Minutes of the Commission Meeting  
Held on March 17, 2016  
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)  
- Yvonne Boyle (A-Governor)  
P John Breckenridge (A-Oak Bluffs)  
P Christina Brown (E-Edgartown)  
- Peter Connell (A-Governor; non-voting)  
P Robert Doyle (E-Chilmark)  
P Josh Goldstein (E-Tisbury)  
P Fred Hancock (E-Oak Bluffs)  
- Leonard Jason (A-County)  
P James Joyce (A-Edgartown)  
P Joan Malkin (A-Chilmark)  
- Katherine Newman (A-Aquinnah)  
P Doug Sederholm (E-West Tisbury)  
P Abe Seiman (E-Oak Bluffs)  
P Linda Sibley (E-West Tisbury)  
P Ernie Thomas (A-West Tisbury)  
P James Vercruysse (E-Aquinnah)

Staff:  Adam Turner (Executive Director), Bill Veno (Senior Planner), (Paul Foley (DRI Planner), Sheri Caseau (Water Resources Planner), Christine Flynn (Economic Development and Affordable Housing Planner), Jo-An Naylor (Coastal Planner, DCPC Coordinator).

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

1. NEW BUSINESS


1.1 Changes and Status of DRI applications

Paul Foley presented the following regarding recently heard applications.

- The MV Refuse and Recovery District DRI 391-M3 public hearing was re-opened because the applicant had not notified the airport and the FAA. The MVC also needs additional information.
- For the Lagoon Ridge DRI 464-M2 Form C there was a question if it had to go to public hearing. In the Written Decision on the Form B, a number of items were stipulated that needed to be submitted with the Form C. The neighbors are concerned and the applicant agreed that the neighbors should weigh in on the public hearing, so the public hearing has been scheduled for April 14, 2016.
- Oak Bluffs Bowling Alley DRI 645-M2 there is a change in the conditions and LUPC voted 4 to 0 to go to public hearing. There are also a couple of issues with compliance so a public hearing has been scheduled for April 14, 2014.
- The proposal for the Oak Bluffs Water District solar project was withdrawn a couple of weeks ago. The applicant knew they had to go to the State so the applicant will do that and make necessary changes and then resubmit the application to the MVC.
1.2 Scheduling

Fred Hancock asked if the MVC will have meetings on April 7, 2016 and April 14, 2016. Paul Foley said there would be.

Fred Hancock moved and it was duly seconded to change the regularly scheduled MVC meeting to the second week of April (April 14, 2016) instead of the third week of April (April 21, 2016). Voice vote. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

Fred Hancock noted that the next meeting of the MVC is scheduled for March 24, 2016 at 6:00 p.m. at the Chilmark Community Center.

- Joan Malkin asked if the meeting is not completed on that date would it then be continued.
- Paul Foley and Adam Turner said it could be scheduled to be continued on April 7, 2016.
- Christina Brown noted that the Chappy Cell Tower might be on the April 7, 2016 MVC meeting agenda so that might be a very busy meeting.
- Josh Goldstein questioned why all three of the Squibnocket projects are not coming before the MVC at the March 24, 2016 meeting.
- Fred Hancock said the subdivision goes to a DRI and is a coastal issue.
- Paul Foley added that the subdivision triggers several items on the Checklist.
- Joan Malkin said that Squibnocket is open to the public in the off season.

Doug Sederholm joined the meeting.

2. MINUTES


Fred Hancock moved and it was duly seconded to approve the minutes of January 21, 2016 with the correction on line 137 revising the language from the “Island Plan” to “the Southern Woodlands”. Voice vote. In Favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

Fred Hancock moved and it was duly seconded to approve the minutes of February 4, 2016 with the correction of Robert Doyle being in attendance. Voice vote. In Favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

3. ISLAND ROAD DCPC SPECIAL WAYS-REGULATIONS FOR WEST TISBURY CONFORMANCE-PUBLIC HEARING AND VOTE ON AMENDMENTS

Doug Sederholm recused himself as he is involved in an ongoing lawsuit and the regulations impact that lawsuit.


