the neighborhood and the traffic was good. If the temporary structure were to become permanent it would be a detriment to the character of the location and the desired character for that strip of State Road.
- Katherine Newman said the applicant has brought in another picture of a slightly revised trailer and their intent is to make a change but thought they could put a little more pizzazz into the visual appearance of the structure since it is located right on State Road.
- Joan Malkin noted that at LUPC Katherine Newman did feel it needed to be buttoned down regarding the character of the building.
- Paul Foley added that the windows have been changed to pairs of double-hung but the roof line did not change. The parking spaces were also revised and the spaces to be eliminated will now be those closer to the building. Plantings were added to the elevation. For the lighting plan, one of the lights was relocated away from the road and into the interior but there are still four lights.
- Ernie Thomas said it has to do with the temporary structure being a trailer and has wheels.
- Josh Goldstein said it is like the temporary school structure.
- Robert Doyle asked if it is like the temporary town buildings.
- Katherine Newman suggested making additional improvements to the design of the building and landscaping, since this is on one of the Island’s major thoroughfares.

There was a discussion about why the proposal is for a temporary structure.

- Robert Doyle said he was unable to be at the last meeting and was curious for the reasons it was not a permanent building.
• **James Vercruysse** said the Phase 1 temporary structure would allow applicant will see what the response is to their business plan and investment.

• **Richard Leonard** clarified that Phase1 is to get the bank up and running. This will give them the time to work out the design and deal with wastewater treatment in coordination with the Town of Tisbury for the sewer.

• **John Breckenridge** questioned having the temporary structure in place for to work out the design, but if it is with regards to wastewater, that could be looked at.

• **James Joyce** said it could be longer than five years since the proposal for the temporary structure has no end date.

• **Josh Goldstein** said the applicant needs to demonstrate there is a market for a larger building. The location is a spot with no historical significance and the proposal is better than what is there. The building will be set back off the street.

• **Geoghan Coogan** clarified that the proposed offers do not say the building will be there for five years. The offers say when the permit expires and the five years was added to include an end date. If the MVC is more comfortable to say the applicant will come back to the Commission with a plan in two years and then remove the structure in five years that is acceptable. The applicant recognized at LUPC that a date was wanted and the applicant does not plan to have the temporary structure for five years. The intention is not see if the bank likes the business plan before moving forward with a permanent structure. He was not sure if an applicant has ever offered to have a plan expire in a set period of time.

• **Ernie Thomas** questioned if in two years the bank realizes and decides there are too many banks, then Cape Cod Five can decide to leave the Island and the building is just removed.

• **Geoghan Coogan** said then the Town would have a nice clean building lot that could be sold. But this is a bank that is investing in the Island. They bought a small building in Nantucket and within three years had to buy a larger building.

• **Robert Doyle** said he is comfortable with the applicant coming back to the MVC in two years with a plan and removing the temporary structure in four years.

• **John Breckenridge** said he thinks it is important for the applicant as well as the Island that the structure is comfortable for all.

• **Geoghan Coogan** said one of the stumbling blocks is the sewerage and there is no answer as it is out of the applicant’s control and it affects what the building will be.

**Christina Brown moved and it was duly seconded to approve the latest plan subject to conditions and offers, with the understanding the applicant will come back to the MVC in two years with the plan for the permanent building and will have five years to receive the permit.**

**John Breckenridge amended the motion for the applicant to come back to the MVC in two years with a plan and then have the permit in four years.**

• **John Breckenridge** noted as clarification the applicant comes back to the MVC with a plan in two years and then have the permit in four years since the MVC approval of a plan is valid for two years.

• **Joan Malkin** said what is ultimately important is that the project is done and meets the drop-dead date.
• Katherine Newman asked what happens if there isn’t a plan, the sewer certainly is an important part of that.
• John Breckenridge said the applicant can come back to the MVC for a modification.
• James Vercruysse said to put a two-year condition on a plan doesn’t make sense.
• Robert Doyle said it seems agreeable to the MVC and the applicant and allows the applicant to get up and running.
• Katherine Newman said it is not about structuring the applicant’s business plan but about not having a trailer for a long period of time.
• John Breckenridge withdrew his amendment to the motion.
• Christina Brown withdrew her motion.

Joan Malkin moved and it was duly seconded to approve the project with the offers as submitted except condition 7 and replace condition 7 with a condition stating that the approval shall expire within two years of the approval of the DRI if the applicant has not filed an application with the MVC for a permanent structure on the property. The temporary structure must be removed and replaced by a permanent structure approved by the MVC by four years of the date of the DRI approval.

