**Commonwealth Of Massachusetts**
**County Of Dukes County, S.S.**
**MARTHA'S VINEYARD AIRPORT COMMISSION MEETING**

**December 1, 2004 5:00 pm**
**Martha's Vineyard Airport**
Notice of Such Meeting having been Posted as Required by Law.

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| Present: | |
| Airport Commissioners: | Chair Jesse B. (Jack) Law, Vice Chair John Alley, Frank Daly, T. J. Hegarty, Leslie Leland, William (Bill) Mill, Norman Perry*, |
| Airport Staff: | Bill Weibrecht - Manager, Sean Flynn - Assistant Manager, |
| Dukes County: | E. Winn Davis*- County Manager; |
| Others: | Marni Lipke – Recorder; Fred Natush - MVTV |
| Tenants/Sub-Tenants | Ralph Aiello; John Folino – MV Lot 14 LLC, Clarence 'Trip' Barnes – Barnes Moving & Storage Tom Fitzpatrick – Cottage City Distributors LLC John Boyle – Counsel for Mr. Fitzpatrick |

* Late arrival or early departure (see * in text)

The meeting was called to order at 6:08PM.

**1. Aviation Fuel Supply Responses – Vote to Award**

The Airport Commission has received four (4) responses to a Request for Response (RFR) which was issued to seven national aviation fuel distributors. The submissions have been reviewed by Airport Management and Commission representative John Alley, and a summary of the proposals prepared for your review and consideration.

Airport Manager Mr. Bill Weibrecht reported the Airport had publicly received four responses from four national suppliers. All were very good proposals, very responsive, and the Airport was surprised with the impressive presentations which were all fantastic jobs and that at least one of the vendors sent a representative to the Island. During the weekend Mr. Weibrecht spent time collating all the proposals and putting them into the spreadsheet along with a quick run down of additional incentives (see documents on file) all of which were now before the Martha's Vineyard Airport Commission (MVAC)—Mr. Weibrecht apologized for the smallness of the type which was needed to fit the spreadsheet onto a single page. Later in the meeting he explained that he had tried to get the summary out as quickly as he could to everyone but that they had just been finalized yesterday; he hoped everyone had a chance to look over the documents.

- The Airport asked for bidding based of the New York Harbor Platt's index which was published weekly in the Wall Street Journal.
- The second column represented the Avgas total price represented by the suppliers at the rack, i.e. at the point of upload to a truck.

- The supply location abbreviations were:
PVD – Providence, BOS – Boston, PWM – Portland

These were the largest locations listed by the operators and became an issue for the Airport because of transportation, travel time, etc.—especially since the supplies would now be traveling on the boat.
- The lease prices for both the Avgas and Jet Fuel refuelers were actually the lowest numbers offered by each supplier for the most basic trucks with the least amount of options and the least amount of coverage for maintenance issues—Management had multiple responses for full and partial maintenance as well as some other maintenance on the existing trucks.
- The Fuel Farm column showed the basic offerings to assist the Airport with the expansion of the fuel farm. All four responders discussed available financing options either on a per-gallon basis as a through-put number on the farm itself or on the total that the Airport bought from them.
- The suppliers had in-house staffs of licensed engineers that would be able to design the fuel farm; they were willing to prepare bid documents if the Airport chose not to have the supplier build it; and they had in-house contractors and staff who could actually construct the farm itself. So the Design, Bid and Build column showed a soup to nuts completion of the farm including permits, applications etc.
- Excess Liability was in addition to the liability the Airport carried. The Airport carried a minimum which was currently $10,000,000 for completed operations. If there were a crash related to fuel quality problems the Airport had the straight $10,000,000 and if this policy were exhausted the supplier's additional coverage of $75,000,000 would come into play.
- Quality Programs represented the vendors on site inspections, support with record keeping through standardized paperwork, assistance with training and other issues the Airport ran into on a daily basis; but most importantly when they came out to the field and made sure the Airport and staff were doing exactly what they were supposed to do. This was a helpful third party review and kept the Airport up to date on industry standards, etc.
- Credit Card processing rates varied greatly depending on how and when (how much time) they were processed and also how quickly the Airport received the money. Consequently the responders did not always give the best rates. Management had tried to quantify the variables with the highest rates on the top and the lowest rates available on the bottom. The responders did not tell the Airport their worst rates so there was not much choice. Mr. Weibrecht did have information on Management's calculated estimates of what different charges might be on actual credit card charges from July 1, 2004 to the current date and there was only about a $6,000 difference between all the suppliers.
- The Direct Supply column priced materials and equipment that were used and replace on a regular basis. A lot of this had to do with quality control, others to do with hoses, nozzles, delivery systems, etc. It was important for the Airport to get these at the supplier's discounted rates. When the Airport went directly to the manufacturer they did not receive the best rates and the availability was not always very good. Therefore the Airport was looking to the responders to supply the sorts of equipment the Airport would normally go through on a regular basis, and which quite often kept a truck out of service until the part was received.

- Customer Support varied in what the suppliers offered and how each was able to support the Airport. However, the Airport saw them all offering at least a minimum level –as could be seen highlighted on the second sheet where it could be seen that some companies were stronger in some areas. Quite often this might be a difference between what was called a jobber versus the larger national company. A jobber was when a national company gave a geographic region to someone else to handle their business so that the Airport could be dealing with a local company that was running interference rather than with the national company (see below p.5).

- Additional Programs varied depending on what the responders saw. For example Avfuel had an in-house insurance subsidiary so they were able to offer this additional program. Different things were offered in different ways—as could again be seen on the second sheet.
- The Dealers Established columns tracked the total number of dealers and the year the particular supplier (with whom the Airport would sign the contract) was established; for example Texaco was established in 1911. The Airport was not looking for the new kid on the block.
- The Premier Location column represented the different statuses which were given to dealer locations. Certain perquisites were given for being part of the higher echelon of dealers. The Airport saw itself as fitting the categories, so that whether the provider told the Airport it would certainly be in its Premiere listing was important because of the minimum services, minimum facilities, etc. that went along with it. This was akin to a "World Traveler" or "Presidential" club on the commercial airlines that marked a passenger for the highest level of care. It could also have an impact on the selection of where the aircraft operators made their purchases.
• As could be seen Texaco was the lowest overall—except where Ascent-Philips 66 came in lowest on the Avgas, however the Airport sold significantly less Avgas than jet fuel.

- The Airport looked at certain things within each response. Did the supplier have experience with municipalities? Did they have experience with servicing islands in particular with their complex transportation and logistical issues.

• Then the Airport looked at straight out incentives. Texaco was offering a 5,000 gallon jet refueler for the length of the contract at no cost – in addition to the one the Airport already had. In addition they were offering a second refueler during the high season until additional storage was built, giving the Airport the best opportunity to maintain inventory if a boat failed to run or there was some other delivery problem.

- Mr. Hegarty asked if these were based on the existing leases for the refuelers or how these would impact the contract. Mr. Weibrecht replied that the Airport had asked the suppliers for options:

º what it would cost to replace the Airport's trucks—i.e. the basic lease price,
º what it would cost to have a limited maintenance program on the Airport's trucks,
º what it would cost to have a full bumper to bumper maintenance program on the Airport's trucks.
º The suppliers were asked to price a replacement if the Airport needed a truck tomorrow.
º Although it could not be required, the Airport asked the suppliers to offer a program whereby the Airport's existing leases could be wrapped into the program. This could be either from just a maintenance standpoint and/or to take the leases over and re-lease them to the Airport—with the Airport keeping the same vehicles.

This gave the Airport more flexibility and it might offer additional discount pricing that the Airport would pay which was because the big suppliers bought a lot more trucks from the same leasing companies. The Airport did not receive such a proposal from the other three—with the exception of charging a maintenance fee—but Texaco did find a way and presented the Airport with a way to wrap the Airport's leases on its own trucks with the Airport's BIN numbers into the larger contract.

*Mr. Winn Davis entered the meeting at 5:09PM.

- Mr. Leland asked about the National Air Transportation Association (NATA). Mr. Weibrecht explained it was an association related to commercial airline and the National Business Aircraft Association (NBAA) which was an association related to business aircraft. These both gave conferences

where stakeholders could have a booth to advertise their location and services so that pilots would buy gas from them. In some cases it was just to draw in traffic, for example Salina, Kansas might want a plane to stop at their airport for gas on the way to California. Texaco was tendering a one year offer of a booth within the "Texaco Village" at the conference so that operators could learn about the Martha's Vineyard Airport. It would have the Airport's logos on it, the Airport's give-aways, and was under the larger banner of the national supplier. Mr. Mill asked who staffed the booth. Mr. Weibrecht replied that the Airport would staff it with their own people although the supplier would provide staffing in the general sense to talk about Texaco or Avfuel, etc. Mr. Leland confirmed that they set up the booth at no cost to the Airport. Mr. Weibrecht assented explaining that the supplier's booths all looked the same with inserts for the Airport's material. If the Airport were to choose to buy the booth spot in year two or beyond. it would cost a minimum of $5,000.

- Mr. Daly asked what company was behind Avfuel and Mr. Weibrecht responded they were their own company that supplied aviation fuel nationwide.

- Mr. Daly asked about the time frame of the contract. Mr. Weibrecht responded it was a one year contract with four annual options to renew. This had been discussed and the Airport had looked at a lot of options. The five years was decided because when looking for assistance on fuel farms, programs and products the supplier had to have the necessary time to amortize it out. Mr. Daly asked for the value of a certain item re: design, build, etc. Mr. Weibrecht replied it would probably be a bare bones minimum of $40,000.

• Mr. Daly then asked about the importance of the credit card issue. Mr. Weibrecht responded it could be hugely important. As he had previously stated the difference between the four suppliers was about $6,000 during the heaviest part of the season, so it was always a mix and match.

- It was necessary to go through what each whole process would be.
  - º There was one rate if the card was swiped and the entire process was run immediately. There was another rate if the transaction was settled before midnight, and a third rate if it was settled after 48 hours.
  - º The other side of the coin was how quickly would the company give the Airport it's money back; they might give you the lowest processing charge but they would hold onto the money for 30 days, and the Airport would get one check at the end of the month.
  - º The second part of that was there were two different types of credit cards. The Airport accepted the bank cards most people had in their wallets and paid one rate on those. However the lion's share of their business was paid with aviation cards which were assigned to the airplane, the two brand names being Multiservice and Avcard. Most operators used these so it became much more important to work aviation card rates rather than the bank card rates.

- A little later Mr. Leland asked for clarification around the percentage rates on the credit cards which would probably have an effect on the per/gallon price of the fuel. The rates were dealing with tenths of a percent. Mr. Weibrecht agreed but noted that the tenths could add up over time. Mr. Leland went on to confirm that the credit card charge per gallon was much lower to start off with. Mr. Weibrecht agreed and put a rough number on the effects at about $20,000 a year for the cost of the raw product.

