

AGENDA

Monday

April 6, 2015

**TOWN OF EASTHAM
AGENDA
BOARD OF SELECTMEN
Monday, April 6, 2015
5:00 PM**

REVISED 4/3/2015

Location: Earle Mountain Room

I. PUBLIC/SELECTMEN INFORMATION

II. APPOINTMENTS

5:00 p.m. Teresa Martin – Director Lower Cape TV

5:15p.m. Gendron LIP Request – Affordable/Market Housing Plan 2780 Nauset Road

(Note: Other than public hearings, all times are approximate and items may be taken out of order.)

III. ADMINISTRATIVE MATTERS

1. Action/Discussion

- a) Transient Vendor Permits and Seasonal License Renewals
- b) Committee Expiration Letters
- c) Discussion of Next Steps on Eversource (Nstar) Herbicide Spraying
- d) WBUR Request to Install Test Lights on Cell Tower
- e) 208 Water Management Committee/Update - Selectmen Elizabeth Gawron and Martin McDonald

IV. OTHER BUSINESS/CORRESPONDENCE/MINUTES

- A. Discussion and Ballots for Metropolitan Planning Organization Representative
- B. Review Response to Noise Complaint

V. TOWN ADMINISTRATOR'S REPORT

VI. EXECUTIVE SESSION – To discuss strategy with respect to negotiation strategy with non union personnel, when an open meeting may have a detrimental effect on the bargaining and litigating position of the public body and the chair is so declaring

Upcoming Meetings

<i>Wednesday, April 8, 2015</i>	<i>230 p.m.</i>	<i>Work Session: Fees/Seasonal Salary Review</i>
<i>Monday, April 13, 2015</i>	<i>5:00 p.m.</i>	<i>Board of Water Commissioners - Easements</i>
<i>Wednesday, April 15, 2015</i>	<i>5:00 p.m.</i>	<i>Public Hearings:</i> <i>Capital Improvement Plan,</i> <i>Annual Town Meeting Warrant</i> <i>By-law Changes Proposed in Warrant</i> <i>Joint Meeting in Orleans, w/ Brewster and</i> <i>Orleans to discuss Tri Town Future</i>
<i>Thursday, April 16, 2015</i>	<i>6:30 p.m.</i>	
<i>Wednesday, April 29, 2015</i>	<i>2:30 p.m.</i>	<i>Work Session</i>
<i>Monday, May 4, 2015</i>	<i>7:00 p.m.</i>	<i>Annual Town Meeting</i>

This meeting will be video recorded and broadcast over Local Access Channel 18 and through the Town website at www.eastham-ma.gov.

**Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting.*

**If you are deaf or hard of hearing or are a person with a disability who requires an accommodation, contact Laurie Gillespie-Lee, 5900 x207*



TOWN OF EASTHAM

2500 State Highway, Eastham, MA 02642
All Departments 508-240-5900
www.eastham-ma.gov

II 5:15

(new staff report)

Date: April 2, 2015

Memo To: Sheila Vanderhoef, Town Administrator

From: Paul Lagg, Town Planner

Re: Gendron Property (Proposed 40B)

The following points summarize the items of concern related to zoning and planning issues.

Proposed Density:

- District G is intended to accommodate water resource protection uses and low density residential uses. The proposed density of 85 single family homes does not conform to the objectives of this zoning district.

Access:

- Issues pertaining to the rights to use and improve the 26 foot right of way remain unclear.
- The existing right-of way does not offer adequate access for public safety.
- The feasibility of establishing an emergency access route over the Rail Trail remains an area of concern.

Traffic:

- The traffic impacts at Nauset Road (where the Right-of way intersects with Nauset Rd and the adjacent Rail Trail) presents a potential area of concern resulting from increased daily trip generation in and out of the proposed development. Site distance and turning movements at Nauset Road as well as traffic queues at the intersection of Rte. 6 are also issues of concern.

Site Work:

- Based on the plans submitted, it is unclear what the site development and prep work will entail in order to get the property ready for construction.

Affordable Housing Units:

- The applicant's experience developing affordable housing projects remains unclear. Examples of past projects similar to the current proposal have not been provided. Given the complexities involved in the development, financing and marketing of affordable housing units, reassurance of the developer's ability to successfully complete the proposed project is an important factor for consideration.

Wastewater Management:

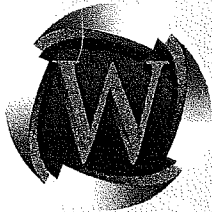
- The design, construction and long term maintenance of the proposed advanced wastewater treatment system (including adequate back-up system) is an area of concern.

Fertilizer Use:

- The Eastham Zoning bylaw (*Section V Uses, District G Number 3*) specifies certain limits on the use of pesticides, herbicides, fungicides and nitrate fertilizers on residential parcels. The Town of Eastham's Zoning Bylaw and Board of Health Regulations place stipulations on the use of fertilizers within the Zones of Contribution to a public drinking well. Given the anticipated base price of the market rate units (\$400,000-500,000) it is reasonable to anticipate certain expectations regarding the installation and upkeep of lawns and associated landscaping.

The preceding items are based in part off the more extensive comments provided by staff in the development review memo dated November 24, 2014.

Please let me know if you would like additional information.



WYNN & WYNN
ATTORNEYS

Dianna M. Gallagher
Jeni A. Landers
Jeffrey L. Madison
James M. McCarthy
Michaela D. McCuish
Kevin P. McRoy**
Robert F. Mills
Charles D. Mulcahy
John J. O'Day, Jr.
Kevin J. O'Malley
Anthony T. Panebianco***
Raymond C. Pelote*
Thomas E. Pontes
Michael J. Princi
Ryan E. Proppett
Rebecca C. Richardson
Janice E. Robbins
William Rosa*
Dina M. Swanson
Andrew A. Toldo
Paul F. Wynn
Thomas J. Wynn

Of Counsel

Hon. Robert L. Steadman (Ret.)
Hon. James F. McGillen, II (Ret.)
Keough & Sweeney
William E. O'Keefe
Edward R. O'Brien, Jr.

Admitted:

*Massachusetts and Rhode Island
**Massachusetts and New Hampshire
***Massachusetts and New York

April 1, 2015

Town of Eastham
Board of Selectmen
2500 New State Highway
Eastham, MA 02642

(letter based on
previous staff
report + comments)

RE: Gendron Construction LLC
Proposed 40B Development
2780 Nauset Road, Map 5, Parcels 24 and 26
Zoning: District G

Dear Members of the Board:

Mr. Gendron again thanks you for your time and interest in his proposed Comprehensive Permit ("40B") for his Nauset Road site. We have been sharing information with the Town for almost a year. See **Appendix #1** – Initial Correspondence with the Town.

At our presentation on January 21, 2015, we addressed issues raised by the Town agents during an informal site plan gathering on September 26, 2014. You can also find our formal response dated October 29, 2014, **Appendix #2** attached, in which we addressed the mutual concerns identified at the September meeting. We were not aware of the Staff Review dated November 24, 2014, which posted on the Agenda shortly before January 21, 2015.

As stated in the Development Review Staff Memorandum, the Gendron Group proposes 85 detached single family homes on 20± acres located at 2780 Nauset Road, Map 5, Parcels 24 and 26 in a Zoning District G. Before addressing the specifics of the Staff Review, I want to emphasize that we share a common goal, e.g. develop significant affordable housing units (recognizing that there are no ideal 20 ± acre affordable housing sites in Eastham) in an environmentally sensitive manner. We are seeking Eastham's cooperation addressing the issues of wastewater discharge, safe access, and drinking water.

The Town's 2010 Affordable Housing Plan (**Appendix #3**) sets out strategies for developing affordable units. Partnering with private developers for "friendly" 40B developments is part of the strategy. The Plan acknowledges Eastham's difficulty in developing high density housing citing no water and sewer availability. The Town will construct water mains adjacent to the Mr. Gendron's site (**Appendix #4**), and Town cooperation delivering water to our site would be a strong statement in support of the Affordable Plan. It would cost the Town nothing and likely add revenue.

The Affordable Plan also acknowledges the limited number of large undeveloped parcels. The Gendron proposal provides the Town an opportunity to work with an environmentally committed developer to reclaim a large industrial site for a friendly 40B residential development.

We have addressed the Staff Review comments as raised sequentially, by Fire, Health, Planning, Police, Public Works, and Building.

ZONING BYLAW PROVISIONS

As noted in the Staff Review, the parcel is in a District G (water resource protection). Experience and common sense recognize that every 40B application requests “substantially not conforming” density. Mr. Gendron proposes a thorough and comprehensive waste water discharge analysis to insure that we meet or exceed quality standards. The discharge quality will be lower than a subdivision with conforming density using Title V Systems. Our proposed LIP development must meet or exceed standards to be approved by DEP.

STAFF COMMENTS

Bold Comments are Staff Comments dated November 24, 2014 posted on January 21, 2015

Municipal staff from the departments of Building, Fire, Health, Planning, Police, and Public Works have collectively reviewed the conceptual plans and offer the following comments (Bold Below):

ACCESS AND SAFETY

“The site is remotely located and poorly suited for 85 homes. The 1,500-foot access road is only 26 feet in width and falls significantly short of the 40 feet of width required of all land developers for residential construction, per the Town's subdivision regulations. It also substantially exceeds the length of dead-end road limit of 600 feet in the Town's subdivision regulations. The purpose of the 40' width is to accommodate two twelve-foot travel lanes and the water, electric, cable, and gas utilities (when available), which must be installed on both sides of the roadway and not beneath the pavement. A study of the curve radii has not been done but the road may also fall short of the regulations in this regard. While no indication of an intention to pave the road has been stated by the applicant, staff believes it imperative that the access road be paved.”

1. Staff comments that the site is remote and poorly suited for residential dwellings. Recently, I asked Sheila if she was aware of any 20 ± acre locations, which are less remote. Most of Eastham's residential homes are remote, developed off dead ended streets. All large undeveloped parcels are located in wooded areas.

With respect to the layout of the proposed paved roadway, subdivision rules require a 40' layout; however most of Eastham's roads are paved to 26' or less.

The width of the access should not be a reason to deny the LIP request. Like many roads in Eastham, the proposed roadway (1500' \pm) exceeds the town regulation of 600'. Utilities will be placed underground within the paved roadway, which is common road construction practice. We are working to reduce the curve radii, however some waivers may be needed.

The "length of road" and "remoteness" criticism also applies to North Sunken Meadow Road, a 2005 40B site in which the Town cooperated with New Boston Enterprises in a LIP application (See **Appendix #5**.) This development was built with no secondary access, as a dead end street of 1,200 ft. +/-, and with finished travel lane pavement of 19', far short of the 40' layout and significantly less than our proposed 26' width.

I have plotted the distance from the Police and Fire Stations to the development. It is less than 3 miles and will take Public Safety vehicles less than 7 minutes to respond. There are many other residential sites with greater travel distances and time response.

"The one-way-in and one-way-out arrangement is highly undesirable as it puts at risk not only the residents who would live there but also the various municipal personnel and equipment that would service this development. At the minimum, the remoteness of this site will cause police, fire and rescue personnel and equipment to be encumbered and less available for other calls while in transit over the approximately 1,500' length of roadway, plus the applicable length of on- site roadway."

2. The primary access will be over the 26 foot right of way ("ROW") fully paved. See Appendix #6 - Nauset Road vs. Chaves Decision. The Town has many dead end roads greater than 600'. Mr. Gendron approached the Commonwealth of Massachusetts to obtain an easement adjacent to the paved bicycle path, which when improved will provide adequate secondary access (See **Appendix #7**)

Mr. Gendron requests that the Town grant an easement to develop a portion of the secondary access over Town land to the south of the parcel. (See layout on **Appendix #7 & Appendix #8**) This would benefit both parties, in that Mr. Gendron, in return, will grant the Town access over the ROW as primary access to the Town sand pit and proposed water tank (see RFP for water tank construction **Appendix 8**, showing access over Gendron ROW). On these issues, the Town has the ability to assist the developer and get something in return.

Bracket Landing (another LIP) also provides precedent for a single access, a high density, 40B development. The Bracket Landing plans originally laid out a secondary access. The Town never required construction, and the access is no longer available, having been built upon. There is only one way in and out of Bracket Landing with no emergency access. See **Appendix #9**.

“The applicant has represented that an emergency access route over the Rail Trail Bike Path has been arranged with the Department of Environmental Management, which owns and manages the Bike Path. This has not been documented. More importantly, this is not an adequate route for a loaded fire engine, due to insufficient width, surface construction, and the presence of pedestrians and cyclists. The narrowness of the proposed access road greatly increases the importance of the adequacy of an alternative access route.”

3. Mr. Gendron never represented that we have an easement for emergency access; however, we opened discussions with the State for an easement adjacent to the bike path to connect to the Town land, where we request an easement to our parcel. As stated we ask the Board to take notice of Bracket Landing and North Sunken Meadow, which were approved with no secondary access required or now available.

In direct response to the Staff’s statement that the easement adjacent to the bike path is inadequate due to width, surface construction, and presence of cyclists. **Appendix #7 & Appendix #8** show that we propose access adjacent to the “Bike Path” where there is no pedestrian traffic. We believe the access is adequate, suitable, and similar to its current use as the Town’s access to the cell tower, existing town sand pit, and proposed Water Tank Construction/Maintenance. The image on **Appendix #8** shows that the easement is distinct from the pedestrian bike path. **Appendix #10** is the Cape Cod Commission’s DRI review and approval (1998) of the Town Cell Tower, where Eastham declared that the existing gravel State easement was adequate access to construct and maintain the cell tower. The same heavy Town trucks, which currently use the State easement, are comparable to public safety vehicles of all size.

“The site is highly vulnerable to wildfire threats, due to its remoteness and adjacency to abundant fuel for a forest fire. The location is also in a high velocity wind zone (Zone 4), which could accelerate a fire very quickly and engulf dwellings, despite a separation from the forest. The applicant should address the means to be deployed for reducing this threat. Absent a realistic plan for mitigating the threat from wildfires, it makes little sense to increase the residential density in this location.”

4. The entire Town is in the high velocity wind zone. The present site is no more vulnerable to wildfire than all other residences in the Town. Nauset High School is surrounded by woods and would not have been built there if wildfires were a significant concern. We have requested that Eastham cooperate in delivering Town water, which would address these concerns. One of the attractions of the site is its proximity to the National Seashore, providing affordable and market rate owners’ access to this spectacular resource.

If the Town will not provide Town water, then Mr. Gendron will install additional wells dedicated to fire response. We note however that the substantial part of the

Town is on private wells without Town water. Eastham's water delivery system is limited, with few hydrants located on dead end streets going North and South off of Route 6.

The Town and State are our primary abutters. Mr. Gendron will cut underbrush and is receptive to other reasonable suggestions by the Fire Chief.

"It is unclear if the site can be served by the future municipal water supply system. The first phase of the system does not provide for service to this area. Thus, the flow needed to contain fires from any source is limited to what can be trucked in. In the absence of municipal water, on-site water storage tanks for fire suppression should be provided."

5. New municipal water supply delivery will be constructed adjacent to the existing bike path. See **Appendix #4**. Mr. Gendron offered to work with the Water Department to deliver municipal water to the site without cost to the Town. The Town's cooperation is precisely what the Affordable Plan suggests. Adding 85 more homes to the municipal water system will also help ensure its economic success. Otherwise, the Developer will construct individual wells on each of the 85 lots. When Bracket Landing was developed, it had similar issues which were overcome in a cooperative way with the Town.

"The above comments indicate that the proposed site is inappropriate for increased residential density, due to the public safety risks, which clearly outweigh the public benefit of the proposed affordable housing, in our collective opinion."

6. Every 40B development receives the "inappropriate" comment from abutters. There are no easy solution to increase the Town's affordable inventory. Adding one or two units per year makes no impact.

Mr. Gendron is steadfast in his commitment to work with Town of Eastham to overcome concerns with scientifically acknowledged approaches, which were outlined in previous correspondence. The common goal for Eastham and Mr. Gendron is to develop a significant number of affordable units, ensuring waste water discharge levels will not harm the environment.

A recent article published in the Cape Cod Times (March 20, 2015) noted that Eastham has the lowest percentage of available housing on Cape Cod. This fact should provide substantial impetus to join with a cooperative developer and work toward common goals.

The Town should also balance the current use of the site against the proposed use. An open sandpit with 500 trips per day as an industrial use is more intense and damaging than the proposed use.

ENVIRONMENTAL QUALITY

"The applicant has represented an intention to install and operate an advanced wastewater treatment system to service the proposed residential development. The system is said to be capable of reducing nitrate-nitrogen concentrations in the effluent to below 3 mgl, whereas a typical Title V system has an output of roughly 30 mgl (19 mgl per Eastham Board of Health regulations). A complete wastewater design and management analysis by a qualified engineer is needed to further evaluate this aspect of the project. Given the location so close to the Town's limited water supply, it is essential that an adequate back-up treatment system also be provided, to minimize the threat of degradation of the drinking water resources upon which the public welfare will depend."

7. Mr. Gendron has begun the design of the waste water treatment system. We expect to achieve the goals as stated.

"The site currently contains material not suitable for on-site fill, which will have to be excavated and disposed of properly. No indication of this intention has been described in the project materials."

8. Mr. Gendron will use only acceptable and appropriate fill. This was discussed at the January meeting.

MISCELLANEOUS

"There are extraordinary costs associated with this proposed development. These include:

- a. Excavation and proper disposal of the materials now stored on the site.
- b. Stabilization of the steep side slopes.
- c. Preparation of the site for home sites.
- d. Design and construction of the on-site roadway and improvements to the 1000' feet of access roadway.
- e. Design, construction, and long-term operation of an advanced wastewater treatment system, plus an adequate back-up system."

9. Mr. Gendron is prepared to work with the Town to satisfy any concerns about the economics of the project. We feel confident that the proposed density will meet the present and future economic needs of the development. DEP will require a substantial reserve as part of the permitting (See **Appendix #11.**)

"The concept plan shows home sites directly beneath the existing NSTAR power lines. This arrangement is unlikely, based on the historic exclusion of most land uses, especially dwellings, from the Company's rights-of-way. Any revised plan should depict the location of the power line R.O.W. and not plan for home sites within it."

10. See revised plan addressing the location of the NSTAR easement in relation to the

ROW and development (**Appendix #12.**)

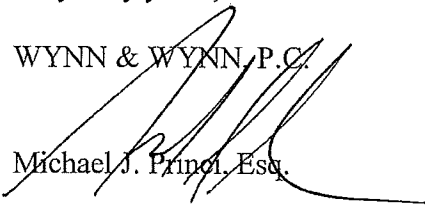
We recognize that any 40B development proposals are subject to criticism. Mr. Gendron feels strongly that his proposal (See **Appendix #13.**) will overcome the Town's waste water and access concerns, provided that the Town cooperates in granting waivers and collaborating on the Secondary Access.

Every 40B development creates higher density, waste water issues, water delivery issues, access issues, public safety issues, etc. Mr. Gendron's proposal is no different except that Mr. Gendron can and will address concerns stated in the Staff Review.

In closing, Mr. Gendron and his staff have demonstrated a sincere commitment to Eastham. The Staff Review comments do not contain any issues, which are insurmountable and all that is required is the Town's willingness to cooperate in the development of 22 affordable homes in a site where NIMBY issues are minimal.

Very truly yours,

WYNN & WYNN, P.C.


Michael J. Principi, Esq.

MJP:crs



TOWN OF EASTHAM

2500 State Highway, Eastham, MA 02642-2144
Administrative: 508-241-5900 • Fax 508-241-1231
www.eastham-ma.gov

Mike Prince
508-775-3665
x235

Called to F/U on
email
left message 11/26

(original staff
report)

TO: Eastham Board of Selectmen
FROM: Development Review Staff
DATE: November 24, 2014
SUBJ: Gendron Local Initiative Program

APPLICATION TYPE: LIP
LOCATION: 2780 Nauset Road, Map 5, Parcels 24 and 26
ZONING: District G

PLANS ON FILE:

Conceptual Site Plan, Survey of subject property, one-page summary of project prepared by applicant, Land Court decree concerning the access right-of-way.

SITE DESCRIPTION:

The subject property is an active sand mining operation, which is currently presumed to pre-date the current Zoning By-Law. It contains approximately 20.34 acres of land in two parcels. The land is remotely located at the end of a winding and narrow right-of-way (R.O.W.), said by the applicant to be 26 feet in width. The R.O.W. begins at Nauset Road at the former asphalt batching plant and terminates at the subject property. The ROW had been the subject of litigation in the Land Court, which resulted in the Court's decreeing the ROW to be valid to a width of 26 feet.

The land itself is a deep pit with very steep side slopes. A site inspection on 11/13/2014 indicated a variety of materials are currently stored on the property, including broken and painted concrete, a stockpile of unknown material, and a large stockpile of stumps and cut trees. Several businesses appeared to be using the pit in some manner.

PROJECT DESCRIPTION:

This application is for consideration by the Eastham Board of Selectmen to join with applicant Gendron to participate in the Local Initiative Program, a program of the Massachusetts Housing Partnership to encourage the creation of affordable housing.

The concept presented by the applicant is to construct the following:

1. 85 detached single-family homes
2. An access roadway on the subject property
3. An advanced wastewater treatment facility

ZONING BY-LAW PROVISIONS:

District G is intended to accommodate water resource protection uses and very low density residential use. The proposed density is substantially not conforming to these objectives. The applicant has indicated that the quality of the discharge water will be superior overall to the aggregate water quality from a collection of individual standard Title V systems. No engineering documentation has yet been presented to verify this claim.

