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## **Minutes of the Commission Meeting Held on October 7, 2010 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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

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

Staff: Mark London (Executive Director), Jo-Ann Taylor (Coastal Planner, DCPC Coordinator), Paul Foley (DRI Coordinator), Michael Mauro (Planner – Transportation)

**Christina Brown** called the meeting to order at 7:00 p.m.

### **1. MENEMSHA WEST DOCK FIRE REPAIR**

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**Christina Brown** read a draft letter addressed to Timothy Murray, Seaport Advisory Council in support of the Town of Chilmark seeking funds to rebuild the Menemsha dock.

***Linda Sibley moved, and it was duly seconded, to approve and send the letter of support to the Seaport Advisory Council. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.***

### **2. EXECUTIVE DIRECTOR REPORT**

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**Mark London** gave the Executive Director Report.

#### **2.1 Rhode Island Ocean Special Area Management Plan**

- A series of meetings will be held to discuss the Rhode Island Ocean Special Area Management Plan. The final agenda and dates are currently in process and should be finalized by next week.
- The Commonwealth is putting an emphasis on the offshore wind energy development in the Area of Mutual Interest which is located about twelve nautical miles southwest of Martha's Vineyard. The area is in federal waters south of both Rhode Island and Massachusetts. The RIO-SAMP would be the guiding plan.

- The first of the series of meetings will be held on October 21<sup>st</sup> at 5:00 p.m. at the Oak Bluffs Library.

**Christina Brown** said that anyone interested in the placement or effects of wind turbines should attend the meeting. The first meeting would cover all of the topics of concern.

### **3. OAK BLUFFS FISHING PIER (DRI -628) – PUBLIC HEARING**

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*Commissioners present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, C. Murphy, J. Joyce, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff.*

*For the Applicant: Michael Dutton (Oak Bluffs Town Administrator) Douglas Cameron (Massachusetts Department of Fish and Game), Carlos Pena (CLE Engineering Inc.)*

**Christina Brown** explained that Jo-Ann Taylor, DCPC Coordinator would be the key staff person responsible for the review of the Oak Bluffs Fishing Pier. Paul Foley is not participating in any staff review for the Commission. He is entitled to voice his concerns as a member of the public.

**Linda Sibley** opened the public hearing and read the hearing notice. The application from the Massachusetts Department of Fish and Game and the Town of Oak Bluffs is to construct and maintain a pile-supported, ADA-accessible public shore fishing pier at Sea View Avenue Extension, Oak Bluffs, Map 9, Lot 58.

#### **3.1 Staff Report**

**Jo-Ann Taylor** gave the staff report (see project file).

**Michael Mauro** read the traffic memo (see see project file).

**Peter Cabana** asked if people being dropped-off as opposed to people parking was taken into consideration. **Michael Mauro** stated that it was taken into consideration in the trip generation calculation though he could not project how many people would be dropped off.

#### **3.2 Applicant's Presentation / Commissioners Questions**

**Michael Dutton**, Oak Bluffs Town Administrator, explained that the proposed project is a joint petition between the Town of Oak Bluffs and the Massachusetts Department of Fish and Game. Douglas Cameron will provide a history of project and Carlos Pena will describe the engineering aspects.

**Douglas Cameron**, Assistant Director of Fishing and Boating Access, provided information regarding the history of the project.

- The Department of Fish and Boating Access provides access to sites across the state, from canoe access, boat ramps, to fishing piers.
- In 2006 Carl Walker from the Steamship Authority contacted his office regarding a potential fishing pier in Oak Bluffs. In response he contacted David Nash from the Martha's Vineyard Surfcaster's Association.
- Preliminary meetings were held at the Oak Bluffs town hall with various departments. An ad-hoc committee called the Fish Pier Advisory Group participated in those meetings. The

north side of the Steamship Authority Dock for the pier as well as the basic layout were chosen.

- The three entities approached the Town with the project. The Town is needed to manage and maintain the facility.
- In November 2007 the Town signed a Land Management Agreement with the Department of Fish and Boating Access. The agreement is in perpetuity. The Town would be responsible for the daily maintenance of the facility: policing, trash pickup, and providing public access. The state would be responsible for the capital investment: engineering, permitting, contract drawings, construction inspections, and 100% of the construction cost of the facility.
- In 2008 the Environmental Bond Bill put \$500,000 toward this project.
- CLE Engineering was hired to start the process of design and permitting.

