

THE MARTHA'S VINEYARD COMMISSION



Looking at the Commission

Review of the Operations of the Martha's Vineyard Commission and Recommendations for Improvements

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Table of Contents

Preface	3
Introduction	5
Key Recommendations	7
1. Developments of Regional Impact	9
2. Districts of Critical Planning Concern	19
3. Planning	21
4. Relations with Towns, County and Other Public Entities	26
5. Relations with the Public	29
6. Commissioners, Committees and Meetings	31
7. Staff	36
8. Finances	38
9. Legal	40
10. Facilities	41
Conclusion	43
Appendix - List of Interviewees	44

The analysis and recommendations in this document are those of the author and, at this point, have not been reviewed by the full Commission. Also, some of the recommendations might have to be revised for legal reasons since the document has not been fully reviewed by counsel.

Note: The planning, but not the regulatory, mandate of the MVC includes the Town of Gosnold. For easier readability, this document often uses the terms the Vineyard or the Island but for all sections other than those dealing with DRIs and DCPCs, this should be taken to include all seven towns of Duke's County including Gosnold.

Preface

The Martha's Vineyard Commission should assume a leadership role in pro-active, community-based planning on the Island, should improve the way it reviews Developments of a Regional Impact, should work much more in partnership with Towns in planning and project review, and should better explain to the public the nature and importance of what it does. The MVC must carry out several important changes to the way it operates to achieve these objectives. These are the principle conclusions of a comprehensive review of the Commission, involving talking with hundreds of Vineyarders who deal with the MVC in varying capacities, that is described in this report

In October 2002, when I took over as Executive Director of the Martha's Vineyard Commission – the regional planning and regulatory agency for Dukes' County – it was agreed that I would spend a considerable part of my first five months carrying out a detailed examination of the mandate and operations of the Commission, with a view to outlining a blueprint for the revitalization of the Commission. This exercise, dubbed *Looking at the Commission*, involved many different activities.

- Conducting fifty in-depth interviews with a selection of people who have dealt with the Commission in varying capacities, including Town leaders, project applicants, representatives of various Island organizations, all current and several former Commissioners, and MVC staff. (Note that we are awaiting the new administration's appointments of governor's appointees.)
- Meeting every Island Board of Selectmen, as well as most Planning Boards and Conservation Commissions in addition to the All-Island Selectmen, and various other Island organizations.
- Reviewing the letters, e-mails and comments from the public resulting from an invitation for suggestions about the Commission included in articles in both newspapers as well as in the Commission's new newsletter.
- Reviewing the results of a facilitated session held by Commissioners on May 2, 2002 that focused on the Future of the Commission.
- Reviewing the Commission's Process and Procedures Committee's efforts two years ago to propose revisions to various Commission practices.
- Meeting the heads of the Cape Cod and Nantucket commissions and reviewing extensive material about their operations.
- Reviewing the results of the work of the Cape Cod Commission Regulatory Task Force held in 1994 when that organization was facing a critical period.
- Reviewing many newspaper articles on the topic.

The Commissioners gave me free rein to carry out this process as I saw fit, to write a full analysis of the Commission, warts and all, and to make the recommendations that I felt appropriate. This document is the result of this exercise. It contains 11 general

recommendations, 38 specific recommendations and a total of 131 concrete actions to achieve them. At this point, the document represents my views alone. I suggest that, over the coming months, the Commission use this report as a springboard for analysis and its own review, leading to adoption of an Action plan for revitalization of the Commission. Also, the Commission has indicated that it supports the idea of setting up a Task Force on the Role of the Martha's Vineyard Commission in the 21st century, should this be the desire of the Island community. This document could be used as a resource in its work.

I have written the report dealing with the Commission as it was in October 2002, with recommendations dealing with general principles as well as lists of specific actions that could be carried out, or at least considered, to achieve the objectives. The Commission has already started to implement some of the recommendations outlined below, indicated (D) for done. Next to the other recommendations are indications as to whether they should be implemented in the short term of the next few months (S), in the medium term of the next two years (M), or in the longer term (L).

These recommendations deal mainly with the Commission itself but also include suggestions to Towns and other organizations. As Executive Director, I will be responsible for implementing most of the Commission recommendations and monitoring the other ones. I propose to prepare a report card from time to time outlining our progress in implementing the reforms proposed in the Action Plan.

Introduction

The Challenge of Managing Growth on the Vineyard

The Vineyard has grown incredibly in the past thirty years, experiencing, along with Nantucket, the highest growth rates in the Commonwealth. Everyone I interviewed remarked that the Island is not like it used to be: more houses, more cars, more people and more stress. A few felt that it has “gone to hell in a handbasket”. However, the clear majority felt that, despite perhaps-too-rapid growth, the Vineyard has for the most part maintained its unique character, probably more successfully than anywhere else in the nation, except for national parks and historic sites like Williamsburg.

Though the Vineyard has had more than its fair share of run-away development, the Island has reacted in many innovative ways way to the challenges, and it has done well, for example setting up the land bank and an enviable transit system.

Preserving the Island’s character is vitally important for the visitor-based economy. The natural environment, the scenic beauty and the simple Island way of life are the engines of our economy and must be carefully protected. The Island is also facing other critical challenges such as the affordability of housing and the need to deal with traffic and transportation. To a great extent, there are different issues in different parts of the Island and in different Towns. Up-Island, the issue is largely protecting the land whereas for much of Down-Island, it is harmonious in-town development and providing the services needed because of the concentration of year-round housing and the presence of regional facilities.

The forces challenging the Vineyard have intensified; they include the pressure for growth and the pressure to change. The pressure to grow comes from the fact that the population of the United States continues to grow but the size of the Vineyard does not, so land is an increasingly precious commodity. The pressure for change comes from new lifestyles that many fear could lead to the “suburbanization” of the Vineyard.

A certain amount of growth and change is inevitable; the challenge is managing that growth and change to best preserve those characteristics that make the Vineyard unique.

The Role of the MVC in Managing Growth

“The Vineyard would have been plundered without the Martha’s Vineyard Commission,” said one person I interviewed. Virtually all interviewees felt that the MVC was the single most important reason that the Vineyard has managed development so well in the past generation, although a few cited the creation of the Land Bank as also vitally important.

“Before the MVC, the Vineyard was being ravaged by uncontrolled development,” said an interviewee. Another said, “If you want to see what the Vineyard would be without the added layer of protection of the MVC, just look at the Cape, especially before the Cape

Cod Commission was set up. It was being overrun by cars and strip commercial development, the beaches were overcrowded with hotels and motels, the area was largely going down the tubes as a resort.”

The Island Towns and the MVC have done a lot of positive, creative things to ensure generally high quality, compatible development and to provide good amenities. Since 1974, the Commission played a key role in limiting the number of lots in subdivisions, in preserving open space, in planning bike paths, in protecting scenic vistas and special places, in controlling signage, in preventing unacceptable development, in strengthening local land use regulations, and in obtaining contributions for affordable housing.

As State Representative Eric Turkington said “The biggest success is what wasn’t built, maybe was never even applied for because the developer knew that it wouldn’t be approved. However, people take the Commission and Chapter 831 for granted; they don’t realize the disaster that could befall the Vineyard without the MVC.”

The Commission Today

The Martha’s Vineyard Commission is at a critical point in its history. There have been three years of divisive debates about various golf course proposals, accompanied by threats of lawsuits and Town withdrawal. For some interviewees, these only highlight an underlying malaise with the Commission within certain quarters of the community. The MV Times described the MVC as “a fractious, confused, dispirited, and estranged public organization”.

Just about all of the most controversial issues related to development on the Vineyard end up at the doorstep of the MVC, so it is not surprising that the MVC has been and probably always will be associated with controversial issues. To some extent, the malaise with the Commission reflects a limited understanding of what the Commission actually does and how it operates, particularly in relation to the Development of Regional Impact (DRI) process. The public is generally unaware of all the facts that the Commission uses to make its decisions; very often, there is no simple answer and any decision is bound to negatively affect someone. People’s love-hate relation with the Commission perhaps depends to some extent, on whether they themselves are applying to get a project approved, or whether they want the Commission to make sure that a project planned near their home doesn’t destroy their neighborhood. The Commission gets little recognition for successfully improving dozens of projects; it is the rare denials or perhaps the odd slip that stand out (several people asked why the MVC *ever* approved those nets at the Windfarm, that proved to be more visible than anticipated).

The general thrust of most interviewees remarks was that the MVC has been too busy with the immediate to deal with larger issues; that the Commission spends too much time putting out brush fires and not enough time dealing with the important challenges facing the Island.