STAFF COMMENTS:

Municipal staff from the departments of Building, Fire, Health, Planning, Police, and Public Works have collectively reviewed the conceptual plans and offer the following comments:

ACCESS AND SAFETY

1. The site is remotely located and poorly suited for 85 homes. The 1,500-foot access road is only 26 feet in width and falls significantly short of the 40 feet of width required of all land developers for residential construction, per the Town's subdivision regulations. It also substantially exceeds the length of dead-end road limit of 600 feet in the Town's subdivision regulations. The purpose of the 40' width is to accommodate two twelve-foot travel lanes and the water, electric, cable, and gas utilities (when available), which must be installed on both sides of the roadway and not beneath the pavement. A study of the curve radii has not been done but the road may also fall short of the regulations in this regard. While no indication of an intention to pave the road has been stated by the applicant, staff believes it imperative that the access road be paved.
2. The one-way-in and one-way-out arrangement is highly undesirable as it puts at risk not only the residents who would live there but also the various municipal personnel and equipment that would service this development. At the minimum, the remoteness of this site will cause police, fire and rescue personnel and equipment to be encumbered and less available for other calls while in transit over the approximately 1,500' length of roadway, plus the applicable length of on-site roadway.
3. The applicant has represented that an emergency access route over the Rail Trail Bike Path has been arranged with the Department of Environmental Management, which owns and manages the Bike Path. This has not been documented. More importantly, this is not an adequate route for a loaded fire engine, due to insufficient width, surface construction, and the presence of pedestrians and cyclists. The narrowness of the proposed access road greatly increases the importance of the adequacy of an alternative access route.
4. The site is highly vulnerable to wildfire threats, due to its remoteness and adjacency to abundant fuel for a forest fire. The location is also in a high velocity wind zone (Zone 4), which could accelerate a fire very quickly and engulf dwellings, despite a separation from the forest. The applicant should address the means to be deployed for reducing this threat. Absent a realistic plan for mitigating the threat from wildfires, it makes little sense to increase the residential density in this location.
5. It is unclear if the site can be served by the future municipal water supply system. The first phase of the system does not provide for service to this area. Thus, the flow needed to contain fires from any source is limited to what can be trucked in. In the absence of municipal water, on-site water storage tanks for fire suppression should be provided.
6. The above comments indicate that the proposed site is inappropriate for increased residential density, due to the public safety risks, which clearly

outweigh the public benefit of the proposed affordable housing, in our collective opinion.

ENVIRONMENTAL QUALITY

7. The applicant has represented an intention to install and operate an advanced wastewater treatment system to service the proposed residential development. The system is said to be capable of reducing nitrate-nitrogen concentrations in the effluent to below 3 mg/l, whereas a typical Title V system has an output of roughly 30 mg/l (19 mg/l per Eastham Board of Health regulations). A complete wastewater design and management analysis by a qualified engineer is needed to further evaluate this aspect of the project. Given the location so close to the Town's limited water supply, it is essential that an adequate back-up treatment system also be provided, to minimize the threat of degradation of the drinking water resources upon which the public welfare will depend.
8. The site currently contains material not suitable for on-site fill, which will have to be excavated and disposed of properly. No indication of this intention has been described in the project materials.

MISCELLANEOUS COMMENTS

9. There are extraordinary costs associated with this proposed development. These include:
 - a. Excavation and proper disposal of the materials now stored on the site.
 - b. Stabilization of the steep side slopes.
 - c. Preparation of the site for home sites.
 - d. Design and construction of the on-site roadway and improvements to the 1000' feet of access roadway.
 - e. Design, construction, and long-term operation of an advanced wastewater treatment system, plus an adequate back-up system.

These costs must be recovered by the sale of the dwellings, which suggests that the proposed density may increase at some point to enable project completion.

10. The concept plan shows home sites directly beneath the existing NSTAR power lines. This arrangement is unlikely, based on the historic exclusion of most land uses, especially dwellings, from the Company's rights-of-way. Any revised plan should depict the location of the power line R.O.W. and not plan for home sites within it.



TOWN OF EASTHAM

2500 Stare Highway, Eastham, MA 02642-2544

All departments 508-240-5900 • Fax 508-240-1291

www.eastham-ma.gov

TO: Board of Selectmen
FROM: Jacqui Beebe
RE: 2015 Seasonal Licenses Renewals
DATE: April 3, 2015

The following Seasonal License renewals are due for the 2015 season:

Common Victualer

- Arnolds
- Beach Plum Motor Lodge
- Ben & Jerry's
- Chocolate Café
- Laura and Tony's Kitchen
- Lobster Shanty
- Poits
- Sam's Deli
- Stewarts
- Stewarts Mambo Gelato
- Tides Landing
- Elks

Coin Operated Machines:

- Gift Barn
- Poit's

Miniature Golf:

- Gift Barn
- Poit's

Billiards:

- Town Crier Motel

Entertainment:

- Stewarts Seafood Restaurant & Tavern

Peddler/ Hawker:

- Chocolate Café--Buzz Bus
- Good Times Ice Cream Truck
- Hyannis Ice Cream Truck #1
- Hyannis Ice Cream Truck #2
- Local Scoop

All of the above applications are in process, however, all of these establishments are currently

closed and several would like to open for business prior to May 1, 2015. As the next regular meeting for the Board is not until the end of the month, *we are requesting that the Board approve these licenses with the understanding that the licenses will not be issued to the business until the following conditions are met:*

- All applicable (Building, Health & Fire) inspections are completed and all regulations are met, prior to the opening of the establishment;
- Chief Kulhawik will review reports of any prior incidents from last year, and identify any issues that may need to be addressed;
- All taxes are current.

The licenses will be held in the administrative offices until all conditions are met.

If any establishment does not meet these requirements and/or deficiencies are noted, then theses licenses will be held pending further review by the Board of Selectmen.

Total Number of Committee Vacancies Expected for 7/1/15

Includes current openings, members who will reach 3rd term limits, and those not interested in reappointment

<u>COMMITTEE:</u>	<u>NUMBER OF OPENINGS:</u>
Board of Assessors	1 Alternate Member
Bikeways Committee	5 Members
Board of Cemetery Commissioners	1 Member
Community Preservation	1 Member-At-Large
Conservation	3 Members (Including Clerk)
COA	3 Members
Cultural Council	2 Members
Finance Committee	3 (1 BOS Appointed, 1 Moderator Appointed, 1 Finance Comm. Appointed)
Board of Health	2 Members
Historical Commission	1 Member
Human Services	3 Members
Olde Town Centre	2 Members and 1 Alternate Member
Open Space	3 Members
Planning Board	2 Alternate Members
Recreation Commission	1 Member
Search Committee	3 Members (1 Finance Committee Appointed , 2 BOS Appointed)
Water Management	5 Members
ZBA	1 Member



Memo:

To: Board of Selectman

From: Jessica Burt

Date: April 6, 2015

Re: Upcoming Committee Vacancies

Below is the list of Committee Members whose terms will be expiring June 30, 2015, and do not wish to be considered for reappointment.

Michael Fontanarosa	Bikeways Committee
Michael Harnett	Bikeways Committee
Mary Beth O'Shea	Bikeways Committee
Paul Schofield	Bikeways Committee
Judith Poulin	Community Preservation
Mary Zdanowicz	Conservation Commission
Mary Sullivan	Council on Aging
Stanley C. Holt	Cultural Council
Judith Izikewicz	Human Services
Katherine Alpert	Old Town Centre
Roger Dumas	Water Management

Thank you,

Jessica Burt
Receptionist



TOWN OF EASTHAM

2500 State Highway, Eastham, MA 02642 - 2544

All departments 508 240-5900 Fax 508 240-1291

www.eastham-ma.gov

Sample
of letter
going out
term limits

April 6, 2015

Marcel Boelitz
P.O. Box 968
Eastham, MA 02642

Dear Mr. Boelitz:

The Board of Selectmen would like to inform you that your term as a member of the Water Management Committee will expire on June 30, 2015.

The Town Charter provides for committee term limits of three consecutive terms. Our records show that you have served three (3) consecutive terms on the above committee and are therefore not eligible for reappointment this year. However, you are welcome to reapply for a possible appointment after you have been off of this Committee for one year.

The work that a committee accomplishes is reflected by the membership of the group. Eastham is very fortunate to have a wonderful pool of volunteers to choose from and you are one of these chosen people. Your contribution has been, and still is a valuable asset to the town and we encourage you to consider service on another committee. A listing of all town committees and information about their work can be found on the Town website at www.eastham-ma.gov.

May we express the appreciation of the Board, the staff, and indeed all the citizens of the Town of Eastham for your esteemed service to the Water Management Committee.

We thank you for your past service to the Town and look forward to your future involvement.

Sincerely,

Linda S. Burt, Chair

John F. Knight, Vice-Chair

Martin F. McDonald, Clerk

Wallace F. Adams, II

Elizabeth Gawron

BOARD OF SELECTMEN



TOWN OF EASTHAM

2500 State Highway, Eastham, MA 02642-2544

All departments 508-240-5900 • Fax 508-240-1291

www.eastham-ma.gov

Sample
thank you for
time served

April 6, 2015

Michael Fontanarosa
1075 Nauset Road
Eastham, MA 02642

Dear Mr. Fontanarosa:

The work that Boards, Commissions and Committees accomplish is reflected by the membership of the group. Eastham is very fortunate to have a wonderful pool of volunteers to choose from and you are one of these chosen people. Thank you for the time and effort you devoted to the Bikeways Committee.

May we express the appreciation of the Board of Selectmen, the staff, and indeed all the citizens of the Town of Eastham for your esteemed service.

Sincerely,

Linda S. Burt, Chair

John F. Knight, Vice-Chair

Wallace F. Adams II

Martin F. McDonald, Clerk

Elizabeth Gawron

BOARD OF SELECTMEN

III.1.d

Sheila Vanderhoef

From: Voelker, Karl <kvoelker@bu.edu>
Sent: Tuesday, March 31, 2015 7:04 PM
To: 'svanderhoef@eastham-ma.gov'
Subject: WBUR - Eastham tower proposal

Hi Sheila,

I wanted to touch base with you since it has been a couple of weeks since WBUR presented before the Board of Selectman.

One of the items the board had requested was for WBUR to identify towers in the area which are using a similar style lighting fixture to the one we are proposing. After reviewing some of the tower sites in the area, we were unable to identify any tower which is using the specific lighting fixture we are specifying. For that reason we would like to propose the following to you and the Board of Selectman.

WBUR would like to propose installing a temporary fixture on the tower we are currently located on in Eastham, to simulate the lighting conditions we are requesting. This fixture would support the exact model lighting device we would use for permanent installation. Once installed, this would allow members of the board to view the lighting device during both day and night operation for a period of 48 hours. This proposed temporary installation would allow the Town Board of Selectman the opportunity to evaluate the impact of tower lighting with the best accuracy. After the 48-hour period we would remove the temporary lighting and fixture.

This proposal to install temporary, test lighting, will take some time to coordinate all the parties involved, and will have substantial cost to WBUR for purchase and installation on the tower. WBUR is willing to take this extra step to present to the board what the lighting will look like when installed because it is important for us to make the improvement to our broadcast signal, as we have proposed. If WBUR is approved to make the improvements to our signal, which include increasing the tower height and adding aviation lighting, then we would be able to make a long term commitment to this site, and ultimately this means continued revenue to the Town of Eastham of \$24,000 per year. Unfortunately the low height we are currently at on the tower does not provide the broadcast signal we are trying to achieve on Cape Cod and we would need to look at alternative locations if we are unable to increase our height on the existing tower.

Thank you for your consideration and please let me know if you and the Board are amenable to this proposal. Again, this would take some time for us to coordinate and install, but if our proposal is accepted, we will keep you updated on progress and give the Board plenty of time before the test installation would be active.

Thank you.

Karl Voelker

Karl Voelker
Director, Engineering Operations
WBUR - Boston University
(O) 617.353.0734 | (C) 617.259.8007

III. 1.e.



FAQ: WMAs and the June 15 deadline

The Cape Cod Commission and the towns of Cape Cod are obligated under a settlement agreement between the Conservation Law Foundation (CLF) and United States Environmental Protection Agency (U.S. EPA) to designate Waste Treatment Management Agencies capable of performing duties spelled out in the Federal Clean Water Act. These designations must coincide with submission of the Section 208 Update by the Massachusetts Department of Environmental Protection (MassDEP) to U.S. EPA on June 15. Below are some frequently asked questions and answers.

What are WMAs?

A "Waste Treatment Management Agency" or "WMA" is a distinct term that comes directly from the Federal Clean Water Act. It refers to the entities, body or bodies that have been designated to be responsible for the implementation of the Clean Water Act Section 208 Plan Update.

What do they do?

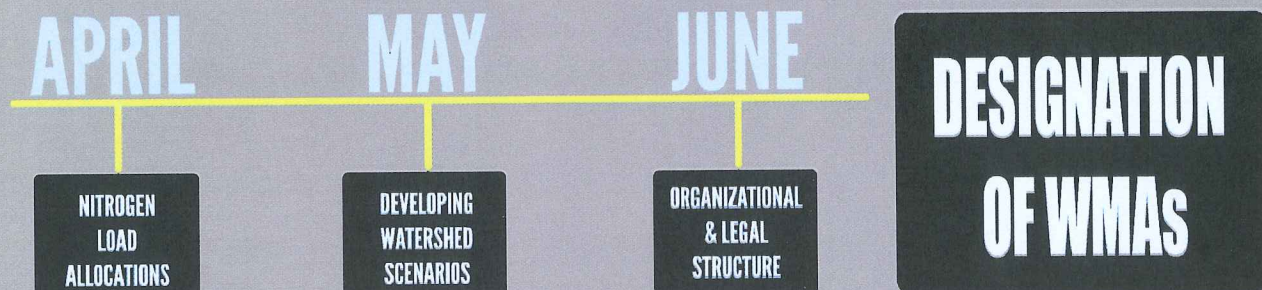
A WMA must be able to do the following:

- carry out the areawide waste treatment management plan;
- manage waste treatment works and related facilities;
- directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

- accept and utilize grants, or other funds from any source, for waste treatment management purposes;
- raise revenues, including the assessment of waste treatment charges;
- incur short- and long-term indebtedness;
- assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;
- refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and
- accept for treatment industrial wastes.

There are 28 entities on Cape Cod that can carry out these specific functions, including all 15 municipalities.

WASTE MANAGEMENT AGENCY TIMELINE



FAQ: WMAs and the June 15 deadline

Why is it important for the towns to act now regarding WMAs?

As part of the Clean Water Act Section 208 Plan Update, there is a requirement that WMAs be designated when the Section 208 Plan Update is submitted by MassDEP to the U.S. EPA. The U.S. EPA notified MassDEP and the CCC that the update and WMA designations are due to be submitted by June 15, 2015.

Each town has the opportunity to work with the CCC prior to the designation of WMAs to ensure that the 208 Plan Update coordinates its approach in shared watersheds Cape-wide.

What is the effect of Conservation Law Foundation v. US EPA settlement agreement?

The United States District Court in the matter of CLF v. U.S. EPA recently issued a stay of that litigation while efforts are made to update the 208 Plan and designate WMAs. This is significant because the court has placed a hold on the lawsuit to give the U.S. EPA an opportunity to review the 208 Plan Update and WMA designations. During this time, the CLF may not challenge Cape-wide TMDLs, nor seek any type of Court imposed solution to solve the nitrogen issues on Cape Cod.

What is the CCC's plan between now and June 15 to work with the 15 Cape towns?

The Cape Cod Commission Executive Director and

Staff will work with Town representatives over the next three months in a working group approach. Using five watersheds across the Cape for illustration and discussion purposes (i.e. Waquoit Bay, Lewis Bay, Bass River, Pleasant Bay and Wellfleet Harbor), the CCC will take a three step approach with the towns regarding the WMA designation.

- 1) In April, town representatives will be asked to discuss nitrogen load allocations in those watersheds.
- 2) In May, town representatives will use these same illustrative watersheds to discuss the concept of developing watershed scenarios.
- 3) In June, town representatives will have the opportunity to pose questions to a legal team regarding organizational and legal structure of potential solutions a WMA could use.

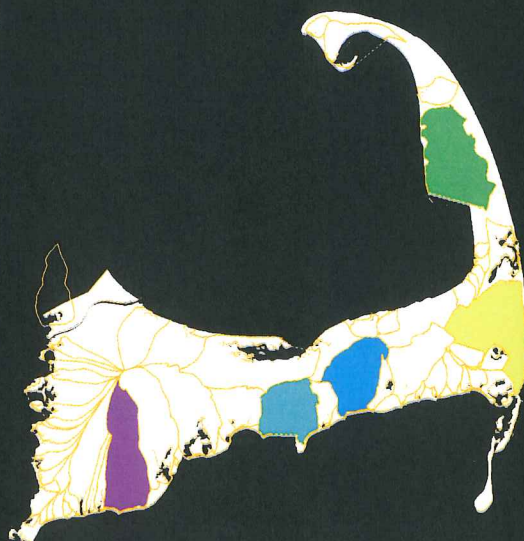
In June, the recommended WMAs will be submitted by the CCC to MassDEP, who will submit the 208 Plan Update to U.S.EPA..

There's no time to go to Town Meeting. How can this be achieved by June 15?

Town meeting is not required for this first step of designating WMAs; it is accomplished by submission of the 208 Plan Update to U.S. EPA by the CCC. U.S. EPA then has the role of deciding if it will accept the WMA designations. If the WMAs nominated can perform the functions listed by Section 208 (c) of the Clean Water Act, they must be accepted.

WORKING GROUPS

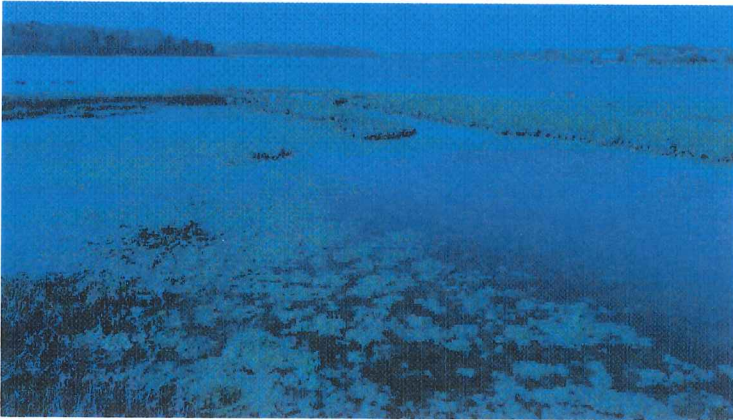
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<input type="checkbox"/> SANDWICH	<input type="checkbox"/> HARWICH
<input type="checkbox"/> FALMOUTH	<input type="checkbox"/> CHATHAM
<input type="checkbox"/> MASHPEE	<input type="checkbox"/> ORLEANS
<input type="checkbox"/> BARNSTABLE	<input type="checkbox"/> EASTHAM
<input type="checkbox"/> YARMOUTH	<input type="checkbox"/> WELLFLEET
<input type="checkbox"/> DENNIS	<input type="checkbox"/> TRURO
	<input type="checkbox"/> PROVINCETOWN



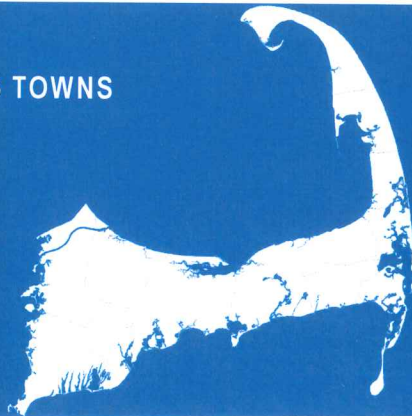


CAPE COD
COMMISSION

The 208 Plan Update



15 TOWNS



SINCE 1951

1951

SINCE 1951
WE HAVE EXPERIENCED

1971

SINCE 1951
WE HAVE EXPERIENCED
UNPRECEDENTED

1985

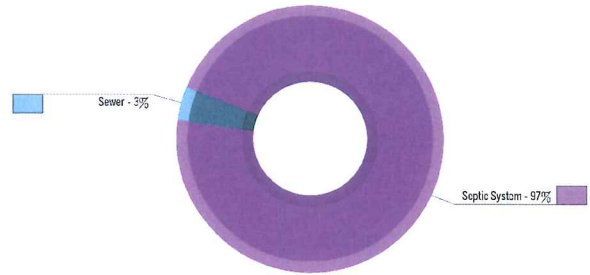
SINCE 1951
WE HAVE EXPERIENCED
UNPRECEDENTED
GROWTH