James Vercruysse, Public Hearing Officer, opened the public hearing at 7:15 p.m. and read the public hearing notice. The purpose of the hearing is to determine whether the regulations, as proposed for amendment, governing the Island Road District in the Town of West Tisbury conform to the guidelines for the development of the District specified in the Commission’s designation of the District. The MVC’s conformance vote, in concert with a 2/3 vote at Town Meeting, validate the regulations.

3.1 Staff Report

Jo-Ann Taylor presented the following.
• There really isn’t any change in the Town’s standards. Normally there is a standard being amended and in this case the proposal is intended to make the regulation more reader-friendly.
• The MVC approved an update of the West Tisbury regulations in 2009, including the standards for fencing on smaller lots that later appeared in the Commission’s update of 2012.
• The West Tisbury Planning Board asked the West Tisbury Byways Committee to review the regulations for possible clarification, particularly with respect to the already traveled ways. The byways Committee met several times over the winter to work on its task and presented its proposal to the Planning Board.
• The Planning Board held its public hearing on the amended regulations and there were no comments.
• In finding conformance to the Goals and Guidelines for the District, the Commission may choose to also find in conformance minor points of clarification by the Town such as may be recorded on April 12, 2016 (Town Meeting) and any such subsequent minor points of clarification which do not change the meaning of the regulation.

3.2 Commissioners’ Questions

James Vercruysse said it is being suggested that the Commission find conformance and allow subsequent clarification to minor points. Jo-Ann Taylor said the MVC has done so in the past.

Joan Malkin asked for clarification on what the MVC is voting on? Has it been reviewed by counsel? Jo-Ann Taylor said the MVC is voting on whether the proposed regulations conform to the DCPC Goals and Guidelines as amended in 2012. Ron Rappaport, Counsel for the Town, has looked at this, as he has reviewed all of the articles.

Joan Malkin asked if Jo-Ann Taylor has reviewed this thoroughly and if she is prepared to state to the Commission there is nothing in the new language that the MVC should be concerned with. Jo-Ann Taylor confirmed she has reviewed it and it looks okay.

Christina Brown asked with regards to the question of access on already travelled ways if Jo-Ann Taylor could guide the MVC to that section of the amendment. Jo-Ann Taylor said Section D of the proposed amended regulations addresses that issue.

Linda Sibley noted that when West Tisbury amended the length of the road on the Town Meeting floor some people thought the by-law was not clear. It went back to the original regulations and they were not clear as well. Jo-Ann Taylor said in 6.2-4 Special Ways Zone, Section C number 3 and 4 of the regulations that were adopted in 2009 addresses that point, but not as clearly as the proposed revision.

Joan Malkin said that the 2009 regulations and the current amendment are not the same.

Linda Sibley said the regulations could be changed as long as they were still in conformance with the Goals and Guidelines.

Jo-Ann Taylor noted that everyone in the Town is happy with how the amendment is now written.

Tripp Barnes said there is still a lot open to interpretation such as fencing and sited an example in Tisbury at the garden center on State Road. Linda Sibley said that fence does not apply to this regulation. Joan Malkin added that what is being amended is not on State Road.

Jim Vercruysse asked if anyone in the audience wished to comment of the proposed changes to West Tisbury’s Special Way regulations. Seeing no one, he closed the public hearing.

Linda Sibley moved and it was duly seconded that the new clarified language is in conformance with the goals and guidelines for this Special Way Zone of the Island Roads DCPC. Roll call vote. In Favor: J.
April Meeting Road. For MVC. Linda Thomas, 4.

4.1 The Executive Report

Paul Foley presented the following.

