Minutes of the Commission Meeting
Held on January 19, 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)
- 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)
- Camille Rose (A-Aquinnah)
- Martin Crane (A-Governor)
P Doug Sederholm (E-Chilmark)
P Linda Sibley (E-West Tisbury)
P Fred Hancock (A-Oak Bluffs)
P Brian Smith (A-West Tisbury)
P Leonard Jason (A-County)
P Michael Mauro (Planner Transportation)
P Sheri Caseau (Water Resources Planner)

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

1. MVC ANNUAL BUDGET


1.1 Treasurers Report

Brian Smith, Clerk-Treasurer presented the budget summary for fiscal year 2013:
- There is a 3.1% overall increase.
- For the first time in three years there is a 2.4% increase in assessments to the towns. This is due mainly to the Other Post-Employment Benefits (OPEB) for two new retirees.
- The other elements of the budget are fairly consistent to the prior year.

1.2 Vote

Doug Sederholm moved and it was duly seconded to approve the MVC annual budget for FY2013. Voice Vote. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.
2. MEETING MINUTES

Minutes of January 5, 2012


Linda Sibley moved and it was duly seconded to approve the minutes of January 5, 2012 as written. Voice vote. In favor: 8. Opposed: 0. Abstentions: 2. The motion passed.

Brian Smith moved and it was duly seconded to rescind the decision of approval. Voice vote. In favor: 7. Opposed: 0. Abstentions: 3. The motion passed.

Christina Brown moved and it was duly seconded to approve the minutes of January 5, 2012 with corrections as noted. Voice vote. In favor: 8. Opposed: 0. Abstentions: 2. The motion passed.

Minutes of Executive Session of August 4, 2011


Linda Sibley moved and it was duly seconded to approve the minutes as clarified. Voice vote. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.

3. MVTV NEW BUILDING – O.B. (DRI-635) - PUBLIC HEARING


For the Applicant: Steve Warriner (MVTV Executive Director), Anne Lemenager (Chairman, MVTV Board of Directors), Bruce MacNelly (Architect), Chris Alley (Engineer).

Doug Sederholm, Hearing Officer opened the Public Hearing at 7:15 p.m. and read the Public Hearing Notice. The application is for a Community Media Center to serve as the new headquarters for MVTV.

3.1 Staff Reports

Paul Foley gave the Staff Report:

- The project location is on the Edgartown-Vineyard Haven Road in Oak Bluffs Map 56 Lot 13.2 (1.5 acres).
- The applicants are Steve Warriner (MVTV Executive Director), Anne Lemenager (Chairman, MVTV Board of Directors), Bruce MacNelly (Architect), and Chris Alley (Engineer).
- The facility will include studios with related control and support facilities, classroom space, editing and equipment rooms and offices for administrative staff.
- The application is for a 6,600 square foot Community Media Center, with an attached 620 square foot garage to serve as the new headquarters for MVTV.
- MVTV is a 501(c)(3) non-profit.
• Zoning is R-3 Residential and the proposal needs to qualify as an educational use to be located in the R-3.
• Local permits: Building Permit, Site Plan Review, Planning Board and Board of Health.
• The surrounding land uses are rural residential and institutions such as a church, funeral home and the Freemasons’ Hall.
• The structure would be a metal building wrapped with panelized construction with shingle siding on the visible sides.
• Access to the lot is via the curb cut for the World Revival Church per the MVC DRI 593 Decision.
• The project may be phased depending upon fundraising.
• Parking would be behind the building with 21 parking spaces.
• The property is owned by Charles Frazier who has given permission for the proposal to go through the DRI process.
• Key issues: Does the proposal meet zoning, is MVTV an educational service, and can the development area be minimized further.
• The project is in the National Heritage Endangered Species Program (NHESP) priority habitat. NHESP usually does not deal with single projects on lots this size.
• The applicant plans to create a lawn in front of the building above the septic leaching area. Chris Alley (the Engineer) has said that if they used an H-20 septic leaching system they could put the leaching field under the parking lot and thereby remove the need for a lawn in front.
• More than 50% of the existing vegetation will remain.
• Lighting will be minimal and similar to the existing studio.
• The building will be sound-proofed.
• The site is within the Sengekontacket Pond watershed. This Pond is a nitrogen-sensitive coastal pond. The nitrogen load limit for Sengekontacket is 4.1 kg/ac/yr. The nitrogen load limit for this property is 6.15 kg/yr. If a denitrifying system is used, the building wastewater nitrogen load would be 4.99 kg/yr. Runoff from the roof and the parking area to drywells and vegetated areas would contribute an additional 0.88 kg/yr. The total nitrogen load for the project with a denitrifying system will be 5.87 kg/yr, which is below the allowed limit for the Sengekontacket watershed.
• Roof and parking lot runoff is to be diverted to vegetated areas. The parking area should have minimal impervious surfaces.
• Sight lines are adequate; at the World Revival Church driveway the sight lines are approximately 375 feet looking left and over 600 feet looking right. Michael Mauro noted that at the existing Gleason-Cole Funeral Home driveway, the sight lines are in excess of 600 feet looking in both directions, making sight lines at this location slightly better.
• The applicant provided a parking plan for 21 spaces and a two car garage that is attached to the building with overflow parking on the grass. The applicants have stated that they have enough parking for their day-to-day operations but there could be occasions when they may need more. The applicant will look into connecting with neighbors (the church and the funeral home) about shared parking.
- The Land Use Planning Committee (LUPC) waived the need for a traffic study on December 19, 2011.
- The MVC has an unwritten policy not to apply its Affordable Housing Policy to municipal or religious entities.
- MVTV currently employs four full-time year-round employees. It is anticipated that the expansion may require one to two additional full time staff in the future.
- The current hours of operation are Monday-Friday, 9:00 a.m. to 5:00 p.m. year round with some evening classes and lectures.
- MVTV’s proposed new location will be exempt from commercial property taxes as a public non-profit. However, the applicant may consider an annual payment in lieu of taxes to the Town of Oak Bluffs but preferably after the new building has been operational for at least three years.
- The building is large but will be set back more than 150 feet from the road with existing vegetation being retained in the front and the back.
- There is a question if the signage and the size of the MVTV letters will be as big as represented in the elevations.
- The site plan, the interior building plan and the elevations were reviewed.
- The impact on the abutters should be minimal due to the hours of operation and the sound-proofing.
- The activity will be entering via the back of the building.

**Michael Mauro** gave the traffic and parking report.
- Most of the traffic is drop-off and pick-ups.
- At full capacity, the studio can have 20-30 people in at one time, but typically 10-15 people is the maximum on a day-to-day basis.
- The project trip generation was based on the ITE, Trip Generation Manual, with the following class codes; 710 (General Office) and 714 (Corporate Headquarters).
- Based on the square footage the proposed use is expected to generate 50 to 70 daily trips.
- The ITE numbers represent the worst case scenario versus actual numbers provided by the MVTV staff.
- Traffic will be minimal at the site driveway on the Edgartown-Vineyard Haven Road.
- The Oak Bluffs Zoning By-Laws do not have off-street parking requirements outside the B-1 District.

**Sheri Caseau** gave the Wastewater Report:
- There should be no physical constraints on disposal of wastewater and stormwater due to the soil type and the site elevation.
- It meets the MVC policy with a denitrifying system and de-vegetated swales.

**Christina Brown** questioned the nitrogen load of 10.14 kg/yr. **Sheri Caseau** clarified that with the denitrifying system they will meet the limits. They are allowed 6.15 kg/yr but they will be lower at 5.87 kg/yr, which is below the allowed limit for the Sengekontacket watershed.
**John Breckenridge** asked to clarify the H-20 system and asked if that is what is being proposed. **Bruce MacNelly** said it is a system that allows you to drive over it and noted that Chris Alley said it is okay to put the septic in the back of the building.