1999

SINCE 1951
WE HAVE EXPERIENCED
UNPRECEDENTED
GROWTH

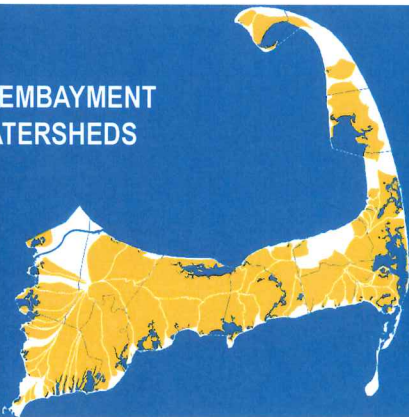


2012

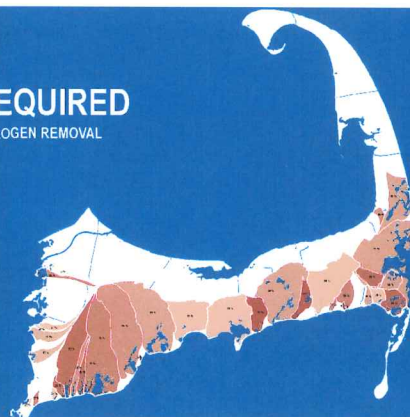


THE PROBLEM
CURRENT SEWERING

53 EMBAYMENT
WATERSHEDS

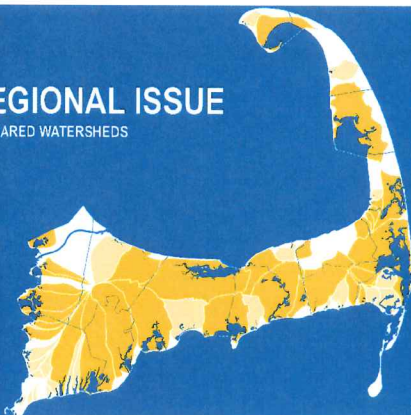


REQUIRED
NITROGEN REMOVAL

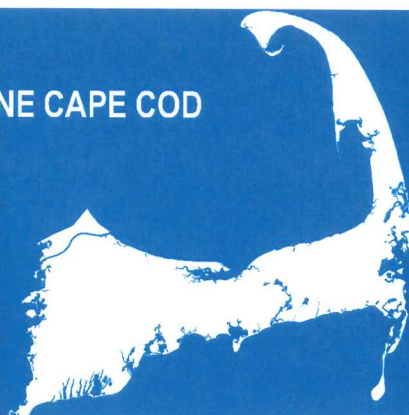


REGIONAL ISSUE

32 SHARED WATERSHEDS



ONE CAPE COD



A NEW APPROACH WAS NEEDED

A NEW APPROACH



JUNE 2014: DRAFT SUBMISSION



AUGUST 2014: PUBLIC DRAFT PLAN RELEASED



MARCH 2015: FINAL PLAN SUBMISSION



JUNE 2015: DESIGNATION OF WMAs

1 PEOPLE
THE CAPE COD MODEL - PEOPLE AND PROCESS

2 PROBLEM
CAPE COD BASELINE - PEOPLE AND PLACE

3 POLICY
REGULATIONS

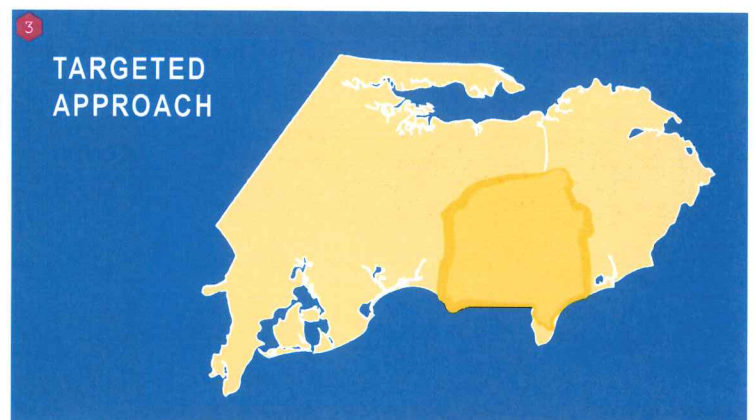
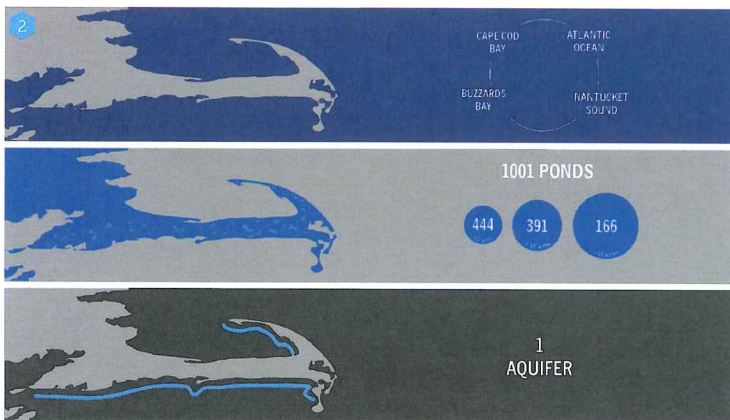
4 SOLUTION
NUTRIENT MITIGATION TECHNOLOGIES AND POLICIES

5 EVALUATION
THE CAPE COD MODEL - TECHNICAL REVIEW

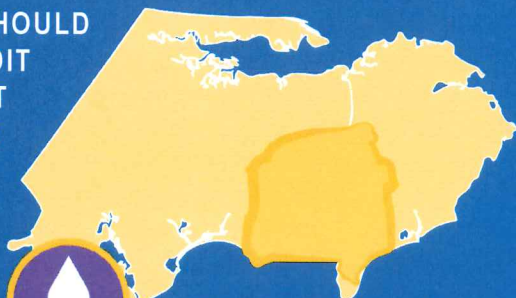
6 MONEY
COST AND FINANCIAL AFFORDABILITY

7 FORECAST
PLANNING AND GROWTH MANAGEMENT

8 STRATEGY
RECOMMENDATIONS AND IMPLEMENTATION



**TOWNS SHOULD
GET CREDIT
FOR WHAT
THEY ARE
ALREADY
DOING**



**N+P+K
MGMT**

BMPs

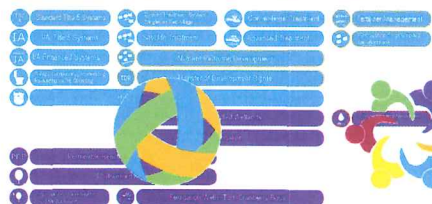
ONE WATERSHED PERMIT



Reduction

Treatment before disposal to ground

Site Scale	Neighborhood	Watershed	Cape-Wide
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Remediation

Treatment of the under-dispersed

Restoration

Treatment in water body



TEAM
1

2

Collection Systems

Non-Colle

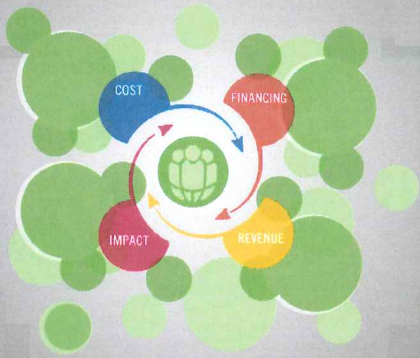
Traditional Approaches

cost and effectiveness
synthetic nitrogen food
economies of scale
potential limitations
permissible

ditional
Approach

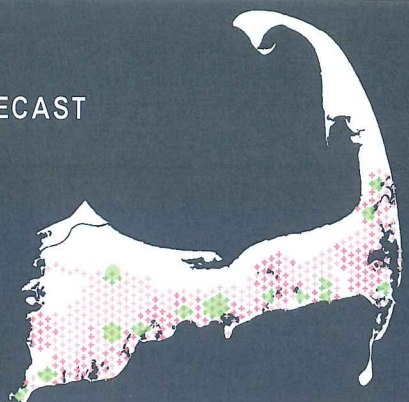
Scenarios define the outer bounds of an adaptive management plan

6

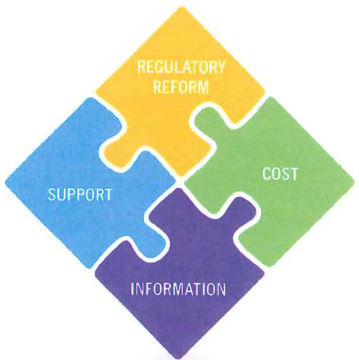


7

FORECAST



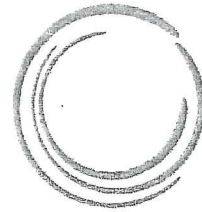
8



IV. A.

4/6 agenda

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630

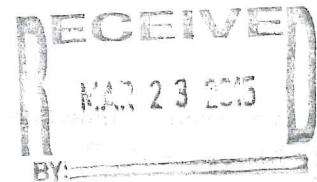


CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

March 18, 2015

Ms. Linda S. Burt
Board of Selectmen
Town of Eastham
2500 State Highway
Eastham, MA 02642



RE: Cape Cod Metropolitan Planning Organization Special Elections in Sub-Region D
(Towns of Eastham, Wellfleet, Truro and Provincetown)

Dear Ms. Burt,

As you know, the Cape Cod Metropolitan Planning Organization held its elections in November 2014. Cheryl Andrews was elected to represent Sub-Region D in the MPO, but unfortunately she is unable to attend the MPO meetings because of scheduling conflicts. She has resigned from the position and for this reason we will conduct a special election in Sub-Region D. We respectfully request that each individual Selectman submit new nominations to represent their Sub-Region. Selectman may:

- Self-nominate, or,
- May nominate other Selectmen from their town or any other towns within the Sub-Region D (Eastham, Wellfleet, Truro and Provincetown).


Nomination of a candidate for Sub-Region D will be an agenda item for the next MPO meeting on April 27, 2015. If you are unable to attend this meeting, you may submit your absentee nomination prior to the meeting by putting a check next to nominated person's name(s) and signing the back of the envelope. Nominations must be received no later than 4 pm on Friday, April 24, 2015 (postmarked by April 22, 2015).



There is no limit to the number of nominees in the Sub-Region. At the April 27, 2015 MPO meeting, the MPO staff will open the absentee nominations, accept any additional nominations from those in attendance, and announce the nominees for Sub-Region D. The MPO Staff will then compile the list of nominees for Sub-Region D and distribute one ballot by mail to each Selectman after the April 27th MPO meeting.

Please feel free to contact me if you have any questions.

Sincerely,



Glenn Cannon
Technical Services Director

Cc: Ms. Shelia Vanderhoef, Town Administrator
Ms. Jacqueline Beebe, Asst. Town Administrator
Ms. Susanne Fischer, Town Clerk

Title VI Notice of Nondiscrimination: The Cape Cod Metropolitan Planning Organization (MPO) complies with Title VI of the Civil Rights Act of 1964 and related federal and state statutes and regulations. It is the policy of the Cape Cod MPO to ensure that no person or group of persons shall on the grounds of Title VI protected categories, including race, color, national origin, or under additional federal and state protected categories including sex, age, disability, sexual orientation, gender identity or expression, religion, creed, ancestry, veteran's status (including Vietnam-era veterans), or background, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity administered by the Cape Cod MPO. To request additional information about this commitment, or to file a complaint under Title VI or a related nondiscrimination provision, please contact the Cape Cod Commission's Title VI Coordinator by phone at (508)362-3828, TTY at 508-362-5885, fax (508) 362-3136 or by e-mail at mhevenor@capecodcommission.org.

If information is needed in another language, please contact the Cape Cod Commission's Title VI Coordinator by phone at (508)362-3828.

Para solicitar una traduccion de este document al Espanol, por favor llame (508)362-3828

Para solicitar uma traducao deste document para o Portugues, por favor ligue (508) 362-3828



TOWN OF EASTHAM

2500 State Highway, Eastham, MA 02642-2544

All departments 508 240-5900 Fax 508 240-1291

www.eastham-ma.gov

IV. B

April 6, 2015

Mr. Peter Markunas
P.O. Box 1097
North Eastham, Mass. 02651

RE: **Complaint of Noise Violations**

Dear Mr. Markunas:

Our town Administrator Sheila Vanderhoef has met with Tom Wingard building inspector and zoning enforcement officer, as well as the Police Chief Ed Kulhawik, regarding your letter and concerns of wood chippers, blowers, etc. running excessively in your neighborhood and where in your estimation is causing a nuisance that you feel violates the noise by-law 96-1.

Routine maintenance that residents perform or have performed unless done during hours that are not in accordance with the laws for such work, are **not** in violation of the noise by-law according to both Mr. Wingard and Chief Kulhawik. If there is a commercial operation being conducted on a property in the vicinity and within ear shot of your home that would be an entirely different situation as it could constitute a violation of zoning, we have no information available however that would indicate this.

We recommend that you contact the Police when you are experiencing these nuisances if you feel there is a violation and they will investigate accordingly. We feel that based on the information presented in your letter there is no basis for enforcement but would encourage you to contact us if indeed you feel there is a zoning issue as indicated.

Sincerely,

Linda Burt
Chairman Eastham Board of Selectman



EASTHAM POLICE DEPARTMENT

2550 State Highway • Eastham, MA 02642
508-255-0551 • Fax: 508-255-5412



EDWARD V. KULHAWIK
Chief of Police

KENNETH J. RODERICK
Deputy Chief

TO Sheila Vanderhoef

FROM: Chief Edward V. Kulhawik *EVK*

DATE: March 26, 2015

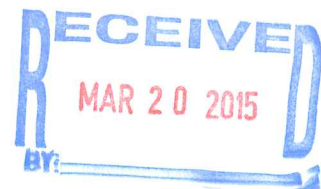
RE: Noise Violations - Letter from Mr. Markunas

I have met with Tom Wingard, building inspector and zoning enforcement officer, regarding the letter sent from Mr. Markunas regarding his concerns of wood chippers, blowers, etc. running excessively in his neighborhood and that in his estimation is causing a nuisance and should be considered a violation under the noise by-law 96-1.

Let me first report that we have no record of Mr. Markunas ever reporting any excessive noise at his residence to the Eastham Police Department. Secondly, routine maintenance that residents perform or have performed, unless done during hours that are not in accordance with the laws for such work, is not in violation of the noise by-law. If there is a commercial operation being conducted on a property in the vicinity and within ear shot of his home that would be a different situation entirely as it could be a violation of the zoning by-laws. We have no information available that would indicate this however.

We recommend that Mr. Markunas contact the Police when he is experiencing these nuisances if he feels there is a violation and we will investigate accordingly. We both feel that based on the information presented in his letter there is no basis for enforcement at this time.

Peter Markunas
P.O. Box 1097
North Eastham, MA 02651
pmarkunas@comcast.net
5508-255-8945



March 18, 2015

Eastham Board of Selectmen
Eastham Town Offices
2500 State Highway, Route 6
Eastham, MA 02642

RE: Noise Violations within Residentially Zoned Areas

Dear Selectmen:

I am writing this letter to be taken seriously by the Eastham Board of Selectmen regarding the increase in Noise Pollution that has been occurring and apparently either not enforced under the Town of Eastham By-Law Chapter 96-1, or considered not a noise as defined as "loud, excessive or unusual noises" under said By-Law.

Specifically, I refer to the movement of mobile industrial equipment into residential areas for the purpose of grounds maintenance. The referenced By-Law refers to noises that can be heard 150' away from the source of the noise.

The mobile industrial equipment that I am referring to is the trailer dragged wood chipper and industrial vacuums and industrial gas powered "leaf blowers" that have become commonplace in the last decade. Some may refer to these devices as "necessary maintenance noises", but, if you were within a quarter of a mile of a day or two day operation of the devices you will clearly see that they violate the spirit of the Eastham By-Law Chapter 96-1.

These wood chippers run constantly, all day, even while no material is placed into them. The operators of the equipment must wear hearing protection, however, there is no care for neighbors who are subject to the same decibel nuisance sound levels for several continuous hours.

Previously, around ten to fifteen years ago, landscapers would use rakes and tarps to gather leaves, pine needles and branches, then drag the tarp to their trailers or trucks for off-site disposal. Similarly, branches were placed into trucks and taken off site to an industrial area for either chipping or disposal. The proliferation of these new mobile devices clearly place them within the spirit of the Noise By-Law violations. Wood Chippers should only be allowed in an industrial area that permits the use of such noise production devices, as well as industrial powered leaf blowers and vacuums.

Our Town has another nuisance By-Law regarding dog barking, Chapter 17-10: "No person owning, keeping, or otherwise responsible for a dog or other animal shall allow or permit said animal to annoy another person's reasonable right to peace or privacy by making loud or continuing noise, where such noise is plainly audible at a distance of 100 feet from the building, premises, vehicle, or other means of conveyance or housing of said dog, or where such noise is continuing for 15 minutes"

In this case, according to the Eastham Noise and Nuisance By-Law the sound of a barking dog, which is a fraction of industrial blowers, vacuums, and chippers, is limited to continual noise for 15 minutes that is plainly audible at a distance of 100' from said dog.

We are now entering the end of our snow season. I can plainly hear a wood chipper operating about a half a mile from my place of residence. It will only be a matter of time before the snow leaves our lawns and the industrial equipment arrives in our residential neighborhoods running for six to eight hours a day. Yesterday, the chipper started operation just before 3pm and ended well after 5pm. As the days get longer, the operation of the equipment will coincide with the length of daylight.

I have no objection to individuals in our Towns from making a fair living by lawn maintenance. However, the industrial equipment must remain in the industrial zones. The landscapers must follow the spirit of our noise nuisance By-Laws. Both can happen in harmony, as has been the case in the past, prior to these nuisance mobile industrial machinery.

And a final observation that I have made over the years is that most year round residents cannot afford hiring outside landscapers and must resort to the "old methods" of rakes and tarps and trips to the compost pile at the transfer station. However, most of the industrial noise nuisance landscaping is hired by our non-resident owners, while they are away at their primary residences, well away from the range of the sound of the equipment.

I'm sure that you will take this matter seriously as it is a terrible nuisance to our year round residents and seniors who wish to maintain a quiet and peaceful existence in their remaining lives in our wonderful Town of Eastham.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Markunas", with a stylized, flowing script.

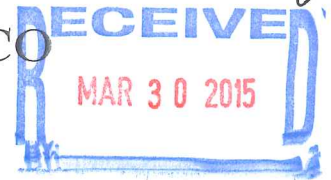
Peter Markunas

Information

Info

LAW OFFICES OF
BEAUREGARD, BURKE & FRANCO

THE ANDREW ROBESON HOUSE
P.O. BOX 952
32 WILLIAM STREET
NEW BEDFORD, MA 02740



PHILIP N. BEAUREGARD
RICHARD E. BURKE, JR.
MICHAEL FRANCO
ADRIENNE CATHERINE H. BEAUREGARD-RHEAUME

TEL.: (508) 993-0333
FAX: (508) 990-2045
FAX: (508) 990-2002

Website: www.bbflawoffices.com
E-Mail: partners@bbflawoffices.com

OF COUNSEL
HON. WILLIAM H. CAREY
JAMES HODGSON
GEORGE J. LEONTIRE
NICHOLAS D. BERNIER

March 27, 2015

Stephen Crosby, Chair
Gayle Cameron, Commissioner
James F. McHugh, Commissioner
Enrique Zuniga, Commissioner
Bruce Stebbins, Commissioner
Massachusetts Gaming Commission
101 Federal Street, 23rd Floor
Boston, MA 02110

Dear Mr. Chairman and Commissioners:

The purpose of this letter is to address the discussion by Commission members at the March 19, 2015 meeting regarding requests for extension of deadlines for two license applications now pending in Region C. The undersigned are former City Solicitors for the City of New Bedford, covering time periods in the early 1980's (Beauregard) and late 1990's (Leontire); also we are life-long residents of the City of New Bedford and we are keenly aware of circumstances and economic challenges that have faced this area (Southeastern Massachusetts) over the course of the last 30+ years. We maintain law offices in the downtown historic district of the City of New Bedford (Andrew Robeson House). Our respective law practices touch on a multitude of clients and issues directly involved with the economic environment in New Bedford. We do not represent any entity or individual seeking a license from the Commission.

Respectfully, our concern is that much of the discussion regarding whether or not to grant two applicants a 45-day extension reflects a significant misunderstanding of the Commission's statutory obligations in acting on current applications for a casino license in Region C. If the correct statutory criteria are not applied, this area of the state may well experience a "left behind" effect that has unfortunately negatively impacted this area of the state too many times in past years.

The emergency preamble to House Bill No. 3807 provides that the purpose of the Act is to create economic investment and job creation in the Commonwealth. The

Legislature clearly articulated 10 specific guiding principles that underlie the Gaming Legislation. Consistent with the Act's Preamble, Section 1 of the Act emphasizes the Act's purpose: creation of opportunities for the unemployed and encouragement of culturally and socially diverse communities in all sectors of the Commonwealth through a "robust licensing process". (See Attachment A-Excerpts of the Gaming Statute)

Section 18 of the Act lists 19 criteria on which the Commission must make written findings when evaluating a license. The extensive criteria set forth by the Legislature anticipate that a license will be granted to an applicant who qualifies. Attachment A.

We have prepared an abstract of the meeting discussion that indicates that the Commission may be on a course of straying from its statutory mandate. (See Attachment B-Selected sections from the official meeting transcript). Comments by the two members who voted no to the extension are disturbing. The sub-text of their comments is that a Region C license will inevitably be denied and that by voting yes, the Commission was simply prolonging the process. We urge those Commission members to reconsider their position and to keep an open mind on the Region's applications. We ask that the Commission render its decision in a fair and impartial manner without prejudging the merits of the pending applications before making an evaluation under the criteria outlined in the Act.

We believe that the intent of Chapter 194 of the Acts of 2011 (General Laws, Chapter 23K), read as a whole, is to place the three regions of the state (A, B, C) on equal footing with respect to the three casino opportunities created by the statute. Each region should be afforded equal treatment with respect to the criteria set forth in the statute for selection of an applicant. Each region is entitled to strive for the economic benefit envisioned by the statute.

The "competition" provided in the Casino statute is manifestly meant to be "intra-region," not "inter-region." However, some Commissioners' comments at the hearing suggested that the Commission should be looking to the potential effect that a Region C casino license might have on the already granted licenses in Regions A and B; and the impact of a future *potential* license that might or might not be operated by Native American Indian ownership.

We believe differently, that the Commissioners' obligation under the Act is to evaluate, *within each separate region*, which (if any) applicant is best suited to carry on the beneficial economic development within that region.

It would be a clear departure from the intent of the Massachusetts Casino legislation to have one or two of the three listed regions favored over another region, even if the Commissioners' intent is to protect existing granted licenses in Regions A and B (at the expense of Region C).

We believe that the Commission should not reexamine the Legislature's purpose in enacting Chapter 194, with its clearly stated intent that the Commission evaluate the merits and economic viability of the regional applicants' plans and agreements with the respective host cities. Section 18 states that the Commission will examine "how each

applicant proposes to advance the economic objectives” sought by the City (for each region) in negotiating and executing a host community agreement with the applicant.

In the case of KG Urban and the City of New Bedford, months of time consuming work and comprehensive discussions and negotiations have resulted in what the City of New Bedford believes will be an extremely favorable economic tool for the resurgence of the City’s economy and employment. A fair and objective evaluation by the Commission, looking at *intra-region* considerations in evaluating KG Urban’s application, is the proper and legal course that the Commission should follow. Our fear is that Commission members may (erroneously) proceed by considering economic factors outside of Region C (i.e. the continued viability of casino operations in Regions A and B) rather than afford Region C its own independent consideration.

Central to our view of the Gaming Legislation is that Section 19(a) of Chapter 194 could not be clearer as to the singular circumstance under which a Region may be denied a license. That circumstance is very specific. No license will issue:

“...if the commission is not convinced that there is an applicant that has both met the eligibility criteria and provided convincing evidence that the applicant will provide value to the region in which the gaming establishment is to be located...”

