

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

TWO HUNDRED AND SIXTY-NINTH MEETING

HELD AT CAPE COD NATIONAL SEASHORE, Marconi Station
Area, Park Headquarters, South Wellfleet, Massachusetts, on
Monday, September 14, 2009, commencing at 1:08 p.m.

SITTING:

Brenda J. Boleyn, Chairman
Richard F. Delaney
Edgar W. Francis III
Sheila Lyons
Judith B. Stephenson
Mary-Jo Avellar
Peter Watts
William Hammatt
Edward Sabin
Richard Philbrick
William Clark

Larry Spaulding, alternate

Also present:

George Price, Superintendent
Kathy Tevyaw, Deputy Superintendent
Lauren McKean, Management Assistant
Susan Moynihan, Chief of Interpretation and Cultural
Resources
Bob Cook, Acting Chief of Natural Resource Management
Erin Der-McLeod, Assistant

Audience members

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P R O C E E D I N G S

MS. BOLEYN: Okay, it's past one. We have a quorum. Welcome. Thank you, everyone, for coming.

The new face at the table is Sheila Lyons, who will become our county representative when the paperwork gets through Boston, and she is presently the chairman of the County Commissioners.

Welcome.

MS. LYONS: Thank you.

MS. BOLEYN: It's nice to have you here.

MS. LYONS: It's great to be here.

MS. BOLEYN: And hails from Wellfleet.

MS. LYONS: Yes, so I have a vested interest.

(Laughter.)

ADOPTION OF AGENDA

MS. BOLEYN: Everyone has a copy of the agenda.

APPROVAL OF MINUTES OF PREVIOUS MEETING (JUNE 19, 2009)

MS. BOLEYN: May I have a motion to approve the agenda as presented?

MS. AVELLAR: So moved.

MR. FRANCIS: Second.

MS. BOLEYN: Any discussion? Any additions?

(No response.)

MS. BOLEYN: All in favor?

1 BOARD MEMBERS: Aye.

2 MS. BOLEYN: Thank you very much.

3 Could I have a motion to approve the minutes of the
4 previous meeting, which was in June, I believe?

5 MR. SABIN: Can we have corrections?

6 MS. BOLEYN: Oh, absolutely. We'll get a motion on
7 the floor first.

8 MR. SABIN: Motion for what?

9 MS. BOLEYN: Motion to approve the minutes.

10 MR. DELANEY: So moved.

11 MR. WATTS: Second.

12 MS. BOLEYN: Now we're open for corrections or
13 suggestions. Yes?

14 MR. SABIN: Just two comments. On the list of
15 attendees at the meeting, I note you've listed two
16 alternate people. You have listed. My alternate Don
17 Nuendal was also here, so if you're going to list two of
18 them, I suppose you should list three of them. Don
19 Nuendal is his name.

20 MS. BOLEYN: Nuendal, N-U-E-N-D-A-L.

21 MR. SABIN: He was here at the last meeting.

22 MS. BOLEYN: Okay.

23 MR. SABIN: And then on page 14, there is one
24 statement that's attributed to -- line 4 on page 14 is

1 attributed to Mr. Kaufman when, in fact, I think it was
2 Mr. Price speaking. It just didn't sound like Mr.
3 Kaufman's words to me.

4 MS. BOLEYN: Good eye. I think that's correct.

5 MR. SABIN: Is that correct?

6 MR. PRICE: Yes.

7 MR. SABIN: Okay, that's all.

8 MS. BOLEYN: So on page 14, line 4, we've replaced
9 *Kaufman* with *Price*.

10 MR. SABIN: Right.

11 MS. BOLEYN: Thank you.

12 Any other suggestions or comments?

13 (No response.)

14 MS. BOLEYN: All in favor?

15 BOARD MEMBERS: Aye.

16 MS. BOLEYN: The motion to approve the minutes
17 stands. Thank you.

18 **REPORTS OF OFFICERS**

19 MS. BOLEYN: Reports of Officers. Well, this
20 officer will report on just a couple of things. One is
21 I want to report that I was very excited to see the flag
22 from the Capitol building in Washington go up the brand-
23 new flagpole up at the Highlands Center. And I've
24 forgotten what date it was, but it was the date of the

1 parade in Truro where we were having part of our 300th
2 committee meeting. And the Seashore had a special
3 welcoming festival at the end of the parade. It was a
4 gorgeous day, and I must say I felt very emotional
5 seeing that flag up there flying. And go up and see the
6 beautiful new flagpole if you have a chance.

7 MR. PRICE: Madame Chair, if I might, that was a
8 flagpole -- there had been a flagpole there, and through
9 the efforts of Highlands Center, Incorporated, they had
10 a donor actually contribute. They announced the donor's
11 name.

12 MS. McKEAN: Yes, Liz and Malcolm Chace.

13 MR. PRICE: Liz and Malcolm Chace actually provided
14 that brand-new flagpole, so it was for their efforts
15 that we have that experience.

16 MS. BOLEYN: Also, I want to congratulate Ed and
17 Shirley Sabin. Maybe you saw this article. They've
18 been recognized for their extraordinary volunteer work,
19 especially highlighting their work for the Seashore, and
20 they were the volunteers who were welcomed and
21 celebrated at the Eastham Windmill.

22 MR. SABIN: It was a nice weekend but exhausting.

23 (Laughter.)

24 MS. BOLEYN: Well, it certainly is a well-deserved

1 honor.

2 MR. SABIN: Thank you. Thank you.

3 MS. BOLEYN: That's great.

4 I also wanted to let you know, following up on the
5 announcement that the superintendent made at our last
6 meeting, about the Ken Burns program. I received a
7 notice the other day from WGBH, so I just thought I
8 would reinforce this and let you know, saying that the
9 program's premiere beginning September 27 through
10 October 2 at 8 p.m. on WGBH. Someone has pointed out to
11 me they repeat these on different public radio stations,
12 so I guess the word is to check your listing. But they
13 start at the end of this month, and from what I've
14 heard, they're just fantastic programs. So that is my
15 report for now.

16 **REPORTS OF SUBCOMMITTEES**

17 MS. BOLEYN: Are there any reports from our
18 subcommittees?

19 (No response.)

20 MS. BOLEYN: Okay. Then that takes us to the
21 Superintendent's Report.

22 **SUPERINTENDENT'S REPORT**

23 MR. PRICE: Sure. I have a number of items to
24 address.

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UPDATE ON DUNE SHACKS

MR. PRICE: The first one on the dune shacks, as you will recall, at the last meeting I was pleased to announce that we had engaged the services of a facilitating group out of Cambridge called CBI, Consensus Building Institute. A fellow named Pat Field is specifically going to help us with the public committee meetings that we'll be having over the last number of months.

We've had the long-awaited subcommittee on the dune shacks officially appointed in August by Brenda as the acting chair. We've sent out letters today to a number of folks to be interviewed, both who are actually on the Dune Shack Subcommittee as well as some other interested parties who have been engaged in the dune shack discussion for many, many years. And the way CBI wants to work is they actually want to have interviews with these folks prior to a public meeting to get an understanding of where the different range of opinions are and what people think about the process and what the outcomes might actually be.

We're particularly -- I'm actually excited about this as the next step. It's been a long and exhausting step for all the folks involved. There's no question

1 about it. But our goal at the end of today is to have a
2 preservation and use plan. So that's what's going to
3 come out of this. We've had all these other studies and
4 all these other involvements over the last number of
5 years of what will be the mechanism for designing the
6 use for the dune shacks and then historic district in
7 the future. So that's really what the outcome will be.

8 We will be sending out -- as of today, we confirmed
9 October 19 in the evening at the Center for Coastal
10 Studies. It will be our first public meeting. So that
11 will be where both the Dune Shack Subcommittee folks
12 will meet as well as any members of the public. And
13 this will be a public scoping meeting, is what they call
14 it. After the public scoping meeting per se, then the
15 Dune Shack Subcommittee will be working on a number of
16 different topics over the course of the winter months
17 leading towards a follow-up meeting, again, another
18 public meeting, that will actually be in the spring
19 where they start to present their findings and start to
20 develop alternative.

21 All of this is under the handle of what we call an
22 EA or an environmental assessment process, which is part
23 of our National Environmental Protection Act decision-
24 making process. The public will also have opportunity

1 during this process to weigh in on the Web site that
2 will have -- documents that come out of this and meeting
3 notes that come out of this will all be posted, and
4 members of the public will be able to have input on that
5 as well.

6 So after much lengthy holding off on getting the
7 committee off the ground, we're now actually activating
8 this, and that's something that I feel very good about.

9 MS. AVELLAR: Do you have a time?

10 MR. PRICE: On the 19th?

11 MS. AVELLAR: Yeah.

12 MR. PRICE: Did we say 6 o'clock? That has to be
13 firmed up, but I think. I think we'll have to get back
14 to you with the very specifics on that. We're just
15 working with Rich on finalizing the availability of the
16 location. So it will either be 5 or 6, and I imagine
17 the meeting will at least go for a couple of hours.

18 So again, this is -- the objective of this process
19 is to develop the use plan, and it's to examine the
20 instruments, as we call them, the type of leasing
21 instruments and the other arrangements, the agreements
22 with nonprofits, et cetera, that we would have to
23 administer this, what would be the decision tree that
24 the superintendents or myself and in the future would

1 use, say, as some of the elderly occupants might pass on
2 who have life right tenancies. So these are the range
3 of things that we would describe out of this process.

4 So I'm really -- I am looking forward to it. I
5 have a lot of confidence in CBI to assist us, and we're
6 also receiving project or program assistance from our
7 folks in Philadelphia and Denver who actually do this,
8 and they're the ones that are actually funding this
9 particular effort. It's called -- what do the initials
10 stand for again?