Key Recommendations

FINDINGS

- Virtually all interviewees believed that the Martha's Vineyard Commission has played and continues to play an absolutely vital role in guiding growth in Martha's Vineyard so that, as development takes place, the livability and character of the Vineyard are maintained to the greatest degree possible. The MVC is the only entity with the mandate to plan comprehensively for economic and land development as well as conservation on an Island-wide basis.
- However, most felt that the general public takes this for granted and does not realize the extent to which the preservation of the Vineyard's character depends on the MVC and the special land use development protections afforded by Chapter 831, the Commission's enabling legislation.
- The Commission reviews only a small proportion of the Island's development projects, so even doing a thorough review of them will not deal adequately with the overall challenge of managing change on the Vineyard. The only way that the Commission can effectively contribute to good growth management and a sustainable economy on the Island is to work closely with Towns to do comprehensive, pro-active planning in the best interests of the people and the land. This is the spirit that underlies the following plan for improving the MVC.

KEY RECOMMENDATIONS

The following are the key general recommendations in this report.

General: The Commission should refocus its attention from the regulatory part of its mandate and assume a leadership role in planning for the future of Martha's Vineyard.

- R1. Developments of Regional Impact:** The process for reviewing DRIs, though sound in its essential structure, should be thoroughly renewed with a view to making the process, though not necessarily the outcome, more clear and predictable, as well as to making more effective use of applicant's, the public's, Town officials', Commissioners' and staff's time, and reducing costs to applicants.
- R2. Districts of Critical Planning Concern:** The MVC should encourage and support the use of Districts of Critical Planning Concern as an effective tool for protecting unique resources and Island character.
- R3. Planning:** Over the next two to three years, the Commission should, in close cooperation with the Towns, update the Island Plan in a major planning effort to articulate and share a clear vision as to how development should be managed.
- R4. Relation with Towns:** The Commission and Towns should work in much closer

partnership with respect to planning and regulating development on the Island with a joint Island planning process, with redefined roles in the DRI process, and through regular meetings and communications between Commissioners and MVC staff with Town Boards.

- R5. Relations with the Public:** The Commission should undertake a major outreach program to better explain what the Commission is and does, to raise public awareness of various issues related to growth management, development and conservation on the Vineyard and to hear from the Island community.
- R6. Commissioners, Committees and Meetings:** The Commissioners should make more effective use of their time and efforts by accomplishing more of their work in small committees. They should also make efforts to establish a more cohesive team with respect for the different skills, styles and opinions of other Commissioners, of Town officials, of members of the public and of staff.
- R7. Staff:** The staff of the MVC should work more effectively as a well-balanced team, and should make a greater effort to reach out to the Towns and the public.
- R8. Finances:** In order to properly carry out its mandate, the Commission must carefully monitor expenses and seek more stable and diversified funding. Sources could include aggressively seeking grants, accepting private donations as well as seeking a means to directly assess new development.
- R9. Legal:** The Commission should continue to maintain great vigilance in how it operates, particularly with respect to its regulatory mandate (DRIs and DCPCs), recognizing that it is inevitable that the decisions of a public regulatory agency like the MVC are appealed from time to time.
- R10. Facilities:** The building must be thoroughly renovated in the near future including urgent structural repairs, an internal reorganization and a better method for document storage. Other facilities should be upgraded to improve the efficiency of Commission operations. The building should be a model of good office, building and landscape design and management.

These recommendations are repeated and then fleshed out in more detail in the rest of this document. Much of this report deals with the DRI process since it presently dominates the Commission's energies and has been identified as the item in greatest need of reform.

1. Developments of Regional Impact

A Development of Regional Impact is a project that can impact more than the Town in which it is proposed, and therefore is reviewed by the Island-wide Martha's Vineyard Commission. Town boards or the Dukes County Commission refer proposals for MVC approval before the Town may issue a permit. Referrals are made on the basis of meeting thresholds on a checklist. Some projects automatically require full review by the Commission whereas with others, the Commission can choose not to concur with the referral and remand it back to the Town. The Commission holds a Public Hearing and weighs the benefits and detriments of a proposal before making a decision on its approval. The MVC can impose conditions when approving a DRI to mitigate detriments or to improve benefits. The Land Use Planning Committee (LUPC) is a subcommittee of the Commission that helps review DRIs.

FINDINGS

- Almost all interviewees felt that reviewing Developments of Regional Impact will continue to be a vital part of the Commission's mandate and that the fundamentals of the process are sound. However, most felt that the Commission spends too much time reviewing DRIs, taking time and energy away from other parts of its mandate that are equally, if not more, important. This is partly because several major proposals in the past three years have required time-consuming, in-depth review. However most interviewees felt that it was also because too many projects are being reviewed, that the review could be done more effectively, and that the Commissioners are too involved in the minutiae of projects – work that could more appropriately be done by the Towns and by MVC staff.
- The net for referring projects to the MVC is too fine and requires referral of too many projects that don't have a significant regional impact. This is partly because there is no differentiation between built-up and rural areas; for example, a 2000 s.f. project in a town center might be of little consequence, but the same project could have a very significant impact in a rural area. Many DRI's are relatively small commercial projects in built-up parts of Down-Island Towns that could be dealt with at the Town level if there were a plan for the Business District or the whole Town (possibly with special regulations as a DCPC to give the Town the tools it needs). More thorough review in rural areas and a streamlined process in town centers would ease up on the small businessperson and protect the environment at the same time. I was told that often, controversial projects are referred to the MVC even though they are without significant regional impact, because the Town doesn't have the tools or the will to deal with them. Several interviewees said that the MVC should "simply send them back and have the Town boards take the responsibility they were elected or appointed to do." The Towns should be able to handle most of the projects having little regional impact, with the MVC only lending a hand when requested to by Town boards. We are fortunate to have a category of referrals that allows a possibility of a vote of non-concurrence (the Cape Cod Commission doesn't) since this gives us an opportunity

to streamline the DRI process. If the number of projects reviewed by the Commission was reduced by a third, and the time to review the remaining projects was also reduced by a third, this would halve the time the Commission spends on DRI's.

- Several people felt that the DRI process is difficult for an applicant in that he or she must spend considerable time and effort preparing a proposal with little guidance, only to be required to make significant and costly changes later. Applicants dread the process, the critics said, especially small property and business owners for whom the cost and delay is especially problematic, partly because the steps to be followed are not always clear; people want to know what to expect and not be subjected to an unnecessarily long process. There is a perception that the MVC improvises the process as it moves along, that it micro-manages projects, and that its decisions are inconsistent.
- There is a chicken and egg dilemma with respect to the timing of public input. Presently, the Public Hearings take place late in the process, after the applicant has spent a lot of time and money on detailed plans before hearing from the public and the Commissioners. On one hand, for consultation to be meaningful, a proposal should be quite clear before seeking public input; on the other hand, it is desirable that there be public input early enough to allow an applicant to revise the proposal before having spent lots of money on a plans and studies.
- The present system is, to a certain extent, a hit-or-miss process in that the applicant presents a proposal, but it is only after the Hearing closes that the Commissioners clearly outline a position on this proposal. By then, it is too late for the applicant to modify the proposal to respond to the Commissioners' concerns; this might result in approval of a mediocre project that could have much better, or even in denial of a project that might have been able to be improved to the Commissioner's satisfaction.
- Many interviewees suggested prohibiting a situation whereby an applicant attempts to get approval for a project by offering benefits in areas unrelated to problems or even unrelated to the project itself. Examples included as offering discounts on the price of goods or services and making donations to Island entities. Some characterized this as verging on bribery. and said that land use decisions should be made on the basis of land use considerations alone.

RECOMMENDATIONS

R1 The process for reviewing DRI's, though sound in its essential structure, should be thoroughly renewed with a view to making the process, though not necessarily the outcome, more clear and predictable, as well as making more effective use of applicant's, the public's, town officials', Commissioners' and staff's time, and reducing costs to applicants.

R1.1. Review Fewer DRIs, but Review Those in More Depth

- The Commission should review fewer projects, but carry out the review in a more comprehensive way with a better process leading to better projects. The MVC should ensure that only projects of a truly regional impact are subject to the full Public Hearing process. (M)
- The checklist for project referral in the Standards and Criteria should be revised (due in fall 2003) to allow for a greater number of projects either not to be referred to the MVC at all, or, under certain conditions, to be remanded back to the Town. This could include projects within business districts or other areas that are designated as redevelopment areas, and that conform to an overall plan approved by the Town and the Commission. The checklist could also differentiate more between rural and already built-up areas and between new development and redevelopment. (M)
- The Commission should not concur with referrals from Towns unless there is a clear regional impact or the MVC is specifically asked to do so by the Town board in order to help the Town achieve an objective that is otherwise not possible. (M)
- After a denial, it should not be possible to resubmit a proposal for a year or more, unless there is a substantial change in the project. (M)

