

**Commonwealth Of Massachusetts
MARTHA'S VINEYARD AIRPORT COMMISSION
LAND USE SUBCOMMITTEE MINUTES**

September 3, 2020, 3:00PM

Via Zoom Meeting

Notice of Such Meeting Having Been Posted as Required by Law

Present:

Subcommittee: Chair – Geoff Wheeler; Donald Ogilvie; Kristin Zern; Norm Werthwein

Airport Staff: Kevin Brennan, Airport Properties Manager (recorder); Edward

Christofono, Financial Controller; Geoff Freeman, Airport Director

Public Signed in via Zoom: Jack Ensor (MVAC), Bob Zeltzer (MVAC), Douglas Sederholm, Esq. (AR27), Jason Araujo (Travis, Inc.)

Public Not Signed in: NONE

I. CALL TO ORDER by Chairperson Geoff Wheeler – 15:04hrs.

II. MINUTES: APPROVE THE MINUTES FROM THE AUGUST 6, 2020 LAND USE SUBCOMMITTEE MEETING

MOTION: Ms. Zern to approve minutes

SECOND: Mr. Werthwein

Mr. Werthwein offered compliments to Mr. Brennan on the quality of these minutes.

VOTE: Ms. Zern - AYE, Mr. Ogilvie - AYE, Mr. Werthwein - AYE, Mr. Wheeler - AYE, 4-0-0, unanimously approved.

III. PUBLIC COMMENTS - NONE

IV. STAFF REPORTS

a. Tenant Aging Report:

Mr. Christofono reported \$90,849.60 over 90 days. Top 5 include:

- 1) Delta Airlines annual rent from 5/1/2020 for \$23,277.29. Mr. Christofono reached out on 8/3, 8/24, Mr. Brennan reached out 8/28. Mr. Wheeler offered to contact David Hamm at Delta directly.
- 2) Hertz MAG from 7/31/2020 for \$19,450.89.
- 3) Cars Unlimited for \$4,500.00 (Annual Business fees for last three years, \$1,500 is current). Mr. Christofono spoke to Office Manager on 8/20 and 8/27.
- 4) Vineyard Enterprises, Inc. MAG from 7/31/2020 for \$4,115.58.
- 5) JetBlue \$2,310.50—Mr. Christofono spoke to Tom Kuehne at JB, he's looking into it. 8/21 & 8/28.

Total AR: \$151,247.29

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b. Properties Manager Report:

- 1) **27 Airport Road – MV Investment Properties, LLC** - 330-gallon oil spill cleanup completed as of 8/28/2020. Reconstruction was left up to the tenant. Edgartown Building Official informed and tenant notified of lease violations related to unapproved construction inside building and that not replacing demoed area as was is considered an alteration and will require MVA approval.
- 2) **27 Airport Road – MV Investment Properties, LLC** – Current subleases were requested from leaseholder Malcolm Hall. One (1) unapproved subtenant remains after today’s meeting without approval of MVAC. Mr. Hall and his attorney filed incomplete application less than 24 hours before this meeting.
- 3) **Property Inspections** – All Edgartown and Hangar inspections have been conducted. West Tisbury inspections will be completed in September.
- 4) **Dukes County Emergency Mgt. Site** – County Manager had committed to remove all property from land by July 2020. As of this week 17 vehicles remain on site.
- 5) **FAA Field Office** – MVAC made our final rent payment for August. FAA takes over lease effective September 1, 2020, but agreement not signed by FAA yet.
- 6) **Carrier Agreements** – Jet Blue executed, no other agreements signed yet.
- 7) **Eastern Wind Power** – agreement executed.
- 8) **ATM RFP** was issued for January 2021 effective date. \$14,000 reduction in income expected. 5 banks doing business on Island interested in responding.
- 9) **Subleases** - Being collected and reviewed. 11 of 47 are currently approved by the MVAC.

c. LUS Chairman’s Report:

- 1) **BP14** – There has been no progress on lease violations on this property. All transactions related to this property are being held until tenant is fully compliant with lease, subtenants are approved, etc.
- 2) **BP34 – Bunbun, LLC** – Edgartown Building Official reports receiving request for permits to this building which tenant had requested “relief” from the Airport on. EBD picked up original plans from Airport to ensure no changes were made from MVAC approved plans.

V. OLD BUSINESS

- a. **Proposed MVY Fair Market Value Policy – Update** – Mr. Freeman reported that Ms. Martin had followed up on our July request for FAA approval of the proposed plan. Mr. Pantelli reported that “all reviewers are out of the office”. Mr. Freeman will continue to follow up.
- b. **Review/approval of LUS Approval Hierarchy Schedule** – Mr. Wheeler presented the proposed schedule, attached.

MOTION: Mr. Ogilvie: recommend approval of this schedule

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SECOND: Mr. Werthwein, who noted that this was a good start

VOTE: Mr. Werthwein - AYE, Mr. Ogilvie - AYE, Ms. Zern - AYE, Mr. Wheeler - AYE,
4-0-0- Unanimously approved.

