

**CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION**

**TWO HUNDRED AND SIXTY-SIXTH MEETING**

HELD AT CAPE COD NATIONAL SEASHORE, Marconi Station  
Area, Park Headquarters, South Wellfleet, Massachusetts, on  
Monday, September 22, 2008, commencing at 1:08 p.m.

SITTING:

Ronald Kaufman, Chairman  
Brenda J. Boleyn, Vice Chairman  
Edgar W. Francis III  
William Clark  
Ernest Virgilio  
Peter Watts  
Edward C. Sabin  
Richard W. Philbrick  
Mary-Jo Avellar

Dr. Howard S. Irwin, alternate  
Richard Delaney, alternate  
Carl Rasmussen, alternate

Also present:

George Price, Superintendent  
Lauren McKean, Management Assistant  
Matt Mincieli, Assistant to Ronald Kaufman

Audience members

**LINDA M. CORCORAN**  
**CERTIFIED COURT REPORTER**  
**P. O. Box 4**  
**Kingston, Massachusetts 02364**  
**(781) 585-8172**

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**P R O C E E D I N G S**

MR. KAUFMAN: Good morning, all. Good afternoon.

**ADOPTION OF AGENDA**

MR. KAUFMAN: First item on the agenda is adoption of the agenda.

MS. BOLEYN: So moved.

MR. KAUFMAN: Second?

MR. FRANCIS: Second.

MR. KAUFMAN: All in favor?

BOARD MEMBERS: Aye.

**APPROVAL OF MINUTES OF PREVIOUS MEETING (APRIL 28, 2008)**

MR. KAUFMAN: Approval of the minutes of the previous meeting.

MS. BOLEYN: I move approval of the minutes as distributed.

MR. KAUFMAN: Second?

MR. SABIN: Second.

MR. KAUFMAN: All in favor?

BOARD MEMBERS (EXCLUDING MR. PHILBRICK): Aye.

MR. KAUFMAN: Opposed?

MR. PHILBRICK: Abstaining.

**REPORTS OF OFFICERS**

MR. KAUFMAN: Reports of Officers? Peter?

MR. WATTS: The Joshua Nickerson Fellowship

1 Committee met. It was late. It was in June. We went  
2 through I believe seven proposals, and we picked our  
3 fellow for the year 2008 to be Jesse Wheeler, who is  
4 studying the cutting and burning of Phragmites in  
5 Hatches Harbor. And I've talked to Steve Smith and John  
6 Portnoy, who both agree that this may be of help in the  
7 Herring River restoration project. The total was  
8 \$3,737, and that's an increase over what we had been  
9 giving, and hopefully we'll be able to continue.

10 Any questions?

11 MR. KAUFMAN: Yes, sir?

12 MR. CLARK: Is he a student?

13 MR. WATTS: He's a graduate student at Antioch  
14 College of New England in Brattleboro, Vermont.

15 MR. KAUFMAN: Fine conservative school.

16 MS. BOLEYN: I'd like to add that we had excellent  
17 proposals, and it was not really easy to select. I  
18 think you have a very good candidate.

19 MR. KAUFMAN: How many do we have?

20 MR. WATTS: How many what?

21 MR. KAUFMAN: How many applicants?

22 MR. WATTS: I believe we had seven.

23 MS. BOLEYN: And I would like to let you all know,  
24 if you haven't received the news, that John Portnoy

1 will be retiring at the end of the month, and this is  
2 an enormous loss to the Seashore. He's been with the  
3 Seashore, believe it or not, nearly 30 years. And I  
4 think we have all heard him give presentations to us a  
5 number of times. His science has been extraordinary,  
6 and his contributions have really led to the Seashore as  
7 we know it right now. And I think you will recall that  
8 some of his most complex tasks have had to do with the  
9 salt marsh restorations at East Harbor and Herring  
10 River. And fortunately, he's not going far, so he will  
11 still be a valuable resource, I hope, but I think we all  
12 want to sort of applaud the work of John Portnoy.

13 MR. KAUFMAN: Here, here.

14 Is John going to be here?

15 MR. PRICE: No, he will not.

16 MR. KAUFMAN: That's too bad. We should write him  
17 a letter.

18 (To Ms. Boleyn) Do you want to do that --

19 MS. BOLEYN: Certainly. I'll be happy to do that.

20 MR. KAUFMAN: -- from all of us?

21 Others?

22 (No response.)

23 **REPORTS OF SUBCOMMITTEES**

24 MR. KAUFMAN: Subcommittees? Peter?

1           MR. WATTS: Well, I'm the subcommittee with the  
2 planning roundtable, and we've had a very busy season.  
3 As you probably know, we've had a problem with the  
4 decision of the building inspector. And there were two  
5 zoning meetings that George Price came to. A number of  
6 -- they were crowded meetings, and there was public  
7 input.

8           And at the first meeting -- and they decided that  
9 they wanted to -- each committee wanted to have a  
10 lawyer. That is, the board of selectmen wanted a  
11 lawyer, the zoning board of appeals wanted a lawyer, and  
12 the Park wanted to be represented by a lawyer. The  
13 second meeting, the vote was to support the building  
14 inspector. The vote was four to one in favor of  
15 supporting the building inspector, and he had already  
16 issued a permit to -- I believe it's 1440 Chequessett  
17 Neck Road, which is what we used to call the "Billboard  
18 House" and is now owned by Mr. Blasch.

19           And we had a period, an appeal period. And at the  
20 end of that period, the Department of Interior decided  
21 to sue the Wellfleet Zoning Board of Appeals. I believe  
22 the -- it's not the National Seashore, and it's not the  
23 Department of the Interior, but it's the U.S. government  
24 that is suing. And at this point we have the

1 Association for the Preservation of Cape Cod has taken  
2 an interest in the case, and we will have at least one,  
3 if not two, amicus brief on the side of the government.

4 Other than that, we've been working on new zoning  
5 bylaws for the Town of Truro and Wellfleet. And I'm  
6 from Wellfleet, so I'm more involved with that  
7 situation. I've been monitoring the planning board  
8 meetings, and we have come up with -- to a point where  
9 we have three proposals; one from the board of  
10 selectmen, one from the planning board, and a petition  
11 ordered. And how that plays out will be determined a  
12 little bit tomorrow night when the Wellfleet Board of  
13 Selectmen meet, and you'll just have to stay tuned to  
14 find out what happens.

15 MR. KAUFMAN: Mr. Superintendent, do you want to  
16 add anything to the chairman's report?

17 MR. PRICE: Sure. Part of my duties is moving  
18 furniture and a rearranger, as you can tell.

19 (Laughter.)

20 MR. PRICE: A couple of things. One, as Peter  
21 mentioned, working with the solicitor and working on  
22 this particular project, our original approach was to  
23 file actually an appeal to the ZBA in town that they  
24 should take this particular case up because of court

1 cases that were resolved by the Supreme Judicial Court  
2 under the nature of protecting the Park resources. To  
3 the extent under Massachusetts law, it was our belief --  
4 and we had considered counsel on this belief -- that the  
5 Supreme Judicial Court and a number of cases had also --  
6 had upheld that projects like this with this type of  
7 nonconformity should have a ZBA hearing. So that's  
8 really what we were talking about.

9 After three meetings that Peter mentioned, the ZBA  
10 decided not to challenge or not to take on the building  
11 permits, and it was left to stand. Based on counsel  
12 working with the Secretary of the Interior's solicitor's  
13 office, consulting with the director of the National  
14 Park Service, the Secretary of the Interior's office,  
15 we've now asked Justice to file in state land court.  
16 And the issue is in state land court that we believe the  
17 ZBA and the Town of Wellfleet should have this  
18 reconsidered. So that's really the case as opposed to a  
19 lawsuit against individuals and that sort of thing. So  
20 that's moving through the state court as we speak, and  
21 that's the topic.

22 You should also know that I think in the Town of  
23 Wellfleet especially people are very concerned, and  
24 we've been working with a variety of concerned citizens,

1 working with the planning board, working with the board  
2 of selectmen trying to edit the ZBA language so that --  
3 excuse me -- the zoning language for the town so that we  
4 believe it would better support certainly the Seashore  
5 districts in Wellfleet in the future so it wouldn't come  
6 to this particular type of scenario again.

7 And the town is moving towards a series of  
8 hearings. I know their planning board had a public  
9 hearing last week. They'll have another one coming up.  
10 And then the town is moving towards a town meeting in  
11 October to try to see if they can agree on the type of  
12 language that they would like to see in the future, and  
13 we believe that that language will be a lot more  
14 beneficial than what we have today.

15 Also, Mr. Chair, as you know, there are a number of  
16 other contentious issues that are happening on the  
17 zoning project as well.

18 MR. KAUFMAN: Questions for Peter or the  
19 superintendent?

20 MR. PHILBRICK: I understood you to say that the  
21 suit is being brought by the U.S. government.

22 MR. PRICE: Correct.

23 MR. PHILBRICK: There must be some portion of the  
24 U.S. government.

1           MR. PRICE: The National Park Service and Cape Cod  
2 National Seashore is an agent of the United States  
3 government. So when it comes to something like a filing  
4 in a court, it's actually the United States of America  
5 that's doing the filing.

6           MR. PHILBRICK: Similar to being from the Secretary  
7 of the Interior.

8           MR. PRICE: And the executive branch of government.

9           MS. McKEAN: It's the U.S. Attorney's Office.

10          MR. KAUFMAN: DOJ, Department of Justice.

11          MS. McKEAN: Under the Department of Justice.

12          MR. KAUFMAN: Peter?

13          MR. WATTS: I did want to mention I'm a member --  
14 in fact, the founding member of the Wellfleet National  
15 Seashore Homeowners Association, and we have an annual  
16 meeting. At that meeting Ben Zehnder and Denny  
17 O'Connell and George Price were a panel. And when  
18 George walked into our meeting, he got a standing  
19 ovation, and I've never seen anybody get a standing  
20 ovation.

21          MR. KAUFMAN: Shocking.

22          MR. PRICE: Some people weren't in the meeting yet,  
23 so...

24          (Laughter.)

1           MR. PRICE: They all weren't required to stand, but  
2 I was almost embarrassed. But I certainly appreciated  
3 the widespread support. It certainly demonstrates in  
4 that meeting as well as others a lot of people are  
5 concerned about the future of Wellfleet.

6           MR. KAUFMAN: In everyone's packet there's a letter  
7 from Lawyer Zehnder and a letter back to him from the  
8 superintendent on this issue. And with the permission  
9 of the Commission, Ben, if you want to say a few words  
10 now, it seems appropriate.

11           AUDIENCE MEMBER (ATTY. BEN ZEHNDER): Yeah. Can  
12 everyone hear me from here? Can you hear me okay?

13           And have the members received the letter already?  
14 If you can look at it, pull it out.

15           I'm going to keep this very, very simple, okay,  
16 because you have a heavy agenda, and I'm not going to  
17 repeat what's said in the letter, but I want to talk to  
18 you just very briefly about what's happening here.

19           The Blasch project, as you all may be aware, was a  
20 gentleman bought a piece of land on Chequessett Neck  
21 Road, and before he bought the property, he went to see  
22 his attorney to consult with what he could do with the  
23 property. He was advised under the Wellfleet zoning  
24 bylaw which is, as it's written right now, that if he

1 built a house that conformed to all the required  
2 setbacks, height, percentage of lot coverage as laid out  
3 in the zoning code, that he would be able to build his  
4 house. And he, in fact, then applied for a conservation  
5 order with input from the Seashore and then applied for  
6 a building permit. And before the building permit was  
7 issued -- and he designed a house that met all the  
8 requirements. It met the setback requirements, the  
9 height requirements, the lot coverage requirements, all  
10 the requirements. The building inspector before he  
11 issued the permit received a letter from Mr. Price  
12 saying, "Please don't issue this permit. We don't think  
13 it's lawful." And he went back to his Wellfleet town  
14 counsel, Kopelman & Paige, and they issued an opinion to  
15 him that it was, in fact, a lawfully permitable house  
16 under zoning in Wellfleet.

17 After the permit was issued, the board of  
18 selectmen, the National Seashore, and a neighbor, a  
19 homeowners' group, all filed suit, and again, the town  
20 counsel, Kopelman & Paige, issued a written  
21 determination to the building inspector that it was  
22 permissible to issue the permit this way.

23 The zoning board also received separate counsel  
24 from a firm off Cape you may know, Ardito, Sweeney,

1 Stusse, Dupuy & Robertson in Hyannis; Chuck Sabatt, some  
2 of us know him.

3 THE COURT REPORTER: Excuse me.

4 AUDIENCE MEMBER (ATTY. ZEHNDER): Again, I've  
5 researched the issue.

6 THE COURT REPORTER: Can you slow it down a little  
7 bit.

8 AUDIENCE MEMBER (ATTY. ZEHNDER): I am sorry.  
9 Thank you for telling me.

10 THE COURT REPORTER: You just whipped right through  
11 that. That's okay.

12 AUDIENCE MEMBER (ATTY. ZEHNDER): The zoning  
13 board's own counsel. And these hearings took place over  
14 about three months. They were very, very heavily  
15 attended. They were very heavily vetted, and they were  
16 very heavily researched by all the parties.