• Mr. Daly asked about each company's tech service. Mr. Weibrecht responded this depended on how each company would supply the service to the Airport, whether they were doing so through a local contract or through in-house personnel. If it was through in-house personnel where were they based—

because if the base was Minneapolis the service would be a couple days before the Airport could get something fixed. If the it was through jobber, i.e. a local contractor, did the supplier have some arrangement whereby the Airport could request the service directly without having to go through the Vice President of the supplier.

º Texaco did it through a contractor.

º Avfuel used both a contractor and their own people depending on where the airport was located.

º Ascent-Phillips 66 had one company that did all their work based in upstate New York.

º Eastern would have a combination of staff out of North Carolina and contractors in the region

— although they did not designate who that contractor was.

• Mr. Hegarty asked if the fuel farm assistance bids included security costs. Mr. Weibrecht responded that the farm was already fenced but that the cost of moving the fencing and all that would be part of the package.

- Mr. Hegarty asked how the building aspect of the fuel farm expansion related to Mass State bidding laws. Mr. Weibrecht stated the Airport had to walk through this process and it was definitely an issue. This was not to say that it could not be done where the supplier put the bid together for the Airport and it was bid to go that way. Mr. Hegarty noted it was under $25,000 worth of work, but Mr. Weibrecht clarified that this was just for the engineering and the Airport did not know what the top end would be. Mr. Weibrecht imagined it would be over $25,000 and would fall under the bidding law which was definitely and absolutely an issue. Chair Law noted however that the suppliers were aware of this too.

Mr. Weibrecht went on to say that the other side of this was that even if the Airport had to hire another contractor, the supplier would oversee the work and they knew what they were looking at as opposed to someone who did not build a fuel farm everyday, so there was a huge depth of expertise. Other contractors were willing to put fuel farms in but did not supply maintenance, so how likely would they be to support what they had designed and helped the Airport build. So the project was definitely not presented in a vacuum. Mr. Hegarty stated he could see the advantage of hiring a company that built fuel farms everyday, however he could not see the advantage of ignoring the state bidding laws. Mr. Weibrecht assured him that no one was saying that the Airport would ignore them and emphasized that the project had to be done legally.

*Mr. Norman Perry entered the meeting at 5:18PM.

• Mr. Weibrecht asked the MVAC to keep in mind—and Management had made it very clear to the suppliers—that the Airport did not want to be tied into any one supplier for a long period of time. The responses were menu options but if they did not want to offer the option then there was no advantage to it.

• Mr. Alley stated that he met with Mr. Weibrecht after the bids were opened. Mr. Weibrecht gave him a copy of each and Mr. Alley took them home and read them over the weekend and used the living room floor for all the paperwork. Mr. Alley came to the conclusion that the Texaco Global Aviation proposal was the overall best deal for the Airport. Mr. Weibrecht emailed Mr. Alley on Monday. He had come to the same conclusion as well. Mr. Alley and Mr. Weibrecht spoke and Mr. Weibrecht stated he would send the copy out to the rest of the MVAC. Mr. Alley took a copy of all the responses, deleted Mr.

Weibrecht's remarks, forwarded it to Grimes Oil and asked them for their opinion. Just this afternoon, December 1st, Mr. Grimes called Mr. Alley to say that his team had looked it over and they would recommend Texaco Global. Mr. Alley had not told them that this was the same conclusion that both Mr. Alley and Mr. Weibrecht had reached. Therefore more than the separate opinions of Mr. Alley and Mr. Weibrecht, the Airport now had the opinion of an independent party recommending the proposal. **MR. ALLEY MOVED TO ACCEPT THE TEXACO GLOBAL AVIATION PROPOSAL; MR. LELAND SECONDED.** Chair Law asked if there were any more questions or discussion.

-(There was a brief discussion on Mr. Daly's email capacity which Mr. Hegarty stated kicked back all the messages he had sent to it. Mr. Daly had not received the proposals and spreadsheet although Mr. Weibrecht had had no indication of trouble.)

• Mr. Leland felt it was interesting that Texaco Global was willing to give the Airport a 5,000 gallon unit for jet fuel storage at no cost and also a 5,000 gallon refueler at no cost until the farm was completed, which Mr. Leland felt was fantastic. After all, the farm might get built in a year but it might also take a year and a half, and Texaco was stating it would set a tanker out at the farm. Mr. Weibrecht assented and added that the Airport asked each respondent to provide a rental figure for one single 10,000 gallon unit that did not have to be equipped the same as the other units. Not everyone carried 10,000 gallon trucks in stock—these trucks were common with airlines but not necessarily with general aviation as there was not much need for that size vessel—but if the supplier did not have such a truck they offered some equivalent such as two 5,000 gallon trucks, or others talked about offering two 7,500 gallon units. The spreadsheet showed each supplier's final offer.

• Mr. Leland noted the options also included a $22,000 wireless upgrade for the trucks. Mr. Weibrecht agreed stating the suppliers knew this was an important issue for the Airport which currently lost a lot of time between taking the order, going to service the order, and bringing the fuel ticket back to process the client and get them out. The Airport has started equipping the trucks out of the gate in preparation for building on this technology for wiring the order to the office as soon the service was finished. Texaco wanted the Airport to be a premiere location on this point so Texaco could advertise it to others as a model. It was important in that it would tie into the Airport's Point of Sale (POS) system. Mr. Weibrecht noted that the Airport had asked all the respondents if they supported this kind of system and everyone had said yes, but Texaco spoke a little more on how exactly they were going to do it.

- Mr. Hegarty moved to close the discussion and called the vote but Chair Law noted one more question.

• Mr. Daly asked if Mr. Weibrecht was comfortable with the Texaco proposal. Mr. Weibrecht responded that yes he was and he stressed that he personally recommended that the Airport go with Texaco Global Aviation which he thought was the best deal for the Airport (Mr. Weibrecht noted that Assistant Airport Manager Mr. Sean Flynn had also reviewed the proposals.)

- Mr. Daly expressed some concern about the amount that Texaco was giving the Airport and the sizeable amount of cash in the proposal. Mr. Weibrecht agreed that it certainly was a lot and that everybody was interested in the Airport's business. Where the Airport ranked nationally was hard to tell as the suppliers did a lot of airline sales at different volumes. Texaco has been supplying fuel to the airport but prior to this contract it had been through Packer. Mr. Weibrecht felt that

º a) they did not want to lose the location and were trying to regain their presence, and they understood that not everything was perfect and were trying to address the situation;
º b) they might just be more motivated by the high visibility of Martha's Vineyard in that they had not had the Texaco name anywhere near the Airport. (Although it was important to the Airport that Texaco not place a lighted sign at the Airport, which they understood and were looking at other alternatives.)

- Mr. Hegarty stated this was a public bid process, each respondent submitting their own offer, opened publicly and if Texaco wanted to give the perquisites to the Airport and they wanted to maintain a presence that was great.

• County Manager Mr. Winn Davis asked who could exercise the one year option. Mr. Weibrecht responded that the options were exercisable by the Airport. Mr. Davis expanded that this meant the supplier could not back out but the Airport could. Mr. Weibrecht assented. The reason for this was that if delivery was not met, or if any of the items were not met then the Airport could withdraw.

• Mr. Daly reiterated that this was a very extensive package; that Texaco was just about setting the Airport up, giving trucks, the capacity to hold the fuel, the wireless radios back and forth and so on. Mr. Weibrecht pointed out that what became clear in the process was who wanted the contract the most.

Chair Law added that Texaco also wanted to incorporate the Airport trucks into the leases which was important. Mr. Weibrecht agreed that this issue was huge and that Texaco were the only ones that actually looked at that option. They listened to Management when it saw that there could be an advantage and that the Airport wanted that option. Mr. Hegarty agreed stating that the Airport had just committed a large amount of money to them. (Mr. Leland observed that it was almost a no-brainer.) Mr. Weibrecht agreed that it was very important to the Airport and that the Airport knew that Texaco had the buying power having bought hundreds or thousands of trucks from these people on a regular basis while the Airport had bought four in 50 years.

• Chair Law asked if there were any other questions and called the vote. **MOTION PASSED: 6 AYES, 0 NAYS, 1 ABSTENTION – CHAIR LAW** due to conflict of interest issues over his relationship with Texaco.

**2. Contract Air Traffic Control Tower Services Proposals – Vote to Award**

The Airport Commission has received two (2) responses to the published Request for Proposals (RFP) associated with the operation of the Martha's Vineyard Airport Air Traffic Control Tower.

The responses have been reviewed by Airport Management and Commission representative Bill Mill. Once a preferred vendor is selected by a vote of the Airport Commission, a request for concurrence by the FAA will be made, and the contract will be awarded.

Mr. Weibrecht felt there was no other way to present this matter to the MVAC clearly except to show what a draft of the letter might look like. The Airport was a Contract Staff Tower in that the employees standing upstairs were not Federal employees. They were employees of a private corporation that was under contract to the Airport which was under contract to the Federal Aviation Administration (FAA).

- There were about 140 towers total in the program at the moment. Without knowing the exact number Mr. Weibrecht believed there were 38 towers that were considered to be 'sole source towers' for some special concern. The FAA itself awarded the other 102 towers by region or area, putting out the contract and handling the entire deal.

- The MV Airport was considered to be one of the sole source towers because of its seasonal location, the large variations in traffic, the increased cost of housing and living on the Island, the problems of bringing in seasonal employees to address the seasonal traffic, etc. As a sole source tower the Airport was actually responsible for putting out the proposal, so the Airport had advertised the process.

• In the meantime, the FAA after about a 90 day delay on awarding their national contracts, selected Midwest to take over all the towers of the Northeast. Midwest was the Airport's incumbent contractor. This changed the landscape significantly. At the moment Management was trying to find out if the FAA intended to incorporate the MV Airport's contract into the regional contract.

The only two sole source towers in the Northeast were MV Airport and Nashua, New Hampshire and Midwest had operated both of them for some time. So this contract could change into a national contract.

- When Management talked to the FAA they had responded that the Airport should continue with the original process for now and select the company the Airport thought was best and submit the award recommendation to the FAA as usual.

• Again the Airport had gone through the process, advertised in the Central Register, etc. the bids were opened publicly, and only two contractor proposals were received. Because of the change in the contractors in the Northeast an expected third bidder did not submit because (as they had told Management) they had lost the region.

• Besides Midwest, the incumbent company, with which the Airport was well acquainted, there was a second proposal from a company that did a lot of contract training for the FAA but did not currently run a tower—although in the past they had run towers in different places, one in Oklahoma, one in Puerto Rico, and several off-shore ones on behalf of the Federal government. Management could not exactly say they had no experience operating towers but they had a different type of experience and towers were not an on-going concern for the company.