**Douglas Cameron** provided information regarding the selection process for the location of the pier.

- The pier has to be handicap accessible; minimizing the slope and elevations are important. The north side of the SSA pier is at a low point. Minimizing the distance to the restrooms is important; the public restrooms that would be adjacent are under consideration to be renovated to become handicap accessible.
- The Martha's Vineyard Surfcasters endorsed the site as having the ability to catch fish at that location. Greg Skomel, Division of Marine Fisheries, provided information on fish that would be in the area.
- An alternate site approximately 277 feet south of the SSA pier was considered and found not to be as favorable:
  - The landside elevation is approximately 2 feet higher.
  - Water depths at the end of the pier are approximately 2 feet shallower due to the proximity of eel grass beds.
  - The area south of the SSA pier is identified as a public beach in the Island Plan.
- Both sites have similar shorelines and approved by the Steamship Authority.
- The proposed site on the north side has been kept as close to the SSA pier as possible to minimize the impact on swimming. The access for swimming is further away from the proposed location on the north side than it would be on the south side. The bulk of the fishing would be in waters five feet deep or more.
- There are additional proposed projects that would tie into the fishing pier.
  - A boardwalk project is proposed from the jetty to the Steamship Authority.
  - There are planned renovations for the restrooms.
  - There is also a beach nourishment project underway.
  - All projects are contracted with the CLE Engineering.
- The only public fishing pier on the Island is Memorial Warf in Edgartown.
- There are environmental issues that would require additional permitting:
  - MEPA had a favorable review of the project,
  - The Oak Bluffs Conservation Commission will require a review,
  - DEP Chapter 91 licensing will be required,
  - A permit from the Army Corps of Engineers will be required.

- The area has been reviewed to see if it is an area for rare and endangered species under the Rare and Endangered Species Program and is not.
- He is aware that the signs will require a special review and has brought pictures of all the signs that are used. They have the capability to have signs made that could be recommended.
- He will provide an informational package to the MVC with documentation of the things he presented.

**Michael Dutton** provided information regarding the impact on municipal services.

- The Chief of Police, Eric Blake, wrote an email which stated the impact would be minimal. Proper lighting, signage, and video surveillance would be sufficient. He has no preference on either location of the pier.
- The Highway Department Superintendent, Richard Combra, wrote a letter which stated the pier would have little impact on the department. Trash receptacles are already in place along the bluff.
- The Harbor Master, Todd Alexander, wrote a letter which stated he has no preference of the location of the pier. He has no plans to expand the mooring field. The proposed location of the fishing pier would have no impact on his department.

**Douglas Sederholm** asked if the Town had a preference on the location of the fishing pier and why it would prefer that location. **Michael Dutton** explained that in November of 2007 when the Land Management Agreement was signed, it was decided that the location would be on the north side. He does not know of any position on a change of location. **Douglas Sederholm** asked if the alternative site south of the SSA pier was seriously considered previous to signing the Land Management Agreement. **Michael Dutton** said that not at the Board of Selectmen's level, but Douglas Cameron had done some work to determine which site would be a better fishing location.

**Peter Cabana** asked if there would be video surveillance which would tie into a current system to increase public safety. **Michael Dutton** said that the Police Chief stated it would be a possibility. **John Breckenridge** asked who would be responsible for funding the surveillance. **Douglas Cameron** stated that this was not part of the proposal, but if wanted, the Department of Fishing and Boating Access would be responsible.

**Carlos Pena**, CLE Engineering, provided engineering information on the pier.

- Currently the firm has gathered field data, created a design for permitting, and submitted permitting documents.
- The study area starts at the jetty and extends 3,400 feet to the Inkwel jetty. Within that area there are multiple projects: 740 feet of seawall restoration, boardwalk from the jetty to the Steamship Authority, renovation to the restrooms, and the preliminary project of beach nourishment.
- Location of the pier would be 200 feet to the north of the SSA pier which is 900 feet from the harbor.
- The seawall elevation is being raised by 4 feet to elevation 12.5. The boardwalk would be 10 feet wide behind it. The fish pier would be at or about the same elevation of the boardwalk.
- Rip-rap would be replaced in addition to the beach nourishment.

- The pier would extend out 314 feet out into the harbor and be 12 feet wide. The elevation of the pier would be between 9 and 12.
- The design of the pier will be finalized once the permitting process is complete.

There was a discussion regarding the sand deposits around the SSA pier.

