



OAK BLUFFS PLANNING BOARD

Meeting Minutes

THURSDAY, FEBRUARY 10, 2022

5:00 p.m. / Virtual Zoom Meeting

Members in Attendance: Ewell Hopkins, Bill Cleary, JoJo Lambert, Erik Albert, Mark Crossland

Members Absent:

Staff in Attendance: Kim Leaird

Attendees: Joe Sullivan, Terry Donahue, Llewellyn Rogers, Matthew D'Andrea, Mark Friedman, Aidan Pollard, Lucas Thors, Maura McGroarty, Joe Mikos, Mark Leonard, Richie Smith, Gail Barmakian, Scott Slarsky, Christian Huntress, Kris O'Brien, Michael Watts, Kimberly Kirk, Tom Zinno, Rebekah Thomson, Sara Dingley, Janet Packer, Jeffrey DuBard, Walter Vail, Mollie Doyle, Kathryn Shertzer, Diana Conway, Mike Taus, Emma Green-Beach, Caleb, Alley McConnell, Christian Huntress

Chair Hopkins opened the meeting at 5:02 p.m. A full quorum was present

Approval of Minutes

Member Albert made a motion to approve the January 13, 2022, meeting minutes, the motion was seconded by Member Crossland. A roll call vote was taken and motion passed 4-0.

Member Crossland made a motion to approve the January 27, 2022, meeting minutes, the motion was seconded by Member Albert. A roll call vote was taken and motion passed 4-0.

Comprehensive Wastewater Management Plan (CWMP) committee chair update

CWMP committee chair Gail Barmakian gave update on the CWMP and said they are ready to get the Planning Board materially involved. She is aware that the zoning reform subcommittee is also meeting and this is information for them as well as can affect zoning and planning issues.

She said the identified problem is nitrogen and how the town is going to deal with the Clean Water Act — need to remove nitrogen from our watersheds. There are different strategies for mitigating nitrogen, but many questions such as:

- How much is it going to cost and how are we going to afford it?
- How will we deal with future nitrogen management over the next 20 years to make sure that we don't exceed our limits?
- How will we implement plan?

Planning is needed in several areas:

- “Flow neutral project” which requires outline of allowable growth within the source shed and watershed areas to make sure that the town doesn't exceed wastewater flows planned by the CWMP.
- How will we take nitrogen out?

- Growth management — no more than what is allowable goes in and oftentimes that's done by either bedroom counts for those properties that are in watersheds or maximum nitrogen that is allowed from any particular property.
- Planning for sewerage at the end of a 20-year lifespan.
- Upgrade the plant and technological process — change the technology from an “SVR” tank process to an “MVR” process, which is a more efficient process technologically and also treats the effluent to a much higher degree taking out more nitrogen and other contaminants.
- Upgrading the sledge handling equipment
- Upgrading all the electrical instrumentation in the wastewater plant — includes pump stations HVAC systems, plumbing and piping work.
- All the piping and site work and the plumbing needs to be replaced at treatment plant.
- Improving and upgrading status and escape systems, over \$1 million computer technology.
- Possibly adding a component of PFAS testing in the effluent.

The engineers would like to present something more formal to the full Planning Board – also a time for questions and answers.

They are on a timeline and are aggressively pursuing state and federal funding through the USDA. In order to do that, they need to appropriate money for part of the project in order to qualify.

Chair Hopkins said it's clear that with the flow neutral policy and other points made that a coordination of what we will propose to town meeting in terms of zoning needs to be informed by what recommendations the CWMP effort will be making to town meeting.

The intent is not to create an infrastructure, whether it be a combination of sewerage and other techniques, because CWMP is so much more than just sewerage. Flow neutral policy is a very critical point for us to take into consideration in the work of the zoning subcommittee.