VI. NEW BUSINESS

- a. **AR27 - MV Property Investments, LLC** – Request for Approval of Subtenant Dukes County Glass & Mirror – retroactive to December 1, 2018. The leaseholder is requesting retroactive approval for the sublease of a 1025SF portion of the building (Suite C) 702SF, and loft above (323SF) and property (2 parking spaces) as marked on submitted drawing marked “August 4, 2020” by “Vineyard Land Surveying & Engineering, Inc.,” commencing December 1, 2018 (subtenant reports this as the date he first occupied the premises) through August 30, 2020 (21 months). During that time the 10% subtenant commission fee was not paid as required by the lease.

The leaseholder requests MVAC approval of a 3-year (September 1, 2020 – August 31, 2023) sublease for the amount of \$1,500 per month / \$18,000 per year, \$22.50SF. This renewal qualifies for the 10% commission.

MOTION: Ms. Zern: Recommend approval to MVAC with the following conditions:

- The term of the sublease shall be no longer than 3 years with no automatic renewal. No other extensions or holding over is permitted and any new sublease agreement for any subtenant requires the prior written approval of the Martha’s Vineyard Airport Commission.
- MV Investment Properties LLC and the subtenant agree to remain in strict compliances with all of the provisions of the Master lease, including prior approvals of future subleases.
- MV Investment Properties LLC abide by Article 12 2.A “Tenant shall pay the Commission as additional rent ten percent (10%) of the Tenant’s gross revenue received from the Sublessee;” and retroactively pay the Commission \$150.00 per month for 21 months (the period December 1, 2018 through June 30, 2020) (\$3,150). Should executed unapproved subleases be presented to the Airport, corrections will be made to the retroactively invoiced amount.

SECOND: Mr. Ogilvie

VOTE: Ms. Zern - AYE, Mr. Werthwein - AYE, Mr. Ogilvie - AYE, Mr. Wheeler - AYE,
4-0-0, Unanimously approved.

- b. **AR27 - MV Property Investments, LLC** – Request for Approval of Subtenant Island Investment Properties, LLC – retroactive to May 23, 2018. – Materials not submitted in time for meeting. **Carry to October LUS Meeting.**
- c. **BP39 - Trevin, Inc.** – Emergency Request for Month-to-Month License Agreement

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Trevin, Inc. d/b/a Jay's Septic & Portable Toilets, approached staff on August 12, 2020 with an emergency request to lease land for use as a solid waste transfer site. This request is in response to notification to the applicant by Edgartown's Wastewater Department that they had decided to stop accepting septic wastewater from non-residents (see attached letter from Jay's Septic to Selectmen and Boards of Health of all island towns). After exploring our available space, Airport staff located space which could be used on a month-to-month basis for this purpose, and will continue to work for a more permanent solution to this challenge. Staff contacted Ron Myrick, Tetrattech, who advises that 1 or 2 permits may need to be obtained by the prospective tenant, who has been notified of such. Commissioner Zelter recommended a containment mat be installed to contain any leaks. Container is double-walled. Ms. Zern expressed concern over odor in the neighborhood. Closest tenant is the MV Shipyard and several vacant lots and Bruno's is 500' to the north. Mr. Araujo noted that there could be a brief odor during the transfer process. Mr. Wheeler noted that this location would have minimal impact of tenants and area residents. Mr. Werthwein asked about contents of Mr. Araujo's letter stating that "residents not permitted to maintain septic". Mr. Araujo explained that he may only empty septic "when full" and that even during a real estate transaction, pumping is not permitted today.

MOTION: Mr. Werthwein: Recommend that the LUS approve a month-to-month license agreement, using the approved license agreement, with the following conditions:

- The term of the lease shall be month-to-month. No extensions or holding over is permitted and any new sublease agreement for any subtenant requires the prior written approval of the Martha's Vineyard Airport Commission.
- Subtenant agrees to remain in strict compliances with all of the provisions of the agreement, the Martha's Vineyard Airport Business Park Regulations, and all applicable Federal, State and local regulations.

SECOND: Ms. Zern

VOTE: Mr. Werthwein - AYE, Ms. Zern - AYE, Mr. Ogilvie - AYE, Mr. Wheeler - AYE, 4-0-0, unanimously approved.

d. **Approval of Proposed Tenant Improvement Process** – Mr. Brennan presented a Tenant Improvement Process which will be presented to tenants as requested. Leases mention following a Tenant Alteration Process, but no process was ever created. Mr. Werthwein noted "This is a good step, "I support this". Mr. Ogilvie noted that "I have no serious issues".

MOTION: Mr. Ogilvie: to recommend that the MVAC approve the Tenant Alteration Process as presented and forward to the MVAC for their approval, noting that as with any process it should change and improve over time.

SECOND: Ms. Zern

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VOTE: Mr. Ogilvie-AYE, Mr. Werthwein-AYE, Ms. Zern-AYE, Mr. Wheeler AYE – 4-0-0 unanimously approved

VII. ITEMS NOT REASONABLY ANTICIPATED BY CHAIR
NONE

VIII. Next meeting – 3:00PM, Thursday, October 1, 2020

IX. ADJOURNMENT

MOTION: Mr. Ogilvie: Moved to adjourn at 16:02hrs.

SECOND: Mr. Werthwein

VOTE: Mr. Ogilvie - AYE Mr. Werthwein - AYE, Ms. Zern – AYE, Mr. Wheeler - AYE - 4-0-0 unanimously approved.