

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

TWO HUNDRED AND SIXTY-FIFTH MEETING

HELD AT CAPE COD NATIONAL SEASHORE, Marconi Station
Area, Park Headquarters, South Wellfleet, Massachusetts,

on Monday, April 28, 2008, commencing at 1 p.m.

SITTING:

Ronald Kaufman, Chairman (partial)
Brenda J. Boleyn, Vice Chairman
Edward C. Sabin
Peter Watts
William Hammatt
Lance Lambros
Larry Spaulding
Richard Delaney (partial)

Also present:

George Price, Superintendent
Lauren McKean, Management Assistant
Ben Pearson, Chief of Maintenance
Chelsea Clarke, Planning Assistant
John Portnoy, Research Biologist
Matt Mincieli, Assistant to Ronald Kaufman (partial)

Audience members

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P R O C E E D I N G S

MR. KAUFMAN: Good afternoon, everybody.
 MS. BOLEYN: Good afternoon.
 MR. LAMBROS: Good afternoon.

ADOPTION OF AGENDA

MR. KAUFMAN: The first item is adoption of the agenda.
 MS. BOLEYN: So moved.
 MR. KAUFMAN: Second?
 MR. WATTS: Second.
 MR. KAUFMAN: All in favor?
 BOARD MEMBERS: Aye.
 MR. KAUFMAN: Opposed?
 (No response.)
 MR. KAUFMAN: Ayes have it.

APPROVAL OF MINUTES OF PREVIOUS MEETING (2/25/08)

MR. KAUFMAN: Second is the approval of the minutes of the previous meeting.
 MR. SABIN: I move the minutes be approved as printed.
 MS. BOLEYN: Second.
 MR. KAUFMAN: All in favor?
 BOARD MEMBERS: Aye.
 MR. KAUFMAN: Opposed?
 (No response.)

REPORTS OF OFFICERS

MR. KAUFMAN: Reports of Officers.
 Brenda?

MS. BOLEYN: I would like to start by asking for a moment of silence in memory of Ed Simon. Ed Simon was a longtime member of this Advisory Commission representing the Town of Wellfleet. He loved the Cape Cod National Seashore. He poured his heart and soul into the issues here and gave us a lot of very wise counsel and discussion while he sat around this table, and since he's left, we've all missed him. And he died about three weeks ago.

(Moment of silence.)

MS. BOLEYN: Thank you.

And I have one other thing to say, and that is just to alert everyone that this is a big tick season and that ticks are really out there right now. So you should be very vigilant even though it seems cool. Ticks are finding this a very successful season, unfortunately.

MR. KAUFMAN: Other officer reports?

(No response.)

MR. KAUFMAN: Seeing none, Reports of Subcommittees.

REPORTS OF SUBCOMMITTEES

MR. KAUFMAN: Peter?

MR. PRICE: Peter?

IMPROVED PROPERTIES/TOWN BYLAWS

MR. WATTS: We've been meeting with the roundtable, and the meetings have been getting better and better because we've had greater attendance. And our last meeting -- actually, the last two meetings have been very productive. We're talking about that zoning is already under way in Truro and Eastham is in place, and now that just leaves Wellfleet. And we've been having many, many meetings about the

Wellfleet zoning bylaw, and it's probably going to come down somewhere between Eastham and Truro. I mean, I'm not sure how far we'll get with sliding scale, but we certainly seem to be -- everybody seems to be in favor of site plan review, and site plan review, the only question is where the trigger is for site plan review, what size is the trigger of that, and the question is between 3,000 square feet and 2,500.

That's pretty much where we're at with the roundtable at this point.

MR. KAUFMAN: Thank you, Peter.

MR. PRICE: Just to put, if I could, into some context here. I think we reported at the last meeting there were two projects being discussed in the Town of Wellfleet. And one has been just discussed as a project, but there's been nothing submitted that we're aware of that allows us to respond, and that's a structure on Bound Brook Island, which we understand has put in for approval for a septic system up to ten bedrooms. So we anticipate that's going to be a large structure and fall into the same issues that we have.

The second one has submitted to the building inspector a permit, and the building inspector issued this permit for the house in "The Gut," locally known as the "Billboard House," and that is the one that is certainly the cause celebre today. The Park Service actually filed an appeal to the zoning board of appeals, and we believe that's going to be heard this Wednesday, if not also Thursday, depending on how many other appellants there are and what -- how the discussion goes.

The topic has come up in a very long board of selectmen meeting a little while ago, and then also Wellfleet Community Forum held a topic on this, and there was a panel. And Ben was on the panel, Lauren was on the panel, and I was there as well as a number of other people. It was very well attended, and they discussed the topic in general. And the issue really does come down to, where are the zoning laws? The legislation for the Park calls -- it's up to the towns to actually administer the zoning. At the time the Park language and the zoning were very general as far as the minimums were concerned. There was a lot of language which perhaps people at the time understood as far as maintaining the character is concerned. The Park Service in the 1980s propagated the guidelines which talked about a 50 percent rule for increasing, say, your structure as well as a number of other items, and that was utilized for a while. It was incorporated into the Eastham bylaws, but it was certainly decided or deemed that truly these were guidelines that were not truly enforceable and therefore became very much up to the interpretation of the towns specifically of Wellfleet and Truro. And recall that Wellfleet, Truro, and Eastham are the three out of the six towns that have the majority of the private properties. So that's why there's the focus on those particular three towns.

So I know there's a lot of interest, and we received a lot of comment. In your packet I have a copy of the letter that we sent to the town filing the appeal on March 19. Also in your packet I believe is just a copy of an op-ed that I distributed to a number of papers trying to express our concern and truly understanding that this is a joint effort between the Park Service and the towns and not a unilateral one.

You also ought to know that the Cape Cod Commission has expressed a lot of interest, and they've been involved with both representing themselves at the board of selectmen's meeting as well as at the forum and I think have a lot of insight in trying to work with the towns.

I believe also and I'd like to report that certainly the planning board members and some of the ZBA members and some of the board of selectmen in both Wellfleet and Truro have expressed a desire to try to get a handle on this, and I think even though things have been on the books for a long time having to do with whether it's a 5 percent or a 15 percent or whatever kind of build-out that potentially could be involved in that particular town, people just didn't have the

desire or the finances perhaps in the past to do this. And now that these people are showing up and they obviously are not particularly interested in taking a look at previous Park guidelines, they're interested in doing what they think they can do, all of a sudden we come to these contentious points. So that's where we are today.

I think -- I know that, Peter, you and Lauren have worked on this PowerPoint to try to explain it before the roundtable. I thought that that would be beneficial to show this at that time -- this time.

MR. WATTS: Right, Lauren was going to do that.

MR. PRICE: Yes.

So, Ron, if you want to just move to the side. You don't want to be center stage.

MR. WATTS: I just want to add to what George said, that the Town of Wellfleet wants to have zoning bylaws for the whole town, not just for the National Seashore.

MR. PRICE: And we understand that Truro is interested in that approach as well.

Could you kill these lights.

MS. McKEAN: As George said, we did prepare this, and we showed it at the recent roundtable meeting as a context for the discussion. So it's basically in several parts. And basically what the three towns are grappling with together are what's the appropriate level of regulation of private and improved properties within the Park. The reason I'm saying that three towns out of six is because we've got the dune cottages in Chatham, one property in Orleans, and one property in Provincetown which is a dune shack. So they're very, very different. We've got -- the bulk of the 600 private properties are within the other three towns.

So we basically separated the discussion into three parts. The first two parts really are the subject of today. Part 3 was the discussion of the roundtable itself.

You all are very familiar with the National Seashore authorization in 1961, that this was a -- called the Cape Cod model. It was the first national park to be created from lands that were not already in federal ownership, and there were numerous protections for private property owners and, of course, the six affected towns.

Land ownership, I don't think we need to really get into this slide too much in-depth. However, the final slide -- the final point gives you the breakdown of properties that we're talking about in the various towns with Wellfleet having the highest number.

The improved properties definition from the Park legislation is very specific. It talks about a detached one-family dwelling that was under construction before September 1, 1959, and also together with the land that it was situated on and that they were in the same ownership at the time of that September 1, 1959. It allowed for accessory structures. It required a three-acre zoning minimum, and it provided for noncommercial use. There were preexisting commercial uses, and you review those properties on a five-year basis. We'll actually be reviewing them later in this calendar year of 2008, but also there were some home-based occupations that were also provided for. Things like professional offices were provided for as well as bed and breakfast types of uses, et cetera.

How did it work? The 1961 legislation called for the Secretary to enact a zoning standards regulation which was finalized in 1962, and I'll just let you read one of the major provisions of that regulation.

(Pause.)

MR. PRICE: Although I will be (inaudible) on input here, and that is the last part of that first quote talks about how the Seashore district is really there to support the undeveloped areas, preserve the natural condition, and the distinctive Cape Cod character of existing residential structures be maintained. Unfortunately, as Ben will say -- and I trust Ben might talk a little bit later -- there is

certainly an illusion towards the overall goal, theme, and desired outcome. The problem with this is that it doesn't get explicit, and the lawyers in the room can relate to that. So I think at the time people were, you know, trying to do good things, and people understood generically what they thought people would understand and probably, not that we're going to talk about legislative history here -- I mean, people were also trying to dodge the really tough bullets of trying to have the federal government manage every -- you know, dot every "i" and cross every "t." So it was kind of a good-faith effort of putting this together, but I think it's very clear what the intent was.

MS. MCKEAN: So 1962 these minimum standards were put in place. The towns were asked to write zoning bylaws that were consistent with this regulation so that it could protect the properties in its town on a town-by-town basis from condemnation authority.

Now, many of you hear us talk about suspension of condemnation -- certificates of suspension from condemnation. We issue those on a regular basis. It provides protection for private owners. They can show Realtors or lawyers or mortgage companies that they have a certificate and the government will not take their property by an eminent domain as long as they're following zoning and they preexisted the Park. And it's also a mechanism for the Secretary to protect Park values relative to improved properties.

The use guidelines were put together around 1980, and we reissued in 1985. There was a 50 percent rule that you'll hear about and you'll see in the newspaper from time to time. It's actually -- it's 50 percent of the livable area of the main house, plus there's a second 50 percent formula, and that is for accessory space. The guidelines also talk about some things that were -- the Park was concerned about the subdivision and great intensification of use. And I believe the Park put this forward because there was a lot of consternation in the community in the late '70s about the changes that were going on out in the community, and people thought there needed to be a better handle on what some of the parameters might be. This was not a law or regulation that was not codified as such, and so it gets people -- it's gotten people confused over the last 35 or so years, but it's certainly a guideline that can be referred to and has been referred to in various cases.

