

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

October 1, 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: Bob Zeltzer (MVAC), Douglas Sederholm, Esq. (MV Investments Properties, LLC), Jermaine Mendez (JJ's Motocross Park LLC), Ron Rappaport, Esq. (JJ'S Motocross Park LLC), Lucas Thors – MV Times), Randy Belain (Chief of Police-Aquinnah/President-Martha's Vineyard Law Enforcement Council, Inc.)

I. CALL TO ORDER by Chairperson Geoff Wheeler – 15:05hrs.

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

MOTION: Ms. Zern to approve minutes

SECOND: Mr. Ogilvie

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

III. PUBLIC COMMENTS - NONE

IV. STAFF REPORTS

a. Tenant Aging Report:

Mr. Christofono reported \$44,818.12 over 90 days.

Total AR: 9/90/2020 - \$131,156.71, down 13% from \$151,247.29 on August 30, 2020

Hot 5 include:

- 1) Delta Airlines annual rent from 5/1/2020 for \$23,329.89. Mr. Christofono reached out on 8/3, 8/24, Mr. Brennan reached out 8/28. Mr. Wheeler offered to contact David Hamm, Managing Director - CRE at Delta directly. 10/1/2020 - There has been no response as of today. Brennan to make final call to Real Estate.
- 2) Hertz MAG from 7/31/2020 for \$16,524.37
- 3) True North Holdings - \$10,821.47
- 4) Vineyard Enterprises, Inc. MAG from 7/31/2020 for \$6,240.83

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- 5) Cars Unlimited for \$3,000.00 (Annual Business fees for 2018, 2019). 2020 fee has been paid.

Mr. Christofono suggested that the MVAC consider changes to the Accounts Receivable Policy adopted March 8, 2018 to align with recent suggestions by legal counsel. LUS directed proposed changes to the Finance Subcommittee.

b. Properties Manager Report:

- 1) **27 Airport Road – MV Investment Properties, LLC** - Construction in progress, Edgartown Building Inspector on site. Still no complete sublease application for Vineyard Decorators. **9/30/20-post hazmat cleanup reconstruction nearly completed. Attorney stated he would have a new sublease for review late last night, but nothing was received.**
- 2) **Property Inspections** –West Tisbury inspections were completed in September, other than 2 Sheriff's Buildings which will be done in October.
- 3) **Dukes County Emergency Mgt. Site** – County Manager had committed to remove all property from land by July 2020. 9/30/2020 - 17 vehicles remain on site, no property removed in many months.
- 4) **FAA Field Office** – MVAC made our final rent payment for August. FAA was to take over lease effective September 1, 2020, but agreement not signed by yet.
- 5) **ATM RFP** was issued for January 2021 effective date. \$14,000 reduction in income expected. 5 banks doing business on Island interested in responding.
- 6) **Subleases** - Being collected and reviewed. 13 of 48 are currently approved by the MVAC. Outstanding are: MV Investment Properties, MV Lot 14 LLC, DMB (MV Construction Company), County of Dukes County (Retirement Office).
- 7) **ABP Regulations Update with MVC** – Feedback requested from all tenants in Spring along with Inspection request. Feedback only received from one tenant.
- 8) **MVC Approval of Land to be Leases** – meeting to be scheduled.
- 9) **Cell Tower RFP** went out yesterday with 1/1/2021 effective date

c. LUS Chairman's Report:

- 1) Chairman requested APM draft Properties Inspection Policy to ensure that inspections are not ignored in the future.

V. OLD BUSINESS

- a. **Proposed MVY Fair market Value Policy Update** – Mr. Freeman reported that our proposed policy remains under consideration by the FAA's Washington Office.

VI. NEW BUSINESS

- a. **AR27 – MV Property Investments, LLC – Request for Approval of Subtenants Island Investment Properties, LLC** – retroactive to May 23, 2018. – Although the

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tenant has promised to complete the application process for approval of this subtenant, and a executed sublease was filed by the subtenants, Attorney Sederholm stated "Mr. Hall's position is that it (what appeared to be Mr. Hall's signature and initials on every page) is not his signature or with his authorization. Mr. Werthwein asked to postpone consideration of this item until such time as the application is complete.