- The selection committee, Mr. Weibrecht, Mr. Flynn and Mr. Mill saw that as an issue, certainly in how quickly they could get competent staff here, as well as where else they might have controllers, what their programs looked like, were they maintaining a program to run towers on a regular basis, and if it was just MV Airport they were running the tower program for. Therefore the selection committee definitely saw Midwest as having the advantage in the case of having the assets to support the contract.

• Because Midwest was close, they would also be able to staff the MV Airport quickly.
• Some of the problems that may have been causing some turnover with the Tower's permanent staff was the administration of benefits—since Midwest only had two towers in the Northeast it was hard to get benefits for the employees.

- Later in the discussion Mr. Leland raised this issue of whether Midwest would change benefits so that the staff could get health insurance in this region. Mr. Weibrecht clarified this as more being able to take advantage of the plan as offered. He explained that it was like having a health plan that was not serviced in the area, so that now Midwest would have to work on this issue. They had already made inroads and changes from what Mr. Weibrecht knew to be the problem six months ago to what he saw in their package now and it was only going to get better.

• Other issues the Airport was looking for in this contract were local communications, support of MV Airport policies—everything from communications from Airport operations and the tower itself, to compliance with the security programs, noise programs, etc. Both contractors provided adequate information on these issues and this aspect was a tie.
- However Midwest had worked for the Airport for a long time and knew how it worked.

- Midwest also offered additional staff. There was a national trend towards increasing the number of people in the tower. (For those of the Commissioners who did not know, sometimes there was a total of one controller alone in the Tower. This was not unsafe but it could pose an issue and it would obviously be safer to have two. They had increased the amount of staff so that the Airport would have three controllers, plus an air traffic facility manager on site all year round whereas Washington Consultants, the other bidder, did not come up to those levels, proposing 2.4 controllers during the winter. This would mean a part time controller which would be difficult to maintain on the Island, or it might lead to a revolving door, where the company brought people in for a temporary duty assignment.

Later in the discussion Mr. Weibrecht pointed out that this would also reduce the number of seasonal staff that had to be hired, which made it much more manageable. So there would be a full time body who had been working at the site for the past nine months versus trying to get somebody up to speed just out of the gate.

• It was unanimous agreed among the three selection committee members that Midwest was the better qualified candidate for the proposal.
• Mr. Leland did not disagree with the recommendation having done the math and figured the difference between the two bidders was a little under $10,000. Repeating what Mr. Weibrecht had just said he enumerated that the advantages were:
  º that the Airport had done business with them for 15 years, and
  º that Midwest would send a manager and three controllers year round.

Although Washington Consultants' bid was almost $10,000 less the staffing levels were only two full time and one half time employees, plus(as Mr. Weibrecht inserted) the manager. As business owners everyone knew that vacation time had to be figured in and then someone went out on sick leave and the two full time and one part time controllers did not work out well as adequate coverage.
- Mr. Mill also pointed out that now Midwest would have a lot of other controllers in the region which could be brought to the Island in case of an emergency.
• Mr. Weibrecht explained that the bidders were required to provide the Airport with a staffing schedule, and how they would cover vacations, sick leave, etc.—although they were not required to say who the staff might be so assumptions had to be made. Nevertheless the contracts carried a certain number of hours for time off. Mr. Mill added that this was all spelled out in great detail in the proposals both of which were quite thick.

• Mr. Hegarty did not think Washington Consultant's offer was any great shakes at all, given the fact that they had nothing to back it up, spending the money for a safe tower was the right thing. Mr. Weibrecht assented.

• Mr. Weibrecht then added a couple notes for the record.
- The wage determination for what the controllers were paid was set by the Federal Government at a published prevailing wage rate so if the contract were to be wrapped into the regional award it might change and there were contract amendments to account for any changes.

- Now that the MVAC had gone on record saying it was worth the extra money, the entire contract was currently 100% reimbursable by the FAA. Should the Airport's cost benefit ratio drop below one (1) the Airport would be responsible for the differential. At the moment the Airport had a ratio of 1.15 however if say it dropped to .85 the Airport would be responsible for 15% of the total contract cost as an operational expense. In other words if the Airport wanted to keep the staffing the same it would have to come out of pocket to pay for the services. This had recently happened in the region in that nearly every other tower in Massachusetts had to pay some differential. Neither MV Airport nor Hyannis paid – as far as Mr. Weibrecht was aware – and this was because these airports had the traffic to justify it.

**• MR. LELAND MOVED TO ACCEPT THE MIDWEST AIR TRAFFIC CONTROL PROPOSAL; MR. ALLEY SECONDED; MOTION PASSED UNANIMOUSLY; 7 AYES, 0 NAYS, 0 ABSTENTION.**

• Mr. Hegarty thanked Mr. Alley and Mr. Mill for signing up to review the fuel and air traffic control bids. The Commissioners and the Chair thanked Mr. Hegarty.

**3. MV Lot 14 LLC – John Folino**

Mr. Folino was required to appear before the Airport Commission on November 3, 2004 to discuss violation of those terms contained within a sublet approval issued previously by the Airport Commission

During the course of this meeting Mr. Folino requested to be heard at a future date regarding the use of the MV Lot 14 LLC property, as relates to the use of the building by himself and tenants, including all truck docks as previously submitted during the initial development approval process, and subsequently approved by both the Airport Commission and the Martha's Vineyard Commission.

Mr. Folino wished the MVAC a good evening and thanked them for having him back. He was here for three reasons tonight:
- the ongoing discussion on loading docks and trucks,
- the placing and screening of dumpsters,
- to re-instituting a Tenant Advisory Group which would allow everyone an insight into what were the ongoing property issues.

The first issue he wished to discuss was the ongoing discussion regarding the use of his loading dock.

- When Mr. Folino came before the MVAC last April he requested and was granted a 6 month review of his operation (*actually one year* - see 4/21/04 Minutes p.5). This period fell due in October, he was before the Commission in November and now it was December 1st. In any case he requested to be allowed to go back to what he was granted in the year 2000 both by the Martha's Vineyard Commission (MVC) and the MVAC. Simply put this would be the right to use his loading docks on a regular unrestricted basis by his tenants. In fact in reviewing the plan the MVC said, "the building was of an industrial capacity so that included truck traffic flow. I see no problem with truck traffic flow with this layout. Further the Martha's Vineyard Airport Commission reviewed and approved the same plan on March 15, 2000."

Mr. Folino recalled that at the last meeting in November a Commissioner had asked him if what he was doing was against any of the regulations or by-laws of the Airport Business Park and his answer was no—unless he was missing something. All he wanted to do was what he had been granted to do back in the year 2000.

• Chair Law stopped him right there and emphasized that Mr. Folino did sign a sub-tenancy lease with the Airport and knew what that agreement contained. He reminded Mr. Folino that he had come before the Commission who had tasked Mr. Folino with not getting permission for his sublets. The MVAC had discussed the entire criteria of what Mr. Folino had to meet. This was a whole different situation from what happened in 2000 which had been canceled as far as the MVAC was concerned because Mr. Folino had not gotten permission to sublet from the MVAC; he had just sublet on his own. So that was how the MVAC looked at the situation. (Mr. Weibrecht was getting the agreement that Mr. Folino had signed with the MVAC so he could review it and know exactly what it was.) Chair Law repeated that this was not about what happened in 2000 but about what happened when Mr. Folino did not get permission to sublet to his two sub-tenants.

• As Mr. Folino understood it the issue was keeping a trailer on the property as a secondary warehouse. The MVAC wanted to avoid creating mini-warehouses away from the building that was rightfully granted for storage. Mr. Folino had removed trailers from the site that were being used to store his own equipment. They went from the job site to the building and back and forth.

• Without sounding really course Chair Law said he felt that basically what had happened was that the MVAC was really 'on' Mr. Folino for what he had done in subleasing without permission and Mr. Folino was willing to agree to just about anything to get out from underneath the Commission. Chair Law then read the letter into the record (see documents on file)

> "As of the April 21st, 2004 meeting of the MV Airport Commission, the Commission APPROVED, with conditions, your request to sublet a portion of your building to Clarence A. Barnes, III. This approval is limited to the area described within the lease approved by the Airport Commission and any change to the area would require an additional review and approval. This approval is conditioned on the following:
>
> 1. That there be no further violations by MV Lot 14, LLC of Article 12 of its lease with the Martha's Vineyard Airport Commission (The "Lease"), failing which the above mentioned approval shall immediately become ineffective and revoked, rendering MV Lot 14, LLC in default automatically without benefit of the

otherwise operative thirty (30) day cure period for non-monetary defaults ('Article 13, Section 13.1 of the Lease). MV Lot 14, LLC shall give in writing prior to this approval becoming effective a reaffirmation of the general indemnification of the Airport Commission (Article 9, Section 9.3 of the Lease) specifically with respect to consequences of MV Lot 14, LLC violations of any lease provision or provisions including but not limited to Article 12.

2. That NO trucks associated with the herein approved sublease be on the property during the overnight hours (1/2 hour after sunset and 1/2 hour before sunrise). NO trucks associated with the herein approved sublease be on the property during the daylight hours (1/2 hour before sunrise and 1/2 hour after sunset) unless they are attended and are actively being loaded or unloaded."

Chair Law stated Mr. Folino had signed this and was okay with it. Mr. Folino stated he did signed it but was not okay with it. Chair Law countered that as far as he was concerned when Mr. Folino signed something he was okay with it. Chair Law was not trying to put words in Mr. Folino's mouth and Mr. Folino was going back to what happened in 2000 but Chair Law was going back to what happened in 2004. So he proposed that the discussion start from there and not from back in 2000. The MVAC wanted to be on this program, on this track, and not on any other track. Chair Law invited Mr. Folino to ask any question he liked.

• Mr. Folino asked under what conditions could the Commission agree to grant him back what he had in the year 2000.

• Chair Law stated the Commission could speak for itself and then read the letter Mr. Folino had written to Mr. Flynn on the MVAC's behalf (see documents on file).

> "This letter is my formal request to be heard before the Airport Commission on Wednesday, December 1, 2004 as close to 5PM as possible (I am scheduled on a boat….) At this meeting I would like to propose my request to allow me, or any of my tenants to use the building including all truck docks as previously submitted by me and approved by both the MV Commission and the MV Airport Commission in my initial application during the winter of 2000."

Chair Law stated this was what Mr. Folino was looking for and opened the floor to the Commissioners.

• Mr. Leland was new to the Commission so he was unfamiliar with the history of the incidents but obviously there was language back that stipulated that certain things would not happen and then apparently things did happen.

