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**Minutes of the Commission Meeting  
Held on May 23, 2011  
In the Stone Building  
33 New York Avenue, Oak Bluffs, MA**

**IN ATTENDANCE**

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

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|------------------------------------|---------------------------------|
| P Bill Bennett (A-Chilmark)        | - Chris Murphy (E-Chilmark)     |
| - John Breckenridge (E-Oak Bluffs) | - Katherine Newman (E-Aquinnah) |
| P Christina Brown (E-Edgartown)    | P Ned Orleans (A-Tisbury)       |
| P Peter Cabana (E-Tisbury)         | P Camille Rose (A-Aquinnah)     |
| P 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)      | P Brian Smith (A-West Tisbury)  |
| P Leonard Jason (A-)               | P Holly Stephenson (E-Tisbury)  |
| P James Joyce (A-Edgartown)        |                                 |

Staff: Paul Foley (DRI Coordinator), Mark London (Executive Director)

**Fred Hancock**, Acting Chairman, called the meeting to order at 7:00 p.m.

**1. TISBURY FARM MARKET (DRI-631) WRITTEN DECISION**

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Commissioners Present: B. Bennett, C. Brown, P. Cabana, M. Crane, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

**Fred Hancock** asked if there were any changes or omissions to the draft written decision prepared by staff.

- **Christina Brown** noted that the dates need to be changed and Paul is in the process of correcting them.
- **Christina Brown** and **Fred Hancock** noted that on page 2, lines should state that public hearing was closed but the written record was left open, as the Henry Stevenson plan was dated after the public hearing and was received on May 2, 2011. **Mark London** noted that the plan had been presented at the public hearing.
- **Christina Brown** noted additional corrections:
  - Page 4, line 21,22,23,24; Paul is checking the numbers for the floor space. When added it is 10,960 square feet but it is stated as the total area being 11,180 square feet.
  - Page 6, line 228; there is a difference in the boiler plates. It should cite both the MVC Regional Policy Plan 1991 and the Island Plan 2010.

- Page 9, last line; there is a typo; stating Edgartown, that needs to be corrected.

**Christina Brown moved, and it was duly seconded, that the written decision be accepted as corrected. A roll call vote was taken. In favor: C. Brown, B. Bennett, L. Jason, N. Orleans, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, C. Rose. Opposed: None. Abstentions: None. The motion passed.**

## **2. OCEAN CLUB EXPANSION (DRI-309-M2) WRITTEN DECISION**

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Commissioners Present: B. Bennett, C. Brown, P. Cabana, M. Crane, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

For The Applicant: Mr. Collins

**Fred Hancock** asked if there were any changes or omissions to the draft written decision prepared by staff.

**Doug Sederholm** noted that under exhibits, the memos from Mark London that record the conversations with the acoustical consultants must be listed.

**Linda Sibley** noted that page 12, line 450, regarding the sound system should state install and approve. **Fred Hancock** stated that the monitoring system has to be installed, approved and verified before the MVC signs off on the Certificate of Compliance.

**Doug Sederholm** noted several corrections:

- Line 161 regarding access, should say "as reviewed by state experts for handicap accessibility."
- Line 205 should say "coexist with its neighbors".
- Line 209 should say "the proposed development as conditioned would have a relatively limited impact."
- Line 224 does not correctly state what the consultant said, that the increase in parking would be minimal. Therefore, it is necessary to delete the words "and traffic".
- Line 301; delete "are an essential part of the decision".
- Line 336 and 338; delete "such as" and "or", and restate as "this plan shall be submitted".

There was a discussion of the wording about insulating the soffits.

- **Doug Sederholm** noted that lines 347, 348, 351, 352 are confusing regarding the insulation in the soffits. The statement needs clarification.
- **Linda Sibley** believed the sound insulating material was on the inside but also requested clarification.
- **Mr. Collins** clarified that the plywood seals the soffit, the fiberglass insulation fills the soffit and then plywood seals the other side of the soffit.
- **Fred Hancock** noted that the applicant has to pass the test and they will need to determine how to do that.
- **Linda Sibley** stated that for future needs it must be understandable and perhaps line 347 can be stated as "shall install sound insulating material in the soffits." And for the

part that includes the motel side, reword to state the “sound insulating material between the plywood layers.” This would then not be specifying the particular type of material.

**Doug Sederholm** noted additional corrections:

- Line 439 would be clearer if stated as “shall be limited to”.
- Line 446 reword to: “the applicant shall install” and add “including the preservation of the data for a minimum time to be determined by LUPC”.
- Line 449 reword to: “shall be submitted”.

**Peter Cabana** and **Doug Sederholm** noted that throughout the written decision the applicant’s actions should be changed from the past to present tense.