R1.2. Clarify Submission Requirements

- The Commission should clarify submission requirements and procedures. This should require that there are adequate plans and photos to fully understand the project and its context as well as a summary of information (acreage, density, nitrogen loading, water use, etc.). The written checklist for DRI applicants should be updated, with different levels of details depending on the size/nature of the project, so people know what they need to have prepared to get started including what studies must be undertaken and when these studies could be waived. (S)
- The project review process should not start until the Executive Director has deemed that the application is complete, including sufficient plans, information and studies to initiate the process. The MVC should specify a timetable for the submission of additional information to ensure that there is adequate time for staff review and distribution to Commissioners in advance of meetings. Hearings should not be advertised until the submission is complete. (S)
- The Commission should make clear that applicants should not have fully developed plans in the early stages of the process. Applicants should be encouraged to come early, before the project has been designed, and meet staff so each professional can outline to the applicant the submission requirements, the need for studies, and the general concerns of the Commission in each field, as well as the project evaluation guidelines when these are prepared. (M)
- The MVC should look at the feasibility of standardizing the system of requiring that applicants pay to have technical studies (traffic, etc.) reviewed by an independent

consultant of the Commission's choosing that might be on retainer by the MVC. It might also be possible to have the work done by this consultant, provided that this does not create a conflict of interest. (L)

R1.3. Elaborate Project Evaluation Guidelines

- The MVC should prepare guidelines, based on the Island Plan and on the experience gleaned from past project reviews. These could be prepared as minimum planning standards dealing mostly with quantifiable "tangibles" of the Commission's mandate, such as those prepared by the Cape Cod Commission where an application is not even accepted and sent on to the benefits-and-detriments test until certain specific requirements are met. (For example, the Cape Cod Commission requires that a development in a significant natural resource area conserve two-thirds of the property as open space, mostly in a natural state, possibly substituting a similarly sized property of equivalent environmental value.) Alternatively, they could be stated as guidelines that articulate the criteria in certain categories, while making clear that the MVC could require more than the minimum in certain situations or might accept less in others, as particular circumstances warrant. A set of clear guidelines should be very useful in helping applicants prepare proposals that are more likely to respond to the concerns of the Commission. (The experience of Vermont's Land Use and Development Law Act 250 and of the Cape Cod Commission could prove useful in formulating guidelines.) (M)
- The MVC must make clear that meeting standards does not, per se, warrant approval and that, after a weighing of benefits and detriments, the MVC could still deny a project that meets standards or approve one that doesn't meet all criteria. The guidelines should be formulated in such a way that they cannot be interpreted as a recipe for automatic approval, allowing an applicant that does the bare minimum or finds a loophole to build an inappropriate project. (M)
- The MVC should consider clarifying the principle that land use decisions should be made on the basis of land use considerations alone, and that other indirect "benefits" such as offering discounts or making donations to Island entities will not be considered. Also, the Commission should consider adopting the method used by the Cape Cod Commission whereby a proposal must meet basic criteria in each distinct issue area, such as transportation or wastewater treatment, and a deficiency in one area cannot be offset by a potential benefit in another. (M)
- The MVC should look at the possibility of outlining pre-determined guidelines for mitigation such as the Cape Cod Commission's method of *trip reduction requirements* for DRI's, to fund public transit and bike paths or to donate developable land beyond the open space requirements in order to remove potential future trips. (L)

R1.4. Streamline the Review of Simpler Projects

- The MVC should attempt to differentiate between projects that have major or minor potential impacts and streamline the processing of the latter. This could include development in town centers for projects conforming to a plan adopted by Town and MVC (as has already been done in the Airport Business Park). (M)
- The MVC should examine the possibility of delegating minor projects to the LUPC (or even just staff for very small projects). This could involve having the LUPC direct staff to draft a recommendation of non-concurrence or approval for review at a normally brief Public Hearing followed, at the same meeting, by ratification by the full Commission, unless members of the public or Commissioners raise significant new concerns. It will be easier to do this delegation once guidelines are in place. (L)
- The MVC should look at the possibility of a special process for projects of public benefit (eg. schools, health facilities, public or non-profit affordable housing, other municipal or county buildings, non-profits) with respect to the process itself, the evaluation criteria, the studies required, and the required mitigation measures. (L)

R1.5. Provide Opportunities for More Dialogue During the Application Process

- The MVC should revise the DRI process to incorporate more dialogue with applicants, Town representatives and the public in order to identify and resolve issues and improve projects during the time period before the formal approval process. This could include informal sessions with staff and the LUPC, or with special stakeholders meetings, to mediate various concerns through informal face-to-face dialogue or more formal negotiation. (M)
- Staff and the LUPC should seek to improve proposals by pointing out to the applicant ways that detriments could be reduced – by solving problems or mitigating negative impacts – as well as pointing out opportunities for increasing the benefits. With some projects, LUPC could be very clear as to what specific things the applicant should do in order to get a favorable recommendation from this Committee. There should not be a quorum of the full Commission at the LUPC meeting so it is clear that this preliminary recommendation is not binding on the full Commission. LUPC or the Commission could also ask staff to work with the applicant on redesign, but this should probably not include the Commissioners themselves to avoid pre-judgment. This would allow closing in on a solution in a step-by-step way (even if the solution is sometimes a denial). However, it must be clear to all parties that this is without prejudice to the formal Public Hearing process and the ultimate decision of the Commission. (M)
- Currently, the workload for analyzing a typical project is probably: staff 10%, LUPC 10% and Commission 80%. We could eventually move to, say: staff 30% and LUPC 40% with the final deliberation and decision by the full Commission representing the last critical 30%. It might take several years to prepare guidelines and work out the process until Commissioners are fully confident in delegating most of the advance

work to LUPC and staff. (M)

R1.6. Coordinate More Effectively with Towns in Reviewing DRIs

- Town boards should ensure that a project meets the Town's technical zoning requirements before referring it to the Commission. (S)
- Town input could include having preliminary joint scoping sessions with the MVC and Town boards that must pass on the proposal, at least for more complex projects. The boards and the MVC could explain each of their concerns to the applicant, and they could possibly decide which issues would be dealt with by the Town and which by the MVC, thereby minimizing duplication for the public organizations and for the applicant. It might also be possible to hold joint hearings, as has been done in the past. (M)
- The MVC should ask Towns to designate an official Town liaison or spokesman, for each DRI when it is sent by a referring board. This person should identify other boards that would be required to approve the project and should inform these boards of the referral. (S)
- Towns should be strongly encouraged to make a preliminary review of projects (not only by the referring board but also by other concerned boards), to identify issues of concern and possible solutions, while stopping short of taking a firm position on all the specific details of a project and then communicate to the Commission what has been reviewed, what their concerns are, and in what ways the MVC can assist the Town in dealing with the project, particularly with issues that cannot be dealt with at a Town level. This can be done either in writing, or preferably by sending a representative to the LUPC pre-Hearing meeting and to the Public Hearing. The possibility should be examined of reserving a special seat in the room during Public Hearings for the official Town representative. (M)
- The process should be seen as teamwork between the Towns and the MVC, notwithstanding the fact that, since the Martha's Vineyard Commission is a large regional body representing all-Island interests and making decisions in the best interests of all of the Vineyard, there may be some occasions where the MVC and the Town may not agree. (M)
- The possibility should be examined of having Towns make discretionary referrals to the MVC whereby only certain aspects are considered regional and require the Commission's assistance. In these cases, the Commission would only look at these aspects of the project. (L)
- The MVC should clarify the relation to the Massachusetts Environmental Policy Act (MEPA) for the small number of projects that trigger such a review. It would be desirable to have the MEPA review take place first, or at least get technical reports from State agencies early enough to be used in MVC deliberations. It should look at the possibility of finalizing a draft Memorandum of Understanding that would allow

joint review of projects that are subject to MEPA review and would allow reciprocal cross-referrals (as presently takes place with the Cape Cod Commission). (L)

R1.7. Prepare Public Hearings More Completely

- The format and content of material provided to Commissioners and the public should be revised. There should be more comprehensive staff reports with all key information in a report with a maximum of, say, four pages (with additional details such as backup for the traffic report and copies of all correspondence from Towns or Public Officials as well as a complete summary of correspondence from the public in appendices). The staff report should include an administrative summary of the history of the project, a description of the project and context, a description of how and why the project changed since its original submission, an analysis of planning concerns and summary of input from Towns and the public. The report should be available a week in advance, perhaps eventually on the Internet. Everyone including applicants and the public could then be asked to read the document at the beginning of the Hearing, if they have not already done so. Testimony could then be limited to corrections, clarifications and new information. It might also be possible to have preliminary staff reports before the first LUPC meeting on a project, and complete the reports – incorporating the results of the LUPC’s pre-hearing analysis – before the Public Hearing. (Note that this level of preparation would only be feasible if the total number of DRIs is reduced.) (M)
- LUPC, with staff support, could come to the Hearing with a brief document that outlines the issues and possible solutions – or sometimes preliminary draft conditions with respect to certain straightforward issues – even for the “non-streamlined” projects (described in section R1.4). If an issue is not clear cut, the document could include options with an analysis of the advantages and disadvantages of each, as well as draft conditions for each option. This would provide the opportunity to the Commission, if appropriate, to choose an option and move on. (The Cape Cod Commission has complete draft decisions in advance of the Commission meeting that are prepared by staff under direction of the equivalent of the LUPC.) (M)