### 3.2 Applicants’ Presentation

**Bruce MacNelly** presented the following:

- They have met with the neighbors and have made adjustments based on that input.
- The site plan was reviewed and the revised elevations are to be below 24 feet to accommodate the neighbors.
- The building is a steel building and shingled.
- MVTV is a public entity with an educational aspect. It is a community facility.
- The building will be sound-proofed. The studio will be in the middle of the building with administrative offices in the back.
- They have explained to the neighbors that sound should not be an issue as the goal is to keep sound out of the building.
- The staff entrance is in the back as well as the garage for their trailer.
- The project will be phased for construction due to financial constraints and the applicants will come back to the MVC when they start phase one. What has been reviewed is the master plan.
- Parking may be able to be on the grass initially and the Applicant will propose parking with a permeable surface for permit purposes.
- The building does not have an abundance of windows due to the nature of its use.
- The giant sign has been removed from the plans and it will now be “zone friendly”.
- Cedar board and batten or a similar material and cedar shingles will be used on the building. The roof is asphalt.
- They have had a discussion with the abutters and the proposal is to keep 50 feet of trees and they will leave as many trees as possible. If needed they will selectively plant out or install fencing.
- The landscaping is not being proposed currently. It will be presented once it is decided what is needed.

**Steve Warriner** presented the following:

- The current hours of operation are Monday-Friday 9:00 a.m. to 5:00 p.m. Classes are held after hours (6:00-7:00 p.m.) and usually on Tuesday, Wednesday and Thursday.
- MVTV is a public, educational and government station that is funded by Comcast ($400,000/yr).
- MVTV trains people on how to use video camera equipment and editing so they can put their programs on air. The educational work is done with the schools, sporting events, girl scouts, etc. The Island governmental meetings are taped such as the selectman and the MVC.
- The purchase-and-sale agreement is due to close on January 31, 2012 and MVTV is aware that they started the process a little late.
3.3 Commissioners’ Questions

John Breckenridge noted that moving the building closer to the Edgartown-Vineyard Haven Road added 50 feet to the buffer and asked what the distance is from the building to the closet house. Bruce MacNelly replied it is 250 feet which is a significant distance, however it is scrub. He also noted that to the Edgartown-Vineyard Haven Road the distance is 148 feet to the edge of the lot plus a 10 foot buffer and the bike path. John Breckenridge noted that this is significantly larger than what the church has done.

Linda Sibley noted that if the building was further forward there would be less driveway, however, what was done was carefully balanced for impacts all around.

Leonard Jason asked if it was thought to reverse the building layout and put all of the parking in the front. Bruce MacNelly replied that they wanted to put the parking in the back to have the roadside preserved.

Christina Brown asked who runs MVTV since it is a 501(c)(3), but funded by Comcast. Steve Warriner replied that it is the MVTV Board of Directors. Ann Lemenager noted that the members are elected to the Board.

Doug Sederholm asked that the funding with Comcast be explained. Ann Lemenager said that they receive 5% of the revenues of the Island cable TV services from Comcast and have submitted a capital request with Comcast. Studies within Massachusetts show that they have funded capital requests.

Doug Sederholm asked if MVTV is subject to the Comcast contract that is currently being negotiated. Ann Lemenager noted that the budget varies from year to year.

John Breckenridge noted that the MVTV regular operational hours are from 9:00 a.m.-5:00 p.m. and it was stated that after hours may be 6:00-7:00 p.m. and asked if MVTV wanted to make a definitive statement regarding the hours. Linda Sibley, Christina Brown and Doug Sederholm thought that the MVC may want to revisit that question at some point.

3.4 Testimony from Public Officials

Gail Tipton, MVTV Board Member representing West Tisbury, said that the new facility is desperately needed. She has been involved for eight to nine years and was trained in production and is now working on programming dealing with water quality issues for the Island. MVTV would like to have more people from the Island using the facilities. The schools and the Adult Continuing Education (ACE) program have become more involved. They are very excited to extend the community involvement. She supports the program 200%.