- **John Breckenridge** stated that there were sand deposits to the left of the SSA pier. He asked if the SSA pier was the cause, if there would be any additional deposits caused by the fishing pier and how would it be tied into the beach nourishment.
- **Carlos Pena** answered that the sand deposits are caused by design of the SSA piles. Part of the strategy of the beach nourishment is to shorten, extend, and replace groins; sediment will be placed on the beach. The pier will have three timber piles lined up parallel to the shoreline with a 12.5-foot space between the pile-base. The pier will have no impact on the sediment transport because the piles are lined up in a row.
- **John Breckenridge** asked what caused the deposits around the SSA pier.
- **Carlos Pena** said that the cause is the high concentration of piles that are not in line.
- **John Breckenridge** said that the proposed fishing pier would neither help nor hinder the beach nourishment project. The groins would be more instrumental.

**Peter Cabana** asked if there was any consideration of using steel piles versus timber. He asked if there was a higher long-term maintenance cost of timber. **Carlos Pena** said that at the SSA a combination of steel and timber was used. **Peter Cabana** said that there is no distinct advantage because the SSA used both.

**Linda Sibley** asked if the beach access points would still be the same. **Carlos Pena** said that they would be in the same areas.

**Fred Hancock** said the elevation of the pier would be unattractive for people to tie boats to it. **Carolos Pena** said that there would not be any point where a boat could easily tie up to. There would be a small ladder in the back of the pier in case anyone ever fell off. **Douglas Cameron** stated that it could be posted on the pier "No Boat Tie-Up".

**James Joyce** asked what the slope of the pier was, how much farther does it go out, and how much deeper does it get. **Carlos Pena** answered that it would drop from elevation 12 to elevation 10 in about 100 feet for a 2% slope.

### **3.3 Testimony from Public Officials**

**Nancy Phillips**, Chairman of the Oak Bluffs Park Commission, stated the Park Commission is in favor of the fishing pier. They encourage recreation away from digital screens and stressed the importance of handicap accessibility.

### **3.4 Public Testimony**

**Armand Bergeron** spoke in favor of the pier. It is a good location. He has worked with people with disabilities for twenty years on the Island. The pier is a good opportunity for the elderly and children. The alternative pier may not be used because there may not be any fish.

**Maria Black** works at the Beach Plum Inn which has an annual event that brings wounded and disabled vets fishing. There are no spots on the Island that are ideal for those with mobility issues to catch fish. The pier is a great opportunity for people with mobility issues.

**Robert Lane**, Tiffany Drive Oak Bluffs, asked if middle school children or families using public transportation were factored into the traffic report. **Michael Mauro** answered that public transportation was not calculated into the report. **Robert Lane** said that he has been in the West Tisbury School for the last twenty-two years. He knows many kids that take their fishing rods on the bus to go fishing. The pier is an opportunity for kids to go fishing that may not have someone to take them fishing. He is in favor of the pier.

**Peter Herman**, of Oak Bluffs, was born and raised in Oak Bluffs. He learned how to fish off of the boat pier in Oak Bluffs. He has a friend who is a Vietnam veteran who recently lost the use of his leg below the knee and likes to fish. He and his friend would like to use the proposed pier.

**David Nash**, member of the Martha's Vineyard Surfcasters Association, said he was on the advisory group that assisted with the project.

- He became involved with the project when the Steamship Authority denied access for fishing on their pier and introduced the Surfcasters to the Department of Fishing and Boating Access.
- The advisory group helped with the design.
- He believes the proposed location is the right one because it provides access for handicap and to the restrooms.
- The location is also the most likely to find fish according to Dr. Skomel's report and testimony from local fishermen. The water is deeper and depth is critical.
- The committee deliberately recommended a simplistic plan with no overhead lighting, running water, or other things, in order to have the easiest maintenance.
- The Island Plan, under Natural Environment, speaks to promoting public access for fishing.
- Memorial Warf in Edgartown does not provide much fishing access with the Chappy Ferry on one side and commercial activity on the other. It is small and crowded and the current breach creates a nasty current.
- He submitted a petition containing four pages of signatures in support of the pier proposal.

**Injy Lew** stated that she was for the pier but had questions and concerns about the location.

- She pointed out that no one who lives in the area or who would be impacted by the pier had been consulted.
- She is concerned about the noise. It will attract other people besides the fishermen, who may be drinking and making noise.
- She asked how much the project will cost and where the rest of the money besides the \$500,000 would come from.
- She said that the pier is being referred to as being simplistic but pointed out that there would be video and could be fees for usage.
- She said that some people say the fishing is better on the other side.

