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**Minutes of the Commission Meeting
Held on January 5, 2012
In the Stone Building
33 New York Avenue, Oak Bluffs, MA**

IN ATTENDANCE

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

- | | |
|------------------------------------|---------------------------------------|
| - Bill Bennett (A-Chilmark) | P Chris Murphy (E-Chilmark, Chairman) |
| P John Breckenridge (E-Oak Bluffs) | P Katherine Newman (E-Aquinnah) |
| P Christina Brown (E-Edgartown) | - Ned Orleans (A-Tisbury) |
| P Peter Cabana (E-Tisbury) | - Camille Rose (A-Aquinnah) |
| - Martin Crane (A-Governor) | - 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-County) | - Holly Stephenson (E-Tisbury) |
| P James Joyce (A-Edgartown) | |

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

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

1. TISBURY MARKETPLACE THEATER (DRI-485-M5) CLOSE OF PUBLIC HEARING

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, L. Sibley, B. Smith.

Linda Sibley, Hearing Officer, noted that two additional pieces of correspondence were received but they did not require that any additional oral testimony be taken. She closed the written record and public hearing, and referred the application to the Land Use Planning Committee (LUPC).

2. MEETING MINUTES

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, L. Sibley, B. Smith.

Minutes of December 15, 2011

John Breckenridge moved and it was duly seconded to accept the minutes of December 15, 2011 with corrections as noted. Voice vote. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.

Peter Cabana excused himself from the meeting.

3. ISLAND ROAD DCPC – AMENDMENTS – DELIBERATION & DECISION

Commissioners Present: J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, L. Sibley, B. Smith.

3.1 Committee Report

Fred Hancock, Chairman of the Island Road DCPC Committee, gave an overview of the Committee's December 28, 2011 meeting.

- The Island Road DCPC Committee met and revised their recommendation slightly from what was presented previously.
- The Committee recommended elimination of all the proposed references to towns having to come back to the MVC for Development of Regional Impact (DRI) approval for special permits.
- Traditionally the DCPC does not usually include provisions for DRI referral by the town in DCPC Goals and Guidelines. The Committee felt it should be removed from the amendment recommendation. **Christina Brown** clarified that if a proposal requiring a permit triggers the DRI Checklist, it would still be referred by the town to the MVC on that basis.
- The Committee recommends to the Commission that amendments be adopted as proposed except for the following:
 - In response to concerns regarding grandfathering of existing town regulations and development rights, the recommendation is to accept clarifying text as presented on December 15, 2011.
 - In response to concerns regarding requirements for DRI review, the recommendation is to remove all such requirements from consideration.
 - The complete revisions are outlined in the document titled: Island Road District Proposed Amendments, Island Road DCPC Committee Post-Hearing Report December 28, 2011, Presented by Chairman Fred Hancock.

3.2 Deliberation

- **Chris Murphy** noted that these recommendations are for the Goals and Guidelines for the DCPC.
- **Fred Hancock** noted that they do not apply to any specific nomination.
- **Chris Murphy** asked how it affects any previous DCPC. **Fred Hancock** stated that existing regulations are grandfathered.
- **Leonard Jason** asked how this would affect the way that a town enforces the by-laws and whether there is some type of exception for the existing ways.
- **Fred Hancock** said the recommendation would not change the process, just the language of the description of how the Special Ways meet the criteria for a Cultural and Historic DCPC and the Guidelines for Development.
- **Jo-Ann Taylor** stated that if the town comes to the MVC with a new nomination, the MVC would look at the new Goals and Guidelines. Because the Commission has already

voted and found conformance with the 1975 Goals and Guidelines, the existing regulations would not be impacted by the proposed amendments.

- **Chris Murphy** asked Jo-Ann Taylor to summarize how a community nominates a new way.
- **Jo-Ann Taylor** outlined the main steps.
 - The town makes a nomination.
 - The MVC looks at the nomination and finds whether or not it fits in with the Island Road District.
 - The Goals and Guidelines are not much different with the special permit uses, but the proposal opens up some uses as permitted as-of-right.
 - When the time comes for a town to make its regulations, it would have to conform to the new Guidelines as determined by the MVC after a public hearing.
- **Kathy Newman** stated that the Guidelines are really a clarification and expansion of the language rather than “new”. **Fred Hancock** confirmed and stated it is unlikely that the towns existing regulations will conflict with the revisions.
- **Christina Brown**, in response to Leonard Jason’s questions, noted that when it comes to writing the regulations at the town level, towns have the option of writing regulations that only apply after a certain date, similar to parallel grandfathering.
- **Leonard Jason** stated that perhaps the special ways need to be listed by the towns with the year adopted to help with enforcement.
- **Fred Hancock** noted that when all special ways nominations and designations are designated, they become amendments to the Island Road District and they are listed by the date they are designated. The last page of the Island Road DCPC has each nomination as another amendment with the designated way and the date they are adopted.
- **Linda Sibley** noted that if a new way comes in and the town adopts the regulations, it may differ from another way in the town, the ways may have different regulations. If Lenny, as a town official has to enforce a regulation, he will need to know the dates they were adopted.
- **Leonard Jason** noted that dates are not in the by-law and they will need to be.
- **Linda Sibley** stated that by understanding what Jo-Ann has suggested, a town could come back with one of their special ways and could ask to conform to the new Guidelines. Old regulations are grandfathered, but if the town chooses to change to the new regulations they could. **Jo-Ann Taylor** confirmed, noting that a Public Hearing would be needed.
- **Jo-Ann Taylor** gave a brief review noting that the MVC has an extensive record of material and all of the documents have been listed in the minutes of December 8 and 15, 2011. All of the minutes and drafts of the committee are also part of the record.
- **Bill Veno** stated that if a town already has regulations for special ways and if the town nominates a new special way, they do not have to change their regulations to meet the new Guidelines. The new Guidelines are more permissive and if the town chooses to stick with their stricter regulations they can, as the town is expanding their district, not changing their regulations.