**Christina Brown** noted several revisions:

- Line 246, correct the wording to “additional flow allowance”.
- Line 257, add the boiler plate that was agreed to regarding the MVC Regional Plan and the Island Plan.
- Line 309, is confusing on how the hours are stated. The suggested revision is: “hours of operation open to the public shall be limited to 7:00 a.m. to 1:30 a.m.”

There was a discussion of lines 495-500, regarding length and validity of the decision.

- **Christina Brown** felt that it seems to say if one condition is not in compliance then the entire decision becomes null and void. Christina felt this is not exactly what MVC meant. **Fred Hancock** and **Doug Sederholm** clarified to reword as: “if the applicant should not commence use of the second floor within two years of this decision, the decision shall be null and void”.
- **Leonard Jason** noted that two years is given to get the certificate of compliance; if it does not occur, the decision becomes null and void.
- **Christina Brown** remarked on the issue of validity of approval and stated if the commission approval becomes null and void then the property will then not be a DRI.
- **Linda Sibley** felt item 6.3 still needed clarification and perhaps could be stated as: “the applicant shall have two years ... conditions herein”? She also questioned that if this use should not commence, will the decision be null and void and have no further effect?

**Fred Hancock** stated that because some of the conditions have to be referred back to LUPC, perhaps the certificate of compliance might be in order if it belongs in part 6.1 and not part 6.3.

**Doug Sederholm** noted that lines 479-488 need to also include a statement regarding compliance. It was suggested that the sentence be started as: “Before any event with any amplified music is held at the venue, the applicant must obtain a certificate of compliance...” and also include the paragraph regarding LUPC.

There was further discussion regarding item 6.3.

- **Fred Hancock** asked Mr. Collins to clarify the statement with respect to amplified music, a DJ and/or. a band.
- **Mr. Collins** stated that he would consider a DJ is to be live music, not background music.
- **Linda Sibley** thought it could then be restated as “no live DJs or music”.

- **Camille Rose** did not recall discussing live vs. recorded (as a radio could be extremely loud and amplified) and thought it was just stated as amplified.
- **Fred Hancock, Doug Sederholm** and **Linda Sibley** were in agreement that recorded or background music would be ok if used in such an instance as a yoga class.
- **Doug Sederholm** noted that this seems to be a loophole that needs to be dealt with.
- **Fred Hancock** thought including the wording of DJ and live resolved the issue.
- **Doug Sederholm** questioned if loud amplified music would be a problem for the neighbors.
- **Mark London** recalled that Mr. Tocci had stated that live music tends to be louder. A house sound system can have a bass reducer built in. If that house system were used for live music or by a DJ, it would cause fewer problems.
- **Linda Sibley** felt that was redundant.
- **Leonard Jason** and **Doug Sederholm** suggested to eliminate the word live.
- **Christina Brown** thought that it also stated somewhere else that the applicant cannot exceed the noise limits by any means.
- **Linda Sibley** asked for clarification on the meaning of event and amplified music and perhaps this should not apply to portable music players with a certain number of decibels.
- **Fred Hancock** suggested rewording as “before any events with amplified music” is held at the venue and also agreed with Christina Brown that using DJ and live music is much clearer.
- **Doug Sederholm** felt that would not be protective enough as the issue is whether it is loud. You need amplification to be loud, therefore any amplified music could potentially cause a problem. If the music is not through a sound system, then it is not amplified.
- **Paul Foley** reiterated the final wording: take out “live” and add that the applicant must get a certificate of compliance from LUPC before any events with amplified music are held at the venue.

***Doug Sederholm moved, and it was duly seconded, to approve the written decision with all the corrections as discussed. A roll call vote was taken. In favor: B. Bennett, C. Brown, P. Cabana, F. Hancock, C. Rose, D. Sederholm, L. Sibley, B. Smith. Opposed: None. Abstentions: None. The motion passed.***

**Linda Sibley** suggested and it was agreed by consensus, due to the complexity of the changes, that the Commission authorize the acting Chair, Fred Hancock, to read the revised written decision to ensure accuracy. Fred Hancock agreed to do so.

### **3. BOX SCOW BUILDING AT BOCH PARK (CR 4-2011) CONCURRENCE REVIEW**

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*Commissioners Present: B. Bennett, C. Brown, P. Cabana, M. Crane, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.*  
*For The Applicant: Mr. Box*

#### **3.1 Staff Report**

**Paul Foley** gave the staff report:

- Mr. Box wants to build a scow on the property owned by Ernie Boch in Tisbury in a temporary structure.
- The Tisbury zoning for a temporary structure is only for six months and Mr. Box requires 18 months, so the project needs a building permit and was sent to MVC.
- A one page description has been given to everyone.
- The project has the approval of the planning board and the conservation commission.
- There is a rendering showing how the temporary structure will fit in with the other buildings. The temporary structure will be 40 feet wide, 72 feet long, and 26 feet high, with a tin roof and plastic sides.
- It will be an educational project and a documentary will also be produced.
- After the project is completed the applicant will restore the property back to its current state.
- There will be five designated parking spaces.

