



PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

**Minutes of the Commission Meeting
Held on June 16, 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)
P Peter Cabana (E-Tisbury)	P Camille Rose (A-Aquinnah)
- Martin Crane (A-Governor)	P Doug Sederholm (E-Chilmark)
P 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-County)	P Holly Stephenson (E-Tisbury)
P James Joyce (A-Edgartown)	

Staff: Paul Foley (DRI Coordinator), Mark London (Executive Director), Bill Veno (Sr. Planner), Bill Wilcox (Water Resources Planner)

Chris Murphy called the meeting to order at 7:00 p.m.

Chris Murphy noted that Bill Wilcox is retiring and he extended thanks for his years of service to MVC.

1. GOODALE PIT (D.R. 1-2011) DISCRETIONARY REFERRAL PUBLIC HEARING

Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

Applicant Present: Peter Goodale, Jerry Goodale; Kevin O'Flaherty (Applicants' Counsel)

Chris Murphy reminded everyone that the purpose of the public hearing was to discuss a discretionary referral by the Oak Bluffs Board of Selectmen (BOS) to consider whether or not the project is a Development of Regional Impact. If it is so determined, the MVC would then hold another public hearing on the merits of the proposal.

Doug Sederholm, Hearing Officer, opened the Public Hearing at 7:15 p.m. and read the hearing notice.

- The hearing concerns whether a discretionary referral should be reviewed as a Development of Regional Impact (D.R. 1-2011), Goodale Pit Expansion.
- The applicant is Peter Goodale of Goodale Construction Company. The location is 164 Edgartown/Vineyard Haven Road, Oak Bluffs, MA; map 51, Lot 2 and is a lot of 100.2 acres.
- During the continued mining of the approximately 50 to 70 year old sand and gravel pit, the most recent clearing of land occurred in an area identified as a priority habitat of rare and endangered species by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).
- The owners seek to continue their operations and neighbors are asking for review of the mining, concrete and asphalt operations with a number of environmental concerns.

1.1 LUPC Report

Doug Sederholm, LUPC Chairman, recapitulated the situation and gave the LUPC report.

- LUPC had discussed the referral by the Oak Bluffs BOS and voted 11 to 1 to recommend to the MVC to not review it as a DRI.
- Since that time the Town of Oak Bluffs has clarified its referral and made it clear it is a discretionary referral, which under the MVC rules requires a public hearing to determine whether it is a DRI.
- The Commissioners have been asked to base their decisions on what they hear tonight and not on what they may have heard in the past or what position they might have taken at the LUPC meeting.
- He read the relevant sections of the Martha's Vineyard Commission Act, Chapter 831, to clarify why the public hearing was being held such as section 14e. The Commission must consider whether the proposed development will have impacts within other municipalities on the values set forth in section 1. Section 1 identifies the values that the island of Martha's Vineyard possesses are unique, natural, historical, ecological, scientific, cultural and other values and there is a regional and statewide interest in preserving and enhancing these values.
- In response to a question as to what exactly is the proposed development, he said that was still to be defined, but it appeared to be the continued operation of the pit and the clearing of some habitat in order to continue those operations.
- He read the referral letter from the Oak Bluffs BOS. and it was read by Doug Sederholm.

1.4 Staff Report

Paul Foley presented the staff report.

- About 15 to 20 letters have been received since the LUPC meeting and are available for review on the website.
- MVC received the referral letter from the Oak Bluffs BOS and a clarifying email stating the town meant to send it to MVC as a discretionary referral.