Chair Law briefly explained the history. Twice Mr. Folino sublet his building without coming before the MVAC (which all tenants were required to do) and what came out of the discussion over these sublets was the letter dated May 4, 2004. (Recorder Ms. Lipke reflected the minutes of that meeting which showed the concern was that storage not multiply outside Mr. Folino's already busy building.) However contrary to the terms of the approval and letter a truck of Mr. Barnes had been parked as a storage unit despite a verbal warning by Mr. Flynn and a written notification in August. Chair Law continued that unfortunately Mr. Barnes had not known of the restriction and had been caught in the middle of the dispute.

• Mr. Hegarty had a problem with the May 4, 2004 letter because it singled out one person and the language actually discriminated against a person. Mr. Hegarty knew of no other letters to the other tenants that had unregistered trucks used as storage on their property and which were not moved. Mr. Hegarty could understand parking a registered truck at a truck dock that was used. Mr. Hegarty could understand the consternation about extending storage away from the building outside of a truck dock that was designed to hold a truck. As to the section on the dumpster he did not think anybody had a lease allowing a dumpster to be placed and fenced inches away from the property line when the issue was to get stuff out of the buffer zone and get the buffer re-vegetated. So Mr. Hegarty's concern was that he did not want to penalize one individual and although he was not present for the initial letter and discussion and so had missed some of the emotion and discussion he could understand penalizing Mr. Folino. But he could not understand penalizing one specific subtenant, especially when one had only to take a drive around the Park where it was clear that every single lease holder would have to come in and adhere to this issue of no unregistered trailers with storage away from the building or away from the loading dock; there were ample instances of this in the Park as the MVAC sat here right now.

• Chair Law could appreciate what Mr. Hegarty was saying but the letter was unanimously voted by all the Commissioners present that night and the MVAC was looking at Mr. Folino and not at anybody else. That was the issue. The MVAC could do whatever it wanted but that sublet breach was why the letter was what it was.

• Mr. Weibrecht reminded the MVAC further that the Airport issues had started off with more issues than just the trucks at the dock. There were buses and other things that had been discussed in great detail at the last meeting and did not need to be brought up again, but were the cause of the situation going from A to B to C. Furthermore when anybody brought a sublet to Management and the MVAC that sublet was the topic of discussion because what else would the MVAC discuss but that specific sublet. In this case after the fact of the sublet Management and the Commission understood what was going on.

• It was clear to Mr. Alley in April that the MVAC addressed the question surrounding Mr. Folino's application to sublet to Mr. Clarence Barnes, better known as Trip Barnes. This was why it was specifically singled out, because that was the subject of the discussion. Although the lease was with Mr. Folino, he came and asked to sublease to Mr. Barnes and there were two conditions attached to it. Mr. Alley thought everybody understood it at the time and now in Mr. Alley's view the discussion seemed to be going around and around and around.

• Mr. Daly observed that the letter was in response to a violation, and that Mr. Hegarty's comment was that he felt the letter was not directed or required but when there was a violation a letter had to be sent, it was not that anyone was being singled out.

• Mr. Barnes became familiar with the property when Land Distributors in the wholesale grocery business was there hauling trailers, dropping them off, etc. so that when he got the call from Mr. Folino that it was available Mr. Barnes was very familiar with lot. Land Distributors left trailers there many times with things in them and he observed that the loading docks were both being used and that there were also small delivery trucks. Mr. Barnes moved in. Mr. Barnes wanted everybody to know that he was looking at this letter for the first time.—Chair Law said he was sure this was so.— Mr. Barnes was approached by Mr. Flynn (he thought sometime after this letter) and told he had to move out of the

building. This was of course during the summer and at the time there were probably 10 houses in the building with 100,000 lbs of furniture and no place to go. Mr. Barnes was also told that he could not park anything there. Tonight Mr. Barnes heard this unregistered word being cast around, most of the stuff he had on the lot was registered, there were two buses, two trailers in constant use, and there was one truck which appeared sometime in September that was not registered. Mr. Barnes put trucks on and took them off seasonally as did other carriers. Mr. Barnes did not want the MVAC to think he had been doing anything underhanded. When he was asked to remove them, he was a little shocked but he removed them. Obviously he could not run a business if he was told, "Oh, this has to be taken back to Vineyard Haven." Mr. Barnes thought the whole purpose of the Airport Park was to encourage businesses. Mr. Barnes was in a total state of shock when he heard this because his other customer who he delivered to was Keyland Kitchen and Vineyard Directors and they had storage trailers all over the back of their property. Mr. Barnes had not read their leases and he was a subtenant and did not own a building but he was listed in the yellow pages as being in the storage trailer rental business. Mr. Barnes also rented school buses with the seats taken out to outsiders where trailers would not fit in their driveways. This was a very large part of his business. At the last meeting the MVAC had said, "Oh no, you cannot even have one truck on the property," and he had moved that truck. Mr. Barnes was hoping that this issue could be resolved today. In the first part of this letter it referred to that there be no more violations on MV Lot 14. Mr. Barnes was not familiar with what went on before other than Land Distributors and he also was in the trucking business. Mr. Barnes was familiar with the cubic feet and it seemed to him that Land Distributors had five or six trucks there and the trailer dock was always full. So he knew that this put the MVAC in an awkward situation but he was just taken aback and was hoping that the Commissioners could resolve something with Mr. Folino because this just cuts both of Mr. Barnes arms off. There were only two local moving and storage companies on Martha's Vineyard; Mr. Barnes was one of them, the other fellow was out of room. The reason Mr. Barnes was renting was that he was working to capacity. A great deal of his business was when a client asked him please to take everything out of the house as a big new addition was being built, or the house was not finished so the client could not be moved in. Mr. Barnes would just as soon leave everything in the trailer than take everything out and handle it four times.

• Mr. Leland did not think this was Mr. Barnes' problem as much as it was Mr. Folino's problem. Mr. Leland addressed one of these issues. Mr. Leland understood that Mr. Barnes could drive a bus in and load it up with furniture from someone's house that was being remodeled and park it in their driveway. Mr. Leland presented this as the other alternative. Mr. Leland himself had to go through this when he remodeled his living room and kitchen. He had a box brought in and set in the driveway where he put his furniture for three months. It didn't look great but it sat on his property versus driving it off and parking it somewhere else. Mr. Leland understood the concept but there were some alternatives.

- Mr. Barnes agreed but went on to say he could not afford to bring these smaller units to the Airport, and most of them wound up back on one of his Vineyard Haven properties. The Airport was being used for a lot of in-transit stuff such as a load from New York that could not be delivered for two weeks. It was unusual to be told that the trucks had to be taken away at night. Mr. Barnes repeated that he hoped Mr. Folino could get this resolved tonight. Mr. Barnes again expressed his surprise because his observation of the activities of the last tenant—unless these were the violations referred to in the first part of the letter. However Mr. Barnes was in a very awkward position. Mr. Barnes was not in and out of the property everyday as much as Cape Cod Express. He was not in and out of there as much as people who might be bringing boats in and piling them up. The lot had been kept neat and clean. Mr. Barnes

had not had any complaints about garbage. When he first went there Mr. Barnes took a lot of steel and everything else that was around the area with his own trailers and took it back to Vineyard Haven where it was in the back of his lot. Mr. Barnes had not had any problems with the other tenants, he was had not been in their way. The other tenants in the building, the builders in the front, and then there was an electrician in the back who had many things stored outside, which were sometimes there and sometimes not, in that if he had ten deliveries he put the material outside and then took them to the job site and they were gone the next day. Mr. Barnes was curious to know how this was going to be resolved because it would effect many other people besides himself.

• Mr. Hegarty asked how many trucks the loading zone or ramp was designed for. Mr. Folino replied five altogether, two tractor trailers and two straight trucks. Mr. Barnes added it could also be three tractor trailers and two straight trucks. If memory served Mr. Hegarty correctly that building filled most of the lot and was a tight fit and then there was an apron around it and it did not present much space at all. Mr. Hegarty saw maybe two spots on the loading zone and how one got five out of two.

- Mr. Folino, Mr. Hegarty and Mr. Barnes examined the plot scheme (see documents on file) and discussed truck and parking logistics and the sublet boundary line. The other Commissioners also passed around the plot scheme.

- Mr. Hegarty maintained Mr. Folino did not have the space. Mr. Hegarty did not want to see the issue get blown out. Personally he did not want to see a hardship created because of what was going on with Mr. Folino. Mr. Hegarty could understand that the lot was cramped. He could understand the need to not have a gazillion storage units sitting out there unattended.

• Mr. Hegarty would suggest that the May 4, 2004 letter be amended to allow two and only two registered trailers in the loading docks which the lot was designed for. Mr. Hegarty did not concur with the five spots; he did not concur with three, which he could not see, did not see, and would not see. He did see two. Mr. Hegarty felt that amending this and allowing the registered vehicles would go a long way in alleviating a lot of other problems. In doing this Mr. Hegarty felt it would be to Management and the Commission's advantage to address other unregistered vehicles stored on other properties that were not at loading docks, in fairness to everybody in the Business Park. **MR. HEGARTY MOVED TO AMEND THE CONDITIONS TO ALLOW FOR MR. BARNES TO PARK TWO (2) AND ONLY TWO REGISTERED ACTIVE TRAILERS (NOT SCHOOL BUSES) TO BE STORED AT THE LOADING DOCK; THERE WAS NO SECOND.**

- Mr. Leland asked if this did not already exist. Mr. Hegarty explained that this would allow the trucks to be parked overnight as other trucks could throughout the Park.

- There being no second Mr. Leland had another question. The building was 180 ft. long and 60 ft. wide and the preponderance of which was used for storage. Mr. Folino replied that it was not built entirely for storage but also included contractor shops. Again Mr. Leland was new to the Commission but was speaking out tonight. Mr. Folino was expanding the footprint of the building. Whatever Mr. Folino's deal was with his tenants, that was the deal. The tenants came in, unloaded, put their material inside and left. The other tenants did not park their buses, trucks or vans all around the building, expanding the footprint of the space they were granted. Mr. Daly concurred that this was the way the lease was written.

• Mr. Alley asked who the other tenants were. Mr. Folino replied,
º himself as Cape Building Systems,
º Bay State Construction / Mass. Highway Dept.,
º Michael Carroll Builder,
º Kitchen Porch / Jan Berman,
º Osprey Baking,
º Trip Barnes,
º Paul de Bettencourt, electrician.

Mr. Alley confirmed that they were all in that space and all had leases / subleases which Management and Mr. Folino confirmed. Mr. Alley went on that Mr. Hegarty had made a motion for two trucks to be stored there during overnight hours. Mr. Folino interrupted that the other tenants did not have truck docks associated with their units.

- Mr. Leland asked if Mr. Barnes were able to get out of the truck dock. The Commissioners again examined the plot plan.