### **3.2 Applicant's Presentation:**

**Ted Box** reviewed the proposal:

- The process has already started and the documentary has begun.
- Children will be involved in all phases of the project. They will be working with the Charter School as well as Vineyard Voyagers and MV Sail.
- Mr. Box noted that he has previously apprenticed children and worked with kids at risk and wants this project to expand that work and include nonprofits. The Smithsonian is involved and shortly Mystic Seaport will be as well. The project requires old growth timber and they have started conversations with Mystic Seaport to acquire that through them.
- Both the Island and off Island communities have stepped up in support of the project. The tin roof is being donated as well as much of the building material.

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

**Ken Barwick**, Tisbury Building Inspector, summarized the project from the Town's point of view.

- The appropriate departments in town have reviewed the project. The Conservation Commission has stipulated a few conditions to protect the integrity of the buffer on the property. The Board of Health has reviewed the project with respect to the employees on the property, to ensure they have facilities close by.
- There is no proposal to put utilities on the property except electricity which exists as temporary service.
- Mr. Boch is limited to five motor vehicles to park in designated locations on the property which were located by the Conservation Commission to prevent damage to the buffer.
- The area of the property to be used for the project is at the highest elevation that the property affords naturally and is equal to the one-hundred-year stillwater flood level.
- Due to the size of the building, it is being treated as an addition of a second structure to an existing building currently on the property (the former Entwistle building). The temporary structure would be a secondary building to the primary building. Zoning in Tisbury for a temporary structure is 180 days and the scope of this project will be up to 18 months.
- Mr. Barwick has a copy of the lease agreement with the owner and it is available for review.

- The project is consistent with the waterfront commercial district rules and regulations. The intent, purpose, and use are construct the vessel, dismantle the building, launch the vessel and put the property back to its original condition.
- He found no issues with the project.

### **3.4 Deliberation and Decision**

- **Doug Sederholm** asked if other vessels that were previously built used a temporary structure. **Mr. Box** replied that historically 90-99% were built outside. He has built boats previously outside and it is preferable that it be done under cover due to the detail required and the weather conditions.
- **Linda Sibley** expressed concern regarding the Tisbury Conservation Commission condition that requires that the building be taken down in 18 months and is that binding.
- **Leonard Jason** asked on what basis it was referred to MVC. **Fred Hancock** reiterated that this was a concurrence review.
- **Leonard Jason** also questioned the time frame and delay for the referral to MVC. The Tisbury Conservation Commission dealt with the project on May 3, 2011 and came to MVC approximately 7- 10 days later.
- **Paul Foley** clarified that other boards felt that it was a temporary structure but technically it is not, so Mr. Berwick sent it to MVC and Mr. Barwick felt since it was an auxiliary building to an existing structure that it required a concurrence review.

***Christina Brown moved, and it was duly seconded, that MVC not concur the referral of this project since it does not have regional impact, as it is an 18 month project with minimal traffic of five cars.***

- **Holly Stephenson** felt it was a highly visible location for approximately 18 months that would include two summer seasons. Since planning boards and the Island Plan have policies to allow for waterfront access whenever possible, Holly wanted to know if the public would be allowed to visit on foot and have access to the property. In addition she asked if the building/doors would be open for viewing. **Ted Box** stated that the project would be visually pleasing and accessible as a work in progress. They have invested heavily in an insurance policy so the public would be able to view the project.
- **Holly Stephenson** asked if the beach would be accessible whenever possible. **Ted Box** confirmed that it would.
- **Jeff Kristol** and **Geoghan Coogan**, Tisbury selectman, stated that they think the project is wonderful and hope that it will bring people to town. They were pleased that there was a motion on the floor to not concur and feel the project is very exciting and the next 18 months will be great and they are looking forward to the project.

***A roll call vote was taken. In favor: B. Bennett, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, M. Crane. Opposed: None. Abstentions: None. The motion passed.***

The meeting was adjourned at 8:30 p.m.

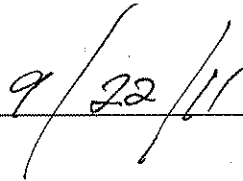
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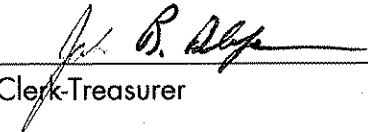
DOCUMENTS REFERRED TO DURING THE MEETING

- DRI #631 – Tisbury Farm Market – draft decision
- DRI #309 M2 – Ocean Club Expansion – draft decision

  
Chairman

Date



  
Clerk-Treasurer

Date