- He showed a map indicating where the excavation was being done over the years.
- There is an extensive PowerPoint presentation available to help understand the site and its operations.
- The proposal is for the expansion of the operations throughout the rest of the site (Map 51).
- Zoning is R3 residential as adopted in Oak Bluffs in 1948.
- MVC staff has asked the Oak Bluffs BOS to ask town counsel to clarify issues concerning the definition of a structure and preexisting non-conforming uses, as well as whether some of the structures on the property actually structures or machines supported by structures, as this would have an effect on if local or state building permits are required.
- DEP was contacted and indicated that the plant was inspected in 1987 and 1988. EPA looked at the operations in 1989 and there were no problems cited; it has not been inspected since that time. MVC staff recommended that the applicant have an engineer periodically review the operations to ensure they are still in compliance.
- Paul Foley spoke with Joe Canzano of EPA to see if a permit was needed under the national pollutant and discharge elimination system for the process waters. A filter prevention and counter measure plan may be required for the above-ground storage tanks.
- Surrounding land use maps were reviewed;
 - Approximately 70 acres have been excavated.
 - The excavation is near the State Forest and close to the border of Edgartown, Tisbury and West Tisbury.
 - There is still an easement on the property to Little Pond.
 - Four wells are nearby; 3 of the wells probably are not affected by the pit but the Upper Lagoon well might be.
- The abutters are: water district wells, residences, Vineyard Youth Tennis, the alpaca farm and Greenway lands.
- The history of the pit was reviewed:
 - The concrete plant was purchased in 1952.
 - The asphalt plant and the land under it were purchased in 1955.
 - The pit was purchased outright by Mr. Goodale in 1962.
- It is proposed to continue mining the operation on this property. The long term plan is to operate on the nearby lot that is owned by the Goodales.
- Recent activities on the site have elicited concerns from the neighbors:
 - The significant cutting of trees.
 - The new and larger asphalt silo.
 - The relocation of the Little Pond access road.
 - The new fences that have been erected around the property.
 - The new stockade fence around lot 40.1
- An operational overview of the site was presented:
 - The asphalt plant is leased by the White Lynch Corporation.
 - The cement plant is in operation.
 - The pit handles the excavation of natural sand and gravel products.

- The plant produces various concrete and rebar products.
- Hours of operation are 7 a.m. to 4 p.m. weekdays and 7 a.m. to 12 p.m. Saturday.
- There are 20 full time employees.
- From 1 p.m. to 4 p.m. on Saturday, the site is used as a shooting range.
- The pit excavates on average approximately 80,000-110,000 tons of materials per year.
- On average 1 to 2 acres per year are cleared. There are still 25-30 acres left and at this rate the operation will continue for approximately 20 years.
- The operation does a quarterly filing with the US Mining and Health and Safety Administration and has annual inspections.
- There was a site visit conducted on June 16, 2011 by 10 to 12 commissioners.
- Some key issues are the following.
 - Air emissions: is it reviewed and studied?
 - Groundwater: is there a stormwater runoff plan and has the exposed water table been tested?
 - What are the long range plans for the pit and the other piece of property?
 - What is the distance of the asphalt tower to the property border and does it meet regulations?
 - What will the NHESP allow the Goodales to do with regards to the operation and the protected habitat?
- Environmental concerns were reviewed.
 - Vegetation is disappearing at a rate of 1-2 acres per year.
 - Land that was designated habitat by the NHES program was cut, however, the Goodales were not aware that it was protected. They were not notified by the NHESP.
 - There are large piles of landscaping and construction materials on the property.
- The neighbors have complained about the pit being used for target practice.
- The new asphalt structure is taller and can be seen from the neighbor's property as well as from parts of Edgartown/Vineyard Haven road.
- He presented a site review covering the period from November/December 1938 to May 2010. Eight acres have been cut since 2005.
- There are containers of organic chemicals on the property.
- The impact on the abutters was reviewed:
 - The abutters have expressed concern about the fumes being generated.
 - They have also questioned the relocation of the access road.
 - They have noticed the cutting of trees.
 - The abutters question the installation of the new fences.
 - They are also concerned about the lack of communication with them.

Bill Wilcox presented the water resources report.

- The pit (lot 65) is located at an elevation of 70 feet above sea level.