Richard Skidmore is the Aquinnah representative to the MVTV Board and is a founding member of MVTV. He feels it is a natural progression of the institution and it has taken ten years to get to this point. To have the ability to provide public participation via MVTV has become part of the backbone of how the Island sees itself. He thanks everyone for their kind consideration of this project.
Corinne de Langavant is a producer for MVTV and said the studio is important. Her program is Coco and the Kids. They need a facility where it accommodates the production of a program including changing facilities. The new facility is not a luxury it is a necessity. She is very excited about the project.

Natalie Dickerson is a MVTV producer for the Pathway to Your Success program, which is about career education. She is proud to be a part of the programming.

3.5 Public Testimony

J.C. Murphy asked to speak on behalf of Mr. Frazier. Mr. Frazier owns the property and agreements were signed over an extended period. He asked if the Hearing was going through a permission process to determine if this is a Development of Regional Impact (DRI) as he is concerned because the property is not yet sold.

- Paul Foley noted that if approved, the sale of the property can go through.
- Doug Sederholm stated that the MVC is going through the DRI process now.
- J.C. Murphy said that he and Mr. Frazier were not under that understanding. If the MVC does agree it is a DRI and if the property closing is not done by January 31, 2012, there are penalties to the buyer.
- Paul Foley said if the project is approved as a DRI and the sale does not follow through, Mr. Frazier can request that the DRI be removed.
- Doug Sederholm noted that the MVC understands Mr. Murphy’s and Mr. Frazier’s point.

William Waterway stated that he has been involved with public television on the Island since the 1980s and MVTV is the most professional community-oriented television in the history of Martha’s Vineyard. The community will be better served with this new facility and it makes the government agencies more accessible to the community. They have done a wonderful job addressing environmental concerns.

Ann McManus is an abutter and said that this has been a good process with MVTV. Concerns have been addressed and they have worked well with us and have been forthright with us.

Gladys Toscano recently moved to the Island and she said that everyone has been so helpful. The station is for all ages and offers possibilities. The classes are wonderful. It is something that you do not have off Island. It would be a big plus to actually have bathrooms, which do not exist in the current facility.

Mac Starks would like to see the MVC approve this and just get it done.

J.C. Murphy stated that the MVC has the document from Mr. Frazier and his attorney Philip Norton and again asked if this is the permission process.

- Doug Sederholm stated this is a Public Hearing on an application for a DRI.
- J.C. Murphy said that Mr. Frazier is withdrawing the permission document that was submitted to the MVC.
- Leonard Jason suggested that the Hearing be recessed for five minutes so the applicant can talk with Mr. Frazier’s representative.
Doug Sederholm recessed the Public Hearing at 8:20 p.m. and reconvened at 8:25 p.m.

Steve Warriner said the concern was over the closing date of January 31, 2012 and MVTV has agreed to pay an additional $4,400 if the closing date goes past January 31, 2012.

- J.C. Murphy withdrew the determination.
- Doug Sederholm clarified that this issue does not concern the MVC and it has been worked out between the seller and MVTV.

Ann Bassett is the producer for the program the Vineyard View. It is important for the community to be able to voice one’s voice and exercise free speech. The current building is a garage. The neighbors have been wonderful in this process to build a new facility and she thanked the MVC for their considerations.

Doug Sederholm noted that at the commencement of the Public Hearing, the MVC received a letter provided by Ms. McManus dated January 16, 2012 regarding the MVTV project.

- It addresses the façade, height of the building, the location of parking, signage on the building, construction being done seven days a week and phasing of the construction.
- It was signed by seven residents of the Homeowners’ Association which abuts the property.
- The abutters have had dialogue with MVTV and the issues have been addressed.
- The concerns mentioned in the letter have been and will be addressed by the applicant.

