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Minutes of the Commission Meeting Held on January 19, 2006 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Best (E – Tisbury)	P Megan Ottens-Sargent (E – Aquinnah)
P John Breckenridge (A – Oak Bluffs)	Deborah Pigeon (E – Oak Bluffs)
P Christina Brown (E - Edgartown)	P Jim Powell (A – West Tisbury)
P Carlene Condon (A – Edgartown)	P Doug Sederholm (E – Chilmark)
P Martin Crane (A – Governor Appointee)	Linda Sibley (E – West Tisbury)
Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Christine Flynn (Affordable Housing & Economic Planner), Jo-Ann Taylor (Coastal Planner/DCPC Coordinator)

1. EXECUTIVE DIRECTOR'S REPORT

Mark London gave the Executive Director's Report.

- The head of MassHighway will be visiting the Island on Friday, January 20th. She'll attend a meeting on the Drawbridge at 10:30 a.m., have lunch at the Stone Building, and then meet at 1:15 p.m. with the Joint Transportation Committee. One topic will be the new Highway Design Guidebook.
- A Community Planning Workshop on the High School area will be held on January 28th from 8:30 a.m. to about 11:30 a.m. Attendees will include Oak Bluffs Board of Selectmen, Oak Bluffs Planning Board, and the MVC. The meeting is open to the public. Its purpose is to look at conceptual options for organization of the land..
- The Comprehensive Island Plan Steering Committee met and heard an explanation of various survey results. The Steering Committee is doing more work on defining the kind of plan it will work on and the process it will use. The Committee is finishing a newspaper article summarizing its work. The Steering Committee welcomes written comments from Commissioners and the public.
- The DRI Affordable Housing Guidelines are almost ready to be released from the Committee. Open Space Guidelines will be reviewed tonight. Landscape Guidelines will be reviewed next, then Highway.

2. AQUINNAH DCPC REGULATIONS - PUBLIC HEARING

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss, A. Woodruff

For the Applicant: Camille Rose, Aquinnah Planning Board; Laurie Bradway, Citizens for Safe Cellular

Doug Sederholm opened the public hearing on proposed amendments to regulations of the Aquinnah DCPC; most of which the town has already approved.

2.1 Staff Report

Jo-Ann Taylor gave the staff report.

- The question Commissioners are required to address is whether the proposed amended regulations conform to the original guidelines and goals of the DCPC.
- The goals of the Aquinnah DCPC are to protect the scenic character of the district from undue visual intrusion and to promote and maintain its rural character and its culture.
- The intention of the modifications is to open up a very restrictive cell phone tower by-law to allow for new technology.
- The amended by-law is not as restrictive as the by-law the Commission approved in 2000. The goal is to bring in new technology for adequate cell phone coverage. The question is whether the regulations as amended are still in conformance with the goals of the DCPC.
- The Commission has received a letter from the Aquinnah town administrator stating the Board of Selectmen's support of the amendments.

2.2 Applicant's Presentation

Camille Rose described the amendment.

- The modification is generally not as restrictive as the original by-law but it does restrict towers to 70' in height.
- The changes lay the groundwork for a distributed antenna system, which is more desirable aesthetically and technologically.
- One of the important goals for the DCPC is aesthetic to protect the character of the town. The distributed antenna system has a radius of $\frac{1}{2}$ to $\frac{3}{4}$ of a mile per pole. Aquinnah would probably need probably 5-6 poles creating minimal visual impact. The fiber optic cables that connect the antennas can use existing poles and no cell towers are needed.
- Aquinnah is defending a suit by Cingular because the town turned down a cell tower in the church steeple.
- The cell tower would give 40% coverage; the distributed antenna system can give 100% coverage.
- The base station would be at the dump, an already compromised piece of land, which would have an effective radius of 10 miles.
- In every way the amendments conforms to the DCPC guidelines.

Megan Ottens-Sargent asked if other companies could co-locate on this system.