R1.8 Hold More Effective Public Hearings

- The MVC should consider returning to the system where the Hearing starts with the staff report where the proposal, staff analysis and Town and public input are presented in a neutral way. Such a presentation could be more clearly focused on issues of concern to the Commission and could be done with a Powerpoint-type presentation. (L)
- The MVC could establish time limits for testimony at Public Hearings, to focus presentations while still ensuring due process. For example, the applicant could be limited to about 15 minutes or 30 minutes, and each public testimony could be

limited to some relatively short period. The Hearing Officer could entertain additional testimony, if necessary, for very complex projects. Applicants and members of the public would be invited to submit additional detail in writing. (M)

- The MVC should have a general document available to everyone attending the Public Hearing that outlines the DRI process and the procedure of the Public Hearing. It might also be possible to include the Public Notice so that it does not have to be read out loud for every Hearing. (S)
- Implementing the proposals in this section should allow holding two, or perhaps even three, Public Hearings in one night. With fewer Hearings, there would be less of a problem of losing a quorum by attrition as Commissioners lose the right to vote because they miss a meeting. In general, it would be preferable to schedule the Hearing that will interest the greatest number of people first on the agenda so the fewest number of people have to wait. (S)
- Before a final Public Hearing on a project, the applicant should submit a document that clarifies and confirms all offers made during the Hearings that do not already form part of the written documentation of the proposal. MVC staff could draft this document for the signature of the applicant. (S)
- The MVC should review how decisions are written. The same basic formula has been used for many years, but could probably be improved in terms of clarity as well as with respect to administrative and legal issues. (M)
- The MVC should establish a procedure after approval whereby the applicant signs a document that: 1) confirms that the project must be completed according to the approved Plan, 2) indicates that the applicant must come back to the MVC and request a modification if he or she wants to change the project, either before or after construction. The applicant should submit two sets of the final Plan that are then stamped Approved by the Commission, one set of which is sent to the referring board. (The enforcement function relies on the Towns; the building inspector, Zoning Board of Appeal and Conservation Commissions have the ability to withdraw permits and certificates of occupancy, to levy fines, and if necessary to go to court for injunctions.) (S)

The Present Process

1. Preparation: The applicant spends several months designing a project and then presents a fully detailed plan to the DRI Coordinator. There is little input to the applicant from the staff, other than outlining what drawings and studies should be submitted and, perhaps, mentioning what items might be of concern to Commissioners.

2. First LUPC Meeting: A LUPC "Pre-Hearing" meeting is held. It focuses on preparing the applicant for the Hearing by anticipating what questions are likely to be asked and suggesting that the applicant be prepared to answer them. An exemption from carrying out a full traffic study might be granted. Often, there is little or no discussion of substance.

3. First Commission Meeting: A Public Hearing is held including a full explanation of the project, public input and extensive questions from the Commissioners. The Public Hearing is closed. The record closes immediately or the written record is closed a few days later. In other words, the proposal is finalized before the Commission has had any chance to collectively weigh in on the proposal although there would have been questions from individual Commissioners that are not necessarily representative of the whole group.

4. Second LUPC Meeting: A LUPC "Post -Hearing" meeting is held where Commissioners discuss the proposal for the first time. However, it is too late for dialogue with the applicant who may not speak, other than for clarifications. The LUPC may formulate a recommendation but this is happening more and more rarely since Commissioner attendance at LUPC varies considerably.

5. Second Commission Meeting: The Commission meets for final deliberations and a decision. At this stage, it can only approve, approve with conditions or deny the proposal but there is no opportunity to try to work out solutions with the applicant.

A Possible Process

1. Preparation: The applicant meets staff with a very preliminary proposal before much time or money has been spent on plans or studies. At a first meeting, the planners responsible for various topics give the applicant a template of what must be submitted but also outline the Commission's traditional concerns about various aspects of the proposal, based on the Island Plan, similar Commission decisions and, once they are prepared, the Commission's guidelines. The applicant may return for unofficial staff comments and suggestions as plans

progress.

2. First LUPC Meeting: LUPC meets the applicant based on somewhat more advanced, but still preliminary plans. There is a meaningful discussion where the members of the LUPC outline what the major problems are likely to be and discusses various possible solutions with the applicant. The LUPC could, in some cases, give a clear indication of what conditions should be met to get a positive, non-binding, recommendation from this committee, either for the project as a whole or on an issue by issue basis: a clear and concise statement of what needs to be done, what problems need to be solved, what studies must be carried out. The applicant would then work out the proposal in more detail, but still at the level of conceptual plans. For projects requiring concurrence for the referral to the MVC that the LUPC considers of no regional impact, the LUPC would formulate a recommendation of non-concurrence.

3. First Commission Meeting: A Public Hearing is held whose aim is mainly to hear from the public and from Commissioners not attending LUPC meetings. A draft report on the project and the LUPC's preliminary concerns is available so people need only make additions or corrections. If there are outstanding issues to resolve, the Commission might identify a few unofficial representatives of stakeholders (eg. head of a road or neighborhood association to represent abutters, someone from the Dukes County Affordable Housing) to come to the next LUPC. The Hearing is not closed but is continued. In the case of projects where the LUPC recommends non-concurrence, there is no Hearing and a vote is taken on whether to concur with the Town referral. In the case of "streamlined" projects, LUPC and staff offer a draft decision; unless a new concern emerges, the Hearing closes and the Commission votes on the draft decision.

4. Second LUPC Meeting: LUPC holds a working meeting at which the applicant, the Commissioners and the stakeholders' representatives participate in a meaningful dialogue to try to resolve any outstanding issues to everyone's mutual satisfaction. If no consensus can be reached, the members of LUPC propose what they believe is the optimum solution. (Note that these meetings should have a relatively limited number of people to be most effective.) The LUPC formulates a recommendation and staff can prepare a draft decision. The applicant prepares more detailed drawings, possibly making revisions and offers in light of the Commission and LUPC discussions and the LUPC recommendation.

5. Second Commission Hearing: At the continued Public Hearing, the public and other Commissioners can react to the revised plan and offers as well as the draft conditions proposed by LUPC. The hearing is closed and the Commission immediately deliberates and makes its decision. Unless new information comes up at the continued hearing or LUPC has misread the opinion of the Commission as a whole, chances are that most of the time, the revised proposal and LUPC

recommendation will be approved as proposed or with only a few modification.

An alternative would be to combine steps 2 and 3 by inviting the public to the first LUPC meeting and listening to public input, though this would not be a Public Hearing in terms of the law. The formal hearing would only take place at the end of the process. Preliminary consultation with Commission counsel indicated that both options would be acceptable provided full public notice (advertising and notice to abutters) is given of the first meeting (first Hearing or LUPC meeting) and if it is clear at this meeting what the other steps in the process are, including the possibility that the plans might be revised.

2. Districts of Critical Planning Concern

A District of Critical Planning Concern (DCPC) can be created by the MVC to protect a specific geographic area that has unique resources (ecosystems, wetlands, recreational resources, character, etc.). Chapter 831 enables Towns to establish regulations tailored to protecting the particular area, beyond what state legislation would otherwise enable. A DCPC can be nominated by a Town board, a group of citizens, or by the MVC itself; however, since the 1970's, the Commission has relied on Towns and citizens for nominations. Once the nomination has been accepted for consideration, there is a moratorium on development within the proposed district. If, after a Public Hearing, the Commission agrees to the proposed district, it designates the district and sets guidelines for the Town to address when crafting its DCPC regulation. Draft regulations must be approved at two levels: by the MVC for conformity to the guidelines, and by the Town Meeting for adoption as a Town bylaw. Once the regulations are adopted, the moratorium is over and the regulations are administered by Town boards, without further MVC involvement.

FINDINGS

- Most interviewees felt that DCPCs were among the most effective tools of the MVC. They give Towns the ability to control development themselves, in ways not possible with ordinary land use regulations. There are 24 on the Vineyard and only 6 on all of Cape Cod.
- There appears to be confusion about the process, for example, some people think that once a DCPC is created, all projects will have to go the MVC. Also, the criteria for allowing exemptions from the moratorium are not clear.
- There were a few complaints that the MVC has not always offered as much professional and Commissioner support as local communities had hoped, to assist in their efforts to create DCPCs.

RECOMMENDATIONS

R2 Encourage and support the use of Districts of Critical Planning Concern as an effective tool for protecting unique resources and Island character.

R2.1 Clarify the DCPC Process

- The MVC should prepare a new guidance document and simplified DCPC nomination forms (D).
- The MVC should carry out a review of past DCPCs and communicate to Towns and the public the successes and failures (M).

- The MVC should clarify use of exemptions from the moratorium on development. (M)

R2.2 Provide Greater Support to Towns and Other Entities Proposing DCPCs

- The MVC should ensure that there is clear Town and public support for a proposed DCPC. It should make sure that it is clear that this is something the MVC is doing to help a Town achieve its goals, and is not perceived of as something imposed on a Town by the MVC. (S)
- The MVC should give greater support to Towns in helping craft DCPC regulations. (M)

3. Planning

As the Regional Planning Agency for Dukes County, the MVC is responsible for a wide range of regional planning activities and has special responsibilities, such as updating the Regional Transportation Plan. The Island Plan, a policy plan for the Vineyard was issued in 1990 and several Action Plans on specific topics were prepared in 1993-96. They outlined general principles as well as specific actions to be carried out, largely studies.

