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Minutes of the Commission Meeting Held on January 11, 2018 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

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| - Gail Barmakian (A-Oak Bluffs) | - Michael Kim (A-Governor) |
| P Trip Barnes (E-Tisbury) | P Joan Malkin (A-Chilmark) |
| P Leon Brathwaite (A-County) | - Katherine Newman (A-Aquinnah) |
| P Christina Brown (E-Edgartown) | P Ben Robinson (A-Tisbury) |
| - Peter Connell (A-Governor; non-voting) | P Doug Sederholm (E-West Tisbury) |
| P Robert Doyle (E-Chilmark) | P Linda Sibley (E-West Tisbury) |
| - Josh Goldstein (E-Tisbury) | P Ernie Thomas (A-West Tisbury) |
| P Fred Hancock (E-Oak Bluffs) | P Richard Toole (E-Oak Bluffs) |
| - James Joyce (A-Edgartown) | P James Vercruysse (E-Aquinnah) |

Staff: Adam Turner (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Dan Doyle (Transportation Planner), Christine Flynn (Economic Development and Affordable Housing Planner).

Chairman James Vercruysse called the meeting to order at 7:00 p.m. and welcomed the new County appointee to the MVC, Leon Brathwaite.

Adam Turner also welcomed Leon Brathwaite to the Commission and said that he is a County member of the Joint Transportation Committee and is the Chairman of that committee. He also works with affordable housing and the MVC is lucky to have someone who can step into Leonard Jason's shoes.

Leon Brathwaite said he was interested in being at the MVC and finding out what the MVC is all about. He looks forward to working with everyone and having a skill set that he can bring to the board.

Joan Malkin said that she has not yet been re-appointed, and will be recusing herself from tonight's meeting, but will be sitting in as an attendee.

1. STEELE ANR-OAK BLUFFS C.R. 8-2017 CONCURRENCE REVIEW

Commissioners Present: T. Barnes, L. Brathwaite, C. Brown, R. Doyle, F. Hancock, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

For the Applicant: George Sourati (Engineer/Agent)

1.1 Staff Report

Paul Foley presented the following:

- The applicant is Russell O. Steele, and George Sourati is the agent.
- The location is 61 Dukes County Avenue, Oak Bluffs Map 11 Lot 352.
- The proposal is to divide one 0.44 acre lot in the B-1 District into two lots (one 12,361 sf lot and one 6,772 sf lot) through the Approval Not Required (ANR) process.
- The proposed new lot is within 100 feet of wetlands and within the 100 year flood zone.

- Zoning is B-1 Commercial. B-1 has no frontage requirement, no minimum lot size and 5 foot setbacks.
- The Oak Bluffs B-1 Zoning was written based on small buildings on small lots on Circuit Avenue. However, the B-1 District extends out of the downtown area to Dukes County Avenue, where no frontage, no minimum lot size and minimal setbacks may not be appropriate.
- With Approval Not Required plans, the Planning Board has virtually no review. When an application to build is filed, the application would go to the Conservation Commission because of the wetlands, and possibly to the Planning Board, depending on the size of the proposal.
- The plan was reviewed.
- The applicant was proposing to create one new lot only.
- The LUPC voted to recommend to the full Commission to not concur that this application does not rise to the level requiring a review as a DRI.

1.2 Land Use Planning Committee Report

Fred Hancock said that he was one of the LUPC members who thought the MVC should hold a Public Hearing. The issues are interesting, because the B-1 District has 5 foot setbacks and a 32 foot height restriction with no local review. There is no site plan review if it is not a commercial building. It seems unadvisable to approve without knowing what would happen on the property in the future. It is in a wetland area and those conditions will only get worse.

James Vercruysse said the concern was that a future project would be residential.

Linda Sibley said Fred was concerned that an applicant can build to the size of the lot.

1.3 Applicants' Presentation

George Sourati presented the following:

- The Oak Bluffs Zoning Bylaws say for residential use, the structure cannot cover more than 30% of the lot.
- In addition, the property is in the flood plain and in the wetlands, so the Conservation Commission would review.
- The permitting process would through the Flood Plain Site Review for the Town, and if they feel it requires review of a specific board, the applicant would have to go to that board.
- A sewer permit is required.
- The 100 year flood plain is elevation 10 at this location, so the first floor would probably be elevated four to five feet.

1.4 Commissioner's Discussion

James Vercruysse said by zoning, the foot print could be 2,000 sf. **George Sourati** said that was correct.