11 MS. STEPHENSON: Environmental Quality Division?

12 MR. PRICE: EQD, Environmental Quality Division.

13 MS. STEPHENSON: They actually do what? The
14 negotiating with -- or what would you --

15 MR. PRICE: No, it's not negotiating per se. The
16 EQD Division, they are the ones nationally who are in
17 charge of this NEPA decision-making process for our
18 federal agency. So when we go through since the NEPA
19 laws came into effect, our decision-making process for
20 these types of events are supposed to have public input
21 opportunities. So that's what they're assuring happens.
22 The CBI people are helping to facilitate the meetings
23 and gather the input from all of the interested parties
24 because we know that there's a lot of -- everything from

1 emotion to strong feelings to hard feelings involved
2 because of history with the dune shacks. So it's time
3 to bring it all together in one document.

4 MS. BOLEYN: I would just like to comment that I'm
5 very, very pleased that this has been accomplished, this
6 contract with CBI, because I'm convinced that the
7 professional negotiating team would do a very good job,
8 and it's certainly going to help my nervous system
9 knowing that they are there with the protocol all lined
10 up and will be able to carry this out. So it will still
11 be the subcommittee of this advisory commission, and
12 that subcommittee will report to us as the Advisory
13 Commission. But having this professional group actually
14 carry out the public meetings and determine the process
15 actually as dictated by the EQD, I believe --

16 MR. PRICE: Yes.

17 MS. BOLEYN: And they will make sure that we don't
18 slip up and not follow the requirements of the
19 environmental assessment. So I'm feeling very good
20 about that.

21 Thank you, George.

22 MR. PRICE: You're welcome.

23 Does anybody have any questions about the dune
24 shacks?

1 (No response.)

2 IMPROVED PROPERTIES/TOWN BYLAWS

3 MR. PRICE: The next topic that I have on the
4 Superintendent's Report was to just give you an update
5 on improved properties and bylaws.

6 Of course, the cause célèbre is the land court case
7 that we have with the Town of Wellfleet and the zoning
8 board and the Blasch family related to that
9 construction. That land court case has been going on
10 for a very long time, period of time, and there are
11 really two updates that I think we would like to report.
12 I was going to ask Lauren McKean just to give a quick
13 briefing.

14 MS. McKEAN: Okay, sure.

15 On this past Friday, there was a hearing on a
16 motion for temporary injunction that was filed by the
17 Assistant U.S. Attorney's Office on our behalf. The
18 judge heard the case, and the opposition counsel was
19 present, and the judge said that they would rule this
20 week. So we should know something pretty soon.

21 MR. PRICE: But we should note that a request for
22 an injunction was made with the original filing
23 documents as well.

24 MS. McKEAN: Yes, in July of 2008.

1 MS. STEPHENSON: Is this the first time that's been
2 heard?

3 MS. McKEAN: This is the first time it's been
4 heard.

5 MS. STEPHENSON: In that injunction you asked to
6 stop construction?

7 MS. McKEAN: Yes.

8 MS. STEPHENSON: That's what that motion was filed?

9 MS. McKEAN: Yes.

10 MS. STEPHENSON: Okay.

11 MS. McKEAN: And it was filed simultaneously with a
12 motion for summary judgment. The motion for summary
13 judgment will be heard October 23, and there shouldn't
14 be any delay in that hearing. At this point the
15 opposition has put in their counter motion, but I have
16 not heard about any delays. So that should be the time
17 frame.

18 And we have the documents here in terms of the
19 motions if people want copies. We can forward them on
20 by e-mail or just see us for copies.

21 Anything else on that, George?

22 MR. WATTS: I'm a little confused. The federal
23 government is opposing the decision of the zoning board
24 of appeals to uphold the decision of the building

1 inspector.

2 MR. PRICE: Correct.

3 MR. WATTS: So why isn't the Town of Wellfleet
4 represented in this case?

5 MS. McKEAN: It is. It is definitely one of the
6 defendants. It's Wellfleet Zoning Board of Appeals and
7 Blasch Del Mar, LLC.

8 MS. STEPHENSON: Is the defendant?

9 MR. WATTS: Right.

10 MS. McKEAN: Right.

11 MS. STEPHENSON: So was your question whether
12 they're being represented?

13 MR. WATTS: Right.

14 MS. STEPHENSON: By attorney?

15 MR. WATTS: Yes.

16 MS. STEPHENSON: By counsel?

17 MR. WATTS: Yes, absolutely.

18 MS. McKEAN: Yes, by town counsel, Mary Giorgio and
19 Betsy Lane.

20 MR. WATTS: Thank you.

21 WIND TURBINES/CELL TOWERS

22 MR. PRICE: The next topic that I have on my list
23 that we have as just an ongoing topic is wind turbines
24 and cell towers, and frankly, there's been no additional

1 action. We had some discussion, and there's been some
2 correspondence to me back and forth about the proposal
3 that's been put forward for Wellfleet near Whitecrest,
4 but I believe they're still working with the town and
5 permit-type things on that. There has been some citizen
6 requests and inquiries made, frankly, as to why the
7 Seashore isn't trying to come out against this in a very
8 aggressive fashion, and I've been explaining that we
9 went through a two-year process.

10 Peter was working with our group on that, and we
11 kind of took a look at a viewshed analysis to try to
12 figure out where were the real drop-dead views that we
13 would protect because they were really representative of
14 fundamental qualities of the Seashore and then which
15 areas might not be in that particular area. And at this
16 point Whitecrest, for instance, was not in that critical
17 viewshed area.

18 So it wasn't that that was finalized or codified.
19 It wasn't finalized or codified by the board of
20 selectmen or even by this group. Peter reported back,
21 and we wrote out the maps during that exercise, but it
22 was giving us an indication of where we thought the
23 Seashore ought to be. So it's not as if the Seashore is
24 recommending or supporting those placements in that

1 particular location. It's just that assuming that
2 they're going to go through a public process, assuming
3 that they're going to meet all the environmental
4 requirements, I was not going to lead a charge opposing
5 it in that particular location. And again, as I've said
6 to this group, at least my philosophy, and I believe the
7 Park Service's philosophy, is not a case of if, but
8 where. And there are places where we probably could
9 have wind turbines that would help the sustainable green
10 energy, and there are areas where at least most of us
11 believe that the viewshed is so important to support the
12 goals of that particular unit of the National Park
13 Seashore that we would not like to see a structure in
14 that particular place.

15 The other point on wind turbines, some of you may
16 know, the Seashore is actually actively in process of
17 trying to get a wind turbine placement at the Highlands
18 Center. As we activate the facility, we're trying to
19 make it as sustainable as possible and not make it a
20 drain on the grid but provide some alternate energy
21 sources. So Lauren is working on that.

22 MS. STEPHENSON: In what way is she working on
23 that?

24 MS. McKEAN: Right now we have consultants under a

1 contract. We got \$40,000 from the Massachusetts
2 Technology Collaborative, but that was supplemented with
3 \$10,000 by our Washington office and Clean Energy Parks
4 Program to do a wind feasibility study. So we have a
5 contracting firm that's working with us and expected to
6 be completed by late spring, early summer. Over the
7 course of this summer, a lot of the focus was on aviator
8 assessment, the birds and the bats, and into this fall.
9 We just had the consultant in last week, and we have
10 some supplemental data collection that's going on. So
11 we haven't gotten into siting and sizing yet, but we're
12 collecting all the electric bills and all kinds of
13 things and working with consultants.

14 MS. STEPHENSON: And what department was the 10,000
15 from?

16 MS. McKEAN: Our Washington National Park Service
17 office, Clean Energy Parks Program.

18 MS. STEPHENSON: Clean Energy Parks, okay.

19 MR. SABIN: Do you have any concept of how high
20 this -- you're still working on the sites and things.
21 Do you have any concept of how big an operation you're
22 talking about, for example?

23 MS. McKEAN: We're going to look at the number of
24 alternatives. We're doing an environmental assessment

1 under NEPA in order to analyze this as well, but we're
2 going to look at the size of the load based on, you
3 know, what's the existing load at the center now, what's
4 the future load, what's the Park-wide load.

5 MR. SABIN: In terms of physical height of the
6 thing, you don't know?

7 MS. McKEAN: We don't have anything yet, no. We'll
8 be working on that through the course of the winter, and
9 at some point over the course of the winter, we should
10 be doing a presentation for you.

11 MR. PRICE: We also have a much smaller size
12 turbine similar to the one that's out at the Race Point
13 Lighthouse now that we're proposing for the bathhouse
14 area at Herring Cove. So we're not opposed to turbines
15 per se. It's just how big are they and where are they
16 is what we're trying to figure out.

17 MR. WATTS: I just think it should be noted that
18 the Whitecrest site for the wind turbine in Wellfleet is
19 on town-owned land within the National Seashore.

20 MR. PRICE: Yes.

21 MS. AVELLAR: That Mass. Technical -- the MTC,
22 they've already collected a significant amount of data
23 in Massachusetts about where wind turbines can be sited.
24 At the Mass. Municipal Association several years ago, I

1 attended a workshop on that, and we invited them to come
2 to Provincetown. And we know -- you know, I don't know
3 how much more data they had to collect because we
4 already know that Cape Cod is a prime location for this
5 kind of activity. So I don't know how much more money
6 they have to spend to revalidate their data, but the
7 data was already in several -- several years ago, and
8 I'm surprised that I didn't see a turbine out there this
9 summer. I thought I was going to see one.

10 But I do get cell service now at the beach, which
11 is too bad, because all of a sudden I forgot to turn off
12 my cell phone and it rang, and I was shocked. People
13 were getting cell phone calls all over the beach. Did
14 you put a cell tower out there or something?

15 MR. PRICE: Not us.

16 MS. AVELLAR: Because last year you couldn't get
17 cell service at the beach at all and now you can.

18 MR. PRICE: Well, I still had problems the other
19 day.

20 MS. AVELLAR: Well, you have to walk around, but I
21 mean, for the most part, the phone rings, and then you
22 have to find a spot where you can answer it.

23 MR. PRICE: There have been more towers put in by
24 the -- or even a partial booster?

1 MS. AVELLAR: If you're sitting at the north end of
2 the New Beach parking lot, sitting on the beach, you're
3 getting cell phone calls.

