Minutes of the Commission Meeting
Held on December 12, 2013
In the Stone Building
33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners:  (P= Present; A= Appointed; E= Elected)
P  Tripp Barnes (E-Tisbury)   P  Joan Malkin (A-Chilmark)
P  John Breckenridge (E-Oak Bluffs)   -   W. Karl McLaurin (A-Governor)
P  Christina Brown (E-Edgartown)   -   K. Newman (A-Aquinnah)
P  Madeline Fisher (E-Edgartown)   -   Ned Orleans (A-Tisbury)
P  Josh Goldstein (E-Tisbury)    -   Camille Rose (E-Aquinnah)
P  Erik Hammarlund (E-West Tisbury)   P  Doug Sederholm (E-Chilmark)
P  Fred Hancock (A-Oak Bluffs)   P  Linda Sibley (E-West Tisbury)
P  Leonard Jason (A-County)           -   K. Newman (A-Aquinnah)
P  James Joyce (E-Edgartown)   P  Brian Smith (A-West Tisbury)

Staff:  Mark London (Executive Director), Paul Foley (DRI Planner), Priscilla Leclerc (Transportation Planner), Sheri Caseau (Water Resource Planner)

Chairman Fred Hancock called the meeting to order at 7:05 p.m.

1. NOVA VIDA ALLIANCE CHURCH EXPANSION (DRI 603-M3) OAK BLuffs – CONTINUED PUBLIC HEARING


For the Applicant: Rosemarie Haigazian, Valci Carvalho, Darran Reubens

Trip Barnes, Madeline Fisher, Leonard Jason, and Joan Malkin excused themselves from the meeting.

Brian Smith, Public Hearing Officer opened the public hearing at 7:06 p.m. and read the public hearing notice. There are two sets of offers as one contains track changes to clearly indicate what has been revised.

Mark London reminded everyone that there is already an approved project with conditions. Tonight, the MVC will be focusing on what has changed from what was already approved, especially the previous conditions and the new offers.

1.1 Review of the Offers

Paul Foley presented a review of the changes.

There was a discussion about the landscape offers.
• **Linda Sibley** noted the applicant is asking to change their offers and the MVC does not need to accept the changes. She asked why the applicant is changing the landscape offer 1b deleting having a “vegetative buffer planted with native trees... and this area shall be managed as a no cut zone”, and specifying the species of trees. Is the applicant aware of the MVC policy about the use of native plants?

• **Valci Carvalho** said the landscaper wants to offer something better and the plans will be brought back to LUPC.

• **Rosemarie Haigazian** said at the last LUPC that the landscape design would use native plants but possibly different species. She agreed that the use of native plants and the no-cut zone would be in the offers, with the details worked out with LUPC.

**Erik Hammarlund** questioned why the MVC is discussing the offers when the Commission had asked the applicant to bring final information. **Fred Hancock** said it is to seek clarification from the applicant about the offers.

**Paul Foley** noted that the statement “has been completed” was added by the applicant. **Josh Goldstein** asked if anyone from the MVC verified if the completed items are in fact completed.

**Paul Foley** noted that offer 1e. can be stricken since there no longer is a daycare facility. The wastewater offer is completely different, was discussed at the previous meeting, and the revised offer is in the memo from George Sourati. All toilets will be composting toilets throughout the existing and new structures.

There was a discussion about the noise offer.

• **Linda Sibley** asked the applicant if they meet all noise regulations and if they propose to operate 24 hours per day.

• **Rosemarie Haigazian** said the applicant does not plan to operate 24 hours.

• **Linda Sibley** said the hours of operation should be stated.

• **Erik Hammarlund** said the applicant can add what they want to the offers but the MVC would have to assume the maximum use if the hours of operation are not listed.

• **Rosemarie Haigazian** clarified the hours of operation are 7:00 a.m. to 9:00 p.m. and the applicant will strike the word “unless” in offer 4b.

• **Erik Hammarlund** questioned the wording of offer 4c.

• **Rosemarie Haigazian** clarified the word “and” should be added after services “and when amplifying”.

• **Erik Hammarlund** said offer 4d. and 4h. are conflicting.