Ben Robinson asked if this provision was across all districts in Oak Bluffs. **George Sourati** said it was for residential, but it does not apply to commercial.

Fred Hancock said the five foot setbacks still apply for residential. **George Sourati** said yes. He noted that the property owners are an older couple in Florida who are looking to sell the property.

Robert Doyle asked if the plan was for the applicant to stay in the house as they are now. **George Sourati** said it was. There was already a curb cut that would allow for vehicle access to the property.

Linda Sibley said she would like staff to address the zoning issues. If it is as Mr. Sourati has said, it looks as if the Town has bylaws in place, but she questioned whether the town could adequately control the project. It sounds as if they can.

Paul Foley said the project would have to go to the Conservation Commission; and if commercial, it would have a Site Plan Review.

Ben Robinson said the lot on the other side of the proposed is about the same size of what the applicant is asking to do, and it already exists.

Trip Barnes asked if the property was Camp Meeting Association land. **George Sourati** said it was private land.

Doug Sederholm moved and it was duly seconded to not concur. Roll call vote. In favor: T. Barnes, L. Brathwaite, C. Brown, R. Doyle, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse. Opposed: Fred Hancock. Abstentions: none. The motion passed.

2. EDGARTOWN STOP & SHOP-EDGARTOWN DRI 429-M2 WRITTEN DECISION

Commissioners Present: T. Barnes, L. Brathwaite, C. Brown, R. Doyle, F. Hancock, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

There was a discussion about pending information.

- **Adam Turner** said there is an additional sheet that fills in all of the letters and oral testimony for the written decision.
- **James Vercruysse** said there are three maps that are not part of the Written Decision: the site plan map that will go back to LUPC, the elevations of the building that will need the approval of the full Commission before the building permit, and the plans for fence to illustrate where it will be.
- **Adam Turner** said the Staff Report is referred to in the text of the Written Decision.
- **Linda Sibley** said for clarification, there are several planning documents that have not been submitted yet, but the applicants are required to come back to the Commission in some way.
- **Fred Hancock** said Commissioners have asked the applicant to clarify some of that information.
- **James Vercruysse** said it was not unusual to have the applicant come back with this information, but this was more than usual.

There was a discussion about 3.1 Project Description, line 119.

- **Fred Hancock** said on line 119, the final number of parking spaces is yet to be determined, and asked if that should be added.
- **Linda Sibley** said she agreed that it should be referenced that it is to be finalized.
- **Leon Brathwaite** said to be finalized higher or lower.
- **Fred Hancock** said to be lower.
- **Paul Foley** suggested language "subject to review of final plans."
- **Fred Hancock** suggested language "the final number to be determined on the final site plan."

Doug Sederholm commented on line 193. He disagreed with the characterization of the impact of traffic. He disagreed it would have a moderate impact. **James Vercruysse** said Doug Sederholm did say it would be a disaster. **Doug Sederholm** said it would have a limited impact, because it is already a disaster.

There was a discussion about employee wages.

- **Adam Turner** said the applicant offered that employees would be offered comparable wages and benefits as union employees.
- **Doug Sederholm** said the union contracts stipulate that.
- **Linda Sibley** said it should be noted in the Written Decision.
- **Adam Turner** said he would be sure that it is noted in the Decision.

Linda Sibley moved that the MVC add reference that the union contract stipulates union wages be paid to non-union employees.

- **Robert Doyle** said it was stated in the testimony, and should be included.
- **Adam Turner** said it would be put in an appropriate section of the Decision.

Linda Sibley asked how litter was defined on line 369. Plastic/paper bags versus vegetative litter such as leaves. **Fred Hancock** said it doesn't matter, they should pick up any kind of litter.

There was a discussion on section 3. Night Lighting and Noise.