FINDINGS

- According to the Buildout Study carried out by the Commonwealth in 2002, existing zoning would allow the population as well as the number of houses on the Island and Gosnold to grow by 60% (from 15,000 to 25,000 year-round residents and from about 14,000 to 21,000 houses). If we continue to grow at the same rate, this could take place in only 15 to 20 years. This would have considerable impact on the character and services of the Vineyard and the Elizabeth Islands. There is concern that development pressures will only continue to increase.
- There are also pressures to change the character of the Vineyard, coming not only because of the increase in population but also because of changing expectations and lifestyles where people are increasingly looking for “suburban” conveniences that could lead to incompatible development, increasing transportation problems and a general undermining of the special qualities that attract people to the Vineyard in the first place.
- Most interviewees were concerned that there is not a shared community vision as to how growth should take place. “The Vineyard is drifting along with incremental growth and no one is stepping back to see where this is all leading. We need a clear idea of where we want to be in or twenty years and what are the steps to get there.”
- Many felt that the present zoning laws were out of date in that they often spread development evenly over large areas, ignoring whether the land is more suitable for conservation or development. The Island Plan spoke of innovative approaches to clustering and conservation, but this has only had limited success in being translated into effective zoning.
- A few interviewees suggested that people are tired of talking about theoretical planning concepts, they want action. People might be skeptical about spending a lot of time in discussing issues that have already been well discussed, especially if nothing comes out of it but a document that sits on a shelf until it is time to revise it again.
- The Commission has done considerable work on water and natural systems that should be continued. Considerably more has to be done on the Vineyard as a place occupied by people, with respect to economics, buildings, history, and design.

RECOMMENDATIONS

R3 Over the next two to three years, the Commission should, in close cooperation with the Towns, lead a community-based update of the Island Plan in a major planning effort to articulate and share a clear vision as to how development should be managed.

R3.1 Make the Planning Practical and Action-Orientated

- The plan should not just be a theoretical vision of an ideal future. It should confront the real problems associated with growth and focus on practical solutions. (M)
- The plan should be based on fact, not preconceived notions, identifying likely scenarios for growth and their concrete implications. The MVC should play a key role in compiling good economic, population, development and other data as a solid basis for planning. Optional approaches dealing with the rate and pattern of growth as well as other issues should be identified and their likely impacts evaluated. The MVC and Towns should clearly communicate to the public the consequences of growth and the planning choices that need to be made. (M)
- The MVC should play a leading role in coordinating Geographic Information Systems on the Island as a basis for data collection, analysis and coordinated planning. (S)
- The planning should grow out of the DCPC experiences and could suggest future DCPCs. It should also take advantage of the DRI process to use these practical examples as case studies that can be translated into policies for general application. (M)
- The MVC and Towns should be more in touch with problems and solutions off-Island, to give us warning of upcoming problems and help identify effective solutions. In order to promote comprehensive planning and land use regulations, the MVC should identify innovative planning studies and techniques successfully used elsewhere to deal with issues similar to those faced here. Providing model bylaws could be particularly important for the Towns, covering such matters as cluster/conservation subdivisions, and village growth/business districts. (M)
- The plan could, in many respects, have two modes, one for the three months of the summer when the Vineyard is an almost "urban" place and one for the rest of the year when it is "rural". (M)
- The plan should outline in simple form the basic principles for sound development. *Less is more* in that a concise, focused plan is better than a complex one. (L)

R3.2 Carry out the Planning in Close Cooperation with Towns and Other Partners

- Towns have to play a major role in planning, to ensure that plans reflect their needs and so they buy into the proposals since, it will ultimately be up to them to implement most aspects of the plan (as already discussed in section 4). (M)
- The MVC should help Towns prepare Master Plans or Comprehensive Local Plans for their business districts or the whole towns. As described in section 1, once the MVC approves such a plan, the Commission could change the DRI checklist so that certain projects that conform to the Town plan would not have to be referred to the MVC, or at least would not automatically trigger Public Hearings. (L)
- The MVC should provide a forum for public participation in a wide variety of regional planning concerns. (M)
- The MVC should not only deal with planning on the Vineyard and Gosnold, but also larger issues such as transportation access to the Vineyard as well as the role of the Cape and Islands in the Commonwealth as a whole and in the Northeastern United States. To do so, the MVC should play an active role in the Massachusetts Association of Regional Planning Agencies, the New England Association of Regional Councils and the National Association of Regional Councils. The MVC should keep Towns and the public informed of broader issues affecting the Vineyard and effective planning tools being employed elsewhere. (M)

R3.3 Start the Planning Process with Good Preparation

- The planning process should use the considerable work already done as a springboard, by building on previous studies, visioning exercises and other planning initiatives, so that people are not frustrated in having to repeat these efforts. A first step would be to go back to the Island Plan and Action Plans to see what has been done and what remains to do. (M)
- It would be useful to use scientific surveys of residents and visitors with respect to their activities, objectives, and attitude to issues such as growth, conservation, and traffic. (M)
- The MVC and Towns should use the 2002 Buildout study as well as the Community Development Plans (Executive Order 418) and the Regional Transportation Plan Update, being carried out in 2003, as important first steps in the planning process. (M)

R3.4 Ensure That the Plan Includes an Effective Implementation Program

- In order to ensure that the plan is not just a document put on the shelf, it needs a clear program for follow through, including the definition of responsible agencies, a clear timetable and projected budgets. Implementing the Plan is even more work than creating it in the first place. (L)

- The implementation program should include ongoing tracking of development compared to projections and to the ultimate buildout. Also, the Island's progress with respect to Sustainability Indicators should be regularly updated. (L)

Some Planning Issues to Deal With

- How much growth (year-round, seasonal, visitor population; houses, jobs) is likely to occur in the coming generation with new construction and the conversion of seasonal houses to year-round use?
- What are the real impacts of different types of visitors, (day-trippers, short-term, seasonal,) and is there a way to encourage the types of visitation that produce the greatest benefits and minimize negative impacts?
- Are there physical limits to growth such as fresh water supply, nitrogen loading, traffic, etc.? Is there such a thing as absolute build-out?
- What will the impact of growth be on traffic and transportation, on affordable housing, on the natural and scenic environment, and on the provision of public services such as drinking water, schools, community services, wastewater, and solid waste? How can we avoid the worst-case scenarios?
- Can the rate and pattern of development be better managed to minimize negative impacts and if so, how? Is the current zoning the best way to shape future development? If not, how can it be changed given the potential impact on private property rights and the need for public and political support?
- How can the Island best preserve the natural environment, the open spaces, the special places, the scenic beauty and the simple Island way of life that are the main attractions of the Island and thus the engines of the economy?
- As the Island approaches buildout, what will the impact be of slowing growth on the economy and particularly the building trades? Should we seek a more sustainable economy that is less dependent on seasonal tourism and growth (new construction)?
- What improvements should be made to the Island road network and the transportation systems to ensure mobility, reduce congestion and improve safety? How should we balance the desire to preserve narrow, tree-lined roads with the desire to reduce congestion and improve safety?
- What is the best way to reconcile the Smart Growth principle of favoring infill rather than sprawling into rural areas, with the planning and political difficulty of developing within already built-up areas? Is it possible to identify growth

centers and discourage development outside these areas? (In Nantucket, they outlined *Town* and *Country* areas and have different policies for each.)

- With population growth, where should commercial development take place: in existing or new business districts? And what is appropriate commercial development? Can plans be created for existing business districts? Can the existing areas of strip commercial development – notably Upper State Road and North Tisbury – be retrofitted? (Many commented that, notwithstanding the fact that the buildings are shingled and have more tasteful the signs and landscaping, they are essentially in the same pattern of strip commercial development as often found on the mainland.)
- How can access to beaches and other public amenities be maintained or improved?
- What is the relation between the preservation of open space and restrictions on growth compared to property values (considering these high values as something to be protected but also as a problem for housing affordability)? How can the challenge be met of providing mixed income housing that is affordable to the people here, to young people starting out, and to essential workers?
- How can we address issues of social equity between people and between Towns, for example, where young families with schoolchildren locate with respect to the cost of education, where regional services are located with respect to the costs and revenues to Towns, where open spaces and beaches are located and who has access to them?

4. Relations with Towns, County and Other Public Entities

FINDINGS

- The challenge of carefully managing growth and change on the Vineyard cannot be met by either the MVC or the Towns alone. It is essential that the two work effectively together. The main responsibility for implementation is up to the Towns, with the MVC's support.
- Virtually all interviewees felt that the current system of having seven Towns, each with its own individual character and management, along with a regional entity to deal with Island-wide issues is most desirable. However, since the division between local and regional concerns is never absolutely clear-cut, a certain tension between regional and local entities is inevitable and should be seen as a healthy consequence of this fundamentally sound system. Different Towns have already done a lot of good work and it would be good if we all learned from each other.
- Nevertheless, most people felt that the MVC's relations with the Towns are perhaps unnecessarily strained and there is, in some cases, a mistrust of one or the other. Although this is sometimes the result of frustration over inherent conflicts between local and regional perspectives and decision-making, my interviews indicate that this is largely a result of often-poor communications and insufficient interactions between the Towns and the MVC.