- The applicant is Heikki Soikkeli.
- The project location is Short Hill Road off of Holmes Hole Road, Map 22-A Lot 4.3 (42,357 sf = .097 acres) Tisbury, MA.
- The proposal is to divide one piece of property with an existing building in the B-2 Business District into three lots.
- The site plan and the plans were reviewed.
- Zoning is B-2 Commercial. No minimum lot size; 30' front setback and 15' side setback.
- Key issues include:
  - Should the Commission review as a DRI the creation of such small lots without any future development plans? The Tisbury B-2 Commercial District has no minimum lot size or frontage requirements.
  - One of the proposed lots has an easement for a future road through about a third of the lot. Apparently the minimal setback required (15') is from the property line and not the easement which results in the possible development area falling within the future road easement. Should the development area be defined now?
- The MVC has had an issue in the past with smaller lots such as on the High Point Lane project.
- The issue is to determine if the proposed project needs a public hearing as a DRI.

4.2 Commissioners’ Questions

Christina Brown questioned the access to the lots. Heikki Soikkeli said Vickers Way was the legal access to his lot. The two lots being divided front Short Hill Road but only one curbscut will occur on Short Hill Road.
There was a discussion about the regional impact of the project.

- **Doug Sederholm** questioned what the regional impact is of this project might be.
- **Fred Hancock** said it is a division of land.
- **Josh Goldstein** felt the project has no regional impact.
- **James Vercruysse** asked what triggered this referral. **Paul Foley** said a subdivision in a commercial zone.
- **Christina Brown** said any division of land in any commercial district is a concurrence and in her opinion this is not a regional impact.

**Ernie Thomas** asked if it is appropriate to ask if there is a plan for this subdivision or just planning for the future. **Heikki Soikkeli** said there are no plans.


5. FEATHERSTONE POTTERY BUILDING-OAK BLUFFS C.R. 3-2016 CONCURRENCE REVIEW

**Fred Hancock recused himself as he sells his work at Featherstone and his wife is on the Board of Directors.**

**Commissioners Present:** T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, J. Joyce, J. Malkin, D. Sederholm, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse.

