



Martha's Vineyard Land Bank Commission

MINUTES
REGULAR SESSION
MEETING OF DECEMBER 5, 2022

via remote technology

CALL TO ORDER: 3:00 pm

LAND BANK COMMISSIONERS PRESENT AT CALL TO ORDER

Steven Ewing, Pamela Goff, Wesley Mott, Kristen Reimann, Sarah Thulin, Nancy Weaver, Peter Wells

LAND BANK COMMISSIONERS ABSENT AT CALL TO ORDER

None

STAFF PRESENT AT CALL TO ORDER

Janette Andrews, Harrison Kisiel, James Lengyel, Julie Russell, Bryn Willingham

OTHERS PRESENT DURING THE SESSION

Sharon Cooke, Philip Cordella, Paulo DeOliveira, Thomas Humphrey (*Vineyard Gazette*), Eunki Seonwoo (*Martha's Vineyard Times*)

PRESENTATION OF THE WARRANT

Warrant no. 2023-25 was made available for the Commission's inspection.

APPROVAL OF THE AGENDA

Hearing no proposed additions, Mrs. Goff declared the agenda approved as printed.

APPROVAL OF THE MINUTES OF NOVEMBER 21, 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 December 2, 2022: \$527,380.00

TRANSFER FEE HEARINGS

1. Jordan Hoehn (Town of Tisbury)

The Commission conducted a hearing on Mr. Hoehn's request for a one-year extension of the timetable by which he must domicile on his "m" property (transfer no. 62329). Mrs. Goff opened the hearing at 3:02 pm.

The Commission reviewed the contents of a November 29, 2022 email in which Mr. Hoehn reports that he intends to build a house "as soon as possible" but has been unable to do so due to "financial constraints." The lot has been cleared and a septic plan has been approved. Mrs. Goff closed the hearing at 3:03 pm.

After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote to grant a one-year extension, such extension to terminate on November 13, 2023. Staff is to caution Mr. Hoehn that only one additional one-year extension may be available — after which time his exemption will self-extinguish if he is not by then domiciled — such that he may determine it prudent to annul the lien sooner, as interest will continue to accrue.

NEW BUSINESS

1. Agency Administration: "M" Exemption

The Commission continued, from its October 17, 2022 meeting, its discussion of the fitting interest rate to levy when an "m" exemption is prematurely extinguished. The statute states that "[t]he purchaser shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to fourteen per cent per annum" but also authorizes the issuance of waivers, which is what has allowed the land bank to do what it has generally been doing, viz., halving the interest.

Staff examined the question by acknowledging that two factors come into play when a fee is not paid at the time of transfer: lost return and/or lost opportunity. It seems that, to address both of these, the most objective rate is the prime rate, capped at 7% so as to harmonize with existing precedent. Rejected by the staff in its analysis were rates reflecting (1.) that which the land bank would have otherwise earned had the fee been paid at the time of transfer, since such rate would only address return and not opportunity; and (2.) mean mortgage rates or mean certificate-of-deposit rates, since each is subject to assumptions based on individual institutional offerings.

Discussion occurred as to (1.) the need to recognize hardship situations; (2.) the escalation in value that the "m" property often has experienced by the

time of extinguishment; and (3.) the difficulty of generalizing — and therefore the importance of judging on a case-by-case basis — as some “m” claimants can afford properties at or above \$1.0 million in value.

After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote to take this all into consideration when examining future “m” extinguishments. Staff will so inform the Tisbury Town Advisory Board (TAB), which had broached the subject.

2. Quenomica Preserve (Town of Edgartown)

The Commission continued, from its October 7, 2022 meeting, its discussion of the caretaker’s cottage at Quenomica South. Apropos of appointing an individual to live there and supply overnight oversight, Mr. Kisiel recommended Timothy Sheran, who is currently a land bank conservation land assistant (CLA).

Commissioners discussed its standard contract’s provisions as regards the payment of utilities, viz., (1.) that the land bank will pay for heat, electricity, gas, septic and intelligence service; (2.) that the caretaker will pay for trash removal and telephone; and (3.) that the land bank and caretaker will confer if any of the land bank costs grow excessive, in order to reach reasonable agreement as to economizing and/or cost-sharing. Commissioners agreed that Mr. Kisiel should be supervising these costs, in order to assure that they remain fair.