- **Camille Rose** said other companies may co-locate. The Cingular application for the church steeple wouldn't allow co-location.

- This system is very easy to upgrade and Aquinnah can use its own poles, which would be about 30 feet high.

Megan Ottens-Sargent asked if the town's PCB site would be a possibility.

- **Camille Rose** said the dumpsite is a better location because of the elevation and the town owns it.
- The dump has security; could be soundproofed, and is better than the radar tower area off Moshup Trail.
- **Camille Rose** said an additional plus is that the Town is preempting other companies, and would have siting ability.

Andrew Woodruff asked whether the project is a town project.

- **Camille Rose** said the town could license out the equipment after sending out a RFP; unless Aquinnah wanted to manage it.
- Brookline, Nantucket, Northampton, Dover, and Sherborn are some of the towns using the technology.

Laurie Bradway, Aquinnah Citizens for Safe Cellular, said that the wattage is low at 199 watts total antenna input with lower RFs. 4 or 5 cell companies could co-locate on the antennas.

Paul Strauss asked whether lower power distributed systems would lead to less coverage.

- **Laurie Bradway** said it wouldn't because there is linked coverage between antennas.
- WiFi, WiMax, and Broadband could be added at a later date.
- Environmental impact can be low. The brushed aluminum poles are reflective and antennas are small, about the size of a car antenna.

Jim Athearn asked about use of NStar poles.

- **Laurie Bradway** said NStar doesn't want their poles used.
- **Camille Rose** said the poles would be near NStar poles.
- A resident has offered that poles and conduit could be placed on his property.
- They would like to trench but the clay substrata doesn't allow for easy digging.

Martin Crane asked if grants are available. **Camille Rose** said she doubted it because it is a profit making venture.

Jim Athearn asked interrupting the skyline with poles. **Camille Rose** said Aquinnah is very concerned about visual intrusion and the Town will make the best decisions for appropriate placement and style.

Doug Sederholm said the purpose of the amendment is to allow a system that will be less intrusive than alternatives. **Laurie Bradway** said cell towers are usually 150 feet. A limit of 70 feet was chosen to avoid cell towers.

Megan Ottens-Sargent moved, and it was duly seconded, that the amendments conform to the town-wide DCPC. A roll call vote was taken. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

3. COZY HEARTH:DRI NO. 584 – MODIFICATION OF WRITTEN DECISION

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss, A. Woodruff

Mark London explained that after review counsel strongly suggested some modifications which include:

- Line 333: . . . *after resale by the initial owners.*
The five properties restricted to 140 and 150% AMI housing units would be permanently restricted upon resale, but not to initial owners.
- Line 319 and line 373: . . . *In the case of a mortgage foreclosure or deed in lieu thereof, the property may not be offered to a person or family that does not meet the affordability restriction without the seller first offering any such property for sale to the Town and the DCRHA at the price described in the affordable housing restriction.*
As raised by Marcia Cini, a Fanny Mae and FHA mortgage foreclosure would have the ability to sell the property at the cost of the initial mortgage with no income restrictions. The proposed language allows a foreclosure property to be offered to the Town or DCRHA before it can be offered through foreclosure proceedings to a person or family that doesn't meet the affordability restriction.

Jim Athearn asked for further explanation of the phrase "other than a sale pursuant to a mortgage foreclosure or deed in lieu thereof." **Doug Sederholm** explained that instead of foreclosing, the owner can convey a deed in lieu of the foreclosure proceeding. It's a more streamlined procedure but is functionally the same as a foreclosure.

John Best asked whether the foreclosure language had been reviewed by anyone in the mortgage lending business. He expressed concern that an owner could be required to foreclose at an amount less than the mortgage. He thought the language related to foreclosed property being offered to the Town was added because foreclosure bypasses affordability. **Doug Sederholm** said he believed the language was added to meet Fanny Mae requirements and to maintain affordability in case of foreclosure.