- **James Vercruysse** said on line 432 it has not yet been determined where the fence will be.
- **Adam Turner** said it has been and it will be inserted.
- **Fred Hancock** said on line 433 and line 439 it should say that the applicant will test at the locations where they did the original study.
- **Fred Hancock** and **Linda Sibley** said on line 437, section 3.9 the decision is acknowledging that the Planning Board has the authority.
- **Christina Brown** said line 437 says related to design and height, but line 435 states 12 feet in height. That is a conflict.
 - **Adam Turner** said perhaps state as a minimum of 12 feet.
 - **Doug Sederholm** agreed.
 - **Linda Sibley** said the Planning Board can be more restrictive, but not less.
 - **Adam Turner** said at the Planning Board, the applicants said the height would be 12 feet, but it could go higher.
- **Paul Foley** suggested language for section 3.10 "at the locations identified at the study."
 - **Ben Robinson** said "not limited to" should also be added.
 - **Doug Sederholm** said it was to provide a basis for a meaningful conclusion.
 - **Fred Hancock** said as long as it retains the sound retention properties for line 439.
- **Doug Sederholm** asked how Condition 3.10 could be tied to 3.8 to 3.9.
 - **Adam Turner** suggested language "as long as all sound attenuation properties are met."
 - **Doug Sederholm** added "subject to condition 3.8."

There was a discussion about section 4. Energy, Green Building, section 4.2 Waste Management.

- **Robert Doyle** said it should state what the applicant does with organic waste.
- **Fred Hancock** suggested language "organic waste will be composted."
- **James Vercruysse** said the program they already have should be examined.
- **Leon Brathwaite** said they do keep products and donate them. He has worked on that with the Food Pantry.
- **Paul Foley** suggested language "they will continue with their organic composting program."
- **Adam Turner** added "as offered by the applicant."
- **Dan Doyle** questioned the language for the hours when the trash compactor would be operational as "during store hours only." Should the hours be specifically stated?
- **Linda Sibley** said she felt store hours meant when the store was open.
- **Fred Hancock** asked if that item should be moved to Night Lighting and Noise.
- **Paul Foley** asked if Dan Doyle was referring to daytime and not night time.
- **Dan Doyle** said it should be during the day and not at night.
- **Geoghan Coogan** said it was done inside the loading dock.

There was a discussion about section 5.4 Redesign of Entrance.

Fred Hancock questioned if this document would be the revised site plan, a new plan for the facade of the building and the final landscaping plan. The fence location and details should be in this plan that the applicant submits before they build.

- **Linda Sibley** agreed.
- **Paul Foley** said the language needs to be revised on line 482 and delete "to enter" and add "from entering."
- **Leon Brathwaite** asked for clarification; the fence will be looked at by the Planning Board and then brought back to the MVC.
- **James Vercruysse** said that was correct.

Linda Sibley asked what TMDL versus TDM is on line 493. **Paul Foley** said it should be TDM.

There was a discussion about section 7. Economy and Employment, section 7.1.

- **Linda Sibley** questioned the language on line 526 "as of the date of these offers."
- **Adam Turner** said it was an error and should be removed.
- **Linda Sibley** said on line 526 should it say items for sale. "Sale items" could be items that are on sale, not for sale.
- **Bill Veno** said he thought that referred to the products that they currently sell, and perhaps put that at the end of the sentence on line 528.
- **Christina Brown** suggested language "at the date of this approval."

Doug Sederholm suggested adding language to section 8.5 line 543 to 545, until such time that Stop & Shop does one or the other. **James Vercruysse** suggested deleting the word "can" on line 543.

Adam Turner said section 8.9 line 558 will be noted as section 7.3.

Adam Turner said section 10.2 will be added. The MVC is going to start requiring As Built plans for all projects. The applicant shall submit an As Built plan that will be stamped and have the specifics that identify how the site is developed. It will be submitted before the Certificate of Occupancy. The MVC will develop boiler plate language for this section.

Fred Hancock said section 6.1 Permitting from the Town should be checked, because permitting depends on different approvals at different times.

Fred Hancock asked if the submittal of the final landscaping plan was noted in the Decision. **Christina Brown** said it is on line 398.

Christina Brown asked if there were 462 letters, or if those were names. **Paul Foley** said it is the number of names on the petition.

Fred Hancock moved and it was duly seconded to approve the Written Decision as corrected and amended. Roll call vote. In favor: T. Barnes, R. Doyle, F. Hancock, L. Sibley, E. Thomas, J. Vercruysse, R. Toole. Opposed: none. Abstentions: B. Robinson, D. Sederholm. The motion passed.

3. CHAPPAQUIDDICK PERMANENT TOWER-EDGARTOWN DRI 662-M WRITTEN DECISION

Commissioners Present: T. Barnes, L. Brathwaite, C. Brown, R. Doyle, F. Hancock, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

Christina Brown asked if it was true that there are two towers on the property now, and they would be replaced with one tower. **James Vercruysse** said there would be one tower.

Doug Sederholm asked if it was accurate to describe the structure in the project section on page 1 as a monopole. **Fred Hancock** said yes, there were no guy wires.