It should be beyond question that Region C is entitled to a fair application of criteria set forth in the law, just as such criteria were applied earlier to Regions A and B. Each region’s casino proposal should be judged by the same criteria: whether the proposal “provides employment and support in all sectors of the economy, particularly where unemployment has been a traditional issue challenging *that region’s* economy.” The additional goals of promotion of small businesses and tourism, and cultural and social facilities, also need to be considered on an *intra-regional* basis. Accordingly, no one region should be denied an *intra-region* evaluation process. To fulfill the Legislative intent, the statutory criteria should be evaluated from a local regional context.

The HCA in this case, and any further information to be provided to the Commission, should be examined with respect to the proposed beneficial effects within Region C rather than consideration of the impact of a Region C casino on other regions of the state.

In addition, any present preoccupation or speculation by the Commission that equity partners may be shying away from the region overshadows and prejudices its obligation to fairly evaluate what the applicants are offering for Region C. This type of speculation could well create a self fulfilling prophecy.

We urge the Commission to make a clear and unambiguous statement that a Region C applicant who shows it has the wherewithal to build a casino in accordance with the criteria of the Act will be granted a license. This Commission must give Region C a fair shot at a license. Any damage already done needs to be addressed. No other Region has faced such bias suggesting that the Region cannot support a Casino. The Legislature made the determination that there was to be a Region C license if a qualified

applicant met the Act's criteria; the Commission does not have the right to disregard that mandate. The Commission exists to *administer* the law, not *change* it.

We do not address at length the Tribal Gaming Region C license issue. Its use as an argument against awarding a license is a red herring. The argument that the potential of a Tribal license should prevent the issuance of a commercial Region C license is simply a pretext to deny the region a license. The Tribe has made no headway with having the land taken by the Department of Interior. Given the state of the federal law as altered by the recent United States Supreme Court decision it is years away if at all. It is time that the Commission take the position that a qualified applicant willing to invest \$650 million in Region C will trump any concerns over the establishment of a Tribal facility that may or may not occur in the future.

We are well aware that the Commission has power to issue or not issue a license. We submit, however, that such power is set forth in Section 19(a) (as explained above), and is intended to insure that a license is not issued to an unqualified applicant, and not to deny a Region a license altogether.

We agree with Commissioner James McHugh's comments at the March 19, 2015 Commission meeting. We hope the Commission members will take to heart his comments.

I come at this from a little bit different starting point. This is really at tough problem. I think we all feel that it's a tough problem. But I come at it from a little different starting point.

And the starting point is the statute and the purpose of the statute. The statute is designed to create an economic engine or engines. It's designed to create jobs. It's designed to create both permanent and construction jobs. And it's designed to help reach into, at least as we have applied it, into communities that are having difficult economic times and boost the economics.

But I think we need to look at it carefully on the merits and not use a deadline as a proxy for avoiding looking at it. In fact, we can't avoid looking at it because we have an applicant who is qualified and whose application is going to go forward. So, we're going to look at it anyway. We're at the starting gate. Transcript pg. 271-274 see Attachment A

Region C deserves the same treatment afforded Regions A & B. This is the clear intent and language of the enabling statute.

Appropriate consideration of the above comments will benefit all citizens of the Commonwealth (including those working and residing in Region C who deserve equal treatment under the law).

Very truly yours,



GEORGE J. LEONTIRE

PHILIP N. BEAUREGARD

ATTACHMENT A

EXCERPTS OF THE GAMING STATUTE PREPARED BY ATTORNEYS' GEORGE J LEONTIRE AND PHILIP N. BEAUREGARD

Preamble to House Bill No. 3807. To provide for economic investments and job creation in the Commonwealth.

CHAPTER 23K. THE MASSACHUSETTS GAMING COMMISSION

Section 1. The General Court finds and declares that:

- (1) ensuring public confidence in the integrity of the gaming licensing process and in the strict oversight of all gaming establishments through a rigorous regulatory scheme is the paramount policy objective of this chapter;
- (2) establishing the financial stability and integrity of gaming licensees, as well as the integrity of their sources of financing, is an integral and essential element of the regulation and control of gaming under this chapter;
- (3) gaming licensees shall be held to the highest standards of licensing and shall have a continuing duty to maintain their integrity and financial stability;
- (4) enhancing and supporting the performance of the state lottery and continuing the commonwealth's dedication to local aid is imperative to the policy objectives of this chapter;
- (5) **the commonwealth must provide for new employment opportunities in all sectors of the economy, particularly opportunities for the unemployed, and shall preserve jobs in existing industries in the commonwealth; this chapter sets forth a robust licensing process whereby an applicant for a gaming license shall submit a comprehensive plan for operating a gaming establishment which includes how the applicant will foster and encourage new construction through capital investment and provide permanent employment opportunities to residents of the commonwealth;**
- (6) **promoting local small businesses and the tourism industry, including the development of new and existing small business and tourism amenities such as lodging, dining, retail and cultural and social facilities, is fundamental to the policy objectives of this chapter;**
- (7) **recognizing the importance of the commonwealth's unique cultural and social resources and integrating them into new development opportunities shall be a key component of a decision to the award of any gaming license under this chapter;**
- (8) applicants for gaming licenses and gaming licensees shall demonstrate their commitment to efforts to combat compulsive gambling and a dedication to community mitigation, and shall recognize that the privilege of licensure bears a

responsibility to identify, address and minimize any potential negative consequences of their business operations;

(9) any license awarded by the commission shall be a revocable privilege and may be conditioned, suspended or revoked upon: (i) a breach of the conditions of licensure, including failure to complete any phase of construction of the gaming establishment or any promises made to the commonwealth in return for receiving a gaming license; (ii) any civil or criminal violations of the laws of the commonwealth or other jurisdictions; or (iii) a finding by the commission that a gaming licensee is unsuitable to operate a gaming establishment or perform the duties of their licensed position; and

(10) the power and authority granted to the commission shall be construed as broadly as necessary for the implementation, administration and enforcement of this chapter.

Section 18. In evaluating application and issuing decision, MGC must evaluate and issue findings as to the following objectives:

(1) protecting the lottery from any adverse impacts due to expanded gaming including, but not limited to, developing cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents;

(2) promoting local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, small businesses, hotels, retail outlets and impacted live entertainment venues;

(3) realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;

(4) implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming establishment will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming establishment;

(5) building a gaming establishment of high caliber with a variety of quality amenities to be included as part of the gaming establishment and operated in partnership with local hotels and dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;

(6) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations;

(7) providing a market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments;

(8) utilizing sustainable development principles including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the stretch energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of energy and environmental affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to conserve water and manage storm water; (v) demonstrating that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources qualified by the department of energy resources under section 11F of chapter 25A; and (vii) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake

regular efforts to maintain and improve energy efficiency of buildings in their systems;

(9) establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that: (i) establishes transparent career paths with measurable criteria within the gaming establishment that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion; (ii) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and (iii) establishes an on-site child day-care program;

(10) contracting with local business owners for the provision of goods and services to the gaming establishment, including developing plans designed to assist businesses in the commonwealth in identifying the needs for goods and services to the establishment;

(11) maximizing revenues received by the commonwealth;

(12) providing a high number of quality jobs in the gaming establishment;

(13) offering the highest and best value to create a secure and robust gaming market in the region and the commonwealth;

(14) mitigating potential impacts on host and surrounding communities which might result from the development or operation of the gaming establishment;

(15) purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming establishment;

(16) implementing a marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment;

(17) implementing a workforce development plan that: (i) incorporates an affirmative action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities; (ii) utilizes the existing labor force in the commonwealth; (iii) estimates the number of construction jobs a gaming establishment will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities, women and veterans on those construction jobs; (iv) identifies workforce training programs offered by the gaming establishment; and (v) identifies the methods for accessing employment at the gaming establishment;

(18) whether the applicant has a contract with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies: (i) the number of employees to be employed at the gaming establishment, including detailed information on the pay rate and benefits for employees and contractors; (ii) the total amount of investment by the applicant in the gaming establishment and all infrastructure improvements related to the project; (iii) completed studies and reports as required by the commission, which shall include, but need not be limited to, an economic benefit study, both for the commonwealth and the region; and (iv) whether the applicant has included detailed plans for assuring labor harmony during

all phases of the construction, reconstruction, renovation, development and operation of the gaming establishment; and
(19) gaining public support in the host and surrounding communities which may be demonstrated through public comment received by the commission or gaming applicant.

ATTACHMENT B
SELECTED SECTIONS FROM THE OFFICIAL
TRANSCRIPT OF

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #147
CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

19 March 19, 2015 10:30 a.m. - 5:37 p.m.

20 BOSTON CONVENTION AND EXHIBITION CENTER

21 415 Summer Street, Room 102B

22 Boston, Massachusetts

THIS DOCUMENT WAS PREPARED BY ATTORNEYS':
GEORGE J. LEONTIRE & PHILIP N. BEAUREGARD
AS AN EXHIBIT TO THEIR LETTER TO THE GAMING
COMMISSIONER

THE DISCUSSION BEFORE THE COMMISSION WAS WHETHER TO GRANT NEW BEDFORD AND SOMERSET A 45 DAY EXTENSION FOR THEIR RAF-1 LICENSE. BROCTON'S RAF-1 WAS TIMELY FILED.

THE VOTE WAS 3 TO 2 IN FAVOR OF THE EXTENSION. COMMISSIONER CAMERON AND COMMISSIONER ZUNIGA OPPOSED. THE DISCUSSION, HOWEVER REVEALED SOME DISTURBING VIEWPOINTS BY THE COMMISSIONERS THAT WE BELIEVE ARE CONTRARY TO THE MA GAMING STATUTE. THE FOLLOWING ARE RELEVANT EXCERPTS FROM THE MEETING THAT EXEMPLIFY OUR CONCERNS.

GEORGE J. LEONTIRE AND PHILIP N. BEAUREGARD

THE FOLLOWING ARE EXCERPTS. THEY ARE NOT INTENDED TO CONVEY THE ENTIRE CONVERSATION BUT RATHER SNIPPETS OF SUCH CONVERSATIONS. TO READ THE ENTIRE MEETING TRANSCRIPT PLEASE GO TO MASSACHUSETTS OFFICIAL WEBSITE: MASSGAMING.COM

RELEVANT EXCERPTS

Beginning Tr. Pg. 265 **COMMISSIONER CAMERON:** Mr. Chair, I actually think we have two issues. We started to talk and Commissioner McHugh alluded to

thinking about the region as a whole as well these two particular requests. And I do think we should handle them separately. But I do think that there are two issues that we should at least talk about today.

CHAIRMAN CROSBY: Explain which -

COMMISSIONER CAMERON: The region as a whole, meaning the question was asked of one applicant and it's a question for us to talk about, not just the issue with the tribe, the issue with a market analysis, all of the changes that occurred in gaming which will effect our decision on what to do with Region C.

When we started this in April 2013, we had a lot of folks come before us and say, hey, don't let the region fall behind. And that was when we decided okay, the tribe has a path to move forward and continue on. At the same time, we would explore a commercial license.

Now we are here almost two years later and we're deciding and we're whether or not to give more extensions, which to me is a huge signal there's great risk in Region C. And I just think that's something we need to talk about. Commissioner McHugh's question, things that I have thought about as well, I think it's time for use to do a new market analysis, update the one we had done on Region C.

So much has changed, meaning Rhode Island the status has changed. Table games, combined ownership, Connecticut is talking about expansion. New Hampshire is through the House. Plainville, we did not have the decision in Plainville that the slots parlor would go in that location when we decided to open this up.

The compact was not renegotiated with a zero for another casino in that region at the time that we opened this up. So, lots has changed. And I think it's time (A) for a new market analysis, and (B) for an updated status on all tribal decisions, all legislation that have occurred in the last two years.

I know that there's even been a recommendation to make an appointment to go into the Bureau of Indian Affairs and ask what is the status.

So, I think there's a lot we can do as a Commission to update ourselves on changes in the environment that will help us make an informed decision with regard to Region C. So, I think that's the region as a whole.

Beginning Tr. Pg. 269 **COMMISSIONER ZUNIGA:** There is a significant piece that is missing from these two, the two applicants that are requesting in my view, which I do view connected to the market and the risk in that region.

I have this feeling that the reason it's taking them this long and continues to take them long and notwithstanding the recent momentum and the dramatic new HCA, for example, there is a major component with the equity. And I cannot help but think -- but wonder whether the equity will remain in the sidelines or it's very close to getting up from the sidelines because there's this added element of risk and this unique piece on this region.

I've made the case before you, my colleagues that this minimum capital investment may be a big hurdle in and of itself. We fine tuned that a little bit by including some of the costs that we have previously excluded but not all of them. And that's still a very high bar.

And I wonder if the market is reacting to that not just the capital investment but everything else, the prospect of the tribe, whatever additional development we've had. We've awarded three licenses, right? And that bears into the development, the

certainty, I guess, of those projects. The coming to fruition of those projects could be having a chilling effect on this other region.

So, I do see your point, Commissioner, about perhaps having to study, do a refresher. It's not a de novo market assessment because the framework would work. There could be a refresher that we could do with pinpointing the location. I still think that it's the most challenging region because it is less populated and has a less market potential.

Tr. Pg. 271 **COMMISSIONER ZUNIGA:** I am reluctant to extend it. I think the market is answering the way it's answered. We just need a little bit more time. We're almost there but we don't have the full piece. And I see the big important piece missing is that equity. The equity I think is important because they are ultimately the last ones to get paid. And therefore the ones who really think about the risk of the economics of this market.

And the dealmakers will continue to try to make a deal and that's what they get compensated to do. It's great that they're making great progress. But the equity, the group that gets paid at the end is the one that ultimately is looking at all of these risk factors. And I wonder if they are just a little too high.

Beginning Tr. Pg. 271 **COMMISSIONER MCHUGH:** I come at this from a little bit different starting point. This is really at tough problem. I think we all feel that it's a tough problem. But I come at it from a little different starting point.

And the starting point is the statute and the purpose of the statute. The statute is designed to create an economic engine or engines. It's designed to create jobs. It's designed to create both permanent and construction jobs. And it's designed to help reach into, at least as we have applied it, into communities that are having difficult economic times and boost the economics.

Tr. Pg. 274 But I think we need to look at it carefully on the merits and not use a deadline as a proxy for avoiding looking at it. In fact, we can't avoid looking at it because we have an applicant who is qualified and whose application is going to go forward. So, we're going to look at it anyway. We're at the starting gate.

Beginning Tr. Pg. 276 **COMMISSIONER STEBBINS** I take to heart Commissioner Cameron's thoughts. This is a different environment. We've always talked about the challenge for Region C. You see all the other activity happening. The location of one of our own facilities, the slots parlor in a nearby or adjacent vicinity in this region. Have some of the economic dynamics changed? Maybe that's something that we continue to look at on a parallel path if we decide to let one, two or three of these applicants or projects kind of move forward.

Beginning Tr.pg. 279 **COMMISSIONER ZUNIGA:** I view competition differently, especially with what has happened already. Yes, the first time when we did our first solicitation there was a big focus attracting as many operators as we could trying to get a robust response. But I think we've learned a lot throughout. And we have awarded licenses that make this a very competitive and saturated region.

Now we have three licenses to worry about their sustainability, their long-term profitability that we've awarded. The projects have begun. They are effectively, in my view, competing with a third commercial license,

notwithstanding the prospect of a fourth one. So, there's plenty of competition to go along here.

I think the view of competition only for the Phase-2 stage is a little misguided, in my opinion. There is still this significant hurdles that they have to meet, the minimum capital investment, the suitability, very high bars in and of themselves.

And they have to make money, the return on investment. So, it comes from the market that's available. I know that the market has grown since we have awarded the licenses in the rest of the state. The prospects have shrunk a little bit with some of the comments that Commissioner Cameron was making.

For example, Connecticut is now talking about expanding some of those hotels, the same case for Rhode Island. And New Hampshire continues to be a prospect. So, I think talking about competition by region in this case is a little bit -- I just view it differently. I know what you mean. And I know that was a big priority for us, but I think there are many other dynamics here that eventually affect our decision.

Tr. Pg. 281 **CHAIRMAN CROSBY:** That consideration is whether we would award a license at all and to whom. If we do award a license, is it better to be close to Plainville or far away from Plainville, or close to Rhode Island or far away from Rhode Island?

That issue of competition, is it the right thing to do, does it fit with the tribal situation whatever it is, that is one competitive environment that we make a decision on when we end up making a decision on whether there's one or two or three applicants.

But the competition I'm referring to is just making sure whatever we get to consider in Southeastern Mass., we clearly would be better off, I think, having competition in Southeastern Mass. for us to be picking among and on which to factor.

If we don't have any other bidders, we won't be able to think about whether it's a good idea to be closer to Plainville or closer to Boston or farther from Plainville or farther from Boston. I agree that there's various competitive situations, there's various competitive prisms, but this one I think is very much relevant.

Beginning Tr. Pg. 282 **COMMISSIONER ZUNIGA:** If you presuppose that once you get two competitors you're going to pick one, then your logic holds.

I think we are still in the prospect of do we award a commercial license here, which gets us back to the point that Commissioner Cameron was making. And we don't need two for that decision.

I think there's a unique challenge in this region from way back when because of the prospect of that fourth casino that changes the economics significantly. So, we may end up at the same place just with a half step in between. But I think there's a case to be made to the point that Commissioner Cameron was making. Maybe we can just refresh the market study and try to come back to this sooner rather than later. I view it as already challenging in and of itself.

The problem with our process is that that analysis only comes after Phase 2 when Phase 2 is submitted. That's our catch-22 of sorts.

Beginning Tr. Pg. 283 **COMMISSIONER MCHUGH:** Well, I'm not sure that it does. That's why I asked that question that I asked. We have a Phase 1 and Phase 2 process. And we used the Phase 1 and Phase 2 process now with three successive license proceedings. That doesn't mean we can't tailor it in this one to get at that question earlier rather than later before there are votes and expenditures of energy on a whole variety of things when we may conclude that the economics don't support it, support a license in this

I think that we're going to have one. And the idea that we may come to the end of the process and say no, it's not economically viable to put a casino there. But we also may come to the conclusion that it is. And if we come to that conclusion, it seems to me the Commonwealth's interest is much better served by having two to choose from rather than one. There is it seems to me the competition drives something better. Besides the idea that you say to a community that's got a 17 percent unemployment rate and a brownfield in the middle of the city that we are not going to do anything for your unemployment rate or consider doing anything for your unemployment rate, or cleaning up a brownfield that nobody else wants to clean up because you were 45 days late giving us something to think about. I have significant difficulty with that.

Beginning Tr. Pg. 285 **COMMISSIONER CAMERON:** I think we do communities as much of a disservice by just moving forward with this process and not addressing our concerns about the region sooner rather than later. So, I would just advocate that we no matter what the outcome of the extension is, we move forward sooner rather than later with an updated market analysis, an updated status on the tribal matters in the last couple of years, as well as pending litigation and any other factors that we deem would help us, inform us better at this time about the region.

I just think that's something that's really important. I think it's unfair to let people spend an awful lot of money with the understanding that we will in fact issue a license when I just don't want that to be the assumption.

Beginning Tr. Pg. 288 **COMMISSIONER ZUNIGA:** At the risk of repeating myself a little bit, it's not just the 45 days. There's been a lot of time. And I understand and I remember all of the steps in between the referendum and etc., etc. But there has been ample time for everybody, municipal officials and operators and dealmakers and equity investors. And it just feels that we've done this and we've had this discussion in some form or another a number of times. And I'm just picking up on the questions we were asking of our applicants. We could considerably be here 45 days from now having another similar request saying we just need a little bit more time. One of the objectives, the same objective actually economic development, jobs, revenues, works in the way of sooner rather than later. It doesn't just point us in the way of one day, which makes the decision that much more difficult.

Beginning Tr. Pg. 291 **COMMISSIONER STEBBINS:** It bears repeating but this body has always been clear that just because we have three licenses to award doesn't mean that we will award three licenses. I think that's well known by everybody in this room, but certainly a message that bears repeating to the people in the communities that will be affected by this.

Info



Save the Date!

Friday, May 1, 2015

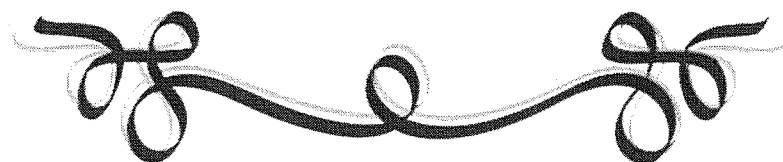
The Eastham Senior Center
Cordially Invites You to Its

Volunteer Recognition Luncheon

11:00 a.m.

1405 Nauset Road
North Eastham

Formal Invitation to Follow



Info

255 Meetinghouse Road
Eastham, MA 02642
April 1, 2015

Ms. Sheila Vanderhoef
Town Administrator
Town of Eastham
2500 State Highway
Eastham, MA 02642

Dear Sheila:

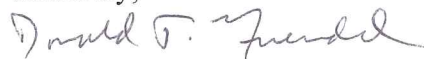
Attached are the minutes of the January 12, 2015 meeting of the Cape Cod National Seashore Advisory Commission which were approved at our March 30th meeting.

There are some items in the minutes that, I believe, are of special interest to Eastham:

- Nauset spit update (Pages 15-32)
- Proposed Recreational Fee Increase (Pages 32-34)

Feel free to give me a call or e-mail (508-255-6305 / nuecapecod@comcast.net) if you have any questions. The next commission meeting is scheduled for July 20, 2015.

Sincerely,



Donald T. Nuendel

c: Nat Goddard

410'

297TH MEETING OF THE CCNS ADVISORY COMMISSION - 01/12/15

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION TWO HUNDRED AND NINETY-SEVENTH MEETING

HELD AT CAPE COD NATIONAL SEASHORE, Marconi Station
Area, Park Headquarters, South Wellfleet, Massachusetts, on
Monday, January 12, 2015, commencing at 1:05 p.m.

SITTING:

Richard Delaney, Chairman
Larry Spaulding
Don Nuendel
Tom Reinhart
Joseph Craig
Sheila Lyons
Mary-Jo Avellar
Mark Robinson
Maureen Burgess

Lilli Green, alternate
Robert Summersgill, alternate
Bill Clark, alternate
Nat Goddard, Eastham alt.