• As something that might be helpful to the Commission in making their decision Mr. Barnes stated that he paid a substantial amount of money and could not afford to park a dead vehicle there. The Commission should be aware that the rent was very, very high so that it was not a collection spot for junk under any conditions. In reference to having the trucks all registered this just put another tariff on.

• Chair Law let Mr. Barnes know that rent was not the issue of the MVAC. Mr. Barnes was not asking for sympathy. He just noted that the last tenant in the space did not have any of these conversations—and maybe he was in violation too. Chair Law asserted that the Airport had plenty of problems with the last tenant. Mr. Barnes repeated that he had just seen the last sub-tenants trailer activity going in and out then the guy had gone broke and left. Mr. Barnes did not have a problem, he knew the space was available and took it. He just wanted to have a clear head as to where this was going and whether it was good news or bad news. It was a very low impact building. There had never been a parking problem nor had any tenant asked him to move a truck.

• Mr. Daly clearly stated that the question was would there be a resolution. However in order to get a resolution the MVAC was being asked for a change in the lease. Now as Mr. Hegarty had said, the MVAC did not want to be unfair, but if the MVAC voted for a change how would the other tenants in the Industrial Park be effected. The other tenants would ask for the same permission.

• Chair Law confirmed that Mr. Daly was right. But he went on to point out again that the MVAC had a problem with the way Mr. Folino conducted his business. The Commission had addressed the way Mr. Folino did business.

- It was really not the fault of the MVAC that Mr. Folino did not tell his subtenant Mr. Barnes what the MVAC had decided. Chair Law then addressed Mr. Barnes and then Mr. Folino emphasizing that Mr. Barnes was placing the fault on the MVAC, whereas it was the really the fault of Mr. Folino who had neglected, as usual, to tell his tenants of the restrictions or to follow through with anything. Now Mr. Folino was shifting the blame onto the MVAC which was not fair.

- The Commission and Management had indeed had problems with other subtenants in the building; with this sublease a directive was issued and Mr. Folino had not taken it into account and now Mr. Barnes was being hung out to dry. Mr. Barnes had never even seen this letter. Mr. Folino should have informed Mr. Barnes of this issue before the rent was even discussed. This was the issue. It did not matter what anybody else was doing in the Park. The Commissioners addressed Mr. Folino, his business, his lot, his problems.

- As Mr. Daly had said there were a lot of problems out in the Business Park but the MVAC was addressing this situation tonight and the Commissioners were being protested because Mr. Folino did not tell Mr. Barnes what this situation was about.
- If the MVAC wanted to change its mind it was fine with Chair Law. However he emphasized that it was quite clear what the situation was before Mr. Barnes moved in. Mr. Folino came before the Commission and the Commission decided what to do. Shifting the problem to the MVAC was not valid, it was Mr. Folino's problem.

• Mr. Alley felt Chair Law was on the right track. He reminded the MVAC that they had made amendments to leases based on leniency for individual cases which however had always come back and caused the MVAC trouble. The Commission had a done a nice thing for somebody to straighten something out and it had not worked because of the rest of the Park. This was the whole idea of having the uniform agreements. This letter stated no trucks. What part of 'no' did Mr. Folino not understand.

• Mr. Folino supposed he should admit that the MVAC did give Mr. Folino the letter which he had read—and signed inserted Chair Law—which Mr. Folino acknowledged. Mr. Folino would not get into what he discussed with anyone. He asked if there was there anyway that this Commission could see its way to allow Mr. Folino to park two trucks at that loading dock. As a further question he asked what the penalty was that was invoked in the May 4th letter. Taking away the actions of the past year, if Mr. Folino had come to the Commission at the very beginning would the MVAC have accepted the parking of two trucks at the dock. What if a new tenant wanted to build a new building in the same configuration?

• Chair Law explained that this was not the issue. The issue was that Mr. Folino had not done well by his lease and his sublet tenants so the MVAC put rules down. Mr. Folino had a violation which the MVAC addressed.

• Mr. Folino repeated again his request to ask the MVAC's indulgence to go back and allow him to park the two trucks at the dock and further what was the downside of parking the trucks at the dock, other than that he had, as he agreed, violated the rules.

- He also added that as shown on the lot plan, most of the lots in the Park were rather narrow. Mr. Folino had built 30 of the buildings that were in the Park and they were all similarly laid out. Many were 60 ft. wide on the same size lot. Everyone tried to maximize their buildings for financial reasons. The system worked well; there was no problem with parking and there had never been a conflict that he was aware of. It was designed and approved by the Planning Commission of the MVC.

• Chair Law cut him off stating these were old arguments, and asked if anyone wanted to address this with a motion. The previous motion had no second and he did not want to beat this issue to death.

• Mr. Perry stated it would change the whole philosophy of the Park buildings and if the MVAC approved this change it would open up issues for all the other buildings, new or old.
• Mr. Leland noted the plan was drawn up four years ago when the lease was drawn up stating with clear terms which Mr. Folino, as a business man had understood. Since that time Mr. Folino had come before the Commission.
• Mr. Mill explained that Mr. Folino had come before the MVAC and asked permission for a sublet, the terms of which were clearly set out in the May 4, 2004 letter.
• Mr. Hegarty stated that Mr. Barnes was not aware of the terms.
• There was a general voice that the MVAC would have a hard time changing the terms of Mr. Folino's lease, and expressing sympathy for Mr. Barnes, whom personally the Commissioners generally liked and who had been caught in the middle.
• Mr. Leland did not know Mr. Folino but Mr. Folino clearly knew what the ground rules were.
• Chair Law again asked for a motion, there being no motion proposed, Chair Law declared the terms would stay as is and the discussion was over.

• Mr. Barnes told the gentlemen of the MVAC that he thought they were forgetting where they lived. Mr. Barnes knew it was not a personal issue but this was Martha's Vineyard and they had a small guy in an awful lot of trouble over a couple of parking spaces and he strongly suggested they sit back and take a look at the other tenants. Mr. Barnes felt he was being singled out and he did not think the Commissioners were making good decisions as they were making it an inoperable situation for Mr. Barnes.

• Chair Law informed him that there was a tenant / owners meeting on December 8th and Mr. Barnes left the meeting. Before moving on to Agenda Item #4, Chair Law, at Management's suggestion, addressed the two other issues raised in Mr. Folino's letter. Chair Law read the first request into the record:

> Dumpsters- Construct landscaped and fenced storage areas in the buffer as shown on my site plan. I would locate these dumpsters in only existing areas devoid of plant material. I would construct 6' high cedar screening fences with shrubs at either end to further screen the dumpsters. I would size the containers to fit in the available space. See the attached sketch.

• Mr. Hegarty asked if the buffer was denuded during construction and viewed the plot plan.
• Mr. Folino explained as in April (see 4/21/04 Minutes p.8) that the trees were not planted in neat rows as they might be at someone's house. He displayed a photo showing that the trees did not run in a continuous strip between his and his neighbor's property and showed natural holes that did not have trees. He suggested that the MVAC consider the possibility of allowing Business Park tenants in general to put dumpsters in these holes and then landscape them. He again emphasized that this would apply to all tenants that had a piece of buffer that was devoid of vegetation—although there was a little ground cover but that was all—but that a landscaped dumpster would be better. This would be akin to a reconstructed or replicated wetland. In allowing the dumpster and better landscaping this would improve rather than detract from the buffer.

• Mr. Alley asked what Mr. Folino would put in the dumpster. Mr. Folino replied it would just be for office use, general trash.

• Mr. Hegarty asked if he had dumpsters on the property now and where they were located; to which Mr. Folino replied yes he had some dumpsters which were now off the green area and on the edge of the pavement, and pointed out where they were on the plot plan. Mr. Hegarty asked if the lot was paved right up to the buffer zone and Mr. Folino replied, yes sir.
• Mr. Weibrecht acknowledged to Mr. Folino that there were various mixes of growth depending on where the buffer zones were located. He also emphasized Mr. Hegarty's point about construction having an effect on the buffers which was certainly the case. The Airport had tried to get buffers which had been destroyed during construction replicated in some way shape or form, even if it was just with natural growth that was allowed to recur. He reminded the MVAC that it was the MV Commission that gave the original buffer requirements which were part of the original development agreement signed by all parties. Mr. Weibrecht thought that if the buffers were to be reviewed they should be reviewed as a totality. Mr. Folino intervened that he was just talking about the bare spots.

But Mr. Weibrecht noted that in his experience in dealing with such agencies as the MV Commission on a regular basis it was the growth in general that concerned them rather than a particular shrub or tree, and that once the ground was built on, it would never come back to its natural state regardless. If the MVAC had a desire it could address the use, reduction, or change of buffers. However to construct something in a buffer was an extremely slippery slope especially when the Airport had required tenants to replicate buffers several times recently.

• Mr. Leland asked about grading and clarification. Mr. Folino made it clear that grading was not an issue and that by a "hole" in the buffer he simply meant a place without trees. Mr. Daly clarified that such a place had an organic layer (grass, shrub cover, etc.) and had not been scraped down.
• Mr. Hegarty felt the discussion would be better served in a discussion at a tenant / Management meeting but that as the rules relating to buffers existed nothing could be built and the topic was moot. There was general agreement.

Mr. Folino asked what the disposition had been in regards to Mr. Barnes. Chair Law reiterated that there was no change and the letter stood. Mr. Folino pointed out that he happened to have 14 pictures of other buildings in the Business Park taken on Sundays and every one of them had a truck at the dock and every truck had something in the truck; every one. If the MVAC looked at a building with a dock there was a truck, at this moment, at all moments. Chair Law repeated again that he was not going to go there as it had already been discussed ten times over.

Chair Law read off the last issue, which was the:

> <u>Tenant's advisory board</u>: I propose to reactivate the discussion group that was held prior to my tenancy.

So that everyone would understand about the upcoming meeting Mr. Weibrecht explained that Management had sent out a letter to all the lease holders in the Non-Aviation Properties/Business Park. Years ago there was a tenants organization that helped with decisions and brought problems to the Airport Commission's and Management's attention but which had since faded away. The Airport certainly had issues like the buffers, or like truck and trailer storage, or like hazardous materials storage, signage, beautification of the Business Park, cleanliness, etc. It would be a benefit to Management to have a tenants organization to get an idea as to what their problems were and to be able to converse back and forth and let the tenants know what the Airport's problems were such as: the MVAC had a new eye

for "x" issues, or here were the top 10 concerns. Management would much rather do this as a group so that everybody understood. If the issue were, for example, illegal storage everyone could discuss it and if there was a policy decision that needed to be made it could be brought back to the MVAC. In this way the tenant organization could speak for itself and represent the entire Business Park and tenants. Management saw this as something that would be helpful. Management could not organize the tenant's organization itself, however Mr. Weibrecht knew of several people that were interested and some that had expressed an interest in becoming leadership/spokespeople. He suggested that the best way to get that done was for all the tenants to meet in a room which was what Management was trying to encourage through this meeting referred to in the letter.