Doug Sederholm said on line 32, the six sector antennas are for Mr. Fynbo.

There was a discussion about section 3. Findings, 3.1 Project Description.

- **Christina Brown** asked if the communications equipment included AT&T and the Chappy WISP equipment.
- **Fred Hancock** said it was only AT&T.
- **Bill Veno** said the AT&T equipment was noted on lines 112 to 126.
- **Doug Sederholm** said the equipment was also stated on line 28.
- **Fred Hancock** said on line 112 there needs to be clarification on the antennas and radio heads. It should be clear they are just for the AT&T portion, and it also needs to be noted there is space for other carriers.
- **Doug Sederholm** said it also has to be clarified on page 1.
- **Doug Sederholm** said the tower has capacity for two more carriers.
- **Paul Foley** said it was mentioned on line 127, but should also be noted on page 1 on line 16, by adding "for three carriers."
- **Doug Sederholm** said line 16 should state for three carriers and the WISP.

There was a discussion about Section 3.4 Benefits and Detriments.

Section A1

- **Doug Sederholm** said section A1 after "surrounding residences," it needs to be noted that the existing site has the infrastructure, and adding infrastructure on the other sites might have an environmental impact.
- **Bill Veno** said language could be added/revised on line 157 "communications tower and infrastructure."
- **Fred Hancock** asked if line 158 should include that the applicant has leases on two other locations.
- **Ben Robinson** said it was mentioned on line 159, and it should be included.
- **Doug Sederholm** agreed and said it was the evidence.

Section A7

- **Fred Hancock** asked if it would be proper to say it was the only response the Town got to a Request for Proposals.
- **Adam Turner** said he thought it was appropriate.
- **Doug Sederholm** said he was not sure the application was in response to the Request for Proposals. It did not have to do with the RFP, and lines 204 to 206 should be deleted.
- **Fred Hancock** said it is important to note that the Town was looking for improved cell service, and this was the only offer.
- **Ben Robinson** said that would be appropriate.

There was a discussion about adding Condition 3. As Built Plan.

- **Adam Turner** suggested adding Condition 3. As Built Plan.
- **Christina Brown** said to add the boiler plate language and that any changes of use has to come back to the MVC.
- **Linda Sibley** said it should say any substantial change has to come back.
- **Christina Brown** said she was thinking of the boiler plate language that would be used for the As Built section of the Stop & Shop Written Decision.
- **Adam Turner** said for any project that the MVC approves, any change in design or use has to come back.
- **Leon Brathwaite** asked how substantial change was defined. If not used for telecommunication, would that be a substantial change?

- **Linda Sibley** said for 40 years it has been substantial change.
- **Doug Sederholm** said with the word substantial, wiggle room is added.
- **Linda Sibley** said it becomes subjective.

There was a discussion about the other carriers.

- **Fred Hancock** said it needs to be clear that this decision is for AT&T, the other carriers and the Chappy WISP. It is important that the MVC is approving all three carriers and the WISP.
- **James Vercruysse** said it should be two other carriers, and not list Verizon on line 127 in case Verizon chooses not to.
- **Christina Brown** suggested language "for AT&T, the Chappy WISP and other carriers."
- **Doug Sederholm** suggested language "has the capacity for two other carriers."

Fred Hancock moved and it was duly seconded to approve the Written Decision as modified. Roll call vote. In favor: T. Barnes, R. Doyle, F. Hancock, D. Sederholm, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: B. Robinson. The motion passed.

4. AIRPORT GAS STATION-EDGARTOWN DRI 441-M3 WRITTEN DECISION

Commissioners Present: T. Barnes, L. Brathwaite, C. Brown, R. Doyle, F. Hancock, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

Fred Hancock said the applicant's address needs to be added on line 21.

James Vercruysse said the Plans need to be added on line 71.

Doug Sederholm said line 116 should state everything including the underground tanks. He suggested language "all existing improvements, including all underground tanks, were removed."

Doug Sederholm said on line 164, the applicant is doing more than just the underground tanks as being state of the art. The whole recovery system would be state of the art.

Doug Sederholm said on line 195 the State receives the gas tax, and it should be listed that the Town would receive property tax revenue. **Ben Robinson** asked if the language should be "receive property tax revenue and the gas tax."

There was a discussion about Section 3.4 Benefits and Detriments, Section A8 C.