Also present:

George Price, Superintendent
Lauren McKean, Park Planner
Leslie Reynolds, Chief Ranger
Nancy Doucette, Assistant to Superintendent

Audience members

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

3

PROCEEDINGS

MR. DELANEY: Good afternoon, everyone. I wanted
to call to order the 297th meeting of the Cape Cod
National Seashore Advisory Commission.

We just keep continuing to extend our record more
and more. As someone pointed out at the end of our last
meeting -- Maureen did -- we're getting close to the
magic number of 300 meetings, which is really something
for any organization these days, and we only meet once
every other month. So at the end of the meeting, I'd
like you to think about it. We might want to put our
heads together, a small group of how we might want to
commemorate 300 meetings at some point. I think we
figured that would end up in maybe our last meeting this
year.

MS. BURGESS: Is it September?

MR. DELANEY: November?

MS. BURGESS: Or is it September?

MS. AVELLAR: May, wouldn't it be?

MR. DELANEY: We've got one in May -- in February,
March.

MS. BURGESS: March and May usually.

MR. DELANEY: So it would be one more after that.

MS. BURGESS: September?

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MR. DELANEY: So it would be September, yeah.

MR. PRICE: It depends on how it falls. Sometimes
you've had one in June, and sometimes -- or it could be
September. It could be the kickoff. Maybe we could
count it towards the centennial celebration for the
National Park Service.

MR. DELANEY: Or we could just do something simple.
George could take us all down to a restaurant and buy a
couple rounds of drinks.

MR. REINHART: VR's.

MS. AVELLAR: Yeah.

(Laughter.)

MR. DELANEY: All right. Anyway, on a serious
note, I'm happy to call the meeting to order.

ADOPTION OF AGENDA

MR. DELANEY: We have an agenda that has been
distributed in advance. Would anyone like to make an
amendment or addition at this time to the agenda?

(No response.)

MR. DELANEY: All right, I'll have a motion to
adopt it as printed.

MS. BURGESS: So moved.

MS. AVELLAR: Second.

MR. DELANEY: Second. All in favor, signify by

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1 saying aye.

2 BOARD MEMBERS: Aye.

3 APPROVAL OF MINUTES OF PREVIOUS MEETING (NOVEMBER 17, 2014)

4 MR. DELANEY: Now, you also have the minutes from
5 our previous meeting, which is November 17. Any
6 corrections, notes? That's an Eastham responsibility.

7 MR. NUENDEL: Yeah, Nat learned that a couple of
8 meetings ago.

9 I read them and they look fine. I just have a
10 question on one. On page 8, line 8, we were talking
11 about so there's going to be a hearing on November 18 at
12 Pilgrim Town Hall. I think that should be Plymouth Town
13 Hall.

14 MS. BURGESS: Yeah, it should be.

15 THE COURT REPORTER: No, it's not. It's Pilgrim.

16 MR. NUENDEL: It is Pilgrim?

17 THE COURT REPORTER: Well, Pilgrim Memorial Hall,
18 but that's what was said.

19 MR. NUENDEL: Oh, all right.

20 MR. DELANEY: Well, that's fine then.

21 Any other additions, subtractions, edits,
22 corrections?

23 (No response.)

24 MR. DELANEY: Hearing none, a motion to -- I'd like
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1 But just quickly to summarize, as you recall from
2 the minutes, we had our last meeting, and I think at
3 Larry's suggestion, said that we would like to add our
4 support to the ballot initiatives that were passed by
5 the 15 Outer Cape towns, previously saying that we feel
6 -- most of the citizens feel that Pilgrim should be shut
7 down, but more recently in November asking that our
8 senator for the area support legislation to expand the
9 emergency planning zone around Pilgrim, which is
10 currently only a 10-mile-wide radius, to include
11 emergency planning for Barnstable, Dukes, and Nantucket.

12 So we did ask the superintendent if he would draft
13 a letter to the Honorable Dan Wolf, and you have that in
14 front of you. And I will read it. It says: (Reading)
15 Dear Senator Wolf: I am writing at the request of the
16 Cape Cod National Seashore Advisory Commission to
17 express their support, as noted in the meeting of
18 November 17, 2014, for legislation to expand the
19 radiological plume exposure emergency planning zone
20 around the Pilgrim Nuclear Power Station in Plymouth, an
21 approximately 10-mile-radius area, to include all of
22 Barnstable, Dukes, and Nantucket counties.

23 So you have that before us. I don't know if we
24 need to vote on that.

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1 to entertain a motion to adopt as is?

2 MR. NUENDEL: So moved.

3 MR. DELANEY: Second?

4 MR. CRAIG: Second.

5 MR. DELANEY: All those in favor, signify by saying
6 aye.

7 BOARD MEMBERS: Aye.

8 MR. DELANEY: Good.

9 REPORTS OF OFFICERS

10 MR. DELANEY: Now, we have Reports of Officers.
11 This usually is a nonstarter since there's only really
12 one of us.

13 REPORTS OF SUBCOMMITTEES

14 MR. DELANEY: How about going to the Reports of
15 Subcommittees.

16 UPDATE OF PILGRIM NUCLEAR PLANT EMERGENCY PLANNING
17 SUBCOMMITTEE STATE LEGISLATION PROPOSALS

18 MR. DELANEY: Maureen, could you update us?
19 There's a lot of activity going on around Pilgrim, but
20 could you give us the highlights, please?

21 MS. BURGESS: Yes, Mr. Chairman. Thank you.

22 Nancy is preparing a packet of certain relevant
23 materials, and I gave her quite a bit. So it will be
24 coming to you.

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1 MR. DELANEY: No, I think this is just an acting
2 recommendation we made thanking the superintendent for
3 doing that.

4 MR. PRICE: I did that at the last meeting.

5 Just as a point of information, I'm doing this on
6 your behalf. I am not able to lobby either federal or
7 state officials on a particular piece of legislation, so
8 I would have to do it a totally different way. So this
9 is strictly representing your wishes.

10 MR. DELANEY: Thank you.

11 MS. BURGESS: Mr. Superintendent, that went to a
12 number of people?

13 MR. PRICE: Actually, you can speak with Nancy.

14 MS. BURGESS: Okay, thank you.

15 I do have a suggestion from Judy Stephenson about
16 forwarding this letter. Judy couldn't be here today,
17 but she felt that Maura Healey would be very effective
18 to knowing that we were supporting this initiative. So
19 we should send it to Maura Healey.

20 MR. DELANEY: Our new attorney general.

21 MS. BURGESS: Our new attorney general.

22 In fact, I don't know if all of you know, but
23 Judy's husband was a former attorney general, and she
24 felt that he might even be willing to take a letter to

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1 Mr. Baker and ask for his support.

2 MR. PRICE: I might make a recommendation, if I
3 could, Mr. Chairman. Obviously Senator Wolf and
4 Representative Peake and all the representatives on the
5 Cape are very familiar with the Seashore and the
6 Advisory Commission. If we're going to send it to an
7 office such as the new Governor's office and the new
8 Attorney General's office, perhaps it needs to be a
9 different set of background, explaining what the
10 National Seashore is as a resource and the role of the
11 Advisory Commission.

12 MS. BURGESS: More information?

13 MR. PRICE: Well, just who the Advisory Commission
14 is, the fact that you represent all the six towns on the
15 Seashore and are representing your boards of selectmen
16 and your citizens, et cetera. So it's not going to be
17 as self-evident as something I send to Senator Wolf.

18 MS. BURGESS: So would you need help with that
19 letter? Can we send it as a commission?

20 MR. PRICE: I'm actually wondering if -- I might
21 recommend that we would draft it with your signature
22 perhaps, Rich, as we have done in the past with the
23 nuclear plant. I sent one specifically on behalf of the
24 National Park Service that I got approved from my

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1 sources. You sent one representing the Advisory
2 Commission. I think especially this is a new attorney
3 general with a new staff. Perhaps that would be the way
4 to go.

5 MR. DELANEY: I would appreciate that. Let's go
6 that way.

7 MR. PRICE: Okay.

8 MR. DELANEY: And that letter would have more
9 introductory paragraphs that could explain who we are
10 and what our mandate is.

11 MR. PRICE: Yes, yes.

12 MR. DELANEY: And who we represent. Okay, great.

13 MR. SPAULDING: But this letter would go out?

14 MR. DELANEY: But this letter must be included.

15 MR. PRICE: Yes.

16 MR. DELANEY: So essentially a cover letter.
17 Okay, thank you for doing that.

18 MS. BURGESS: And you have before you -- I think
19 Lauren got this for us from Barnstable County Regional
20 Emergency Planning Committee -- what they call a
21 radiation emergency reference sheet that they put
22 together because they are realizing that there is no
23 emergency plan. So this sheet is something that's
24 available for all of the citizens.

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1 And is Lauren here? I'm not sure if all of the
2 boards of health got them. I don't know how to access
3 them in the town, but I'll find out.

4 MS. McKEAN: We have a whole lot of them. I just
5 got out of an AmeriCorps meeting on Friday, so I think
6 it's just hot off the press and the county's just
7 starting distribution.

8 MS. BURGESS: Thank you very much for doing this.

9 MS. McKEAN: Sure.

10 MS. BURGESS: Oh, yeah, thanks very much.

11 You remember we were talking about at the last
12 meeting also the flex plan that the Nuclear Regulatory
13 Commission asked all of the power plant operators to
14 come up with an alternate backup plan in case there was
15 an interruption of power to the plant so that there
16 would be an alternate plan for cooling should
17 electricity not be available to the plants to avoid
18 overheating and a meltdown. And as you recall, we
19 talked about the plan that Pilgrim came up with.
20 And you've probably seen it in the press, which was what
21 many people described as a Rube Goldberg plan where
22 there would be moorings installed outside of the -- in
23 the bay outside the plant and that there would be plant
24 personnel and possibly firefighters who would then use

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1 hoses and pumps as a backup mechanism.

2 So you'll see in your packet here that there was a
3 meeting with the Department of Environmental Protection
4 in November, and there was a very large turnout to decry
5 the inadequacy of this plan. So you can read through
6 that information. There was a lot of testimony before
7 the DEP, and I guess they are reviewing that testimony
8 now to see if that plant is accessible -- I mean
9 acceptable.

10 The other big thing that is going on over there now
11 is that they have begun moving some of the spent fuel
12 rods to dry cask, and they're in the process of doing
13 that. I think they're going to fill three large casks
14 with about 68 spent fuel rods each, and they're being
15 taken out of the pool, which, as you know, is on top of
16 the nuclear power station in water. And they're being
17 taken out by crane and then put in these casks which
18 contain helium. Entergy has put in a pad for receiving
19 them where these dry -- they would be putting concrete
20 dry casks, and this is because we have no federal policy
21 for disposing of nuclear waste. And so they -- Entergy
22 has come to the realization that this cooling pool which
23 was originally supposed to handle only about -- I don't
24 know -- 100 spent fuel rods is now up to like 3,200 and

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1 they're out of room. So they're moving these because
2 they want to do another cycle of reprocessing. So
3 they're moving out some to make room for new ones that
4 will be put in. And you can read about all this in the
5 information I've given you.

6 (Sheila Lyons enters the room.)

7 MS. BURGESS: The thing that's interesting now also
8 is that Entergy is actually suing the Nuclear Regulatory
9 Commission for not having a repository for spent fuel.
10 So they are in the process of actually suing the federal
11 agencies for not following through on having a place in
12 the country for disposing of these spent fuel rods.

13 So I think in a nutshell that's pretty much it. I
14 also did include something on Vermont Yankee because
15 that is in the process of being decommissioned. So a
16 lot of people worked very hard, including your governor,
17 to make this happen.

18 So unless anybody else has something they want to
19 add -- oh, Lilli. I forgot. Sorry.

20 MR. DELANEY: We'll recognize our alternate from
21 Wellfleet, Lilli Green.

22 MS. GREEN: Thank you.

23 MS. BURGESS: I'm sorry. I'll just fill you in. I
24 periodically check in with the Downwinders to see if

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1 MR. DELANEY: Yes, good work. Thank you.

2 Okay, moving onto our Superintendent's Report.
3 George, do you want to start in on the Nauset Spit?

4 MR. PRICE: Sure.

5 MR. DELANEY: At this point let me just -- I
6 neglected to do this formality, but I'd like to
7 recognize Alan McClellenn, who's a selectman from
8 Orleans, in the office today.

9 Thank you for coming. We always welcome elected
10 officials here. I'm sure all of Orleans has a
11 particular interest in this next report.

12 So George?

13 MR. PRICE: Sure.

14 SUPERINTENDENT'S REPORT

15 NAUSET SPIT UPDATE

16 MR. PRICE: Just a couple of things. First of all,
17 I don't have any direct new information to me from
18 either the board of selectmen from Orleans or Eastham.
19 So that's status quo. It remains as it had been for a
20 while. I did read in the paper that the Orleans Board
21 of Selectmen was seeking funding to research a court
22 challenge on the property ownership. And I also
23 recently learned the end of December that the final
24 written denial was sent by the Eastham ConsComm to

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1 they have information on where these proposals are
2 because, as you remember, Larry, last time there was no
3 real hard legislation. There was no bill. So I found
4 out that some of the Downwinders plan on going up
5 tomorrow to meet with Sarah Peake and Dan Wolf about
6 constructing proposed legislation, and Lilli Green has
7 offered to go to represent the Advisory Commission.

8 MS. GREEN: And to that end, it makes sense to me
9 to bring the letter to Dan Wolf, especially given that
10 it's talking about the legislation and also that the
11 bills have to be submitted by Friday of this week. So
12 with your permission -- I don't know if you want to
13 discuss it -- for me to bring the letter.

14 MS. BURGESS: In other words, you could hand
15 deliver it.

16 MS. GREEN: I could hand it to them.

17 MR. DELANEY: Sheila said we should mail it out.
18 We should do it by official channels also, but you
19 should have a copy with you. Okay, thanks.

20 Any questions for Maureen on any of the many
21 aspects related to Pilgrim Nuclear Power Plant?

22 MS. AVELLAR: Just to say thank you, Maureen, for
23 keeping us so well informed.

24 MS. BURGESS: Oh, you're welcome.

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1 Orleans on their request to allow off-road vehicle use
2 in the future. So we were just copied with that as a
3 cc. So that's the information.

4 So just, again, to reiterate what's happened here.
5 Obviously the spit has grown and attached to property
6 that was in the Town of Eastham. The United States
7 believes that that's property that we purchased over
8 time. There are a total of six parcels. And therefore,
9 we certainly believed it was Seashore property. The
10 Town of Eastham and the Park Service have allowed the
11 continual use of off-road vehicles over that spit over
12 the years. I've been asked by people from Eastham,
13 including previous members of the board of selectmen.
14 My position was that even though Eastham had on the
15 books a prohibition of riding on the beach, if Eastham
16 was not going to take issue with it, I was not going to
17 take issue with it unilaterally even though it crossed
18 the Eastham boundary and then came onto what we believe
19 is Park Service property.

20 Obviously this fall things changed. Eastham
21 decided to enforce the prohibition of riding off-road
22 vehicles within the town boundary, and it was at that
23 time that we learned publicly in the newspaper that
24 Orleans actually believed they owned the property

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1 through the laws of accretion. The Park Service does
2 not believe that that applies in this particular
3 instance. We believe we still own the property.

4 So just to clarify, which I tried to do at the
5 joint boards of selectmen meeting that was held a while
6 ago, two things. Number one, because we decided not to
7 pursue preventing off-road vehicles in conjunction with
8 Eastham at that time, we were exercising prosecutorial
9 discretion, as they say. There are a lot of things that
10 we have to enforce. That was one thing that we were
11 collectively not enforcing. Once Eastham decided to
12 enforce it, then we're going to support Eastham with
13 enforcing it.

14 There's been some dialogue and talk that if there
15 was some way for the Eastham Board of Selectmen to
16 figure out how to either change the bylaw or somehow
17 allow off-road vehicles on the property in spite of
18 their laws, that's a proactive decision on behalf of the
19 Board of Selectmen of Eastham. Well, then that changes
20 the ground rules. That's, as I have said publicly, a
21 game changer for me because I'm no longer in a position
22 to passively sit by. The Park Service then would also
23 have to actively make a decision that off-road vehicles
24 could remain on that spit. And there's been no

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1 acquired that land for protection within the boundaries
2 of the Seashore and that we do not believe accretion
3 applies at this particular time, and, in fact, we were
4 not going to spend more resources on that until we saw
5 how things played out. For instance, was Orleans going
6 to take issue with us legally? Was Eastham going to or
7 not pursue whether they were going to change the bylaws
8 or not? So that's basically where it stands from our
9 position at this point.

MR. DELANEY: Mary-Jo?

11 MS. AVELLAR: So was this plan -- what was the
12 status of the plan at the time that we did the
13 negotiated rule-making when Maria was the
14 superintendent?

15 MR. PRICE: It was not considered part of the
16 negotiated rule-making.

MS. AVELLAR: It wasn't part of it?

18 MR. PRICE: So none of this spit was considered.
19 None of the existing driving that Chatham and Orleans
20 does now on that beach was included.

21 MS. LYONS: So what you're saying is if all things
22 sort of stayed the way they are and the towns worked
23 this out, you can comply with the decision, but if they
24 change a bylaw, then you're compelled to then address

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1 environmental impact statements. There was nothing in
2 that area that was ever included when the Park Service
3 went through its long issue with off-road vehicles in
4 Provincetown, the corridor that's up there. And
5 therefore, that type of activity would have to happen
6 for the Park Service to make a decision if we were going
7 to allow off-road vehicles on that spit, and
8 environmental impact statements would be needed. And
9 those generally take an extended period of time and a
10 lot of money and a lot of resources.

11 So I just wanted to be clear for all of you. It's
12 not that I am unilaterally making a decision on whether
13 the vehicles can or can't be on. It's just that I am
14 not in a position to allow them on, making the positive
15 proactive decision. So it sounds like a lot of
16 government gobbledegook perhaps, but what it's doing is,
17 if Eastham decides to make their decision, the Park
18 Service would have to decide to make its decision. I
19 couldn't just passively do it.

20 So there's a lot of discussion going on. We sent a
21 letter to the board of selectmen in Orleans basically
22 outlining that position and that we sent information
23 from our attorney on the information related to the six
24 parcels that the United States purchased over time and

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1 that change in the bylaw which will then lead you to
2 have to have an environmental impact statement that:
3 Does this apply to us? Or what does it mean for us?

4 MR. PRICE: Just so that you know where I sit, when
5 you say if everything stands as it is, what that means
6 is that there is no off-road vehicles on the spit in the
7 Town of Eastham.

8 MS. LYONS: Because that's what they've decided at
9 this point?

MR. PRICE: Yes.

11 MS. LYONS: They were allowing it, and now they've
12 enforced this?

MR. PRICE: Their laws.

MS. LYONS: Their laws, right.

15 MR. PRICE: So they've enforced their laws that
16 have been on the books since the '70s.

17 MS. LYONS: Okay, so this is really up to Eastham
18 at this point. All right, so they have decided that.
19 So you will support that since you share --

20 MR. PRICE: I support the closure of off-road
21 vehicles on that piece of property, which we believe we
22 own.

MS. LYONS: Okay.

MR. PRICE: If Eastham came out and said at town

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1 meeting for them to rescind the bylaw or there was some
2 other negotiated process that would happen, that would
3 compel the Park Service to have to make the decision if
4 we were going to pursue an environmental impact
5 statement.

6 MS. LYONS: I see.

7 MR. PRICE: And the hundreds of thousands of
8 dollars and the years it would take in order for that to
9 happen.

10 MS. LYONS: I see, okay.

11 MR. DELANEY: Mary-Jo?

12 MS. LYONS: But it's still Eastham -- but it's
13 still -- excuse me -- Seashore property?

14 MR. PRICE: That's what the United States says. If
15 you were to ask the board of selectmen in Orleans, they
16 would have a different opinion.

17 MS. LYONS: And they say -- Orleans says it's
18 theirs. And Eastham says it's whose?

19 MR. PRICE: Eastham passively said it's the United
20 States, at least in the latest ConsComm piece, as I
21 understand it.

22 MS. MCKEAN: Yes.

23 MS. AVELLAR: I was on that negotiated rule-making
24 thing, and I never heard this before.

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1 MR. SPAULDING: No, but have you received an
2 opinion from your attorney on this?

3 MR. PRICE: That's included in the letter that I
4 sent to the board of selectmen.

5 MR. SPAULDING: A copy of his opinion?

6 MR. PRICE: No, I reiterated the position of the
7 United States for the Park Service in that letter.

8 MR. SPAULDING: Right, but that wasn't my question,
9 George. My question was, has the Seashore here received
10 any written correspondence with respect to an opinion
11 about the ownership issues?

12 MR. PRICE: No, but they agreed with the valuation
13 as they saw it, which is what's represented in that
14 letter.

15 MS. LYONS: Do we know why -- what was the reason
16 that Eastham decided to enforce their law? It sounds
17 like they had this law on the book and maybe it wasn't a
18 big -- you know, was it because of an increase of off-
19 road vehicles or other vehicles?

20 MR. PRICE: I think that would have to come from
21 Eastham.

22 MS. LYONS: It would have to come from Eastham.
23 Okay, so you're not really (inaudible). I thought there
24 might have been an incident or something.

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1 MR. PRICE: Right, because it was a non-issue
2 because Eastham had the law on the books.

3 MS. AVELLAR: Okay.

4 MR. DELANEY: George, did the U.S. solicitors take
5 a look at -- I think you said this before. Have they
6 reviewed the Park's ownership to those six parcels
7 recently?

8 MR. PRICE: Yes.

9 MR. DELANEY: And have they also reviewed the
10 theory of the law -- law or theory of accretion?

11 MR. PRICE: I would say a superficial review or a
12 preliminary review.

13 MS. MCKEAN: Well, they've reviewed it, and it
14 applies to our parcels. Our parcels have shifted around
15 in that location. They've never been totally submerged
16 and gone away.

17 MR. PRICE: If, in fact, Orleans files a lawsuit
18 against the United States, we would then have to
19 undertake a much more rigorous and exhaustive research
20 as well.