The next thing that we tried to do for the roundtable and now for you is to try to give an example of a variety of sizes, scales, mass, intensity, lot coverage throughout the Seashore and also properties that are in relation to their landscape and surroundings.

I think you went to the Atwood-Higgins house.

Just a few examples of the cottage colony character up here in Wellfleet by the Sea.

And modernist architecture.

MR. WATTS: I just want to add that the house on the right is the Hatch House that we were going to visit this morning when it started to rain.

MS. MCKEAN: And the one on the left is the Kugel-Gips House, and tonight at Wellfleet's town meeting there is an article on the warrant to try to get Community Preservation Act funds, \$100,000, towards the rehab of that structure under a lease with the National Park Service. And Ben Zehnder's father also is the architect of that structure.

A few examples of Eastham. Not historic, but modern.

The next section we wanted to provide a few examples of alterations. We don't have comment on them. You'll make, you know, your own observation from these examples. See the small cottage to the right is that same cottage on the left?

MR. LAMBROS: (Inaudible) addition.

MS. MCKEAN: Sure, it is.

We've tried to show the original square footage, what was built and what the 50 percent guideline allows.

MR. PRICE: I should point out --

MR. SPAULDING: Did these not receive the certificate of suspension then?

MS. MCKEAN: No, this did.

Yes, are you going to point out Eastham's --

MR. PRICE: What I was going to point out, these are a couple on Tomahawk Trail, and what the builder did is working with the planning board and the ZBA so this single structure also incorporates the square foot of their auxiliary buildings. So for instance, as part of the requirement for the structure, they also had to take down the garage.

MS. MCKEAN: And also it should be noted that in Eastham the 50 percent formula has been codified in their town zoning bylaws. So in Eastham it does have the force of law. So it was -- although they did make a concession -- and that's what zoning boards of appeals do. They review a case to see whether there's some alteration that can be made.

And this is another Tomahawk Trail case.

MR. WATTS: These were considered successful.

MS. MCKEAN: Yes. The Eastham Planning Board has been -- well, has really expressed that they've been doing very well with the site plan review that they have in place. They've had it in place now about four years.

MR. SABIN: Lauren, I can't tell you how happy I am to be the representative of Eastham.

(Laughter.)

MR. PRICE: Now, I should also point out, by the way, there certainly are going to be purists who are not going to believe these are successful because these do not represent the small three-bedroom Cape Cod traditional structure that was there prior to this structure. But I do think by taking a look at the legislative history, taking a look at the bylaws, taking a look at the guidelines, there was no intent to truly make this a Williamsburg per se. These were still living communities. So certainly, you know, understanding the intent of this very complicated legislation they put together in the late '50s, early '60s, understanding the needs of living towns today, what can we do that allow for these accommodations? Well, this is clearly not a Williamsburg, and we believe it's also clearly not so outrageous that it dominates the landscape.

MS. MCKEAN: And additionally, these are additions versus tear-downs, these last two.

We move to a number of Wellfleet examples. In Wellfleet there's a 5 percent lot coverage within the National Seashore. There is not the 50 percent per lot.

MR. WATTS: I think this is an example of something that wasn't successful.

MS. MCKEAN: Yes, that one.

This is the proposed property at the -- proposed building at "The Gut," and there's a before and after. Originally, the structure in 1959 was 550 square feet.

MR. PRICE: So if you recall, in 1984 that existing structure there on the left was very controversial, and even though there was a walk-around with Lauren's predecessor and an understanding of how that structure was going to be built, once it was actually constructed, we believe they didn't really adhere to the previous understanding. And yet it was constructed. There was a unanimous town meeting, though, to have the Park Service try to demolish it, which is certainly outside the purview of our abilities. But there was also a desire at that time to try to tighten up zoning laws so that wouldn't happen again.

MS. MCKEAN: This is a case of a property on Pamet Point Road. And the person who constructed this property is actually on the roundtable and speaks in a very impassioned way about trying to meet the 50 percent guideline. Note that he has a 7.6-acre property, and with a

5 percent formula, he could build something quite large, more than 10,000 square feet definitely. And also note that it's an 1830s house that he was building onto. This is another example of a large lot where there was a great attempt to work with the 50 percent guideline. And the structure on the left, far left is an accessory guest cottage, so it's just all about the mass. This was a recent case. This last summer the ZBA in Wellfleet allowed the demolition and reconstruction of this property. The lot coverage was 16 percent. The lot coverage within the Seashore is 5 percent. It's a 1/10- of-an-acre property.

MR. WATTS: This doesn't actually represent the neighborhood. You have to see this in context of the neighborhood that it sits in. And there are many one-story houses in this neighborhood, and this is what results that people want to go straight up in the air.

MS. McKEAN: We have a few Truro slides. In Truro there is no lot coverage by law at all, and Charleen Greenhalgh, the new assistant town administrator/planner, has been working on a sliding scale lot coverage bylaw. She comes with great experience in zoning bylaw development and has done a really nice job with not only the sliding scale lot coverage bylaw but changes to their site plan review to make it a better process.

This is a 1990 case. This is the one that was celebrated in 1990, and Al Gore stayed there.

MS. BOLEYN: It's where Al Gore stayed.

MS. McKEAN: Yeah.

This is a more recent case. It's a 6/10-of-an-acre property. It doesn't strike you since it's surrounded by Seashore land that it's as imposing as it is until you really see the land that it's situated on, and there was no zoning board of appeals review in this case.

Three remodels so you can get a full extent of the house. And also the setbacks are shown on this site plan. So you see 25-foot setbacks on various sides of the house.

MR. WATTS: If their new site plan review had been in place, this wouldn't have happened.

MS. McKEAN: If their new sliding scale lot coverage was in place, this wouldn't have happened. It would be much, much smaller than this. Under their site plan review, they probably would have been able to get the scale reduced. I think there's (inaudible) acre.

So the second part of the discussion is really about what do we collectively want to see addressed. In 2000 and 2001 we went out to the communities and had a series of public meetings, and obviously we've been speaking since then at the roundtable. We've got about three slides here that sort of sum up what the concerns, the issues that we feel could be addressed in the Seashore district.

(Mr. Delaney enters the room.)

MS. McKEAN: The number one priority is to provide reasonable flexibility for property owners but try to also preserve the traditional visual quality and character of the built environment of the structures. Addressing scale, use intensity, and bulk and massing, that is the big challenge right now that I think some of the earlier zoning really just doesn't get to. And zoning is, you know, always improving and getting a little bit more sophisticated over time. So that's why we're really talking about trying to get something in place now that's just a little more up to date.

MR. PRICE: And if I could just add a footnote, as it was brought up at the forum, there are some people that believe we're only interested in the Seashore district in the visual intrusion, and, in fact, that's not the case. It has to do with the whole footprint on the property for those Seashore districts because that has multiple implications on the impact on the resources. Obviously visual intrusion is a big one, and it's what I think garners a lot of public support.

MS. McKEAN: So, again, we're looking at lot and site coverage. Eastham has site coverage, and it has a trigger for their

site plan review which includes first and second stories, and Wellfleet has the lot coverage with the basic footprint. And we're talking about sliding scales across the towns and probably different sliding scales depending on the towns because they all do have different character. Some towns are still grappling with whether they want to include the 50 percent guideline. Peter had that discussion in Wellfleet as -- although they are tending more towards the site plan review at this point in time for the fall town meeting. There have been a number of recent court cases, including as recently as January, concerning demolition of nonconforming structures, and we are trying to really get the towns to look at those cases and realize that they're applicable. Basically they are -- the case law informs you about the reading of the Chapter 48 statement, Zoning Enabling Act, so we're working on a case-by-case basis with the towns on this.

A major discussion is, what's working and not working in the various towns for site plan review? Again, we have -- Truro and Eastham have had site plan review in place for a couple of years. Are there things that need to be improved and some things that we can learn since they've been in place for a number of years? One concern we have in Truro is when we go to comment, because there isn't a lot of site coverage, there really isn't a benchmark to comment. There's no -- you can't say this is five times -- you know, five times bigger than what was intended or 5 or 10 percent over because in Truro there is virtually no limits in the zoning bylaws. So that's what they are trying to grapple with right now, add some triggers. They're also trying to polish up their criteria for that site plan review. It's a little sketchy right now. It was combined with commercial criteria, and so they wanted to just make it better.

And Wellfleet is drafting that possible site plan review bylaw for -- and the intent is to take it to town meeting in the fall.

What are some of the things that we really care about in terms of the built environment that we can either incorporate in the site plan review or other bylaws? There are board of health bylaws. There are conservation commission bylaws. Sort of a typical list of the things that we care about when we review a project that's proposed within the Seashore.

A last interesting note on the night sky issue, there is a night sky team that the National Park Service has, and one of the major players in that team helped us review the Town of Truro lighting bylaw, and we forwarded that on to Truro through -- we mentioned it to Charleen. And we asked for his help specifically. And we'll provide that to the rest of the roundtable as well.

He's also taken night sky reading here. I've never met him because he works at night.

(Laughter.)

MS. MCKEAN: But last time he came into town he just worked at night. So unfortunately, I haven't met him, but the scientists have actually met him.

And then finally there are some demolition-delayed bylaws in the Historic Commission bylaws with the various towns, so that's something to note. It basically doesn't mean you can't demolish a structure. It just means that you have to stop and have it reviewed and possibly see if you're going to replace something with a similar type of character. I'm not sure how it works.

So that's the end. I'll turn it back over to you.

MR. WATTS: Does anybody have any questions about this issue at this point? Yes, Larry?

MR. SPAULDING: Has the town attorney reviewed her earlier opinion in light of that Bjorklund case?

MS. MCKEAN: The town attorney? Wellfleet town attorney?

MR. WATTS: Betsy Lane.

MR. SPAULDING: Yeah.

MS. MCKEAN: No, not -- I have not seen anything written from the Wellfleet town attorney. I've seen the comments from our

former Interior regional solicitor who feels that it is strongly applicable. Otherwise it would not be part of our appeal.