• Mr. Folino thanked those present. Chair Law thanked Mr. Folino and Mr. Folino left the meeting.

**4. Cottage City – Tom Fitzpatrick**

Mr. Fitzpatrick was required to appear before the Commission on November 3, 2004, to review various lease property issues. He was asked to return to the Airport Commission to report back on what violations of lease terms had been corrected.

Chair Law noted that Mr. Fitzpatrick was represented by his attorney Mr. John Boyle who was also present. As the MVAC knew they had required that he return to the Board on December 1st to report on his progress on correcting his violations.
• Mr. Weibrecht asked permission to interrupt very briefly and reported that Mr. Fitzpatrick had brought some rather substantial packages, one of which Mr. Weibrecht had received just this afternoon, containing letters, documentation, entire leases, etc. These were for the Commissioners to consider if they so chose or if any one item was needed during the discussion. Mr. Weibrecht did go through the Airport's two most recent violation letters and go through the packets to pick out what was there and to make notes. He noted this because he did not want to interrupt Mr. Boyle's presentation and invited Mr. Boyle to proceed.
• Mr. Boyle thought the letter listed 12 violations and the packet addressed all 12. Mr. Weibrecht agreed that the packet spoke to each in some way, shape or form, and again invited him to make his presentation.
• Mr. Boyle noted there were letters from Big Sky about the gallonage, the grease trap and the lint. There was a letter from the sprinkler company, a letter from Habitat from Humanity, a request to extend the lease of Big Sky and ESS, a request for ESS to use the upstairs for 1,500 square ft. of storage (see documents on file).
• Mr. Weibrecht, offered to point out the high spots where there was still an outstanding issue. He wished to be very clear so that everybody understood exactly where the Airport was.

- Right out of the gate he stated that from Management's standpoint Mr. Fitzpatrick had made an honest effort in trying to provide everything, and a lot of the issues were in process. The MVAC asked Mr. Fitzpatrick to do something and Mr. Fitzpatrick had turned around and asked his tenants to do x, y or z and to submit a request. So when the MVAC last met it was decided to furnish a list to Mr. Fitzpatrick which Management has done (see documents on file and 11/3/04 Minutes p.7). Some of this list had been provided previously; (and there were sublet requests which the MVAC had been unable to approve due to unresolved issues). Mr. Weibrecht requested that Mr. Boyle or Fitzpatrich correct him if he was wrong and then listed the Airport's outstanding issues in essence.

- A Certificate of Occupancy (CO) for some spaces in the building. Mr. Boyle stated that this was a good point because the Town of Edgartown had some trouble locating it. Other permits, such as the building permit had been submitted—and, Mr. Weibrecht inserted, copies were included for the MVAC's edification—however, the Town was working on the problem. Mr. Weibrecht acknowledged this but noted that as of this moment the Airport had not been provided with a CO and wanted to be clear that he had not missed something in the package and that the issue was clarified. Mr. Boyle assented.

- There was a quote for fire sprinklers to be installed. The time period the contractor set was within four weeks of acceptance of the proposal. Mr. Weibrecht asked if the proposal had been accepted. Mr. Fitzpatrick replied that Mr. McFadden from FSS Automatic Sprinkler Corp. was coming this week to make a formal proposal. Mr. Weibrecht understood this to mean that installation was five or six weeks away from completion.

• Chair Law asked Commissioners to hold their comments until Mr. Weibrecht had finished. However Mr. Alley asked Mr. Weibrecht to go down the list from the letter so that he could better focus on the points. Mr. Weibrecht readily assented.
- 1. Limit the use of the outside of the building, Mr. Weibrecht confirmed Mr. Fitzpatrick had provided a letter to the tenant (Big Sky) requiring them to do so.
- 2. The property had been cleaned. Mr. Weibrecht could not say that it was perfect but Mr. Fitzpatrick had made a great effort towards cleaning the property. There was still material such as pipes, pipe fittings, etc. that looked as if it belonged Big Sky. Mr. Fitzpatrick inserted this was awaiting completion of the fence. Mr. Weibrecht did see what he would classify as minor debris that needed to go to the dump. Mr. Daly asked confirmation that this was an ongoing process with an end in view. Management agreed and noted that they were trying for compliance, not nit-picking.
- 3. Forward an official proposal. Mr. Weibrecht received a request from both Mr. Fitzpatrick and Truly Scrumptious, the subtenant, looking for the permission. The request needed to be dressed up, to have more detail and was not really appropriate, but permission has been requested. This was for an outdoor containment storage unit to house materials and take them out of public view, much as Mr. Folino was talking about but not in the buffer zone. Mr. Fitzpatrick clarified that this would be approximately 10' by 2' or 3' with a stockade fence. Mr. Weibrecht assented and noted it had been in terrible repair sort of like a shed and no permission had been requested to put the unit there in the first place.
- 4. Submit a new parking plan. Mr. Fitzpatrick had provided this and the spots were actually assigned within the parking lot itself so that every tenant knew where they belonged and every tenant had been provided a letter (see documents in package) telling them where their spaces were and that they were not to park anywhere else.
- 5.6.7. Mr. Fitzpatrick has provided Big Sky with a letter on curtailing water usage, and requesting spec's and plans for the grease trap and lint screen. Mr. Mill asked if the building were metered. Mr. Weibrecht replied that it was and that the dishwasher and laundry were allowed within the regulations, however there was substantial over use of water and Big Sky had been so informed. This letter protected Mr. Fitzpatrick, the leaser.
- 8. With the exception of the CO all permits had been received on November 4th.

- 9. Mr. Fitzpatrick had submitted a letter from Habitat for Humanity stating that he had been willing whenever asked to participate but had not been used as work was not always available. Mr. Weibrecht had not heard back from the MV Commission on a payout alternative to Mr. Fitzpatrick's Affordable Housing Contribution Requirement.

- 10. Second Floor review and approval. This space had had a sole occupant and had been leased before it was inspected by the town. There were other spaces in the mezzanine which could be rented out at a different time, obviously with pre-approval of the MVAC. Management had inspected the building on November 5th as requested by the MVAC at their November 3rd meeting. There was still material on the second floor although Mr. Fitzpatrick had cleaned out a substantial portion of it, in particular the part which had concerned Management the most. However there were still belongings up there although Management did not know if they all belonged to ESS and did not know if that was still the case today. Mr. Fitzpatrick replied that the material all belonged to ESS. Mr. Weibrecht asked if there were still materials on the Mezzanine. Mr. Fitzpatrick said there were and that it was mostly ESS's wire and such. Mr. Weibrecht responded that he had seen what was up there, furniture, storage and other stuff, and he just wanted to be clear about whether it had changed since November 5th when there was still material there. Mr. Fitzpatrick replied that it had not changed. Mr. Weibrecht noted however that Management had received a current, detailed plan for the requested sublet space.

- 11. Mr. Weibrecht was over at the lot today and reported that Mr. Fitzpatrick had put a pile of top soil and a placed a split rail fence in order to prevent parking and rebuild the buffer in an area which had essentially developed into a third driveway. So while this was not complete it was in process.
- 12. Management did have a request for all three subtenants, Big Sky, ESS and Truly Scrumptious with a current floor plan that showed where those spaces and occupancies would be.
This was roughly the list as presented piece by piece. Management had a substantial amount of information and showed a hefty packet that was just one part of the information it had received. So again as Mr. Weibrecht saw the matter the open issues were:

- º Certificate of Occupancy,
- º Fire Sprinklers – at least over the short term Management would like to see the acceptance of the proposal so they would know it was in process, because if this proposal went on for four weeks Management was looking at eight weeks to completion, if it went on for eight weeks it would be 12 weeks before completion, etc.
- º Completion of the Big Sky issues for both traps and Mr. Weibrecht would reexamine the packet for further detail but at least one plan was still needed. These would have to be reviewed with the Wastewater Treatment Operator.
- º Clean up of minor trash and junk
- º Completion of the buffer.

• Chair Law noted that Mr. Fitzpatrick had done a good job so far in trying to get the lot picked up. He then put the matter out for discussion noting Mr. Hegarty's interest. Chair Law proposed giving Mr. Fitzpatrick two months or eight weeks for completion at which time he could return to the MVAC and submit his sub-lease applications which the MVAC would go right through. If Mr. Fitzpatrick was up to snuff Chair Law did not foresee any problems. Mr. Mill also commended Mr. Fitzpatrick's progress.

• Mr. Hegarty had some issues.
- He asked Mr. Fitzpatrick if a post and rails were originally growing in the extra driveway. Mr. Weibrecht suggested that Mr. Hegarty look at the plot plan and continued that the first priority was to stop the parking. He offered to show Mr. Hegarty the page of the letter where Mr. Fitzpatrick specifically called for plans to come back in the spring and plant indigenous species, bushes, etc. Mr. Hegarty complained that this was the spring now, and that Mr. Fitzpatrick had blown the MVAC off again with this issue. Mr. Hegarty maintained that this was one of Mr. Fitzpatrick's biggest issues and

that he really had this psychological block about restoring this buffer zone, which was one of the things that kept drawing attention to the building. Even to the point where when Mr. Hegarty drove through this morning, at 7:30, he saw two posts and one rail lying on the ground, no dirt. There was a pile of dirt there but this was good planting season, so why wasn't the work done, why was it that Mr. Fitzpatrick had a month and nothing was done until this morning just before the meeting.

- There was a sprinkler issue, November 4th and that was great and Mr. Hegarty commended Mr. Fitzpatrick but he never signed the contract or gave the guy a deposit. Mr. Fitzpatrick intervened to say that actually he had…Mr. Hegarty interrupted Mr. Fitzpatrick to say that he was looking at the documents provided so that he considered his own statements to be true. Mr. Hegarty meant that Mr. Fitzpatrick was given a letter on the 4th which had something to sign which Mr. Fitzpatrick had never signed, he never gave the guy a deposit. And now Mr. Fitzpatrick was saying the guy was going to show up in a week or two to finalize it and what not.

- Mr. Hegarty considered the Certificate of Occupancy to be a big issue. Mr. Hegarty spoke to Mr. Jason about it at the beginning of the month, just after Mr. Fitzpatrick had given him the copies from the original letters from the sprinkler company and also the letter from Habitat that had just come in. Mr. Jason had no CO's that he knew of for that space nor for anything on the second floor; and that was Mr. Jason's conversation with Mr. Hegarty.

- As far as Habitat for Humanity if they wanted to keep waiting for their time, and what not that was their issue, if they were happy with their time. But Mr. Hegarty considered it was a great deal that Mr. Fitzpatrick gotten.