• **Rosemarie Haigazian** said offer 4d. will be deleted.

• **Paul Foley** noted the language in the prior offer for Noise 3f. has been revised to offer 4f. and the word endeavor has been deleted.

There was a discussion about the energy offer.

• **Mark London** questioned the deletion of the approved project (2008) energy offers 5 b. to e.

• **John Breckenridge** read the original approved energy offer.

• **Mark London** told the applicant they may want to consider the 2008 offer of roughing in the piping for the solar panels as it would be much less expensive to do it now rather than later if the solar panels become feasible.
• **Rosemarie Haigazian** said the applicant is offering to rough in the piping for possible future solar panels.

There was a discussion about the church services offer.
• **John Breckenridge** noted in the new offer the language “average” is used. In the last line it is stated “not anticipated to exceed 12 times per year”. In the 2008 original offer it was discussed in terms of one additional activity per month. He asked the applicant if they are willing as part of the new offers to revise the language to no more than one per month on average.
• **Mark London** noted the number of activities affects wastewater and an “anticipated” number is not enforceable.
• **Erik Hammarlund** noted the MVC has talked about the number of activities in extraordinary length. The offer does not set a maximum limit and there is a disadvantage to that.
• **John Breckenridge** said he is pointing out that the use of the language “on average” is helpful but using “anticipated” is very open and suggested the offer be re-worded to fall within the wastewater guidelines and not be open ended.
• **Rosemarie Haigazian** said the applicant can try to re-word the offer and they would like the opportunity to do that and also incorporate flexibility for things that cannot be controlled such as funerals.
• **John Breckenridge** noted the Commission would rather have the activity limit offered by the applicant rather than the MVC having to condition it.

There was a discussion about the community room offer.
• **Paul Foley** reviewed the offer and the changes.
• **Doug Sederholm** questioned what offer 8c. means.
• **Christina Brown** asked for clarification if the community room would be rented to the community for any activities other than Church activities.
• **Rosemarie Haigazian** said it is available only to Church members for their activities but not the community as a whole.
• **Josh Goldstein** asked whether, if he was a member of the Church and had a child, could he rent the community room for a birthday party that could potentially have 300 attendees? What is the occupancy of the church?
• **Darran Reubens** said he has looked at the building codes and the space is called a community room because it is connected to the church so it is an overflow area for the church.
• **Christina Brown** asked when it is said activities will be Church related, does that mean that community activities such as AA meetings and non-profit groups would not be able to rent the space.
• **Rosemarie Haigazian** said right now it would only be Church related activities.

There was a discussion about the exterior lighting offer.
• **Paul Foley** noted that offer 9b. states the lighting will extend no more than 42 inches above the ground and that is what was installed at the World Revival Church.
• **Brian Smith** said 9e. should have a timeframe for when the lighting will be turned off.
• **Rosemarie Haigazian** said the applicant is offering 9:30 p.m.
Christina Brown questioned the language of 9e. Rosemarie Haigazian said the applicant is offering to revise the language to “before services and church related events…”

Paul Foley noted that offers 10. Renovation Process and 11. Structure and Code have been deleted.

There was a discussion about the traffic, parking and access offer.

