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Minutes of the Commission Meeting Held on September 8, 2011 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P Bill Bennett (A-Chilmark)	P Chris Murphy (E-Chilmark)
P John Breckenridge (E-Oak Bluffs)	P Katherine Newman (E-Aquinnah)
P Christina Brown (E-Edgartown)	P Ned Orleans (A-Tisbury)
- Peter Cabana (E-Tisbury)	- Camille Rose (A-Aquinnah)
- Martin Crane (A-Governor)	P Doug Sederholm (E-Chilmark)
- Erik Hammarlund (E-West Tisbury)	P Linda Sibley (E-West Tisbury)
P Fred Hancock (A-Oak Bluffs)	- Brian Smith (A-West Tisbury)
P Leonard Jason (A-County)	- Holly Stephenson (E-Tisbury)
P James Joyce (A-Edgartown)	

Staff: Mark London (Executive Director), Jo-Ann Taylor (Coastal Planner, DCPC Coordinator), Bill Veno (Senior Planner)

Chris Murphy called the meeting to order at 7:15 p.m.

1. COASTAL DCPC - AMENDMENT OF EDGARTOWN REGULATIONS - PUBLIC HEARING

Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley.

For the Town of Edgartown: Matt Poole (Edgartown Board of Health Agent), Sean Murphy (Edgartown By-laws Committee)

Chris Murphy, Hearing Officer, opened the Public Hearing at 7:15 p.m. and read the hearing notice. The hearing concerns amendments to the regulations governing the Coastal District of Critical Planning Concern in the Town of Edgartown.

1.1 Staff Report

Jo-Ann Taylor gave an overview of the proposed amendment, including identification of all the documents constituting the public hearing record.

- The Coastal District is one of the original 3 Island-wide DCPC's designated by the early Commission in 1975, along with the Island Road District and the Special Places District.

The District is comprised of two zones; the Shore Zone and the Inland Zone. The Inland Zone provides, among other things, for a single family residence as a permitted use so long as certain separations are met. The Edgartown Coastal District regulations were duly adopted in 1976, following the Goals and Guidelines nearly word for word with the addition of the last bullet XIV. 1.e.9 *Where compliance with these regulations is not possible due to the dimensions of a lot in separate ownership from adjoining lots before December 22, 1976, the requirements (4-8) may be modified by the Board of Health.*

Those requirements (4-8) include separation guidelines are as follows:

- 200 feet between a well and a saltwater body,
 - 200 feet between a well and a sanitary disposal facility,
 - 200 feet between a septic facility and a saltwater body,
 - 200 feet between a sanitary disposal facility and a sanitary disposal facility,
 - 5 feet between a sanitary disposal facility and groundwater,
 - 200 feet between a sanitary disposal facility and a private well,
 - 600 feet between a sanitary disposal facility and a public well.
- The Edgartown Board of Health has proposed amendment to the Coastal District By-Law by adding a new subsection:

14.1. E.10. Notwithstanding subsection 14.1.e.9., the Board of Health's approval of an upgrade from an existing septic system or cesspool to a Title 5 septic system or other enhanced system, that entails the modification of one or more of the setback or separation requirements set forth in subparagraphs 4-8, shall be lawful, whether or not the lot on which the upgraded system is located was in separate ownership from adjoining lots before December 22, 1976 provided that, in the opinion of the Board of Health, the revised design provides:

 - a.) for no increase in flow;*
 - b.) for no increase in the number of bedrooms;*
 - c.) there is a greater protection of public health, safety and the environment than the existing cesspool; and*
 - d.) the provisions of subsection 14.1.e.10 shall only apply to existing lots created before February 15, 2011.*