17 The zoning board's counsel issued an opinion that  
18 under the Wellfleet Zoning Code that this was something  
19 that had to be issued as a matter of right. And what  
20 distinguishes it from the cases that the Seashore was  
21 citing, these state cases, was that Wellfleet passed its  
22 own particular bylaw back in 1993 that specifically  
23 said, "We don't want to have to have everybody come in  
24 for special permits every time they make an alteration.

1           As long as you design your house so that it meets the  
2           requirements, you can get your permit." So after the  
3           zoning board issued its decision, the Seashore then --  
4           the selectmen did not elect to take an appeal. The  
5           homeowners' group did not elect to take an appeal. The  
6           neighbor actually withdrew their appeal at the first  
7           hearing saying that they had consulted with their  
8           attorney, who had said that there were no grounds, and  
9           the Seashore alone took the appeal.

10           The reason that I asked to be addressed today was  
11           because of an issue that we presented to you some number  
12           of months ago. You may recall that there was a house up  
13           at 29 Old Outermost Road in Truro, and that was a case  
14           also in which the developer proposed to build a house  
15           that met the zoning code. The Seashore -- and received  
16           a building permit from the Town of Truro. And the  
17           Seashore then took an appeal to the zoning board of  
18           appeals. Now, that was the first appeal to a local  
19           zoning board in the history of the National Seashore.  
20           It had never been done before. And we believe that the  
21           reason that it had never been done before was because  
22           the federal statutes which authorize the creation of the  
23           Seashore don't authorize the Seashore to get involved in  
24           local zoning disputes. It provides the Seashore with a

1 sanction, which is the eminent domain taking of property  
2 if you violate zoning, and that's because under this  
3 Cape Cod model, which I will not explain because you've  
4 heard the speech so many times that you could repeat it  
5 to your kids -- was that private property owners would  
6 retain rights under local zoning to use and enjoy their  
7 properties. The Seashore would own its land, and if, in  
8 fact -- and that the towns would each develop a zoning  
9 code that was consistent with certain minimum zoning  
10 standards established back in 1964. And as long as the  
11 town adopted those zoning standards and as long as the  
12 homeowner adhered to those standards, the state -- I'm  
13 sorry -- the government could not take away their  
14 certificate of suspension of condemnation, and it left  
15 local zoning up to the local townspeople. Wellfleet  
16 adopted this zoning code in 1993. It was never  
17 challenged by the Seashore. Building permits have been  
18 issued under this zoning bylaw literally since that time  
19 without objection.

20 The reason that we're here today is to not so much  
21 talk about that. We're to talk about the role of this  
22 body because after the Goodheart property case, there  
23 was some discussion of this board about whether or not  
24 this board should be involved in the decision-making

1 process or at least provide its advisory role to the  
2 superintendent as to whether or not an appeal is in the  
3 best interests of the Seashore and in the best interests  
4 of the private property homeowners that each of you  
5 representatives represent. And there was some  
6 discussion about the fact that "Well, this one's over so  
7 we're not going to worry about it" and "Maybe next  
8 time." And what happened was this one came along. And  
9 the Blasch case came down the road like a train coming  
10 down the tracks. It's not something that any one of us  
11 is not aware of, and I suspect that's one of the reasons  
12 why this room is as crowded as it is.

13 There was ample time for the superintendent to come  
14 back to this board and say, "Look, we're going to go  
15 into federal -- we're going to go into land court, and  
16 we're going to commence an action which is going to be  
17 dispositive of a couple of serious questions." One is  
18 whether or not the National Seashore can sit at the  
19 zoning table and raise appeals. That's going to be  
20 addressed on summary judgment. The other is whether or  
21 not it's a good idea to be involved in local zoning as  
22 against people who comply with the zoning bylaw to begin  
23 with. And what is the impact of those decisions not  
24 only on the credibility of the Seashore and the

1 relationship with the member towns that it engenders,  
2 because, remember, you're suing the local town saying it  
3 acted improperly, but also what imposition is it for the  
4 private property owner within the Seashore and their  
5 ability to use and enjoy the property? How much is it  
6 (inaudible)?

7 So what we're asking you to do as an advisory  
8 commission because you can't tell the superintendent  
9 what to do -- but the law says that you are to be  
10 consulted in all matters involving development of land  
11 within the Cape Cod National Seashore, in all matters  
12 involving Sections 4 and 5 of the Cape Cod National  
13 Seashore Act, which is the act that establishes the  
14 zoning scheme and establishes how the zoning scheme was  
15 handled. We believe that before the superintendent  
16 takes the actions of, for example, going to the land  
17 court or even going to the local zoning boards and  
18 coming up into the high-profile cases, it should come to  
19 this board. As member representatives, you should talk  
20 about it, you should try to understand the issues, and  
21 you should provide the superintendent with some feedback  
22 as to whether or not this is something in your opinion  
23 as a board is advisable at that particular point or is  
24 advisable generally. And it shouldn't be something that

1           you're just briefed on after the fact because these are  
2           important decisions (inaudible).

3           Thank you.

4           MR. KAUFMAN: Questions?

5           MR. PRICE: If you don't mind -- and this is  
6           something Mr. Zehnder just received as well, and my  
7           apologies for misspelling his name.

8           AUDIENCE MEMBER (ATTY. ZEHNDER): That's fine.

9           MR. PRICE: I'm sorry about that.

10          We received this letter the middle of last week,  
11          and I had Tony Conti, whose name you're certainly  
12          familiar with, our regional solicitor -- had an  
13          opportunity to review the packet, and this is a memo,  
14          two-page memo, that's dated today to Ron as the chair.  
15          And basically I covered three items in this brief memo,  
16          and the first item I really feel compelled to bring your  
17          attention to. And that is the fundamental issue of the  
18          project we're talking about here, and that is the  
19          preservation and protection of the Cape Cod National  
20          Seashore. That is the only reason the Seashore exists,  
21          is to protect resources and to serve visitors. That's  
22          why we exist. That's why units of the National Park  
23          Service exist.

24          And my fundamental question is, what does allowing

1 a 6,000-almost-square-foot house that replaced a house  
2 that was 550 square feet in 1959 when the Park Service  
3 legislation was submitted and which is a significant  
4 date in our legislation -- what does allowing that have  
5 to do with the preservation of the Seashore, the  
6 character especially of existing structures as is stated  
7 in our materials? So I feel compelled because we're  
8 talking a lot about process and procedure to really draw  
9 us back to the fundamental need of why we do what we do.

10 The second thing that's mentioned in the memo has  
11 to do with our ability to have status outside of what  
12 Mr. Zehnder talks about in the approval of the zoning  
13 bylaws and condemnation. We represent the properties  
14 that are actually owned by the United States. So as an  
15 abutter, we have as much right to be able to raise  
16 issues that affect that property as any other landowner  
17 would. So that is just a given, and it's nothing that  
18 we believe we should spend a lot of time on arguing, for  
19 sure.

20 Mr. Zehnder talks about the ZBA process. And one  
21 of the things that was fascinating to me, having been at  
22 all three of those meetings, what we basically had was  
23 three attorneys arguing on one side and basically three  
24 attorneys arguing on the other. So it truly was the

1 split decision, if you will, on the same information,  
2 the same cases, the same opinions from the Supreme  
3 Judicial Court. So following our legal counsel, the  
4 Department of Interior's solicitor's office, it was  
5 certainly our belief that this was worth pursuing. So  
6 that is where we came to.

7 The other issue that Mr. Conti, our solicitor,  
8 dealt with was Mr. Zehnder's contention as to what the  
9 role of the Advisory Commission is in matters like this  
10 and the specifics of it. A couple of things. First of  
11 all, as you all know, I feel like we're very open in  
12 what we bring to the Advisory Commission for discussion  
13 purposes, and I'm not one that feels like any issue has  
14 to be off the table. I will tell you, however, it's not  
15 a requirement to come to you for every single project,  
16 number one. Number two, his interpretation of  
17 development is very different than what we believe is  
18 actually in the legislation. When it talks about  
19 development, it talks about Park development; for  
20 instance, if we're going to put in new beaches, new  
21 facilities, new roads that have to do with the earlier  
22 certainly development of the Park as opposed to  
23 individual projects. And I've quoted where I've stated  
24 Mr. Conti's opinion in here.

1           So those are very quick responses to some of the  
2           topics that he's actually brought up.

3           MR. KAUFMAN: Any questions for the superintendent?

4           MR. PHILBRICK: Don't I remember reading here when  
5           you brought up this question of challenging this  
6           building and your standing to do this had been  
7           questioned?

8           MR. PRICE: Yes.

9           MR. PHILBRICK: And I remember saying I felt at  
10          least you had good standing as an abutter. Isn't that a  
11          point of reference to the Advisory Commission? That  
12          meeting?

13          MR. PRICE: Yes, it is. However, Mr. Zehnder's  
14          correct. That actually had to do with another property,  
15          but the standing in the issue of filing the appeal was  
16          exactly the same response. And at that meeting I also  
17          talked about that particular project we saw as the first  
18          of several that we understood were going to come down  
19          the road, whether it be in Truro or the Town of  
20          Wellfleet.

21          MR. PHILBRICK: So you assumed the feeling that  
22          this park did have standing as an abutter in the other  
23          case?

24          MR. PRICE: Correct.

1 MR. KAUFMAN: Peter?

2 MR. WATTS: At that prior meeting, we were talking  
3 about the property -- Goodheart property in Truro, and  
4 what we did was to seek consensus of this commission,  
5 and I wonder if we want to do that today.

6 MS. AVELLAR: My question is, exactly what then is  
7 the role of the Advisory Commission? We get this  
8 information the day that it's going to be discussed, so  
9 I haven't had an opportunity to even read either Mr.  
10 Price's memo or Mr. Zehnder's letter. The last meeting  
11 we had was April 28, and I remember the meeting before  
12 when we discussed the Goodheart property. And I applaud  
13 the people in Truro and Wellfleet that are revising  
14 their zoning bylaws in order to avoid these kinds of  
15 issues, but my question to my colleagues here is, what  
16 is the role of the Advisory Commission if not to  
17 investigate these matters and sit down with the  
18 superintendent and have discussions about them? I feel  
19 very strongly about this. I think you all know how I  
20 feel.

21 And when I was a little girl, there was a property  
22 in Provincetown, the Murchison's property, and there was  
23 a castle on the hill. And perhaps Butch remembers it  
24 because you would remember it. And it was a real

1 castle. I mean, it really was a castle. It burned to  
2 the ground. The Murchisons built the famous "Gropius  
3 House" that's been under fire in Provincetown this  
4 summer. Now, when that house was built, because it was  
5 so modern, people in Provincetown were up in arms about  
6 it. They thought it was an eyesore. It was a blight.  
7 You know, it wasn't Cape Cod. It wasn't, you know, all  
8 the things that we're talking about here today. Well,  
9 now all of a sudden it's a beloved icon because somebody  
10 wanted to buy the property and maybe develop the  
11 property.

12 So, you know, what was perhaps policy-making  
13 thinking in 1961 or 1959 changes. You know, times  
14 evolve. And I personally don't like the idea of 6,000-  
15 square-foot houses myself, but if we're supposed to  
16 adhere to the spirit of the zoning bylaws in each of our  
17 communities as they were formulated and voted upon by  
18 our town meeting members and we're not consulted when an  
19 issue of this importance is brought forward, then I, you  
20 know, personally don't like the thought that I'm just a  
21 rubber stamp.

22 And so I feel that I've had no time at all to  
23 digest any of the material here before me, and I don't  
24 want to be put in a position of having to make some kind

1 of a vote on it today. We haven't met since April or  
2 May or whenever it was. This issue's been going on all  
3 summer long. We were all available to come to a  
4 meeting, and none of us were called.

5 MR. KAUFMAN: (Inaudible)?

6 MS. McKEAN: I would say none of you because Peter  
7 Watts is sort of the zoning committee and he's talking  
8 to George and I all of the time and basically is fully  
9 understanding of this whole case.

10 MS. AVELLAR: He's only one member.

11 MR. PRICE: Well, he's the subcommittee chair.

12 MS. AVELLAR: Right, but don't the rest of us get  
13 any input once these subcommittees meet? I mean, what's  
14 the point of us sitting here if the subcommittee is  
15 going to make a decision on behalf of the whole board?  
16 If we were on the other side -- if I was on the other  
17 side of the table from Peter as a subcommittee chairman,  
18 maybe he wouldn't like it if I was acting for the entire  
19 body. I think that issues like this are really  
20 important. They cost a lot of money not only to the  
21 people whose property is affected, but, you know, look  
22 what's going on in Washington right now. I mean, the  
23 \$700 -- what? -- trillion, million, billion bailout, and  
24 we're adding to the national burden with a frivolous

1 lawsuit and we weren't even consulted?