- b. **AR24-Vineyard Tennis Center, Inc. – Request for Approval of sublease - The Josh and Deb Gray Family retroactive to September 1, 2020** - The leaseholder is requesting approval of a sublease of a 240SF portion of the building for 3 months for \$2,000 per month or \$100SF. The leaseholder has fulfilled the requirements of the Subtenant Lease Application process and vital information regarding this subtenant is attached.

MOTION: Ms. Zern: Recommend that the LUS approve the sublease submitted and forward to MVAC for their approval, with the following conditions:

- The term of the sublease shall be no longer than 3 months. 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.
- Vineyard Tennis Center, Inc. and the subtenant agree to remain in strict compliances with all of the provisions of the Master lease.

SECOND: Ms. Werthwein

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

- c. **BP40/R33 Approach – JJ's Motocross Park, LLC - Request for Renewal of No Fee Agreement** – Mr. Mendez, Manager of JJ'S MOTOCROSS PARK, LLC, has requested a license and agreement on the same premises he had an agreement for from 2012 to 2019. There are no recorded complaints from neighbors or abutters regarding its operation. Mr. Freeman provided the history on this agreement holder. Mr. Werthwein and Mr. Wheeler requested a clarification on the "approved us". Mr. Freeman noted that the FAA had provided a verbal agreement for used of this aviation space on a temporary basis. Insurance was questioned. Mr. Brennan ensured the LUS that the Insurance requirements in place in the past had always been exceeded by Mr. Mendez. Mr. Ogilvie asked who would serve as on-site supervision. Mr. Mendez stated that he or his designee would be on site whenever the course was open to the public – current plans are Saturday and Sunday, and Wednesday-5pm-dark. There is a \$25 membership fee per visit. This pays for insurance, work needed on the premises, etc. Motocross, dirt bikes and 4-wheel ATV's are permitted although Mr. Mendez noted that there have never been more than a couple ATV's on the track. Attorney Rappaport stated that he was attending to show is support as he had been contacted by others who were strongly in favor of

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the use. Chief Belain stated his support for reopening the Park. Ms. Zern asked how the Airport Commission would support those who could not pay the fee. Mr. Ogilvie stated that he knew this to be an expensive sport and that the fee appeared to be reasonable. Mr. Suderholm asked where the Park would be located. Mr. Freeman explained the space. Mr. Ogilvie stated "This is a great idea, it's good for kids to be there with supervision."

MOTION: Mr. Ogilvie: to recommend that the LUS approve the agreement and request MVAC approve the request by JJ's Motocross Park LLC to license a portion of the airport for a Moto-cross riding area as "APPROVED WITH CONDITIONS" as noted below:

- A license agreement, for a period not to exceed one year, in a format approved by Airport Counsel and Airport Management is executed.
- Should any negative written comments are received by Airport Management regarding this operation, the MVAC may request this application be resubmitted to the MVAC for discussion/review.
- The JJ'S MOTORCROSS PARK LLC rules and regulations, to include but not be limited to insurance limits, hours of use, safety requirements, etc., must remain in a format approved by Airport Management.
- The Certificate of Insurance as described in the lease must include an indemnification/hold harmless clause for the Martha's Vineyard Airport Commission and the County of Dukes County
- *No equipment maintenance is approved unless prior written permission from the MVAC is received pending the receipt of an Airport management approved best management plan detailing the procedures for the reclamation, storage, and disposal of equipment maintenance waste products (to include but not be limited to oil, transmission fluids, antifreeze, etc.)*
- The storage of the following fluids in any quantities is prohibited: Oil, Waste Oil, Antifreeze, Transmission Fluid, Hydraulic fluid, Gasoline, Diesel, etc.
- Mr. Mendez must maintain any necessary approval or permits from the Town of Edgartown, or any other appropriate agency having jurisdiction as applicable (with copies to the Airport).