- Paul Foley noted that there is revised language for offer 12e. regarding the shared use access with the Mormon Church.
- Rosemarie Haigazian said she has been on the phone with numerous people at the Church of Latter Day Saints. She has finally gotten through to someone who said the issue is something that has to be dealt with at a Director level and is a headquarter decision. It will be at least a couple of months before it is reviewed by that group. The individuals that she had spoken with were very familiar with the project, they understood what was being said but questioned if the people on Ryan’s Way would want it and asked if there would be any other access of egress. She told them there would not be any other access. The individual that she had spoken with appeared to be encouraged so she is waiting for a call back from the Church of Latter Day Saints.
- Mark London said chances are the owners of the Church of Latter Day Saints property will come to the MVC when the property is developed. The offer could state that if and when the owner of the adjacent property agrees to allow for shared access, the applicant would do so and close the access to Ryan’s Way.
- Rosemarie Haigazian said the applicant is making the provision that the shared access would go with the property and the applicant will continue to pursue it.
- Linda Sibley suggested the offer should state the owner of the property rather than the Church of Latter Day Saints.
- John Breckenridge asked for clarification if the applicant was proposing to use the access on the property of the Mormon Church.
- Rosemarie Haigazian said the applicant is proposing to put in the shared use access on the property of the Church of Latter Day Saints with a deed restriction.
- Brian Smith noted that 1f. states there are 32 parking spaces and 12g. states 34 parking spaces and asked if they can be revised to agree.
- Paul Foley said the number of spaces will be corrected to be consistent.
- Doug Sederholm asked what the intent is of the use of the parking lot and can commercial vehicles be parked in the lot.
- Rosemarie Haigazian said the only overnight parking is for the residents. If those residents have a commercial vehicle it could be present in the lot.
- Doug Sederholm said he would like that to be clarified as it was in the proposed offers under 8h.
- Christina Brown clarified 8g. of the proposed offers, pursuant to the Oak Bluffs regulations, no more than one unregistered vehicle shall be stored on the site, was per zoning.

There was a discussion about the wastewater offer.
• **Paul Foley** said he confirmed with Valci Carvalho and George Sourati that composting toilets will be installed.

• **Brian Smith** noted that the applicant will be turning the document from the engineer into an offer.

• **John Breckenridge** asked if the applicant is proposing a well on the property.

• **Rosemarie Haigazian** said they are. It would not be connected to the building it would be used only for landscaping.

• **John Breckenridge** asked what would prevent an owner of the property from changing the toilets to a system flowing into a Title 5 system if a well was approved and the applicant had an occupancy permit.

• **Mark London** suggested making sure that the wording on composting toilets makes clear that this would not be permitted.

There was a discussion about the substantial alterations offer.

• **Mark London** noted that this was boilerplate wording and suggested that staff clarify the wording with counsel.

• **Erik Hammarlund** questioned if the use of the wording “substantial” clarifies enough.

### 1.2 Public Testimony

**Russell Wendt** said he appreciated all the time everyone has spent over the last 6 to 7 years on this project. He said if he is wrong in what he will say he would like to be corrected. Most of the paperwork since 2008 has been processed with the intention that the project was permitted as a boarding house for Chris and Leslie Look and all of the MVC wastewater figures are based on that. The property was never used as a boarding house or permitted as one. The historical usage is erroneous. The water usage was 78,000 gallons and then it went to 303,000 gallons when the property was purchased by Valci Carvalho. Now the water usage has gone down to 150,000 gallons. The wastewater should be the same as it is for everyone on Ryan’s Way; for 1.4 acres the nitrogen is 5.9 kg/yr. He said wastewater is a big issue. There are still a lot of questions such as hearing from National Heritage.

**Brian Smith** reiterated the process for the application. The applicant comes to the MVC for permission to go to the Town for permits and the Town can make stricter requirements than the MVC. With regards to the question if the property was ever used as a boarding house, for wastewater purposes, the MVC has to figure out the wastewater numbers for the current use.

**Bruno DeOliveira** thanked everyone for working so hard on getting the project done. He said he has seen the abutters over the last three years in the meetings and every time they bring something up at a meeting they seem to change it at the next meeting. He thanked the MVC for listening to all of that.

### 1.3 Commissioners’ Questions

There was a discussion about water usage.

• **George Sourati** said the nitrogen numbers are based on the water readings and nothing was done based on a boarding house. He noted that his letter indicated that the proposed plan keeps the applicant below the 2008 MVC approved use of the church for 365 days of the year seven days a week at 60%.

• **Doug Sederholm** asked what water use Bill Wilcox’s numbers were based on.
• **George Sourati** said it was on historical water use.
• **Sheri Caseau** confirmed it was 153,000 gallons.
• **James Joyce** asked if the water use exceeded what the project was designed for.
• **George Sourati** said the design would allow for more flow.
• **Doug Sederholm** asked when the MVC adopted the nitrogen policy and noted the policy allowed for no more than 10% more than the preexisting use.
• **John Breckenridge** said part of the policy would have been that mitigation would not be needed if the applicant did not exceed the 153,000 gallons plus the 10%.
• **Russell Wendt** said Oak Bluffs has a mandatory water ban and was not sure what a well would save regarding water usage.
• **John Breckenridge** clarified that the ban has to do with Town water and not well water.