Chair Hopkins asked if Gail could provide a list of items the zoning reform subcommittee could work on. She said she could come up with a list of four or five ways that other towns have addressed zoning issues, to ensure that no excess nitrogen is going into the ponds but the Board of Health would need to regulate those not on sewer, as they must apply for onsite systems and the BoH would have its own regulations, limiting what type, size and what nitrogen you could contribute. It is the sword properties that possibly would be zoned by bedroom count.

The Martha's Vineyard Commission assigns a maximum amount of nitrogen that each parcel that is in the sewer shed and watershed can contribute to the watershed. She suggested the zoning subcommittee familiarize themselves with the Commission restrictions for their watershed and nitrogen policies.

Although she does not think this would come out of the planning board, there could be a regulation that would say that if you are on sewer you cannot expand any more than what Title V would otherwise allow you to expand because in order to qualify for most of the federal and state funding, it needs to be a flow neutral and environmental project.

It is unknown what the infrastructure bill will provide but they are also looking into that because funding is going into different pockets — one of them going into the state revolving fund pocket, needs that environmental component state revolving fund is zero cost loan or outright forgivable loan.

Also looking qualify to become part of the Cape and Islands Clean Water Trust, which is the fairly new legislation concerning short term rentals that could provide up to 25-30% outright funding for the whole

project and so far it's had a very good track record in terms of equitably doling out money. The CWMP may be qualified with the DEP as comparable to a 208 plan.

Member Lambert invited Gail to attend a zoning reform subcommittee meeting to help inform their process. She asked about short-term rentals and tax added. Gail said that once they get accepted as a 208 plan it's the Select board, not town meeting that would decide whether they want to impose an additional 2.75% to the rental tax. DEP has oversight over it and it becomes part of the trust.

Gail said she would send them 4-5 things that other towns have done to address zoning and excess nitrogen.

Member Crossland also asked if she could come to the next meeting of the zoning reform subcommittee. Gail said it would be helpful if they first had a complete copy of the plan. Chair Hopkins asked if it made sense to have a joint meeting with the CWMP committee and Planning Board? Gail thought that yes, sooner the better. However, not essential to do for the zoning reform subcommittee.

Member Cleary asked if the nitrogen levels for each site could be monitored like water usage is, because his experience is that nothing is more abused in this marketplace than bedroom counts and he's not sure that's really the best way to measure nitrogen levels.

Gail said no, even though it's not an exact science especially as we are seasonal, we need to follow what DEP accepts and they go by bedrooms. Part of the plan is ongoing testing, not from the actual parcels that are in the watershed but in the pond. There's a baseline measurement right now, at the same sentinels you need to test periodically throughout the year, to see if the nitrogen counts are the same, more, or less. And that's an indication of how that plan is working as you get more people online.

She said the harbor watershed which includes most of the parcels initially sewered, has had a big effect on nitrogen going into the harbor.

Member Cleary said that because of his work on the Green Community designation for the town that he has some suggestions. Gail asked if he could get those to her very soon and she would forward to the engineers. He said he'd send an email the next day.

Tom Zinno said he is also on the CWMP with Gail and more than likely zoning is definitely going to take place even in Title V sections because the way engineers calculate amount of nitrogen from each parcel. In the end, he feels it's a combination of work from different areas.

Member Albert said what the plan it really comes down to talking about the plant now as opposed to like the areas around lagoon and Majors Cove. Town there's the remainder part and how that's how that's divvied I mean, as a person that's on the sewer currently and been on there pretty much the whole time the downtown area needs needs the ability to expand and grow. I understand why Winston's doesn't have a fryer but it would be nice if they could have a fryer. I definitely when I hear stuff about restriction in the downtown my immediate reaction is definitely slow down a little bit I think some of the. Being that the downtown pretty much paid for the sewer has been paying for the user fees for the sewer um, I feel that they should have a little more leeway.