After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote to enter into its standard caretaker’s contract with Mr. Sheran that would call for him, in addition to his CLA duties, to assume the duties of a caretaker here in exchange for housing. The contract will be executed when the installation of the heating system here has been completed.

The following members of the West Tisbury TAB were present for the following discussion: Lisa Amols, David Bouck, Maria McFarland, Peter Rodegast, Leah Smith, Andrew Woodruff.

3. Christiantown Woods Preserve et al. (Town of West Tisbury)

The Commission and its West Tisbury TAB met in joint session to discuss a draft management plan, prepared by staff, for the Christiantown Woods Preserve and Arrowhead Farm. Ms. Russell summarized its contents.

Discussion occurred as to (1.) the new use that will be made of the Old Road to James Cleveland’s and the right-of-way connecting Christiantown South and the Christiantown Road, for which reason staff has already contacted the

abutting owners; (2.) the plan — short-term and long-term — for universal access on the Arrowhead Farm trail; (3.) the intention to unite all of Arrowhead Farm under a single lessee (with a right to sublease conditional upon land bank consent) when the current life-estate expires; (4.) the benefit of retaining/establishing natural areas along cultivated farmfields; (5.) the desire on the part of the Conservation Commission for livestock to be cordoned off from streams; (6.) whether the post-life-estate lease will permit equestrian uses; (7.) the commonwealth's definition of agriculture, which excludes horse estates on the grounds that the purpose of farming is to produce items for sale; and (8.) the notifications that will be sent to the tribe and the commonwealth's historical commission, for their input.

Board member Lisa Amols departed the meeting prior to the vote.

After discussion and by a motion made and seconded, the Board voted unanimously in a roll call vote (1.) to approve the plan, as a draft; and (2.) to conduct a public hearing at 5:00 pm on December 20, 2022 to take comment on it (with any minor corrections having first been made). After discussion and by a motion made and seconded, the Commission voted unanimously in a roll call vote to concur with the Board.

All of the members of the West Tisbury Town Advisory Board departed the meeting at this time.

4. Agency Land Management: Farmland Leases

The Commission conducted its annual review of its farmland leases. Mrs. Goff relinquished the gavel to Mr. Mott and announced her intention to abstain from this matter, as she abuts one of the leaseholds.

They are: (1.) Simon Athearn at the Norton Fields Preserve; (2.) Simon Athearn at the Peaked Hill Reservation (including a sublease to Timothy Colon); (3.) Brian Cioffi at the Blue Barque Preserve; (4.) Krishana Collins at Tea Lane Farm (including a sublease to Joshua Scott); (5.) Johanna Douglas at the Wapatequa Woods Reservation; (6.) Fred Fisher III at the Little Field Preserve; (7.) Eric Glasgow at Arrowhead Farm; (8.) Allen Healy at the Tiasquam Valley Reservation (east) and the Tiasquam Valley Reservation (west); (9.) Zachary Miller at Tea Lane Farm; (10.) Gary Stead at Featherstone Farm; and (11.) Lillian Walter at the Poucha Pond Reservation and Three Ponds Reservation (including a sublease to Collins Heavener).

Mr. Kisiel stated that he conferred with each of the lessees as to their activities in 2022 and recommended that each lease be continued, with the exception of Mr. Miller's. Mr. Kisiel stated that Mr. Miller has not made effective use of the leasehold — having cultivated only a single row of garlic

— and has not kept it sightly.

After discussion and by a motion made and seconded, the Commission voted unanimously in roll call vote six in favor, none opposed and Mrs. Goff abstaining to accept Mr. Kisiel's recommendation. Mrs. Goff assumed the gavel.

PUBLIC INPUT

None

ENDORSEMENT OF THE WARRANT

The Commission endorsed Warrant no. 2023-25.

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 4:10 pm.

certification: Nancy Weaver
Nancy Weaver, Secretary