- The groundwater table is just about at that elevation, it is 60-65 feet below the unmined grade.
- The groundwater falls off to the N/NE toward the Lagoon Pond.
- There are town wells on either side pit. The zone 2 areas indicate those areas where groundwater is contributed to these wells under extreme pumping and with the assumption of no recharge to the groundwater. The zone 2 areas cover most of the pit.
- There is no apparent issue with nitrogen loading that is associated with the operation.
- The distance to the Lagoon Pond wells is approximately 3000 feet from portions of the pit that are nearest to the road. Since the pit is so large, this equates to approximately more than one mile.
- A correction needs to be made to the water meter records; data indicates that the water district included 998 million gallons of water use and the town only pumps 350 million gallons per year. The use should be approximately 11 million gallons.
- The water usage is primarily as wash water and process water.
- The asphalt plant includes CO₂ storage. There is a 10,000 gallon tank that is double walled and two storage tanks associated with heavy oil. In addition they have cement containment.
- There is a large rap (recycled asphalt product) pile which could release some chemicals; however, Bill did not find any indicators that there is a serious risk to the health of groundwater associated from that type of leaching.
- There is a fuel storage and gas /diesel tank for company vehicles on the property.
- The chemicals that are used in the concrete plant are primarily salts to set the cement and reduce corrosion for the rebar and do not pose a threat to the groundwater.
- It has been stated incorrectly that there is a potential hazardous material. It was stated that one product used contains ethyl benzene and it is actually tri-ethyl benzene
- Stormwater runoff is all internal discharges into the ground and not the abutting properties.
- The groundwater does rise and fall over the years by four feet or more in that area. In a dry year, the excavation may get down towards the groundwater table. In a wet year it would rise up and create a puddle.
- There is an overlay town zoning by-law that requires mining to stay four feet over the highest historic water table levels, to keep from exposing the groundwater. The risk is that contaminants can run off and head for the groundwater without having been filtered by flowing through dry sand.
- The lead associated with the firing range represents long term contaminants that should be addressed. Lead does pose a low risk to groundwater quality at sensitive receptors that are off site. In the immediate area there may be some lead that can move into the groundwater.
- Clarification about the groundwater elevation was addressed and there is no specific elevation for the site. The nearest observation is the center of the State Forest which is a quite distance from the pit. That observation goes up 7 feet above the lowest historical level.

- The retained water in the corner of the pit can be the result of exposure of the aquifer as well as retention from precipitation and runoff. There are settling areas constructed where runoff or silty materials settle out and at times could be exposures to the groundwater. It is not a result of excavation.

1.2 Applicants' Presentation

Kevin O'Flaherty spoke on behalf of the Goodale Construction Co.

- The Goodale Construction Co. is not an "applicant" in that they have not applied for permits or a DRI.
- The Oak Bluffs BOS asked the MVC to review the DRI as described; as an expansion and a change in use of the Goodale's ongoing operations and that is the issue that is before the commission.
- It is for the Commission to determine if they will accept the referral and initiate a DRI review; however, he does not believe there is any basis for it. Currently there is no expansion of the operations going on at the site. The operations continue to be the same as the operations have been for years. Some parts of the site get cleared as other parts of the site get exhausted of the sand and gravel, which is the nature of the business.
- There has been a consistent clearing of the property for years and that does not constitute an expansion or change of use.
- The sand and gravel operations predate zoning and there can be no dispute that it is a pre-existing non-conforming use. The operation is a use of the entire property. The pit has pre-existed the neighbors who have expressed their complaints regarding the operations.
- They believe that the premise of the report for referral is inaccurate and they respectfully disagree with Doug Sederholm's description of the statue. The selectmen referred this to the Commission but in reading the statue, it is not within the statue's purview as there is no application for any development permit.
- Section 14 has been referred to but it is necessary to refer to section 13. He reiterated that section, again noting that there is no proposed development for which an application for development permit has been made. He further noted that section 6 has a very clear definition for a development permit from a municipal granting authority.
- With respect to the need for a permit:
 - The planning board, conservation commission and local authorities of the town have reviewed and they did not state that any permits were required.
 - Section 14 does state the Commission shall review all applications, and again there is no application.
 - Section 14 does allow discretionary referrals but, the predicate for those has to come from a BOS or a town agency that has asked to grant a permit. Therefore, without a predicate of a permit there is nothing for the MVC to rule on.
 - During the staff report Mr. Foley had mentioned federal and state permits that may be required, but they are not within the purview of this commission. The trigger for the MVC is municipal permits.