4 MR. FRANCIS: Mary-Jo, I think you'll find that
5 part of that is -- because we've had the same thing --
6 the amount of use that the tower is getting. If the
7 tower is getting a lot of use from a stronger signal, it
8 will bump the weaker signals off. So if you go out
9 there at a time when the tower is not getting a lot of
10 use, you will get cell phone. If you go out there when
11 there's a lot of use going on, you will not. It's very
12 spotty.

13 MS. AVELLAR: We do have a wind turbine on
14 MacMillan Pier now. Ugly little thing. It's really
15 quite unattractive, but it's down on MacMillan Pier
16 smack dab in the middle of the view. So if you want to
17 drive down -- if you're in Provincetown and you want to
18 drive down the pier and see what a small one looks like,
19 we have one now to test, a test turbine.

20 HIGHLANDS CENTER UPDATE

21 MR. PRICE: The next section we have is the
22 Highlands Center Update.

23 Lauren, I think I'll throw that to you again.

24 MS. McKEAN: Sure.

1 We had about 300 attendees at the July 19 event,
2 which was, again, a parade for the Truro 300, but also
3 we were asked to provide some activities at the end. So
4 the Highlands Center Partners, which include Highlands
5 Center, Inc.; Provincetown Center for Coastal Studies;
6 Payomet Performing Arts Center; Truro Center for the
7 Arts at Castle Hill; AmeriCorps of Cape Cod; and I guess
8 Atlantic Research Center, all put on various functions.
9 And so it was really well attended, and the townspeople
10 were very pleased.

11 So in terms of the rest of the summer successes,
12 they really were the Payomet summer season, and he ended
13 up with a show that he had to extend two times because
14 it was so popular. And then there were two kiln firings
15 up at Castle Hill.

16 MR. PRICE: And then also Lauren's been working on
17 a sign plan for the Highlands area. It's going to be
18 defined as the Highlands Historic District?

19 MS. McKEAN: The Truro Highlands Historic District.

20 MR. PRICE: The Truro Highlands Historic District.

21 And trying to have some professional signage that
22 would take you off and on Route 6, and then once you get
23 up on that area, clearly direct people to the Highland
24 Light as well as to the Highlands Center activities.

1 We're getting people with the gate open for the
2 Highlands Center coming right by Payomet, and they're
3 going all the way to the end of the cliff looking for
4 the lighthouse. So there is a lot of confusion up
5 there, and we're trying to regulate that. So all the on
6 and off activity is going to be directed to the major
7 intersection, which for those of you who are local is
8 counterintuitive because you want to just take the North
9 Highland Road just to go straight up, but the town, you
10 know, advises against using that as the major access
11 area, and also it's impossible to come out of there in
12 the summer and make a left, as we all know. So that
13 would be setting people up for danger. So we already
14 have this major intersection, so that's what we're
15 doing.

16 So we worked with the people at the Highland House,
17 with the town, with the golf course, with the
18 lighthouse, with the folks at the campus, and then
19 we made a presentation to the Truro Board of Selectmen a
20 couple of weeks ago, and they gave us their sign-off.
21 So now it's a case of working with the state highway for
22 the highway signage and then working with the town on
23 the town road signage.

24 MR. SABIN: Two questions. Your main intersection

1 to get to Highlands Center is going to be on Highland
2 Road rather than South Highland Road?

3 MS. McKEAN: Yes.

4 MR. PRICE: Yes.

5 MR. SABIN: Number two, you said it's going to be
6 a Truro Historic District. Is that going to be a
7 designation as we have at Fort Hill as an historic
8 district? Is it that kind of historic district?
9 Federally anointed?

10 MR. PRICE: Yes. Actually, Bill Burke has been
11 working on that --

12 MR. SABIN: So it's going to be a federal
13 designation rather than a local designation?

14 MS. MOYNIHAN: It already was determined to be
15 eligible for the National Register as Truro Highlands
16 Historic District.

17 MR. SABIN: So it's going to be a federal
18 designation?

19 MS. MOYNIHAN: Yes, very similar to Fort Hill. It
20 just has not been listed. We're working on that now.

21 MR. FRANCIS: And this district will encompass just
22 the old base?

23 MR. PRICE: No, the --

24 MS. MOYNIHAN: No, the district is the lighthouse,

1 the golf course --

2 MR. SABIN: Oh, the whole area.

3 MS. MOYNIHAN: -- the Highland House. Highlands
4 Center is outside the bounds of the district, but people
5 are looking to get to both places. So we're trying to
6 direct people appropriately to the historic district,
7 which is the golf course, lighthouse, and Highland
8 House, and to the Highlands Center.

9 MR. FRANCIS: So the Highlands Center is not
10 actually part of the historic district?

11 MS. MOYNIHAN: No.

12 MR. FRANCIS: It's just the Highland area, the
13 lighthouse and so forth.

14 MS. MOYNIHAN: Yeah.

15 ALTERNATE TRANSPORTATION FUNDING

16 MR. PRICE: Under alternative transportation
17 funding, some of you may be aware of or seen the
18 announcements for the various public meetings we've had,
19 specifically on the bike trails. We've got a lot of
20 participation both from the towns, town officials and
21 planners. Town bike committees have been regularly
22 involved. And a couple of weeks ago we had a couple of
23 meetings here on the Cape trying to capture the summer
24 people, and both meetings were well attended. One was

1 up here in Eastham, and one was down at Hyannis.

2 So again, what we're trying to do here is connect
3 the entire spine. The dream is literally going to
4 Provincetown, and then as towns are typically interested
5 in developing their own bike trails off of that, this
6 will lay out all of these projects, to be able to pick
7 them up as well. So up in this part of the Cape we're
8 obviously still trying to figure out logistical ways to
9 connect the Rail Trail up to our existing trails with
10 the Seashore as well as up to Provincetown and then to
11 make the connections from Provincetown across.

12 OTHER CONSTRUCTION PROJECTS

13 MR. PRICE: Moving into our other funding, I've
14 announced in the past that we received \$4.2 million
15 through the Recovery Act known as the Stimulus Bill.
16 And last week we actually began work on the second half
17 of the Province Lands bike trail. So last year we were
18 able to complete the first half in record time, and
19 there's been rave reviews about that section. All the
20 work that was done last week, we just started with the
21 same contractor and the same contracting supervisor.
22 The contractor supervisors do the work, which is
23 terrific because they did such a wonderful job. It was
24 really great that they actually got the work again. And

1 I bet the majority of the construction will be wound up
2 by November, beginning of December, and then they'll
3 come back in the spring to do the striping and that sort
4 of thing. So that's really quite something.

5 The other part of that recovery money is going
6 towards a variety of other projects. We have several
7 different buildings that we need to complete some fire
8 suppression work. We have a couple of buildings where
9 we have some HVAC work that's actually due. And you may
10 have seen some new construction back here by our
11 maintenance shop. That's our fire cash. We support an
12 entire fire crew with all of their equipment, and we
13 were able to do one half of that building last year, and
14 these funds are going towards the second part of that.

15 As far as other projects coming off the ground
16 sooner than later, we'll also start a public program for
17 Moors Road, a public planning program for Moors Road.
18 So Moors Road is the one that comes out of the -- say
19 the rotary ends of Provincetown and then swings around
20 and enters near Herring Cove coming into the Seashore
21 property. It's a very narrow road. It's very congested
22 with pedestrians and bikers and is also a major artery
23 into that end of Provincetown.

24 So the road just needs generic roadwork. It needs

1 to be resurfaced, et cetera. There's a culvert that
2 goes underneath the street that needs some engineering
3 work because that's being -- there's a lot of pressure
4 put on that at this point. That needs to be replaced.
5 But then most important and we're particularly concerned
6 about is just the crush of pedestrian and bike traffic
7 in the summertime with vehicles and is there a way to
8 alleviate that somehow with a -- to be simplistic, just
9 a bike lane, for example.

10 So on the 24th of this month, there'll be a public
11 meeting up in the Center for Coastal Studies to talk
12 about that. And Karst Hoogeboom, who you've met before,
13 our new chief of facilities, has been working with the
14 professional staff up in the Town of Provincetown and
15 really trying to do some brainstorming on what the
16 possibilities might be. So this is really a planning
17 effort.

18 The other item that I mentioned, Mary-Jo, which
19 might be of interest to you, at the last board of
20 selectmen meeting in Provincetown, I know Austin
21 specifically asked me about that one stretch that was
22 left over from the Herring Cove intersection of
23 pavement. So at the time when we were narrowing the
24 four-lane highway to a two-lane highway up there on our

1 section of the Provincetown area, we intentionally left
2 the other two-lane stretch. And the concept at the time
3 was we were in essence banking it because Provincetown
4 was also going to receive a section of Route 6, and it's
5 my understanding that will happen in January. That
6 basically goes from Shank Painter Road down to our
7 Seashore boundary.

8 So where there are opportunities to do something
9 with that section of pavement, we left it there. It
10 might be a bikeway. It might be something else. But at
11 that board of selectmen meeting, they asked me, "Well,
12 could we turn it into a bikeway now?" and our contract
13 at the time basically cut off both ends, so you really
14 can't safely ride a bike. You can walk over the sand if
15 you want. So as part of the Moors Road work, we are
16 going to be connecting those with a safe macadam bikeway
17 section because I thought that was a great suggestion.
18 We might as well take advantage of it because we're
19 going to have the people up there anyway.

20 MS. AVELLAR: Thank you.

21 MS. LYONS: Could I just make a comment on this?
22 And it's premature because not all of this is going
23 forward yet, but the hope is that it will be soon, is
24 the OpenCape concept, which is bringing fiber optic

1 cable all the way down through the Cape. There is a
2 group of people that have been working on this for about
3 three years. Gary Daly (phonetic) is from PTown and
4 also the Town of Truro. He's their IT guy, is one of
5 the officers of this. And I know that in many of the
6 meetings whenever -- you know, we did cable here, but
7 broadband is a different experience, and for those of us
8 who are like the Coastal Studies or even here or Woods
9 Hole, we're able to download lots of information. We're
10 not able to upload and send it out, and this is
11 something that's critical for a lot of different
12 reasons, to enhance education.