This subsection shall apply to approvals issued prior to the date of this Amendment, as well as to those issued thereafter.
 - The Edgartown Planning Board held a Public Hearing on February 15, 2011 and voted unanimous support for the amendment.
 - The Edgartown Town Meeting held in April 2011 voted in favor of the amendment, with 214 in favor and 10 opposed.
 - Between the Edgartown Planning Board Public Hearing and the Edgartown Town Meeting, the MVC should have been asked for a Public Hearing and vote. This was overlooked, and the amendment vote at the Edgartown Town Meeting is not effective without the MVC conformance vote.
 - Because the original designation decision included specific numeric standards, the Town regulations also include those numeric standards. The Commission kept for itself the flexibility to find conformance with less restrictive regulations. The Goals and Guidelines include in Section 5.I. 3 a statement regarding means for adoption of regulations outside

of those standards *"In appropriate cases, after notice and a public hearing, the Martha's Vineyard Commission may permit a town to adopt regulations which are less restrictive than these Guidelines if the Commission finds that such regulations will carry out the purpose of the Act and intent of these Guidelines for the District."*

- The map of the Edgartown Coastal District was reviewed.
- There has been no correspondence.
- The Town of Edgartown has asked that the MVC close the hearing and vote on the amendment before September 15, 2011.

Doug Sederholm asked if the amended regulation be prospective or apply to applications that are pending. **Jo-Ann Taylor** confirmed that it will apply to pending applications.

Doug Sederholm recused himself from the hearing and left the meeting.

1.2 Town of Edgartown's Presentation

Matt Poole summarized the purpose of the proposal.

- The amendment only addresses existing homes, not vacant land.
- It will allow for septic systems to be improved that otherwise would not be able to obtain a permit to do so. Older homes and neighborhoods are constrained by neighboring wells and septics.
- It will allow older homes that are served by cesspools to upgrade their sanitary disposal facilities.

John Breckenridge questioned the existing setback regulations and how they would be impacted and if there was an opportunity to enhance the systems. **Matt Poole** stated that the Town of Edgartown is fielding a small number of applications proposing septic systems in the best fit location for the property. Provisions are in place for new lots seeking relief but older homes do not have the same benefit. To legislate at the onset and require enhanced systems on all applications is not always applicable.

Christina Brown asked how many houses are affected and what environmental impact it will have. **Matt Poole** indicated that a survey of the Edgartown Coastal District has not been done but estimated it is less than 15 systems town wide. He also noted that cesspools in the Coastal District are likely to be in the water table and this will allow the Town of Edgartown to get those cesspools out of the water tables and obtain the best fit for a septic system.

James Joyce wanted to know if this will allow an increase to the number of bedrooms for a residence. **Matt Poole** confirmed that it did not.

Chris Murphy noted that the amendment would not change the separation standards but allows the Edgartown Board of Health to modify them on a case-by-case basis.

Chris Murphy closed the Public Hearing.

Leonard Jason moved and it was duly seconded that the Commission should determine that proposed amendments to the regulations governing the Coastal District in the Town of Edgartown conform to the guidelines for the development of the District specified in the Commission's designation of the District.

- Leonard Jason noted for the record that in 1975, the MVC issued guidelines for the Coastal District. Each town adopted its own regulations and the Town of Edgartown did not, so the Commission imposed them. The Town of Edgartown now wants to amend the regulations.

A roll call vote was taken on the motion. In favor: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, L. Sibley. Opposed: None. Abstentions: None. The motion passed.

2. TRANSPORTATION DOCUMENTS

Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley.

2.1 Document Review

Chris Murphy introduced the documents proposed for the Commission's approval and endorsement, namely the Regional Transportation Plan, the Transportation Improvement Program, and the Unified Planning Work Program.

Mark London provided an overview.

- The Regional Transportation Plan is updated every four years and is a comprehensive plan that describes transportation issues and outlines the goals and objectives. It also includes a summary of available funds and desirable projects.
- The Transportation Improvement Program is the annual program of transportation projects for Martha's Vineyard. The current list is essentially last year's list since the projects had shifted forward a year to accommodate the Tisbury sidewalk project.
- The Unified Planning Work Program is essentially the MVC's scope of services, funded by the Massachusetts Department of Transportation (Mass DOT), for transportation planning in Dukes County.
- The 30 day public comment period on the documents ended August 29, 2011 and a public meeting was held that day. Comments during the comment period are incorporated in the Regional Transportation Plan.
- Much of these documents are quite technical, meeting the requirements of the Federal Highway Administration and the Mass DOT. The MVC has received feedback from these agencies and has been working diligently to accommodate them.
- Mark suggested that the MVC consider endorsing the three documents and also a motion to authorize the Executive Director or Senior Planner, in collaboration with the Chairman, to make adjustments to the documents as required by the Mass DOT and the Federal Highway Administration. In addition, the MVC may want to include in the motion that the Commission is not approving any project that is before, or may come before, the MVC as a Development of Regional Impact (DRI).