**Warren Gosson** spoke in favor of the pier. He remembers there used to be lifeguard stands in that area of the beach. There used to be a lot more activity there. There used to be a stairwell in the middle of the beach as well. The stairwell by the Steamship is currently only a step and a half which some people have fallen off of. The project is about restoring the whole area to what it was and should have been all along.

**Kathy Burton**, Tia Anna Lane, Oak Bluffs, is a member of the Board of Selectmen but spoke for herself. She came to the meeting not caring about the location of the pier but has heard a lot of compelling reasons for it to be located on the north side. She spends time in Naples, Florida, and walks on a fishing pier which is highly used. She has never heard of any issues or complaints. She has seen a lot of senior citizens fishing for their dinner. The pier is a wonderful opportunity especially coordinated with the other projects.

**Stephen Morris**, owner of Dicks Bait and Tackle, Oak Bluffs; said it is a daily challenge for him to tell people where to fish when they have young children. He grew up fishing on the Steamship pier in Oak Bluffs and caught his first keeper striped bass and bonito there. As a fisherman he respects where he goes and other fisherman will police the dock as well and make it part of that neighborhood.

**Linda Sibley** asked if anyone had any questions for the presenters who need to leave on the 9:30 p.m. boat.

**Warren Gosson** asked if the other restoration projects were guaranteed or if it would be done in phases.

**Carlos Pena** explained the status of the other projects.

- The seawall has been permitted and designed, it is waiting for funding.
- The beach nourishment project only has drawings; the dredging project supplying the sand will start next Thursday.
- The restroom restoration will proceed this fall.

**Nancy Phillips** said that the restroom has received funding from the Community Preservation Act funding in conjunction with a National Park Service grant to rehabilitate the bathhouse as well as site work around it for handicap accessibility.

**Doug Cameron** said that one of the things that the State considers when approving funding for a project is if there are other State funded projects in the area. The fishing pier will provide positive scoring for the other projects.

**David Nash** asked for clarification on the cost of the pier. He also said that the advisory group has offered to help with education and fundraising to soften the impact on the town. **Linda Sibley** asked who the advisory group was. **David Nash** said it was an Island group of fishermen. **Linda Sibley** said she was looking for clarification that the fundraising would be from the Island-wide population and not just from the people of Oak Bluffs. **David Nash** said that when there are events, educational and fundraising opportunities present themselves.

**Michael Dutton** said that the Town has agreed to do day-to-day maintenance of garbage collection and making sure it is kept clean, and to police the pier for public safety. There are no capital costs to the Town. The potential video surveillance cost would be covered by the State, which is not a significant expense.

**Doug Cameron** said the state is responsible for 100% of the cost including design and permitting, construction drawings, construction, repairs that are significant, and reconstruction. The Legislature has put forward \$500,000 in the 2008 Environmental Bond Bill. Once the final

estimates are in, other funding sources such as bond funds, trust accounts, and monies from license fees would be appropriated.

**Fred Hancock** asked if a fee for access was being contemplated. **Doug Cameron** said that it was not at this time. There are seven fishing piers state-wide and none collect fees. Facilities that do collect fees have larger boat ramps that need staffing.

**John Breckenridge** asked what the ball-park estimate would be for the project. **Doug Cameron** said that it would be between \$750,000 and \$1,000,000. **John Breckenridge** asked what the cost would be on the south side. **Doug Cameron** stated the cost would be about the same because the pier would be shorter and the elevation would be higher. The economy of savings is with the combination of the other projects such as the boardwalk. Both the pier and boardwalk would use the handicap access ramps.

**James Joyce** asked if there was a timeline for the project. **Doug Cameron** said there is not one at this stage because it has to get through the permit process. He hopes that as the project starts, things will line up, but if the other projects fall behind the pier may proceed without them. The earliest completion date would be in a year to two years.

**Chris Murphy** said that Doug Cameron stated during the site review that the pier would have to be three feet higher if placed on the south side; he asked Doug to explain the reasons why.

**Doug Cameron** said that preliminary review indicated that bigger storm events would be coming out of the south-east direction. The distance between the pier and nearest land would be greatest on that side. He is not sure the exact elevation but expects the wave climate to be higher on the south side. The north side would have the protection of the Steamship Authority pier.

**Mark London** asked if the pier is physically designed to allow being built without the other projects. He also asked what the elevation of the pier would be in relation to the beach and whether someone would be able to walk under the pier at high tide. **Carlos Pena** answered that the lowest point of the structure would be elevation 9.5 feet; with 2.0 to 3.0 feet of sand on the beach there will still be 6.0 feet of clearance. He said if the seawall restoration is stalled, the pier would be constructed so that the final end of the pier would be adjustable to seawall.