13 So whenever there's -- we looked at those, the bike
14 -- the new bike trails, and we said if this was only in
15 existence now where we could have laid that. Whenever
16 something is torn up and they're going to repave, we
17 should keep in mind that there is an opportunity to lay
18 something cheaper than it would be than if we had to rip
19 it up again. Now, again, it's premature, but as your
20 plans are going forward, I would like to keep you
21 abreast as to how they're making out on that. If
22 there's ever that golden moment where we can coordinate
23 both of those efforts, it would be a great thing.

24 MR. PRICE: Right. Well, certainly on the bike

1 trail effort, we ought to be doing that, and Clay
2 Schofield is leading the charge on that with us, working
3 very closely with the commission, but I think that those
4 opportunities would be great. Gary's been in touch with
5 us, and he's been talking to our IT person because we
6 have the same type of issues in Truro with our science
7 laboratories that are up there.

8 MS. LYONS: Right.

9 MR. PRICE: So we have several science
10 laboratories, and moving the amount of information from
11 that end of the Cape is much more problematic than even
12 from here.

13 MS. LYONS: Yes. So we are partnering with
14 OpenCape right now to try to, you know, expedite this
15 grant process and get this thing moving forward as
16 quickly as possible. It's probably still several -- a
17 year -- you know, a year or two from being a real
18 reality, but we have to keep it in mind when we're doing
19 that. So thank you.

20 MR. PRICE: We talked about this other funding.
21 There's really been no public movement on land
22 acquisition issues specifically with the North of
23 Highlands Campground. That's still with the realty
24 office and the owners up there.

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NEWS FROM WASHINGTON

MR. PRICE: The only other report that I wanted to make off of this was specifically that I was explaining to some of the commissioners that were here for lunch that, unfortunately, the appointment process is still slow and laborious.

And, in fact, Mary-Jo, I was commenting that your appointment and Sharon's were probably the quickest I've ever seen for the commissioners.

MS. AVELLAR: I know, and I thought they were long.

MR. PRICE: But, Sheila, you ought to be aware. I mean, Judith's been waiting for a year.

MS. LYONS: Okay, that's fine. I'll come in. You can put up with me, and if you find out you didn't have to all that time, then I apologize.

(Laughter.)

MR. PRICE: We've had these down, and just the process going through Interior, going through the White House process just takes a long time. So I keep on bugging them, and hopefully we'll get some movement sooner than later.

MS. STEPHENSON: It's out of Interior, though. It's gone to the White House.

MR. PRICE: Yes, White House liaison.

1 MS. STEPHENSON: I'll just call her then.

2 MS. LYONS: Yeah. Who do we know?

3 MS. STEPHENSON: Yeah, I know. Wouldn't that be
4 nice?

5 MR. PRICE: And then I have a tremendously great,
6 glad piece of business to announce, and I'd like to
7 introduce Kathy Tevyaw.

8 Kathy, stand up.

9 Kathy is the new deputy superintendent for the Cape
10 Cod National Seashore.

11 (Applause.)

12 MS. TEVYAW: Thank you, all.

13 MR. PRICE: Many of you will remember Mike Murray,
14 who was the long-term deputy superintendent here and was
15 the long-term acting superintendent when Maria moved on.
16 That position has been vacant for a whole number of
17 years, and Kathy joins us. This is actually her second
18 week, and I'm very excited to have her here. And she
19 has a strong background in education and in the Park
20 Service has worked in a number of sites, so we're really
21 thrilled to have her here.

22 MS. TEVYAW: And I'm thrilled to be here. It's
23 been great.

24 MS. BOLEYN: Great.

1 MR. PRICE: Good to see you.

2 MS. BOLEYN: While you're on that, George, we all
3 heard from a new young lady named Erin Der-McLeod, and
4 she's seated right back there.

5 MS. DER-McLEOD: Hi.

6 MR. PRICE: Some of you remember last year we had
7 Katie Finch --

8 MS. BOLEYN: Yes, yes.

9 MR. PRICE: -- who helped support the Advisory
10 Commission, and Erin has jumped in on that role this
11 year.

12 MS. LYONS: AmeriCorps?

13 MS. DER-McLEOD: Yeah, former AmeriCorps.

14 MR. PRICE: Yeah, we kept her.

15 (Laughter.)

16 MR. PRICE: So she's on an appointment, on a year
17 appointment here, but the other position that I'm also
18 advertising for -- as a matter of fact, I think it hit
19 the streets today finally. Some of you remember Scottee
20 Nista was our superintendent's secretary. We'll be
21 replacing that position as well, and then that person
22 will be the primary liaison with the Advisory
23 Commission.

24 MS. BOLEYN: And then Carrie Phillips has moved on.

1 MR. PRICE: I cried last meeting, I think, over
2 that one, but Carrie -- actually, next week I think she
3 officially goes on the books with the USGS out of
4 Oregon.

5 MR. SABIN: Really?

6 MR. PRICE: And that's part of the world that she's
7 from originally, so she's very excited about that.

8 MR. SABIN: And her replacement?

9 MR. PRICE: Well, we'll be going through the
10 advertising process. Actually, Bob Cook I saw come in.
11 Bob is acting in that position at this point now.

12 MR. SABIN: So you're the current Carrie Phillips,
13 right?

14 MR. COOK: That's right. Well, nobody could ever
15 be Carrie Phillips, but I will do my best to try and
16 carry on in that tradition. I'm the acting division
17 chief here. I've been here since 1998 doing mostly
18 wildlife inventory and monitoring-related stuff. So
19 that's really my specialty, but I do a lot of
20 eavesdropping, so I also know other things that are
21 going on.

22 MR. SABIN: I get it.

23 MS. BOLEYN: That's great, Bob.

24 MR. PRICE: That's the Superintendent's Report.

1 MS. BOLEYN: Thank you.

2 Any other questions for the superintendent?

3 (No response.)

4 MS. BOLEYN: I have one. Would you like to tell us
5 about the seals up on --

6 MR. PRICE: Sure. Chatham has great whites. We
7 have seals.

8 MS. AVELLAR: That's why they have great whites.

9 (Laughter.)

10 MR. PRICE: Well, hopefully the great whites won't
11 find our seals next summer.

12 We had a number of things happen to our beaches
13 this summer, which had a major impact on visitors, and I
14 believe I mentioned at the last meeting the late spring
15 storms really did a job on the beaches, especially down
16 here. At high tide you only had about ten feet of beach
17 between the water and the base of the dune here at
18 Marconi. Plus we had shorebird nesting to the right of
19 the stairs. So we had this long ribbon of people that
20 went out there, and it caused a lot of issues. There
21 were certainly a lot of conflicts, and we haven't seen
22 that kind of activity at Marconi Beach most certainly
23 since I've been here. So basically the late spring
24 storms made it a winter beach, and the summer beach

1 never came back.

2 What happened at the Head of the Meadow was the
3 changing of the sand dynamics actually attached some
4 sandbars at low tide directly to the beach itself. So
5 if you went up there at low tide, as I did last week,
6 you had like a 50-foot section or 50 yards of beach
7 directly going out to sandbars. Well, we had as many as
8 three or four hundred seals hauled up on the sandbars at
9 low tide, and because it was within, say, three-quarters
10 of a mile to our major bathing beach at Head of the
11 Meadow and it's on an off-road vehicle corridor -- off-
12 road corridor, we had a lot of interaction between
13 visitors and seals. People had never seen that volume,
14 and it was quite impressive to see. It's like a
15 National Geographic special.

16 Well, all of a sudden a phenomenon that we haven't
17 experienced before now was this interaction. So seals
18 are protected as marine mammals, and you can't harass
19 them. And even walking up to them is defined as
20 harassment. And likewise I'm concerned about public
21 safety, especially with kids or visitors who don't
22 realize that these are true wild animals. So we put
23 staff up there on an intermittent basis. We did some
24 signage, but we have a ways to go.

1 We've actually been talking to Rich. Lisa Sette is
2 her name?

3 MR. DELANEY: Yes, Lisa Sette.

4 MR. PRICE: Who is an acknowledged marine mammal
5 specialist. And I know Sue's been talking to her about
6 what they do in other places, and we need a primer
7 almost on seals and what their behavior is and what we
8 can expect because we don't know if this phenomenon -- I
9 mean, once they arrive, are they here forever or is it
10 just a coincidence at the sandbars? Because when we've
11 had seals before, there's been a water differentiation.
12 There's been the sandbar, but you had to go through a
13 body of water to get to them. So you could see them,
14 but now it's direct conflict.

15 And I'll give you an example. I went out there at
16 low tide early on one morning. The seals were all in
17 the water. There were three elderly women out at the
18 end of the sandbar taking pictures of them. Well, they
19 may have, in fact, chased them as they walked out to
20 take their picture, which is part of the harassment
21 issue. So we need to take this under advisement and see
22 how we're going to do because obviously it potentially
23 could include a lot of staff. It certainly includes a
24 lot of visitor education, and on the other hand, it's a

1 phenomenon that everybody would like to see. I've never
2 seen that many seals before in one spot. These are the
3 gray seals, so they're the ones with the real big heads,
4 not the little harbor seals.

5 MS. BOLEYN: Yes, Bob?

6 MR. COOK: Could I just add a comment? Late at the
7 end of last week I went out with Mary Hague (phonetic),
8 who's part of the Park staff that does a lot of the
9 beach nesting bird management work, and we were able to
10 expand upon the existing system of signs. There had
11 been some signs out there, but they needed to be
12 expanded upon so that the series of signs with symbolic
13 fencing that kind of forms a U-shape that starts out
14 upon the beach above the high tide line and worked its
15 way down to the intertidal zone on either side of -- the
16 J-bar is what Lisa informed us it's referred to by folks
17 in the know, and she's been very helpful to us. But a
18 system of signs and symbolic fencing has been set up
19 around it that was in place this weekend and was doing a
20 very good job of kind of keeping the large numbers of
21 visitors at a safe and respectful distance from the
22 seals. The only rub is that for it to really work
23 effectively it has to extend down into the intertidal
24 zone perpendicular to the water line so that people

1 walking at low tide parallel to the shore will encounter
2 the signs and the symbolic fencing. That's going to put
3 us into a high maintenance situation because the
4 signposts that are low in the intertidal zone will need
5 to be checked and replaced on a fairly frequent basis
6 because they're not going to withstand the surf.