There was a discussion about the 2008 approved plan.

• **Josh Goldstein** said in 2008 there was an approved plan and the church could build on that plan. Now the applicant has proposed a new plan to supersede the approved plan that is in place. The new plan is environmentally friendly and may be the lesser of the evils. The church can build tomorrow and he asked what the abutters preferred to be built.
• **Russell Wendt** said he prefers the 2008 plan.
• **Kris Chvatal** said the 2008 plan conforms to the Island Plan, the Island Road District Plan, and the Oak Bluffs Master Plan. He would make the choice of the building that is more in compliance, the 2008 building. What is being proposed is much larger than the 2008 plan.

**Kris Chvatal** asked what the current square footage is. **Paul Foley** said with the basement approximately 12,000 sf.

**Kris Chvatal** said Oak Bluffs follows the international building code. An A3 is a structure for a place of general assembly and has a set square footage and perhaps the proposed building does not meet that code. **Fred Hancock** said it is the Town’s job to see that the building meets building code and noted that the MVC checks that applications meet zoning codes but not building codes.

**Linda Sibley** said the last question had to do with square footage that was approved in 2008 and the current square footage and she would like staff to provide a bullet point summary of these types of comparisons, such as height, for LUPC.

**Brian Smith**, Public Hearing Officer, closed the public hearing and kept the written record open until December 16, 2013, 4:00 p.m. to allow the applicant to have time to finish the written offers.

**Fred Hancock**, Chairman recessed the meeting at 8:35 p.m. and reconvened at 8:40 p.m.

**John Breckenridge** excused himself from the meeting and **Trip Barnes, Madeline Fisher, Leonard Jason and Joan Malkin** rejoined the meeting.

**2. HEALTHY AGING UPDATE**
Peter Temple, Executive Director of The Martha’s Vineyard Donors Collaborative presented the following:

- The Martha’s Vineyard Donors Collaborative and the Dukes County Health Council’s Healthy Aging Task Force have started an initiative to address the issues of Healthy Aging.
- He thanked the MVC for the Island Plan which the Donors Collaborative used to create a book called Understanding the Vineyard and that was a successful document in talking about the role of non-profits in sustaining the economy.
- It was realized by looking at the Island Plan that the 65+ population will triple over the next 20 years and perhaps the infrastructure is not prepared for that.
- In working with the Dukes County Health Council, the Healthy Aging Task Force was created.
- Baby Boomers don’t think they are old and they want to die with dignity and not live in a nursing home. Healthy Aging includes physical health, mental health, community engagement, health care and end-of-life care.
- In November, 72 people representing 40 different organizations heard the recommendations of a group of Rural Scholars and the Healthy Aging Task Force. The result was 50 people volunteering to work on seven task groups.
- Some key facts are:
  - The Martha’s Vineyard senior population, over 65, will triple from 2000 to 2030. That includes seasonal residents that retire on the Island and those who have left because they could not afford to live here. By 2030 the 65+ population goes from 16% to 32%.
  - The 85+ population is also a concern. It increases 35% by 2030.
  - 50% of the people over 60 on the Island earn $35,000 or less.
- With a declining younger population, where will the Island get the work force to assist the elderly?
- Transportation is a concern and the following needs to be explored.
  - There are service gaps.
  - We need new models of on- and off-Island options.
  - Explore town hackney regulations to permit cross boundary pickups.
  - Expansion of off Island transportation options such as Medi-Van days.
- Improving housing is a concern.
  - Affordable elderly housing.
  - Workforce housing.
  - Making people’s homes safer to live in for a longer time.
- Seniors need a one-step referral service for coordinating and navigating complex problems for seniors, caregivers and providers. Existing models were looked at such as the Vineyard Health Care Access Program and multi county models will be reviewed.
• Two programs will be coming to the Towns looking for funding: CORE (in-home mental health counseling) and Supportive Day Program (run by the Center for Living).

• The Councils on Aging (COA) are not all doing the same things and are not providing the same services. There should be Island wide planning and strategizing. The COA’s should be working together.

