

Martha's Vineyard Land Bank Commission

MINUTES
REGULAR SESSION
MEETING OF MAY 23, 2022

via remote technology

CALL TO ORDER: 3:00 pm

LAND BANK COMMISSIONERS PRESENT AT CALL TO ORDER

Pamela Goff, Wesley Mott, Sarah Thulin, Nancy Weaver, Peter Wells

LAND BANK COMMISSIONERS ABSENT AT CALL TO ORDER

Steven Ewing, Kristen Reimann

STAFF PRESENT AT CALL TO ORDER

Harrison Kisiel, Cynthia Krauss, James Lengyel

OTHERS PRESENT DURING THE SESSION

Philip Cordella, Jeffrey DuBard

PRESENTATION OF THE WARRANT

Warrant no. 2022-44 was made available for the Commission's inspection.

APPROVAL OF THE AGENDA

Hearing no proposed changes, Mrs. Goff declared the agenda approved as presented.

Commissioner Kristen Reimann joined the meeting at this time.

APPROVAL OF THE MINUTES OF MAY 9, 2022

By a motion made and seconded, the Commission unanimously voted in a roll call vote to approve the minutes as written.

COUNTY AND LAND BANK COMMISSION TREASURERS' REPORTS

None

TRANSFER FEE REVENUES

Revenues for the week ending May 13, 2022: \$156,468.00
Revenues for the week ending May 20, 2022: \$349,759.82

TRANSFER FEE HEARINGS

1. Sara Mass (Town of Tisbury)

The Commission conducted a hearing regarding the extinguishment of this "m" exemption (transfer no. 57892). Mrs. Goff opened the hearing at 3:02 pm.

Staff read aloud a May 10, 2022 letter from Ms. Mass in which she reports the need to sell the "m" property "due to unforeseen circumstances." The property will be marketed in July and the domicile period expires on September 29, 2022; by the time a closing occurs some 4 years and 10 months of the domicile period will have elapsed. Mrs. Goff closed the hearing at 3:04 pm.

After discussion and by a motion made and seconded, the Commission voted unanimously to declare the "m" lien to have been substantially satisfied.

Commissioner Steven Ewing joined the meeting during the following discussion.

2. 30 Field Club Drive Realty Trust (Town of Edgartown)

The Commission conducted a hearing regarding the applicability of interest and penalty associated with the transfer of beneficial interests in this trust. Mrs. Goff opened the hearing at 3:04 pm.

Staff read aloud a May 13, 2022 email from Rubin and Rudman LLP that reported that a \$700,000 transfer occurred in 2017 but that the necessary filings with the land bank were inadvertently overlooked: "[t]he attorney handling the transaction went through a series of legal assistants around that time and while cleaning up the files recently ... realized the forms were never filed." The client is prepared to pay the \$14,000 fee and is seeking relief as to penalty and interest.

Accrued interest, computed using the 14% rate cited in the land bank law, totals \$9,434.84. The accrued penalty totals \$3,500. There is no evidence of any misconduct.

Staff reported that the land bank, had it received the \$14,000 in a timely manner, could have received some \$101.50 in interest (earning at a rate of 0.15% and using, in pursuit of reasonableness, simple rather than compound

interest) during the interregnum. Mrs. Goff closed the hearing at 3:08 pm.

After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote (1.) to waive the penalty upon a finding that there had been no intent to defeat the fee; and (2.) to levy simple interest at a rate of 0.15%.

NEW BUSINESS

1. Agency Administration: Fiscal Year 2023 Budget

The Commission reviewed an updated draft budget for the fiscal year that begins on July 1, 2022, most recently discussed at its April 11, 2022 meeting.

Commissioners variously discussed (1.) whether the land bank should expect to continue to see large land management budgets or whether this year's draft reflects an unusual number of building and other projects, to which Mr. Kisiel responded that expensive upgrades at the Chilmark Pond Preserve and Squibnocket Pond Reservation are in part responsible for the size of the budget; (2.) the projected expense of the decommissioning of the workshop at the Southern Woodlands Reservation, which Mr. Kisiel ascribed to possible asbestos removal; and (3.) whether to shift certain expenses — e.g., heat, annual cleaning, trash removal — to the occupants of various land bank cottages.

Commissioners agreed that the revenue projection should be amended to \$17 million. After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote (1.) to approve the amended draft; and (2.) to refer it to its Town Advisory Boards (TABs) for review.

2. James Pond Preserve (Town of West Tisbury)

The Commission reviewed the following amendments to this property's draft management plan, which the West Tisbury TAB approved at its May 18, 2022 meeting: (1.) prohibition on hunting; (2.) exclusion from the capacity ceiling count of any persons with pre-existing easements to access the beach; (3.) setting of hours from 10:00 am to 6:00 pm, with the ability to alter them as circumstances indicate; (4.) prohibition of swim-on access via the sound; (5.) acknowledgment that some kayakers may be dropped off, rather than reserve a slot in the trailhead, with the ability to alter the kayak policy if problems arise; and (6.) acknowledgment of neighbors' view easements over the preserve, plus a willingness to coordinate all of the grassland management both on- and off-premises. Ecologist Julie Russell was present.