Given the efforts that other people had made dealing with buffer zone issues, Mr. Hegarty did not feel that this MVAC in good conscience should allow Mr. Fitzpatrick to skate one more day, let alone…The weather was still good and Mr. Fitzpatrick could still plant something. And also the sprinkler system was an issue, in that Mr. Hegarty meant Mr. Fitzpatrick could not even get a CO without a sprinkler in that building. This was just a matter of building law. So Mr. Fitzpatrick did not have an operable system and did not have a signed contract and Mr. Fitzpatrick had had a month to put that together. Mr. Hegarty would like to see Mr. Fitzpatrick come back by the next meeting (which was noted as the second Wednesday of the month, December 15th) with a signed contract for the sprinkler system and with photos of the buffer zone replanted.

• Mr. Fitzpatrick reported that the sprinkler company had been given a $6,000 deposit to finish the work. The issue that arose with Mr. McFadden was that Mr. Fitzpatrick had re-submitted for a quote on completion of the system which turned out to be for about 20% that was left to be done. The quote submitted for this portion was almost the same amount as the original quote for the entire system and Mr. McFadden had agreed that this was probably a mistake. Mr. McFadden had said he would be on Island this week and Mr. Fitzpatrick intended to sign a contract with him this week on the re-adjusted proposal.

• Mr. Fitzpatrick would go over to the lot tomorrow and spread out the dirt. The only reason to put up the rail fence was to make it obvious to people that they should not drive over the dirt until vegetation had regenerated.

- Mr. Hegarty inserted that Mr. Fitzpatrick had cut some substantial trees there. Mr. Hegarty meant there were 20-30 ft. high trees that were cut. Mr. Hegarty felt it would be nice to put something more than three inches of loam there, along with two posts and one rail at the least. As Mr. Hegarty said he thought this was insulting to every other person that was dealing with a buffer issue, as he had said and had readily complied in a timely manner with that Management's and the MVAC's suggestions. Mr. Hegarty would like to see something substantial, something substantial now and something that would stop the traffic.

* Mr. Leland left the meeting at 6:45PM.

- Mr. Weibrecht could not speak to what exactly had been there. He believed there were trees. Mr. Fitzpatrick contradicted him to say that this was a natural opening but if the MVAC preferred he replenish trees he would be happy to do so.
- Mr. Hegarty did not care if it was blueberry bushes. He did not care if it was a few seed trees, just so long as people got the idea. Several people spoke at once.
- Mr. Hegarty suggested boulders, and Mr. Daly asked if boulders would suffice instead of the fence. Mr. Weibrecht strongly urged that the MVAC and tenants stay away from boulders as the Airport had trouble around this issue.
• Mr. Alley agreed. He suggested Mr. Fitzpatrick spread the loam, pick of the trash and get rid of it, buy and plant a couple of cedar trees or Russian olives and send in a copy of the contract with the sprinkler company so that everyone would know it was there, signed and on file in the office. The issue could go round and round in a circle but these were the issues that Mr. Fitzpatrick needed to comply with, and the sooner the better. These were not impossible things.
• Mr. Hegarty had one other point and asked about the building that was mentioned that was added illegally for storage. Mr. Weibrecht stated it was not a building, it was a section of fencing that was bolted onto the building in order to keep some of the stuff that was stored outside. A) it was never requested, and B) what was done was kind of shoddy, and then took a beating and did not hold up well and looked terrible. Consequently this needed to be repaired so it was right, upgraded and finally the MVAC needed to be told what was being done with it.

- Mr. Weibrecht did not have a picture plan saying it was going to be x, y, or z, but he felt it was certainly something that could be worked out shortly and did not have to be an engineer's drawing. Chair Law explained it would be like a small pen.

- Mr. Hegarty asked if this was not going to open up other lease holders using such pen/fences. Mr. Weibrecht replied quite honestly that the pens had been encouraged when done properly so that they would hide certain materials, and in fact they had been awarded on other lots. Mr. Hegarty inserted this was so long as they were not in the buffer zone. Mr. Weibrecht assented, that this was so long as they were not in the buffer zone. This one was attached to the building so it was an important distinction.

- Mr. Weibrecht explained that some of the business used propane bottles for example, as part of their business for cooking grills or those kinds of things. These should not be inside and if they were not inside then where were they and so forth. If it was stored properly and legally these fenced in areas were the way to do it and they could be locked, secured, and nobody could plow through them. Mr. Hegarty was reminded of a previous request for a similar fence for Osprey Trades in which he asked that all material in the pen be stored 8 inches above the ground (see 11/5/03 Minutes p. 1-3 #2).

• Chair Law said he was looking for Mr. Fitzpatrick to come to the MVAC in a couple months and everything would be signed and all would be on their merry way.
• Mr. Alley addressed the Chair that he wanted, as he had just said, for Mr. Fitzpatrick to send the copy of the contract to management by the next meeting, pick up the trash or whatever it was, spread the loam, put a few trees in before winter sets in and then work on the rest of it. Chair Law asked if anyone had a problem with this and asked for a motion. As reiterated by Mr. Weibrecht: **MR. ALLEY MOVED THAT BY DECEMBER 15TH MR. FITZPATRICK WOULD:**
**- DEMONSTRATE TO MANAGEMENT A SIGNED SPRINKLER CONTRACT,**
**- FINISH THE CLEAN UP OF THE LOT AND REMOVE ALL TRASH,**
**- REPAIR THE BUFFER INCLUDING PLANTINGS,**
**THE REST OF THE WORK TO BE COMPLETED BY THE END OF A PERIOD OF EIGHT WEEKS OR 60 DAYS; MR. DALY SECONDED; MOTION PASSED UNANIMOUSLY: 6 AYES, 0 NAYS, 0 ABSTENTIONS.**

• Mr. Weibrecht continued that while the MVAC was discussing the subject, on completion of the CO and compliance whichever it was, the other issues would be addressed. All agreed. Chair Law thanked Mr. Fitzpatrick who left the meeting with Mr. Boyle.

Mr. Perry posited that a tenant leased the property and then said they would build a building so big on this property to do the following functions. The MVAC then approved and said okay to the building and the function. It seemed that after that the tenants (without typecasting anybody) kind of did what they wanted to do when they wanted to do it and then wanted the regulations changed to comply with commitments they had made.

• Chair Law protested that there were some good tenants out there.
• Mr. Weibrecht felt this issue was worth speaking to briefly. He felt that things had changed since the Business Park and the rules for the Business Park were established. It was designed to be one thing and had become something different for whatever reason. There had been a popularity with the Park where the lots had become more occupied, rather than less.

The MVAC could debate whether or not this was a good thing but the fact itself caused other issues. Why would a tenant want to move a dumpster into the buffer? Because they did not have enough room to get a truck passed the parking spot, etc. etc. Some of those issue could be discussed. However, the MVAC could not do so in a void; once it had decided what it thought could be changed the Commission would have to consult with Edgartown and—in the case of the Business Park—with the MV Commission.

- The biggest problems arose when somebody signed a lease for a sublet without coming to the Airport Management and Commission, so that those issues that were involved in the use of the space by the subtenant could be identified in advance of the tenant signing the lease. The MVAC had seen five or six examples of this.

- Mr. Perry asked what happened to these tenants, what action was taken such as was there a heavy fine. Mr. Weibrecht responded that the Airport had that ability, as written, that there could be a fine, although he did not know of one every being assessed, nor was there a schedule of such fines, which would have to be set first. And this was the problem that Management had. What did the MVAC want Management to do in x, y or z situation? What should it do for example if Mr. Barnes' truck was at the dock

tomorrow night? The Airport and tenants could come back in two weeks and have the same discussion all over again. The tenants organization could help with this. What did they see that could change and that Management and the MVAC might agree with or disagree with. These issues could be debated, yes, no, up, down, vote and move on. This was something that Mr. Weibrecht was extremely desirous of.
- Mr. Alley suggested that if the truck was still there tomorrow night that Management have it towed away. Mr. Hegarty however explained that there had to be signs to that effect or else it became the Airport's expense. Mr. Weibrecht concurred and stated he did not absolutely disagree with Mr. Alley, and would like to say good-bye to the truck. However, there were lease issues, private property issues, and such and it was much more complicated than just go tow the truck. This was just like the parking issue where until the signs were there Management could not tow the car. So it was a matter of stepping out on a limb.

- Chair Law put in that the MVAC could also move to evict Mr. Folino if the truck was there as he was in violation. And, Mr. Weibrecht noted, he had been notified of the violation. Chair Law expounded that the issue was that when a sublet was requested the MVAC looked at the property, the sub-tenant, the use, etc. and the issues involved all varied. And this was what Mr. Folino did not understand, that it all varied according to who was going in, what the use might be and if it was an allowed use.
- Mr. Weibrecht added that too often tenants assumed that if it was an allowed use, it must be okay, so the MVAC could not say no. Well, this was not necessarily the case; there were other impacts.
- Or, as Mr. Alley inserted if the tenant thought no one would ever see it, they did it and then when it was brought up the tenant would say nobody ever told them anything. Chair Law said this was the old story of preferring to seek forgiveness rather than permission. There was a general agreement.
- Mr. Alley assumed that the tenant on the second floor of Mr. Fitzpatrick's building was no longer there although they had left some of their wire.

• Mr. Daly then emphasized that as a Board the Commissioners could not assume the position of management consultants for people in the Business Park. When a tenant signed a lease they knew what constraints were involved and they had to act as a manager to make what they had work for them. That was the American way. One went out on a limb, one was successful; if one was not successful one got out of business. The MVAC could not make decisions for the tenant. All the MVAC could do was go by what was written and understood by every tenant. When a tenant got a lease they should sit down with a lawyer and clearly understand what was in the lease, so that they could guide their business based on the constraints that they had signed for themselves. Everybody understood where they were and if they stepped outside of those perameters they were as Mr. Alley said risking it. Most likely they would get away with it and once they had gotten away with it, it was assumed to be accepted and then the tenant came back and wanted to make it legal. Mr. Daly's point and discussion was that the resolution to the problem should not be a change of regulations. Mr. Folino came in asking for change to resolve the problem.

- Mr. Mill stated that the point was that Mr. Folino wanted that sublet and when he came before the MVAC it was made explicit that:
  º this would be a trucking company but there would not be any trucks there — no,
  º there would not be any trucks parked there overnight – no,
  º Okay.

That was very clear when it came before the MVAC. Then obviously Mr. Barnes needed to park trucks there.

- Chair Law felt that Mr. Folino really did not care what the MVAC said, and agreed to anything that would get him out of the meeting, then he would do it. Mr. Mill concurred that he would say whatever he had to in order to get the approval and then told Mr. Barnes to go ahead and do whatever he wanted.