• Other task groups include Preventive Programs, Caregiver Support, New Models of Assisting Living, and Nursing and Medical Care.

• Due to the Island’s size, it is hard to have specialists on the Island for medical care and the group will be looking at how the Island can share resources or technology so it is not needed to go off Island for care.

3. MINUTES


Erik Hammarlund moved and it was duly seconded to approve the minutes of November 14, 2013 with corrections as noted, deleting line 287 and Fred Hancock voted in opposition on line 365. Voice vote. In favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

Erik Hammarlund recused himself from the meeting and Joan Malkin excused herself from the meeting.

4. NSTAR POLES EXPANSION (DRI-642) TISBURY, OAK BLUFFS, EDGARTOWN – WRITTEN DECISION


Fred Hancock noted that Brian Smith will be sitting in on the meeting but will not be voting.

There was a discussion about fiber optic strands.

• Leonard Jason questioned the language for Conditions Clarifying the Offers, 3. Fiber Optics; “to the extent it has at least two available, operational fiber optic strands under its control on any submarine cable between Cape Cod and Martha’s Vineyard, NSTAR shall dedicate two of the available, operational strands for municipal use to fulfill the ‘Open Cape and Island’ initiative”.

• Mark London said some of that wording came out of a discussion with counsel. There had been testimony about whether or not fiber optic strands were or were not available and the condition was based on the assumption that they were. Counsel suggested making that implicit assumption explicit in the wording of the condition.

• Leonard Jason noted that counsel was not present during the meetings and does not vote and it should not be part of this decision.

• Fred Hancock said there was testimony that NSTAR does not control the fiber optics.

• Leonard Jason said counsel should not be re-writing the MVC decision.
• **Fred Hancock** said counsel is not re-writing they are clarifying.

• **Leonard Jason** said the MVC should support what the Towns have asked for.

• **Doug Sederholm** said as he reads the motion (lines 353 to 356) of the minutes and how he understands the vote, the Commission was voting that NSTAR had to make available two operational fiber optic strands that NSTAR controls. The draft Written Decision should be consistent with that.

• **Linda Sibley** said it seems the Written Decision is consistent with what Leonard Jason said. She does not think it matters what the MVC says in the written decision. If the Commission says to provide two cables NSTAR can come back and say they do not have them.

• **Josh Goldstein** said it would be nice to have the fiber optic strands in the future if new cables were installed.

• **Mark London** noted that this application is for a specific number of utility poles in a specific location, including the NSTAR Right of Way and the Edgartown-Vineyard Haven Road.

• **Linda Sibley** read the motion from the November 14, 2013 minutes. The Commission should say what we want and have the applicant tell the MVC they cannot provide it.

  **Doug Sederholm** moved and it was duly seconded to accept the language in Condition 3. Lines 303 to 306 of the Written Decision. Voice vote. In favor: 3. Opposed: 6. Abstentions: 0 The motion did not pass.

  • **Christina Brown** said the Written Decision should reflect what was said.

  • **Leonard Jason** said the motion should reflect what the condition is.

  **Linda Sibley** moved and it was duly seconded that NSTAR shall dedicate for municipal use two operational fiber optic strands on a submarine cable between Cape Cod and Martha’s Vineyard. Voice vote. In favor: 6. Opposed: 2. Abstentions: 1. The motion passed.

  **Josh Goldstein** felt the MVC is not ready to vote on the Written Decision at this time since there appears to be more work to be done on the draft.

  **Fred Hancock** noted that NSTAR is not in the fiber optic distribution system business, and that since the project has already been done the MVC does not need to approve the written decision tonight and could take more time to finalize the wording.

  **Linda Sibley** amended her motion and it was duly seconded, saying that NSTAR shall dedicate for municipal use two operational strands of fiber optic cable between Cape Cod and Martha’s Vineyard and distributed to all Island towns. Voice vote. In favor: 5. Opposed: 2. Abstentions: 2. The motion passed.

  **Josh Goldstein** moved and it was duly seconded to approve the Written Decision as amended.

  • **Madeline Fisher** noted that NSTAR has agreed to meet with a regional committee and she wants to be sure that next step is done.