- The MVC website clearly states the step by step DRI process and step 1 refers to seeking a development permit.
- The Goodale property is subject to quarterly reporting of the US Mining, Hazard and Safety Administration and is directed to the safety of those who work on the site.
- Within the last few days the DEP has made a visit to the site for the Goodale operation as well as the White Lynch asphalt operation. The DEP did not note any violations or required permits.
- The NHESP is interfacing with the Goodale's and those issues will be worked out at that level and not with the MVC.
- It was noted that Mr. Foley's report indicated that perhaps they should meet with an engineer to review operations and the Goodale's have already retained such to review all state and federal requirements that could impact their operation.
- Their position for the reasons stated, is that the MVC should not accept the referral and should not begin the DRI process on the ongoing operations of the Goodales as the necessary predicate is not present.

1.3 Comments from Public Officials

Doug Sederholm asked if there were any representatives of the town boards that wanted to speak on behalf of the town boards as to whether MVC should accept this as a DRI. There were no comments.

1.4 Public Comments

Doug Reese, a member of the Little Pond Road Association, thought it was necessary to review the operation to protect the communities and the future of the Island. He felt there was an increase of use especially with the new asphalt plant. Previously there was no smell from the tower and Bob Gray who lives one mile from the site now smells the asphalt, so that indicates an increase in the intensity of use. There could also be a potential regional effect on the aquifer as the wash water increases.

Doug Sederholm asked if there was anyone from White Lynch who could address the use of the new asphalt tower with regards to production. **Mr. O'Flaherty** responded that the daily level of production is the same and that the plant has not expanded or changed. However, during busier times, there might be more asphalt produced to meet the business requirements. The silo is taller and the conveyor belt is higher, but production remains the same.

Doug Sederholm asked if the water usage is increasing. **Bill Wilcox** replied that in 2001, 75 million gallons were used and in 2003, 11 million gallons were used. Usage will vary based on demand.

Mike Shabazian addressed the counsel's comments that the asphalt plant is unchanged. He felt that documents or evidence should be presented to substantiate the statements.

John Breckenridge asked the staff what was the height of the silo. **Paul Foley** noted it is not visible above the tree line.

Mr. O'Flaherty said that the odor comes from the actual production of the material. **John Breckenridge** asked if there are different grades of petroleum products that are used in the production of the asphalt that could be causing the odors. **Mr. O'Flaherty** stated he did have that answer and reminded everyone that what was referred to MVC was whether the sand and gravel operations were changing and not the asphalt plant.

Mike Shebazian thanked the MVC for visiting the site and noted that all points of the intensity of use are well stated. No one is attacking Mr. Goodale or his operations and it is a vital industry to the Island. However, it still needs to be reviewed and a plan developed on how it will be handled for the future since there was no foresight 50 years ago for reclamation.

Doug Sederholm noted that Mike had mentioned that he did some research on the economics of bringing the materials to the Island if the pit was not in operation. **Mike Shebazian** noted that his data was at home but he has talked with Ralph Packer and associates in Falmouth regarding cement; he estimated that even with transportation costs factored in the cost would be equal if not less than purchasing from Goodales.

Linda Sibley made a point of order, noting that we were discussing the merits.

Ward Mayfield noted that he was a 44-year employee of Goodales and that nothing has changed over the years. He stated it is a good operation and it took 40 years to build the business to support the entire Island including the fill that was used at the Hospital. He felt it was a shame that a handful of individuals can scrutinize what is helping the entire Island. He also explained that the cutting of the tress is done in the winter so they can be processed in the summer during the dry season.

Robin Hyde stated he is a local contractor, has been hauling gravel from the pit since 1962, and has not seen any real expansion. The only change to the asphalt plant is the efficiency and a larger storage capacity. The continued excavation of the sand and gravel is the only economical and ecological way to support the Vineyard with these materials and it affects every business and every household.

Travis Larsen is a Little Pond resident and felt that the operation has changed over the last 9 months. The biggest issue is that 1-2 acres per year are being exhausted and within 25-30 years the operation will not exist, however, with the intensity of use on the Island this cannot be predicted. A plan needs to be developed and investigated with regards to this issue. He also noted that the Town of Oak Bluffs is not looking at the operation until the public objects. He presented a letter from his "significant other" noting that sometimes you cannot walk in the neighborhood due to the noxious smell.