Gail said she wanted to correct that: There are not restrictions per se in the downtown. The restrictions downtown will be no different than the restrictions on downtown for the past 20 years or so. The sooner we can get this going, the sooner we can free up flow. She does not think we will be restricted with growth downtown. There are controls on an equitable basis. There will be sufficient growth although we can't grow more than our capacity, there will be a lot of growth provided for in this plan.

Zoning Reform subcommittee discussion with Planning Board re: Path forward

Member Crossland said the subcommittee finished their work on 3.4, 4.4 [and 11] and had requested to send to town counsel for review. They now propose, as a committee to:

- Focus on business districts and pick up where they left off in 2019: Dukes County Ave., Narragansett Ave., Edgartown Vineyard Haven Rd.
- Look for a future site for another business district out of the downtown, perhaps in the Southern Tier.

Member Albert said he understands the need for another business district, probably Edgartown Vineyard Haven Rd. but it's a touchy subject. Member Crossland said this will take several years.

Chair Hopkins asked if there was any way we can back up as a town and have a town-wide conversation around the role and purpose of zoning and what the deficiencies are before we start talking about impacting individual property owners. Get a reaction from the public in terms of

- *How adequate is the current zoning?* We have some strong opinions, but when one looks at the zoning maps of Oak Bluffs, you will see that it is predominantly residentially zoned. We have exceptions in terms of commercial and health care. We have very few DCPCs in terms of the power that would be invested upon us from the Commission.
- *Residentially zoned.* He'd like to know what the sentiment of the community is being so residentially zoned.
- *Should expansion of commercial areas be prioritized?* While he has very strong feelings about it, he's one voice and he'd like to understand that more.
- *How does the healthcare district fit in?* We have in place the ability for industries such as cannabis, which are exclusive to those healthcare districts.

He suggested the subcommittee as they start looking at some of those specific areas, take a step back and look at a conceptual level at the big picture of where the deficiencies are -- not geographically, but in terms of function and do we need to introduce some of those other zoning DCPCs, healthcare district, commercial, etc. before we start talking about where they should be.

We have an annual cycle to make recommendations to town meeting, this would not happen at a special. We have about 15 months to get ready for the next town meeting in April 2023. He thanked the co-chairs for stepping up to do this.

Member Crossland said at the next subcommittee meeting they would talk about whether they should have public hearings or not, get input, surveys, etc. He said that they already decided to start with Dukes County Ave. and they would do this concurrently. Member Lambert said she agreed and that they certainly want to hear what [residents] have to say.

Lou Rogers said that looking at the big picture is important but they need to first have a game plan before asking citizens what they think of zoning. Mark Leonard said this is an important long process to go through. Tom Zinno said they need to go through bylaws to clean them up and only way to do that is by collaborating with different departments: Building, board of health, zoning.

PUBLIC HEARING: Martha's Vineyard Regional High School Track and Synthetic Turf Field Special Permit Application — ****Purpose is inventory of Assembled Materials****

In accordance with the provisions of M.G.L Chapter 40A, Sections 9 and 11, and Oak Bluffs Zoning Bylaw 10.3, the Planning Board will hold a remote public hearing on Thursday, February 10, 2022 at 5:00 pm on the application of Superintendent Matthew D'Andrea on behalf of Martha's Vineyard Regional High School, 100 Edgartown-Vineyard Haven Road, Map 55 Parcels 2 and 4. Applicant seeks a special permit

under Oak Bluffs Zoning Bylaw Section 8.2 –Water Resource Protection Overlay District (WRPOD) for the installation of a 400m Track and Synthetic Turf Field. The application, plans and all currently available relevant documents are online. Additional studies and reports will be added to the file when they come available. See:

<https://www.oakbluffsma.gov/412/High-School-Track-and-Field> Please forward comments to Planning Board Administrator, PO Box 1327, Oak Bluffs, MA 02557 or via email: planningboard@oakbluffsma.gov

Chair Hopkins said the purpose of tonight’s hearing was to review the inventory of assembled materials and to seek input from the board in terms of additional materials that might be required and to give the applicant the opportunity to suggest any additional material so we have complete assembly. We have a few studies coming in and we have one scheduled for end of February.