**Ron McBee**, charter fisherman from Maine, has come to the Vineyard for over thirty years. He works with schools taking kids fishing. He said having piers like this is perfect. It is a fantastic opportunity for elderly, handicap, and parents. The north side is a good fishing spot.

**Linda Sibley** said she had seen so many people in the audience she assumed the hearing would need to be continued. She asked if there were any unanswered questions that would require the hearing to be continued.

**Paul Foley**, 31 Circuit Avenue Extension is a resident of the North Bluff and a citizen of Oak Bluffs. Although he works for the Martha's Vineyard Commission, he is speaking as a private citizen. He swims on a daily basis between the Steamship pier and the jetty for five months out of the year and is very familiar with the area.

- His neighbors have expressed concerns about noise at night and garbage.
- The pier would be open 24 hours a day, year round. The Lookout Tavern is seasonal and is rarely open past 11 p.m. Although 90% of fishermen will be quiet, there will be some

who will be slamming doors and filleting fish on their trucks at 3 a.m. It is likely there will be increased noise for the abutters.

- No one in the neighborhood has said they were against the pier, but would prefer it on the south side or somewhere else. Three different sites have been suggested:
  - South of the Steamship pier,
  - A quarter mile south of the Inkwell,
  - North of the East Chop Beach Club pier where there is a town parking lot.
- He assumed the preferred location is to be downtown.
- He addressed the site south of the Steamship Authority pier.
  - The proposed site is currently used by swimmers and bathers waiting for the boat and by boaters anchoring about 200 feet off.
  - He swims about 10 to 125 feet off shore and rarely sees fish.
  - The south side is totally unused waterfront for 500 to 800 feet
  - The north side access is 450 feet by the Steamship; the south side is 500 feet south that goes down to a mezzanine level that goes another 300 feet before the beach widens.
  - The north side is shallow, for 2/3 to 3/4 of the distance of the pier the water is only 5 feet deep. The south side is deeper.
  - The north side would have a negative impact on a residential neighborhood. The south side would have no impact on a residential neighborhood and would be closer to the police and public transportation.
- Paul gave a PowerPoint presentation:
  - Storms that are of concerns are nor'easters.
  - He displayed pictures showing water depths on the north side as being shallower than on the south side.
  - He said it was stated that the landside elevation on the north side is lower, but that is assuming all of the other projects are done. He believes the landside elevation of the south side is at least as low as the current north side.
  - There would be no need to cross the Steamship Authority traffic if on the south side.

**Doug Cameron** provided the following response:

- The important aspect of the pier is the depth of the water at the seaward end. The north end is 10 feet deep. The south is 8 feet deep. On the north side the seaward depths are -5 on the contour and provide an additional 100 feet of fishing platform than on the south side.
- The in-shore area is probably not a great area for fishing. Swimming probably scares the fish, so swimmers should not expect to see them.
- The landside elevation was derived from topographic surveys that indicate the existing seaward side of the concrete platform at the restroom is lower than the elevation of the sidewalk at the south side.
- Both beach areas are similar.

Doug Cameron and Carlos Pena left the meeting.

A member of the public asked if things could be expedited by asking for a show of hands to see who was in favor of the pier.

- **Linda Sibley** said she would entertain a show of hands and explained that there were other things that had to be considered.
- **Paul Foley** said he objected. He said the Commission never asks for a show of hands.
- **Linda Sibley** stated that they can have a show of hands.
- **Ned Orleans** asked that the public be told what the Commission has to consider when making the decision.
- **Andrew Woodruff** said that he had never seen a show of hands be done before and did not see the point. As a Commissioner he would rather hear about the reasons why someone is in favor or against a project.
- **Linda Sibley** said that a member of the public requested a show of hands and that it has been done in the past. She said it is not a determinant but if someone wants it she will do it.

There was a show of hands with the majority in favor of the proposed project as presented. There were three hands that showed they had an issue with the proposed project as presented.

**William Anderson**, resident of the North Bluff for over 50 years, spoke about his concerns.

- He is concerned about noise at night. The neighborhood started out with one package store, now has one package store and eight bar rooms.
- There is already trouble finding parking in the area. He counted 27 cars parked from the comfort station to the Island Queen.
- He is concerned about night time activity on the pier.
- He is concerned over maintenance. He said there used to be a swimming pier at Pay Beach which had to be removed because the Town could not maintain it.
- The Steamship Authority increased the water depth of their pier 30 years ago and the north side beach eroded. He is concerned that the rest of the beach will erode with an additional pier.
- He is concerned about an increase to the already existent trash problem.
- He has swam and walked in that area for the last fifty years and has not seen a fisherman in the area between the jetty and the Steamship pier. He has seen fishermen on the south side.