**For the Applicant:** Ann Smith (Executive Director), Chris Alley (Engineer)

5.1 **Staff Report**

**Paul Foley** presented the following.

- The applicant is Featherstone Center for the Arts.
- The location is 30 Featherstone Lane, Oak Bluffs Map 41 Lot 6 (6.22 acres).
- Zoning is R-3 Residential.
- Half of the property is located in the Lagoon Pond DCPC. The entire property is in the Southern Woodlands DCPC. The Old Back Road Special Way runs through the site. The proposal requires Site Plan Review by the Town.
- The site plan was reviewed and the location of the proposed building.
- The site plan has been revised to exclude clearing and excavation within 50 feet of the Special Way in the Southern Woodlands DCPC and a 180’ long loop road originally proposed to connect two driveways has been withdrawn.
- The proposal includes demolition of the caretakers’ cottage and the construction of a new modular single story 2,408 sf pottery barn.
- This is phase one of a longer term master plan for the campus. A future art barn and addition to the Pebble Studio are not being proposed at this time.
- The total square footage of the buildings on the campus with the addition of the new pottery barn and the demolition of the caretaker’s cottage will be approximately 10,600 gsf.
- The hours of operation are 12:00 p.m. to 4:00 p.m. every day with classes often held from 9:00 a.m. to 10:00 p.m. Various classes are taught throughout the year with an average of 50 classes a month (1,100 classes a year). There are approximately 43 teachers with an average class size of 8 to 10.
- The applicant will do what they can to not disturb the trees around the caretaker’s cottage when it is removed. Trees will be protected along the Special Way.
- The existing septic tank for the caretaker’s cottage will be drained and removed.
• The project was referred by the Building Inspector.
• The project triggers DRI Checklist 3.1b (Development of Commercial between 2,000-3,000sf) and DRI Checklist 3.1D (Development of auxiliary commercial buildings over 1,000 sf resulting in a total of over 2,000 sf). Both items are Concurrence Reviews.
• LUPC met on March 14, 2016 and voted 3-0 to recommend to the full Commission that the proposed addition to the Featherstone campus does not require DRI review.
• Parking remains the same and there is plenty of overflow parking.
• Key issues include;
  – Does this addition to the campus at Featherstone require a public hearing review as a DRI?
  – The campus and activities have grown incrementally over the years to include up to 1,100 classes a year and several large functions.
  – The proposal includes the demolition of a caretaker’s cottage which used to be a dwelling.
  – The proposal will remove 10 trees.
  – The applicant has shared their Master Plan of future projects that are not being proposed at this time.
• Much of the property and part of the project site is designated as NHESP habitat.
• No landscaping plans have been submitted.
• Wastewater/Stormwater.
  – The parcel is in the Lagoon Pond watershed, a nitrogen sensitive water body for which the Policy allows a loading of 3.4 kilograms per acre per year.
  – Featherstone is not a school but is an educational center.
  – Classes are usually one hour long with varying numbers of students.
  – This schedule does not fit Title 5 standard 6-7 hour school day for an educational facility, therefore the nitrogen calculations were based on the applicant’s current and projected water use records.
  – Currently the water use records indicate that Featherstone is below the load limit for the pond and they have agreed to install a denitrifying system that will produce nitrogen effluent of 19mg/l or below if the water use records exceeds the nitrogen load limit of Lagoon Pond.
  – Water use could be increased to 152,397 gallons/yr and would still be under the MVC Policy allowed nitrogen limit.
• Trip generation during PM Peak Hour ranges from 1-6 trips.
• This project is not expected to have any major traffic impacts.
• It should be noted that the applicant will be removing a vacant seasonal cottage that is not up to building code and is not habitable.
• Staff recommends that the removal of the cottage is not displacing a year round unit and therefore does not trigger a replacement of an on-site year round Affordable Housing unit.
• The proposed pottery building should not be visible from Barnes Road and it has been set back from the Special Way.

5.2 Commissioners’ Discussion

There was a discussion about wastewater.
• John Breckenridge asked if the MVC has in writing that if the specific water usage is exceeded the applicant will go to a denitrification system. Sheri Caseau said it is not in writing. Ann Smith agreed to put it in writing. Sheri Caseau said it can be part of the conditions of the Special Permit needed for the Southern Woodlands DCPC.
• Doug Sederholm asked for an explanation of the analysis for the nitrogen loading and noted that a model is referred to and asked if that is from the Estuary Project. Sheri Caseau said the model is one that was created by the DEP not the MEP project and she has not been able to access it. She researched the regulations and model with DEP and determined that the MVC policy is more stringent than the DCPC referenced.

• Doug Sederholm asked what did the Estuary Project find for Lagoon Pond and what is appropriate. He is concerned that the MVC regulations do not meet that. The pond is currently at its limit. Does the Estuary Project provide a limit of what it should be? Sheri Caseau said it basically says we should reduce the nitrogen.

• Christina Brown asked if that could be translated into numbers. Sheri Caseau said the MEP reported that the nitrogen from the septic tank needs to be reduced 44%.

• Doug Sederholm asked if the applicant puts the denitrification system in now, would it reduce the amount of nitrogen it contributes to the Lagoon Pond Watershed. Sheri Caseau said it would.

• Doug Sederholm and Joan Malkin asked if the entire campus would have to be on the denitrification system for the reduction. Sheri Caseau confirmed the nitrogen load for the property would be reduced if the entire campus were put on denitrification.

• John Breckenridge noted that the applicant is taking down a dwelling that has a septic. Paul Foley noted that the Applicant has said that the dwelling is not inhabited so they can’t get credit for removing a septic under our Nitrogen policy if they are not replacing a dwelling under our Affordable Housing Policy.

• Chris Alley said the applicant will use the existing leaching field but a new septic system would be installed.