MR. SPAULDING: I would tend to agree. I think it would make sense to ask the -- I think it's going before the -- an appeal to the zoning board, it's the building inspector's decision to have the zoning board to ask the town attorney to review her opinion in light of that particular case to see if that case may affect what she says.

MR. WATTS: She will be.

MR. SPAULDING: If she hasn't been made aware of it ahead of time, she ought to be made aware of it before she's there so she can analyze the effect of it. MS. MCKEAN: Yeah, I know she's been made aware of it. I believe we even made her aware of it at the selectmen's meeting that we were at. So it's definitely a part of the case as an attachment to the case, and she's well aware of that.

MR. PRICE: Good job, Lauren.

While Attorney Zehnder is here, I was wondering if you intended to ask a question or make an observation. It certainly would be germane to this discussion. AUDIENCE MEMBER

(ATTY. BEN ZEHNDER): If I may, Mr. Kaufman, the reason I'm here is I had some materials I wanted to give the board, not for discussion today because I know that you have a lead time for presentation. I wanted to hand out just a letter that we have and give you copies of the material that we have submitted to the Wellfleet Zoning Board of Appeals.

The materials I'm going to give you -- and just to answer one question, if I may, Mr. Kaufman, to Mr. Spaulding's question about the Bjorklund case, which essentially was a case in which the full Superior -- Supreme Judicial Court affirmed a decision of the split court earlier on Martha's Vineyard, the decision with the Bjorklund case said that they affirmed the decision saying that when you're altering a nonconforming structure on a nonconforming lot, it is within the purview of the zoning board to say that you are increasing the nonconformity and require a special permit, and they can deny that.

That case actually specifically says in its language -- and you'll see this in our materials -- that that case is only interpreting General Laws 48, Section 6 and is not opining because it wasn't before them whether there was a particular bylaw of the Town of Norwell that would have allowed that particular work. Our contention in this case is that the Wellfleet Zoning Board of Appeals -- the Wellfleet zoning bylaw has a specific bylaw that allows you to make the specific alterations that are being made.

So the Bjorklund case is very important because it affirms the earlier Martha's Vineyard case. It's not really applicable here because we have a specific bylaw that is addressed by the Town of Wellfleet.

The materials I'd like to hand out, I'll hand them out whenever you want, Mr. Kaufman. Basically -- do you mind if I do?

MR. KAUFMAN: No, please do.

AUDIENCE MEMBER (ATTY. ZEHNDER): Thank you very much.

(Mr. Zehnder hands out to the Advisory Commission.)

MR. PRICE: Do you have packages for us to send to the members of the roundtable?

AUDIENCE MEMBER (ATTY. ZEHNDER): I do. I do, Mr. Price. I have an original for Mr. Kaufman and Mr. Price and then copies for the members. If I may leave the extras for the members that aren't here.

MR. KAUFMAN: Sure.

AUDIENCE MEMBER (ATTY. ZEHNDER): And I didn't bring these with an eye to have you review them because I don't think it's appropriate to show up and dump this in your laps, but we would like to come back to your next meeting. And I think at the next meeting there will have been a decision hopefully by the zoning board of appeals that will allow us to look at this with a little more clarity.

MR. KAUFMAN: When do you expect a ruling?

AUDIENCE MEMBER (ATTY. ZEHNDER): Generally the boards -- zoning boards generally tend to rule after hearings themselves. Now, the complexity of the case is before the zoning board of appeals in Wellfleet because there are four counts and because this is a case I think of a lot of interest. In my experience, I think it's probably doubtful that they'll rule on the first night, but it may well be that they do on the second night. And then I have some extra copies here, if you don't mind.

MR. KAUFMAN: Thank you.

AUDIENCE MEMBER (ATTY. ZEHNDER): Basically what I'm handing you is really a continuation of a discussion this board had several months ago. You may recall that when the Truro property, the Lavin property came before the Truro Zoning Board of Appeals, I appeared here with Mr. Lavin. Lavin was the homeowner saying essentially that we didn't believe that the federal government has the authority to intervene in local zoning matters, and we submitted some materials to that effect.

This board had some preliminary discussions, and I believe the discussions were, "Well, why don't we -- I think you have some questions for the superintendent," said, you know, "Why don't we make sure we check it out with counsel, make sure that we're doing the right thing here." Then that appeal was withdrawn before the hearing, and then there was -- at your December 11 meeting, there was some discussion, sort of a postmortem discussion that I read in the minutes, but I wasn't here, in which really the presentation was, "Well, that case is over. You know, we withdrew that because of the facts, but maybe we should have a discussion about the policies of going forward with local zoning appeals and under what circumstances is the Seashore going to be involved in local zoning matters both from an authority standpoint but also from a public relations standpoint because of the standpoint of the relationship between the towns and the Seashore."

What we believe is that this particular case, the Mark Blasch is a case that the building inspector was told by his town counsel he received a letter from the superintendent that said that we don't believe this case has merit that you can issue a building permit. The building inspector went back to the town counsel and had it vetted and then came back and said, "Yes, this house meets all the zoning bylaws, completely meets the setback requirements, the height requirements, the lot coverage requirements. Our bylaw allows this as a matter of course." And then the appeal was taken.

What we're asking this board to do is to try to get together and talk about under what circumstances are zoning appeals filed, is that something that's better left to the towns, and is it something that's better left from a public relations standpoint to work the way that Mr. Watts and George and Lauren -- and actually I'm part of this roundtable -- to try to go forward and get zoning bylaw changes that are meaningful and that really result in an enforceable mechanism from what people want to see. And I think the most telling comment was when George and Lauren went to the planning board about a month and a half ago about this issue and the planning board said, "Look, we don't really want to focus on the house that was permitted as a matter of right. We want to move forward and get zoning bylaws in place that work for the town. We don't want to go backwards. We want to go forward."

So what we're asking you to do is to look at these materials, and maybe it's something later on have a discussion about setting for some parameters under which you do think it's appropriate for the federal government to get involved in local zoning and under what circumstances it's not.

And if you have any questions about the project, I'd be glad to answer them, but I didn't come here to make a presentation and take your time, but I thank you for it.

MR. KAUFMAN: I appreciate it.

MR. PRICE: Thank you, Ben.

And just on the point of information about whether it's appropriate for the federal government (inaudible) have status, the consultation with Tony Conte says we absolutely do. It's our responsibility. We're the local land manager representing the federal government as the property owner. So there are all kinds of precedents for this happening, and it's as if we need to do a parallel track. And we did explain why we withdrew our arguments on the Lavin case, and again, we decided in reference to counsel that it was important that we pursue this appeal on the Blasch case.

There's also a much larger issue, and I'm not exactly sure what's going to fall out in the end, but the other particular part of the legislation calls for the language in local zoning to be approved by the Secretary of the Interior. And one of the things that I was made aware of during the Lavin case and the same is true in the Blasch case is that, for example, just the term "alteration." I mean, part of the frustration here is that these permits are given directly by the building inspector following the rules presented by the ZBA and by the planning board language. So the building inspector we don't believe is out of his realm. That's not the issue. The issue is that the zoning language has materially changed since it first was approved by the National Park Service and the Department of the Interior. And specific example is alteration. And we have verbatim a copy of what was approved. Alteration meant in the 1960s alteration, and now it means a tear-down and a rebuild on a much larger scale, and that language was never, quote, really approved by the Secretary of the Interior, and frankly, it probably really wasn't an issue until recently because we were unaware that this was going to have such impact for sure.

So these are things that all need to be worked out, but it doesn't mean that we still can't at least go for a hearing for these properties that are before us at this point.

MR. SPAULDING: I think at some point this board ought to come up with the feeling about what we should be doing, but assuming that in almost all the cases we're going to actually be abutters because we own the property, it seems to me pursuant to statutes that we would have standing if we chose to do something about it in terms of referencing our opinion. I mean, the state statutes give direct abutters right to appeal on these things.

MS. McKEAN: Yeah, I'd like to comment on that. Ben said that he was wondering whether it was appropriate. Well, you'll see in one of his memos he spent a great deal of time in his motion to dismiss saying that the government does not have the rights to and that George needs to seek authority, et cetera. There are a number of legal arguments, but basically they do fall away. I mean, our attorney says he does have the express authority to do this, and I believe Mr. Zehnder is aware of that. Otherwise he wouldn't have said isn't appropriate to. Legally, yes, we do have the right to. We've looked at the issue of aggrieved party status backwards and forwards. We've looked at all the state zoning cases that include this, and it's clear-cut that we are not only -- we not only have the status as an abutter, George has the right to file an appeal, and there's clear-cut case of harm to the property interests and values and rights. So that's the basis of the case.

MR. SPAULDING: And then I think another issue, which is a little different, is when the town exercises its own authority through a board to grant a special permit or a variance versus the building inspector makes a decision. And it hasn't been reviewed by the boards in terms of which instance we would take on appeal. And this is a case where the building inspector has issued a decision, but a board hasn't exercised its discretion to approve it. So to me there is a distinction in terms of in which case you proceed.

MS. McKEAN: There are three other appellants on this case as well. One is the board of selectmen of the Town of Wellfleet. The other is the direct abutter, and the other is the homeowners' association of the nearby surrounding land. So it should be interesting Wednesday night.

MR. PRICE: Wednesday and possibly Thursday night will be interesting.

MR. KAUFMAN: Other questions?

(No response.)

MR. KAUFMAN: Superintendent's Report?

MR. PRICE: Sure.

MR. KAUFMAN: I'm sorry. Go ahead.

MR. SPAULDING: I've said this before, but it would be nice if you could get a stash of cash that would just sit there so that the threat of suspension of condemnation would mean something because it really doesn't because most people that have the dollars and the wherewithal to make these improvements know that you don't have the money to take the property so nothing's going to happen anyway. And I know you're trying to do the best you can with the towns to deal with strengthening those zoning bylaws, and I know that money is incredibly tough, but it would be nice to have a reserve that you could just have so in specific instances before it happened, if it were going to happen, you could take the property and pay somebody what it's worth.

MR. PRICE: That would be great.

(Laughter.)

MS. MCKEAN: We did purchase a property in 2002 based on the premise that -- you know, it was an 11-acre property that was high on a hill in the Pamet Valley and sort of said, "Here's why we need to improve zoning," and, you know, it was just a snapshot in time. And that expenditure, that federal expenditure, while it was a good long-term value, you know, it sort of didn't still ignite the groundswell of support for changing the zoning. We're still talking to Truro how many years later about changing that zoning. So inquiring on a case-by-case basis doesn't necessarily mean that there will be action. I would love to see us have acquisition funds, but...