21 MR. DELANEY: Larry?

22 MR. SPAULDING: Has the solicitor responded in
23 writing on these issues?

24 MR. PRICE: I responded in writing.

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1 MR. DELANEY: Mark?

2 MR. ROBINSON: The Park Service isn't subject to an
3 Eastham bylaw?

4 MR. PRICE: Correct.

5 MR. ROBINSON: But your point is that because their
6 bylaw was consistent with the Park Service expectations
7 for that beach, that you agreed?

8 MR. PRICE: Well, don't forget. When that bylaw
9 was put into place, that spit didn't exist. Remember,
10 that's where the harbor entrance was.

11 MR. ROBINSON: It really applied more to Eastham
12 land north of Coast Guard Beach?

13 MR. PRICE: Correct. So after the Blizzard of '78
14 as barrier beaches changed, as it will change again
15 someday, that spit changed, and basically where the
16 opening had been in 1961 became closed off and a new
17 opening change.

18 MR. ROBINSON: So it's more the fact that Eastham
19 would be sending you as the superintendent a signal by
20 changing its bylaw -- it would make you need to decide
21 whether to act unilaterally?

22 MR. PRICE: Correct.

23 MR. ROBINSON: It's not that the change in the
24 bylaw affects the Park Service? It's more the signal

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1 it's sending?

2 MR. PRICE: Well, it affects the Park Service
3 because we would then have to enforce whatever direction
4 it would take us. As Mary-Jo said, if this was
5 identified as an issue, it would have been included in
6 the negotiated rule-making. Whatever that decision
7 would have been would have been a done deal. That area
8 was never addressed.

9 MR. ROBINSON: So no decision has been made about
10 this area because it's not part of that rule-making?

11 MR. PRICE: We never -- no, it was off the table
12 because Eastham had it off the table. So the Park
13 Service never had to worry about it.

14 MS. LYONS: It was already taken care of.

15 MR. PRICE: It was already taken care of.

16 MS. AVELLAR: But what I'm still confused about is
17 that -- Orleans thinks it's their land?

18 MR. PRICE: Yes, because they've told us through
19 their interpretation of laws of accretion. Or emulsion?

20 MS. MCKEAN: (Nods.)

21 MS. AVELLAR: Because I remember way back when,
22 when I was a young selectwoman, going on a ride on North
23 Beach in Chatham. We could just drive over. But the
24 town -- the Town of Chatham owned that beach, as I

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1 all that sort of thing. So it certainly is a complex
2 issue. That's for sure.

3 MR. DELANEY: I was in the town at that time, and I
4 think part of it was a reaction to the Blizzard of '78
5 and losing the parking lot and seeing the devastation
6 that could be caused by storms. And I think the town
7 just said let's get on with it.

8 MR. PRICE: So the other thing let me just throw
9 out because I'd feel negligent if I didn't. And I've
10 mentioned this to both boards of selectmen. The other
11 -- and I want to mention two things. Number one, I have
12 said publicly -- and I'll say it again -- I have no
13 reason to believe Orleans has not been a competent
14 steward of their ORV program. So I want you to know
15 that. The U.S. Fish and Wildlife Service and the state
16 Fish and Wildlife Service is the one that's been
17 providing oversight to the off-road -- the bird programs
18 in both Orleans and Chatham because they've maintained
19 their beaches. Okay, so the Park Service I don't want
20 you to think that there's an implication that somehow
21 that's in there. It's not.

22 The second part of it, however, is we are, in fact,
23 learning a lot more about the importance of barrier
24 beaches and distal spits and that that particular part

LINDA M.

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1 understand. They kept it for themselves. I think we
2 got there through Orleans.

3 MR. PRICE: Yes.

4 MS. AVELLAR: Shorty -- somebody named Shorty was a
5 selectman and a very good selectman. And it was
6 interesting because that's when I first realized that
7 Provincetown didn't keep anything when the Park Service
8 came in.

9 MR. PRICE: Right, because all the property in
10 Provincetown was --

11 MS. AVELLAR: Was given.

12 MR. PRICE: -- was transferred by the state, the
13 Commonwealth.

14 MS. AVELLAR: Right, correct.

15 MR. PRICE: So Provincetown did not own those
16 parcels. In Eastham, the Coast Guard Beach area to
17 Nauset Light Beach area did belong to the town, and they
18 transferred it to the United States through a deed. And
19 they only reserved the right for their residents to get
20 free access for them to those beaches.

21 So I do not know the history of Eastham bylaw
22 preventing ORVs because obviously ORVs had been out
23 there before '78 when the law first was enacted. They
24 had their own dune shacks and the Outermost House and

LINDA M.

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1 of the system in the Nauset Marsh is becoming
2 highlighted more and more as a critical both habitat and
3 staging area for shorebirds. And we're currently
4 undertaking a multiple year study with USGS and U.S.
5 Fish and Wildlife Service and the Massachusetts Audubon
6 on the importance of the birds in that area. And when
7 I've actually mentioned this to the town administrator
8 in Orleans, he fully was aware of that and said if they
9 had to deal with any management changes, they obviously
10 would have to do that as well.

11 So I just want everybody to know that there's
12 another game changer out there that could be, as it
13 comes to light, the importance of all these habitat
14 changes. And I just saw in the paper yesterday a write-
15 up about the recent designation of the red knot is now
16 another bird that is on the endangered species list. So
17 that is a different part of that. That's not part of
18 the argument that we're talking about, but as somebody
19 -- as an organization that's concerned about the natural
20 resources, that is in our background in any case.

21 MR. DELANEY: Okay, any other thoughts or
22 questions? Bill?

23 MR. CLARK: Just a quick point of clarification.
24 The only access is through Orleans other than by boat?

LINDA M.

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1 MR. PRICE: Correct.
 2 MR. CLARK: So Eastham and the Park cannot access
 3 the spit?
 4 MR. PRICE: The Park can.
 5 MR. CLARK: Excuse me?
 6 MR. PRICE: The Park can because there's another
 7 access route that we own the property on.
 8 MR. CLARK: Okay.
 9 MR. PRICE: But as far as the off-road vehicle
 10 corridor for Orleans, you have to go through that
 11 particular area. And I understand that that particular
 12 access has a deed restriction which is required only for
 13 Orleans residents to be able to use that access road.
 14 MR. CLARK: So if Eastham wants to enforce their
 15 bylaw, they have to go through Orleans to do it, right?
 16 Is that true?
 17 MR. DELANEY: Or the harbormaster goes across the
 18 water.
 19 MR. CLARK: Oh, I see.
 20 MR. DELANEY: Or they request, I think as happened
 21 this time, Orleans to as a courtesy enforce it for
 22 Eastham, which I think Orleans natural resource officer
 23 did.
 24 AL, do you want to comment on this?
 LINDA M.

30

1 AUDIENCE MEMBER (ALAN McCLENNEN): Mr. Chairman,
 2 just because it starts to get confusing, the Orleans
 3 Board of Selectmen voted immediately after we were
 4 challenged for beach use by the Town of Eastham Board of
 5 Selectmen to notify all off-road vehicle users, 3,000 of
 6 them, that it was illegal to drive their vehicles in the
 7 Town of Eastham. And we changed our regulations to say
 8 you are subject to a fine and revocation of your permit.
 9 So the headlines in the paper at the end of December was
 10 someone who decided to challenge that, and he ended up
 11 in district court. And he paid the fine, but he was
 12 ticketed by the Town of Orleans because we do not want
 13 our beach holders to use that portion of the beach in
 14 the Town of Eastham until this issue is resolved.
 15 MR. DELANEY: Thank you. That's an important
 16 clarification.
 17 Okay, Larry?
 18 MR. SPAULDING: Practically speaking, we've got to
 19 find out who owns it. Orleans believes that they own
 20 it. The Seashore believes that they own it. That's got
 21 to get resolved. Probably there may be some things as
 22 preliminary things that are worked on prior to that
 23 time, but until that decision is made -- maybe by the
 24 courts someday, maybe not -- there's not going to be a
 LINDA M.

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1 resolution.
 2 MR. DELANEY: Yeah.
 3 MR. PRICE: Or it's resolved as far as I'm
 4 concerned.
 5 MR. DELANEY: One more. Mark?
 6 MR. ROBINSON: George, if it was determined that
 7 Orleans did own that through the doctrine of accretion
 8 but it wasn't subject to the rule-making, wouldn't you
 9 have to subject it to rule-making since you would have
 10 jurisdiction, if not ownership?
 11 MR. PRICE: That's another whole bag of worms.
 12 MR. ROBINSON: But it's a question.
 13 MR. PRICE: It would be a fair question. And also
 14 because of the environmentally sensitive nature of it,
 15 even if the Park Service environmental laws didn't apply
 16 but the Massachusetts MEPA laws apply. And that's a
 17 question. I have no idea.
 18 MR. ROBINSON: So Orleans could go to a lot of
 19 trouble to find out they do own it but they still aren't
 20 accomplishing management authority necessarily.
 21 MR. PRICE: There's obviously advantages, as Larry
 22 says, to determine that from the Town of Orleans'
 23 perspective.
 24 MR. ROBINSON: They would have a stronger position
 LINDA M.

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1 perhaps if they owned it.
 2 MR. PRICE: Sure.
 3 MR. ROBINSON: They still can't rule by fiat.
 4 MR. SPAULDING: No, no, it would still hold that
 5 the Seashore would work with us. There are areas in the
 6 Seashore that people can drive on with appropriate
 7 permission, but if the Seashore owns it and they don't
 8 want anybody going out there, then that's their
 9 decision.
 10 MR. ROBINSON: So ownership is key?
 11 MR. SPAULDING: It is.
 12 MR. ROBINSON: But it's not the final determinant?
 13 MR. SPAULDING: That's correct.
 14 MR. PRICE: That's correct.
 15 MR. DELANEY: Okay. Fascinating topic.
 16 Thank you, Superintendent. Can you continue?
 17 MR. PRICE: Sure.
 18 PROPOSED RECREATIONAL FEE INCREASE
 19 MR. PRICE: So another hot topic that's been in
 20 the news a lot has been the proposed fee increase.
 21 Actually, we spoke about this at the last meeting
 22 because our fee proposal had already hit the streets.
 23 As you've been reading and seeing and I informed
 24 you last time, we received a lot of correspondence about
 LINDA M.

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1 this. We're in the process of collating those
2 responses. A lot of people were focused on both the
3 individual and the bicycle fees as feeling that that was
4 inappropriate. We only received a couple positive
5 responses. And we're in the process of rolling up all
6 of that material to do an assessment of what they're
7 saying and why they're saying it, and then we'll be
8 adjusted accordingly. I don't know exactly what the
9 numbers will be, but they're not going to be as
10 proposed.

11 MS. AVELLAR: Say that again.

12 MR. PRICE: I said I can't tell you what they will
13 be, but they're not going to be as they were proposed.

14 MS. AVELLAR: In other words, they'll be less than
15 what was proposed?

16 MR. PRICE: For the bicycle and pedestrian.

17 MS. AVELLAR: Okay, good, I can report that
18 tonight.

19 MR. PRICE: But I don't have a number for you.

20 I will share -- Lauren's going to throw something
21 at me here because this is part of our process, but I
22 think it's fair to say almost -- I think virtually 100
23 percent of the people that have written us questioning
24 the appropriateness of bicycles and walking, how that

LINDA M.

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1 So it's a direct -- it's a direct service back to
2 the users. We can't use that money to pay our permanent
3 salaries or the electricity in this building or that
4 sort of thing. So it's a discrete amount of money that
5 Congress has allowed us to collect, and at least in our
6 case, these fees have not been increased since 2005. In
7 the case of the pedestrian or the bicyclist, they
8 haven't been increased since 1997. So it is a balancing
9 act as far as fees, what we can use the money for, and
10 what would be acceptable to members of the public.

11 So as a result of that public process and all the
12 input, in the next couple of weeks we'll be doing an
13 assessment and working with our Washington regional
14 offices for what the final resolution will be.

15 You ought to know -- and I know there's some press
16 in your package about this, but it's my understanding
17 this was a national initiative to take a look at
18 increasing fees nationally. We've been prohibited from
19 even considering it up until recently. And there are
20 probably similar conversations going on in parks all
21 around the country right now.

22 MR. DELANEY: Mary-Jo?

23 MS. AVELLAR: I don't know -- I'm not very familiar
24 with other beaches in the Seashore, but I do know there

LINDA M.

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1 measures up against the walking issue, which is a
2 health-related use of the Seashore. Why are we
3 penalizing people who wish to walk or hike? And then
4 the other piece was similar, the bicycles, in that the
5 bicycle is a mode of transportation, obviously has no
6 emissions.

7 So it really is a balancing process. Obviously
8 recreation fees are an important part of what we access
9 in order to maintain our programs. I've mentioned to
10 you before, what we're talking about, the recreation
11 fee, is when you come into one of our lifeguarded
12 beaches during the season, and that pays for people who
13 go into a secure parking area, that has restrooms and
14 showers and a lifeguarded beach, and it's maintained.
15 So it isn't just a beach like today where you're going
16 to walk on the beach by yourself. So it's a service
17 that these are related to. And then out of those monies
18 we then underwrite the cost of a lot of the salaries
19 from that beach operation. And then the excess of those
20 monies goes towards our backlog maintenance program, and
21 then some of the money gets tallied up into the
22 Washington account, and that's when we can access it for
23 things like the \$5 million for the new bathhouse up at
24 Herring Cove Beach.

LINDA M.

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1 are a million ways to get on the beach in Provincetown
2 without having to pay. So I guess the question that
3 comes to me is people that walk across the marsh to go
4 up what we -- I won't tell you what we call it in
5 Provincetown -- but to go across to this one area that
6 goes out to Long Point. I think people are worried that
7 there is a possibility of the Park Service personnel
8 coming up to them to see their little receipt, "How did
9 you get in here?" You know, "You came in your boat."
10 You know, to get people to pay.

11 So so many more people can actually use those
12 beaches that don't have to go through the turnstile, so
13 to speak, to give them the 10, 15, or whatever it is
14 that you want to charge them that don't use -- that
15 don't use cars. They walk. You know, they -- you know
16 where they go. And they walk all the way to Long Point,
17 some of these people. So they're not paying, those
18 folks. So just to say because they're going to go
19 through -- they're walking through where there's a Park
20 ranger that they should have to pay seems to us to be
21 grossly unjust, and to have a 300 percent -- more than a
22 300 percent increase in that rate was a real slap in the
23 face. That's how Provincetown felt about it. But trust
24 me. You don't have to pay to get into the National

LINDA M.

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1 Seashore on foot in Provincetown. There are back ways
2 in. There are all kinds of ways in.

3 MR. REINHART: So use them.

4 MS. AVELLAR: Oh, people do, but there's the
5 unsuspecting tourist who rides his bike in and all of a
6 sudden gets hit with like 20 bucks or 15 bucks or
7 something like that, and they're like, you know, "Well,
8 what about those people I saw walking across the marsh
9 that parked their bike on the side of the road near
10 where the old Moors Restaurant used to be and then
11 walked across the marsh to get into the Seashore?" I
12 don't think we should charge people to walk into the
13 Seashore or park their bike on the side of the road.

14 MR. PRICE: And that was -- and if it's not in the
15 future going to be an entrance station area. So the
16 only place you collect is where the entrance stations
17 are. And the majority of the money we've ever collected
18 from individuals are those that have sought out the
19 ranger and donated the fee because they appreciated the
20 services that they received.

21 MS. LYONS: Yeah.

22 MR. REINHART: (Inaudible)?

23 MS. AVELLAR: No, because what if my family's out
24 there and I couldn't go out there with them so I take a

LINDA M.

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1 taxi out there or something and they drop me off? I
2 have to pay when I've already -- and I have a pass, of
3 course, because I'm old. So I have a pass. So all I
4 have to do is flash my pass, and then I probably won't
5 have to pay to get in.

6 MR. PRICE: Correct.

7 MS. AVELLAR: But there's the person that doesn't
8 have a pass, you know, not my age and just wants to join
9 their family out there and takes a taxi and then they
10 have to pay three or four or ten bucks to get in? I
11 think that's nuts. To walk into the Seashore? It's
12 crazy when they could sneak over the dunes and risk
13 poison ivy to get in free.

14 MR. DELANEY: Let's go to Tom next.

15 MR. REINHART: Yeah, I would just like to say that
16 I'm on the Wellfleet Finance Committee also. We have
17 problems with revenue and fees not being high enough and
18 providing services for people who use them who don't pay
19 for to a point where now the town has trouble meeting
20 the additional obligation. And I feel that this is a
21 very similar case. And if people are using services,
22 they really -- there's some kind of idea that we
23 shouldn't have to pay for them somehow to some degree,
24 and yet the bottom line is we can't afford to give these

LINDA M.

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1 if people don't support them. So I don't think three or
2 five dollars or eight dollars is a lot of money.

3 MS. AVELLAR: Well, one is three and they're going
4 to make it ten. And then when you see all those
5 hundreds of people that are out there that aren't paying
6 because they went by boat or they walked, they're not
7 paying for the services out there either at all.

8 MR. REINHART: Those are not particularly using
9 them. The people that are going through the turnstile
10 are the ones that are directly close to the services
11 that you're providing.

12 I don't know. To me, you can't look out for every
13 person's interest that's a mile away and walking down
14 the beach. We need some money for the services that
15 we're providing, and if people are close to them and
16 they choose to go in that way, then they can pay. I
17 don't think it's a great hardship.

18 MS. AVELLAR: 300 percent?

19 MR. REINHART: (Inaudible.)

20 MR. DELANEY: I hear that. I think you raised some
21 comments about the similarity to Wellfleet, the beach.
22 And I think, Tom, your emphasis on the nexus between the
23 places that a person walks onto the beach where they
24 will get services and those services cost money, and

LINDA M.

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1 that's where the rationale makes sense as opposed to
2 anyone else walking anywhere where they don't need any
3 services.

4 MR. REINHART: Right.

5 MR. DELANEY: So I think that's George's rationale.
6 Sheila?

7 MS. LYONS: I mean, I understand. It did seem like
8 a very high jump, and I think that's been stated and
9 heard. And it's going to be addressed, so I will assume
10 that it's not going to be that much money.

11 MS. AVELLAR: 300 percent for Provincetown.

12 MS. LYONS: I understand. I understand. I mean,
13 if we're going to have this discussion, I think that,
14 yes, there are always going to be people that can get on
15 and there are people who are going to do it deliberately
16 because "Gosh, I just saved --" -- you know, they feel
17 great that they just saved five bucks. But the fact of
18 the matter is if you explain to people that this is a
19 reinvestment into something that they enjoy, that if
20 they want to be able to have these things when they come
21 back, it all contributes to the cause. And I think the
22 more that can be stated and help people understand that,
23 that you might find a few more walkers come up to a
24 booth and pay to get in because they actually can

LINDA M.

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1 connect where that money is going. So I think that we
2 should also, you know, support these efforts because no
3 one wants to pay. Well, we all want it but we don't
4 want to pay for it. And people have to realize that the
5 more they put that off, the more expensive it will come
6 or you won't have access at all because it won't be
7 there.

8 MS. AVELLAR: One last time?

9 MR. DELANEY: One more. Mary-Jo?

10 MS. AVELLAR: Provincetown, I've been dealing with
11 the Cape Cod National Seashore since 1976. And
12 Provincetown only receives and has only been receiving
13 since the Seashore was founded \$6,700 a year, which is
14 considered payment in lieu of taxes for the medical and
15 police and fire rescue services that we provide to the
16 Cape Cod National Seashore. I think \$6,700 a year is a
17 crappy amount of money to be getting for all that we do
18 provide. And so then -- and there's nothing we can do
19 about it because it's apparently part of what was
20 enacted back over 50 years ago.

21 So I bring this up every single year with the board
22 of selectmen that I think it's been \$6,700 ever since I
23 had long black hair and first sat on the board of
24 selectmen. So then to see walkers who are not, you

LINDA M.

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1 know, abusing and bike riders that have to get a more
2 than 300 percent increase in their entry fee, we should
3 be getting more money for the amount of services that we
4 provide, especially with rescue and fire. We should be
5 getting more money, and there's no way we can get more
6 money. So that's how Provincetown feels.

7 MR. DELANEY: You've raised an ancillary issue, but
8 it's one maybe the superintendent should respond to.

9 MR. PRICE: Well, I'd say two things, and maybe you
10 can remind the board of selectmen this evening, which
11 I've done in the past. Number one, all the rescues that
12 are made via the ambulance get reimbursed through the
13 individuals' insurances. Number two, if there's a fire
14 in the National Seashore, above the money that's
15 contributed now, the town can actually bill the Seashore
16 for their services.

17 MS. AVELLAR: Do they?

18 MR. PRICE: They can.

19 MS. AVELLAR: But they don't?

20 MR. PRICE: I don't know when there's been a fire
21 last that involved Provincetown.

22 MS. AVELLAR: What about police?

23 MR. PRICE: That's number one and number two.
24 Number three, I would also say to them, since I've been

LINDA M.

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1 here, which will be ten years next month, I think we've
2 invested over \$20 million in facilities in the
3 Provincetown area of the National Seashore, and 5
4 million of that was out of recreation fees.

5 MS. AVELLAR: But we gave you a free hookup to the
6 sewer.

7 MR. PRICE: Excuse me. Excuse me. Over \$400,000
8 -- over \$400,000 betterment fee for the sewer hookup,
9 which it allowed you to go to phase three, which at the
10 time the board of selectmen was very grateful for.

11 MR. DELANEY: They needed it, yeah.

12 MR. REINHART: Maybe they have short memories.

13 MS. AVELLAR: Well, that one I don't --

14 MR. DELANEY: Larry next and then Mark.

15 MR. SPAULDING: George, I have a question about the
16 process because our job is to advise. When you make
17 your decision, will it be a decision or will it be a
18 proposed decision?

19 MR. PRICE: What happens now is in the process
20 we've received the public comment. Specifically from
21 boards of selectmen, by the way, at least Eastham and
22 Provincetown are on record. I don't know if any other
23 board actually submitted a board recommendation. I
24 appreciated that. And so we'll be renegotiating.