• Geoghan Coogan said as a point of clarification, if after three years an approval is received and the Certificate of Occupancy is not received would the MVC require the temporary building to be removed?
• Joan Malkin agreed that is correct.
• Geoghan Coogan and Richard Leonard clarified that its puts a timeframe and onus on the applicant to come back to the MVC with a plan and if there is a problem, the applicant can come back to the MVC requesting a modification of the decision for an extension.
• Katherine Newman said anything that can be done to enhance the temporary structure would be great since it will be there for four years.
• Geoghan Coogan said the temporary structure will look like a small ranch house on the road. The elevation is in black and white and is not like the surrounding buildings and the Town’s temporary buildings.
• Richard Leonard said Cope Cod Five takes great pride in the appearance of its properties.

3.3 Benefits and Detriments

Benefits
• The scenic value will be enhanced as compared to what is currently there.
• The project will bring competition to the Island.
• Wastewater meets the MVC policy. The wastewater is less usage than the prior applicant.
• The plan retains the grove of trees along State Road.
• Lighting and noise is minimal and meets the MVC policy.
• The project is on the bus line and has a negligible traffic impact and compared to other uses has a lesser impact.
• Creative landscape will embellish the building with regards to scenic value.
• The impact on abutters is negligible.
• The project does not trigger the MVC Affordable Housing Policy.
• There is no impact on town services or tax payers.
• The project is consistent with regional and state plans, conforms to zoning, and is not in a DCPC.

Detriments
• No detriments were noted.


Joan Malkin noted that the proposal was an unusual project for the MVC and was grateful for the applicant’s flexibility.

Doug Sederholm, Linda Sibley, Trip Barnes and Leonard Jason rejoined the meeting.

4. BUILT ENVIRONMENT POLICY – ADOPTION


4.1 Planning and Economic Development (PED) Committee Report

Joan Malkin, PED Chairman presented the following.
• PED reviewed the draft policy, made some revisions in light of comments received, concluded that the revised version content is appropriate, and recommended approval of the Built Environment Policy.
• The positive comments were that the policy is a useful tool, contains useful information and is easy to read.
• The negative comments were that the policy is long and would benefit from having an executive summary or cheat sheet. Certain definitions and terms can be ambiguous so perhaps a bibliography would be useful.
• PED recommended not to change the format at this time as it matches the other MVC DRI policies. The possibility of reformatting all the policies and could wait until the new Executive Director is on board.
• PED recommended not preparing an executive summary with general goals as it is not substantive, but that a checklist would be a useful tool and could be added later.

4.2 Commissioners’ Discussion

Doug Sederholm reviewed the revisions and approved of them. The checklist can be done at a later time and adoption should not be delayed due to that.

Linda Sibley moved and it was duly seconded to adopt the Built Environment Policy.

• Leonard Jason asked whether the MVC had any town input since the Commission is defining the town’s neighborhoods and area; the Commission needs community input if the MVC is creating documents that are affecting them. Mark London said a draft was given to all town planning boards, town historic district commissions, town historical
commissions, and the Massachusetts Historical Commission and many comments were received before the May 21, 2015 deadline. Their comments, as well as comments from the Commissioners, are reflected in this version of the policy.

- **Leonard Jason** asked whether the reference to building in the flood plain is less than required to meet federal regulations. **Mark London** said the MVC cannot supersede town, state, or federal regulations; the wording should be modified to make clear that the policy discusses the impacts on scenic values when a building must be raised.

- **Leonard Jason** said the Commission should be concerned about the impact of the flood plain regulations on the Island’s village character, such as in Menemsha. **Linda Sibley** said the MVC should to address the impacts of sea level change and rising seas, but the policy is for people who are acting in the framework of the current laws.

- **Leonard Jason** questioned the wind reference in the Wildfire section about being downwind. **Mark London** said that this is with respect to prevailing winds; for example, the Hazard Mitigation Plan points out that neighborhoods to the immediate northeast of the State Forest are at greater risk.

- **Leonard Jason** asked if there is any part of the Island that is not covered by the policy and commented that it deals with residential buildings, which don’t usually come before the Commission. If someone comes for a subdivision do they now have to follow this policy and does the MVC review every plan? **Mark London** said the policy does not change the DRI Checklist or which projects are reviewed by the Commission; it gives guidance about how the Commission deals with buildings and related subjects in reviewing projects that are before it, and reflects past Commission practice. The policy is guidance, not a regulation, so the Commission can decide that in a subdivision not visible from a public way, it doesn’t need to apply it.