RECOMMENDATIONS

R4 The Commission and Towns should work in much closer partnership with respect to planning and regulating development on the Island with a joint Island planning process, with redefined roles in the DRI process, and through regular meetings and communications between Commissioners and staff with Town Boards and staff.

R4.1 Organize the MVC for Better Outreach to the Towns and the County

- The Commission should make a greater effort at all levels – Director, Staff and Commissioners – to interact with the Towns. (S)
- The Commissioner appointed by each Board of Selectmen and by the County should play a special liaison role in reporting to the Town or County about Commission activities and vice versa. (S)
- It could be useful that the Selectmen's appointee and the Executive Director meet the Selectmen and other Town boards and officials on an annual or semi-annual basis. They could also be available to give a brief presentation at each annual Town Meeting's budget discussion (to explain the ongoing Commission work and discuss special Town needs). (M)

- The Executive Director should have an open line of communication with the heads of the Boards of Selectmen with respect to major policy issues facing the Town and the Island. (M)
- The possibility should be explored of assigning a staff person as primary staff liaison for each town. It would be his or her responsibility to keep up to date with current concerns, particularly those of Town Boards. This staff person could attend many Planning Board meetings as well as occasional meetings of Selectmen and other boards. (M)

R4.2 Seek Greater Collaboration with the Towns

- The MVC and the Towns should cooperate more in their planning and regulatory activities. The MVC should approach this in a spirit of respect not only for the physical, social and economic diversity of the Towns, but also for their varying needs, priorities and management styles. (M)
- Town officials should be informed regularly of the considerable good planning and regulatory work done by the MVC. (S)
- The DRI process should be a collaborative one between the MVC and the Town (see section 1.6). (M)
- The MVC should make clearer to Towns what the Commission's capabilities are and what services are available, either as part of the Town's assessment, or for an extra charge if necessary. The MVC could act as a resource to Town boards with respect to professional expertise and technical assistance; GIS services, grant writing, education and networking. (M)
- The MVC should ask Towns to clearly outline each year what planning services will be needed from the MVC in the upcoming year so that the Commission can plan its work. The Commission should ensure that there is a formal request from the Town Administrator or Executive Secretary before starting work. (M)
- The MVC could work more closely with the County on various issues such as economic development. There might also be a possibility of collaboration on administrative matters. (M)

R4.3 Promote Island-Wide Collaboration on Planning, Development and Conservation

- The MVC should act as facilitator for Island-wide interaction between the Towns' 1) Planning Boards and Zoning Boards of Appeal, 2) Conservation Commissions, and 3) GIS Coordinators, as well as other non-profit entities. This should help each board and the MVC to benefit from each other's experiences and to help all of us to keep up to date with the latest developments and grant opportunities in the various fields as well as with opportunities for grants. (S)
- This facilitation should include Island-wide meetings for each of the three groups with presentations and discussions on topics of interest. (D).

- The MVC should keep track of what Towns have done and what they are working on and serve as a centralized source of information and documents. (M)
- The MVC should take a leadership role in creating an Island-wide roundtable where representatives from different interest groups (conservation, business, tourism, construction, municipal, affordable housing, etc.) can exchange and ideally plan concerted action on issues of common interest. (L)

R4.4 Play a Leadership Role in Representing the Vineyard in Dealing with Issues Affecting the Cape and Islands and the Commonwealth as a Whole

- The MVC should forge a strong alliance with the Nantucket and Cape Cod commissions. This will allow better coordination of planning issues such as transportation and growth. (S)
- The three planning commissions should lobby for the particular needs of the greater region. We have special needs because, among other things, this is the fastest-growing area in the Commonwealth; because it has a highly seasonal population with great transportation and other infrastructure needs in the summer, but many funding sources are based on permanent population; and because issues of coastal management and water resources as well as scenic values are particularly important. (M)

5. Relations with the Public

FINDINGS

- Many people only hear about the Commission when they read newspaper reports about controversial DRI Public Hearings or decisions. This gives a very limited view of what the Commission does.
- The MVC needs to get out a positive message about the role that the Commission plays in the stewardship of Martha's Vineyard and the importance of it being able to continue to work to preserve the Island's unique character. Several people said that getting accurate information out will help reduce misinformation and rumor about the Commission.

RECOMMENDATIONS

R5 The Commission should undertake a major outreach program to better explain what the Commission is and does, to raise public awareness of various issues related to growth management, development and conservation on the Vineyard, and to hear from the Island community.

R5.1 Publish a Series of Background and Information Documents on the MVC and on Planning Issues

These could include the following.

- A monthly newsletter for members of Town Boards and other interested groups and individuals. (D)
- Existing documents needing updated formatting: Chapter 831, Bylaws and Regulations, Standards and Criteria, list of DCPC designations; DRI and DCPC Application Forms (S)
- *Your Martha's Vineyard Commission* – a brochure giving an overview of the Commission's mandate, operations, successes and importance (for distribution to all Selectmen, Town boards, non-profit organizations, grant-making bodies, and interested members of the public). (M)
- A new guidance document on the DCPC process – an explanation of how to nominate, the designation process, exemptions, etc. (S)
- A new guidance document on the DRI process – an explanation of the process for applicants and the public. (M)
- Commissioners and Staff – who's who and how to contact them. (M)
- Publications on the various specific areas of concern dealt with by the Commission such as: Water Resources, Coastal Management, Scenic Values, Open Space, Sustainable Economy, Affordable Housing, and Traffic/Transportation. These will

give an overview of each topic – in general and on the Vineyard – and indicate what concerns should be dealt with both in DRIs and DCPCs as well as in upcoming planning efforts. (M)

- The History of the Commission describing its past achievements. (L)
- The Legal Basis of the Commission's regulatory activities (Chapter 831 and case law). (L)

A basic graphics package for all MVC publications should be prepared to ensure readability and a strong MVC identity. These graphics will also serve the other components of the outreach program and will reinforce the general public identity of the Commission. (S)

R5.2 Use a Variety of Other Techniques to Better Explain What the Commission Is and Does

Efforts to explain the MVC and make it more user-friendly could include the following.

- Regular columns in local newspapers. (D)
- Issuing press releases when the MVC gets grants, completes studies, etc. (S)
- Broadcasting all Commission meetings as well as other public meetings on the Community Access channel of cable TV. (M)
- A Web Site including the background documents listed above as well as minutes and agendas. (M)
- Organizing meetings, forums and lectures open to the general public. (M)

6. Commissioners, Committees and Meetings

There are 21 Commissioners, 7 appointed by Boards of Selectmen and the County, 5 appointed by the Governor (of whom only one votes on DRIs and DCPC's) and 9 elected members-at-large. There are four standing committees. Two of them, the Executive and Finance Committees, have a fixed membership. The membership of the Land Use Planning Committee (LUPC) and Planning Economic Development (PED) committee are open to any member who chooses to attend any given meeting.

FINDINGS

- With respect to the Commissioners themselves, most interviewees commended them for their dedication in putting so many volunteer hours into a thankless job for the betterment of their community. They felt that the Commissioners represented a diverse range of points of view and of knowledge. However, several interviewees complained that Commissioners did not properly respect applicants, members of the public, Town officials and each other, particularly during Public Hearings. They said there is a perception that some Commissioners are elitist, high-handed, arbitrary, emotional, and/or base decisions on ideology rather than the project itself, although others said that this perception is largely propagated by those who specifically want to undermine the credibility of the Commission. Some people said that the Commission shows an inherent bias *for* applicants and others perceived an inherent bias *against* them. Many interviewees were concerned about polarization and factionalism. Several former Commissioners said there used to be more team spirit: "even after a hot debate, we'd all go for a drink together at the Oceanview". Several people felt that the general point of view of most of the Commissioners was too conservationist; however most interviewees noted that these were the representatives who were democratically elected by the population of Martha's Vineyard or were appointed by elected officials.
- With respect to the way meetings were conducted, many interviewees criticized what they felt was excessive repetition, speechifying, lack of self-discipline ("not everyone has to weigh in on every issue"), disorganization, getting side-tracked and getting bogged down in detail that is not of real regional impact. Others felt that this was normal, "Democracy is sloppy and cumbersome." A few people commented that the casual atmosphere is not an appropriate public image for a quasi-judicial body making decisions of such import; this seemed particularly off-putting for people from off-Island. "For Commissioners it is just another Thursday night meeting, for applicants, it may be their whole livelihood." A large number of interviewees brought up occasions when they felt that Commissioners didn't listen to or agree with what they felt professional staff's remarks were on technical issues. A few members of the public commented that when they actually attended meetings, they appreciated the seriousness of the deliberations more than when they simply read newspaper reports.
- With respect to the number of meetings and the use of subcommittees, many

interviewees pointed out that Commissioners spend an exceptional amount of time in full Commission meetings. There are meetings almost every Thursday, starting at 7:30 p.m. and ending sometime between 11 p.m. and midnight. There are perhaps 60 to 80 Commission and other committee meetings a year, in addition to site visits and reading; this places a tremendous burden on Commissioners. Assuming that Commissioners can only be reasonably expected to devote a limited number of volunteer hours each month, this leaves little time for many of the other MVC priorities. The large size of the group makes meetings cumbersome. Commissioners could get more done if they worked in small committees and brought back proposals to the full Commission for final refinements and adoption, but this means that Commissioners would have to be willing to give up being intimately involved in each decision.