2 MR. KAUFMAN: Who said it's frivolous?

3 Dick?

4 MR. PHILBRICK: I was chairman of the first  
5 subcommittee that I know of on this body, the Dune Shack  
6 Committee, for about 12-15 years, and throughout that  
7 time the subcommittee felt that they were to report  
8 their findings and recommendations to this body, to the  
9 Advisory Commission, not to anybody else. And then the  
10 Advisory Commission sat with the subcommittee, listened  
11 to it, asked questions, had dialogue, and made their  
12 recommendation to the Park. Actually, the  
13 recommendation I think goes through the Secretary of the  
14 Interior, does it not?

15 MS. BOLEYN: Through his designee, yes.

16 MR. KAUFMAN: Peter?

17 MR. WATTS: I would like to hear from other  
18 commissioners.

19 MR. PHILBRICK: I was just reinforcing.

20 MR. KAUFMAN: Brenda?

21 MS. BOLEYN: Well, I think that certainly these  
22 documents have just -- we've just received them today,  
23 so we're not prepared to discuss them or certainly take  
24 any action. I think if we are to request to have an

1 action item on the agenda, then we should, of course,  
2 have the time to prepare for such a discussion.

3 MR. KAUFMAN: Ernie?

4 MR. VIRGILIO: Yeah, just a quick glance on a  
5 section I've just read here. It gives me a little more  
6 different opinion than I thought I had of our role. And  
7 I agree with you. I'm certainly not prepared to make  
8 any decision or even know if we're making a decision.

9 MR. FRANCIS: I believe many years ago we, as a  
10 commission, decided that when something was presented to  
11 us, we would not necessarily act on it at that meeting  
12 but would take it under advisement, examine it, and then  
13 act on it at the following meeting.

14 MR. VIRGILIO: That is correct.

15 MR. FRANCIS: And I think that's what we should be  
16 doing.

17 MS. BOLEYN: That's correct.

18 MR. CLARK: I agree. Without having an opportunity  
19 to read this and digest it, I couldn't vote on it today.

20 MR. WATTS: That's fine with me.

21 MR. KAUFMAN: Sir?

22 AUDIENCE MEMBER (RICHARD LAVIN): I have filed a  
23 request to be heard on this issue.

24 MR. KAUFMAN: Sure.

1           AUDIENCE MEMBER (MR. LAVIN): So if I may. I mean,  
2 I filed a written request to be heard on this issue.

3           MR. KAUFMAN: Sure.

4           AUDIENCE MEMBER (MR. LAVIN): I don't mean to  
5 interfere with the discussion, but I think it's part of  
6 the discussion.

7           MR. KAUFMAN: I appreciate that. The normal  
8 workings of the committee is that the commissioners at  
9 the end, we allow public comment.

10          AUDIENCE MEMBER (MR. LAVIN): Well, this wasn't --

11          MR. KAUFMAN: I will make an exception with the  
12 consensus of the Commission.

13          AUDIENCE MEMBER (MR. LAVIN): My name is Richard  
14 Lavin. I'm the manager of Goodheart Properties.  
15 Goodheart Properties owns 29 Old Outermost Road.

16          MR. IRWIN: Can't hear.

17          AUDIENCE MEMBER (MR. LAVIN): My name is Richard  
18 Lavin. I'm the manager of Goodheart Properties that are  
19 properties known as 29 Old Outermost Road. Goodheart  
20 Properties received a building permit from the Town of  
21 Truro. The National Park Service appealed that permit,  
22 the first appeal to a zoning board of appeal in the 45-  
23 year history.

24          I come at this a little bit differently than Mr.

1           Zehnder. Perhaps I'm not as gentle. It's not that I  
2           expect the board, the Commission, to do anything today.  
3           I certainly understand the concern to be able to review  
4           materials, but in my view this commission has a  
5           statutory obligation to provide advice to the  
6           superintendent on an issue of this importance. The  
7           superintendent can listen or not, but there is a  
8           statutory obligation that this commission act. And  
9           "act" is defined in the statute by a majority vote. I  
10          think it makes a lot of sense that the Commission have  
11          time to digest the materials. I would recommend they  
12          get independent counsel because what's at issue here  
13          fundamentally is a legal issue.

14                 When I appeared before the board as Mr. -- I can't  
15          see your name -- I apologize -- at the end -- there was  
16          a discussion and a consensus. Mr. Philbrick.

17                 The issue is not one of how people feel about  
18          development. That's not the issue at all. It is a  
19          legal issue, and it is this commission's responsibility  
20          to provide advice about what the statute says the  
21          federal government can do and cannot do. And simply  
22          deciding based on your feelings, with all due respect to  
23          this commission, is arbitrary and capricious. You have  
24          a legal issue that you have to decide.

1           I want to just take a short minute to go back  
2 through the history of the Cape Cod National Seashore.  
3 This was the first park created where there was private  
4 property. It had never been done before, and it was  
5 baffling to Congress. And the solution that they came  
6 up with was to allow the towns to continue to have  
7 complete control over zoning and to give the federal  
8 government limited authority -- limited authority with  
9 respect to private property, and that authority is one  
10 and one thing only, the opportunity to condemn private  
11 property if it does not comply with the zoning bylaws or  
12 for any other reason is inconsistent with some purpose  
13 that the Seashore is supposed to serve.

14           The whole point of the Cape Cod National Seashore  
15 was both to preserve the Park but also to allow private  
16 property to continue to exist. And the role of the  
17 federal government in that private property is  
18 extraordinarily limited. And the entire reason that  
19 this commission was created was because of the existence  
20 of federal government, state and local government, and  
21 private interests, and this commission was created for  
22 the very purpose of being able to consider and  
23 statutorily provide advice to the National Park Service  
24 on issues of private property. And for Superintendent

1 Price to come in here and say his counsel says this is  
2 all irrelevant to this commission is absolutely  
3 baffling. The statute says this commission is for one  
4 purpose and one purpose only -- not one purpose, a  
5 principal purpose of this commission is to deal with  
6 private property. Mr. Price himself said to you guys  
7 not too long ago the principal reason this commission  
8 was created was for private property.

9 Now, there's a significant issue on the table of  
10 whether the federal government should be participating  
11 and interfering with local zoning. We're not talking  
12 just about the enactment of local zoning. We're talking  
13 about who has the responsibility to enforce local  
14 zoning. Is it the local government, or is it the  
15 federal government? In 1962 when Congress passed this  
16 statute, their belief, right or wrong today -- their  
17 belief was that it was entirely a local issue, that the  
18 federal government had no role, no power, no authority  
19 to interfere with local zoning. And they created this  
20 commission to make sure that, on the one hand, the state  
21 and local governments would take care of zoning issues  
22 and the federal government would take care of  
23 condemnation. I haven't seen the state and local  
24 authorities running in on condemnation issues, and the

1 federal government shouldn't be running in on zoning  
2 issues.

3 Now, we have tried to put materials in front of the  
4 Seashore, in front of other bodies which made clear that  
5 the federal courts, when they have considered this issue  
6 of the Cape Cod formula and private property in a  
7 national park, have said that the federal government has  
8 one remedy and one remedy only, and that is  
9 condemnation. And when they considered the issue with  
10 respect to Fire Island and the National Seashore said,  
11 "We have no money," the court said, "Then you're  
12 absolutely powerless to act." And for Mr. Price to come  
13 in here and say, "Take my word for it, the regional  
14 superintendent says it's okay," is not enough. You guys  
15 have a statutory obligation to consider this issue.  
16 We've been trying to get someone to consider it for a  
17 long time. You guys have a statutory obligation to get  
18 independent counsel, consider the issue.

19 I don't care if you're for development or not. The  
20 law either permits the federal government to interfere  
21 with zoning by filing zoning appeals or it does not.  
22 The National Park Service's own rules say that the role  
23 of the National Park in zoning is advisory. That's it,  
24 advisory. They're not just an abutter. They are a

1 creation of the federal government, and they are limited  
2 in what they can do by the statutory authority given to  
3 them by Congress. Congress did not -- did not give the  
4 federal government any authority to interfere with local  
5 zoning.

6 And this is an important issue that we've been  
7 trying to get this board to consider. No, you should  
8 not vote on it today. Materials were filed a week ago.  
9 You got them today. I understand that. But you should  
10 get independent counsel, you should consider the issue,  
11 and you should make a decision based on the law and not  
12 based on how you feel. That's what's needed here.

13 This commission is supposed to expire September 28,  
14 2008. Every time the Commission looks for an extension  
15 people run up to Congress and they say, "This  
16 commission's fabulous. They are the key to  
17 communication between private citizens, local  
18 governments, federal governments." Recently Delahunt  
19 said, "This commission is the first line of defense for  
20 protecting the National Seashore." It is also the first  
21 line of defense for protecting private citizens. You  
22 have a statutory obligation that has not been undertaken  
23 and that must. Maybe we're right on the law. Maybe  
24 we're wrong. I think it's quite clear, but you have an

1 obligation to consider it. Your role is to act as the  
2 liaison, the facilitator between the federal government  
3 and the local governments and private citizens. And if  
4 you're not going to do it, my question is, why are we  
5 extending the Commission's term? If you're not going to  
6 do it, what's the purpose of spending money to have a  
7 commission if you're not going to consider one of the  
8 most fundamental issues in the National Seashore, which  
9 is, what are the rights of private property owners?

10 In my instance, it was easy for Superintendent  
11 Price to file an appeal. And the day before the papers  
12 were done, he withdrew it. No harm done. For me, nine  
13 months of my life worrying whether I'm going to go  
14 bankrupt because he's trying to stop my project that is  
15 permitted under zoning bylaw. Legal expenses, delay in  
16 my project. These acts have significant impact on  
17 private citizens. And it's not a question of: Do you  
18 want development? Do you not? And it's not a question  
19 of: Where would I be if they didn't try to stop the  
20 development? This is private property, and this park  
21 was set up to permit private property and to permit  
22 private properties to do whatever the local towns want  
23 to do. If the towns want to change the bylaws, God  
24 bless them. Wellfleet's considering a change in bylaw.

1 God bless them. They're allowed to. But it's up to the  
2 towns. It's not up to the federal government. The  
3 federal government, the state government were expected  
4 to act independently.

5 And I beg this commission to undertake what I  
6 believe is a statutory obligation and to give it careful  
7 consideration based on more than your personal feelings  
8 about development, get independent legal advice, and  
9 vote, vote by a majority, which is what the statute says  
10 you have to do. He can ignore you. That's his right,  
11 but you have an obligation to consider it and vote.

12 Thank you.

13 MR. KAUFMAN: I appreciate your passion. I mean  
14 that sincerely. I was going to say in my short term as  
15 commissioner everyone at this table cares deeply, as you  
16 do, of the issues before it, and no one takes it as  
17 anything but a serious responsibility that we do our  
18 job.

19 MR. PRICE: Just a couple of things, if I can, Mr.  
20 Chair, just to clarify.

21 MR. KAUFMAN: Sure.

22 MR. PRICE: And I realize certainly there was a lot  
23 of emotion with this issue, specifically with Mr. Lavin  
24 and specifically with this particular property, but it

1 appeared that there seems to be an evaluation of a real  
2 cut and dry. And I know even Mr. Zehnder has applied  
3 that in some of his articles; that once the initial  
4 bylaws were passed, that was it, and all we had was  
5 condemnation. However, I would submit to you a couple  
6 of things. Number one, we discovered in the Lavin case,  
7 for example, that, in fact, what happened with the towns  
8 was that their language and some of their definitions  
9 changed from when the mutually agreed-upon zoning bylaws  
10 were implemented and signed off on I think approximately  
11 in 1963. And the implications of some of those changes  
12 were not just minor edits, but they allowed  
13 significantly different types of structures to be built  
14 than anyone had thought would have happened before. So  
15 even though there was a process where the towns would  
16 submit for approval to the Secretary of Interior edits  
17 for their bylaws, that fact did not happen.

18 In the quote that's here, which is still the  
19 fundamental piece for me, is that the zoning bylaws for  
20 the Seashore district shall be consistent with the  
21 objectives and purposes of Act 61 so that to the extent  
22 possible under Massachusetts law the scenic, scientific,  
23 and cultural values of the area will be protected,  
24 undeveloped areas will be preserved in a natural

1 condition, and distinctive Cape Cod character of  
2 existing residential structures will be maintained. And  
3 basically what we were bringing to the fore was under  
4 existing Massachusetts law. We believe these things  
5 needed to be addressed because we did not believe that,  
6 in fact, they were being handled in the way that they  
7 should have been.

8 So I certainly understand the need to continue to  
9 review these -- both of these documents for further  
10 dialogue.

11 MR. KAUFMAN: I think everyone in the Commission  
12 feels the same way. We all want to take the time to  
13 carefully --

14 MR. WATTS: Ed's the only one we haven't heard  
15 from.

16 MR. KAUFMAN: I'm sorry. Ed?

17 MR. SABIN: I didn't say a word.

18 (Laughter.)