- **Abe Seiman** said the policy is better than no information and it gives requirements before bringing the project to the MVC. It outlines the things to consider and does not restrict the MVC in making decisions on a project.

- **Leonard Jason** asked when the benefits and detriments are reviewed, could the policy lead to a checkmark against the applicant. **Doug Sederholm** said it could. He noted the information highlighted on the content page of the policy; “The Commission will use this policy during review of the benefits and detriments of a DRI and to formulate conditions attached to the DRI if it is approved”. He also noted the last paragraph; “This policy is generally a good indication of the Commission’s concerns and can help the Commission evaluate the merits of a proposal. However, the Commission weighs the overall benefits and detriments of all aspects of a project, and evaluates each proposal on its own merits. Based on the particular circumstances of each proposal, the Commission could deny a project that respects some or even all of this policy or might approve one that does not meet all parts of the policy”.

- **John Breckenridge** said the policy helps give the MVC some guidance. If in time it needs to be tweaked it will be done. **Doug Sederholm** said the document is a policy and not a statute.

- **Trip Barnes** said if the Cape Cod Five Bank had this before their application, it could have helped. It is an easy read.
- Katherine Newman noted that it is interesting that the policy will be mostly used for larger commercial projects. It would be good to have some abbreviated version for the general public to understand these policies.

- Mark London said that in the Island Plan, there was a proposal to publish information guides for the general public on Landscaping the Vineyard Way and Building the Vineyard Way. He now feels that it might be better accepted by the community if it did not come from the MVC. The landscaping one could come from organizations such as Polly Hill and VCS.

- James Vercruysse said the MVC needs to be careful as this is a policy for DRI review and not for prejudging.


5. NEW BUSINESS


Correspondence

Mark London noted that the MVC has been asked by the Lagoon Pond Committee for support of their letter to MassDOT to reconsider the drainage system in the mini park next to the drawbridge so the land can serve a dual purpose for the community: drainage and park space. Much of the mini park is a drainage detention basin and the Committee is asking MassDOT to revise the drainage system at the Tisbury end of the Lagoon Pond Drawbridge to put the drainage underground and allow the surface to be used as park space.

Leonard Jason moved and it was duly seconded to send a letter to MassDOT in support of the Lagoon Pond Committee. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley asked if an open retention basin looks like the one at Tashmoo overlook. Mark London said the Committee was told it would be grass.

6. MINUTES


Leonard Jason moved and it was duly seconded to approve the Minutes of May 7, 2015 as written. Voice vote. In favor: 11. Opposed: 0. Abstentions 3. The motion passed.

Josh Goldstein moved and it was duly seconded to approve the Minutes of May 21, 2015 with the corrections as noted by Christina Brown to revise the language on line 152 “...MVC regulations and water quality policy of the MVC which now have better scientific evidence” and as noted by Doug Sederholm for line 127 to correct the typo for “pits”. Voice vote. In favor: 10. Opposed: 0. Abstentions: 4. The motion passed.
The meeting was adjourned at 9:05 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on May 7, 2015
- Minutes of the Commission Meeting – Draft, Held on May 21, 2015
- DCPC Island Road District Special Ways Zone in the Town of West Tisbury Amendment of Boundary of Old Coach Road, Staff Report (Jo-Ann Taylor, DCPC Coordinator, June 4, 2015)
- Martha’s Vineyard Land Bank Commission letter to the Martha’s Vineyard Commission, Dated June 2, 2015
- Offers by Huseby Mountain Farm LLC for DRI #650, April 9, 2015
- DRI 650 Huseby Subdivision Possible Conditions for Consideration
- DRI 650 Huseby Subdivision: Wastewater Update April 2, 2015
- Land Use Planning Committee Notes of the Meeting of April 13, 2015
- DRI 631-M2 Cape Cod Five on High Point Lane Offers
- Planning and Economic Development Committee Minutes of May 27, 2015 Draft
- Draft Letter to Patricia A. Leavenworth, Chief Engineer, Mass DOT from the Martha’s Vineyard Commission Dated June 4, 2015, Re: Lagoon Pond Bridge Replacement – Drainage at Mini-Park
- Lagoon Pond Drawbridge Committee Letter to Patricia A. Leavenworth, Chief Engineer, Mass DOT, Re: Lagoon Pond Bridge Replacement, Beach Road, Tisbury, MA, Dated June 3, 2015

[Signature]
Chairman

[Signature]
Clerk-Treasurer

7/14/15
Date

7/14/15
Date