Doug Sederholm accepted and read a letter from Melissa Harting to be entered into the record

Gary Motto stated he is a landscape designer and contractor. He noted that the water falling into the gravel is being polished before getting into the aquifer. He further stated that the entire Island has been affected by the materials used and the local brown material is the correct material for Island use. It is an extremely well run operation that is successful and safe. The Island

growth has generated significant demand including Island dirt roads and house foundations. The operation is a benefit to many local homes and towns. He hopes this can be resolved amicably. He also noted that Goodales does recycle and truckers are allowed to bring sand and gravel to the pit, so it is a revolving network of materials coming and going.

Betsy Barkinson is a member of the Little Pond Association and her position is not to shut down the pit. They were well aware when they moved to their home that the pit and the access road were already there and hopes that both sides can find a solution that does not require an attorney.

Barbara Ronchetti is next to the Goodales at the Alpaca Island Farm and is also part of the Iron Hill Association. She feels the regional impact is the emissions. She did speak with Jerry Lynch last week and for the record they are installing a condenser to help alleviate some of the noxious fumes. She is hopeful that this will help the current situation and asked if there would be any way to regulate and monitor the impact of the fumes on the environment.

Jay from Brick Sullivan Construction felt that the Oak Bluffs selectman shirked their duties and pawned the issue off to the MVC. He understands that some of the neighbors have complaints but he does not see this as having regional impact. It should be dealt with on a local level and the selectman should step up and resolve the issue.

Josh Gerard is an employee of Goodales and felt that there would be a huge environmental impact if the materials were trucked and barged into the Island. It would also eliminate employment.

1.5 Commissioner's Questions

Holly Stephenson asked Mr. O'Flaherty if you increase the amount produced each year, will it use up the pit faster and therefore is the expansion of the footprint considered an expansion of the operation since it will be used to the full edge of the property. Also will the entire 100 acres be used and what use is planned for the other piece of property. **Mr. O'Flaherty** stated he would not speculate on how the other 40 acres will be used.

- There still seems to be confusion regarding non-conforming structure vs. non-conforming use. If it is a pre-existing non-conforming use there is no restriction in the law under zoning on how large it can be. The pit is a pre-existing non-conforming use.
- The other 40 acres are not currently used as a gravel pit. If the Goodales sought to develop it, then it would have to conform to whatever regulations are applicable to it.
- The regulations are a matter of the Zoning Board of Appeals and he is not aware of any regulation stating that you cannot go to the edge of the property for this use, since this use is not a structure.
- The Building Inspector has stated it is a pre-existing non-conforming use and can continue its use as is.

There was a discussion of fumes.

- **Katherine Newman** asked who oversees or reviews the noxious fumes since they are not a zoning issue.

- **Leonard Jason** noted it is probably a health issue.
- **Mr. O'Flaherty** noted that the DEP monitors these issues. They were at the site two days ago to review the emission controls and the DEP agent did not have any issue with the operations.
- **Katherine Newman** noted that the DEP is not a regular part of the Island and the local process, especially in response to a neighbor's complaint. Is there a local process?
- **Mr. O'Flaherty** agreed with Mr. Jason that the Board of Health would be contacted. However, the DEP did come due to the recent calls from the neighbors.
- **Brian Smith** asked if a DEP contact list could be provided to the neighbors.
- **Mr. O'Flaherty** said he would provide that information to Paul Foley and to the head of the Little Pond Road Association.

Christina Brown noted that an engineer had been contacted to review the federal and state pollution regulations and that it is important that the engineer stay in contact with the MVC, the neighbors and the Board of Health.

Holly Stephenson asked if the Goodale Pit has a regional impact in an economic way on the Island. **Mr. O'Flaherty** agreed that it did, but it is not a development of regional impact.

Holly Stephenson asked Doug Sederholm if regional impact implies that it is only for negative impact. **Doug Sederholm** responded that it applies to negative and positive impact.

Bill Bennett asked the size of the property. It was noted that the property was 110 acres in 1948 and currently it is 100.2 acres.

Leonard Jason asked if there were any deed restrictions when the property was purchased with regards to limiting the size of the gravel operation. **Mr. Goodale** replied that there were not any restrictions.

Erik Hammarlund asked if the Goodales intended to concede that it is a regional impact. **Mr. O'Flaherty** stated that if the question is; does this have a beneficial economic impact, then yes it does, but that does not mean it is a development of regional impact. They are two very different questions. Mr. O'Flaherty continued to state that the question before the MVC is if there is a trigger for MVC to exercise its jurisdiction and review it as a proposed new development, and then to approve or disapprove an application that was made as a DRI.