**William Alwardt**, Dukes County Fishermen's Association and commercial fisherman, said that he was born and raised in Oak Bluffs:

- He has fished the boat pier a good part of his life, caught about 1,000 lbs. of pollock off of the pier and cod fish off East Chop.
- He has seen tautog, scup, sea bass, and people fishing there every day of the week.
- The north side would allow the pier to be closer to the boat pier which holds the bait for the fish, the closer to the boat pier the better the fishing.
- He sees fish breaking there every day, which gets better in the fall.
- On the south side the pier would be shorter and the eel grass beds are closer to the beach.
- He does not believe the PowerPoint presentation showing the water depths.
- The parking would be first come, first serve. Kids could ride their bicycles to the pier.

- There are home businesses, hotels, movie theaters, bar rooms, and the harbor all which cause issues to the neighborhood.
- Fishermen would not be in the neighborhood making noise because noise scares the fish away.
- Fishing is better at night and they won't be seen in the middle of the day.

**Taylor (Ted) Collins**, of Tisbury was previously a resident of Oak Bluffs for twenty years. He used to coin dive off of the boat pier.

- There is a sandbar in the area which could change with storms. The water depths change from year to year.
- The project is being offered without the use of Town money and is an opportunity that should be jumped on.
- As a fisherman, he would like to see it on the north side. He can understand and respects the concerns of those who live in that area.
- The largest striped bass he ever caught was off of the jetty. It was about 50 lbs.

**Linda Sibley** said that the letter from the Chief of Police indicated that he felt that activity on the pier could be monitored. She asked Michael Dutton if the Town and the Police would be willing to make a commitment to consider noise, not just criminal activity on the pier, as a priority especially between the hours of the bars letting out and the start of the next morning. She asked if he could come back with an explanation of enforcement.

**Geoff Patterson**, musician and fisherman, has been performing in nightclubs since 1987 and heads down to the piers to see what the fish are doing once he is done performing. Only fisherman go to the piers, not the people who had been drinking in the bars. It is very quiet because you will scare the fish. He has never seen a mess or parties going on.

**Stephen Morris** said that the Oak Bluffs Harbor is a bass sanctuary. He explained that during low tide where Sunset Lakes dumps into the harbor you can find striped bass. As the tide goes out the bait comes out of the harbor, when the tide comes back in the bait goes back into the harbor. The striped bass go up and around the sand bar. They would not be there at other times.

**Paul Foley** said that he would be happy to go out and demonstrate the depths of the water for anyone who did not believe his presentation. He agreed that there is a lot that the neighborhood deals with and the fishing pier would be one more thing. He said that it is the night time fishing that the neighbors are concerned about.

**Michele Jones**, Board member of the Martha's Vineyard Dukes County Fishermen's Association, said that they are talking about Oak Bluffs fishing heritage and making a safe place for people to fish. She has been a resident of Oak Bluffs for three years, but grew up in Vineyard Haven. She said that growing up she had to sneak to Oak Bluffs and sneak out onto the Steamship Authority pier or other places she could find to fish. She said that because of increased private property, the bluffs deteriorating, and Homeland Security, there is no place to fish. She is in favor of the proposal in the proposed location. She is also a swimmer who swims on the north bluff and also takes her dog there to swim daily. She does see fish in the water along with bait. It is an optimum fishing spot.

**Linda Sibley** asked Michael Dutton for clarification on the impact the pier would have on swimming. She asked what the safe distance would be around the pier.

There was a discussion of regulations.

- **John Breckenridge** said the pier would be subject to further review from the Army Corps of Engineers and Oak Bluffs Conservation Commission. He asked if there were any other reviews the project would need.
- **Michael Dutton** answered that it would need to go through the Chapter 91 license process also.
- **John Breckenridge** asked if the pier would conform to Oak Bluffs pier regulations and if the rumor was correct that if you were not fishing you could not use the pier.
- **Michael Dutton** said the regulations that are incorporated into the Land Management Agreement are designed to give teeth to law enforcement to have those on the pier making noise for example to move along. It is not intended to make sure everyone has a fishing pole.
- **John Breckenridge** asked for that explanation in writing for clarification.
- **Michael Dutton** said there is no intent to enforce that only fishing could take place on the pier, unless to keep order.