Bruce MacNelly stated that construction will be done Monday through Friday during normal business hours and they will work on any special issues with the abutters.

Doug Sederholm, the Hearing Officer closed the Public Hearing at 8:35 p.m.

3.6 Commissioners’ Questions

Doug Sederholm noted that perhaps this project can be immediately addressed with the Land Use Planning Committee (L UPC) and then Deliberation and Decision can be scheduled for an MVC meeting on January 26, 2012.

Kathy Newman asked if the additional $4,400 is within a specified time period. Steve Warriner said that has not yet been determined.

Ned Orleans said that the people in the audience as well as the television audience should know that when the MVC can accommodate an applicant’s timetable, it will attempt to do so. Doug Sederholm agreed that the MVC often accommodates applicants’ time constraints.

Doug Sederholm asked to schedule a MVC meeting for January 26, 2012 and that the written offers to the MVC be submitted by 12 noon on Monday, January, 23, 2012.

Linda Sibley suggested that the offers include a written statement for the following:

- The construction timetable.
- After the building is up and operating, with approval from the L UPC, visits be made to the neighbors for mediation as needed.

Peter Cabana asked that the record note the intended phases of construction.
Fred Hancock noted there is some contact to be made with the church. Anne Leinenager said that the church administration is off Island and it has not been as fruitful as MVTV would like.

Doug Sederholm stated that as Chairman of the LUPC, he commends the MVTV architect and engineer for their very well thought out approach, access, and interaction with the neighbors.

Fred Hancock asked about the LUPC meeting schedule and if it was possible to review the MVTV project. Doug Sederholm said there is no time limit to the meeting and assured everyone that the MVTV project will be discussed.

4. TISBURY FARM MARKET (DRI-631-M) MODIFICATION REVIEW

Linda Sibley recused herself from the meeting.


For the Applicant: Elio Silva

4.1 Staff Report

Paul Foley gave the Staff Report:

- The project location is 412 State Road, Vineyard Haven Map 22-A Lot 9 (1.01 acres).
- The proposal is to modify a 2011 MVC DRI Decision to now include the demolition of the concrete block building in the back and to be reconstructed as a two story 35-foot tall building with a basement.
- The retail space will be decreasing by 300 square feet, but the total square footage will be increasing by 8000 square feet. The question is whether that is a significant enough change to the original Development of Regional Impact (DRI) Decision to merit a public hearing.
- The new footprint would be 11,120 square feet including the porch. The previously approved footprint was slightly smaller. The existing footprint is 7,160 square feet but there was a gap between the two buildings that is being filled.
- The concrete block building being replaced does not have a basement or second floor. The second floor will be storage so there should be no customers, office, or active storage as a stock room.
- A key issue is whether the 8,000 square feet of additional storage space triggers a mandatory review.
- Wastewater/Stormwater: the calculations for the approved DRI 631 were very close to the limit. Staff cannot estimate the new nitrogen load without a stormwater plan and specifics of the uses of the new space.
- The MVC DRI 633 Decision required that the applicant show at least 30 on-site parking spaces on the plan. The new parking proposal with 51 parking spaces was designed to meet requirements of the Tisbury Zoning Bylaw.
- The revised parking plan is not stamped by an engineer or architect and has no scale. Staff is not convinced that the layout will work.
- The MVC DRI 631 Decision requires that there should be a vegetated buffer of at least ten feet to screen the parking from what will become an important road.
• The new buildings would be significantly larger in mass than the existing building but occupy essentially the same footprint making this a good infill development.

Leonard Jason asked if the egress has been changed. Paul Foley confirmed that it had.

4.2 LUPC Report

Doug Sederholm reported on the recent Land Use Planning Committee discussion of the proposed modification.
• The LUPC vote was 4-4 on the motion, so no recommendation was made.
• Chris Murphy made a motion that the change was such that it required a Public Hearing due to the increase of the square footage.
• It was discussed if it should be a mandatory referral.
  - If the space will not be used then it could be argued that it is not a mandatory referral.
  - If there is any possibility of the space being used for active storage, living space, or offices, then it is a mandatory referral.