Ned Orleans asked if the MVC decides not to accept then how will the Goodales plan to solve the issues that have been raised without political interference. **Mr. O'Flaherty** suggested that they would report back to the MVC on what has been done, including visits with the DEP, interactions with the NHES program and this information will become part of the public records. However, they are not sure how to engage the neighbors. **Ned Orleans** suggested that the neighbors create their own committee for interaction with the Goodales and perhaps a good mediator could be involved to achieve answers that both sides can agree on.

Mark London noted that there has been discussion of whether this project needs a permit. Goodales counsel has suggested that the grandfathered pre-existing use applies to the entire property, but there have apparently been other interpretations. The MVC has not received an

answer as to whether the entire property is grandfathered or not. If the Town of Oak Bluffs counsel determines that preexisting non-conforming use does not apply to the entire property then the Goodales would need a permit.

Doug Sederholm stated that if Oak Bluffs determines that Goodales does need a permit, they can then refer it back to MVC.

Doug Sederholm closed the public hearing.

1.6 Deliberation and Decision

Chris Murphy noted that MVC is required to come to a conclusion within 40 days and that this is the last meeting within that 40-day period. The applicant can agree to extend the time period but MVC cannot unilaterally.

Doug Sederholm moved and it was duly seconded that the MVC not accept the referral as a DRI based on the evidence that was heard.

- **Doug Sederholm** said that MVC has not heard anything that indicates that the operation is any different than it was thirty years before the creation of the MVC. The operation has expanded but it is the same as any other pit operation.
- **Katherine Newman** agreed with Doug Sederholm and stated that the only dangling piece is the neighbors' concerns and working out their issues so there is a comfort level and perhaps that can be articulated in a letter back to the Town of Oak Bluffs.
- **Chris Murphy** stated that could be done via a letter, but first a vote on the motion is needed.
- **Linda Sibley** noted that the key word is "new". It does have regional impact every day, but it is not "new".
- **James Joyce** stated that if MVC reviewed the Goodale pit, it would set a bad precedent to review any business.
- **Fred Hancock** said it is logical that if you are mining sand and gravel, you will keep doing so and it is not an increase even if the hole gets bigger.
- **Camille Rose** wanted to know if MVC is committed to getting the answers to the legal questions as better information is needed for future use.
- **Erik Hammarlund** noted that MVC needs to separate the regional impact vs. the development impact. Clarification is needed to determine if MVC should accept or not accept. He asked that the motion be clarified.
- **Doug Sederholm** reiterated the motion.
- **Erik Hammarlund** then suggested that the discussion should address support for the motion based on if it is a regional impact or support of the motion due to the lack of qualification for development status.
- **Linda Sibley** noted that MVC votes on what the statute states but perhaps the language could include "as to why".
- **Leonard Jason** said it is a simple issue; it is or it is not.
- **Bill Veno** believed that the statute states that if the Commission refers it back, it is required to tell the town why it made that decision.

- **Doug Sederholm** stated that section 14 does not state that the “why” must be included.
- **Chris Murphy** noted that the process in place is to vote the motion and then it would go back to the town.
- **Holly Stephenson** asked that the vote be deferred until the Town of Oak Bluffs counsel has responded on the question of development.
- **Chris Murphy** stated that there is a motion on the floor and it needs to be voted on.
- **Brian Smith** clarified that section 14 says there has to be a proposed development. If you vote in the affirmative that it is a proposed development, you then have to notify, but who does the MVC notify as the town agencies responsible for permitting of the MVC decision.
- **Doug Sederholm** again stated that the concern is if the pit is a development or a regional impact. For the MVC to review it as a discretionary referral, then it has to be a proposed development. Therefore, MVC needs to focus on the proposed and nothing has been proposed. One way to look at the issue is that there is nothing new as it is the same as it was 30 years ago. The MVC should not delay any further.
- **Chris Murphy** noted that a yes vote is a vote to not accept this referral as a DRI.

Roll call vote. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith. Opposed: H. Stephenson. Abstention: C. Murphy. The motion passed.