7 But we also understand from Lisa that the seals
8 will probably be only there until mid-October or
9 thereabouts, so it's not necessarily going to be a year-
10 round phenomenon. But we're going to have to learn seal
11 chronology a little bit better than we do at this point.
12 We know bird calendars of migration and such, but we
13 don't know seals that well. But you're right. It is a
14 great opportunity, and some large numbers of people are
15 coming out to see it.

16 MS. BOLEYN: Thanks, Bob.

17 I'm also observing that there's a very important
18 public educator sitting to your right from the
19 *Provincetown Banner*. And in terms of public education,
20 this is, I think, a keen opportunity to get the word
21 out.

22 AUDIENCE MEMBER (KAIMI LUM): Yes, very.

23 MS. BOLEYN: The focus has, of course, been on the
24 seals in Chatham, but the fact that these sandbars are

1 connected to the beach makes it a very, very different
2 situation as the superintendent has just pointed out.
3 And when people walk up to these animals, they can jump
4 quickly and they become alarmed and can be dangerous.

5 Had a couple of other -- someone else wanted to
6 speak? Yeah, go ahead.

7 MR. DELANEY: Anticipating some of these issues, we
8 began the seal program almost two years ago now with
9 Lisa Sette, and it's not going to be a one-time
10 phenomenon. This is going to be a continuing set of
11 issues for us. So she has been looking at both the
12 natural phenomenon, historic trends, and what might be
13 the future trends, but also this whole set of issues
14 with human interaction with seals, tourists, fishing
15 people, boaters.

16 And so we'd be happy to help with, Bob -- Bob, your
17 work and have Lisa come in any particular time to talk
18 about it.

19 MR. COOK: Okay, thank you.

20 MR. SABIN: These apparently, you said, were gray
21 seals, and they are migratory seals that leave us a
22 little later this year? They do not stay year-round,
23 the grays; is that correct?

24 MR. COOK: That's my understanding. At this point

1 I don't know where they go, but I'm told that their
2 numbers will drop.

3 MR. SABIN: They go to their winter home.

4 MR. COOK: Yeah. I mean, again, I'm mostly an
5 amphibian person.

6 (Laughter.)

7 MR. COOK: I'm having to learn a lot about marine
8 mammals this past week.

9 MR. PRICE: And then just another phenomenon that
10 happened to us this year, you probably knew that we had
11 to close Race Point Beach twice for high bacteria
12 counts, and this is the first time in memory that we've
13 had to close Race Point. Prior to my arrival, there was
14 one opportunity where we had to close Coast Guard in
15 Eastham, and there was a different opportunity where we
16 had to close Nauset Light in Eastham. So now to get two
17 hits in a row at Race Point was new to us, and there's
18 no determination as to exactly where that bacteria came
19 from, and, you know, by the next test it was all gone.

20 So it just seems such an exposed open to the sea
21 area, and there's no other source that we can think of
22 that's nearby. Obviously if this continues to be an
23 issue, we will have to really expand our investigatory
24 efforts to try to really track down the source.

1 MS. AVELLAR: (Inaudible)?

2 MR. PRICE: Well, you know, even the whale watch
3 boats and everything else, there was some question now
4 that Cape Cod Bay is a no discharge zone and all, are
5 there people discharging out there? But they're not
6 even close to the shore. So I don't know enough about
7 currents to know how this could be affected, but
8 certainly if it continues to be an issue, then it will
9 be an issue for us, but since Coast Guard and since
10 Nauset Light five or six years ago, there's been no
11 reoccurrence down there, and now we'll have to just
12 monitor Race Point, as we monitor all of our swimming
13 beaches.

14 MR. DELANEY: It's very difficult to trace the
15 source of some of this bacteria. There are DNA traces
16 that are being used occasionally, but they're expensive
17 and sophisticated and probably not -- we don't need that
18 yet.

19 MR. PRICE: Well, actually, when I was at Herring
20 Cove taking Kathy around on an orientation tour, we ran
21 into these two people that came up on bicycles. They
22 were microbiologists from Chicago on vacation, and they
23 wanted to know if we wanted to engage their services.

24 (Laughter.)

1 MR. PRICE: It had just hit the paper, and they'd
2 be able to tell which type of mammal it came from. It
3 could be seals.

4 MS. LYONS: If I can just say, Nauset Beach was
5 also closed for a day down in New Orleans, and it was,
6 you know -- our health department went down, took the
7 sample, and, of course, it was one of the first nice
8 weekends after those summer storms that came through, so
9 it was like please don't let this be happening. This is
10 a nightmare. And so I called George Heufelder and said
11 I'd gotten Saturday morning calls from selectmen. So he
12 said, "Well, you know, we're going to go down. I'm
13 going to try to expedite this as quickly as possible."
14 So he kept the lab open so they could have results, but
15 he said, you know, it was just probably a seal swimming
16 by.

17 And now with these seals congregating here, it will
18 be interesting to see if that does indeed have an impact
19 on the bacteria levels.

20 MR. PRICE: Yeah, I don't know, but just for your
21 information from a matter of protocol, when we take
22 these collections, we take them from the farthest ends
23 of the protected beaches. So the protected beaches are
24 where our lifeguards set up. So we take -- so when the

1 sample is taken, there's one sample here, one sample
2 here. So it's not like right in the same body of water.

3 MS. LYONS: And you do your own testing for those?

4 MR. PRICE: No.

5 MS. LYONS: Or does the county provide that testing
6 for you?

7 MR. COOK: It's sent out to a private lab for the
8 bacteriological work.

9 MS. LYONS: Okay.

10 MR. PRICE: We used to do it in-house, but it's
11 actually more efficient and cheaper for us to do it --

12 MS. LYONS: I wonder what our role could be in
13 that, but anyway.

14 MR. PRICE: Okay.

15 MS. BOLEYN: Thank you.

16 Any other questions for the superintendent before
17 we move on to Old Business?

18 (No response.)

19 **OLD BUSINESS**

20 MS. BOLEYN: Is there any old business to come
21 before us? Ed?

22 MR. SABIN: I don't know if it's old business or
23 new business, but a couple of years ago, maybe three or
24 four years ago, we went out to Mary Chase Road in

1 Eastham and looked at a place just south of Fort Hill
2 where they lowered the level of a little dam there to
3 let the seawater come into the waterway there hopefully
4 to, I guess, kill off the --

5 MR. WATTS: Phragmites.

6 MR. SABIN: Phragmites.

7 MS. BOLEYN: Phragmites.

8 MR. SABIN: I wondered if we could have an update
9 on what the effectiveness of that particular effort.

10 MS. BOLEYN: I think we'll have to go to our
11 natural science people and try to put that on for the
12 next --

13 MR. SABIN: I was thinking for the next meeting.

14 MS. BOLEYN: -- for the next meeting.

15 Is that okay, George?

16 MR. PRICE: Yes.

17 MR. SABIN: We've got our naturalist out there.

18 MS. BOLEYN: Okay, we'll come back to that for the
19 agenda for the next meeting, okay?

20 MR. SABIN: Oh, okay, fine, yeah.

21 MS. LYONS: Madame Chair?

22 MS. BOLEYN: Yes.

23 MS. LYONS: I have to apologize, but I do have to
24 leave a little bit early.

1 MS. BOLEYN: Thank you for coming.

2 MS. LYONS: Well, I'm happy to be here. I thought
3 I was going to have a conflict, so this worked out
4 great.

5 MS. BOLEYN: Good, good.

6 MS. LYONS: And it's good to be here, and I look
7 forward to seeing you all next time.

8 MS. BOLEYN: We'll let you know when the next
9 meeting will be.

10 MS. LYONS: Okay, well, thank you. All right,
11 thanks. I'll see you, people.

12 **NEW BUSINESS**

13 MS. BOLEYN: Moving then to New Business, we have a
14 couple of things, ocean initiatives and then
15 certificates of suspension.

16 Are you going to speak to this, Rich, the ocean
17 initiatives?

18 MR. DELANEY: I can speak partially, yes. Yeah,
19 part of it.

20 MS. BOLEYN: Okay, let's take that one first.

21 **OCEAN INITIATIVES**

22 MR. DELANEY: I guess mostly it's just to make sure
23 the members of the committee are aware of the ongoing
24 development of an ocean plan by the Commonwealth of

1 Massachusetts. It has now reached the point where the
2 document is in draft stage, and public hearings are
3 being held tonight, tomorrow, Wednesday, and Thursday in
4 different parts of the state. Wednesday night, this
5 Wednesday night, at Cape Cod Community College at 7 p.m.
6 will be the opportunity for Cape Cod agencies and
7 individuals to comment.

8 So I won't go into a lot of detail about the plan.
9 I just will say it's pretty general still as a
10 framework, but it has some interesting initial
11 components, including the possibility that, under the
12 renewable energy section, local Cape Cod towns could
13 identify sites for as many as ten offshore wind turbines
14 within their town boundaries being from one mile up to
15 three miles. So I'm not sure what interest that will
16 spark from Cape Cod towns, but it would relate to some
17 of the work we're talking here with wind turbines.

18 There will be some initial designations for other
19 renewable wind farms. Most of them are south of
20 Nantucket and Martha's Vineyard. There will be some
21 areas identified as special -- I forget the acronym
22 that's being used, but preservation areas, conservation
23 areas. So it's worth paying attention to. And I know
24 that level, we in the Commonwealth of Massachusetts are

1 actually pioneering the first effort to do an ocean plan
2 for our commonwealth waters. Other states are looking
3 to us as a model, and simultaneously President Obama
4 issued, I think about two months ago, a statement to
5 federal agencies that they should begin to pay attention
6 to their activities on the ocean and attempts to be more
7 coordinated with each other and with coastal states in
8 making decisions about uses in ocean waters that are
9 under federal jurisdiction. And the terminology that's
10 being used there is marine spatial planning. That's
11 essentially the same thing we're doing, just calling
12 ours a comprehensive ocean plan.