19 MR. KAUFMAN: Do you wish to, Ed?

20 MR. SABIN: No, nothing. I feel as if I was really  
21 being lectured to by our (inaudible) friend down there.

22 MR. FRANCIS: I would like to say something.

23 MR. KAUFMAN: Sure.

24 MR. FRANCIS: Reference was made several times by

1 Mr. Lavin about the Park interfering with local zoning  
2 bylaws by filing an appeal. I don't consider filing an  
3 appeal interference. I feel it's part of the process.  
4 The Park or I, as a homeowner, can file an appeal on  
5 something that is -- a building permit that is being  
6 granted, but I don't make the final decision. The  
7 appeals board makes the final decision. If I don't like  
8 -- as an individual, if I don't like that decision, I  
9 then can go further and file other appeals, and that's  
10 part of the process. And that's what the Park is doing,  
11 as I understand it. I haven't gone through all of it.  
12 They're not making the decision. The decision is going  
13 to be made ultimately by the state.

14 AUDIENCE MEMBER (MR. LAVIN): If I promise to  
15 behave, can I respond?

16 (Laughter.)

17 MR. KAUFMAN: You're not misbehaving. I don't want  
18 to keep going back and forth. At the end of the  
19 session, we can stay as long as everyone wants and talk  
20 forever.

21 AUDIENCE MEMBER (MR. LAVIN): Okay.

22 MR. KAUFMAN: Mary-Jo?

23 MS. AVELLAR: I guess Mr. Lavin raised the question  
24 that I raised at the beginning, you know, what is our

1           role? And, you know, I'm not going to name any names,  
2           but at one of the last meetings when I believe Mr.  
3           Lavin's property was being discussed, I -- I mean, I  
4           really don't like these mega buildings. I really don't.  
5           I mean, I can't even imagine how somebody can be living  
6           in a 6,000-square-foot home, you know, with ten  
7           bedrooms. I mean, I can't even imagine it, but I get  
8           the sense that because we don't like it, we are acting  
9           against it whether or not the law is on our side or not.  
10          And one of our members even said at one of our meetings  
11          this spring, "Well, he's a developer" in reference to  
12          Mr. Lavin after he left the room, and that told me  
13          everything I needed to know about how we were looking at  
14          this issue. We're not looking at it with our heads.  
15          We're looking at it with our hearts. And I think that  
16          -- and that's the part that has me very, very nervous.

17                 So Kopelman & Paige is Provincetown's town counsel.  
18          They're, I guess, Wellfleet's town counsel too. Very  
19          often they give the town advice that we don't like to  
20          get, but I have to tell you, in my experience as a  
21          member of the Provincetown Board of Selectmen on and off  
22          for the last 30 years -- and they've been town counsel  
23          most of that time -- they're pretty good. Their  
24          decisions mostly stand up. So, you know, I'd like to

1 see this, even if we have to have a special meeting or  
2 something to discuss it, but I think we have an  
3 obligation as members of this board to weigh in on these  
4 decisions before they get to this point.

5 MR. KAUFMAN: Peter?

6 MR. WATTS: I've lived in the National Seashore for  
7 40 years year-round, and I actually accepted the Park's  
8 guidelines. I've torn down a house in Truro and  
9 rebuilt, and I live in an antique house now in  
10 Wellfleet. And I believe that it's a privilege for me  
11 to live in the Park. And with that privilege comes some  
12 responsibility, and the responsibility is to maintain  
13 the Park. And that's what we're involved with in the  
14 Town of Wellfleet in passing new zoning bylaws that will  
15 maintain the Park.

16 MS. AVELLAR: I don't disagree with you on that,  
17 Peter.

18 MR. KAUFMAN: Dick, did you have something?

19 MR. PHILBRICK: I heard a reference that this  
20 commission had assumed they were an abutter. I never  
21 heard that in any (inaudible). The issue of abutter or  
22 not abutter didn't apply to this commission. It applied  
23 to the Park.

24 MR. SABIN: No, it didn't.

1           MR. FRANCIS: I don't think he said anything about  
2 the Commission. I said that I as an individual --

3           MR. PHILBRICK: I wasn't talking about you.

4           MR. FRANCIS: Oh.

5           MR. PHILBRICK: I heard from the other end of the  
6 table that this commission was assuming the role of  
7 abutter or something to that effect. And I am sure I  
8 did not hear or see that happen, and I don't think at  
9 any time we felt as though we were abutters. We were  
10 speaking for the Park.

11          MS. BOLEYN: Yes, yes.

12          MR. PHILBRICK: And, therefore, the government and,  
13 therefore, the public as abutters.

14          MR. FRANCIS: Yes.

15          MS. BOLEYN: Correct, that's the way I remember it.

16          MR. KAUFMAN: Peter?

17          MR. WATTS: It seems to me that we've all sort of  
18 by consensus decided that we're not going to take a vote  
19 today. Now, the question is, Mr. Lavin wants us to seek  
20 legal counsel on this. Do we do that?

21          MR. KAUFMAN: Thoughts?

22          MS. BOLEYN: I think before the next meeting that  
23 it might be very helpful for us all to review the  
24 enabling legislation because my recollection is that the

1 enabling legislation is quite precise about what our  
2 statutory responsibilities are, and that would be a good  
3 place to start. And if there are other responsibilities  
4 that we're not living up to, then let's see the language  
5 in writing and get a little background for this before  
6 our discussion.

7 MR. KAUFMAN: I'll make sure that everyone gets a  
8 copy of that. I think it may be premature to actually  
9 be thinking about hiring counsel at this point in time.

10 MS. BOLEYN: I think so.

11 MR. KAUFMAN: I do think it should be a very  
12 important part of our next meeting. And I think we all  
13 have to (inaudible) individually and maybe collectively.

14 MR. WATTS: I want to point out that we will in  
15 Wellfleet have had a conclusion to the zoning issue at  
16 town meeting on October 27. We're voting up or down on  
17 the new zoning bylaws.

18 AUDIENCE MEMBER (ATTY. ZEHNDER): Mr. Kaufman?

19 MR. KAUFMAN: Yes, sir?

20 AUDIENCE MEMBER (ATTY. ZEHNDER): Just very  
21 briefly.

22 MR. KAUFMAN: Please.

23 AUDIENCE MEMBER (ATTY. ZEHNDER): We did submit  
24 with the letter three copies of a memorandum that -- and

1 I apologize for the length. It's a fairly complex  
2 issue, but it explains exactly what the grounds are for  
3 our belief as to the federal authority that the Seashore  
4 has. If it would make it easier, I could certainly  
5 e-mail an electronic copy to someone that can be  
6 distributed because I think Ms. Boleyn's comments are  
7 correct. The Enabling Act clearly sets forth what the  
8 relevant responsibilities are, but with respect to the  
9 legal question of the authority to get involved in these  
10 lawsuits, that memorandum explains that, you know, at  
11 least our side of it in some great detail. So we can  
12 certainly make that available to you.

13 MR. KAUFMAN: Thank you. And your 13-page memo, it  
14 really is well done.

15 AUDIENCE MEMBER (ATTY. ZEHNDER): Well, thank you.  
16 I only submitted three this time because, you know,  
17 we're always afraid if we give you this much paper it  
18 gets thrown away.

19 AUDIENCE MEMBER (MR. LAVIN): May I just submit  
20 something?

21 MR. KAUFMAN: Yes, you may.

22 AUDIENCE MEMBER (MR. LAVIN): I'm just going to  
23 submit this to you, Mr. Chairman, two copies.

24 MR. KAUFMAN: Thank you.

1           AUDIENCE MEMBER (MR. LAVIN): This is a managing  
2 adjacent areas Cape Cod National Seashore case study  
3 from 1998 that talks all about land use issues that  
4 acknowledges that, although the National Park Service  
5 has authority only over federal-owned lands, except for  
6 those subject to condemnation, they walk through a  
7 variety of tools. You will not see a single word about  
8 filing a zoning appeal.

9           MR. KAUFMAN: Nothing is more important than  
10 property, whether it be Seashore property or private  
11 property. But I think the passion is understandable on  
12 both sides. Honestly, everyone here takes it very  
13 seriously. Probably of all the things we do deal with  
14 here, this is probably as important as anything, next to  
15 the dune shacks.

16           AUDIENCE MEMBER (MR. LAVIN): Next to the dune  
17 shacks.

18           (Laughter.)

19           MR. KAUFMAN: The dune shacks. For the same  
20 reasons, it's about where we live and how we live. I  
21 can only promise you that everyone at this table takes  
22 it as serious as a heart attack, whether you agree with  
23 it or not. My mother loved me too much to let me be a  
24 lawyer.

1 (Laughter.)

2 AUDIENCE MEMBER (MR. LAVIN): She was smart.

3 MR. KAUFMAN: So I'm not a lawyer, but I  
4 understand. When the Secretary asked me to do this, I  
5 thought for sure I had some glorious place to stay when  
6 I was here, which didn't happen, but it is really  
7 important. The first day on the job I got a helicopter  
8 ride over the Lower Cape, and it was a great experience.  
9 And the one thing you realize -- two things you realize;  
10 one is how fragile the Lower Cape is in particular and,  
11 two, how lucky we are people were smart enough to form  
12 the National Seashore because otherwise it would be a  
13 disaster.

14 And everything we talk about, whether it be  
15 offshore roading or private property, we all take it  
16 really, really seriously. I just want you to understand  
17 from the chair's point of view and I know from my  
18 colleagues we are really passionate about this. We are  
19 all volunteers, and we put a lot of time into  
20 communicating.

21 AUDIENCE MEMBER (MR. LAVIN): I know that. I truly  
22 meant no disrespect in expressing my views.

23 MR. KAUFMAN: I know that.

24 Peter?

1           MR. WATTS: Just one other thing. I know that this  
2 isn't the only national park facing this problem today.  
3 And the real question in my mind is, why is it today?  
4 Why is this coming to the fore now? And that's  
5 something we could think about.

6           MR. PRICE: Mr. Chair, one last comment on this  
7 topic. I mention it very briefly. I referenced in the  
8 memo to you that in our research in the files, a number  
9 of other superintendents have tried -- have dealt with  
10 this issue as there have been other instances over time,  
11 and in each time, interestingly enough, there appeared  
12 to be a major break imminent in the town for revising  
13 the bylaws. And in each of those instances, they  
14 decided to pull back because it looked like it was going  
15 to be remedied, and, in fact, it was not. So there just  
16 seemed to be a -- obviously something was broke, which  
17 has now allowed for the type of development -- type of  
18 structures we're looking at today.

19           Mr. Chair, one of the things I'm concerned about is  
20 the time because I think one of the statutory  
21 requirements we all can agree on that the Commission is  
22 charged with is the review and advice on renewing  
23 commercial certificates of suspension of condemnation.  
24 And that was a very important part of the Seashore, and

1 I believe earlier years you probably spent a lot more  
2 time on that than you have recently. So I just want to  
3 ask that we ensure that we have enough time to complete  
4 that role today.

5 MR. KAUFMAN: Absolutely.

6 MR. FRANCIS: Can we move to that particular item  
7 on the agenda?

8 MS. AVELLAR: I'll second it.

9 MR. KAUFMAN: Second. All in favor of moving that  
10 item up?

11 BOARD MEMBERS: Aye.

12 MR. KAUFMAN: So moved.

13 AUDIENCE MEMBER (MR. LAVIN): Thank you, all.

14 (Mr. Lavin leaves the room.)

15 **NEW BUSINESS**

16 **REVIEW AND ADVICE ON RENEWING COMMERCIAL CERTIFICATES OF**  
17 **SUSPENSION FROM CONDEMNATION**

18 MR. PRICE: So frankly, Lauren McKean, our  
19 management assistant, is the one who deals with these  
20 particular properties. By the way, there are two  
21 things. I think there are people in the room both for  
22 this topic that Lauren might want to reference, and then  
23 I hope we can spend a quality amount of time on public  
24 comment because I have a hunch there's a number of other

1 topics that are going to come up.

2 But Lauren I would ask to walk us through this part  
3 of it. You did receive a package ahead of time on this,  
4 I believe.

5 MS. McKEAN: Yeah, last month we sent out to you  
6 all a chart -- it may be in your packet -- basically  
7 giving you an update on the activity that we know of  
8 basically in terms of any building activity or anything  
9 of that nature or, you know, sales or that kind of  
10 thing. And then we also at that same time sent a letter  
11 out to the potential commercial property owners inviting  
12 them to this meeting to say something if they needed to  
13 say something. Some of them also sent in a letter  
14 saying they're just interested in extension of the  
15 certificate, their situation may not be complicated, and  
16 that's why. But we could just go through -- I think  
17 it's best to try to refer to the chart because it is a  
18 little complicated, and we'll basically do it in tract  
19 number order, so we're sort of going more or less north  
20 to south.

21 MR. SABIN: Hold up the chart.

22 MS. BOLEYN: This chart right here (indicates).

23 MS. McKEAN: September 2008, preexisting commercial  
24 properties tracking list.

1           The first one is North of Highland Camping Area.  
2           The first property is North of Highland Camping Area.  
3           Stephen Currier, who is the current owner, had sent a  
4           letter saying he's interested in an extension of the  
5           certificate. As you know, there's been ongoing  
6           discussion for a number of years about acquisition of an  
7           interest in the land since about 2004, but basically  
8           there's no further update or change that's occurred on  
9           that property.