Leonard Jason moved and it was duly seconded that MVC send a letter to the Oak Bluffs BOS regarding the concerns of the neighbors and offering MVC resources.

- **Camille Rose** asked if the letter could convey disappointment that no one from the Town of Oak Bluffs appeared to participate in the discussion.

Linda Sibley moved and it was duly seconded that the first sentence of the letter include an explanation as to why this is being sent back, namely that it is not a proposed development.

Voice vote. In favor: 15. Opposed: None. Abstentions: 1. The motion passed.

2. 18 STATE ROAD (DRI-593-M2) MODIFICATION REVIEW

Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

2.1 LUPC Report

Doug Sederholm reported on the LUPC discussion of the proposal

- Currently it is a commercial use and the applicant wants to change the use.
- It is a three level building and the ground level is maintained as a commercial use. The top two levels are used as residential so the building has a mixed use.

- The proposed tenant would have a seamstress shop on the ground level and live in the upper two levels.
- There is plenty of available parking.
- LUPC voted unanimously that the modification did not require a public hearing.

Holly Stephenson asked for the exact location of the building. **Doug Sederholm** noted it was the former Belushi/Pasano Gallery.

2.3 Deliberation and Decision

Christina Brown moved and it was duly seconded that MVC find that the change from a commercial use that was a DRI to a residential use for the second and third floors does not require a public hearing. Voice vote. In favor: 15. Opposed: None. Abstentions: 1. The motion passed.

Christina Brown moved and it was duly seconded that the commission accept the modification of the DRI on this property as proposed for the residential bond and so record it.

Roll call vote. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson. Opposed : N. Orleans. Abstentions: E. Hammarlund, C. Murphy. The motion passed.

3. 1986 EVELYN WAY (DRI 576-M) EXTENSION REQUEST

Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

3.1 Staff Report

Paul Foley described the project.

- It is a mixed use that was approved two years ago.
- The applicant requests a two year extension.
- The building has not been built due to economic reasons.
- One building has been approved but not yet completed.
- There is no change in zoning.

Christina Brown moved for approval and it was duly seconded. Voice vote. In favor: 15. Opposed: None. Abstentions: 1. The motion passed.

4. MARTHA'S VINEYARD SAVINGS BANK – WEST TISBURY

Paul Foley said that the bank needs another 30-day extension to get all of the landscaping done.

Linda Sibley moved to give the bank a longer season as this is currently not planting season.

Chris Murphy noted that they want a 30 day extension.

Linda Sibley moved and it was duly seconded for a 30 day extension. Voice vote. In favor: 15. Opposed: None. Abstentions: 1. The motion passed.

5. COMMITMENT/ENDORSEMENT OF MVC PROPOSAL FOR STORM SMART COASTS PILOT PROJECT

Mark London presented an overview of the proposal.

- The project will help communities plan and deal with coastal issues such as flooding and erosion.
- Selected prototype communities in the first round included Oak Bluffs who did good work with CZM. The program now is inviting applications for the second round. Applications must go in by the end of the month.
- It is not a grant program but a program to develop partnerships and have CZM provide technical assistance.
- The more boards that support the project the better.

Doug Sederholm moved and it was duly seconded that MVC support the endorsement. Voice vote. In favor: 16. Opposed: None. Abstentions: None. The motion passed.

6. NEW BUSINESS

6.1 Executive Director's Report

Mark London reported that the minute taker has resigned and the MVC is in the process of advertising for a replacement. We will likely get a bit behind before the new minute taker is in place and up to speed.

6.2 Reports from Committees and/or Staff:

Linda Sibley provided an update on the landscaping of the Hart Plumbing DRI.

- LUPC accepted essentially the same plan that was accepted by the West Tisbury Planning Board, with a few slight modifications (e.g. change the cedar trees in front to canopy trees and cedar trees are now interspersed with the row of Leland Cypress trees on the side).
- The applicant agreed to the changes and it is believed that West Tisbury will not have any issues with the modifications.
- Some of the conditions still need to be reworded and it will come back as a modification to the full Commission.

The meeting was adjourned at 10:00 pm.

Chris Murphy
Chairman

9/22/11
Date

John R. Belfe
Clerk-Treasurer

9/22/11
Date