- Mr. Weibrecht, if he was not mistaken reminded the Commissioners that Mr. Barnes was already a subtenant in the building before Mr. Folino ever brought the sublet to the Airport, and therefore Mr. Folino was bound to an agreement with Mr. Barnes and that was the bigger issue. Furthermore the Airport did have problems with the previous subtenant. As a matter of fact there was a refrigeration box unit off the back of the trailer that went on to the loading dock and became an additional storage module to the building. If the MVAC remembered there were five different vehicles on the lot not just the two they had been debating this evening. There were five, and if he was not mistaken three of them were unregistered buses packed with stuff and parked over in the corner, nowhere near the building. Besides this, contrary to there being no parking issues, there were always parking issues, for example the Airport might need to get a fire truck through the back corner of that lot.

- Mr. Alley said it was like bringing in neighborhood blight concentrated in the Business Park at the Airport, which was wrong. The MV Commission told the MVAC exactly to be a business park, do business things, but do not be a big dump for everybody. Chair Law agreed absolutely.

- Mr. Daly stated that sometimes there was such a thing as having too many subtenants, but this was the person that was doing the managing; was he content with what he had or did he feel that he had an obligation not to over gross the building.

- Chair Law maintained that Mr. Folino had a lot of tenants and a lot of rent coming in and that was his business which the MVAC approved. Mr. Daly noted that this had been stated when the MVAC had said Mr. Folino's income was not the business of the MVAC.

- Mr. Hegarty noted that the plot had a footprint for a building just as recently a bidder came forward with a building bigger than a property allowed and so was denied (see 11/3/04 Minutes p.21 #4). Mr. Weibrecht noted that this was what one lived with. Mr. Hegarty continued that if the tenant put too large a building on a lot one eliminated parking spaces and there was no room for fudged vehicles. Putting the third vehicle where Mr. Folino and Mr. Barnes wanted it to put it would eliminate further parking spaces and so it did not make sense.

- Mr. Daly emphasized that as a manager the tenant had to realize that one would need this or that and plan for it. If after it was built one thought this or that was needed, it showed a lack of planning.

• Mr. Perry was surprised that one could build a new building occupy it and do business without a CO. Mr. Weibrecht explained that this was an issue between the town and the owner of the building. Until some issue came back to the Airport and it was noted that the certificate had not been complied with, then the Airport went on to the next level. Mr. Hegarty explained that it became a liability issue with the Airport, to which Mr. Weibrecht assented. Mr. Perry confirmed that Mr. Fitzpatrick was in that state now. Mr. Weibrecht responded that this was correct. Mr. Hegarty stated that the Airport had addressed its liability and it was now up to the town to address their issue with the CO. Mr. Perry asked if the MVAC could revoke Mr. Fitzpatrick's lease for not having a CO. Mr. Hegarty replied that no, this was

not possible because the Airport did not issue a CO. The MVAC was giving Mr. Fitzpatrick time to get the paperwork to the Airport.

- Mr. Weibrecht explained that there was some grey area in the lease that said a tenant would comply with all local law and obtain all local permits, etc. so the MVAC did have cross over where it became an Airport issue. However, for example, Edgartown Building Inspector Mr. Jason could issue a limited CO, or could issue a space by space CO, or could restrict the activities that were in the building which required the fire sprinkler system to begin with, or could only allow occupation of 50% of the building thus reducing the square footage down; so Mr. Jason had options to do which was the Town's ability to change or modify, not the Airport's. The Airport had had this issue before.

**4. Airport Managers Update**

- **Cars Unlimited – Parking area compliance**

The final item in the package was the letter to Mr. Pothier of Cars Unlimited which addressed the parking issue along Northline Rd. Management went over and looked at it.

Mr. Pothier had actually made some improvements with railroad ties out to 11 ft. versus 10 ft. off the pavement. The matter was discussed while Management was there and it was decided to bring the railroad ties all the way out to the edge of the pavement in line with where the Cape Cod berms were located if one looked further up Northline Rd, (although there were no Cape Cod berms where Mr. Pothier's property was). This had been taking care of. The Airport still had to work on the general parking issue throughout the Business Park which would be discussed at a later date.

- Mr. Hegarty asked if there was just dirt with grass seed at these points. Mr. Weibrecht explained that Mr. Pothier planned on seeding and that there would be some other improvements done. There were actually two sets of barrier railroad ties and Mr. Pothier planned on further work in the springtime when the top soil would be seeded. The current barriers were to stop the soil from floating away.

• Mr. Hegarty thought Mr. Pothier had come a long and now the next corner would be the Mobile Station. Mr. Weibrecht agreed absolutely and gave the MVAC to understand that Management would meet with this tenant (Mr. Rotondo of the Mobile Station) after the holidays on the Lot #34 issue (the next one to his right) to get his plans for the lot and to have the issue completely resolved (see 1/7/04 Minutes p.1-3#2). Mr. Weibrecht also addressed some issues recently with Mr. Rotondo regarding the cleanliness beside the carwash itself. Mr. Rotondo had done quite a lot cleaning up the backside of the lot but there was more debris there. The long and short of it was that Management would have a meeting scheduled with him so a plan could be developed as far as what Lot #34 would do. That would also address parking issues and this would have to come back to the Commission before the development of the lot, and also before all the parking issues in that neck of the woods could be addressed.
• Mr. Weibrecht thought this tenant organization would have some thoughts on parking issues as well. Mr. Hegarty asked after the time of the meeting. Mr. Weibrecht announced it was not a posted meeting but would be at 5:00PM on Wednesday, December 8th.

- **Final Environmental Impact Report (F/EIR) – Publication and Distribution**

Mr. Weibrecht updated the MVAC on the F/EIR which was filed and copies were available either in paper or on CD to carry home or the Commissioners copies could be left at the Airport for later viewing. The F/EIR had been submitted and was officially open for comment until December 23rd and was available on the website—the Commissioners actually could access it from the web and did not have to take a copy home.

**6. New Business / Old Business**

Mr. Mill felt it might be helpful if Management explained what happened last Friday night when he had trouble. Mr. Weibrecht reported that on that night (Nov. 29th) after the Tower was closed there was an aircraft that could not get all three of its retractable landing gear indication lights to signal that all three landing gear were down. The Airport had one person in operations and one person on clerk that night, who happened to be out doing a field inspection. The aircraft was looking to speak to somebody on the ground.

(Just for the MVAC's information the Airport did not speak to every aircraft after the Tower closed unless they asked for something specific. Mr. Daly confirmed that the Airport had Unicom. Mr. Weibrecht confirmed that the Airport did have it and monitor it but did not necessarily have to respond, especially with the automated weather which now took care of itself.) So the pilot asked for some assistance and when the crew heard that, they manned the Airport Rescue and Fire Fighter (ARFF) truck just in case and started an Alert 3 which was the lowest level of alert to start assistance moving. This put the towns that assisted the Airport on stand by at their stations which gave them a head start towards the trucks, and then it paged the Airport's staff to come in as additional staff to the trucks. After a couple of passes the aircraft landed without incident. There was a Cape Air pilot waiting to depart who was able to see the gear, the pilot assumed it was down and that it was a bad indication light. There was really no other way to do it except to look at it eventually and do what one needed to do. By that point the Airport had staffed up and had a rescue crew ready. Edgartown also responded. The staff did the work and in the end it was just a bad light bulb.

- The Airport got a lot of these incidents and it depended on how much else was going on. If there were four or five staff at the Airport the alert might not be called at all till the Airport knew what was going on.

- The alerts were determined by the type of emergency, the size of the airplane, how much gas it had on board and how many people were on board.

- Mr. Hegarty confirmed that the pilot went around in circles for some time until someone could see the wheels. Mr. Weibrecht confirmed this and related that eventually he trusted in God and Beechcraft. Mr. Hegarty thought he was trusting in the Cape Air pilot who saw the wheels down. Mr. Weibrecht explained that it was dark and even in daylight when one knew what one was looking at, it was a very difficult thing to tell if the gear was trailing by1/2 an inch going by at 50 ft. doing 80 knots. Mr. Daly added that the military would come right up. Mr. Mill asked if there was a landing light on the nose gear. Mr. Weibrecht did not know about this model. Mr. Mill suggested this would be another indication. Mr. Weibrecht agreed but noted again that if it was just trailing and not locked the plane

could touch down and then have the landing gear collapse. Mr. Daly explained that the pilot would step on the rudder to yaw and try to get some air under there. Mr. Weibrecht agreed and stated he had only had it happen once.

Mr. Alley asked the Chair if there was anything else. Chair Law had nothing else and announced that if there was no voting business the MVAC would not meet on December 15th. He requested that Mr. Weibrecht let everyone know by email when Mr. Fitzpatrick submitted his signed contract with the sprinkler company, to which Mr. Weibrecht agreed. Chair Law wished everyone a Happy Holiday.

**8. Adjournment**

**MR. ALLEY MOVED TO ADJOURN AT 8:50PM; MR. MILL SECONDED; MOTION PASSED UNANIMOUSLY: 7 AYES, 0 NAYS, 0 ABSTENTIONS.**

**Documents on file:**
Agenda 12/2/04
Sign-in Sheet 12/2/04
MV Airport Request for Responses – Aviation Fuel Supply – Proposal Summary 11/24/04
MV Airport Summary of Incentives and Advantageous Programs - Aviation Fuel Supply RFR
MV Airport/ Mr. Weibrecht Draft Letter to FAA / Ms. Granberg 11/29/04
MV Airport RFP Contract Air Traffic Control Tower Services DTFANE – 05-R-00MVY, Pricing 11/19/04
Cape Building Systems, Inc. / Mr. Folino Letter to Mr. Flynn 11/8/04
Lot 14 Schematic 11/2/04
MV Airport / Mr. Flynn Letter to MV Lot 14, LLC / Mr. Folino 5/4/04
Airport Counsel Marcia Cini Letter to Cars Unlimited / Mr. Pothier 11/15/04
MV Airport / Mr. Flynn Letter to Cottage City Distributors LLC / Mr. Fitzpatrick 11/4/04
MV Airport / Mr. Flynn Letter to Cottage City Distributors LLC / Mr. Fitzpatrick 11/8/04
FSS Automatic Sprinkler Corp. / Mr. Cheremka Letter to Mr. Jason 11/5/04
Habitat for Humanity / Julie Willett Letter to MVAC 11/4/04
Edgartown Inspector of Building Permit to Tom Fitzpatrick 6/5/02
Cottage City Distributors / Mr. Fitzpatrick Letter to MV Airport / Mr. Flynn 11/27/04
Cottage City Distributors / Mr. Fitzpatrick Letter to MV Airport / Mr. Weibrecht 11/30/04
FSS Automatic Sprinkler Corp. / Mr. McFadden Letter to Cottage City Distributors / Mr. Fitzpatrick 11/23/04