SECOND: Ms. Zern

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

- d. **BP07 – Osprey Trades LLC - Request To Approve Renewal Subtenant Medeiros Excavation & Landscape, LLC** – The leaseholder is requesting approval for the renewal of the sublease of a 25' X 50"4" portion of the building identified as "Shop Area "A" and "Office/Unit "A", 1,258SF for 1 year for \$2,200 per month (10% increase) or \$20.99SF. The leaseholder has fulfilled the requirements of the

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Subtenant Lease Application process and vital information regarding this subtenant is attached.

MOTION: Mr. Werthwein: recommend that the LUS approve and forward to the MVAC for their approval, the renewal of this sublease with the following conditions:

- The tenant be current on all payments due.
- The term of the sublease shall be no longer than 2 years ending December 31, 2021. 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.
- Osprey Trades, LLC and the subtenant agree to remain in strict compliances with all of the provisions of the Master lease.

SECOND: Mr. Zern

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

- e. **AR17 – True North Holdings, LLC - Request To Approve Subtenant – Black Sheep Mercantile, Inc.** – History is that the March 8, 2018 MVAC Meeting minutes directed the Manager to prepare a letter of support of concept and approve Sublease once presented and compliant. April 2, 2018 – MVAC Letter of support stating “sublease for this operation will still need to be approved by the MVAC” signed by Ann Richart. July 29, 2020 – Sublease for Black Sheep presented to Airport Properties Manager for review. Supporting material immediately requested was received September 29, 2020-12:22pm. Mr. Wheeler asked if the tenant was current with their account. This tenant has outstanding invoices totaling \$17,268.66 of which \$10,821.47 is over 30 days.

MOTION: Mr. Werthwein: recommend that the LUS approve and forward to the MVAC for their approval, the renewal of this sublease with the following conditions:

- The tenant will be current on all payments due.
- The term of the sublease shall be no longer than 3 years, (June 1, 2018 - May 30, 2021) 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.
- True North Holdings, LLC and the subtenant agree to remain in strict compliances with all of the provisions of the Master lease.
- The approved sublease must contain all sections required to ensure compliance with the lease, including alterations clause, Haz Mat compliance, and no holding over restriction.
- Subtenant must acknowledge receipt and review of Airport Business Park Development Regulations.
- True North Holdings, LLC abide by lease **Article 10.2 - Transfer** “Tenant shall pay the Commission as additional rent 10% of the Sublessee rent to tenant” and retroactively pay the Commission:
 - \$275.00 per month for 12 months (the period June 1, 2018 through May 30, 2019 (\$3,300)),

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- \$510.00 per month for 12 months (the period June 1, 2019 through May 30, 2020) (\$6,120)
 - \$510.00 per month for 4 months (the period June 1, 2020-September 30, 2020) (\$2,040) total **(\$11,460)**.
- All approvals and permits required must be obtained by tenant including Town of Edgartown, Martha's Vineyard Commission, and others, and copies file with the MVAC.

SECOND: Mr. Ogilvie

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

- f. **Approval of Proposed Tenant Improvement Process** – This process was approved at the September 2020 LUS but left off the MVAC September agenda. Mr. Brennan will ensure that it is on the MVAC October Agenda.

VII. ITEMS NOT REASONABLY ANTICIPATED BY CHAIR

Attorney Sederholm requested the Land Use Subcommittee hold an emergency meeting to consider the sublease for Island Investment Properties, LLC so that this issue can be considered by the MVAC on October 8th. Mr. Brennan mentioned precedent whereas new business for a tenant will not be considered when current subleases are not approved or there are other substantial lease violations. Mr. Wheeler told Attorney Sederholm that the MVAC would “work towards his request”. Mr. Sederholm noted that he did not expect to be able to address the sublease for Island Investment Properties, LLC in the near future.

VIII. Next meeting – 3:00PM, Thursday, November 5, 2020

IX. ADJOURNMENT

MOTION: Mr. Ogilvie: Moved to adjourn at 16:08hrs.

SECOND: Ms. Zern

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