10           So that one, if there are any questions, we can try  
11           to field them.

12           MR. KAUFMAN: Questions?

13           MS. BOLEYN: Are we going to vote on these  
14           separately?

15           MS. McKEAN: Yeah, separately, I would say. You  
16           might want to hear the whole thing and then figure out  
17           which ones you want to follow up on.

18           MR. FRANCIS: I don't see why we can't take them  
19           individually as we go along.

20           MR. KAUFMAN: It would be easier.

21           MS. McKEAN: Okay.

22           MR. KAUFMAN: Is there a motion on this?

23           MR. FRANCIS: I'll make that motion.

24           MS. BOLEYN: Second it.

1 MR. KAUFMAN: You second?

2 MS. BOLEYN: Yes.

3 MR. KAUFMAN: All in favor?

4 BOARD MEMBERS: Aye.

5 MR. KAUFMAN: Opposed?

6 (No response.)

7 MR. KAUFMAN: Next?

8 MS. McKEAN: Okay, Montano's Restaurant is next. I  
9 don't know if anyone's here from Montano's.

10 MR. FRANCIS: What happened to North of Highland?

11 MS. BOLEYN: We just did.

12 MR. KAUFMAN: We just did.

13 MR. FRANCIS: Oh, okay.

14 Now, have we voted to grant North of Highland an  
15 extension of their certificate?

16 MS. BOLEYN: Yes.

17 MR. KAUFMAN: Yes.

18 MR. FRANCIS: I didn't understand.

19 MS. McKEAN: So Montano's Restaurant, as far as we  
20 know, there's no reported lands or building activities  
21 since that time. Generally, you know, we'd get  
22 abutters' notices and things of that nature. So that we  
23 have not seen anything on that property since the last  
24 five-year issuance. I should go back to the crowd and

1 say December 31 -- well, if the certificates run for  
2 five years and they are expiring December 31, 2008, in  
3 case there was any follow-up, we put them on the  
4 calendar now in case there were additional questions on  
5 any of them. So it will be a five-year extension  
6 through 2013 that's on the table.

7 MR. KAUFMAN: Is anyone here from either side?

8 (No response.)

9 MR. KAUFMAN: Questions for Lauren on this?

10 (No response.)

11 MR. KAUFMAN: Is there a motion?

12 MR. FRANCIS: I make a motion that we extend it.

13 MS. BOLEYN: Second it.

14 MR. KAUFMAN: All in favor?

15 BOARD MEMBERS: Aye.

16 MR. KAUFMAN: Opposed?

17 (No response.)

18 MR. KAUFMAN: Okay, Lauren.

19 MS. McKEAN: The next is Outer Reach Realty Trust,  
20 Outer Reach Motel and Restaurant. Basically there has  
21 not been any activity in terms of any lands or building  
22 request, but there was an inquiry about condominium  
23 conversion of the motel in August 2004. We don't  
24 understand that that has occurred. We would have been

1 notified of that. And I think at that time there was  
2 some discussion there was a change in zoning, and  
3 basically so people wanted to come and make  
4 verifications. In one case Surf Side, which you'll hear  
5 in a minute, they did go condo, and so this was just a  
6 consideration. So it didn't come to pass.

7 MR. FRANCIS: So Outer Reach has not proceeded with  
8 their condo discussions?

9 MS. McKEAN: Right.

10 MR. KAUFMAN: Is anyone here?

11 (No response.)

12 MS. McKEAN: As far as we're aware, yes.

13 MS. BOLEYN: I move approval.

14 MR. FRANCIS: Second.

15 MR. KAUFMAN: All in favor?

16 BOARD MEMBERS: Aye.

17 MR. KAUFMAN: Opposed?

18 (No response.)

19 MS. McKEAN: The next is Ka Hur Enterprises, Route  
20 6 Head of the Meadow gas station, Citgo last, as I  
21 understand it.

22 Anybody here?

23 (No response.)

24 MR. KAUFMAN: Anybody here?

1 (No response.)

2 MS. McKEAN: We didn't hear from them. There was a  
3 notation in the file that in February 2006 the fire  
4 chief assured that there was compliance with their new  
5 above-ground diesel tank, and there has not been a  
6 change of use or any of that.

7 MR. KAUFMAN: Any questions or comments?

8 (No response.)

9 MR. KAUFMAN: Motion?

10 MS. AVELLAR: Move to approve.

11 MR. VIRGILIO: Second.

12 MR. KAUFMAN: All in favor?

13 BOARD MEMBERS: Aye.

14 MR. KAUFMAN: Opposed?

15 (No response.)

16 MR. KAUFMAN: Lauren, I assume all these folks were  
17 notified, right?

18 MS. McKEAN: Yes.

19 A/C Mobile Home Park Inc., you may have -- we have  
20 corrected that it is not owned by Ed Francis. It is --  
21 we're not sure who the best contact is there, but we  
22 have sent them notice.

23 MR. FRANCIS: His name is Wayne Klekamp.

24 MS. McKEAN: What's the name?

1 MR. FRANCIS: Wayne Klekamp.

2 MS. BOLEYN: Oh, yes.

3 MS. McKEAN: But basically we have a couple of  
4 pieces of information regarding that in your packets,  
5 some from August we sent in your packet, some  
6 information. The Truro health agent has been tracking  
7 this property. When it was sold, I think a condition of  
8 the sale was installation of a central wastewater  
9 treatment plant. The owner has been issued an  
10 administrative consent order to install a wastewater  
11 treatment plant by May 2009, and it's been -- I guess  
12 it's been some time in coming. So I think one thing  
13 that we felt was that we could condition the extension  
14 of the five-year certificate on the completion of the  
15 wastewater treatment plant or extend the certificate to  
16 May only and review it again at that time and see if  
17 they have complied with the Massachusetts DEP order.

18 MS. BOLEYN: Do we know what kind of progress  
19 they're making? I was not able to figure that out,  
20 whether any steps have been taken to do this.

21 MS. McKEAN: I can find out further from Pat  
22 Pajaron, the Truro health agent. I think they're being  
23 counseled to do something because nothing was happening,  
24 is what my understanding was, to fulfill the order, but

1 I --

2 MR. SABIN: Why don't we approve it to May '09 --

3 MS. BOLEYN: I agree.

4 MR. SABIN: -- and then take it up again at the  
5 couple of next meetings.

6 MR. VIRGILIO: I see here conditional. Would it be  
7 conditional?

8 MR. SABIN: We can do it either way.

9 MR. KAUFMAN: Is there anyone here from them?

10 (No response.)

11 MR. KAUFMAN: No.

12 MR. SABIN: It seems like we've got to take it up  
13 again anyway.

14 MS. BOLEYN: I like your suggestion.

15 I like Mr. Sabin's suggestion because that means  
16 that it will come before this board before May and we  
17 make a decision then. It's less squishy than making it  
18 conditional and then trying to figure out what's  
19 happening.

20 So at the meeting before May, we should have an  
21 update on what kind of progress they've made or if  
22 they've completed it and then make a decision then.

23 MR. KAUFMAN: Ed, is that a motion?

24 MR. SABIN: Yes.

1 MR. KAUFMAN: Seconded by Brenda?

2 MS. BOLEYN: Yes.

3 MR. KAUFMAN: Question, Peter?

4 MR. WATTS: Oh, no, not the motion, particular  
5 motion.

6 MR. FRANCIS: I'm going to abstain on anything to  
7 do with this particular item.

8 MR. KAUFMAN: Any other comments?

9 MR. WATTS: I wondered about -- there are three  
10 campgrounds in Truro we're talking about here. I wonder  
11 if all three of them have the same problem.

12 MS. McKEAN: No, this is the only one that I know  
13 of with an administrative consent order, but I do know  
14 the owner of one of the others is here, so you can ask  
15 that question.

16 The first one that we discussed, North of Highland  
17 Camping Area, does not have an administrative consent  
18 order from Mass. DEP.

19 MR. KAUFMAN: Other questions?

20 (No response.)

21 MR. KAUFMAN: All in favor?

22 BOARD MEMBERS (EXCLUDING MR. FRANCIS): Aye.

23 MR. KAUFMAN: Opposed?

24 (No response.)

1           MR. KAUFMAN: We pass it as amended through May,  
2 and we'll vote again. Make sure that everybody  
3 understands that.

4           MS. McKEAN: Uh-huh, yes, in writing, definitely.

5           The next one is Horton's Park, Inc., and that is  
6 Horton's Campground. And Robert Horton is here in the  
7 audience. And I have no report of lands or building  
8 activities since that time.

9           If you want to chime in, you can.

10          AUDIENCE MEMBER (MR. ROBERT HORTON): No.

11          MS. McKEAN: Peter, you're interested in the septic

12 --

13          MR. WATTS: Yeah, do you have any septic problems?

14          AUDIENCE MEMBER (MR. HORTON): Not at this time.

15 If it was a sale, that would come up (inaudible).

16          MR. WATTS: You're grandfathered?

17          AUDIENCE MEMBER (MR. HORTON): I'm not even  
18 grandfathered, but the issue is just a situation which  
19 would need to be addressed in the event of a sale or  
20 something.

21          MR. SABIN: You're not going to sell it tomorrow?

22          AUDIENCE MEMBER (MR. HORTON): Sorry?

23          MR. SABIN: You're not selling tomorrow or anything  
24 like that?

1 AUDIENCE MEMBER (MR. HORTON): I can't hear.

2 MR. SABIN: You're not selling out tomorrow?

3 AUDIENCE MEMBER (MR. HORTON): Not tomorrow, no.

4 MR. KAUFMAN: Do I hear a motion?

5 MS. AVELLAR: Yes.

6 MR. KAUFMAN: Any discussion?

7 (No response.)

8 MR. KAUFMAN: Seeing none, all in favor?

9 BOARD MEMBERS: Aye.

10 MR. KAUFMAN: Opposed?

11 (No response.)

12 MS. McKEAN: The next is Shanem, Inc., the  
13 Wellfleet Beachcomber, and we have no reported lands or  
14 building activity since the time of the last issuance of  
15 the certificate. And I don't think anyone's here from  
16 that property.

17 MR. SABIN: Move to approve.

18 MR. VIRGILIO: Second.

19 MR. KAUFMAN: Discussion?

20 MS. BOLEYN: So have things been fairly quiet down  
21 there in terms of the interactions with the neighbors  
22 and so forth?

23 MS. McKEAN: We definitely copy the rangers to look  
24 for their input, and we didn't hear anything adverse.

1 MR. KAUFMAN: Any discussion?

2 (No response.)

3 MR. KAUFMAN: Seeing none, all in favor?

4 BOARD MEMBERS: Aye.

5 MR. KAUFMAN: Opposed?

6 (No response.)

7 MS. McKEAN: The next one is Surf Side Colony, and  
8 there are several people representing Surf Side Colony  
9 here. Since you've got that package -- well, first of  
10 all, it was sort of an ongoing discussion from I think  
11 about November of 2003 for about a year or so on the  
12 condominium conversion. There was a condominium  
13 conversion since your last recommendation to extend  
14 their certificate. We actually have had an interim  
15 discussion of the Advisory Commission to basically  
16 clarify their case.

17 The property is a commercial property, so it was  
18 very important that the continuation of rental units on  
19 this property, because there are so many small cottages,  
20 that it wouldn't become 17 single-family dwellings on  
21 two lots within the Seashore. So there was a lot of  
22 conditional language. There was a lot of working with  
23 the Sextons, and I thank them, and Harry Terkanian,  
24 their attorney, because they really got it all pretty

1 neat and tidy. They even had a memo or a letter that  
2 was given to property owners when they bought their  
3 units to say, "Look, this is something that is really  
4 part of your contract, is that it is a rental property,  
5 not a single-family residence." So the condominium  
6 trust documents and master deeds reflect some of this  
7 language.

8 And since the time you got your packet, I received  
9 2005, 2006, and 2007 rental records because that was  
10 something that was requested and discussed by the  
11 Commission several years ago. And so they provided  
12 that. I hadn't made a copy for each of you because  
13 maybe there are some of you that are more interested  
14 than others in the details.

15 And then I thought I would ask Chris Reggio to  
16 stand up and just give you an overview of how many  
17 cottages, you know, does this include all of them,  
18 rental of all of them, and that kind of thing.

19 AUDIENCE MEMBER (MR. Reggio): Thank you. I'm  
20 Chris Reggio. I'm the president of the board of  
21 trustees for the Surf Side Condominium Trust. We have  
22 taken very seriously the requirement that we maintain  
23 rental properties of our cottages. There are 17  
24 cottages in our development. We have provided rental

1 records for all 17 for 2005, '06, and '07. Of course,  
2 2008 will end at the end of October. It will be our  
3 rental season.

4 Every cottage is being rented, and we, again, are  
5 promoting them as rental properties. We have four Web  
6 sites that we're promoting for rental. We have had an  
7 interview with *The Insiders' Guide* as a lodging place  
8 for the National Seashore as well as a *Boston Globe*  
9 article that highlighted our properties.