MR. PRICE: They're very difficult to come by, and as we'll talk about later, obviously we're still two years -- two and a half years into trying to get our \$6 million for the North of Highlands Campground. And this same issue is relevant in a number of other parks that were created in a kind of nontraditional way, Fire Island being one. My friend up in Acadia is facing a similar thing next to the Schoodic Station. So it's a big issue and comes up to a question of government priorities and where funds are and where do you spend them.

MR. DELANEY: In the absence of federal support, have you had discussions with not-for-profits like the Nature Conservancy or some of the other large environmental groups that sometimes have provided on an interim basis acquisition funds?

MR. PRICE: Not -- not -- in general and specifically we can talk about the Herring River project. There's been a lot of interest from nonprofits involved with them. There's interest in nonprofits in helping us out with the North of Highlands, but I can't say that we've directly spoken to them about intervening for these sorts of projects.

MR. DELANEY: Because they do have a history of doing that in other places. It might be worth pursuing.

MR. LAMBROS: The Sierra Club too is another one that's stepped up with some significant dough on Superfund sites in the past to pay off, you know, the (inaudible) and take it over.

MS. MCKEAN: Generally they prefer the Park Service to pay them back, and they are involved in the (inaudible) projects as, of course, a major player of the North of Highlands Campground.

MR. PRICE: So we'll stay tuned. I'll certainly give you the report after our meetings this week and see how they go.

SUPERINTENDENT'S REPORT

HERRING RIVER RESTORATION UPDATE

MR. PRICE: Speaking of the Herring River, I asked Dr. John Portnoy to join us to give us a quick update on that project and some issues related to that that I think you ought to be aware of.

MR. PORTNOY: The project is going along well. As you may remember, there was a second agreement signed among the towns of Wellfleet and Truro and the Seashore to actually undertake detailed restoration planning. The committee -- that agreement set up a new committee after the Herring River Technical Committee had completed a conceptual restoration plan. The new committee is called the Herring River Restoration Committee, and it involves all of the federal and state agencies that were involved in earlier work, plus the towns of Wellfleet and Truro all represented.

We've been meeting since I think January as a restoration committee and doing additional planning. We are poised to start the environmental impact assessment under NEPA, and that will be combined with state -- the state review process under the Mass. Environmental Policy Act. Also, Cape Cod Commission. This will be a project of regional interest, so there will be a -- the Cape Cod Commission review will be combined with both the federal and the state review of the project.

Along with the environmental impact review, we're planning public scoping meetings. The first one is August 14 at the Wellfleet Senior Center, and the second one will be on September 24, I believe, also at the Wellfleet Senior Center.

So we're working -- the committee's working towards a detailed restoration plan. We have addressed a lot of the problems over several years of public meetings. We are at the point now where we're trying to resolve the remaining issues that are actually impediments to the restoration of tidal flow in Herring River. I think it's important to realize over the hundred years of diking of Herring River everything upstream of the dike -- not everything upstream of the dike has remained the same because nature has changed, the vegetation has changed really dramatically, but also there has been development, some development -- thankfully very little, but some development within the tidal floodplain.

So George asked me to focus on one of those situations where we have development within the floodplain, which is the Chequessett Yacht & Country Club. Again, the Herring River dike tide was blocked in 1909. The country club fairways were built around the late 1920s deriving flood protection from the 1909 dike.

I just wanted to point out -- here's a map of sort of the mouth of the river. This is Cape Cod Bay, Herring River (indicates). This is the tidal description. This is Chequessett Neck Road. Chequessett Neck is here, which the Chequessett Yacht & Country Club is over a hundred acres in total, this area right here (indicates). Again, fairways constructed in the late 1920s. Portions of five of the fairways are built right on the old salt marsh without filling, without raising the elevation. So these are very low. Even under existing conditions they tend to be very wet for a large part of the year, particularly this time of year, a more normal year where we have rain. Because the elevation is so close, is right at the original salt marsh elevations, it's also very close to groundwater. So even though this dike built in 1909 has blocked high tides, there's no way that it can block the (inaudible) of groundwater, so these low fairways remain very wet.

With tidal restoration -- with full tidal restoration, we know from hydrodynamic modeling it will raise the average water level in the river throughout the tidal cycle -- average water level by a foot and a half so that these fairways will become much, much more wet. You know, appreciating that actually for the last 20 years we've been trying to come up with a strategy that preserves the Chequessett Yacht & Country Club fairways while allowing restoration in the Herring River floodplain.

About 2004, the winter of 2004, a plan was developed by the Town of Wellfleet and the club to sell the lower portion of their golf course to allow restoration within the floodplain and including Mill Creek, which is a tributary of Herring River. With the value of that

sale going to the club, it allowed them to pay for their relocation of those five fairways up onto adjacent upland that they owned, they currently own. At that point an appraisal was done by the Town of Wellfleet for this 25 acres of lowland that would become conservation land bought with land bank funds from the Town of Wellfleet or at least half or 50 percent of land bank funds. And that appraisal at that point came up with I think 3.6 million, assuming that there were seven house lots within this area that could be developed. So the value of the seven house lots was the sum of the 3.6 million.

In order to use land bank funds, we had to show a bargain sale, so the club agreed to a bargain sale of 2.4 million. And the Town of Wellfleet went to town meeting and was able to vote 1.2 million or 50 percent of that from land bank funds. That was all fine until time passed. Additional appraisals or estimates were made for relocation of the golf course. Additional expenses would be incurred by the relocation, including loss of income while the new fairways were being constructed. And that brings us pretty much up to the present where the current estimated value of relocation from the club is 5.2 million.

Now, in order for -- obviously this money would have to come from various sources, including several federal agencies who are interested in making this purchase happen to enable the restoration of the Herring River marshes, but those federal agencies cannot contribute to a sale that's above a federally approved appraisal. The federally approved appraisal was done -- this is called the Yellow Book appraisal. It was done about six months ago, I guess. The appraisal has to be done in a standard way that evaluates the entire Chequessett property under highest and best use. Now, highest and best use of their 130-odd acres would be as completely as a subdivision. So if you compare the value of the subdivision over the whole area versus the subdivision of the whole area less these 25 acres which comprises mostly wetland, then the difference in value is only \$400,000. So the federal agencies cannot contribute to the sale of a property, even 50 percent, that exceeds 400,000 -- to an amount that exceeds \$400,000.

So we need an alternative strategy to relocate fairways out of the floodplain. And a charrette or brainstorming session is planned for the 7th of May involving a large group of both federal and state agency people, planners from the nonprofit groups that Rich has mentioned. I think 30 people, 30 representatives were invited to the Chequessett Club to brainstorm alternative strategies.

So I'm happy to take questions, comments, suggestions.

MR. WATTS: Being part of the stakeholders committee, there are other problems on Mill Creek.

MR. PORTNOY: Right.

MR. WATTS: And those have to be looked at too.

MR. PORTNOY: Right.

MR. WATTS: Those are private property owners.

MR. PORTNOY: There are. There's one house that has a basement very close to the projected high tide level, but it was only 15 years ago, fortunately, and there are three wells that were constructed over the last 20 years or so that were constructed actually within the salt marsh, the floodplain, and those would have to be relocated or diked off somehow.

(Mr. Kaufman leaves the room.)

MR. WATTS: There is also an option of putting a dike across and leaving Mill Creek out.

MR. PORTNOY: Yes, I'm glad you mentioned that. That's something we've talked about actually for a really long time, and we've done some planning on. It's still an option. It would certainly block the high tides from entering Mill Creek, but groundwater flows under the dike, and that would keep water levels high behind the dike.

Also, you have to remember that we still think the best option to enable Herring River restoration is to remove these fairways from the floodplain because, remember, these are all -- these are still at very low elevation. We've blocked tides at the mouth of Mill Creek

to prevent flooding Herring River, but the water levels under these fairways are largely controlled by sea level, sea level out here in Wellfleet Harbor, sea level on Cape Cod Bay. And sea level is rising inexorably at 2.1 millimeters per year, and groundwater is rising right along with it.

In addition, these fairways are not -- the elevations of these fairways are not static. They're subsiding. They're sinking. So it's really over the long term an untenable situation to maintain the fairways on top of that old salt marsh.

MR. LAMBROS: How long?

MR. PORTNOY: How long do they have?

MR. LAMBROS: Serious. Five years?

MR. PORTNOY: No, it's not years. It's probably decades, but it's getting wetter. It has to get wetter on average every year. Groundwater level is coming up.

MR. LAMBROS: Do they want to make the deal?

MR. PORTNOY: Oh, yeah, yeah. I mean, just as you suggest, it's really -- over the long term, it's just not a tenable situation, and here's a way that not only allows Herring River to go forward, but they could get out of the floodplain onto (inaudible).

MR. PRICE: John, I appreciate that. I just thought we all know the scale of importance we put on the Herring River restoration project. This has been a particularly sticky situation that's really raised its head at this point. So I appreciate the fact that the charrette is happening, and certainly we're putting a lot of focus on it. It's important to bring it up to this group.

MR. WATTS: Who are the members of the charrette?

MR. PORTNOY: It's easier to name those who aren't a member of the charrette.

MR. WATTS: Really?

MR. PORTNOY: Yeah. All the conser-- -- all the NGOs, Trust for Public Lands, Nature Conservancy. All the federal agencies and state agencies you've met at the Herring River meetings. Cape Cod Commission, Rich. Lots of people.

MR. PRICE: All right, John. Thank you.

MR. PORTNOY: You're welcome.

MR. PRICE: I also want to mention that even though this is the largest issue, there are a couple of others still. There are many others. There are roads that have to be raised. There are bridges that have to be redone. There are a couple of private parcels that have to be dealt with. Certainly within the Park Service there's these two private parcels that have to be dealt with, and we're in discussions with both of those families. So this is still a long-term project.

One of the things that John said to me fairly recently -- when I first came, I got the feeling that, well, you know, it will be a long-term out because by the time you put in the dike and you change the water levels, it's still going to be years before it affects everything. What's changed the dynamics, though, is that you can't proceed with something that's significant as the engineering for the new dike if you don't know what the out game is going to be. So you can't do these things anticipating that these land deals will be finalized. You're going to have to have the land deal in place in order to even proceed with the early action items. So it's certainly changed the model in my mind as far as where our priorities are.