LINDA M.

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1 One of the things that I mentioned last time, I
2 think, and it was in the press release, part of what the
3 Park Service is also trying to do is to get some parity
4 among parks. So when you mentioned what the other
5 seashores are like, well, the Park Service is looking
6 broadly and what's the parity among other seashores. So
7 we have a ways to go before we can figure out what the
8 final number will actually be.

9 And that will be sometime between?

10 MS. REYNOLDS: End of March, beginning of April.

11 MR. PRICE: March and April.

12 MR. SPAULDING: My question related to, would we
13 get a number that's proposed so we can advise and make
14 comments, or will we get the number and that's the
15 number?

16 MR. PRICE: We've already received the advice.

17 MR. DELANEY: Mark?

18 MR. ROBINSON: I'm going to make a motion, but
19 first I have a comment. I gave my venting last time we
20 were here, and that's in the record. I'm glad to hear
21 that the superintendent decided that he should propose a
22 tripling of walk-in or bicycle fees because he felt an
23 obligation to his superiors. I was hoping it wasn't his
24 idea.

LINDA M.

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1 MR. PRICE: I didn't say that.

2 MR. ROBINSON: Okay, well, that's what I was
3 reading between the lines.

4 MR. PRICE: No.

5 MR. ROBINSON: So if that's not true, then I
6 withdraw the comment, and I'm very disturbed that you
7 would propose it.

8 (Laughter.)

9 MR. ROBINSON: I think I'm somebody who's here
10 because I want to see the National Seashore continue to
11 succeed, but this kind of stuff is absolutely
12 unnecessary. They hit us. It's a public relations hit
13 that the Seashore is taking because of this thing, which
14 will generate no money for anything. It's
15 unenforceable. It's a disincentive to the type of
16 activity we want to encourage, and I just think it was
17 absolutely unnecessary to provoke this unless it was
18 some kind of a stalking horse where the increase --
19 reasonable increase in fees for vehicles, which I think
20 is entirely justified. But this public relations
21 disaster of increased -- tripling fees for walk-ins in a
22 national seashore where you don't have a single point of
23 entry is just -- it's just totally unnecessary and I
24 think sends the exact wrong message of what the Seashore

LINDA M.

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1 MR. ROBINSON: And motorcycles.

2 MR. DELANEY: And motorcycles.

3 Discussion? Point of clarification,
4 Superintendent?

5 MR. PRICE: Point of information. It's my
6 understanding under the recreation fee laws we are
7 required to charge for recreational fees. For instance,
8 it wasn't the Park Service -- it wasn't the Seashore's
9 idea to charge for individuals or bicycles or
10 motorcycles. So there's a base of understanding of how
11 that law is actually applied. So just that's a point of
12 information.

13 MR. DELANEY: You're saying there's a nominal fee
14 must be charged pedestrians for some other legal reason?

15 MR. ROBINSON: Then I would like to amend my motion
16 to make it one dollar.

17 MS. AVELLAR: Okay.

18 MR. DELANEY: Then would your second change as
19 well?

20 MS. AVELLAR: I'll second that as well.

21 I mean, a lot of people go out there on those buses
22 that the Seashore provides that have a place for people
23 to put their bikes. So now they're paying to use the
24 bus, and then they have to pay -- and their bus is a

LINDA M.

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1 is all about.

2 My motion is that we should endorse the increase in
3 fees for motorcycles and automobiles as suggested by the
4 superintendent and to set the walk-in and bicycle fees
5 to zero.

6 MS. AVELLAR: I'll second that.

7 MR. DELANEY: Okay, we have a motion on the floor
8 -- on the table and a second, and it's open for
9 discussion.

10 MR. SPAULDING: What are the walk-in fees now?

11 MR. DELANEY: The walk-in fees are three dollars,
12 proposed to go to ten. Bicycle is?

13 MS. DOUCETTE: Same as walk-in.

14 MR. DELANEY: Bicycle is also three?

15 MS. DOUCETTE: Uh-huh.

16 MS. REYNOLDS: Three.

17 MR. PRICE: Yeah.

18 MR. DELANEY: So walk-ins and bicycles currently
19 when they are identified and can be collected pay three
20 dollars. The proposal suggests or proposes to go to ten
21 for each of those, I believe. And so the motion says
22 rather than endorse the proposal, we'd like to see the
23 superintendent go the other way on those two items but
24 stay at the proposed rates for cars.

LINDA M.

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1 green bus -- and then they have to pay to take their
2 bike off and go in. I mean, that's getting hit twice.

3 MR. DELANEY: Tom, you were going to comment next?

4 MR. REINHART: Well, I would like just to repeat
5 what I said. I think there should be at least the fees
6 we have now, and they should at least increase by a
7 cost-of-living increase from when they were enacted in
8 the past. I don't think that it defeats the purpose of
9 people walking or biking in the Cape Cod National
10 Seashore. I think that's a somewhat specious argument
11 because you can use the bike trails, you can ride
12 anywhere else in the Seashore, you can walk anywhere in
13 the woods. It makes it sound like you're being charged
14 to use the Seashore, period, when it's just a specific
15 service that you're using when you're going to these
16 places. So I'm not in favor of this motion.

17 MR. ROBINSON: Tom, you weren't here last time when
18 we heard from the superintendent the number of people
19 that actually either pay or are charged that are walk-in
20 or bike fees. It is statistically insignificant. It
21 has nothing to do with revenue at the facilities. It
22 just doesn't add up to anything. So my point is as an
23 advisor to the Seashore we should be sending a message
24 to the Cape Cod public and to the users that we want you

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1 to come here and we want you to keep your car at home as
2 much as you can and not clog up our roads. We want to
3 encourage alternative transportation that is in all of
4 our plans for the Seashore.

5 Again, it's not that we don't want to support the
6 Seashore financially. Of course, we do, but this type
7 of fee is meaningless in that regard. It's symbolic.
8 So if it's a symbolic amount of revenue that's coming
9 in, let's make it symbolic and show the public that we
10 are advising the superintendent to encourage
11 alternatives and not disincentivize it.

12 MR. DELANEY: Okay, Larry?

13 MR. SPAULDING: Well, I might be personally in
14 favor of the dollar plan. Practically that's never
15 going to fly. Maybe if it were no increase at all, we
16 might persuade the superintendent actually not to
17 increase them rather than doing the dollar. So for that
18 reason I am more inclined to just say there's no
19 increase. They've been doing it since 19 whatever. And
20 I think we'd certainly be sending a message by taking
21 that position rather than pushing it for a dollar or
22 zero.

23 MR. DELANEY: Okay.

24 Ted?

LINDA M.

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1 and people unfortunately today will spend a lot of money
2 on a ticket to a game and not think about it, but if the
3 government's asking them for three bucks because of
4 something that they want to do, I just don't think --
5 this is something we all own, and we all have to take
6 care of it. And I just think that there's some
7 responsibility attached to it. And I don't agree with
8 no fees at all, and I don't see a problem with even
9 upping it to, say, you know, if it's four dollars or
10 keeping it the same. So what will you do then? You'll
11 put more or you'll tack up a couple of dollars more on
12 the vehicles and on the motorcycles? So how will those
13 people feel? You know, we're carrying that load because
14 these people don't want to pay, or you're encouraging --
15 you know, it's just -- I think there has to be some
16 equity and people realize that this money goes towards a
17 resource that they like to come back to. So I just
18 don't agree with no fees at all.

19 MR. DELANEY: So I hear, Mark, if I can try to
20 summarize, most -- I think the Commission is 100 percent
21 behind your message that you want to send through the
22 fee, which is we want to emphasize and encourage
23 pedestrians and bike riders. That's first and foremost.
24 And the discussion not only is -- or the statement that

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1 MR. NUENDEL: I agree with what you said, Larry.
2 And one thing we should keep in mind is the fact that
3 children aren't going to be charged. So like a family
4 won't get --

5 MS. BURGESS: Under 16.

6 MR. NUENDEL: Right, I like what you said.

7 MR. DELANEY: Okay, Joe?

8 MR. CRAIG: I think that the pedestrian and bicycle
9 fee should not change, but I think we have to go back
10 and advise the Seashore that the next time something
11 like this comes up, that they ought to think about it
12 first before we get the negative press. If much of what
13 you said was put out with that, I think we would not
14 have heard as much as we've heard. It would explain
15 what these fees are for and they're for services in a
16 particular area and so on and so forth. Much of what
17 you said was not told to anyone. And so they only saw
18 that three to ten, and that's what everybody zeroed in
19 on. And it gave the Seashore a negative connotation.

20 MR. DELANEY: Sheila?

21 MS. LYONS: I don't agree with no fees, and I don't
22 agree -- you know, even though it's an insignificant
23 amount, it's an amount. And it also says to people that
24 you have -- there's a responsibility that people have,

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1 we're going to stay at three dollars and not change that
2 sends a message that --

3 MR. ROBINSON: I would amend my motion to keep it
4 at three dollars.

5 MR. DELANEY: Okay.

6 MR. SPAULDING: Second.

7 MR. DELANEY: I think that would still send a
8 message that you want to achieve, and I think it would
9 also achieve the secondary message that I hear from Tom
10 and Sheila about responsibility of users of those
11 facilities. And as a third message, practicality. Even
12 though your point is well taken that it doesn't raise
13 that much money, at least it brings the message that
14 someone is responsible for providing the services.

15 So I think we're almost at a good consensus here.

16 Mark, did you amend it at one point?

17 MR. ROBINSON: I did. And he seconded.

18 MR. SPAULDING: I seconded.

19 MS. AVELLAR: Yeah, and I'll support it.

20 MR. DELANEY: One more discussion point?

21 MR. REINHART: Well, my question is I'm opposed to
22 not at least raising the cost of living. So if I vote
23 that I'm opposed to this, does that sound like I don't
24 want the fees to be raised? I don't like that either.

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1 MS. AVELLAR: Well, the motion isn't to raise the
2 fees on walk-ins.

3 MR. DELANEY: You'd have to make a separate motion
4 if you want to change it differently to a cost-of-living
5 index.

6 MS. AVELLAR: What is the cost-of-living index?

7 MR. DELANEY: This year it was almost -- it was
8 less than one percent.

9 MS. LYONS: It would probably be prohibitive. It
10 would probably be more than ten dollars.

11 MR. DELANEY: No, the cost of living went up
12 marginally this year.

13 MS. LYONS: Okay, but, as you added, since it's
14 been raised.

15 MR. REINHART: So two dollars.

16 MS. LYONS: Since 1997 if you wanted to have it
17 reflect -- I mean, that has been the change -- it hasn't
18 been changed since 1997.

19 MS. AVELLAR: For me it's a question of equity.
20 You know, if you're going to charge somebody -- I mean,
21 I'm not in favor of Park Service personnel going up to
22 every single person on the beach, "How did you get here?
23 Did you pay?" But the fact of the matter is people go
24 to the North parking lot section of the beach. Chances

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1 are they're in the non-lifeguarded section of the beach,
2 so they're not getting that service. They're self-
3 contained vehicles. All those kinds of things are going
4 on on the beach. You can have your dog. You can have
5 an inner tube for your kid. I mean, all the things that
6 go on on the North parking lot are things that aren't
7 allowed on the lifeguarded beaches. So there's very
8 little impact, to my way of thinking, except for the
9 macadam, which is the cars, as opposed -- and then there
10 are the people that are just walking willy-nilly. They
11 come in. They go all the way to Hatches Harbor and Race
12 Point, or they walk out to Long Point. There are so
13 many more people that aren't paying based on your --
14 based on your rationale that aren't paying for the use
15 of the beach. But when they get into trouble out there,
16 they need help. So either everybody has to show that
17 they've paid somehow or by walking or boating. I mean,
18 I got stuck -- one time we got stuck when we had our
19 boat out there, for God's sake, and we weren't anywhere
20 near the shore.

21 So I'll stick with the three, but I think that
22 you've got to try to get everybody.

23 MR. DELANEY: I think this discussion is directed
24 at a very narrow segment of the users of the Park. It's

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1 just those people who want to go through a service gate,
2 an entrance gate and then be very close to bathrooms,
3 lifeguards, easy parking, all that stuff. All the other
4 users, as you point out, Mary-Jo, are in a different
5 category. No one's suggesting that they be charged
6 anything or that there be a ranger traveling up and down
7 the beach collecting three bucks or ten bucks.

8 Let's be sure we're talking about -- let's be sure
9 we're talking about a very narrow (inaudible).

10 So we have a motion on the floor, and, Tom, you
11 have to decide if you're going to vote for it.

12 MR. REINHART: No, I want to just move the meeting
13 along.

14 MS. BURGESS: I was going to go with Tom, but when
15 I heard Larry, I thought it was okay.

16 MR. DELANEY: I think it would just be a different
17 type of rationale, but it will get more complicated.

18 So let's stick with the motion, which is we will
19 let the record show that we have voted officially to
20 recommend to the superintendent that when he makes a
21 final decision about the sweep of fee increases, that he
22 retains, does not change, does not increase the fee of
23 three dollars for pedestrians or bicyclists.

24 MR. REINHART: Well, let's think about it --

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1 MR. DELANEY: Do what he wish with the others, or
2 did you have specific numbers for the --

3 MR. ROBINSON: I'd go completely along with what
4 was suggested.

5 MR. DELANEY: So we're just talking about the two
6 that --

7 MR. ROBINSON: Right.

8 MR. DELANEY: Okay, that's the motion.

9 MS. GREEN: Rich, is it -- I mean, do you want to
10 include, Mark, for the reason?

11 MR. ROBINSON: I think we've discussed it more now.

12 MR. REINHART: Yeah.

13 MR. ROBINSON: So it doesn't sound (inaudible).

14 MR. DELANEY: Okay, hearing that, all those in
15 favor, signify by saying aye.

16 MR. SPAULDING: Aye.

17 MR. NUENDEL: Aye.

18 MR. CRAIG: Aye.

19 MS. AVELLAR: Aye.

20 MR. ROBINSON: Aye.

21 MS. BURGESS: Aye.

22 MR. PRICE: All those opposed?

23 MS. LYONS: No.

24 MR. REINHART: (Indicates).

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1 MR. DELANEY: One no?
 2 MS. AVELLAR: Two no's.
 3 MS. LYONS: Two no's.
 4 THE COURT REPORTER: Tom and Sheila?
 5 MR. REINHART: Yeah.
 6 MR. DELANEY: Any abstentions?
 7 (No response.)
 8 MR. DELANEY: Okay, so it carries.
 9 Thank you, Mark.
 10 MR. ROBINSON: It's just advice.
 11 MS. LYONS: It's just advice.
 12 MR. PRICE: Well, we appreciate it. We really do,
 13 which is why I'm supporting the continuation of the
 14 Advisory Commission.
 15 (Laughter.)
 16 MR. PRICE: I don't know how this park would
 17 function without it.
 18 KITEBOARDING UPDATE
 19 MR. PRICE: Kiteboarding.
 20 Luke Hinkle's been here a couple of times. He was
 21 not able to participate today. As you recall, for a
 22 variety of reasons, we have prohibited kiteboarding on
 23 the Atlantic side of the Seashore basically from March
 24 until the middle of October. Luke and his kiteboarder
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1 enthusiasts were very concerned about that, and we've
 2 met regularly -- we've met a number of times separately
 3 now with Luke trying to see if there wasn't any sort of
 4 opportunity, wiggle room, or place where a kiteboarding
 5 activity could take place that we believed would be a
 6 safe place that could be managed that would not impact
 7 the resources. Our last meeting was about a month ago.
 8 And I spoke with Luke and said that after all these
 9 considerations we still do not believe that kiteboarding
 10 should be allowed on the Seashore on the Atlantic side
 11 of the Seashore.
 12 During the same time, we've had for a long time the
 13 ability for a kiteboarder to go off in Duck Harbor in
 14 the Town of Wellfleet out into the bay. So as long as
 15 they stay 200 meters from the beach and they're
 16 kiteboarding out there and they come back into the town
 17 beach of Wellfleet, that's fine, but there isn't such an
 18 opportunity on the Atlantic side.
 19 So I appreciated Luke's patience to stick with us
 20 on these conversations. I believe he understands our
 21 resource concerns. I don't want to speak for him, but I
 22 doubt that he agrees with our final decision. So I'm
 23 not sure that this will be the end of their request for
 24 us to reconsider. I will also tell you what I said to
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1 him. It's somewhat in line with what I mentioned before
 2 about the Nauset Spit issue, and that is, as we learn
 3 more and more about the birds and as we see the change
 4 in behavior, whether it's absolutely related to climate
 5 change or not, I have no idea, but traditionally up
 6 until now the time where we say the shorebird staging
 7 area ends is usually not the middle of October. We're
 8 now learning that they're staying a lot longer, and in
 9 fact, it's into the last week of October. So it very
 10 well may be that some of the restrictions that we've had
 11 on the books for a very long time may have to be
 12 altered, especially if we have up to three species that
 13 are endangered and they're here for staging
 14 opportunities. I've focused on the endangered species
 15 birds, but obviously we're concerned about all the
 16 birds. So even if there are non-endangered species that
 17 are nesting and staging on these distal spits,
 18 especially on the barrier beaches, that's of concern to
 19 us.
 20 So I just wanted to report to you that that was the
 21 conclusion of that discussion.
 22 MR. DELANEY: Mary-Jo?
 23 MS. AVELLAR: What's the difference between a
 24 windsurfer and a kiteboard?
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1 MR. PRICE: A windsurfer is -- there's usually a
 2 sail attached on the surfboard itself. We're not
 3 talking about those. They're still allowed. The kite
 4 is a kite that's as much as 40 to 60 feet in the air.
 5 Depending on the kite, it has a broad sail.
 6 MS. AVELLAR: Like a parachute?
 7 MR. PRICE: Yes.
 8 MS. LYONS: It's like a parachute. You're
 9 parasailing in a sense.
 10 MR. PRICE: So that these people are in a harness,
 11 and they're attached. And they're on a surfboard, and
 12 sometimes they can get some air under them.
 13 MS. AVELLAR: Airborne?
 14 MS. LYONS: Uh-huh.
 15 MS. AVELLAR: What happens to the surfboard then?
 16 MR. PRICE: Well, it's attached.
 17 MS. LYONS: It's a small surfboard. So there have
 18 been -- I mean, I was at Wellfleet Great Island, and
 19 there were a bunch of -- this is several years ago when
 20 it was first new and people were learning. It was a
 21 very windy day, and this person who was learning got
 22 caught up in the wind and then got smashed down and got
 23 dragged because the wind kept dragging him through this
 24 parking area. I mean, he got all smashed up. So
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1 there's a lot of risk when you're learning, and people
2 do -- it's not as though you can control it and you're
3 out on the water and then you kind of come back and dock
4 yourself. You are sometimes at the whim of the
5 elements, and you can crash into the sides of things or
6 crash into dunes.

7 So I can see why this is -- I could see it
8 immediately. And not only that, then there's a
9 liability. I mean, if somebody really wants to get like
10 --

11 MR. PRICE: Well, I've had reports of these
12 kiteboarders hitting the swimmers within the Seashore
13 boundary on the Atlantic side previously. That's never
14 been reported to our staff directly, so it's thirdhand
15 information. So this is actually less about safety
16 per se as it is with the conflict of other users, the
17 fishermen, swimmers.

18 And specifically the fact that what they do,
19 Mary-Jo, is they skim just near the waves great
20 distances and then they'll tack back and do it again.
21 Well, that means they're very close to the beach, very
22 close to the shorebirds. And they have this enormous
23 kite in the sky, and the shorebird behavior changes that
24 we surmise because they believe there are predators in

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1 the area and that, therefore, they flush and that's part
2 of what we're protecting against. A kiteboarder, if
3 they were here, would say, "You have no evidence to
4 support that," but that's the observation of our staff.

5 MS. AVELLAR: Can a kiteboarder's feet come off of
6 the -- off of the board? How are they attached?

7 MS. LYONS: It's a small little board. It's not a
8 huge board.

9 MR. REINHART: If you look at a windsurfer's feet
10 strapped, it's the same thing.

11 MR. PRICE: So I will tell you, to me this is new.
12 I had never seen this before until I came to the Cape
13 and went down off the beaches in Hyannis. There will
14 sometimes be dozens of these. And it's a very colorful
15 spectacle. And they've also -- they've been in
16 Wellfleet Harbor, and it's a colorful spectacle. So
17 it's kind of interesting to watch, but the impact on the
18 resources concerning the Atlantic side is problematic
19 for us.

20 We will come across specific types of activity. I
21 know prior to my tenure here this board took on, for
22 instance, the personal watercraft, and that became a big
23 deal. Well, now there are also fat bikes that ride on
24 sand.

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1 MS. AVELLAR: Yeah, I've seen them.

2 MR. PRICE: And we prohibit them at the Seashore.

3 MS. AVELLAR: I see them out at New Beach all the
4 time in the North parking lot.

5 MR. PRICE: And they'll be notified that they're
6 not allowed.

7 There's also a wind-powered vehicle that I think
8 has fat bike-type wheels that can skim on beaches. I'm
9 not sure what that's called, but it's probably the land
10 version of an ice boat, I assume.

11 MS. AVELLAR: What about parasailing, is that
12 prohibited if you're in a speedboat?

13 MR. PRICE: Well, if you come within 200 meters of
14 the beach, it is, but those are generally further out.
15 I would say that had more to do with the whales than it
16 has to do with us.

17 So as people generate these new types of
18 recreational activities, I'm sure we will be dealing
19 with them.

20 Joe?

21 MR. CRAIG: Does this ban apply to Nauset and North
22 Beach Island?

23 MR. PRICE: No, this applies to just the beaches
24 that we manage that way, so that would have to be a

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1 decision by the towns. It is a decision that's in the
2 proposal for Monomoy.

3 MR. DELANEY: Okay, thank you.

4 SHOREBIRD MANAGEMENT PLANNING

5 MR. PRICE: Shorebird management, kind of building
6 on that, it's been a while since we've actually had a
7 briefing about our shorebirds. We've done it
8 intermittently with you all, but the shorebird
9 management plan has been many years in the making.
10 We're ready to roll it out this spring. I'm
11 anticipating a March-ish rollout.