**Kathy Newman** pointed out that a courtesy patrol with the Fishermen's Association was offered in Janet Messineo's letter. **Janet Messineo** said that she understand the fear of losing something; fishermen have lost a lot of access over the last thirty years. When the piping plovers nested on the Trustees of Reservation land, five fishermen stepped forward to be courtesy patrol to help give the Trustees' information to people. As a Surfcasters member, she is sure the club would love to help the authorities; however they do not enforce anything. They are looking for a nice quiet place to fish.

**Linda Sibley** asked if there were any more questions that anyone had for the applicant to respond to in writing. She said the written record would remain open so that people could submit comments, concerns, or questions in writing. All questions for the applicant can be submitted until October 14<sup>th</sup> at 5 pm. The applicant will have until October 19<sup>th</sup> at 5 pm. to respond, when written comment will close. All letters are to be sent to the Commission. Emails can be sent to [taylor@mvccommission.org](mailto:taylor@mvccommission.org).

**Linda Sibley** continued the public hearing to October 21<sup>st</sup> for the purpose of written testimony. If there is no substantial new testimony, the hearing will be closed at that time without taking oral testimony.

#### **4. DRI COMPLIANCE PROCEDURE**

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**Christina Brown** asked for comment on continuing the discussion on the Compliance Procedure for another night.

**Chris Murphy** stated that while the discussion is being continued the next step would be a policy for non-concurrence. He asked that when the discussion takes place the Commission needs to address how to handle non-concurrences.

**Ned Orleans** suggested that it be the first item on the agenda.

**Christina Brown** explained that would not be possible. The next Commission meeting is posted for October 21<sup>st</sup> at 8 p.m. because of a SAMP meeting schedule at 5 pm. There are public hearings posted to start at 8 p.m.

## **5. 45 BEACH ROAD / PIZZA (DRI 626) WRITTEN DECISION**

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*Commissioners present:* J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley, B. Smith.

*For the applicant:* William Craffey

**Linda Sibley moved, and it was duly seconded, to approve the written decision on the 45 Beach Road / Pizza as written. A roll call vote was taken. In Favor: J. Breckenridge; C. Brown; P. Cabana; C. Murphy; K. Newman; N. Orleans; D. Sederholm; L. Sibley; and B. Smith. Against: None. Abstentions: None. The motion passed.**

## **6. BIG SKY TENTS BUILDING (DRI - 618 - M) DELIBERATION & DECISION**

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**Christina Brown** said that there was not a quorum for the deliberations for Big Sky.

## **7. TISBURY MARKET PLACE (DRI - 485 - M5) DELIBERATION & DECISION**

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*Commissioners present:* J. Breckenridge, C. Brown, F. Hancock, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, H. Stephenson.

**Linda Sibley** gave the LUPC Report

- The offers were reviewed and agreed to. There have been some clarifications to the offers but they are still the same.
- The LUPC did not have time to formally review the benefits and detriments.
- A vote of 2 in favor and 1 abstention was taken to recommend the full Commission to approve the project with the conditions of the offers.

There was a discussion regarding the minimum length of time for the rental unit.

- **Kathy Newman** said that she was surprised that the offer stated the rental unit would at least a one-month duration. She felt that one month was a short-term rental.
- **Christina Brown** said that in the past the Commission has used the one-month period as a cut-off to separate the weekend, weekly, and vacation rentals.
- **Kathy Newman** said she was not comfortable using the one-month because it did not seem to be year-round housing stock. One of the benefits of the project was that it would add to the year-round housing.
- **Mark London** said that the idea is not that it would be rented regularly on a monthly basis, but rather it would be owner occupied but could be rented out if owner went away for a minimum of a month or sublet by a year-round renter for a minimum of a month.
- **Kathy Newman** suggested that it be re-worded.
- **Sam Dunn** said he would re-word it to read that it would be a year-round occupant who may rent it for periods of time no less than one-month.

***Doug Sederholm moved, and it was duly seconded, to suspend the rules for 15 minutes. In favor: 9. Opposed: 1. Abstentions: 0. The motion was approved.***

**Linda Sibley** said that there are offers made that the applicant cannot do unilaterally such as the shared use path easement which would have to be done unanimously with the condo owners because it involves giving up property rights. He also may need a majority vote of the condo owners to construct a pedestrian passage through the middle of the center island, reverse the flow of traffic, and institute a deterrent system to keep scofflaws out of the parking lot.