MS. BOLEYN: It is complicated.

MR. PRICE: It is very complicated.

UPDATE ON DUNE SHACKS AND REPORT

MR. PRICE: Speaking of complications, the next item on the agenda is the dune shacks.

I've reported previously as far as our next steps go, and that is to try to figure out a management plan and a structure use plan for the dune shacks. We've talked about it numerous times before, and obviously we're very concerned about both preserving the dune shacks and

also figuring out how the management structure will be in the future. I also mentioned that my concept was to engage another organization to kind of help us facilitate with the -- especially the current dune shack occupants, which I made a commitment to do and I'm still committed to do that. And what I have been working on, frankly, is basically networking with the organizations that I believe could do this type of work and then identifying funds for me to actually engage them. And then there's an additional complication because of what's happening in the Park Service budgeting and agreement side as to how I could actually start this. Our world and budget and contracting has changed dramatically over the last nine months.

So those are things that I need to figure out before we can actually bring somebody to the table. So I certainly had hoped by this point we'd be further along than we are right now. But you ought to know that it's still the same plan, it's still the same goal, and it's still the same next steps as I envision them.

MS. BOLEYN: Thank you.

MR. PRICE: And I also want to say that --

MR. WATTS: George?

MS. BOLEYN: Question?

MR. WATTS: Who's going to take Rich Delaney's spot?

MR. PRICE: Well, this is part of the concept now that some people bailed on us.

(Laughter.)

MR. DELANEY: I object to that. I object to that word.

(Laughter.)

MR. PRICE: Some people have other commitments, so we let them go. That's part of the processing I need to figure out here because it would still be under the auspices of the Advisory Commission.

And in the meantime we're continuing our exact same process. All the folks that are on a yearly permit, all the folks that have other arrangements with us have all gone through that same process and have all been signed up. Again, so there's been no changes on our management approach.

NORTH OF HIGHLANDS CAMPGROUND

MR. PRICE: Very quickly under the North of Highlands Campground, as we said, we know that there is at least \$4 million now put towards the \$6 million purchase, and that is still proceeding in that direction. And I know the owners had issues specifically trying to deal with the septic system, and we've been approached on that vein as well.

Brenda, I know you had an item on that.

MS. BOLEYN: Yes, at the bottom of your packet, you will find one of the action alerts from the Trust for Public Lands. That is the organization, as you will recall, that is brokering this arrangement with the owners, but the really exciting news is that Congress has appropriated the first \$4 million, and so now is the time for us to get in touch with Senator Kennedy and Congressman Delahunt to get that last \$2 million through the budgeting process. So I would like to ask each of you to write a letter as suggested in this action alert. And attached to it are the addresses for these two gentlemen and a suggested script, although, you know, they're so familiar with this, you don't really need to use the words to describe what it all is. Just tell them how excited we are that we're two-thirds of the way, and let's put it across the finish line and cheer them on. That would be my approach. It can be very brief, and the reason the fax numbers are there is because Lauren Wolpin suggested faxing is the most effective way.

MR. SABIN: Are you suggesting three letters to the two senators and the one representative?

MS. BOLEYN: Yes, actually. Yes. Right, Kennedy, Kerry, and Congressman Delahunt. That would be terrific. Any more questions about that?

(No response.)

MS. BOLEYN: I think we're ready for the next thing, George.

ALTERNATE TRANSPORTATION FUNDING

MR. PRICE: Alternate transportation funding. I think we talked about last time that we actually did get the funds in place. Part of it was for bus replacement, the equipment in Provincetown, but we also recently finalized the funds I believe we have for planning. And the planning component really is to work with the towns especially that have ocean-facing beaches and engaging them in a dialogue as far as the future of ocean parking lot situations. I mean, we all know about the dynamic issues of erosion on the ocean-facing beaches.

And in individual conversations with a number of the towns, we said that we had a bid in to get these funds to start this discussion and dialogue, and in fact, now we believe we have it. And the famous Ben Pearson here, who will be retiring in the fall, he tells me --

MS. BOLEYN: Ooh.

MR. PEARSON: (Inaudible).

MR. PRICE: (Inaudible.)

-- who's led the charge with the flex bus system, is the one that has secured these monies and will be working with the Volpe Center, the Department of Transportation, and specifically the Cape Cod Commission on trying to start that dialogue.

Ben, is there anything you wanted to add?

MR. PEARSON: I just wanted to add that I just heard today from our regional office that we also have the funding for the bicycle study and for the Intelligent Transportation System study. So we'll be also working with Volpe and our Denver Service Center on trying to look at the maintenance on our existing trails as well as extending the Cape Rail Trail from Wellfleet up to Provincetown.

MS. BOLEYN: Great. That's very good news.

MR. PRICE: Some good news. And I know I've talked to -- especially Truro is very enthusiastic. Fred and Pam are very excited about being able to do something on that connection.

MR. PEARSON: Like I said, the money is in the bank.

MS. BOLEYN: Excellent. Excellent.

MR. WATTS: Is there a map that shows where these trails are going to go?

MR. PEARSON: It's not.

MR. PRICE: It has to be developed.

MR. PEARSON: It's one of the things that will have to be developed.

And, Peter, I think just in some preliminary stuff that we're looking at, we're looking at trying to use the Old Kings Highway as a possible route, but we'll have to go out and really look and see where a route can be and how it can be established, and there are probably some areas where they'll still have to go on (inaudible) roads or something like that, but the study will at least give us the chance to be able to go out there and start looking at these areas along -- along with working with the Town of Wellfleet and Truro and Provincetown and seeing what we can do.

MR. WATTS: But you would use as much of the Old Kings Highway as possible?

MR. PEARSON: That's my thought, was to use as much of the Old Kings Highway as possible because it's kind of already there and it looks like to me it would work well to be able to do a bike trail.

MR. PRICE: You all understand the problem. They're unable to continue the rail trail because the rail trail has been needed up specifically in Wellfleet and Truro and Provincetown.

MS. BOLEYN: Yes?

MR. SABIN: Could I suggest that we make this an agenda item specifically for the next meeting to have a more detailed review with maybe some diagrams available for the next meeting?

MR. PRICE: We're just getting it off the ground, so we haven't --

MR. SABIN: Then maybe there's no more to discuss.

MS. McKEAN: Discussing the scope of work maybe.

MR. PRICE: There's nothing to discuss yet.

MR. PEARSON: We'd be able to do the scope of work, but hopefully within six months to a year there'd be enough to be able to come back --

MR. PRICE: Right.

MR. PEARSON: -- and be able to start showing something on paper. But again, I think that for our benefit is that like, again, with the parking lot, with the bicycle trail study, and with the idea study, it's really in conjunction with all the towns out here we need to do it with. We can't do it within the National Seashore. We have to do it together with the towns.

MR. LAMBROS: And we're trying to run this all the way to Bourne. I mean, that's been the county's goal for some time now, to have it literally come down, park at the bridge, and be able to get on a bike and go all the way to Ptown. And you get in all the economic development spots along those ways where people can stay over and people can camp, and people can continue that route back and forth.

So this is a huge thing for us because we can only come down so far, and without this piece we can't complete it. Quite honestly, this is the area where most of our tourists want to visit and want to come and spend time, so it's a huge benefit to us. I was amazed at the economic numbers that the Chamber of Commerce had brought forth at one of our EDC meetings on the people who ride bikes and what they bring to the Cape.

So this is an ongoing effort that the county's been involved with. And thanks for all your work. I know Clinton Clay's been working on it too, so hopefully that will be something to come to fruition.

MS. BOLEYN: Yeah, Truro and Provincetown especially I think those two towns have become a bicycling destination. And in Truro in particular it's very unsafe where the bicyclists have to ride. And as all of us know out here, when they come in groups when the good weather comes, it's very dangerous on the side roads. So I cheer for this. I think there's a huge need for it, to do the best we can to get the bicycles in a safer place and still allow them to get where they want to go.

MR. WATTS: It's a real shame that you can't use the railway right-of-way because that's relatively level. When you get into Wellfleet and Truro, there are a number of hills which make bicycling a little more arduous than the rail trail would have been.

MR. SABIN: I agree with that one.

MS. BOLEYN: Indeed.

MR. SABIN: Trains don't like hills any better than bicycles do.

MR. PRICE: No, but the train right-of-way has been sold off. There's no private development of parcels on some of them. Look, that's how I got involved in it. There was a proposal in Truro almost at the Provincetown border, and we originally raised the question about whether the state should have allowed that construction to happen. And I was invited to go out there by the property owner and the board of selectmen, and Lauren and I walked the area. And he was absolutely right. There was already development on either side of this man's property that had been allowed previously.

MS. BOLEYN: It's all locked up.

MR. PRICE: So therefore, we just don't have the right-of-way anymore. We're fortunate the state was able to put through the rail trail it did at the time it did.

OVERWASH AT SOUTH BEACH

MR. PRICE: Okay, I just have on here still the overwash from the South Beach in Chatham. That was something that I think we talked about a while ago.

Bill, how's it going?

MR. HAMMATT: It's still moving from north on an average rate of about six feet per day, and it has for most of the last year. I would expect during the summer it's going to slow down more when the winds tend to be more southwest. In a week or so, the southwest winds and everything seem to stop. Still the road in from the east of my property is still getting (inaudible) but not as badly as some of the others. They're currently sitting on my property and waiting for a town meeting to see whether they can stay there. That's scheduled for (inaudible) tomorrow night and then the town meeting as well, and if that's approved, we go from there.

HIGHLANDS CENTER UPDATE

MR. PRICE: The Highlands Center.

Did you pass out the material?

MS. MCKEAN: No. I have the latest newsletter. It's just going out I guess Friday or today or whatnot, so a couple to distribute some for the audience as well.

Key high points of really upcoming. Payomet has a really fantastic new summer season with Kevin Rice as the new artistic director, and we have a few highlights here. May 19 we have our annual AmeriCorps clean-up day. We're looking for volunteers, if anyone's interested. And the other thing is on Saturday, July 12, from nine to one, we're doing our third annual Highlands Fest. It's being put on by the partnership collaborative, which includes the Center for Coastal Studies; Highlands Center, Incorporated; the Fine Arts Work Center; Truro Center for the Arts at Castle Hill; the Seashore. And let me see. AmeriCorps Cape Cod, who is one of the major organizers.