13 So I know the National Park Service and U.S. Fish
14 and Wildlife and a couple of other federal agencies have
15 already begun to discuss how they can jointly be more
16 -- could participate, contribute to a federal ocean
17 plan.

18 So it's all just beginning, but it's worth paying
19 attention to. And if you are interested in seeing the
20 details of the state ocean plan, it's on their Web
21 sites. You can go to. I can circulate that to people
22 if they're interested. The one that I can think of
23 right away is the Massachusetts Ocean Partnership. Just
24 Google Massachusetts Ocean Partnership. That's a group

1 that has been -- it's sort of a not-for-profit group
2 that has been promoting the public participation and
3 input into the development of the plan, and all this
4 information is cited there.

5 MS. BOLEYN: Thank you.

6 MR. PRICE: Just to piggyback, on the federal side,
7 we've been instructing a lot of the federal agencies to
8 work closer together as we have these overlay
9 responsibilities on oceans. So Carrie, when she was
10 here, and myself attended a couple of meetings or
11 conferences with all the different agencies. It's
12 amazing how many federal agencies are involved with
13 oceans, but especially USGS, Fish and Wildlife, the Park
14 Service Marine Estuaries/Sanctuary Program. And
15 actually we had a large meeting up in Wells, Maine, a
16 little while ago, and we have these connections to do
17 that.

18 Also, through our inventory and monitoring program,
19 we're gathering a lot of data having to do with all the
20 indicators on sea level rise and temperature changes and
21 all that sort of thing. So I can see that to continue
22 to be a major effort in the future, especially with the
23 initiative from this particular administration.

24 MS. BOLEYN: Thank you.

1 right by the Head of the Meadow turn there. The
2 property is for sale. Potential buyers came in with an
3 attorney and made a presentation about the possible
4 redevelopment of that station as a gas station. The
5 pumps and whatnot and some of the other things, the
6 underground tanks, are actually in the state right-of-
7 way, so as part of new ownership, they would have to
8 move that out of the state right-of-way. So they are
9 talking about a zero setback, but it's such a wide
10 right-of-way at that point. It's probably 120-foot wide
11 section of Route 6 there. We do not have formal plans
12 yet. I thought we might by about now, but sometime in
13 the fall we may, depending on if the sale goes through
14 or doesn't go through.

15 The second one is you gave us a recommendation in
16 and around December '08 to extend all the certificates
17 of -- the commercial certificates of suspension from
18 condemnation, except for one -- I guess you gave us the
19 recommendation to extend the one for the North Truro
20 camping area, also known as A.C. Mobile Home Park and
21 also known as Adventure Bound on Highland Road in North
22 Truro only till May 2009. There is a requirement that
23 they upgrade to a central wastewater plant. They are
24 basically currently discharging many more gallons per

1 day than they should without such a plant. And so since
2 that May date, we now have the administrative consent
3 order from the Mass. Department of Environmental
4 Protection. It gives them 48 months to get such a
5 system installed. That takes us to May 2011. The May
6 2009 they had to submit plans by. They have submitted
7 plans. They're still working through which system
8 they're going to go for, et cetera. So they have some
9 more time and either have to put in a plant or cease and
10 desist septic discharge as of May 2011.

11 So I guess our question was, would it be the
12 Advisory Commission's recommendation to extend to May
13 2007 (sic) and review it at that time?

14 MS. STEPHENSON: 11, 2011.

15 MR. PRICE: 2011.

16 MS. McKEAN: 2011.

17 MS. STEPHENSON: I thought we heard a 7.

18 MS. McKEAN: That was back to -- sorry about that.
19 The 2007 was when the administrative consent order was
20 issued.

21 MS. BOLEYN: Is that something you would like us to
22 discuss today?

23 MS. McKEAN: If you're ready to, or you can table
24 it to the next meeting.

1 MS. BOLEYN: Well, unless I'm missing something, it
2 strikes me that DEP has given them the extension, so
3 wouldn't we collaborate within that effort and sort of
4 concur? I'm asking members of the Advisory Commission.
5 Does that seem like a reasonable thing to do? It seems
6 like a reasonable thing to me. So if we agree, we could
7 expedite this and I could ask for a motion right now.

8 MS. STEPHENSON: So moved.

9 MS. BOLEYN: Is there a second?

10 MR. SABIN: Second the motion.

11 MS. BOLEYN: Any further discussion?

12 (No response.)

13 MS. BOLEYN: All in favor?

14 MR. DELANEY: Aye.

15 MR. CLARK: Aye.

16 MS. STEPHENSON: Aye.

17 MR. WATTS: Aye.

18 MR. SABIN: Aye.

19 MR. PHILBRICK: Aye.

20 MS. AVELLAR: Aye.

21 MR. HAMMATT: Aye.

22 MS. BOLEYN: Opposed?

23 (No response.)

24 MS. BOLEYN: Abstentions? Thank you very much.

1 Yes, excuse me?

2 MR. FRANCIS: I'm abstaining.

3 MS. BOLEYN: Okay, there's an abstention from Mr.
4 Francis.

5 MR. SPAULDING: Brenda, the motion probably should
6 be specific to the date she wanted.

7 MS. BOLEYN: You're correct. Let me add that, if I
8 may, that we'll add that we'll go until May 2011.

9 MS. AVELLAR: Is it May 1 or May 31? May 1?

10 MR. SABIN: May 1.

11 MS. BOLEYN: I guess it would be May 1. Okay, we
12 can fix that.

13 I just have one question about the gas station
14 proposal where it talks about a 116-square-foot kiosk
15 and new gas pumps. I'm presuming that that -- when I
16 see the word *kiosk*, I'm thinking of the little box
17 that's in between the gas pumps where they can transact
18 business.

19 MS. McKEAN: Yes, exactly.

20 MS. BOLEYN: It's not a building. It's just a
21 little -- got you.

22 MS. McKEAN: Yeah, it's a small -- I mean, it is a
23 small structure underneath -- they're talking about a
24 large canopy.

1 MS. BOLEYN: A canopy, okay, understood. Thank
2 you.

3 Any other questions on that?

4 (No response.)

5 MR. PRICE: Madame Chairman?

6 MS. BOLEYN: Yes.

7 MR. PRICE: Under New Business, one other thing
8 that I just wanted to share with the board is, with the
9 passing of Senator Kennedy, I just wanted you to all
10 realize how significant that was just for the National
11 Park Service. Obviously his brother, President Kennedy,
12 was here for the signing of this seashore as well as a
13 number of other units here in Massachusetts, Minuteman
14 being one of them. The senator himself was instrumental
15 in every single unit. There are about 20 Park areas,
16 believe it or not, in Massachusetts, every place from
17 the Freedom Trail to Lowell to even the Appalachian
18 Mountain Trail is across the western part of the state,
19 and Senator Kennedy has been particularly instrumental
20 in that.

21 And I represented the Seashore as well as a number
22 of other superintendents from other parks. We went
23 through the line at the Kennedy Library to pay our
24 respects, but it's really quite -- quite something to us

1 because the senator personally, and his staff, was
2 instrumental in almost every single aspect of the Park
3 Service properties here in the state as well as it was
4 his staff that was also assisting with the
5 reauthorization of this particular commission, for
6 instance. And he was up here a couple of years ago up
7 at Herring River restoration project --

8 MS. BOLEYN: Yes, that's right.

9 MR. PRICE: -- as well as at the North of Highland
10 Campground land acquisition. So it's really going to be
11 -- we're really going to miss him. That's for sure. I
12 just wanted to mention that.

13 And then the other piece of new business, Madame
14 Chair, you had actually asked me a question about the
15 NStar spraying.

16 MS. BOLEYN: Yes.

17 MR. PRICE: And I thought we wanted to bring that
18 --

19 MS. BOLEYN: Yes, thank you for bringing that up.

20 I was concerned when I read in the paper -- I think
21 it was a misstatement somewhere that the National Park
22 Service had expressed that it was not concerned, and I
23 thought, ooh, I hope it wasn't dismissed that lightly.
24 And so I called Lauren and asked her about that, and she

1 sent me a copy of the document that the superintendent
2 had sent regarding the herbicide use, and, in fact, it
3 was a very responsible -- in my view, a very responsible
4 response expressing concern for contamination of the
5 natural resource areas and so forth.

6 I think I would just like to comment that I hope
7 that the Cape Cod National Seashore will work
8 collaboratively with the other towns and press NStar to
9 do the responsible thing because the National Seashore
10 has rightfully expressed concern for the natural
11 resource areas, but, of course, the drinking water is
12 down there for all of us, and in my view whatever you
13 put through this sand is going to go down into the
14 aquifer. And so I believe that all of us need to press
15 and start to use mechanical methods when they can and
16 avoid herbicides, if possible, especially since nobody
17 knows really what happens when you have a synergistic
18 mix of all of these things down there in the water
19 supply.

20 MS. BOLEYN: The whole problem is mechanically
21 doing it is more expensive and it's just a money thing
22 for them. It really is.

23 MS. BOLEYN: Yes.

24 MR. SPAULDING: George, has anybody asked counsel

1 as to what legal authority you actually have relative to
2 this issue over utility easements that are in the
3 Seashore?

4 MR. PRICE: The answer is no.

5 MR. SPAULDING: It might be worth determining that,
6 you know, in terms of whether or not your status is just
7 as general public or towns. You know, you can ask as to
8 whether or not you, in fact, can tell them they can't do
9 something, if that's what you said you want to do.

10 MR. PRICE: One of the things that -- I want to
11 make sure you see the letter because it was our natural
12 resource people, Carrie, who put this letter together.
13 And frankly, when we were made aware by NStar of the
14 type of herbicides they were using, we as a federal
15 agency are required to go through an integrated pest
16 management process, IPM. So our pesticides or any
17 applications that we're interested in using have to go
18 through the IPM process. So we sent it out to this
19 professor, and he signs off on it.