Leonard Jason asked what the definition of active storage is. Doug Sederholm asked if it is where stock is kept until it reaches the retail space.

Christina Brown noted that the MVC has a written definition and she read the definitions.

Leonard Jason asked if it is applicable if it is just a place to stock your provisions. Christina Brown gave an example; if you are restocking the retail floor from the storage then the storage is active.

4.3 Commissioners Questions

Fred Hancock asked if the Applicant had anything to add regarding the storage. Elio Silva said the second floor storage would not be used to replenish retail shelves and not used day to day.

Doug Sederholm noted that it makes sense, given the condition of the concrete block building, not to rehab it and asked the Applicant what is the long-term plan for the new building. Elio Silva said the increased size is to have more apartments or possibly to rent out as office space. It would be for future use, perhaps ten years from now. If it is not built now, it won’t be built later. It makes sense to do it now.

Kathy Newman asked if the MVC does not have a hearing, is there a way to control the second floor space. Brian Smith noted that if the Applicant wanted to create apartments he would need to come back to the MVC.

Kathy Newman noted that she is confused about the storage usage. Fred Hancock noted that it is not clear cut. Elio Silva said if the use of the space was changed he would come back to the MVC.

John Breckenridge asked about the size of the building and will it be significantly larger. Elio Silva said it would be 12 feet higher.
John Breckenridge asked about the land that was donated for the connector road and will trees be replanted to replace those that are likely to be taken down. Elio Silva confirmed that there will be a ten foot buffer and trees will be replanted. The size of the trees has not yet been determined.

Leonard Jason asked if there is enough parking. Elio Silva said he has worked with the Tisbury ZBA and he is providing eight spaces for the apartments. Parking spaces can be stacked for the apartments and the employees residing in the apartments. The Town has not yet given the project a reduction. The second floor storage does not require parking. If future use requires parking, they will need to review the proposal with the Town and possibly ask for a reduction.

Leonard Jason asked where the storage was located for the market in the old plan. Elio Silva said space was allocated in the back building and in the front building. They are working on how to use the space more efficiently.

Fred Hancock asked what stacked parking was. Elio Silva said it is one space blocking the other.

John Breckenridge asked where the original drip was going. Elio Silva reviewed the drainage on the site plan. John Breckenridge asked if composting was in the first plan. Paul Foley said the drip was for gray water. Elio Silva said another solution may be offered to the LUPC that will be better than the drip.

Fred Hancock asked Sheri Caseau if there is enough information to make an assessment. Sheri Caseau was concerned that there is not enough grass area for the drip irrigation.

Christina Brown moved and it was duly seconded that this a significant change that is substantial enough to require a Public Hearing for the DRI, due to the changes to the septic system and its effects on the Tashmoo watershed.

- Christina Brown read the MVC definition of a substantial change.


John Breckenridge and Fred Hancock asked Elio Silva to work with staff to have issues outlined.

5. NEW BUSINESS


Committee Reports

Doug Sederholm said that the LUPC meeting on Monday, January 23, 2012 will discuss the MVTV Post Public Hearing, Cronigs Solar and the Airport Liquor.

The meeting was adjourned at 9:15 p.m.
DOCUMENTS REFERRED TO DURING THE MEETING
- Minutes of the Executive Session Dated August 4, 2011.
- Minutes of the Commission Meeting-Draft; January 5, 2012.
- Martha's Vineyard Commission – Budget Summary FY 2013
- Martha's Vineyard Commission DRI #635 – MVTV New Building; MVC Staff Report – 2012-01-19
- Martha's Vineyard Commission DRI #631-M Tisbury Farm Market; MVC Staff Report – 2012-01-19 - Modification

VICE Chairman

2-2-12

Date

Clerk-Treasurer

2-2-12

Date