Mrs. Goff stated that she believes the trailhead hours are too restrictive; she asked for assurance that rangers would not interfere with any benign public use outside those hours. Mr. Kisiel so affirmed, with the understanding that those visitors will have parked in the nearby town parking lot. Mr. Ewing asked whether these hours are seasonal; Mr. Kisiel responded that the trailhead gate will be open September 16 - May 31. Mr. Wells was concerned about kayaks on the pond, as it is rather small, and advocated for three at any one time. Mrs. Reimann and Mr. Ewing asked about swim-on access and Mr. Kisiel replied that the plan sought to follow the town in this regard, in the interests of policy uniformity.

After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote to approve the plan, as amended by the TAB, with the understanding that the flexibility to alter the trailhead hours and the kayak policy is key.

3. Eachpoquassit Hill Preserve (Town of West Tisbury)

The Commission reviewed notice received of an application for a special permit filed with the West Tisbury Board of Appeals by abutter Island Autism Group for the construction of a barn. The Commission, at its September 27, 2021 meeting and pursuant to its agricultural preservation restriction here, had approved the barn's siting and design. This approval included acceptance of the barn's location in the lot setback.

After discussion and by a motion made and seconded, the Commission voted in a roll call vote six in favor, none opposed and Mrs. Reimann abstaining to direct staff to inform the Board that the land bank has been involved in the planning for the barn and approves of its proposed location in the setback, as it is part of plan that advances a conservation purpose, viz., agriculture.

4. Tisbury Great Pond Beach (Town of West Tisbury)

The Commission discussed the possibility of reviving a license with the Trustees of Reservations (TTOR) that would allow land bank kayakers to alight on the Long Point Reservation, in order to access the ocean beach. This has been necessitated by the evolution of the stretch of the barrier beach owned by the land bank: it is now excellent shorebird nesting habitat, which renders it inaccessible during the season. The Commission most recently discussed this matter at its April 22, 2019 meeting.

TTOR has expressed a willingness to renew the license, at an annual fee in the vicinity of ±\$5500. The West Tisbury TAB, at its May 18, 2022 meeting, voted to approve such a license.

After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote to authorize Mrs. Goff to execute such a license, if she is satisfied with its terms.

5. Edgartown Trail Planning

The Commission reviewed a draft management agreement between the town and land bank for Quenomica Road, an ancient way. It would connect the Quenomica Preserve and Morning Glory Farm. The Edgartown TAB, at its May 10, 2022 meeting, voted to recommend to the Commission that it enter into this agreement.

After discussion and by a motion made and seconded, the Board voted unanimously in a roll call vote (1.) to refer the agreement to the town; and (2.) to authorize its chairman, vice-chairman and/or secretary-treasurer to execute the agreement, if it is acceptable to the town.

6. Agency Administration: Personnel and Staffing

Mr. Lengyel disclosed for the public record that ecologist Julie Russell and land superintendent Harrison Kisiel have established a consulting firm called Vineyard Delineation, which will prepare wetland boundary surveys; they were asked to do so because of an apparent dearth of individuals on the island qualified to do so. They (1.) are not envisioning a scope that will draw them away from their land bank duties; and (2.) will be mindful to avoid any possible appearance of conflict-of-interest involving land bank projects.

Commissioners asked for confirmation that this work would not interfere with their land bank responsibilities; Ms. Russell stated that this would occur at lunch or after-hours and, in any event, won't happen often. Commissioners agreed that they had no objection, provided that counsel raises no concerns.

PUBLIC INPUT

1. Agency Administration: Public Input

Philip Cordella spoke to (1.) the James Pond Preserve management plan; (2.) the recording of Oak Bluffs TAB meetings; and (3.) the land bank's May 12, 2022 letter to the Aquinnah Planning Board Plan Review Committee. Jeffrey DuBard spoke to housing representation on the TABs.

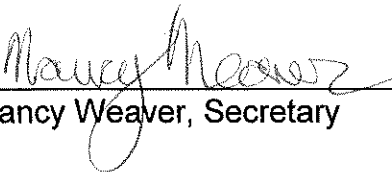
ENDORSEMENT OF THE WARRANT

The Commission endorsed Warrant no. 2022-44.

EXECUTIVE SESSION

By a motion made and seconded, the Commission voted unanimously in a roll call vote to enter executive session for the purpose of discussing the purchase, lease,

exchange or value of real property. Mrs. Goff stated that the subjects to be discussed are the purchase or value of real property and declared that an open meeting may have a detrimental effect on the negotiating position of the Commission. She further announced that the Commission would not reconvene in regular session after the conclusion of the executive session. The Commission entered executive session at 4:13 pm.

certification: 
Nancy Weaver, Secretary