- **Jo-Ann Taylor** confirmed that the intent is to leave intact the existing regulations, as long as no change is requested. They were previously found in conformance and remain so.
- **Christina Brown** noted that it is clearly stated; on page 3, line 63 of the Island Road DCPC Committee Proposed Amendments Final Recommended Text :
 - "Insert in Section 5.0 Guidelines, before Goals: The amended Goals and Guidelines apply prospectively to town regulations adopted after (the date of this vote). Existing town regulations that the Commission had determined conform to prior Island Road DCPC Goals and Guidelines are grandfathered and remain in full force and effect."
- **Brian Smith** asked if that means that the town could have two sets of regulations.
- **Christina Brown** clarified that the regulations the town has on the books are still there and they apply to old and new Special Ways, until the town wants to expand them.
- **Linda Sibley** stated that towns could apply under these Guidelines to have new regulations. If the town has no regulations they could come in with the new regulations which would have to conform to the new, more lenient, Guidelines. Perhaps this should be explained to the towns since they are being given choices.
- **Chris Murphy** noted that Jo-Ann Taylor would be available to translate for the towns.
- **Christina Brown** suggested that the MVC take this question under advisement. She asked that the MVC continue the deliberation to January 19, 2012 to explain and understand this grandfathering issue.
- **Chris Murphy** asked if any of the Commissioners disagreed with the suggestion and they did not.
- **Kathy Newman** noted that the Commissioners are the emissaries and the point is that they may want to change something.
- **Chris Murphy** raised the possibility of allowing the planning boards and anyone else to have a chance to review this before it is voted on.
- **Christina Brown** noted that before the MVC votes, it is necessary to fully understand the proposed amendments.
- **Linda Sibley**, as a point of order, noted that the hearing is closed and two town boards (Edgartown Board of Selectmen and West Tisbury Planning Board) did review the proposal and they were in favor and felt it was helpful to them. At this point it is not appropriate for the MVC to go to the boards for input. In the interim perhaps we can find a better way to describe it, if appropriate, and outline the changes for the town boards.
- **Fred Hancock** pointed out that the changes noted on line 98-101 of the Final Recommended Text document were not in the 1975 text. The proposed new wording clarifies:
 - "3. Every attempt shall be made to retain a surface of indigenous sand, clay and gravel."
 - "4. No special way shall be paved with any impervious material, such as bituminous concrete or asphalt."
- **Leonard Jason** asked if this now becomes the regulation and if the regulation is now that you cannot use rap. **Fred Hancock** noted it is to clarify. **Christina Brown** said it

does not become a regulation enforceable by local boards and towns, it is guidance for the town.

- **Brian Smith** asked what is allowing the town to change their regulations. Do they have to take the new Guidelines and apply them to their existing regulation? **Linda Sibley** clarified that it offers Guidelines for the town to develop their regulations.
- **Chris Murphy** suggested that the Commissioners study the information and continue the discussion at the next meeting.
- **Fred Hancock** noted that some language was moved to the Guidelines such as line 73 of the Final Recommended Text document; "Therefore, new vehicular access should be on the new rights-of-way, thus preserving the Special Ways for alternative forms of transportation."
- **Bill Veno** suggested that the staff could identify what the impact would be for a town that has regulations and what the amendments would mean to them.
- **Jo-Ann Taylor** noted that all review documents are available on the website. Revisions are noted via red-line in various colors. She also had copies of the reference documents available for the Commissioners to review.

4. NEW BUSINESS

Commissioners Present: J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, L. Sibley, B. Smith.

4.1 Committee Reports

Fred Hancock noted that the Compliance Committee will not meet as originally scheduled on January 10, 2012

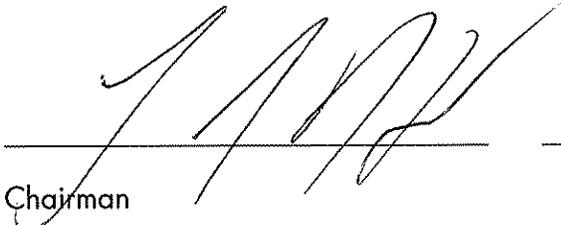
4.2 Chairman Report

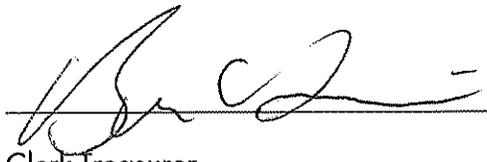
Chris Murphy thanked John Breckenridge for his time and hard work as the Clerk-Treasurer.

The meeting was adjourned at 7:45 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Correspondence for the Tisbury Marketplace Theater:
 - Email from Richard Berkley
 - Letter from Delores E. Stevens – Artistic Director/Co-Founder, Martha’s Vineyard Chamber Music Society
- Email from Richard Paradise and Sam Dunn regarding the Tisbury Marketplace Theater.
- Minutes of the Commission Meeting-Draft; December 15, 2011.
- Island Road District Proposed Amendments, Island Road DCPC Committee Post-Hearing Report December 28, 2011 – Presented by Chairman Fred Hancock.
- Island Road DCPC Committee Proposed Amendments Final Recommended Text to work from on January 5, 2012.


Chairman _____ Date 1-26-12


Clerk-Treasurer _____ Date 1-26-12