- There were diverging opinions as to the relationship that Commissioners should have with the community with respect to the regulatory part of their mandate. Some felt that, like Selectmen, they should continually inform and get feedback from their electors; others felt that as members of a quasi-judicial body, once elected, it is up to them to use their best judgment. However, there was a consensus that Commissioners should make more of an effort to reach out to Towns and the public with respect to the planning component of the Commission's mandate.
- With respect to the Land Use Planning Committee, in the 1980's, LUPC was a fixed, five-member committee that carried out a great part of the DRI project review. The equivalent of LUPC at the Cape Cod Commission is a 5-member subcommittee with members picked at random for each project; this committee holds the first and most in-depth Hearing on a DRI. Most interviewees, including most Commissioners themselves, said that the MVC should spend less time on DRIs. "There seems to be a feeling amongst some Commissioners that if they don't change a project, they haven't done their job, but it is requiring minor changes to already good projects that gives applicants and the public the impression that the Commission is overreaching and bogs down in minor issues," said one interviewee. Another said, "The Commissioners say that they should not get lost in details, but it doesn't happen. The Commissioners have to let go, and agree that not everyone will get personally involved in every aspect of every project."

RECOMMENDATIONS

R6 The Commissioners should make more effective use of their time and efforts by accomplishing more of their work in small committees. They should also make efforts to establish a more cohesive team with respect for different skills, styles and opinions of other Commissioners, of Town officials, of members of the public and of staff.

R6.1 Hold Fewer, but Better Organized, Full Commission Meetings

- The agenda format should be simplified. Minutes should be shorter, be laid out to facilitate reading and be prepared in a more timely way, ideally so they are available before the next meeting on the same topic. (The full record is on tape and is available if needed.) (D)
- The room should be set up to encourage more interaction, especially at LUPC. During Hearings, applicants should ideally be more visible to the public. Commissioners could be encouraged to change seats at each meeting to promote team-building. (S)
- Eventually, there could be only two full Commission meetings per month, held on the first and third Thursdays. This should become possible by reducing the time the full Commission spends on DRI review as described in section 1 and below. At least half of one monthly meeting, presumably the regular meeting on the third Thursday, should be reserved for planning and other issues. This will facilitate attendance by Governor's representatives who don't vote on DRIs but are involved in planning. (M)
- Staff and applicants should do a better job in explaining projects and planning issues with simple documents distributed in advance and better use of visual presentations. (M)

R6.2 Encourage Commissioners to be Sensitive to the Impression They Make

- Commissioners should exercise the greatest consideration for applicants, members of the public, Town officials, staff, and each other, being respectful of different points of view. They should arrive at meetings having read what they have been sent (provided that this material is more concise and is better organized to facilitate reading than in the past). They should exercise self-discipline – speaking less often, not “thinking out loud,” and not repeating what has already been said by others. Commissioners should be friendly to DRI applicants, helping them get through the process as efficiently and pleasantly as possible, though not necessarily to get an approval. They should attempt to choose their words carefully, knowing that their words may be repeated in newspapers or in court. Once meetings are televised, installing a monitor in the back of the room could provide instant feedback. (M)
- The Chair or Hearing Officer should exercise strict control to limit digressions and minutiae in order to make meetings more focused, while simultaneously respecting the need for input from applicants, the public, and Commissioners. When appropriate, the Chair could call for a quick vote on procedural issues and move on. To gauge whether a concern is widely shared among the Commissioners before spending much time discussing it, the Chair could call for an informal show of hands. (M)

- Commissioners should make a great effort to show respect and publicly support other Commissioners and the MVC as a whole, even if they disagree with certain views or decisions. (S)

R6.3 Revise the Structure of LUPC on a Trial Basis

- The Land Use Planning Committee should, on a trial basis, have a fixed membership of five or six people, carefully chosen by the Commission to represent various areas of concern and parts of the Island. Most importantly, the members should generally reflect the range of views of the Commission as a whole so that the latter has confidence in LUPC's recommendations. Other Commissioners would be welcome to attend LUPC meetings; however, they would not vote in order to maintain the balance of views of LUPC. When a DRI is reviewed, all Commissioners from the Town in which it is located should be strongly encouraged to participate in the LUPC meetings, even if though they would not vote. As a small group, LUPC could look at projects more deeply and more quickly. Fixed membership would facilitate dialogue with an applicant over the course of several meetings about revisions needed for a favorable recommendation to the full Commission. (See also section 1) (M)

R6.4 Revise the Structure of the PED Committee

- The Planning Economic Development Committee should have a fixed membership of five or six people. Each member should specialize in a particular area of concern (see table below) and, if possible, form task forces – including representatives of Towns and the public – to deal with these topics in greater depth. (M)
- Although Commissioners are not professional planners, they should play a key role in ongoing planning efforts, especially with respect to community involvement. (M)

R6.5 Provide More Opportunities for Commissioner Training

- Courses and seminars could include topics such as planning innovations, the role and responsibilities of planning commissions, effective group dynamics, meeting facilitation and mediation. Organizations such as the Citizen Planner Training Collaborative offer such courses. They could be organized for Commissioners, and Planning Board and ZBA members from Island Towns could also be invited. (M)

R6.6 Encourage a Balanced Commission Membership

- It would be desirable that Commissioners specialize in specific areas of concern (see table below), not only with respect to planning efforts, but also when it comes to analyzing different aspects of DRIs. (M)

- To ensure that everyone has a full opportunity to present themselves for elections, the MVC should advertise well in advance of the deadline to submit nomination papers. Cutting down on the time commitment might encourage more people to run, as would the anticipated productivity of the MVC. (M)

Areas of Concern in Planning, Development, and Growth Management

- ***Environment*** (*Water Resources, Coastal Planning, Flora and Fauna, etc.*).
- ***Transportation*** (*Traffic, Parking, Transit, Ferry, etc.*).
- ***Economic Development and Housing*** (*Sustainable Economy, Agriculture, Affordable Housing, etc.*).
- ***Open Space and Scenic Values*** (*Site and Building Design, Streetscapes/Roadscapes, etc.*)

7. Staff

There are ten staff members: an Executive Director, an Administrator, a staff secretary and seven planning professionals. (Note that many interviewees made comments about individual staff members that will not be repeated here.)

FINDINGS

- Since most of the people interviewed for this exercise were reasonably familiar with the work of the Commission, most were able to comment on the staff. Generally, they felt that staff was very professional, worked very hard, and often did not get credit for their efforts. A commonly repeated comment was that many staff members are not as good in presenting their material as effectively as they could be, and that they could outreach more actively.
- There were many internal problems raised such as the tendency for different staff members to work in a compartmentalized way with respect to other staff members and to Commissioners, the lack of clarity on personnel issues (working hours, comp time, vacation time, place of work, etc.), as well as the need for more regular staff review.
- Several people mentioned that it will become increasingly challenging to attract good people because of limited salaries and the rising cost of living, although the Vineyard's quality of life remains a big attraction.

RECOMMENDATIONS

R7 The staff of the MVC should work more effectively as a well-balanced team, and should make a greater effort to reach out to the Towns and the public.

R7.1 Improve Internal Coordination and Policies

- There should be a weekly coordination meeting between the Executive Director and the Chair, as well as a weekly staff meeting with team members. (D).
- Policies related to work hours, location of work, comp and vacation time should be clarified. (D) The personnel policy should be revised to bring it more into line with other regional planning agencies and other Island entities. Salaries should be brought in line with those in other Regional Planning Agencies. (M)
- Staff and Commissioners should work together more often, particularly on specific areas of interest. (M)
- There should be defined job descriptions, performance criteria and performance evaluation standards for each position. The Executive Director should carry out a yearly personnel review of the staff; the Executive Committee should do the same

with the Executive Director. (M)

R7.2 Ensure That the Team Has a Full Range of Planning Skills

- The staff should have opportunities for training through courses, seminars, conferences, professional associations and networking. Topics could include those mentioned in section R6.5 as well specific professional topics and presentation techniques. Staff should not only keep up with developments in their respective fields, they should make an effort to pass information to other staff members, to Commissioners, to Towns officials and to the interested public, for example with summary documents on the MVC web site. (M)
- As staff changes over the coming years, the MVC should attempt to round out the team's skill set, with more expertise in legal and zoning issues, in economics and in physical planning. (L)

R7.3 Staff Should Make a Greater Effort with Outreach

- The MVC should distribute staff profiles to Town officials. (S)
- The MVC staff should write newspaper articles on, or encourage reporters to cover, various aspects of the Commission's planning work. (S)
- Look at the possibility of assigning a staff member to liaise with each Town (see recommendation R4.1). (M)
- Planning staff should make an effort to meet Town boards and other Island entities in order to share their expertise and the results of their work. (M)

8. Finances

The MVC is financed principally by a combination of assessments on each Town and grants, largely from the state and the federal government. The Commission's enabling legislation allows it to assess up to 0.0360% of each Town's equalized valuation although it presently assesses only about a quarter of that (0.0093%).