Mark London said the applicant agreed to extend the finalization of the written decision and they are happy to have the language included. If the language related to foreclosure requirements is problematic, the applicant can ask for a modification.

Christina Brown moved, and it was duly seconded, that slight amendments to the written decision are minimal and do not require a public hearing. A role call vote was taken. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss. Opposed: None. Abstentions: M. Crane, A. Woodruff. The motion passed.

Christina Brown moved, and it was duly seconded, that the Commission accept the modifications to the decision as consistent with the decision. A role call vote was taken. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm,

P. Strauss. Opposed: None. Abstentions: M. Crane, A. Woodruff. The motion passed.

Christina Brown moved, and it was duly seconded, that the Commission approve the written decision as amended. A roll call vote was taken. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss. Opposed: None. Abstentions: M. Crane, A. Woodruff. The motion passed.

4. FINANCES

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss, A. Woodruff

Jeff Wooden reviewed the Fiscal Year 2007 budget. The proposed budget is \$1,214,923, a 9.5% increase from Fiscal Year 2006. Some funding of the budget comes from grants, contracts, DRI fees, interest and income. The towns' total share is \$750,923, a 2.5% increase.

Christina Brown asked what accounts for the 9.5% increase.

- **Jeff Wooden** explained that \$60,000 is for the 2nd year of the Comprehensive Island Plan and was projected last year.
- **Mark London** explained 1/3 of the cost of the Comprehensive Island Plan is projected to come from assessments, 2/3 will come from grants and donations. This year \$10,000 is brought forward for the FY06 budget and \$10,000 is from reserve.
- Even though the budget is going up, mainly to cover the cost of the Comprehensive Island Plan, the towns' share is only going up 2.5%.

Chris Murphy said the figures don't seem realistic when budgeted versus actual are compared.

Jeff Wooden said he looks at 6 months actual use, projects to the end of the year and bases the next year's budget on those figures. **Chris Murphy** said it would be easier to understand the budget if Commissioners were to see the current year actual use figures Jeff Wooden uses for his projections.

Megan Ottens-Sargent asked about contractual work in FY05 for \$42,000 and suggested it might be useful to see it broken out.

- **Jeff Wooden** explained that they did some big MassHighway contractual work.
- **Mark London** explained that a minimal amount of grant work is projected for a budget. If the Commission receives grants during the year, they are added in.

Christina Brown asked for an explanation of legal bills.

- **Jeff Wooden** said the good news is that In FY06 the Commission recovered \$100,000 of legal fees from insurance, which went against expenses.
- Additionally, legal expenses were lower due to the settlement of a large lawsuit. Currently the Commission has approximately \$28,000 in outstanding legal bills.
- He is paying out about \$10,000 a month and the Commission is incurring about \$8,000 a month in legal bills.

Carlene Condon asked about capital improvements. **Mark London** explained that the Commission had budgeted \$12,000 for three years and that money was put aside. After the three years, the money was spent for capital improvement.

Ned Orleans said he doesn't see any value to showing the budgeted figure versus actual; he suggested showing only actual expenditure for the previous year. **Chris Murphy** said he disagreed because it's useful to seeing the comparison.

Jim Powell asked who is authorized to contract or contact for legal services. **Jeff Wooden** said Mark London and the Chair are authorized.

Martin Crane commented that, when he is preparing budgets, he likes to see the comparison between the projected budget and the amount actually spent.

Martin Crane asked Jeff Wooden if he moves funds between line items. **Jeff Wooden** said he couldn't think of an example where they'd done that.

Martin Crane asked what was spent for legal fees in FY05. **Doug Sederholm** said the Commission has an arrangement with counsel whereby it pays \$10,000 per month regardless of fees. **Mark London** said he believed the legal expenses were about \$50,000.

Andrew Woodruff asked if the Commission uses a balance sheet. **Jeff Wooden** will distribute copies of last year's financials.