20 So it was my understanding in consultation with him
21 that that's when this document was put together. So I
22 think what became misinterpreted is that some citizens
23 just assumed we would say no herbicide, no way, and
24 that's not the case. So what we're outlining here is

1 the way the application should be made and the types of
2 herbicides that our IPM said in this particular small
3 quantity would be acceptable. So I think because some
4 people felt that we weren't saying no way, no how, we
5 were giving this feedback to NStar, and then it started
6 to become more of a political concern by the
7 communities. In fact, Lauren and I at the same sign
8 meeting in Truro, just before us there was a citizen
9 asking for a total ban on the pesticides and asked us to
10 question. And I was referring to this letter in very
11 brief terms, saying, well, it's not that our people said
12 no way.

13 So I think we have an issue here again of what at
14 least our folks are saying if applied in this way would
15 be considered acceptable if we were doing it. So that,
16 Larry --

17 MR. SPAULDING: It would be good to know if you, in
18 fact, had the legal authority to tell them that this is
19 the way you're going to do it.

20 MR. PRICE: Right, and I'm not suggesting we do in
21 this letter.

22 MR. SPAULDING: I'm just saying --

23 MR. SABIN: Do we all have a copy of your letter?
24 I've not seen it.

1 MS. AVELLAR: Yeah, it's in the package.

2 MR. PRICE: There should be in your package.

3 MR. SABIN: In the package? Okay.

4 MR. PRICE: Yes, it's addressed August 13 to Ms.
5 Priestley.

6 MS. BOLEYN: I don't think it was in the packet.

7 MR. FRANCIS: Yes, it was.

8 MR. PRICE: Was it in the packet?

9 MS. AVELLAR: Yeah.

10 MS. BOLEYN: Oh, okay. Oh, it's in the packet that
11 was given to us today. Yes, right, okay. It's right
12 here.

13 You may have this. That's an extra copy.

14 MR. DELANEY: George, do you know if your
15 scientists, your technical people who look at the
16 integrated pest management, are basing their criteria on
17 protection of natural resources or protection of
18 drinking water supply over the sole source aquifer
19 because there may be two different standards involved?
20 You may be -- your people may be very well saying
21 there's no -- even the herbicides that you do approve
22 could be sufficient or safe in their judgment to protect
23 the natural resources, but drinking supply may have a
24 different higher standard that the towns are concerned

1 about. It would be worth --

2 MR. PRICE: It would be worth asking the question.

3 MS. BOLEYN: Thank you for that question. I think
4 that's important.

5 MR. PRICE: I'll follow up on both of these.

6 MS. BOLEYN: Yes?

7 MR. CLARK: Just a comment about your question
8 regarding the Park Service or the Seashore's
9 jurisdiction. I know there was a famous Wendell
10 decision, the Town of Wendell versus the Commonwealth,
11 where the Town of Wendell tried to regulate pesticides,
12 and it was determined that no town could regulate
13 pesticides. It was under the jurisdiction of the
14 pesticide board so we wouldn't have 351 different rules
15 and regulations about the use and registration of
16 pesticides.

17 So I don't know where the Park Service fits into
18 that, but I know there's already a case that's been
19 settled several years ago on this.

20 MR. PRICE: Well, we have an interesting
21 relationship with the local towns being the federal
22 agency, and generally we abide by the local boards,
23 whether it's building inspectors, electrical inspectors,
24 and then there are some things we're required to do, but

1 as far as the pesticide regulation, I'm not aware where
2 we would be subject to other regulations, but we are
3 subject to our own internal IPM process. That's for
4 sure.

5 MR. CLARK: I know they're required -- NStar's
6 required to file a five-year management plan, and then
7 they also have to file a yearly operational plan. So
8 there is an opportunity, presumably, to reflect on this
9 five years in advance. So if there's a concern from a
10 town or the Park, you could take a look at that.

11 MR. PRICE: We found out by the fellow that was
12 going to spray the next week.

13 MR. CLARK: There's a whole set of standards how
14 they advertise and so forth, so there's an opportunity
15 to look at their five-year plan.

16 MS. AVELLAR: When the state was going to spray for
17 mosquitoes a couple of years ago -- remember that summer
18 they were so horrible we were running out of insect
19 repellent all over Provincetown?

20 MR. PRICE: Right.

21 MS. AVELLAR: Didn't the Seashore step up and say
22 they didn't want to spray? Somehow that is in my
23 memory.

24 MR. PRICE: Bob, can you back me up on this? But

1 it's my understanding that at least the mosquito
2 spraying in Provincetown -- isn't that allowed by the
3 legislation?

4 MR. COOK: I think -- I'm not sure about mosquito
5 spraying other than in public health emergency type of
6 situations. We do have a degree of mosquito control
7 taking place with the Cape Cod Mosquito Commission where
8 it's the application of bacterial larvicides. It's not
9 broadcast spraying of large areas. It's targeted
10 application in water bodies where the larvae are
11 present. So I guess I'm not familiar with the case
12 where there was actual spraying taking place.

13 MR. PRICE: Well, we'll track that down for you
14 too.

15 MS. AVELLAR: Yeah.

16 MR. PRICE: I went through this, and this had to do
17 with the airport and the standing bodies of water and
18 the access of mosquito control there.

19 MS. AVELLAR: Especially where there's eastern
20 equine encephalitis. I remember people were a little
21 bit upset, but I just don't remember any of the details.

22 MS. BOLEYN: Thank you. Good question.

23 MS. AVELLAR: Because if you could stop, that is
24 what I guess my point would be -- if you could stop that

1 kind of spraying, why couldn't you stop this kind of
2 spraying?

3 MR. PRICE: Well, because that would have been on
4 our own property and this would have been in an NStar
5 easement.

6 MS. AVELLAR: I see.

7 MR. COOK: The other thing is -- and I don't know
8 all the details. I'm coming very new to these issues
9 and as a kind of ecologist, not a lawyer, but my
10 understanding is that even private -- you know, the
11 NStar right-of-way crosses private property in addition
12 to Park Service property and municipal property, and
13 essentially the right-of-way extends to NStar the right
14 to manage that vegetation. I don't know to what extent
15 it makes any statements on the means and methods of
16 managing them, but they do have rights conferred on them
17 by the right-of-way even though they don't own the land.
18 So there again is a difference in the situations where
19 we do not have absolute say on what takes place on that
20 right-of-way because that's what right-of-way implies.
21 They have certain rights.

22 MS. BOLEYN: No doubt it's tricky.

23 (Laughter.)

24 MR. PHILBRICK: I don't see how a common solution

1 can be reached really because the needs vary so much
2 from place to place, whether it is drinking water or it
3 becomes drinking and is traveling underground, which has
4 no respect for public or private boundary lines.

5 MR. SABIN: That's what makes it such a big
6 problem.

7 MS. BOLEYN: And overlapping jurisdictions of those
8 kinds of things.

9 **DATE AND AGENDA FOR NEXT MEETING**

10 MS. BOLEYN: Well, are we set to move on to talking
11 about a date and an agenda for the next meeting?

12 MR. SABIN: You've got the calendar.

13 MS. BOLEYN: I do. And if Monday seems to be a
14 workable day for most people, I would like to suggest
15 Monday, November 16, which is the week before
16 Thanksgiving week.

17 Will that work for the superintendent?

18 MR. PRICE: It does.

19 MS. BOLEYN: I realize you don't have your
20 calendars with you probably for November, but that would
21 -- this being the middle of September, that would seem
22 to be an appropriate time period, and it would give us
23 the two months to get ourselves in the Federal Register.

24 So is there anyone --

1 MR. SABIN: Plus it gives two months for George to
2 work out a fantastic field trip.

3 MS. BOLEYN: Is there anyone for whom that would
4 not work?

5 MR. FRANCIS: (Indicates.)

6 MS. BOLEYN: That's right.

7 MR. SABIN: You're gone for the winter, right?

8 MR. FRANCIS: It would have to be December 16.

9 MS. BOLEYN: Yes, okay.

10 MR. PHILBRICK: November 16?

11 MS. BOLEYN: Okay. If that's okay with everybody,
12 then we'll put it down for November 16.

13 And agenda items, we already have one. It is the
14 Chase --

15 MR. SABIN: Mary Chase Road.

16 MS. BOLEYN: Mary Chase Road Salt Marsh.

17 MR. SABIN: Salt marsh, okay.

18 MS. BOLEYN: Peter?

19 MR. WATTS: We used to have a report on the
20 Herring River restoration by John Portnoy. Now, I don't
21 know if we have any substitute for John Portnoy, but we
22 need somebody. Gary Joseph is the head of the
23 restoration committee. I wonder if we could have a
24 report on that.

1 MR. PRICE: We could do that. And frankly, the
2 person who's our lead is another new employee, Tim
3 Smith. Tim had been the representative for the state
4 for Coastal Zone Management, and he had actually worked
5 on the Herring River project for the state. And he
6 joined our staff probably a month and a half, two months
7 ago now. So we could ask between he and Gary, perhaps
8 put together an update, if you'd like.

9 MR. FRANCIS: Not to steal the Herring River
10 thunder, but if they could also comment on East Harbor
11 and how things are progressing there.

12 MR. PHILBRICK: Pilgrim Lake?

13 MR. FRANCIS: Pilgrim Lake, yeah.

14 MR. PRICE: That would be an easy one because it's
15 still holding up, frankly, waiting for the Army Corps of
16 Engineers. But actually Tim is familiar with that
17 project as well.

18 MR. PHILBRICK: Can anyone explain how they get
19 involved?

20 MR. PRICE: How the Army Corps got involved?

21 MR. PHILBRICK: Yes.

22 MR. PRICE: Well, on the federal side, frankly,
23 they would be the agency that would have the largest
24 access for funds for the engineering design and

1 construction of those sorts of activities, meaning you
2 have to assume if East Harbor was actually going to be
3 effectively managed for interaction between salt water
4 and restoring the marsh area, then we would need a new
5 water system in there or a new water control system in
6 there. Right now basically it's a four-foot in diameter
7 drainpipe. So I think that's probably why they were
8 brought to the table.