I shouldn't be pointing at Chelsea because Chelsea isn't with AmeriCorps anymore. She is now the planning assistant with us here at the Seashore. She helped put in the successful wind grant that's talked about on page 1 of the newsletter and also put together that fabulous PowerPoint that you just saw earlier.

MS. BOLEYN: Great.

Yes, Peter?

MR. WATTS: I was told that the Payomet Theater moved into a building at the Highlands Center. Is that true?

MS. MCKEAN: No, they'll be erecting their tent again next week. They're still -- they're looking for funds for a bricks and mortar home, but, no, they have not moved in yet. They've got their box office there in a small structure and then the tent.

Please come because they've got a great lineup.

MS. BOLEYN: Rich.

MR. DELANEY: Just a point on this summer schedule, coming attractions that Lauren mentioned. "Portrait of a Coast," which will be debuted on Friday, June 13, I've seen a preview of that, and it really is excellent. Jim Gabriel did this film or a version of this 20 years ago. He's updated it, and it's really instructive. It's all the coastal changes we've lived with here in the last 20 years.

MS. BOLEYN: That's great. I didn't know it was done.

MR. DELANEY: Yeah, so you'll see it debuted, but it mentions the fund-raiser too for a couple good charities -- couple good organizations.

MS. MCKEAN: I think what's really exciting about what's happening now at the Highlands Center and with the partnership collaborative is it's figured out how to work together and do things. Like joint fund-raisers are now happening amongst the partners, and it's starting to come to fruition.

You'll also see this summer that the kiln building will be constructed. I think we've written about it in a previous newsletter. It will be started in June. Castle Hill will run the kiln, but (inaudible) funding the construction of the kiln structure itself.

So it's great. All the partnerships are really coming into play.

MS. BOLEYN: Lance?

MR. LAMBROS: Just quick to let you know we're very proud at AmeriCorps to be interactive with the Seashore in a whole bunch of different ways, and many of our people have stayed on working for the Seashore and other towns down here. But this year for the first time we actually have more requests than we have AmeriCorps people to do those. So we broke into groups last week. People have sent us applications, but I did see some that came through the National Seashore. And I know from my package they came in on a point system, and they were right at the top. And I suspect that's how it's going to be for other people too. So I suspect that they will continue to be, but one of the things that I want to say as more requests come in, we're in the hundreds of thousands of service hours and multiple millions of dollars. I think it's important that you highlight some of the things that are being done by AmeriCorps with the National Seashore so people know about it.

MR. PRICE: Absolutely.

MR. LAMBROS: So if we can do that in the future, that would be great.

MS. McKEAN: (Inaudible).

MR. LAMBROS: I do indeed. Thank you very much. I appreciate that.

MS. BOLEYN: AmeriCorps has really made a huge difference out there.

MR. LAMBROS: They have.

ATLANTIC RESEARCH CENTER UPDATE

MR. PRICE: I had Atlantic Research Center down, but there's really no additional update. The facility is up and running. And at another point there will be another field trip up to that end of the woods.

CENTENNIAL CHALLENGE

MR. PRICE: Centennial Challenge. I've reported in the past we were in for funding. The funding has arrived. And we've done a number of things with it. We've received over \$800,000 for additional staff both for underwriting the lifeguards as well as new staff and maintenance and law enforcement and interpretation. All of these people have now been hired, so they'll be on for the summer.

We also received additional funds, as I've mentioned, for two things. One is the Old Harbor physical restoration, and that will be going to contract when, Ben?

MR. PEARSON: We're just writing the specs as we speak. Probably be hopefully sometime in June.

MR. PRICE: June. So we did a field trip to that earlier this year, and we're really looking forward to getting that place in shape.

MR. SABIN: What kind of completion date will that -- for work done?

MR. PEARSON: It will probably be fall before it all gets completed, but we're hoping to have the siding, new siding on the building sometime this summer, and we're going to be moving the National Park Service, NPS crew. And from our Race Point Ranger Station rehab project, we're going right into the Old Harbor and starting on that. So that will all be happening within the next month.

MR. PRICE: And then the other part of it that's right in this area, and that is, if you recall, we also received some monies towards heathland restoration or disturbed lands restoration, and coincidental with our hunting environmental impact statement we made a commitment over the next 15 years to do a major heathland restoration out here in the Marconi area. And we're under way with that. Dave Crary's crew is committed to do about 30 acres this year, which is really substantial. Ironically, the clearing that you're seeing out here now with the controlled burn is not the same project. This is actually a longer term planned project to reduce the fuel loads in and around the headquarters area. So that's what you see going on right now.

So we're very happy to have these funds, and I should stop right there. However, you all need to know that these are all 100 percent dedicated funds, so these are not additional monies that get spread around. So just like every homeowner, our electric bills, our fuel bills, all these other fixed costs have gone up, and we will have not gotten those monies to cover those. So it's an odd situation to be in when you have a staff and a program this large because, you can imagine, that's a pretty high bill to have to pay. And it has impacts elsewhere, on the schedule and on the impact of the staff. So those are things that we're certainly all juggling when you hear about them.

I guess two other things. One is that we still continue to get an awful lot of positive feedback about the wreck, and if you haven't seen it recently, if you saw the picture in the paper over the weekend, you ought to go up and check it out before it gets totally buried because we anticipate that the wreck was either going to be buried or washed back out to sea. But we're still getting swarms of people up there to see the shipwreck. So it's really enticing.

We're very pleased with the continuation of the vista clearing that's happening, especially around the Salt Pond Visitor Center. And I got to see some whales yesterday. I went up to check them out. There were still several of them hanging around Race Point. And I know that has just -- you know, the Park (inaudible) tells me the parking lot's been full. Really, again, that's captured the imagination of folks. So it's an exciting place to be when these things happen. That's for sure.

MR. WATTS: George, did anybody actually see the wreck come out of the ocean?

MR. PRICE: Well, no, because at high tide the water is banging against the cliffs. There is no rack line.

MR. WATTS: I mean, I've looked at it a number of times. It's hard to believe that it could float.

MS. BOLEYN: But the thing is, there's another instance where that happened also. Even though it's waterlogged, the force of the water can still move it. If it gets freed up from the sediments offshore, the force of the water can still move it around. It's just so powerful. Even though it's -- it's not bobbing like a cork.

MR. WATTS: That's for sure.

MR. PRICE: Okay, that's my report.

WIND TURBINES/CELL TOWERS

MS. BOLEYN: Anything about the wind turbines?

MR. PRICE: No new information.

MS. MCKEAN: Well, Nauset Regional High School is actually planning a wind turbine. We have not seen the feasibility study at this point in time, but we were contacted by a company that's doing the feasibility study. So we've asked for a copy when that's completed. And I believe they're talking about doing a large-scale wind turbine in the megawatt range, which is hundreds of feet tall. So we'll be interested in that.

And then George reported on David Guertin, the Provincetown DPW director, who had contacted us to let us know that the town is considering a cell tower at the wastewater treatment site. Chelsea and I went up and had a site visit with David and a couple of other people the other day to look at the potential site. They're talking about, you know, a lengthy review process of DRI, development of regional impact review through the Cape Cod Commission, et cetera, about (inaudible) a balloon flight at that location.

So it's pretty straightforward.

MR. PRICE: And this is the same cell tower site that they had investigated previously. In fact, it had been under contract to a previous vendor. And so the vendor just never exercised their prerogative to construct the tower.

MS. BOLEYN: I see. Thank you very much, George.

OLD BUSINESS

MS. BOLEYN: Moving on then, if there are no more questions for the superintendent, that brings us to Old Business. Is there any old business to come before the Commission? (No response.)

NEW BUSINESS

MS. BOLEYN: Any new business? (No response.)

MS. BOLEYN: We took care of most of that.

DATE AND AGENDA FOR NEXT MEETING

MS. BOLEYN: Date and agenda for next meeting.

The chairman suggested that we leave the date open as we may not need a meeting in June and that we simply hold off instead of setting a date to see if we need one. If we do, we can call it for a Monday. It is looking like we probably won't, I would think, and so we might be waiting until September.

MR. PRICE: I think the point is that at this stage -- usually our meetings are earlier in the spring, and we've had a June meeting. The fact that it's almost May --

MS. BOLEYN: Yes.

MR. PRICE: -- the question is whether a June meeting is actually going to be necessary or not.

MS. BOLEYN: Any thoughts about that, anyone? (No response.)

MS. BOLEYN: Okay to leave it open? Yes?

MR. SPAULDING: I would suggest that we leave it open, but maybe we might just think of some June meeting that might be possible so that if we needed to have one at least we're all here and we have a date without suggesting that we have a meeting on that date.

MS. BOLEYN: Yes, in fact, we've done that in the past.

MR. SABIN: At what point do we get reestablished, George?

MR. PRICE: Congressman Delahunt's staff has told me that they've filed the legislation for the reauthorization of the Commission for another ten years, and basically what they're going to do is I think just attach it to another bill that's going through. But we've been basically told there's not a -- they're not anticipating a problem because, unlike other commissions, you all don't have a budget.

MR. SABIN: You noticed that.

MR. PRICE: Well, for instance, when I was with Lowell, the Lowell Historic Preservation Commission, they had a development budget because they were the development on the park. So it's a lot more controversial, but you all really justify the case, that we think with the Park the way that it is integrated with the six towns, that it's still critical to have this sort of connection with the towns, with the county, and with the state, and therefore, (inaudible) the Park Service do believe it's certainly an important endeavor.

Of course, I would have to check -- we'd have to see Ron's schedule, but at this point if we were going to just put a tentative out there, would the 16th or 23rd work?

MS. BOLEYN: Either one would work for me.

MR. LAMBROS: Either one is fine with me.

MR. PRICE: Why don't we pick the 23rd as a possible. And then we'll -- and, of course, I'd have to let you know. Actually, Scottee is not here. How soon would I have to make that call anyway for the notices?

MR. LAMBROS: Two weeks, George?

MR. PRICE: Oh, no.

MS. BOLEYN: Oh, no, it's much --

MS. MCKEAN: It's more than a month.

MR. PRICE: It's like two months. That's part of the problem.

MS. BOLEYN: Yeah, that's part of the problem.

MS. MCKEAN: Do you recall, Brenda?

MS. BOLEYN: It's two -- you have to allow two months, I think.