He walked through what the Planning Board has so far and is posted on the applicant’s web page.

High School Track and Field

Special Permit Application | Dec. 21, 2021

1. [Special Permit Application stamped Dec 21 2021](#)
2. [HAI-MVRHS-OBPB-SP-Cover 121721](#)
3. [MVRHS OBPB Special Permit Application 121721 without signature](#)
4. [Certified Abutters List 112221](#)
5. [MVRHS -Deed](#)
6. [HAI-Application Fee](#)
7. [Letter-from-Building-Official-recd-Nov-2-2021](#)
8. [Legal advice re Special Permit in WPROD 9 9 21](#)
9. [Legal-Opinion-July-8-2020](#)

Plans, Stormwater Report, and Wetland Resource Areas Report submitted by Applicant

1. [HAI-MVRHS-PLANS SP82 121721](#)
2. [Marthas Vineyard RHS Stormwater report Rev 091620](#)
3. [Epsilon Summary re Wetland Resource Areas 10-10-19](#)

400m Track & Field Products

1. [TetraTech-MVC-2021-02-26 \(TurfAnalysisReport FINAL\)](#)
2. [Horsley Witten Synthetic Turf LaboratoryTesting and Analysis Report](#)
3. [Rekortan-G13-Cut-Sheet optimised](#)
4. [Qualipur-5052-Part-A-SDS 010315](#)
5. [Qualipur-5052-Part-B-SDS 010315](#)
6. [Huntress emails regarding alternative track products 4-22-21](#)

Prior Approvals

1. [DRI 352-M4 MVRHS Athletic Fields Decision 2021-08-26](#)
2. [PLANNING BOARD DECISION RE MVRHS FIELD PROJECT OCT 5 2021 - signed](#)

Materials Under Planning Board Review

- [Oak Bluffs Zoning Bylaw 8.2 - Water Resource Protection Overlay District \(WRPOD\)](#)

State & Federal guidance

- [EPA Advances Science to Protect the Public from PFOA and PFOS in Drinking Water](#)
- [MassDEP Final PFAS Maximum Contaminant Level Update - Sep 24 2020](#)
- [MassDEP 3.10 CMR 22.00: Drinking Water](#)
- [State reclassification of PFAS contamination levels](#)

Town Department Input and Reports

- [Transportation Action Plan - Howard Stein Hudson - Dec 10 2021](#) (also at right)
- [OB Water District letter re PFAS - Jan 4 2022](#)
- [PB Chair Response to OB Water District - Jan 5 2022](#)

- [OB Water District reply to PB Chair - Jan 10 2022](#)

Board of Health

- [Groundwater Protection Regulations - Adopted Aug 24 2021](#)
- [Expert testimony to Board of Health transcript - Dec 14 2021](#)
- [DRAFT Board of Health Restriction on the Installation of Turf Containing PFAS](#)
- [Link referenced in Mello email, MassDEP "An Updated Subgroup Approach to Groundwater and Drinking Water Values"](#)
- [Board of Health letter to Adam Turner, MVC - Feb 8 2022](#)

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In addition, there are a number of letters that were sent to the Board of Health in response to the hearings they held on the installation of artificial turf containing PFAS.

Member Lambert asked if we could post the Nantucket school committee meeting on our web site – that it had offered a lot of information.

Member Cleary said the material is comprehensive and clear. He said he also listened to the Nantucket zoom meeting as well and he thinks everything is covered. He believes this application has been well vetted and the end result will be the best application possible for the high school whichever field is chosen. He said he's thankful that other areas of discussion have opened up because of this application, such as lawn care and septic systems and how they also impact our water supply.