10 MR. KAUFMAN: Questions for Chris? Yes.

11 MS. BOLEYN: Is it working well for you?

12 AUDIENCE MEMBER (MR. REGGIO): It's working very  
13 well. And our minutes reflect that we've made it very  
14 clear as the board of trustees that we will monitor the  
15 rental records each year, and if we feel that there is  
16 an owner that is not renting or is not supporting the  
17 program, that we will bring action to that owner. And  
18 that has not been an issue.

19 MR. KAUFMAN: Are there other trustees here that  
20 want to speak?

21 (No response.)

22 MS. McKEAN: Another thing that we asked for was  
23 the single management entity, and the Sextons continue  
24 to provide that role on behalf of the board.

1 AUDIENCE MEMBER (MR. REGGIO): They have.

2 MS. McKEAN: Did they want to say anything?

3 Chris?

4 AUDIENCE MEMBER (MR. REGGIO): Marcia and Jim have  
5 sold their rental business, and Armand and Lisa Audette  
6 are now the new managers of our property, and they are  
7 providing grounds maintenance services as well as rental  
8 commission -- commission of rental services for the  
9 owners.

10 MS. McKEAN: And the single-family -- there's a  
11 separate single-family residential unit from which that  
12 management can take place. So that one doesn't have to  
13 be rented. That can be occupied year-round.

14 MR. KAUFMAN: Other questions?

15 MR. FRANCIS: I assume that this -- assuming that  
16 we go forward with this -- that the certificate of  
17 suspension of condemnation will carry the same  
18 requirement that we continue with the rental  
19 (inaudible).

20 MS. McKEAN: It can. It would be a little more  
21 explicit than some of the others.

22 MR. FRANCIS: That was one of our very big  
23 concerns.

24 MS. McKEAN: Yeah.

1           AUDIENCE MEMBER (MR. REGGIO): It is required by  
2 our bylaws that we provide them.

3           MR. KAUFMAN: So let's put them in the amendment to  
4 approve the same conditions extension.

5           MR. FRANCIS: Yes.

6           MR. KAUFMAN: We appreciate how seriously you take  
7 this. It makes our job easy.

8           Other questions?

9           (No response.)

10          MR. KAUFMAN: Is there a motion?

11          MR. WATTS: I'll make a motion.

12          MR. KAUFMAN: As amended. Second?

13          MR. VIRGILIO: Second.

14          MR. KAUFMAN: All in favor?

15          BOARD MEMBERS: Aye.

16          MR. KAUFMAN: Opposed?

17          (No response.)

18          MS. McKEAN: The last one is Jack's Gas & Firewood.

19 I guess sorry about that not going north to south, but  
20 that property -- Mr. Aiken is here, and you can ask him  
21 some questions. That property last -- well, the CSC  
22 expired and has not been renewed since March 2000.

23 Around that time, as you know, there was a gas spill,  
24 and as a condition of the spill settlement, the owner

1           agreed not to operate a gas station on the site.

2           We had provided some October -- some letters 2004  
3           and '05 and then again in 2006, some information on what  
4           basically has been happening to the property since. He  
5           had a fire with the loss of the structure. He had a  
6           zoning board of appeals decision to allow him to  
7           rebuild. We brought to attention the possibility of  
8           concern about non-native insects because of the extent  
9           of the firewood that's on the property since we don't  
10          know its origin.

11          And then in 2008 the Truro health agent has been  
12          kind of cracking down on cleanup activities, and so one  
13          of the things that we did in preparation for this  
14          meeting is ask Mr. Aiken, who then referred us to his  
15          attorney, and Tom Fiore provided a memo that is in your  
16          packet today. I think it's probably something that you  
17          need to review and potentially, you know, discuss  
18          further at the next meeting. Basically there is no CSC  
19          in place, but it seemed like a reasonable opportunity to  
20          see what's the status of what's going on on that  
21          property with the oil spill -- I mean, the gasoline  
22          spill. And so you do have that status report, and you  
23          could vote concerning the CSC if you so choose, but it  
24          only is really for the gas station.

1           MR. FRANCIS: I have a question on the CSC. Once  
2 the CSC has expired and has not been renewed, is it able  
3 to be picked up later? Because it's my understanding  
4 that it has to be continuous.

5           MS. McKEAN: Generally, yes, it does. Since '62 is  
6 when they really needed to be continuous from. So it's  
7 whether or not to formally revoke or just let the  
8 expiration stand because, you know, really maybe what  
9 you would want is to deliberate it out.

10          MR. FRANCIS: What I'm hearing is that there is no  
11 CSC in effect at the moment.

12          MS. McKEAN: Right.

13          MR. FRANCIS: So that it's really a moot question  
14 since it's already expired.

15          MS. McKEAN: Right, in terms of the certificate,  
16 but it is a commercial property with activity that's  
17 ongoing. And so we asked them if they would kindly  
18 provide us with an update, and they have. They have  
19 ongoing groundwater monitoring, which is looking like  
20 it's improving.

21          AUDIENCE MEMBER (MR. RICHARD AIKEN): We're hoping  
22 there's light at the end of the tunnel. It's been ten  
23 years.

24          MS. McKEAN: Do you want to say anything further?

1           AUDIENCE MEMBER (MR. AIKEN): I don't think so.  
2           We're happy to cooperate in whatever way we can, and I  
3           think we've demonstrated that with my attorney's  
4           response to the cleanup procedure.

5           There's been a commercial activity on that property  
6           since 1952 when they straightened Route 6. That's when  
7           the gas station was established. I purchased it in  
8           1978. There has been a continual commercial operation  
9           on that property in spite of the gas spill and in spite  
10          of the fire. We seem to be hit by a lot of bad -- bad  
11          luck lately, but as I say, it seems to be light at the  
12          end of the tunnel. I would hope that we might be  
13          considered for a reestablishment of the suspension of  
14          condemnation once the DEP and EPA certifies that  
15          everything is clean as far as the gas spill is  
16          concerned, and we would hope to continue operating a  
17          preexisting, nonconforming commercial business on that  
18          property.

19          MR. FRANCIS: May I?

20          MR. KAUFMAN: Please.

21          MR. FRANCIS: Dick, are you currently selling wood  
22          up on the property?

23          AUDIENCE MEMBER: Yes, we are. I just recently  
24          signed another lease on the property for wood to be

1 sold, and that's all. And we are hoping that the new  
2 lessor will be successful. I receive no income from the  
3 lease in spite of the fact that he pays the lease. All  
4 of the income from that goes into an escrow account  
5 which the DEP then taps into to cover expenses which are  
6 not covered by the 21J fund, which was essentially an  
7 insurance fund to cover such emergencies as this. So  
8 I'm out every year insurance and taxes, without any  
9 income, but we feel that it's important to provide that  
10 service to the community, and we hope we're going to be  
11 able to continue to do so.

12 MR. KAUFMAN: George, do you have anything?

13 MR. PRICE: No.

14 MR. KAUFMAN: Lauren?

15 MS. McKEAN: I have no further comment on this one.

16 MR. KAUFMAN: Brenda?

17 MS. BOLEYN: So I think it sounds like that no  
18 action is required by the Commission at this time, and  
19 we will await future developments.

20 MR. FRANCIS: I second that.

21 MR. KAUFMAN: Does everyone agree? Is the  
22 Commission okay?

23 AUDIENCE MEMBER (MR. AIKEN): We shall keep you  
24 informed.

1 MR. KAUFMAN: Thank you.

2 Lauren, any other comments?

3 MS. McKEAN: No, basically I think we have -- we  
4 haven't had the time to read this letter yet. That just  
5 came in from his attorney this last week (inaudible).

6 MR. KAUFMAN: Thank you for coming in.

7 AUDIENCE MEMBER (MR. AIKEN): Thank you.

8 **SUPERINTENDENT'S REPORT**

9 **ALTERNATE TRANSPORTATION FUNDING**

10 MR. PRICE: Mr. Chair, under the Superintendent's  
11 Report, there's really one topic I'd like to just  
12 address a little bit, give you some updates and then  
13 opportunity for discussion, and then save the rest  
14 unless there are particular questions. This has to do  
15 with the "Alternate Transportation Funding" section.

16 Previously I have reported positive movement on a  
17 number of projects that I wanted just to give you a  
18 quick update on. One, we have successfully secured  
19 funds and can start to kick off on specifically repairs  
20 to the bike trail in Provincetown. This has been a  
21 project that we've been working on for a long time.  
22 We've had a number of -- the last couple of years we've  
23 had public meetings in Provincetown, and we're just  
24 about ready to go to our first phase this fall, which

1 will be good.

2 We also received funding to expand the look at the  
3 bike trail options, specifically throughout the Park and  
4 maybe some of the other towns. And we've engaged Clay  
5 Schofield from the Cape Cod Commission to work very  
6 closely with them on the bike trail concept. Ultimately  
7 it would be wonderful if there was a way to safely  
8 connect the end of the rail trail with Provincetown so  
9 that we could go through the rest of Wellfleet and Truro  
10 into Provincetown. And I know there's a lot of  
11 community members that are particularly interested and  
12 excited about this.

13 So there's really a couple of bike trail focuses,  
14 one in Provincetown itself and then this is the  
15 connection. One of the issues going back to the  
16 previous town manager, Keith Bergman, we had talked  
17 about, was there a safe way to connect to the  
18 Provincetown -- Province Lands portion of the National  
19 Park bike trails safely across Route 6 to the town  
20 itself, and I'm hoping the second piece would actually  
21 do that.

22 We're also working with Clay Schofield and the  
23 Department of Transportation on taking a look at the  
24 various parking lots in the various communities that are

1 next to the beaches. Erosion certainly is something  
2 that is a critical issue with them. Obviously this park  
3 had the experience going back to the '78 blizzard.  
4 Currently we have the Nauset Light parking lot that's  
5 being encroached upon on the average of three feet a  
6 year erosion. So these are serious issues that are  
7 going to face us down the road, and I don't think it's  
8 too soon to begin the planning of that.

9 The third piece of that project that we've received  
10 funding for is to initiate, again working with the  
11 county, working with the Department of Transportation on  
12 what they call intelligent transportation systems, and  
13 this is everything to let the folks know what's going  
14 on, what kind of parking availability and traffic  
15 conditions around the Cape but also hook into the county  
16 emergency management process specifically as we might  
17 have, you know, storms in the future and that sort of  
18 thing and what can they do when they take a look at the  
19 roads on the Cape that involves those emergencies. So  
20 we've been very fortunate to have I think a really good  
21 cast of characters involved.

22 We also -- one final thing that I mentioned was  
23 that I had reported previously that we also received  
24 funding to go to construction for an intersection up at

1 the Herring Cove area, specifically where the  
2 intersection intersects what was left of old Route 6.  
3 And that was something that we've gone through three and  
4 a half years of planning and compliance and meetings on,  
5 and it has recently somewhat become very controversial  
6 in the Town of Provincetown for sure. And I thought  
7 Mary-Jo might particularly like to bring that up at this  
8 time.

9 MS. AVELLAR: Well, the board of selectmen based on  
10 public input actually voted two weeks ago to send a  
11 letter to Representative Delahunt asking him to squash  
12 the funding of this. We feel that we've never been able  
13 to get a clear idea of whether or not this is a  
14 dangerous intersection. There is this dip. I don't  
15 know if you all are familiar with the dip in the road.  
16 I understand that the Seashore has to pay a lot of  
17 people out for damage to their cars as a result of this  
18 dip. We think that maybe it should just be filled in  
19 and that the money could be better spent even though I  
20 know the money is earmarked, but we feel that the  
21 Seashore could do more, that the real dangerous place in  
22 the Seashore are the bike trails, that they're out of  
23 date, that they're in disrepair. And if there are a lot  
24 of accidents in the Seashore in Provincetown, we feel

1           that they're probably in the bike trails.  So basically  
2           the town instructed the board of selectmen to try to  
3           stop the project.

4           MR. KAUFMAN:  Thoughts?  Comments?

5           MR. PRICE:  And, of course, we're in a bit of a  
6           quandary on this considering we've been meeting with the  
7           town for the last three and a half years.  The project  
8           has gone to contract, and we expect that that will be  
9           beginning sometime in the next number of months.

10           This is an area -- for those of you that recall, at  
11           one time a rotary was located in this particular  
12           vicinity, and that was deemed to be very hazardous with  
13           accidents.  So in approximately the early 1980s that  
14           rotary was replaced with the current configuration.  
15           I've since learned that even at the beginning when that  
16           particular project was completed there was a lot of  
17           controversy in the town about that particular  
18           intersection.  Obviously this intersection was deemed to  
19           be a safety hazard and accident prone many years ago  
20           because, if you think about it, as I reported to the  
21           board of selectmen, I think this meeting in Provincetown  
22           three and a half years ago was the first real public  
23           meeting I was at in Provincetown, and this was being  
24           kicked off.  It was kicked off, meaning that the project

1           secured the design funds. So that meant it had to be  
2           submitted as a project even probably three years before  
3           that in order for the money to poke through to get to  
4           the design portion.