MR. SABIN: And the Commission, current Commission expires September 28, so you assume we will be reestablished before that time?

MR. PRICE: Yes.

MR. DELANEY: We're in the two months already.

MR. SPAULDING: Yeah, if it's two months, we're not going to have a meeting in June.

MR. PRICE: Well, let's leave that tentative date, and then we'll see.

MS. BOLEYN: Any agenda items that we can identify at the moment? Updates mostly on --

MR. PRICE: It's mostly updates, and also, as you all know, we did the field trip.

Actually, I think, Peter, you should know we actually did go to the Atwood-Higgins house.

AUDIENCE MEMBER (PETER CLEMONS): Great.

MR. PRICE: I wanted to show them. Really it was a three-pronged objective for those that hadn't been there in a while to kind of just reacquaint.

We've mostly completed the work done by the historic preservation crew up in Lowell. We're just finally hooking up, I guess, the sprinkler system. And then we talked about some of the historic leasing potential. There were three prongs. So the restoration of the house, physically seeing the site, and the potential -- because our plan at this point is to try to come up with a historical leasing instrument which would allow us to use a lease for the outbuildings, although, as Ed points out, they're in really rough shape. So the question is, who's going to take that project on? But at least we're going to give it the college try.

We have a couple of other -- we put out some ideas of other potential field trips to see if you're interested.

MS. BOLEYN: Rich?

MR. DELANEY: I'm not sure if it's in next month's or two month's agenda item or maybe something that we ought to address now, but the ocean management initiative at National Park headquarters has begun. Is there any update or something you can briefly describe now?

MR. PRICE: Sure. As Rich specifically knows because we've talked about this because he's involved with the state ocean's initiative, the Secretary of the Interior and the director of the Park Service has really taken on the whole ocean's initiative. This is something they consider to be very important. In fact, we had a meeting of federal agencies, Rich, as you know. Carrie and I attended it. It was up in Maine. And the concept is this whole issue with oceans having to do especially with climate change, sea level rise, the quality of the water, the impact of the fisheries obviously is of critical interest. And when you take a look at all the federal agencies that have ocean properties, that's quite a lot up and down the East Coast.

So there was an agreement signed with four federal agencies, Fish & Wildlife, USGS, NOAA, the Park Service. I'm thinking I'm making a mistake here. Maybe NOAA -- maybe USGS wasn't there and it's a different one.

MS. BOLEYN: Is the Coast Guard involved?

MR. PRICE: No.

So the concept was they're either national parks or wildlife preserves. So, for instance, there were people from the Cape, from the Seashore, from the reserve in Falmouth.

MS. BOLEYN: Yes, WBNER.

MR. DELANEY: Waquoit.

MS. BOLEYN: Waquoit Bay.

MR. PRICE: Waquoit Bay and then Monomoy.

So this is really the first time we as federal agencies all came together under that auspices. And then we talked about -- obviously we need to work closely with the nonprofits, and we need to work closely with the state agencies in order to make this a real viable program down the road. And I think they were talking about a much

larger get-together, probably up in Maine at some point in the fall. That was something I was going to talk to you about, but I don't know that there was anything specific on that. I also know that the Under Secretary had a command performance of all the senior managers, including all the regional directors of the Park Service out in Pennsylvania the last week or the week before on this same topic.

So at this point I think it's safe to say it's really setting the stage of at least getting the feds active because I know it's hard to believe, but as federal agencies, we don't always talk to each other.

MS. BOLEYN: Yeah, that's hard to believe.

(Laughter.)

MS. BOLEYN: So this is really sort of just germinating now to coming together?

MR. PRICE: Yes.

MS. BOLEYN: So objectives haven't been set?

MS. McKEAN: I just read this.

MR. PRICE: Actually, Chelsea, would you do me a favor. There's a whole stack of these in my office in a box in front of the desk. We can pass those out.

I believe I might have passed this out before, but it was old information. And this really focuses more on just the Northeast region. Brenda, I think this would be useful information to give you an idea.

The fellow who is heading up the program here in the Northeast, Barry Sullivan, is the superintendent of Gateway National Recreation Area, and he's been tapped by the Secretary to really represent the Park Service on a lot of these things. And he's the one that I'm working most closely with on this initially. So from our park it's myself; Carrie Phillips, who is the chief of natural resources; the chief ranger; and Sue Moynihan. So it's more than just a management involvement.

MS. BOLEYN: Thank you.

MR. PRICE: Rich, I don't have really anything else to report on. I'm glad you brought it up. In fact, I don't believe I've gotten any proceedings from our meeting in Maine. It was at another reserve up in Maine that --

MR. DELANEY: Wells. Wells Beach --

MR. PRICE: Wells.

MR. DELANEY: -- National Estuarine Research Reserve.

MR. PRICE: Yes, that's where it's held.

MR. DELANEY: Yeah. Good. Well, thanks for the update. It's a very exciting possibility. It's great to see the federal agencies coming together around oceans, and among them they probably are the largest landholder behind probably the Department of Defense and maybe the Catholic Church. They have a lot of property on the coastline too.

MR. PRICE: Can I make one footnote here, by the way. Not that I'm going to give you what I did on my vacation, but I was away on leave all last week. I was down at St. John's in the Virgin Islands. It was a trip that we had planned for for a long time. And I really enjoyed snorkeling. I was really looking forward to it. And I don't know how many of you have been down there and snorkeled on the reefs in the past, but I'm literally blown away. I wasn't on a live reef in four different beaches. So they were all gray. They had all basically died. There was a live coral here or there. There was a fan coral here or there, but they had all bleached.

Ironically, I ran into Graham Geise right after that. He lived down in Puerto Rico for a long time doing some of his research, and he's very familiar with all of these beaches, and he said this is a phenomenon that the scientists really don't understand yet what is the cause. Is it sea level temperature rise? Is it human flow off the mainland? Is it a cyclical problem? Reef scat? But I'll tell you, Rich, it was really scary. Not quite as dramatic as our salt marsh

dieback issue we have on the Cape, but I was really taken back from it. So I'm going to have to do a little more -- there were interpreter signs that said to people this is what's happening, but they don't really have answers yet. But it certainly demonstrates how widespread an issue can be, and we can only imagine the implications from that.

MR. DELANEY: There is major -- I think this year is the year of the coral reef. But there's a major focus on reefs. And not to go into a long description, but the immediate impact that we can detect is the land side pollution that's coming from some of those islands onto the reef. But the long-term, more dramatic impact could be the sustained change in water temperature, in climate and so forth. So it's a very complex set of scientific equations, and fortunately, there's some focus happening. Hopefully, it will deal with some remedies.

MS. BOLEYN: It's very scary.

MR. PRICE: It was one of these things where I promised my wife I wasn't going to do any business on this vacation, and after I saw my second and third dead reef, I went to the superintendent's office and had a meeting.

AUDIENCE MEMBER: George, when you say it was dead and it had a gray appearance --

MR. PRICE: Yes.

AUDIENCE MEMBER: -- it absolutely (inaudible) dead? It wasn't like (inaudible)?

MR. PRICE: Well, Rich might actually know more than I do. It's my understanding --

AUDIENCE MEMBER: I've traveled those beaches as well, but I haven't --

MR. PRICE: Before or after?

AUDIENCE MEMBER: Eight, nine years ago.

MR. PRICE: Were they still colorful?

AUDIENCE MEMBER: They were fabulous.

MR. PRICE: Yeah. No, I've snorkeled in Bermuda and seen the live reef myself, and it just all looks like gray. It's all grayed out, except for every once in a while you'll see obviously one piece of green coral or one fan or something like that that still has got its color. Very few varieties of tropical fish, not nearly what you'd expect.

AUDIENCE MEMBER: There's quite a bit -- one of those beaches -- I forget which but they had actual labels on the trail.

MR. PRICE: On the Virgin Islands, there's a national park, and they have a number of those trails because a lot of their property is the underwater protected areas.

AUDIENCE MEMBER: I was just wondering about one or two live ones or (inaudible) new ones that might be coming back or just the ones that (inaudible).

MR. PRICE: Yeah, I don't know enough. And the superintendent was brand new to his position, and he didn't really know anything. So we're all connected in networks separate from even the oceans thing, but we're involved with a northeast coastal network of all national parks. And they're involved in a different network because they're in a different region, but the same (inaudible) reported by Carrie Phillips and her scientists that work on all the projects here in the Cape, the Virgin Islands -- I saw some of their (inaudible) monitoring staff, and there are people focused on those things. And then they work with universities on other things, but it's pretty scary, frankly.

MS. BOLEYN: It certainly is, and it takes a long time for corals to recover. And the coral that's now bleached can't recover.

MR. PRICE: Brenda, you said you used to take field trips down there.

MS. BOLEYN: Yes, yes. Well, coral, as you know, is a little polyp. It's a little soft polyp, and there are thousands and thousands of those. And then each of those has algal components that --

they're endozoic algae that live inside the animal, and all of those pieces are needed to keep the thing alive.

MR. PRICE: So do you know the question then? Once a piece of coral dies, is it just in a dormant state or is it dead?

MS. BOLEYN: No, it's dead. It's dead because the little polyp actually secretes the calcium carbonate that makes the cup that it lives in.

MR. PRICE: So it's pretty dramatic. I know I was going to hit the Internet at some point when I have a chance.

MR. SABIN: When you have nothing else to do, right?

MR. PRICE: When I have nothing else to do.

(Laughter.)

MS. BOLEYN: Well, thank you. That's a really important global problem everywhere.

That brings us to Public Comment. Is there any --

MR. SABIN: Are you going to develop an agenda for the next meeting whether it's in June or September or not?

MS. BOLEYN: Well, let's get --

MR. PRICE: Well, I guess the question is, are there any hot agenda items you would like to see explored?

MR. SABIN: I'd like to see the bike path thing get a little more explored, but maybe it's too soon to even talk about it. But maybe by September there'll be a little more.

MR. PRICE: Perhaps. We certainly could give you an update of where we are. I mean, this is a situation where we're not going to be presumptuous with the towns on either the bike trail or the parking situation because we want to engage them and their representatives in this dialogue.

MS. BOLEYN: Actually, that was a question that I had. Do you see bringing together some kind of a group of representatives from the towns that would be involved in the planning?