2.2 Commissioner's Discussion

Linda Sibley and **Doug Sederholm** agreed that the last statement should be voted on before a vote is taken on the endorsements.

Ned Orleans stated the language in the documents should state that the MVC “approves and endorses”.

Christina Brown asked that it be clearly stated that the MVC is not approving projects by endorsing these transportation documents.

Leonard Jason asked when the endorsements have to be completed. **MarkLondon** replied by mid-September, 2011.

2.3 Decisions

Doug Sederholm moved and it was duly seconded that in endorsing the Regional Transportation Plan, the Transportation Improvement Program, and the Unified Planning Work Program, the Martha’s Vineyard Commission is neither approving nor disapproving any project referenced in these documents that may come before the Commission as a Development of Regional Impact. A voice vote was taken. In favor: 10. Opposed: 1. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded that the Commission approve and endorse the 2011 Regional Transportation Plan. A voice vote was taken. In favor: 9. Opposed: 2. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded that the Commission approve and endorse the FFY 2012-2015 Transportation Improvement Program. A voice vote was taken. In favor: 9. Opposed: 2. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded that the Commission approve and endorse the FFY 2012 Unified Planning Work Program. A voice vote was taken. In favor: 9. Opposed: 2. Abstentions: 0. The motion passed.

Fred Hancock moved and it was duly seconded that the Executive Director or Senior Planner, in collaboration with the Chairman, be authorized to make adjustments to the RTP, TIP, and UPWP as required by the Massachusetts Department of Transportation or the Federal Highway Administration to meet their administrative requirements. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Christina Brown suggested that it would be helpful for the future if the TIP information could be reviewed as a topic with the entire Commission.

3. OLD BUSINESS

Mark London noted that the fire escape at the MVC offices has been built and will be operational shortly.

4. NEW BUSINESS

4.1 Executive Director’s Report

Mark London stated that he would be in and out of the office for the next six months while he undergoes medical treatment. Commissioners should contact Bill and Curtis in his absence.

4.2 Reports from Committees and/or Staff

Katherine Newman mentioned that Planning and Economic Development Committee work is being done on the policies for the Island Plan. The September meeting has been cancelled. She asked the committee members be prepared for the October 19, 2011 meeting.

Fred Hancock said there is a Compliance Committee meeting at 8:30 a.m. on Tuesday September 20, 2011.

4.3 Scheduling

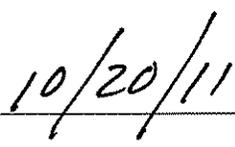
Fred Hancock moved and it was duly seconded that the regular Martha's Vineyard Commission September meeting be moved from September 15, 2011 to September 22, 2011. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

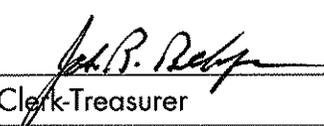
The meeting was adjourned at 8:35 p.m.

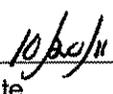
DOCUMENTS REFERRED TO DURING THE MEETING

- DCPC Public Hearing Notice
- Coastal District Decision
- Edgartown Coastal District Regulations
- Edgartown Planning Board minutes February 15, 2011
- Memorandum of Edgartown Annual Town Meeting vote April 12, 2011
- Edgartown Board of Health request
- Map illustrating Coastal District in Edgartown with property boundaries
- DCPC Edgartown Regulations Preliminary Staff Notes for September 8, 2011
- 2011 Martha's Vineyard Regional Transportation Plan
- FFY 2012-2015 Martha's Vineyard Transportation Improvement Program
- FFY 2012 Martha's Vineyard Unified Planning Work Program


Chairman


Date


Clerk-Treasurer


Date