• Joan Malkin asked if the water usage exceeds the allowable amount, would the applicant replace one of the septic systems. Chris Alley said probably. They would need to install an I/A nitrogen reducing system.

James Vercruysse reminded the Commissioners that this is a concurrence review and the MVC wants to hear from the applicant why this project does not need a public hearing and asked the applicant to give the MVC a brief overview.

5.3 Applicants’ Presentation

Ann Smith presented the following.

• We purchased the property from the Stevens and it abuts the Land Bank.
• The existing pottery studio was a breeding mare barn and was retrofitted into the Pottery Studio; a cement slab was laid for flooring and water and electricity were provided. It is without heat.
• We need to build a modern studio with specific and dedicated space which includes a work space for children and adults as well as space for glazing and the kiln.
• We are not trying to increase class size or the number of classes but provide a space that will create a better and more efficient studio that is needed to create great art.

5.4 Commissioners’ Questions

Trip Barnes said that the center has done a wonderful job there.

Doug Sederholm asked how much it would cost to put in a denitrification system. Chris Alley said the two systems are sized a little larger than a residential system and would be approximately $10,000 to $12,000 per system plus the cost of two O & M contracts that are about $1,600 to $1,800 per year.

Doug Sederholm asked what the total cost of the project is. Ann Smith said $500,000.
There was a discussion about future work and the Master Plan.

- **Joan Malkin** said if the applicant expresses willingness to do something in the future but it is not part of the proposal/plan, how does that work?
- **Linda Sibley** said the applicant has a Master Plan for future work and it would come to the MVC and it would trigger at that time.
- **John Breckenridge** noted there is a plan and it has a water limit component in the plan.
- **Adam Turner** said it would be on the plan but the MVC cannot concur on something we did not see.

**Doug Sederholm** said if the wastewater usage exceeds the limit then the applicant would install denitrification.

**Chris Alley** confirmed denitrification would be installed if usage was exceeded. We looked at the MVC policy and what the usage would be. For the Lagoon Pond watershed it is 3.4 kg/ac/yr and the project would allow 21.1 kg/ac/yr. When we reviewed wastewater, using Title 5 standards, usage came so far above the numbers, they were nonsensical. So we looked at actual usage to be reasonable and determined that 18.17 kg/yr translates to 152,397 gallons of wastewater. Per Oak Bluffs water records, the current water usage is 101,000 gallons, so the applicant is using two thirds of what is allowed. He read the proposal that would be submitted and written on the plan.

**Fred Hancock** commented (as a public participant and not as a Commissioner) that because the project is in the Southern Woodlands DCPC a special permit is needed from the Town and one of the regulations is a wastewater component.

**Doug Sederholm** asked what the wastewater regulation from the Town is. **Sheri Caseau** said it is equivalent to 3.4 kg/ac/yr.