MR. PRICE: I'm sure we will. Lance talked about Clay Schofield's involvement through the Commission. We rely a lot on his services. As you know, he and Ben really worked on the flex program in that same way, that same model. We believe it's effective, although it might tap different people in the community, but I know -- I think Fred Vickers (phonetic) and Pam are the only ones I've talked to recently about it because I know they have a number of community people who are interested in it. So I expect they'll form maybe a committee that will represent Truro, for example.

MR. PEARSON: I know Eastham has a bike committee. I'm not sure if some of the other towns do, but we definitely want to involve their work groups that they have going in the towns, if they have them.

MS. BOLEYN: Good.

Larry?

MR. SPAULDING: One issue that Lauren might check in. I just kind of sped read Ben Zehnder's memo here and one of the issues he raises. And I don't know enough to know what the answer is. Should the superintendent be required to obtain the approval of the Commission before filing an appeal, which is different from having the status to file an appeal? And if that issue hasn't been addressed, I think it would be helpful if your attorney took a look at it.

MR. PRICE: Actually, this commission is an advisory commission.

MS. MCKEAN: And it has a specific land use role --

MR. SPAULDING: I agree.

MS. MCKEAN: Sorry. The specific land use roles that you all have been given is to review the certificates of suspension from condemnation on commercial property. So that's what we'll be bringing the renewal of the commercial property certificates before you over this calendar year, but it's really specific to that issue in terms of your advice. But, no, there wouldn't be any requirement to get approval before appeal.

MR. SPAULDING: Okay, I don't know the answer because I just looked at it, but I think that's something that we ought to determine as a commission. I personally --

MR. PRICE: There's not the opportunity for me to get approval from you.

MR. SPAULDING: I don't want you to have to get approval, so you know where I'm coming from.

(Laughter.)

MR. PRICE: I can't --

MR. SPAULDING: He's raised the issue in his brief.

MR. PRICE: Well, he's raised the issue, but as a manager, I can't abdicate that decision-making authority. MR.

SPAULDING: I don't want you to, but if your opinion is sufficient to tell us that, fine, as opposed to your counsel who said that you had the authority to take the appeal. I just think we should resolve that as a commission. I don't want to be in a position where we or George has to have our authority to do something.

MR. PRICE: And you don't. You're advisory.

AUDIENCE MEMBER (ATTY. ZEHNDER): If I might, I'm not suggesting that legally that George has to come get your granting. He's absolutely right. I don't think you have the legal authority to tell him when to or not take an appeal. I'm not suggesting that. What I'm suggesting is that --

MR. SPAULDING: That's what you said in your heading.

AUDIENCE MEMBER (ATTY. ZEHNDER): Well, what I'm suggesting in the memo is that because this board's role I think is not so much as a legal board that gives or doesn't give authority -- it doesn't. Its role is as an advisory commission that works with the superintendent in terms of matters of intertown relationships. So the question becomes with regard to this board, what is the role of this board in providing either feedback to the superintendent or being informed of what's happening so that you can manage in some way the relationship between the towns, the sponsoring towns, of which there are members here, and the Seashore itself because there are larger issues than just whether or not to take an appeal? One of the examples, for example, is right now there's a writing from the superintendent to the planning board of Wellfleet that suggests that because the Town of Wellfleet has not had some of its bylaws approved by the Secretary of the Interior that all of the certificates of suspension in the Town of Wellfleet are suspect and (inaudible) wrong at this point. That's an issue I think of general concern to all the certificate holders in the Town of Wellfleet, and it has something to bear in terms of what the relationship between the towns and the Seashore is.

So there's more to it than just whether this particular project is appealed. It's what is the relationship of the Seashore through the superintendent and the towns by way of the fallout from these particular representations about whether the certificates (inaudible) suspect or not suspect and what is the status of the zoning generally in the Town of Wellfleet and by extension Truro and Eastham and PTown.

So I think what we're asking is that, is there a policy or a way for this board to actually be informed of what's going on to give some feedback to the superintendent and to act as sort of an advisory body, not that you have -- and I agree with George. There is no mechanism for this board to say you can or cannot do something.

MS. BOLEYN: We have no authority.

AUDIENCE MEMBER (ATTY. ZEHNDER): No, you don't, and I don't suggest that you do.

MR. SPAULDING: Then the heading is a little bit misleading in your brief.

MR. PRICE: No, but the feedback and advisory is.

MR. SPAULDING: Okay.

MS. BOLEYN: There is always the opportunity for this board to be informed and discuss anything that's of importance to the Seashore and the people who live here. Anything.

MR. SPAULDING: At least with George I've found that he's terrific in the superintendent's report in giving us any of the issues that we need to -- where he wants some advice from the Commission and setting them forth for us. I don't think it's our job to go out and find issues. If he thinks he needs advice, then he can ask us.

(Laughter.)

MR. PRICE: No, but I think -- and Ben actually brought up a point.

Remember, Brenda, it isn't like you have no authority. You are a federal advisory commission set up under the Department of the Interior as an advisory commission. This is a big deal, okay. This is not a small deal. I would not be able to bring together a group like yourself at an ad-hoc basis and ask your opinions or ask for your feedback. Then I would be thwarting my authority because I'd be going against the Federal Advisory Commission Act.

MS. BOLEYN: That's right. It is a big deal.

MR. PRICE: It is a big deal.

MR. PRICE: So the fact that you are an established commission, the fact that, as Ed said, Congress needs to reauthorize this, that you're all appointees of the Secretary of the Interior allows us to have this conversation. If I were to do this differently, then I would have to follow the Environmental Protection Act in a very different way, which we can do. I mean, we do that. When we're going to do the Herring Cove bathhouse, I'm going to have public meetings, and we did the input from the community for the federal roads up there. We had public meetings. But as far as this group is concerned, consulting different people, this is why it's important under the dune shack discussion that I want to have -- bring in someone to help us with the facilitation. I want to be under this umbrella because that allows the widest range of discussion possible without crossing the line into dangerous territory. So your advice and feedback is important in that respect, but it is fundamentally different than -- than approval.

MS. BOLEYN: Yes. You know what this brings to mind? It might be useful for us to review the Federal Advisory Committee Act. It's a very, very important document, and for the Advisory Commission to exist under that act is extremely significant.

MR. PRICE: Right, and you all are the Advisory Commission members. I am not. I'm the FDO. I'm the federally designated official. Okay, so that's my role. So we all have a role, and it would be something maybe to review, Brenda, especially when we get reauthorized.

MS. BOLEYN: I think that's a good idea.

Lauren?

MS. McKEAN: I have a potential agenda item for the fall. I apologize. George wasn't here last week, so I didn't get to talk about it with him, but that is putting the certificates of suspension from condemnation for commercial properties on the agenda. Specifically there is an authority of the Commission on that. It says no permit for commercial or industrial use of property located within the Seashore shall be issued by the Secretary, nor shall (inaudible) if such advice is submitted within (inaudible). The last time we reviewed these five years ago, we presented the case history of each of the nine properties to the board, to the Advisory Commission, and then I think it wasn't until the next meeting or the meeting after that there was advice of the Commission to reissue --

MR. SABIN: How many are up for discussion?

MS. McKEAN: The certificates.

MR. SABIN: How many are up for discussion this time?

MS. McKEAN: Nine.

MR. PRICE: Nine more or the same nine?

MS. MCKEAN: The same nine. It's just five years later.
They're five-year permits.

MS. BOLEYN: Yes, good. Thanks.
Anything else?
(No response.)

PUBLIC COMMENT

MS. BOLEYN: Any one of our guests who would like to speak?

AUDIENCE MEMBER (PETER CLEMONS): Sure.

MS. BOLEYN: Mr. Clemons?

AUDIENCE MEMBER (MR. CLEMONS): Peter Clemons. I hadn't planned on saying a word, but what the heck.

I think it's a good time to mention that Mr. Kaufman isn't here. His e-mail to me this morning assured me that the dune shacks were very high on his agenda and that it was extremely important to him to work on this subject. And unfortunately, he's not here to hear the superintendent's report. Neither is Mary-Jo Avellar, who's our Provincetown representative to the Advisory Commission.

Frankly, there wasn't a whole lot to hear on the dune shack issue. I know George Price has put it on the agenda for quite a while, and it continually amazes me how four generations of traditional cultural property, which is our group, that the science that went into the study that Dr. Wolfe did with Dr. Ferguson and that went to the very top of the National Park Service and was denied, all of the people here who do pay a lot of attention to science ignored that study and refuted it.

Anyway, the point is I don't think the humor that was sort of generated when the subject of dune shacks and someone said of not being able to lead the study -- there's generally four generations of people of dune dwellers who have waited very patiently for this management plan, this schedule to come about, and it's a little bit -- it is funny, but it's not funny if you're one of us. And there aren't many of us left, and you pay a lot of attention to other species, and it's all great. The National Park Service is great. The Seashore is great. We love it, but it's not working for the dune shacks. And it's not your fault, but we've been through four or five superintendents just in my experience. Everybody starts the ball rolling all over again. Maria Burks when -- Brenda remembers this whole blue ribbon committee to come up with a solution. We cooperated. It was very wonderful to have an ethnographer interviewing us. The study was done. Its science, Bulletin 38, suggested that we were traditional cultural property, and that has pretty much been our -- that is our only request right now, that we -- that the science be listened to behind that report. And we'd love it if you as a group would read that report carefully and give us some reason that it didn't fly, that it wasn't accepted. And that's pretty much my comment.

I'll stick with these advisory commission meetings. This is the only chance really for the public to hear what is being discussed, and frankly, it's an interesting meeting. I'm very interested in all of these things, but the dune shacks deserve after four generations of, you know -- like when Lauren was doing her PowerPoint demonstration, some of those facts are very much central to the dune shacks. They were exempt from -- they were supposedly going to be exempt from condemnation. In many cases the property under the shacks was owned by -- they should have been treated as such. The zoning issues, all of that's interesting. Deal with the dune shacks, please. This is like waterboarding us to death, okay. Thank you.

MS. BOLEYN: Thank you.
Anything else to come before the Advisory Commission today?
(No response.)

ADJOURNMENT

MS. BOLEYN: May I have a motion for adjournment.

MR. SPAULDING: Aye.

MR. DELANEY: Second.

MS. BOLEYN: Meeting adjourned. Thank you very much.

(Whereupon, at 2:51 p.m. the meeting was adjourned.)

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 90 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, April 28, 2008, commencing at 1 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 this 21st day of May, 2008.

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