Christina Brown said it's good to remember that Commissioners can always ask about financial information. She said that the Commission is audited every year by an outside firm and Commission accounting procedures are carefully scrutinized. All the towns are audited the same way.

Ned Orleans asked how much flexibility the Commission has to shift money from line item to line item. **Mark London** replied that he is not aware of any restriction on moving funds between line items. Staff tries to respect line item budgets, but may make use of some flexibility. The hardest part of projecting a budget is predicting grant money. Grant projects generally incur more expenses like phone and postage.

Martin Crane suggested that the Commission could use the reserve fund transfer method such as towns use to add to line items that are over-expended which would give a more accurate assessment of lines. **Ned Orleans** added that payroll line items are fixed.

Carlene Condon asked about the interest expense line item. **Jeff Wooden** explained that it is mortgage interest.

Megan Ottens-Sargent asked where the reserve fund is listed. **Jeff Wooden** explained that it is under cash reserves.

Christina Brown moved, and it was duly seconded, to approve the budget as presented. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

5. GRANTS AND DONATIONS

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss, A. Woodruff

Doug Sederholm reviewed the four grants and donations that the Commission has received.

- Smart Growth Technical Assistance Grant for \$16,800 provided by the Executive Office of Environmental Affairs for the development of DRI water quality guidelines that may serve as models for the towns of Edgartown, Oak Bluffs, Tisbury and West Tisbury.
- Pre-disaster Mitigation Planning Grant of \$30,000 provided by the Federal Emergency Management Agency to develop a plan to minimize damage and injury from natural disasters for the towns of Dukes County.
- Donation from Allen and Susan Borsky of \$5,000 for support of the Comprehensive Island Plan.
- Grant from the Martha's Vineyard Permanent Endowment Fund of \$1,500 for the Comprehensive Island Plan.

John Best moved, and it was duly seconded, to accept all four grants and donations. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm said he is grateful that the Commission has been awarded these grants and is especially grateful for the \$5,000 donation from Allen and Susan Borsky.

6. MARTHA'S VINEYARD HOUSING BANK LEGISLATION ENDORSEMENT

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, P. Strauss, A. Woodruff

Mark London explained that the Commission has already made comments on the Housing Bank draft legislation. The Commission is being asked to consider whether it wants to endorse the legislation. A public hearing on the legislation will be held at the State House on January 24th. Housing advocates are asked to attend; transportation provided through the Island Affordable Housing Fund.

John Best moved, and it was duly seconded, that the Commission direct Mark London to draft a letter of endorsement of the Martha's Vineyard Housing Bank legislation. John Best amended the motion, and it was duly seconded, to direct the Chair to approve the letter on the Commission's behalf. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

7. OPEN SPACE GUIDELINES: DISCUSSION AND POSSIBLE ADOPTION

Christina Brown said the guidelines are self-explanatory; they are well written and interesting.

Mark London said he should be contacted with questions or comments.

Kathy Newman asked if anything is significantly different from the last version. **Christina Brown** said that it stresses that these are guidelines, not rules. The guidelines codify and articulate what the Commission has been doing for a long time.

Andrew Woodruff said the guidelines are well written and he's disappointed not to discuss the guidelines at this meeting. It is decades overdue; he'd like to see the guidelines adopted sooner rather than later.

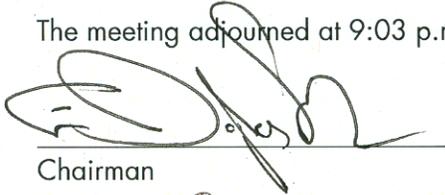
8. MINUTES

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, P. Strauss, A. Woodruff

Kathy Newman moved, and it was duly seconded, to approve the minutes of October 6, 2005, as written. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

Kathy Newman moved, and it was duly seconded, to approve the minutes of October 20, 2005, as written. In favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

The meeting adjourned at 9:03 p.m.



Chairman

3-22-07
Date



Clerk-Treasurer

3-29-07
Date