**Fred Hancock** rejoined the meeting.

### 6. EXECUTIVE DIRECTOR’S REPORT


#### 6.1 Wastewater

**Adam Turner** presented the following.

- He addressed the nitrogen issue discussed earlier.
- A lot of the ponds are over the nitrogen limits.
- The Commission does not stop applicants from contributing new nitrogen loads altogether. It limits them.
- Options for stopping new nitrogen loads include a new nitrogen policy or a moratorium. We do not have these in place.
- Properties have a budget for the wastewater.
- We are working on cleaning the problem up and using alternative wastewater options such as PRB, shellfish and new toilet technologies.
- The MVC will hold a conference on innovative alternative (IA) wastewater options on May 12, 2016.
• Ten to twelve organizations and groups will be invited to the conference that do these alternative things as well as George Hoefelder who runs one of the leading IA system test laboratories.
• The MVC has a standard and normally a project comes to meet that standard by what the uses are and how much land a user has. Most applicants utilize standards and models as they are theoretical as they haven’t been built, but if the applicant can show the MVC that their wastewater flow is less than what the DEP has modeled, we will use those numbers.
• He is happy to tell the Commission that he meets with people three to four times a week that have different solutions for the ponds. The MVC has to look at all of these solutions.
• A DEP official told him that Lagoon Pond is a perfect laboratory to study these solutions and alternatives.
• The MVC has been short listed for a grant for a permeable barrier system.
• The MVC is going to spend significant resources for wastewater.
• We have to address these wastewater issues but how do we do it? We have to prove how these options work.
• He feels it is important that the Commissioners understand the big picture of this issue.
• The MVC wants the Vineyard to be known as the research center for reducing nitrogen.
  – James Joyce asked if there is a discussion about the use of oxygen in reducing the nitrogen. Adam Turner said that there will be vendors at the conference to discuss the options.
  – Trip Barnes said he is concerned about wastewater and there is a need to impose stronger restrictions.
  – Christina Brown noted that a major thing that the Land Bank does is buy large parcels of lands which helps to reduce development and ultimately nitrogen.

6.2 Blue Economy Sessions

Adam Turner presented the following.
• The Director and Robert Doyle attended the Blue Economy sessions which link various economic resources with natural resources and other regional economies. Cape Cod has been doing this and some things are common sense; he noted that the local fish catch has to go off Island to be certified but shellfish are exempt.
• Nantucket has a field station and it is looking to promote research and other similar investments.

6.3 Receiving DRI Application Material

Adam Turner presented the following.
• He wanted to bring to the attention of the Commission that sometimes the MVC is doing things at the last minute because the MVC gets the information at the last minute such as the Featherstone Pottery Barn project which was received today March 17, 2016. So the MVC is processing and analyzing things at the last minute.
• He wants to implement a policy that states the MVC will take any application material until the Thursday of the week before the scheduled meeting. The MVC will not deny any material but needs time to review. If materials are provided after the deadline the matter will go on the next meeting agenda.
• The MVC wants to get applications reviewed as quickly as possible but we also want to provide the Commissioners with a fair representation of the information. We want to be fair and develop the best record for the Commissioners as we can.
Fred Hancock said he thinks it would then be unfair to schedule an applicant at LUPC on Monday and have them before the MVC on Thursday.

Adam Turner said he personally thinks the MVC needs to inform and communicate with everyone what the MVC schedule is.

Josh Goldstein said it sounds like the Commissioners are receptive to this schedule idea.

Linda Sibley said she thinks staff needs to decide how long it will take them to absorb different kinds of material and it is important that the MVC enforces the schedule. One alternative is to open the public hearing and then continue it, but she prefers that it is not scheduled until the applicant and staff are ready.

Joan Malkin noted that it is not fair to the public either if they have to show up to a number of public hearings because the information has not been received on a timely basis.

James Vercruysse said that some applicants are very thorough and some aren’t and he doesn’t like being caught off guard either.

The meeting was adjourned at 8:40 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Island Road DCPC Conformance of Proposed Amended West Tisbury Regulations, Staff Notes for Public Hearing Match 17, 2016 (Jo-Ann Taylor) (3.4.16)
- Martha’s Vineyard Commission C.R. 2-2016 Soikkeli Division MVC Staff Report – 2016-03-17 Concurrence Review
- Martha’s Vineyard Commission C.R. #3 – 2016 Featherstone Pottery Barn MVC Staff Report – 2016-03-17
- Applicant’s Narrative for Featherstone Center for the Arts Pottery Barn from Ann Smith, Executive Director
- Featherstone Pottery Barn Project Floor Plan, Elevations and 3D, Dated October 27, 2015
- Featherstone Pottery Project Site Plan by Schofield, Barbini and Hoehn, Dated March 17, 2016
- Martha’s Vineyard Commission Land Use Planning Committee Notes of the Meeting of March 7, 2016

[Signatures]

[Initials]

Date

[Initials]

Clerk-Treasurer

Date