- **James Vercruysse** asked if "inferred" was the correct word on line 224. If that means by Special Permit, should Special Permit be specified?
- **Doug Sederholm** said it could be noted that a gas station was there before.
- **Christina Brown** asked if this was pre-existing, non-conforming.
- **Doug Sederholm** said it was not.
- **Ben Robinson** said a gas station is specifically identified as a permitted use.
- **Linda Sibley** said although she cannot participate, there should be boiler plate language for any decision at the Airport that says it is consistent with the Airport Business Park regulations and suggested that should be in section 2.
- **Fred Hancock** said on line 264, it should be stated that they shall conform to the Business Park regulations.
- **James Vercruysse** said it was not just limited to Lighting and Landscape.
- **Linda Sibley** said it should be a general reference.

Doug Sederholm moved and it was duly seconded to approve the Written Decision as corrected. Roll call vote. In favor: T. Barnes, F. Hancock, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.

5. NEW BUSINESS

Commissioners Present: T. Barnes, L. Brathwaite, C. Brown, R. Doyle, F. Hancock, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

5.1 Executive Director Report

Adam Turner presented the following:

- The budget approval will be on the agenda for the next MVC meeting. There was a 2.5% increase to the Towns, which is good because OPEB and benefits are up 15%. The MVC needs to continue to find its own funds, and mentioned that staff has negotiated a new contract with the State. The budget has been sent to the Towns.
- At the next meeting, the Island Plan will be reviewed, including how it can be more effective and what changes need to be made.
- He complimented Richard Toole for the work he has been doing with the Water Alliance. It is an adhoc group that meets once a month to talk about water issues, such as nitrogen and shell fishing, etc. The meetings are well attended. The EPA and the State are starting to take notice. The meetings are pretty substantive and they are usually two to three hours long.
 - **Richard Toole** thanked Sheri Caseau for the work that she does on the Water Alliance.
- The MVC is buying a drone and will examine conservation land and DRIs, and make public presentations to the Towns. Chris Seidel is being trained to be the pilot and will be licensed as required by the FAA.
- The Old Stone Building has seen some improvements recently. There is a more efficient heating system, fresh paint and new carpets, and new tables are due soon.
- The Santander Bank in Vineyard Haven has been working with staff and is close to a deal. They want to do improvements to the building and increase their septic tank.
 - **Trip Barnes** asked what their plans were for the building.
 - **Adam Turner** said they would use the building for office space.
- Robert Cavallo from the Edgartown Planning Board worked with the MVC and had attended many meetings. He was somebody that made a difference and ultimately he supported our organization. His untimely passing is unfortunate and he will be greatly missed.

5.2 Reports from Committees and/or Staff

James Vercruysse thanked Linda Sibley for all the work she has done on the LUPC. Richard Toole has agreed to chair LUPC in the New Year.

Linda Sibley said since Adam Turner was talking about the Water Alliance group, she would like to bring up the matter of the Federal Government and offshore drilling. The east coast states have objected to this, except for Maine and Florida, which were just exempted. The Vineyard is subjected to this with direct pollution to the shore and impact our fishing industries. She would like to have it on the agenda and have staff report on it.

- **Richard Toole** said it was discussed at the Water Alliance and Liz Durkee has done research on this. The MVC can do homework and come up with reasons to oppose it.
- **Christine Flynn** added that Governor Baker went on the record against offshore drilling.


Fred Hancock said with the staff should be in contact with the new Hospital CEO. **Adam Turner** said he will be.

Paul Foley said the MEPA review for the undersea cable for Vineyard Wind has been extended. He suggested that it may be a DRI as it will go through Muskeget Channel (Edgartown).

The meeting was adjourned at 8:50 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Martha's Vineyard Commission C.R. #8-2017 Steele ANR MVC Staff Report 2018-01-11
- Martha's Vineyard Commission Land Use Planning Committee Notes of the Meeting of November 20, 2017
- Plan of the Land in Oak Bluffs prepared for Russell O. Steele, prepared by Sourati Engineering Group, Dated October 3, 2017
- Decision of the Martha's Vineyard Commission – Draft, DRI 429-M2 – Edgartown Stop & Shop Expansion
- Decision of the Martha's Vineyard Commission – Draft, DRI 662-M – Chappaquiddick Permanent Tower
- Decision of the Martha's Vineyard Commission – Draft, DRI 441-M3 Airport Gas Station


Chairman

4.5.18
Date


Clerk-Treasurer

4-10-2018
Date