FINDINGS

- The Commission faces many financial challenges including the need to fix up the building, pay staff adequately, pay legal fees associated with applicants' appeals of DRI decisions, and the many other ongoing expenses as well as the initiatives proposed in this document.
- However, there is an ongoing desire to keep assessments down since Towns have many other demands on their limited resources.
- A few people expressed the concern that accepting private donations might lead to a perception of bias.

RECOMMENDATIONS

R8 In order to properly carry out its mandate, the Commission must carefully monitor expenses and seek more stable and diversified funding. Sources could include aggressively seeking grants, accepting private donations as well as seeking a means to directly assess new development.

R8.1 Seek Private Donations Through a Blind Charitable Trust

- Ensure that this Trust is set up so that it allows individuals to donate in a manner that would not compromise the objectivity of the Commission. Donations could be used especially for enrichment of the Commission's basic publicly funded regulatory and planning responsibilities or for a legal defense fund. (S)

R8.2 Explore the Possibility of Shifting the Tax Burden from Assessments to New Sources

- The possibility has been raised of instituting a 1% tax on the transfer of properties, similar to the Land Bank transfer tax, to fund the MVC, the county and certain other Island needs. Since much of the Commission's work is related to the management of development, it would seem equitable that a part of the Commission's funding came from such a transfer tax, which is very largely related to development and growth on the Island. This would shift some of the cost from regular taxpayers. (L)

- After the current financial crisis is over, the MVC should go back to the Commonwealth and attempt to reinstate the annual line item in the State's budget that existed for much of the Commission's existence, based on the Vineyard's unique and significant natural, cultural and economic contribution to Massachusetts. (L)

R8.3 Continue Active Solicitation of Grants

- The MVC should actively seek grants for itself and for Towns. It must be careful that it does not over-commit its resources or have the agency's priorities diverted from more pressing needs by applying for grants that do not pay their full share. (S)
- Although it was recently revised, the MVC could review the fee structure for DRIs to ensure that each pays its own way, while ensuring that fees are not onerous, especially for small businesses and not-for-profit organizations. (L)

R8.4 Revise the Financial Documents to Facilitate the Tracking of Finances

- The MVC should revise the format of its budget, its quarterly updates and its annual financial statements so they correspond to each other and are set up to make it easier to track revenues and expenses. (M)

9. Legal

The only way an applicant can appeal a DRI decision is through the court system.

FINDINGS

- With less and less land available for development on the Island, the pressure to build continues to intensify as the country's population grows and Baby Boomers look forward to retirement. Most of the straightforward projects took place long ago. Development is now moving to pieces of land that are more difficult to develop because of the impact on the environment, abutters, scenic values or traffic. Thus, controversy can be expected to follow, with each decision likely to leave some party unhappy and, given our society's litigious tendencies, tempted to appeal a decision. However, the legal basis for the Martha's Vineyard Commission's mandate and operations has been confirmed by the courts more than two dozen times, including several times by the Supreme Judicial Court of Massachusetts.
- The Cape Cod Commission often has a dozen court cases at any point in time, and like the MVC, has won all but one case. In the case of the MVC, this was for a technicality that has since been corrected.
- Every interviewee who commented about legal issues highly praised MVC's counsel, Ron Rappaport and Eric Wodlinger.

RECOMMENDATIONS

R9 The Commission should continue to maintain great vigilance in how it operates, particularly with respect to its regulatory mandate (DRIs and DCPCs), recognizing that it is inevitable that the decisions of a public regulatory agency like the MVC are appealed from time to time.

R9.1 Clarify the Legal Aspects of Commission Procedures

- Prepare a guidance statement on the question of modifications of an approved DRI. Revise the procedure to ensure that applicants and Towns are aware of their obligations. (S)
- Prepare a legal guide that clarifies all the Commission's procedures relating to Public Hearings and Commission meetings such as: concurrence votes, votes for modifications, remanding, oral votes, written votes, referrals, motions to reconsider, withdrawing DRI applications without prejudice, enforcement of ongoing DRI conditions, etc. (M)
- Prepare a document outlining the legal authority for the Commission's regulatory powers and reviewing its legal history. (L)

10. Facilities

FINDINGS

- Many interviewees commented on the poor condition of the building and the lack of equipment found in any modern office. One person said that the MVC might well be the most poorly housed public agency on the Island.
- The building was purchased in 1997 after the Commission rented space in it for many years. Although the structure is basically sound, it is in poor condition in many other ways. There are large cracks in the front porches of the stone building so that it has been necessary to temporarily close off the front door for safety reasons. The windows, gutters and roof are in bad shape, the front lawn is unattractive, paint is flaking off the sign, and visitors have to walk in pitch darkness to get to the Commission's rented parking lot.

RECOMMENDATIONS

R10 The building must be thoroughly renovated in the near future including urgent structural repairs, an internal reorganization and a better method for document storage. Other facilities should be upgraded to improve the efficiency of Commission operations. The building should be a model of good office, building and landscape design and management.

R10.1 Renovate the Building

- The front of the building and the chimney must be repaired as soon as possible. The windows should be improved or replaced and other measures to seek greater energy conservation should be implemented. (S)
- The parking lot should be purchased to ensure ongoing availability of parking and to protect the Commission's equity in the property. (S)
- The MVC should look at the possibility of an internal spatial reorganization of the office space to create a better working and meeting environment. (M)
- The front of the building should be landscaped. Adequate but harmonious exterior lighting should be installed at the entrances and the parking lot. (M)

R10.2 Improve Document Storage

- The MVC should set up a procedure for off-site backup of computer files. Key Commission documents should be copied and stored off-site. (S)
- An efficient and secure document storage system should be set up, taking better

advantage of the basement that became available when the Commission purchased the building. (M)

R10.3 Improve Communications and Equipment

- Individual e-mail and voice mail should be installed. (D)
- A central computer server should be installed allowing networking of computers and files. (M)
- The MVC should obtain equipment that allows for audio-visual presentations. (M)

R10.4 Use Sound Environmental Practices

- The MVC should practice what it preaches with respect to sustainability, energy efficiency, water conservation, waste management and recycling, exterior lighting, parking, having a non-residential use in a residential area, etc. (M)

Conclusion

The Commission has already started to implement some of the above recommendations. Eight actions are already done, 29 could be implemented in the next few months, 75 in the medium term of the next two years, and 18 in the longer term.

Despite the fact that many of the changes are pressing, we will not be able to tackle everything at once. We have a limited staff that must continue to spend most of its time keeping up with the ongoing work such as putting a lot of energy into planning and dealing with DRIs. The aim will be to start with the simpler and less expensive changes, and improve gradually, without jeopardizing the many things about the Martha's Vineyard Commission that are working well.

The Commission's limited financial and human resources mean that it might be impossible to implement some of the recommendations at all. However, with the support of the Commissioners, the Towns and the public, it should be possible to implement the majority of them over the next few years.

This is a very ambitious program but in the interests of the Vineyard, we must succeed.

Appendix - List of Interviewees

Since time did not permit interviewing everyone I would have liked to, I tried to meet a representative sample of people who have different relations and opinions about the Martha's Vineyard Commission. I hope to meet many more Vineyarders in upcoming months that will help round out the orientations in this report. Most of the interviews were one to two hours long and took place in person, although a few were briefer and/or by telephone.

Jim Athearn
John Best
Carol Borer
Christina Brown
Doug Cabral
Marcia Cini
Judy Crawford
Michael Donaroma
John Early
Margo Fenn
Woody Filley
Christine Flynn
Irene Fyler
Angela Gompert
Jane A. Greene
Tristan Israel
Nis Kildegaard
Leonard Jason Jr.
Ray Laporte
James Lengyl
Denis Luttrell
Ron Mechur
Larry Mercier
Bob Mone
Deborah Moore
Rob O'Leary
Megan Ottens-Sargent
John Pagini
Jennifer Rand
Ron Rappaport
Todd Rebello
Robert Sawyer
Alan Schweikert
Linda Sibley

Douglas Sederholm
Art Smadbeck
Russell Smith
Paul Strauss
Jo-Ann Taylor
Richard Toole
Eric Turkington
Cindy Tyminski
William Veno
Jim Vercruysse
Kate Warner
Pia Webster
David Wessling
Roger Wey
William Wilcox
Eric Wodlinger
Andrew Woodruff
Robert Zeltzer

Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury, and West Tisbury Boards of Selectmen

Chilmark, Tisbury, and West Tisbury Planning Boards

All-Island Selectmen