9 They got partway through their investigation for
10 design suggestions and alternatives, and then their
11 funding was cut. So I know that committee has been
12 working with Congressman Delahunt's office to try to get
13 funding restored for the Army Corps side so they can
14 continue that dialogue.

15 MR. PHILBRICK: The thing that made it relative --
16 pertinent for the Corps of Engineers was the actual
17 entrance of the entering and leaving tides rather than
18 the used to be coastal centuries ago.

19 MR. PRICE: Yeah. I'm not sure what the criteria
20 was, but I know it's problematic.

21 MR. DELANEY: They would ultimately have -- the
22 corps would have permitting responsibility when this
23 thing goes to that stage, so they may be involved in
24 that as well.

1 MR. PRICE: Right.

2 MR. PHILBRICK: Thank you.

3 MS. BOLEYN: Anything else we would like to see
4 coming up on the agenda?

5 (No response.)

6 MS. BOLEYN: Remember, we can always add things to
7 the Superintendent's Report. As long as there are no
8 action items, we can add things.

9 MR. SABIN: I assume that we'll have all the normal
10 things from the Superintendent's Report.

11 MS. BOLEYN: Yes.

12 MR. PHILBRICK: Fort Hill mowing and burning.

13 MS. BOLEYN: Yes, the question is, is there any
14 news about mowing and burning efforts --

15 MR. PRICE: For Fort Hill?

16 MR. PHILBRICK: At the next meeting?

17 MS. BOLEYN: Yeah.

18 MR. PRICE: Yeah.

19 MS. BOLEYN: We can do that for the next meeting
20 and other things that might come up.

21 Yes, Peter?

22 MR. WATTS: Charleen and Bob Weinstein talking
23 about Truro building bylaws, zoning bylaws.

24 MR. PRICE: So what's the request? An update?

1 MR. WATTS: I just want to know what the -- I mean,
2 Truro is the holdout at this point.

3 MR. PRICE: Yes.

4 MR. WATTS: I just want to know what they're doing.

5 MR. PRICE: So do we want someone from the planning
6 board?

7 MR. WATTS: Charleen is the planner.

8 MR. PRICE: Should I ask Charleen if she could join
9 us?

10 MS. BOLEYN: And Bob Weinstein is the chairman of
11 the planning committee.

12 You're suggesting that we might invite both of them
13 to come?

14 MR. WATTS: Or one of them.

15 MR. PRICE: Right, as you know, we have worked
16 extensively with that group last winter hoping that they
17 would also present new bylaw language before town
18 meeting, and it didn't get that far. They made some
19 edits which were positive, but certainly not as
20 impressive as Wellfleet.

21 MS. BOLEYN: Yes, that's been said for sure.

22 MS. STEPHENSON: Do we want to ask again to have
23 somebody come and discuss the land court case on the
24 Blasch house?

1 MR. PRICE: Judy reminded me that that request was
2 made at the last meeting, and frankly, I did not follow
3 up on that, so I would be glad to see if I can get one
4 of our attorneys to speak on it. Of course, they're
5 hesitant to speak on any case that's before the court,
6 but I think Judy's point is, what are the legal aspects
7 of the land court case?

8 MS. STEPHENSON: And I think it's relevant not just
9 on that one case, but if there were -- if you didn't
10 want wind turbines in the Seashore but somewhere else.
11 I don't know whether it's relevant or not, but I think
12 it's of interest beyond just this one case, if others
13 are interested in hearing that.

14 MR. PRICE: Yes.

15 MS. BOLEYN: Thank you.

16 MR. PRICE: Let me ask a question, by the way,
17 knowing where our attorneys are located and for them to
18 make a trip down here for a special trip. Would a
19 conference call suffice?

20 MS. AVELLAR: No. No, I want to see them. I want
21 to see them face to face. It's hard when you don't know
22 who you're talking to --

23 MR. PRICE: Well, I'll see if they're willing.
24 When I spoke with the Assistant U.S. Attorney, they

1 don't address groups outside of court.

2 MS. AVELLAR: Well, the only thing I would be
3 concerned about is if it's an ongoing case, the
4 confidentiality issues with the public and the press.

5 MR. PRICE: Right. Well, they wouldn't be able to
6 disclose --

7 MS. AVELLAR: But this is a public document.

8 MR. PRICE: Right, but I think getting to the
9 elements of the case itself I think is something that we
10 should be able to ask them to present. So I'll
11 certainly see if Tony would be willing to come down.

12 MS. STEPHENSON: Well, for example, you wanted to
13 make a statement about the construction of homes in the
14 Seashore and remind everyone the character of the
15 Seashore as a piece of it.

16 MR. PRICE: Yeah.

17 MS. STEPHENSON: Those are broader issues that I
18 hope others are interested in. I don't know if that's
19 something -- but the character of the Seashore in a
20 legal case, I think they could discuss that.

21 MR. PRICE: Well, the character of the Seashore
22 and the integrity of existing structures. How about
23 that?

24 MS. STEPHENSON: Well, sure.

1 MR. PRICE: That's part of the language that's in
2 our zoning language, which then was not defensible at
3 this point, which is part of the issue. And these are
4 very serious issues that face not only this seashore but
5 other, Fire Island and a number of other units in the
6 National Park Service.

7 MS. STEPHENSON: So if this person were here, I'd
8 ask whether a case similar to this has been brought in
9 another seashore. Would they know?

10 MR. PRICE: Well, Tony has exceptionally broad
11 experience, and he covers a wide geographic area, but I
12 could ask, you know, him what kind of --

13 MS. STEPHENSON: Yeah, those are the kinds of
14 things, not just what was filed in that motion --

15 MR. PRICE: Right.

16 MS. STEPHENSON: -- that I'd be interested in. But
17 I agree. I'd like to see them.

18 MS. AVELLAR: Yeah, I mean, it's hard to --

19 MR. SPAULDING: I think one of the overview
20 problems are that, first of all, there's no factual
21 dispute of this case. It's an interpretation of law.
22 Every town has a different zoning bylaw, so you're going
23 to interpret it differently. So it's going to be very
24 difficult to get an overview about the main issue of the

1 construction. He can explain to us the issues that are
2 involved, and there's no confidentiality because it's a
3 question of law. That's what the judge is going to
4 decide.

5 MR. PRICE: Right.

6 MR. SPAULDING: I think it's going to be hard for
7 him to go and give you a general overview because every
8 town zoning bylaw is different. You know, Truro's
9 different. You'd like to see some changes in Wellfleet.
10 I think that's going to be hard.

11 MR. PRICE: And likewise, as I've talked to our
12 colleagues in Fire Island, I just said Fire Island has
13 similar type issues, but it's defined so differently
14 because of the town bylaws on Fire Island.

15 I spoke with a fellow who is now retired. He had
16 been a deputy director of the Park Service who had been
17 around -- he had been around in the Denver Planning
18 Office when Cape Cod was going through the planning
19 process. And he said to me -- he said, "You know, I
20 always liked that Cape Cod model." He says, "But it
21 really never worked for anyplace other than Cape Cod."

22 (Laughter.)

23 MR. PRICE: And now we find out that even our Cape
24 Cod model has challenges. But I'll certainly see if

1 Tony is available to join us.

2 MS. STEPHENSON: I just wonder if you are
3 suggesting that it wouldn't be of much point.

4 MR. SPAULDING: No, I think he could explain the
5 issues in this case and the position that we've taken
6 and the position that the owner has taken so that we
7 understand it better, which would be helpful, but I
8 don't think he can do a broad overview because, as I
9 said, every town's bylaw is different.

10 MS. BOLEYN: Okay, and he'll certainly let us know
11 if it's not -- if he doesn't think it's a wise thing for
12 him to do, but we can ask.

13 MR. SPAULDING: I have one comment. If, in fact,
14 he's coming, I think it would be more beneficial for us
15 if we did get copies of the two briefs that were filed
16 in that summary judgment motion because we'd be in a
17 position to read them and better understand what he's
18 talking about, you know, when he comes.

19 MR. PRICE: So here's a question for you. Do you
20 actually want the hard copies mailed out, or do you want
21 access on a Web site?

22 MR. SPAULDING: Either way is fine so we'd all have
23 the opportunity to see it.

24 MR. SABIN: Why don't you say if he's coming, send

1 the copies.

2 MR. PRICE: All right. I think he lives up in
3 Beverly.

4 MS. STEPHENSON: Oh, no, I thought he was in
5 Newton.

6 MR. PRICE: Well, that's where his office is.

7 MS. AVELLAR: Yeah, but, you know, he works for us.
8 He works for us, and every once in a while they have to
9 get in their car and come down here. And I don't think
10 that -- quite frankly, even though I don't agree with
11 this case, I still think he, you know, should come down
12 and speak to us about it.

13 MS. BOLEYN: Good point. Thank you.

14 Is there anything else regarding the next meeting?

15 (No response.)

16 **PUBLIC COMMENT**

17 MS. BOLEYN: Then I would like to turn to Public
18 Comment and ask if any of our guests would like to speak
19 while you're here.

20 (No response.)

21 MS. BOLEYN: We thank you for coming.

22 **ADJOURNMENT**

23 MS. BOLEYN: And I would like to declare
24 adjournment. Thank you.

1 MR. FRANCIS: So moved.

2 MS. BOLEYN: Thank you.

3 (Whereupon, at 2:35 p.m. the proceedings were
4 adjourned.)

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REPORTER'S CERTIFICATE

PLYMOUTH, SS

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

The foregoing 78 pages comprises a true, complete, and accurate transcript to the best of my knowledge, skill, and ability of the proceedings of the meeting of the Cape Cod National Seashore Advisory Commission at Marconi Station Area, Park Headquarters, South Wellfleet, Massachusetts, on Monday, September 14, 2009, commencing at 1:08 p.m.

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

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 6th day of October, 2009.

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