5                        So we've had a series of meetings. We've met with  
6           town officials. We had at least two or three public  
7           meetings that I personally attended, including with a  
8           lot of the critics of the project at the very last one  
9           when final plans were presented. And this particular  
10          summer there was a Provincetown individual, who I  
11          believe had some misinformation, who started to get  
12          people rather excited about the project. Whether you  
13          like the project or not, the reality is these particular  
14          funds are not ours to reallocate. When projects like  
15          this fall apart, the Park just loses the money. We're  
16          not able -- we don't have the ability to redirect it  
17          towards other projects, and so it's one of these things  
18          that we're actually excited to actually have money to  
19          take care of what we consider to be a safety hazard.  
20          It's just an interesting observation from the town at  
21          this point.

22                      MR. KAUFMAN: So there's been three and a half  
23          years' worth of meetings?

24                      MR. PRICE: Absolutely.

1 MS. AVELLAR: Not necessarily with the board of  
2 selectmen. I mean, it might have been with Keith  
3 Bergman. It might have been with Keith Bergman, our  
4 former town manager. I wasn't on the board three and a  
5 half years ago. I've only been on the board for two.  
6 And we never really saw the plans until the  
7 superintendent came out one really horribly terribly  
8 cold day he took us out there in January or something,  
9 and we saw it. And after that people started seeing the  
10 plans, and then they started getting upset. So whatever  
11 happened prior to my being on the board of selectmen,  
12 I'm really not sure about, and I'm not sure what Keith  
13 -- how Keith briefed the board and how Alix Ritchie  
14 briefed the board because they were our representatives,  
15 I believe.

16 MR. PRICE: The meetings that I referred to were at  
17 Provincetown Town Hall, and the previous chair of the  
18 board of selectmen was --

19 MS. AVELLAR: Cheryl?

20 MR. PRICE: Cheryl was at at least one of the  
21 meetings. Austin, who was a board of selectmen member,  
22 was at one of the -- was at the last meeting as well as  
23 Barbara Rushmore, as well as Sharon Lynn, as well as  
24 John Thomas.

1 MS. AVELLAR: Recent?

2 MS. McKEAN: (Inaudible).

3 MS. AVELLAR: Yeah.

4 MS. McKEAN: It's my understanding there was an  
5 accident there this weekend.

6 MS. AVELLAR: Well, I understand somebody was  
7 traveling there, you know, at an exorbitant rate of  
8 speed.

9 MR. PRICE: One of the things we've taken a look at  
10 and the board of selectmen asked me for some research on  
11 the accidents, and we literally had to go through boxes  
12 to try to take a look at them. As I understand it,  
13 there's been as many as 15 accidents at this particular  
14 intersection just since 2001. However, it's fair to say  
15 about half of them we believe actually have to do with  
16 the road design; the others are probably, as you say,  
17 excessive speed or other issues. But it's clearly a  
18 design issue that we're concerned about. And I've had  
19 individuals in the community say, "Well, the accidents  
20 that are up there aren't so bad," and frankly, that's  
21 not a responsible way that I would be able to manage our  
22 properties.

23 MR. KAUFMAN: Have the contracts been let?

24 MR. PRICE: Yes.

1           MS. AVELLAR: People are kind of looking at it the  
2 way they looked at the straightening of Race Point Road  
3 several years back when Gerry Studds was our  
4 congressman. And the Seashore was going to do something  
5 -- I don't know -- to the road, and Representative  
6 Studds was able to stop that project. And, you know,  
7 the Seashore had straightened out that road many, many  
8 years ago. They moved what had been a really beautiful  
9 natural arbor over the road the following year. It was  
10 just -- it was a beautiful ride, and that got removed.  
11 And so we had some -- they moved to Vermont, but we had  
12 some pretty active people, and they managed to stop that  
13 project.

14           So that's what we've been asked to do, and I kind  
15 of had my hopes that that's going to happen. That's  
16 what we were asked to do.

17           MR. PRICE: And then future plans, while we're  
18 talking about Provincetown, I've also reported to the  
19 board a couple of things. We'll have additional phases  
20 of the bike trail improvements up there. We also  
21 ultimately would need to take a closer look at Moor's  
22 Road, which actually continues on this intersection  
23 towards the west end of town, and I'd like to explore a  
24 number of possibilities there, especially a pedestrian

1 way. And then ultimately we're going to have to take a  
2 look at the Herring Cove bathhouse facility, which we  
3 inherited from the state when they actually operated  
4 that, and I expect that that's going to be quite an  
5 issue.

6 Certainly this time around I hope and I trust that  
7 the folks that are going to be particularly interested  
8 in these projects when they receive notifications when  
9 we have meetings up there will actually be able to  
10 participate in and express their desires during the  
11 course of the planning process.

12 MS. AVELLAR: I don't think that the bathhouse is  
13 going to be the problem. I think the Moor's Road is  
14 going to be the problem and, you know, for a lot of  
15 reasons. But I think the Moor's Road is going to be the  
16 real hot potato there, especially if there are any  
17 indications that they want to stop access to the back  
18 beaches, you know, over those -- over those manmade  
19 trails to get out to those secluded beaches. I think  
20 that's going to be your real hot button issue.

21 MR. PRICE: And that is obviously not on our  
22 schedule.

23 MS. AVELLAR: I know.

24 MR. PRICE: What we basically need to do is patch

1 the road. I mean, right now the simplest thing to do --  
2 well, there are several things you can do. You can just  
3 leave it the way it is and let it fall apart, you can  
4 just resurface it and not do anything else, or we can  
5 spend some time brainstorming to see if there are other  
6 alternatives. Frankly, in the middle of the summer,  
7 it's a very heavily traveled pedestrian bikeway, and  
8 it's a very narrow road. And isn't there something we  
9 can do that might improve access, not prevent access?  
10 That would be the goal.

11 MR. KAUFMAN: You have a lot of passion for this  
12 issue, don't you?

13 MS. AVELLAR: Uh-huh.

14 MR. KAUFMAN: Peter?

15 MR. WATTS: I wonder if we could get back to the  
16 bike trail. The rail trail comes up on Park property,  
17 correct?

18 MS. McKEAN: Partially, yes.

19 MR. PRICE: Partially, yes.

20 MR. WATTS: Partially.

21 MR. PRICE: The state has the right-of-way.

22 MS. McKEAN: The state has the right-of-way, and in  
23 some cases, it sort of takes a jog. In some cases, it's  
24 (inaudible) land. In some cases, (inaudible) or

1 underlying land. Mostly in the section out here.

2 MR. WATTS: And if you made a connection in South  
3 Wellfleet from the end of that up into Provincetown, how  
4 much of the rail trail would go through the National  
5 Seashore?

6 MR. PRICE: First of all, it probably wouldn't be  
7 fair to call it the rail trail any longer because the  
8 right-of-ways have all been dispensed with or built on,  
9 et cetera. One of our appeals on a project two years  
10 ago -- I was asked to go out there by the board of  
11 selectmen and the building inspector and the town owner  
12 to physically stand on the rail trail and -- stand on  
13 the rail right-of-way behind this one individual's  
14 property, look in both directions, and realized it's  
15 totally obfuscated on the other side. So there was no  
16 sense in just preserving that section on his lot.

17 So I understand how it's been overbuilt. The  
18 question will be, what will be the opportunities for  
19 diverting it either along other existing roadways or on  
20 sand roads, which might be totally within the Park  
21 Service property or not. And I'm not even going to  
22 speculate on where we might go on that. I think the  
23 designers will have to take some look, we'll have to  
24 have some public meetings, and we'll have to do some

1 analysis of alternatives to see what would be realistic  
2 there.

3 Yes?

4 MR. FRANCIS: I think 15 or 20 years ago -- I can't  
5 remember exactly -- such a study was done.

6 MR. PRICE: Correct.

7 MR. FRANCIS: And the proposals that came up, they  
8 were all shot down very badly.

9 MR. PRICE: Correct.

10 MR. FRANCIS: (Inaudible).

11 MR. PRICE: And I think a couple of things --  
12 number one, not to second-guess what those plans were.  
13 Obviously they have to be re-looked at, but certainly my  
14 communication with the town board of selectmen and with  
15 a number of citizens that have abutting property,  
16 they're very interested, and I think the whole world of  
17 cycling and bicycle access of visitors has just changed  
18 so dramatically that maybe it's just a time to take a  
19 new look at the concept.

20 MR. SABIN: It's my understanding that most of the  
21 local rail trails now are state operated and state paid  
22 for.

23 MR. PRICE: That's correct.

24 MR. SABIN: If they went through some of the

1 roadway that you talked about, back roads which were  
2 federal properties, would that still be managed by the  
3 state?

4 MR. PRICE: No, it would not. It would be our  
5 responsibility. We currently have 17 miles of bike  
6 trails in the National Seashore outside of the state-  
7 operated rail trail.

8 MR. SABIN: Seventeen miles?

9 MR. PRICE: Well, Provincetown is seven miles all  
10 by itself.

11 MR. SABIN: The other two and one and a half.  
12 Where do the other ten come from?

13 MR. FRANCIS: There's some in Truro.

14 MR. PRICE: There's some in Truro. There's some up  
15 at Head of the Meadow going into the back of  
16 Provincetown by East Harbor.

17 MR. SABIN: There's about a two-mile stretch there  
18 and about a mile and a half that goes to --

19 MR. PRICE: This is what Ben Pearson told me, my  
20 latest retiree that walked out the door.

21 (Laughter.)

22 MR. DELANEY: See how many miles --

23 MR. SABIN: You're safe because he's gone.

24 MR. PRICE: Right.

1 (Laughter.)

2 MR. PRICE: But we have a responsibility towards,  
3 you're right, our property down there in Nauset Marsh  
4 and some of these other places as well.

5 MR. KAUFMAN: Brenda?

6 MS. BOLEYN: Just to pick up on what Superintendent  
7 Price said, there does seem to be a number of  
8 initiatives that are arising at the state level. The  
9 Mass. Department of Transportation has been holding  
10 meetings and inviting input from different communities  
11 and so forth regarding a message -- a whole statewide  
12 network that they're trying to coordinate. I attended  
13 one of them in Hyannis. It was several months ago.  
14 There's going to be a meeting in Boston on October 14,  
15 and the speaker is a federal representative from the  
16 Federal Highway Administration. His title is National  
17 Bicycle and Pedestrian Program Manager. And their  
18 effort is to make it safe for bicycles and pedestrians  
19 to move from one place to another.

20 So there are a lot of things that seem to be coming  
21 together from different places, and I hope we can be a  
22 part of that. And I hope someone from the Seashore  
23 might be able to go to this conference where they're  
24 talking about, quote, current initiatives and trends.

1           And there is federal money that is available if we have  
2           a proposal that's funded.

3           MR. PRICE: Well, actually, the goal of this  
4           planning effort is to draft proposals to go after the  
5           same funding source. So this is the precursor to  
6           putting together a competent proposal that we're asking  
7           Clay and the people from the Volpe Center, which is part  
8           of the Department of Transportation, to help come up  
9           with so that we'll (inaudible).

10           And when we talk about the regional -- and I know  
11           Lance isn't here today, but remember when I first  
12           reported this, Lance was talking about a countywide  
13           initiative of wanting to get the connections to the bike  
14           trail from Bourne out to Provincetown, and then there  
15           were other bike trail dreams, I guess, from the canal up  
16           to Boston. So you're right. I think the time is really  
17           right, and there's a lot of positive energy behind this  
18           concept.

19           MR. VIRGILIO: Yeah, the timing certainly is right.  
20           Right now at the Cape Cod Commission we're looking into  
21           reviewing the bike trail, which is taking up about just  
22           about all of the remainder of the rail trail, especially  
23           including the bridge at Bass River, which is very  
24           dangerous at this time. I could tell you to scrape it.

1 (Laughter.)

2 MR. VIRGILIO: It's quite a unique program, and I  
3 agree with Brenda that these things are really coming  
4 together. And I intend to be at that meeting.

5 MS. BOLEYN: Oh, good.

6 MR. KAUFMAN: Further questions?

7 MR. PRICE: Just a couple of other real quick  
8 things. One is we talked about reauthorization. The  
9 congressman's office has been the point person working  
10 at the National Park Service Legislation -- Legislative  
11 Affairs office, and bills have been filed, hearings have  
12 been held. There is the possibility that we won't  
13 actually get an official congressional reauthorization  
14 in time, but what we do have the ability to do is work  
15 with the Secretary of the Interior's office to get an  
16 administrative extension. So one way or the other I  
17 certainly intend to have no break and a continuation of  
18 this process. This is true.

19 Just a couple of other changes of seats or  
20 additions, if you will. The board of selectmen of  
21 Provincetown has nominated Sharon Lynn, the town  
22 manager, to be the alternate. So Mary-Jo was nominated  
23 and appointed a while ago now to be the voting  
24 representative. Now Sharon Lynn will be submitted to be

1 the alternate. Brenda has basically asked to swap with  
2 Rich Delaney. I don't know if you know this or not, but  
3 Rich, who has now left, is actually the voting  
4 alternate. He will become a voting representative, and  
5 then Brenda will be the alternate. Ernie is the one  
6 that will be replaced. Ernie's going to do great things  
7 with the Commission and still represent us in that end  
8 of the Cape. And a woman name Judith Stevenson has been  
9 nominated by the governor, so that name will be  
10 forwarded.