  • **Mark London** said a letter about a regional planning committee has been sent to all of the Towns.

Erik Hammarlund and Joan Malkin rejoined the meeting and Linda Sibley excused herself from the meeting.

5. RYMES PROPANE ON EVELYN WAY (DRI 576-M) TISBURY-WRITTEN DECISION


There was a discussion about 3.1 Project Description.

- **Erik Hammarlund** questioned why 3.1 Project Description references what the applicant was doing on a prior DRI.
- **Fred Hancock** noted there was a DRI on the property.
- **Mark London** noted lines 100 to 106 are to be deleted.
- **Christina Brown** said it would be useful to leave line 107 in the Written Decision; “the current proposal is the permanent location, though the Applicant plans to continue operations at the High Point Lane site for the time being”.

**John Breckenridge** questioned that there is no mention of the hours regarding the exterior lighting.

**Erik Hammarlund** asked for clarification of line 293, 7.2 “As offered by the Applicant, there shall be no backing up of non-emergency trucks before 7:00 a.m.” **Brian Smith** said the intent of line 293, 7.2 is to not wake up the abutters due to the noise of the trucks.


6. PROPOSED MVC BY-LAW AMENDMENTS


**Fred Hancock** noted the Commission is not voting on this amendment tonight. It is a review of the proposed changes to the By-laws. Section 6.2.2 on Voting Eligibility was discussed at a previous session. Commission Counsel’s opinion is that the MVC may make this change.

There was a discussion about Vacancies and Residency, section 3.5.3., which would clarify Boards of Selectmen to appoint residents of other towns.

- **Brian Smith** thought that by-law already existed.
- **Leonard Jason** checked Chapter 831, Section 2 and read the section referring to appointed Commissioners, which can be read to mean that the appointee must be a resident of that town.
• **Mark London** said that Counsel felt that there was some ambiguity in the wording as other sections in Chapter 831 refer to residents of Martha’s Vineyard, and the Commission could choose to interpret it that way.

There was a discussion about 6.2.2 Voting Eligibility.

• **Madeline Fisher** said 6.2.2 Voting Eligibility and 6.2.2.1 is not consistent.
• **Linda Sibley** thought that the MVC has let Commissioners vote on DCPCs when the Commissioner had not been present at a meeting regarding the DCPC.
• **Linda Sibley** said the revision to 6.2.2 corrects the issue about being eligible to vote if a meeting has been missed.
• **Erik Hammarlund** suggested setting a limit of three meetings.
• **Fred Hancock** said a Commissioner should not be voting when there has only been one hearing and it was not attended. There has to be a reasonable exclusion.
• **Linda Sibley** asked when the amended by-law on voting eligibility would take effect and if it would be retroactive.
• **Brian Smith** said the by-law would not need to be retroactive if there is still an open public hearing as a Commissioner(s) could “rehabilitate” themselves.

### 7. NEW BUSINESS

**Commissioners Present:** T. Barnes, C. Brown, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, B. Smith.

**Nominating Committee**

**Linda Sibley**, Chairman of the Nominating Committee said the following Commissioners have been nominated: Fred Hancock for Chairman, John Breckenridge for Vice Chairman, and Brian Smith for Clerk/Treasurer.

**PED**

**Christina Brown** said the next PED meeting will be on December 18, 2013 at 8:30 a.m.

The meeting was adjourned at 10:05 p.m.

**DOCUMENTS REFERRED TO DURING THE MEETING**

• Minutes of the Commission Meeting – Draft, Held on November 14, 2013
• DRI 603-M3 Nova Vida/Alliance Church Expansion 2013-Proposed Offers
• DRI 603-M3 Nova Vida/Alliance Church Proposed Offers Relative to DRI 603 2008 Conditions
• Decision of the Martha’s Vineyard Commission, DRI 642 – NSTAR Poles Expansion – Draft Dated December 9, 2013
• Decision of the Martha’s Vineyard Commission Draft-DRI 576 M2- Rymes Propane on Evelyn Way
• By-laws of the Martha’s Vineyard Commission, Draft Amendments – December 9, 2013