**Christina Brown** said the asterisk said the starred items may require a majority vote. She said either they do or they don't. **Sam Dunn** said he is not sure he would have the authority to do those things. **Doug Sederholm** suggested that the offer be clarified to state that if the applicant has the authority to do those things unilaterally he shall do them; if it requires a majority vote of the condominium association he shall make his best efforts to do so. **Sam Dunn** said that is what he meant and intended.

**Christina Brown** read the offers.

**John Breckenridge** said that under offer number 9 "landscaping" the word "nitrogen-sourced" and "types" needed to be added to read "and nitrogen-sourced types".

**Holly Stephenson** said that the offers presented did a good job addressing the public's concerns.

***John Breckenridge moved, and it was duly seconded, to approve the proposal with the conditions as the clarified offers presented for the benefits and detriments listed.***

- **Ned Orleans** said that some of the detriments seem to be written from a town's perspective rather than the Commission's.
  - The wastewater which states "when the Town agreed to install the sewer system, there was an understanding that it would be growth neutral." There was a discussion at town meeting but it was not part of the motion so that it does not exist. He does not see it as a detriment.
  - Impact Abutters states the majority of other Condominium Association members have written in opposition to the project based on many issues such as increased traffic, parking, noise, etc. He said that the same members voted unanimously to support the project.
- **Christina Brown** said this was in regards to the shared use path, which was a separate issue.
- **John Breckenridge** suggested changing the wording to "some of the other Condominium Association members..."
- **Ned Orleans** said that the Scenic Character section states that the building will occupy a currently open space and block some private views, though it would barely be visible from the public road. He stated that the impact on the private views does not belong there. **Linda Sibley** said the statement would belong in the section Impact on Abutters. **Doug Sederholm** added that the owners of the private views knew that that particular area was developable when they bought their condos.

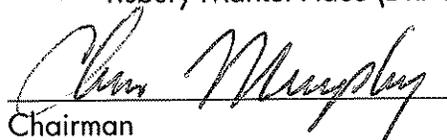
- **Christina Brown** said she had a problem with the statement: "the proposal adds parking and circulation demands to a commercial complex that already experiences many days with little or no parking available." She felt using the term "many" exaggerated the situation and suggested changing the word "many" to "some".
- **Holly Stephenson** asked if there was ever a traffic study or was it ever decided that reversing the flow of traffic in the parking lot was a good idea.
- Many Commissioners answered that it was decided that it would be positive.
- **Paul Foley** said that the LUPC did note that it would be up to the Tisbury Planning Board.
- **John Breckenridge** complemented Sam Dunn on the project.

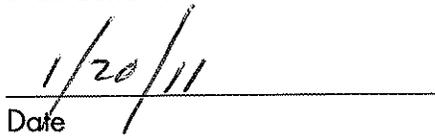
**A roll call vote was taken. In favor: J. Breckenridge, C. Brown, F. Hancock, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, H. Stephenson. Opposed: None. Abstentions: None. The motion passed.**

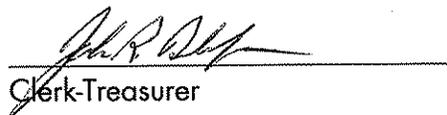
The meeting adjourned at 10:30 p.m.

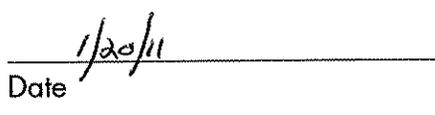
DOCUMENTS PRESENTED DURING THE MEETING

- Letter to the Seaport Advisory Council regarding the Menemsha West Dock Fire Repair
- Oak Bluffs Fishing Pier (DRI-628) Public Hearing Notice
- Oak Bluffs Fishing Pier (DRI-628) Staff Report and Traffic Study Memo
- Douglas Cameron's Information Packet in regards to the Oak Bluffs Fishing Pier (DRI-628)
- Email from Oak Bluff's Police Chief regarding Oak Bluffs Fishing Pier (DRI-628)
- Letter from Oak Bluffs Highway Superintendent regarding Oak Bluffs Fishing Pier (DRI-628)
- Letter from Oak Bluffs Harbor Master regarding Oak Bluffs Fishing Pier (DRI-628)
- Four-page petition in support of the Oak Bluffs Fishing Pier (DRI-628) presented by David Nash
- Tisbury Market Place (DRI-485 – M5) Applicant's Offers
- Tisbury Market Place (DRI-485 – M5) Draft Benefits and Detriments

  
Chairman

  
Date

  
Clerk-Treasurer

  
Date