11 So that's basically the type of dynamics that we'll  
12 be seeing over the next couple of months.

13 Thank you.

14 MR. KAUFMAN: Any questions of the superintendent?

15 DR. IRWIN: I have an issue which hasn't really  
16 been brought up, and this has to do with the 300th  
17 anniversary. Do we have any geographic foci, places  
18 that we wanted to bring up in publicity or to dramatize  
19 to the public what we have here? For example, we could  
20 use the pond on North Pamet Road as a focus, make it a  
21 (inaudible) focus, and it would help with publicity, I  
22 would think.

23 MS. BOLEYN: We should clarify. This is the 300th  
24 anniversary for the Town of Truro.

1 DR. IRWIN: Right, yeah.

2 MR. PRICE: Actually, you know, I'm not exactly  
3 sure, Dr. Irwin, what -- I don't know that we've  
4 participated with the town on that 300th anniversary,  
5 but there is no reason why we shouldn't or couldn't.  
6 But you're absolutely right. We have significant  
7 resources in Truro which could be highlighted.

8 What we've been focusing on has been the centennial  
9 coming up for the National Park Service, which will be  
10 in 2016. And I've reported on some of the funds that  
11 we've used. If we had time, I'd give you more of a  
12 report today, but I'm going to pass on that. And the  
13 other thing we'll have to start thinking about is the  
14 50th anniversary of the establishment of the Seashore in  
15 2011. So we have a lot of anniversaries coming up.

16 When is the Truro 300th mark?

17 MR. FRANCIS: Next year.

18 MR. KAUFMAN: Oh, it's next year?

19 DR. IRWIN: Next year.

20 MR. SABIN: Just as a point of information, Eastham  
21 went through its 350th anniversary three or four years  
22 ago. I don't think the Park participated at all in  
23 that. It was a very big townwide operation, but I don't  
24 think the Park participated in that at all.

1 MR. PRICE: And we didn't take it personally.

2 MR. SABIN: Good to hear that.

3 (Laughter.)

4 MR. PRICE: Tell Sheila I didn't get the invite.

5 (Laughter.)

6 MR. PRICE: But, you know, it depends on if the  
7 town wants to do it independently or together.

8 So, Mr. Chair, I didn't know if you wanted to leave  
9 time for public comment or if there are any other  
10 questions.

11 MR. KAUFMAN: Mary-Jo?

12 MS. AVELLAR: I'll be killed if I don't find out.  
13 What is going on with the dune shacks?

14 MR. PRICE: Sure.

15 UPDATE ON DUNE SHACKS

16 MR. PRICE: Unfortunately, I'm feeling a little  
17 chagrined because I'm basically going to give you the  
18 exact same report I gave you the last time we met, and  
19 that is our plan at this point is to engage a group to  
20 help facilitate or mediate the next step. The next step  
21 is to prepare a use plan, if you will. We had extended  
22 to the dune shack occupants and the long-term users, as  
23 well as the town, as well as the Commission to  
24 reactivate the Commission subcommittee utilizing a

1        facilitative process to help us actually come up with a  
2        use plan. I personally became embroiled in a lot of  
3        issues separate from this particular park having to do  
4        with how contracts and agreements are being developed  
5        and made right now, and it became very, very complex.  
6        And with the zoning and all these other things, I wasn't  
7        able to really pursue it to the point where we could get  
8        it off the ground, but I'll make a commitment again this  
9        new fiscal year starting the first of October. This is  
10       really the process that I want to continue to embark on  
11       and reconnect with the folks that have been nominated  
12       and appointed to be on that process.

13                Parallel to that is our staff has been working on  
14       preparing for nomination for the National Register. You  
15       may all be aware that in the 1980s the dune shack  
16       historic district was classified as eligible to be on  
17       the National Register of Historic Places. In our world  
18       with the National Park Service and any federal agency,  
19       if an area is declared eligible, that carries the same  
20       imprimatur as if it actually has been designated as far  
21       as management approach, our ability to do things there  
22       with federal money or not do things. However, that has  
23       also become a bone of contention among the dune shack  
24       supporters, and we've recently completed the historic

1 structures report, the cultural landscape report. And  
2 these are documents that we will use as a basis to  
3 submit that nomination. So that is something that is  
4 going forward as well.

5 MR. KAUFMAN: Other questions for the  
6 superintendent?

7 (No response.)

8 **OLD BUSINESS**

9 MR. KAUFMAN: Seeing none, Old Business?

10 (No response.)

11 **NEW BUSINESS**

12 MR. KAUFMAN: New Business?

13 (No response.)

14 **DATE AND AGENDA FOR NEXT MEETING**

15 MR. KAUFMAN: Seeing none, agenda for the next  
16 meeting and date.

17 How does December 1 sound to you, folks? Monday,  
18 December 1?

19 MR. FRANCIS: Anytime between the 10th and the  
20 28th.

21 MR. KAUFMAN: Are you off that week?

22 MR. FRANCIS: No, no, I'm available.

23 MR. KAUFMAN: How about others?

24 MS. BOLEYN: I think that's fine.

1 MR. PHILBRICK: December 1 is fine.

2 MR. KAUFMAN: December 1 work for everybody else?

3 (Inaudible). I apologize. December 1.

4 Agenda items? We know we have one very important  
5 one on the docket.

6 Yes?

7 MS. BOLEYN: I would like to see the bicycling  
8 matters put on our next agenda, and if it seems like a  
9 good idea, maybe invite Clay Schofield so we can get the  
10 county perspective. Maybe we'll have a report from the  
11 conference.

12 MR. KAUFMAN: Nothing like (inaudible) to inspire.

13 MS. BOLEYN: Yeah.

14 MR. KAUFMAN: Are there any other agenda items?

15 (No response.)

16 MR. KAUFMAN: Seeing none --

17 MR. SABIN: Can we finalize the ones we discussed  
18 today?

19 MR. KAUFMAN: Yes, absolutely.

20 So we'll open it up to the public.

21 I just want to say one thing, how proud I am.

22 We're all busy people. We've all served on lots of  
23 boards and commissions. No board that I've served on,  
24 no commission I've served on have people on the board as

1 thoughtful as you all.

2 Ernie, you'll be missed.

3 A lot of passion went in today for all the right  
4 reasons, and you've all been passionate at the table.  
5 I'm proud to be here.

6 **PUBLIC COMMENT**

7 MR. KAUFMAN: Public Comment.

8 Yes, sir? Please identify yourself, if you  
9 wouldn't mind.

10 AUDIENCE MEMBER (MR. DANIEL KATZ): I'm Daniel  
11 Katz. I live in Truro in the Seashore where we've lived  
12 for 40 years (inaudible).

13 First I'd like to address the intersection  
14 proposed, the intersection approved, proposed in  
15 Provincetown. It's very difficult to sit here and  
16 pillory a man as generous and open-minded and community  
17 spirited as Superintendent Price. Nonetheless, I intend  
18 to do that.

19 (Laughter.)

20 MR. PRICE: Are you the one that said it was a  
21 boondoggle?

22 AUDIENCE MEMBER (MR. KATZ): I did. I will again.

23 MR. PRICE: I've never had a boondoggle before.

24 (Laughter.)

1           AUDIENCE MEMBER (MR. KATZ): I won't go more than  
2           90 seconds on the intersection, but starting from the  
3           last thing the superintendent said, indeed he has been  
4           funded for this particular project, which may be the  
5           best reason not to do it. The only way these funds can  
6           be spent is on this boondoggle, which, if you check the  
7           bid, although the stated price is \$900,000, it went out  
8           to bid at a million and a half dollars, (a). I don't  
9           know what the contractor signed the contract for, but  
10          there's a million and a half to be spent on it, and you  
11          can be damned sure it will be spent, not 900.

12                 Two, according to the Provincetown Police  
13          Department, there hasn't been a reported accident at  
14          that intersection for seven years.

15                 Three, the damage that has been done to cars that  
16          the Seashore has been responsible for has been \$10,000  
17          in 15 years. That's 1,500 bucks a year. We're just  
18          bailing out folks for \$700 billion, and 10,000 bucks  
19          over 15 years doesn't seem a reason to turn a town  
20          upside down. And the dividend, the big dividend, the  
21          road, go fix it. You know, spend five grand. Make the  
22          road what it should be. Get off of this other project.  
23          Don't just spend the money because you have it.

24                 That's all I have to say about that.

1           About the federal government's incursion on  
2 individual property rights, (a), I applaud your interest  
3 in preserving the two major tenets of the Seashore  
4 legislation, to preserve the natural beauty of the  
5 environment and vistas. And I think it's (inaudible).  
6 I'm glad to see it. But you know through reading your  
7 history, although you weren't here, that one of the  
8 things that allowed the towns to allow the Seashore to  
9 do what it did, which was to buy up all the land in '62,  
10 is the government's willingness and agreement to  
11 compromise by not infringing on local zoning  
12 regulations. That was one of the major givebacks that  
13 the federal government gave the local towns. And I  
14 think 6,000-square-foot houses are repulsive, and I  
15 don't think anyone with a conscience should build one,  
16 unless you've got all those children that lived in a  
17 shoe or something. But in a natural world where a  
18 neighbor is considered a neighbor and neighbors  
19 considerate of the landings, 6,000 square feet is an  
20 abomination and immoral in my opinion. But it's my  
21 opinion, which doesn't mean a damn thing if the zoning  
22 regulations don't concur with my opinion. I don't want  
23 my neighbor to paint his house pink, but there's no  
24 regulation that says he can't. And if he's going to do

1           it, if that's his taste, I can't legislate that.

2           So for all of us who think that it's improper to  
3           violate the land, let us make laws that make the  
4           violations illegal rather than immoral or improper or  
5           distasteful. At this moment the Seashore legislation  
6           has no such regulations, and I caution anybody who's  
7           steering the train of the federal government's  
8           legislation, in this case you, to be very cautious where  
9           that train goes because if the Blasches and this fellow  
10          Lavin are to be stepped on because of public opinion or  
11          public distaste, then the next thing that's stepped on  
12          could be a more serious issue. And I just caution you  
13          as the steerer of the train of the federal government to  
14          be very careful where you lay that track.

15                 Thank you.

16                 MR. KAUFMAN: Yes, Ma'am?

17                 AUDIENCE MEMBER (GAIL FERGUSON): My name is Gail  
18          Ferguson. I wasn't going to speak.

19                 MR. KAUFMAN: That's okay.

20                 AUDIENCE MEMBER (MS. FERGUSON): I was just highly  
21          motivated.

22                 (Laughter.)

23                 AUDIENCE MEMBER (MS. FERGUSON): I live in  
24          Wellfleet. I don't live in the Seashore, but I think

1           everybody knows that when you live in Wellfleet, the  
2           Seashore is a big part of your life because the Seashore  
3           controls so much of the town.

4           I don't agree that the Seashore has infringed on  
5           local zoning. I think that many of us in Wellfleet  
6           applauded the Seashore's turning to the courts to solve  
7           the issue. It came as a surprise to many of us who pay  
8           attention to zoning that a house, which I understand is  
9           not going to be a family residence of the Blasches but  
10          it's a speculation house that's going to be resold --  
11          I've lived under the understanding for years that a  
12          house of that size could not be built in that location,  
13          so I'm as surprised as anybody that the Wellfleet zoning  
14          regs., which I read and reread and read again, would  
15          permit such a thing. I'd like to see the land court be  
16          the ultimate decider. And I heard somebody, one of the  
17          members of this committee, say that the end result --  
18          that going to court is the end result of the  
19          administrative procedure. I'm in total agreement with  
20          that. I think we'd all be upset if the Seashore had  
21          rushed to condemn the property. I'm glad they're taking  
22          an appeal from the zoning board in Wellfleet to the land  
23          court.

24          That's all I have to say.

1 MR. KAUFMAN: Thank you.

2 Any others?

3 (No response.)

4 MR. KAUFMAN: Seeing none, thank you all for  
5 coming.

6 **ADJOURNMENT**

7 MR. KAUFMAN: Any move to adjourn?

8 MR. FRANCIS: So moved.

9 MR. KAUFMAN: Second?

10 MS. BOLEYN: Second.

11 MR. KAUFMAN: All in favor?

12 BOARD MEMBERS: Aye.

13 MR. KAUFMAN: Thank you, all.

14 (Whereupon, at 2:58 p.m. the meeting was  
15 adjourned.)

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**REPORTER'S CERTIFICATE**

PLYMOUTH, SS

I, Linda M. Corcoran, a Court Reporter and Notary Public, in and for the Commonwealth of Massachusetts, do hereby certify that:

The foregoing 95 pages comprises a true, complete, and accurate transcript to the best of my knowledge, skill, and ability of the proceedings of the meeting of the Cape Cod National Seashore Advisory Commission at Marconi Station Area, Park Headquarters, South Wellfleet, Massachusetts, on Monday, September 22, 2008, commencing at 1:08 p.m.

I further certify that I am a disinterested person to these proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal on this the 30th day of October, 2008.

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Linda M. Corcoran - Court Reporter  
My commission expires:  
September 13, 2013