Chair Hopkins said he has two additional studies he is waiting for – we'll have a report from Howard Stein and Hudson on February 24 along with a continuation of public hearing. He said he's hoping that by the 24th we will have all the materials needed assembled. He will ask them how much time they need to digest the materials, then we will ask for the applicant to present their application as it pertains to 8.2 (WRPOD). Then we will solicit public comment: supporters, opposition, those with questions. Then applicant will have final chance to respond. Then board will ask final questions of applicant. Then we will close public hearing and start board deliberations.

He said he's hoping to have a feel for the duration of time needed at the Feb. 24 meeting, but this is the sequence.

Member Lambert asked if they had heard any comment from other town boards of health and our FinComm. Do they have any comment or input? Chair Hopkins said as part of the criteria of 10.3, the potential fiscal impact, including impact on town services tax base and employment will be addressed. He is not sure they will hear from the Finance Committee but expects to hear from other island FinComms.

Richie Smith, assistant superintendent, said that time is of the essence, and they are excited to present their project through this review so they can move closer to building a new track for their students.

Joe Sullivan asked about the further studies the chair mentioned and what they might entail and what they would involve. Chair Hopkins said he would send a complete list to the superintendent's office. Everything is per 8.2 and environmental protection and impacts.

Joe Mikos asked in the chat who paid for the traffic study. Chair Hopkins said it was paid with leftover grant funds used to improve the linkage between MV Skate Park, ice arena, etc.

Kimberly Kirk asked about experts testifying and if the chair could go over them. Chair Hopkins said they are not taking any additional expert testimony. She said she would like to see a variety of experts with independent backgrounds and not people that testified for or against on behalf of either side during the proceedings at the Commission. Chair Hopkins said as he indicated at the beginning of tonight's hearing, if the applicant has any interest in adding voices to the review / process, they are welcome to do so.

Kris O'Brien asked if the chair could repeat that the planning board would not be using people that spoke for or against in earlier proceedings.

Chair Hopkins said no – we will not be relying on previous testimony given at the Commission, but we will be relying on new testimony like that presented to the Board of Health. For example, the Commonwealth of Massachusetts has released additional classifications, so the sources [may be] the same, but we have new information from that source so you'll find many sources that have been involved throughout.

Member Cleary asked if it would make sense to do the high school continuance on its own. Chair Hopkins said they have a time issue with 112 Dukes County Ave and must include them at next meeting. Bill said he'd be willing to do a special meeting.

Public hearing was continued to Thursday, February 24, 2022, at 5pm. Chair said it would be followed by site plan review of 112 Dukes County Ave.

Board Updates

JoJo Lambert: Went to the MVC Commission this week to listen about historical demolitions. Discussion on renovation vs. teardown.

Mark Crossland: He and the chair sent a joint letter to the MV Commission regarding the Lampost being out of compliance with conditions of special permit. They are holding another hearing. They also took a walk (site visit) of Shearer Cottage. On the 7.8 acre site, they're getting everything in line with the state and different boards.

Bill Cleary: Climate action plan steering committee meeting is tomorrow and focus will be mostly on public outreach. Energy reduction plan was reviewed pretty extensively by the state and they came back with some questions. They had to change baseline year at the 11th hour. Energy committee: they were asked by Wendy to come up with an energy plan for the town, and have been meeting with each member. Dion Alley is working on the outline. A lot of it runs in tandem with Climate Action Plan.

Members Cleary, Lambert and Hopkins also attended the Shearer site visit.

Ewell Hopkins said he'd work to get this CWMP session going as soon as possible.

Public Comment

Gail Barmakian asked Member Cleary – are we a green community or not yet as grants they are applying for require it. Member Cleary said they do not have it yet, it will probably be 2-3 months at most.

Adjourn

Member Albert made a motion to adjourn. Member Cleary seconded. All were in favor.

Meeting was adjourned at 6:23 p.m.

Minutes approved March 10, 2022

Documents on File: *Agenda; Board packet; zoom video*