12 So, Mr. Chair, when we schedule the March -- the
13 next meeting, whenever that is, I will plan to have our
14 science people here to do kind of a -- kind of a Cliff
15 Notes of, say, what would be a preferred alternative so
16 that you are aware of that.

17 The National Park Service Centennial --

18 MR. DELANEY: George, let me interrupt you.

19 Larry?

20 MR. SPAULDING: Could we get sort of like a brief
21 executive summary of that so when we -- I don't want to
22 make a lot of work -- so that we have something before
23 the meeting that we would have looked at so when you
24 talk about it, we kind of have some familiarity?

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1 MR. PRICE: Frankly, it depends on the timing
2 because we have to have the discussion with you the same
3 time it gets distributed to the public. We could see
4 about having a Cliff Notes.

5 Actually, would our executive summary have that
6 anyway?

7 MS. MCKEAN: Yeah, it might need more detail,
8 but...

9 MR. PRICE: As usual, what this document will be,
10 will be a discussion of the alternatives as they have
11 been looked at over all these years.

12 Did we sign up three or four? I'm not sure. But
13 we will have a preferred alternative.

14 MR. SPAULDING: I just say the discussion might be
15 more fruitful for us if we had a chance to look at
16 something without trying to make work added.

17 MR. PRICE: Well, we'll see how the timing goes.

18 MR. DELANEY: Maybe an executive summary or an
19 outline.

20 MR. SPAULDING: Right, okay.

21 MR. DELANEY: Good suggestion.

22 All right, George?

23 NATIONAL PARK SERVICE CENTENNIAL

24 MR. PRICE: So the National Park Service Centennial
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1 MR. DELANEY: No.

2 MR. PRICE: So in any case, that's one physical
3 improvement.

4 We're doing a Park-wide signage update. If you
5 take a look at a number of our signs, especially our
6 highway signs and our trail signs, they're in pretty
7 rough shape. There was a time when each park had their
8 own sign shop, and we could rotate these through over
9 time. That time has gone and passed, so now we're
10 taking a little bit more comprehensive look at that.

11 For those of you that hadn't heard, the Friends of
12 Cape Cod National Seashore have pledged \$100,000 towards
13 the painting of the Penniman House, which is in really
14 bad shape. The estimate of that is about 176,000 just
15 for the painting, so we're going to be trying to secure
16 the rest of that and try to get that in shape for the
17 centennial.

18 HEALTHY PARKS, HEALTHY PEOPLE

19 MR. PRICE: And then another project that I'm very
20 enthusiastic about -- this has actually been around for
21 a while -- Healthy Parks, Healthy People. This is a
22 program that the Park Service has done with parks, and
23 I'm mostly familiar with the National Capital Region
24 where physicians and healthcare providers have partnered
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1 is coming up. One of the things we did with the field
2 trip this morning was to show just a couple of physical
3 examples of some of the improvements that we're going to
4 be working on. We actually have secure funds to do the
5 two amphitheaters, the one at Salt Pond and the one at
6 the Province Lands. Those were Mission 66 statements
7 that the famous Rich Delaney actually put in the cement
8 for the one that was being constructed at the time here.

9 MR. DELANEY: My first college job.

10 MR. PRICE: In Eastham.

11 MR. DELANEY: My first college job was the Eastham
12 Visitors Center. I was the gopher. I didn't build it.
13 I was the gopher, got the coffee for the guys.

14 MS. AVELLAR: Just a young kid, huh?

15 MR. DELANEY: Then later as a seasonal Park ranger,
16 I had to stand out there and give my evening programs.
17 So I'm glad it's staying up all this time.

18 MR. PRICE: Actually, that's a great idea. Rich
19 Delaney returns to the restored amphitheater as part of
20 the centennial.

21 MS. LYONS: There you go. Ride in on a horse or
22 something.

23 MR. ROBINSON: That might not reflect too well on
24 his age.

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1 with the Park Service in trying to do outdoor physical
2 activities. And I'm reaching out to Cape Cod Healthcare
3 and Cape Cod Hospital to see if they're interested in
4 getting involved in this. And as a happy end user at
5 Cape Cod Hospital three times this past year, I thought
6 this would be an opportunity to connect up with them on
7 some of these activities.

8 So those are some of the things that we're looking
9 at. We're hoping to reap some benefit for the national
10 program on some additional seasonals. In fact, it could
11 help deal with some program support and some other
12 programming-type elements, but at least those are some
13 of the things out of the box at this point.

14 MR. DELANEY: George, is there a special national
15 appropriation for parks across the country to be able to
16 plan (inaudible) similar activities, or is that coming
17 out of -- stretched out of the existing budget?

18 MR. PRICE: There are a couple of things. Mostly
19 we're working with the National Park Foundation. Our
20 number one national group that's legislating for
21 donations, they're doing a number of national campaigns.
22 You will probably see their logos if you go to the
23 movies or in TV ads and all kinds of things that they're
24 doing. They're putting together donation opportunities

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1 for donors and funders to contribute to national parks,
2 and there's a number of other programming ideas that
3 way. Nationally, we've actually already received help
4 with some seasonal people a number of years ago, and we
5 hope to receive some funding for some more seasonal
6 people in the future. Other than that, there are still
7 some other programs in the works.

8 MR. DELANEY: Okay, thanks.

9 IMPROVED PROPERTIES/TOWN BYLAWS

10 MR. PRICE: Nothing really more on town bylaws
11 other than I know that Wellfleet has updated some of
12 their bylaws or zoning pieces as it relates to the
13 Seashore District but nothing that's -- nothing that
14 causes us a problem for sure. Of course, one day it
15 would be nice if Truro decided to take a look at their
16 bylaws, but whatever.

17 MS. BURGESS: I tried first year I was here.

18 HERRING RIVER WETLAND RESTORATION

19 MR. PRICE: We are having regular meetings with the
20 towns of Wellfleet and Truro and the Friends of Herring
21 River on the Herring River wetland restoration project.
22 We're in the process of drafting MOU III, which would be
23 a significant next step. The Friends of Herring River
24 have received significant funding now from a series of

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1 our energy use or waste and all of our transportation
2 numbers so that we have a close eye on what it is that
3 the Park is actually involved with either directly
4 related to our employees or related to the program.

5 And, Mr. Chair, I'd say that's it.

6 MR. DELANEY: Okay, thank you very much.

7 Other topics that you would like to hear from the
8 superintendent on? Mary-Jo?

9 MS. AVELLAR: The sea clammers. I saw Craig -- I
10 saw Craig at I think it was a conservation commission
11 meeting in Provincetown and then I think probably at
12 another meeting.

13 MR. PRICE: Yes.

14 MS. AVELLAR: What's the Park Service's involvement
15 in the people that are out there digging up the bay?

16 MR. PRICE: Well, a couple of things. You're all
17 familiar with this project, and this is a hydro system
18 of getting the sea clams.

19 MS. AVELLAR: You should have seen the clams that
20 were sitting on the pier yesterday.

21 MR. PRICE: Right.

22 MS. AVELLAR: At least ten boxes. I mean, they
23 were huge containers like that (indicates).

24 MR. PRICE: Right, they are. I've seen them

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1 grants, including the Commonwealth of Massachusetts and
2 the federal NOAA program, and the technical subcommittee
3 and some others are really doing an amazing job.

4 I've got to tell you, it is really phenomenal to
5 see this at work. We've got about seven different state
6 and federal agencies on the technical subcommittee. We
7 have the town managers from Wellfleet and Truro and then
8 myself and the Park Service and all of our attorneys
9 working on these documents. So everybody is taking this
10 very seriously, and we really hope to be successful in
11 the future on this one.

12 HIGHLANDS CENTER UPDATE

13 MR. PRICE: Jumping forward, the Highlands Fest is
14 something that Lauren works with the Highlands partners
15 on. The date is tentatively scheduled for June 27 this
16 year.

17 It's tentative or that's the date?

18 MS. McKEAN: It's a Saturday morning. Yes, it's
19 set.

20 MR. PRICE: Just so that you know, we had a staff
21 presentation to you all in the past about our Green
22 Parks program, so as part of that, we actually assemble
23 our greenhouse emissions and we provide reporting on
24 that, whether it's our greenhouse gases, whether it's

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1 dropped off in Hyannis Harbor.

2 So the issue is this particular type of technology
3 for excavating the sea clams tears the heck out of the
4 ocean floor. So they're using this hydro pump to blow
5 the sand out, and then there's a collection system, and
6 that's how they get collected. So there are several
7 layers to this. Provincetown was concerned because you
8 had the sea clammers coming into the Provincetown town
9 boundaries and doing this activity, and they thought
10 it was -- it's supposed to only be licensed for a
11 certain amount of depth. Actually, I only know what's
12 in the paper about the technology of the whole thing.
13 As far as the Park Service is concerned, if they're
14 coming within a quarter mile of the beach, specifically
15 at Herring Cove, then they're in the bounds of the
16 National Seashore.

17 So the state manages the water column. The Park
18 actually -- no, it's the other way around. The Park
19 manages the water column. The state actually manages
20 the sea bottom, okay? And then you overlay that with
21 shellfishing is allowed within the boundaries of Cape
22 Cod National Seashore as administered by the town and
23 the town being an instrumentality of the state. So
24 unlike other places (inaudible) Monomoy, the town can

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1 regulate shellfishing. So as I understand it, there's
2 right now a dispute between the Town of Provincetown
3 and the state fisheries whether this is an appropriate
4 way for them to extract shellfish. The other overlay
5 on this that we're still investigating is, number one,
6 have they been doing this within the quarter-mile
7 boundary of the Seashore? And number two, what's that
8 doing to the environment on the seafloor, and is that
9 detrimental to the habitat? Therefore, should we be
10 joining with the conservation commission and with the
11 shellfish warden in Provincetown on trying to prohibit
12 this activity?

13 MS. AVELLAR: I hope you do. It's terrible.

14 MR. PRICE: So Craig was there as a point of
15 information to try to figure out what's going on and
16 does it affect us or not. I was personally only out
17 there one time. I was checking the revetment to see how
18 we did with the storms, and the fishermen that I saw at
19 that point were clearly more than a half a mile off the
20 beach.

21 MR. DELANEY: Tom, did you have a question?

22 MR. REINHART: Yeah. My question has to do with
23 the funding that you've been getting. I remember either
24 last year or the year before there were some pretty good

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1 cuts.

2 MR. PRICE: Yes.

3 MR. REINHART: Hence, are you comfortable now with
4 the way some of that's been restored? I haven't heard
5 you say anything about it lately. Are you under such
6 budgetary pressure these days as you were? I know you
7 always are --

8 MR. PRICE: Right.

9 MR. REINHART: -- but even more the way they turn
10 the screws.

11 MR. PRICE: No, the good news last year was that
12 the Congress and the President came to a two-year budget
13 resolution. So the year before that is when we had the
14 government shutdown.

15 MR. REINHART: Yeah.

16 MR. PRICE: And then we were going through a
17 potential eight percent sequestration that we had to
18 come up with for that particular season. That's when
19 the Friends came forward with the money to keep the
20 Province Lands Visitors Center open and all that sort of
21 thing. So it was that following fall that the two-year
22 budget resolution was put into place for '14 and '15,
23 okay? And what that did was that restored our budget to
24 the 2012 level. So that was good news.

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1 MR. REINHART: Yeah, okay, great.

2 MR. PRICE: So the good news was we were no longer
3 dealing with the sequestration cut. We certainly didn't
4 get any increases. The budget's always a complicated
5 discussion because obviously fixed costs rise; we deal
6 with employees whose benefits change and all that sort
7 of thing. We have other budget requirements. Just the
8 cost of doing background checks for employees and
9 providing some other services always changes, and we
10 don't necessarily receive additional funding for that.

11 For FY '15 we have not actually gotten or received
12 our budget allotment, so I haven't seen what's called
13 the green book yet to know what our base budget is to
14 know if there's any bump in that or not. Allegedly
15 federal employees will be getting a one percent
16 increase. The federal employees have not received an
17 increase in many, many years at all.

18 MR. REINHART: An increase in pay?

19 MR. PRICE: Yes.

20 MR. REINHART: You're getting one percent this
21 year? Wow, very generous.

22 MR. PRICE: Well, it's better than what's happened
23 the last number of years. So in the past there has been
24 at least a partial additional positive bump to the base

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1 budget to cover that. That may or may not happen. So
2 it's still pretty much up in the air, but the good news
3 is we're not in the straits that we were a few years
4 ago.

5 MR. REINHART: Thank you.

6 MR. DELANEY: Maureen, did you have a --

7 MS. BURGESS: Oh, just about the clams. I just
8 wanted to be clear.

9 So the Seashore owns the quarter of the mile --

10 MR. PRICE: No, that's the boundary.

11 MS. BURGESS: The boundary of the Seashore?

12 MR. PRICE: Yes.

13 MS. BURGESS: So in terms of the enforcement for
14 either Provincetown or the Seashore, do you have the
15 technology at any specific time to determine exactly
16 where the dredging would be occurring for excavating
17 clams or whatever you call it?

18 MR. PRICE: Well, our people would use GPS-type
19 technology to figure that out.

20 MS. BURGESS: So is that happening, Mary-Jo, in
21 Provincetown?

22 MR. PRICE: Craig's working with Rex.

23 MS. AVELLAR: Yeah, with Rex. They were all having
24 cocktails afterwards. The lawyers and those rogue

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1 fishermen, they were all at George's Pizza having
2 drinks. Dennis Sieminski (phonetic) and everybody
3 after.
4 MR. PRICE: And clam chowder.
5 MS. AVELLAR: I'm just really concerned about it.
6 MR. REINHART: Was there clam pie?
7 MS. AVELLAR: Huh?
8 MR. REINHART: Sea clam pie?
9 MS. AVELLAR: Yeah. Well, yeah. I mean, my
10 grandson dives for sea clams out there in the
11 summertime. You know, I still have a bag in my freezer.
12 But I mean, they're out there just like digging the
13 floor of the ocean up. I mean, it's terrible.
14 MS. BURGESS: That's why I was asking about
15 enforcing it.
16 MS. AVELLAR: Well, unless they're within the
17 boundaries of the Seashore, there's no enforcement
18 capability for you, I believe. I mean, everybody's
19 going to be harmed by this activity.
20 MR. PRICE: Well, you know that this activity
21 happens all the time.
22 MS. AVELLAR: But it's come to a head now.
23 MR. PRICE: I think what's new is the fact as to
24 where it's happening in Provincetown.

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1 MR. DELANEY: And the state's Wetlands Protection
2 Act says there shall be no dredging, building, altering,
3 boom, boom, boom, boom of habitat areas. So that's a
4 strong statement that the town has to go on. And that's
5 what the suit would be about, would be the town's
6 conservation commission using its town bylaws. There's
7 also -- it gets complicated. There's a second wetlands
8 act that's just the town's bylaw. So they could act
9 under either one, but I don't know which way they're
10 going. But both laws say no dredging if it's a negative
11 impact. So the question becomes, is this a negative
12 impact? The state fisheries guys say, "Well, no, this
13 is just churning up barren sandy area that's down." But
14 the photographs that they now have in this area and the
15 diver's firsthand testimony shows that those areas were
16 actually starting to regenerate sea -- other life,
17 richer habitat.

18 MS. LYONS: The Ocean Management Act that extended
19 some of the -- there was much discussion about that --
20 the towns' rights when they were extended and put
21 forward in that act. Does that help that situation at
22 all?

23 MS. BURGESS: Not directly. I'm not sure. I don't
24 think directly. The Ocean Management Act didn't become

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1 MS. LYONS: And does the Wildlife and Fisheries
2 condone that method of extraction?
3 MS. AVELLAR: The method, right, that's the
4 problem.
5 MR. PRICE: As I read in the paper, they are not --
6 MR. DELANEY: Division of Marine Fisheries does
7 allow hydraulic dredge.
8 MS. LYONS: But it has to be a certain distance
9 from the shore.
10 MR. DELANEY: Certain places and certain areas,
11 yeah. In fact, it happens along much of the
12 Massachusetts coastline. The federal government allows
13 it from three miles and out.
14 MS. LYONS: Right.
15 MR. DELANEY: The federal government pretty much
16 allows it. The state government allows it with most --
17 with some minor restrictions, but inside three miles it
18 also -- the town is suggesting becomes a town question
19 because of the state Wetlands Protection Act.
20 MS. LYONS: That's what I was going to say. What
21 about the Ocean Management Act?
22 MR. DELANEY: The town's jurisdiction for the
23 seafloor from the shore out to the three miles.
24 MS. LYONS: Right.

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1 as specific as talking about state law.

2 MS. LYONS: But I think it gave the rights to the
3 town. It fought to extend those rights beyond like a
4 tide line or --

5 MR. DELANEY: No, I think that's not relevant here.

6 MS. LYONS: Okay, all right.

7 MR. DELANEY: A question from Bill?

8 MR. CLARK: Years ago -- I don't really remember
9 how many years ago, but I remember there was research
10 done on hydraulic dredging, and basically I believe it's
11 a good way to manage fisheries. In the short term,
12 obviously it looks you're churning up the bottom and
13 all, but the bottom becomes anoxic and not a good place
14 to recruit subsequent generations of shellfish. And my
15 understanding is this is a good management technique.
16 It's kind of like plowing a field for a farmer. You
17 turn it over, you open it up, and you prepare it for
18 planting. And from what I understand, after hydraulic
19 dredging you have a much better crop than subsequent
20 years.

21 MR. DELANEY: If you're managing, that's -- there
22 is a lot of literature on this. A lot of literature
23 says it's not really good for the total ecosystem
24 because if you're talking -- but if you're talking about

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1 just managing the sea clams, your point might be correct
2 because that's all you care about in that area, is
3 opening it up because they live six inches or a foot
4 down in the sand. So you're right on if the management
5 objective is just propagating more sea clams, but if you
6 want to have a habitat that has vegetation and biology
7 that becomes a nursery for the finfish and lobsters and
8 other things to have a more diverse, complete ecosystem,
9 this is destructive.

10 MR. CLARK: Somehow I remember -- I thought it was
11 better in general, and the Wetlands Protection Act also
12 includes managing shellfish. That's one of the
13 interests of the Act. So it would be dredging for the
14 purpose of improving shellfishery.

15 MR. DELANEY: Yeah, but not overall ecological
16 habitat.

17 MR. CLARK: Right.

18 MR. DELANEY: So it's, as always, things are
19 complicated.

20 MS. LYONS: Right.

21 MS. AVELLAR: There's also a reason why dredging
22 has to be carefully looked at. Always. You know, I
23 just feel that our town really manages its shellfish
24 beds really very carefully. Our shellfish warden has

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1 we're trying to figure out.

2 I was out there -- the one time I was out there
3 when I saw them, there were Coast Guard helicopters and
4 there was a crowd with binoculars. I didn't realize Rex
5 was in that crowd. I would have gone and talked to him,
6 but I had no idea what was going on until I read it in
7 the paper the next day.

8 But you're right, Mary-Jo, about the crop. I see
9 them on the road in the Hyannis Harbor. It's enormous
10 amounts of catch.

11 MS. AVELLAR: I'm talking semi-trailers full of
12 these, just full of crates of sea clams.

13 MR. PRICE: It's amazing.

14 MR. DELANEY: There's no doubt it's a valuable
15 fishery, and again, the Division of Marine Fisheries
16 will say this is jobs, this is a big product, and we
17 don't -- we want to take the pressure off cod fishing
18 and all the other ones. So you can understand, or I can
19 understand, most sides of all the arguments.

20 MS. AVELLAR: We could use another Gerry Studs.

21 MR. ROBINSON: Does anybody know what the
22 sustainable yield is? Do you know what the sustainable
23 yield of these things?

24 MR. DELANEY: No.

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1 been terrific. And this just seems very troublesome to
2 me.

3 MR. DELANEY: Not to go on about this, but there's
4 also from just a pure fisheries management perspective
5 -- there's things called sustainable fisheries --

6 MS. AVELLAR: Codfish.

7 MR. DELANEY -- where you don't destroy much of the
8 habitat or traditional habitat. So dredging does not --
9 it doesn't impact the environment as opposed to diving
10 for these, and the divers have been quite successful in
11 Provincetown going down and picking a clam at a time.
12 More valuable crop, less destruction of the clam itself.
13 The draggers for that hydraulic dredge destroy -- I
14 forget what the percentage is, but a significant amount
15 of the crop even before they get it up. So there's
16 collateral damage to the clams before they get them.

17 So it's, again, very complicated, but the Park
18 Service at this point -- back to you, George -- is
19 considering our -- paying attention and trying to
20 understand where this is at.

21 MR. PRICE: We're trying to figure out if we have a
22 role and is our role simply supporting Provincetown or
23 do we have a material role as it affects the habitat and
24 the environment within the quarter mile. That's what

LINDA M.

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1 MR. PRICE: I for one am quite a fan of clam
2 chowder.

3 MR. NUENDEL: So who cares?

4 MR. PRICE: Okay.

5 MR. DELANEY: Okay, all right, yes, back to -- we
6 were in the process of adding -- asking the
7 superintendent about other topics he had not covered,
8 and we've raised a couple of interesting ones. Last
9 chance to ask the superintendent other questions.

10 Mary-Jo?

11 MS. AVELLAR: Food carts.

12 MR. DELANEY: Food carts?

13 MS. AVELLAR: The question came up at work -- I
14 work in a restaurant -- that one of our former -- we
15 have an entrepreneurial former waiter at the restaurant.
16 He's entrepreneurial and he started a food cart. And I
17 noticed that there was some kind of a food cart festival
18 up Cape at the end of the summer, and apparently they're
19 quite popular in other areas of the Cape. He's allowed
20 to do it in the Town of Wellfleet, downtown, I guess --

21 MS. LYONS: Yeah.

22 MS. AVELLAR: -- at the beach, Joey Rugo. But
23 apparently the Seashore said no to food carts, and I
24 didn't know if --

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1 MR. PRICE: Right now the only food concession we
2 have is up at --

3 MS. AVELLAR: New Beach.

4 MR. PRICE: -- the beach where the Far Lands is our
5 concessionaire. We have been asked about food carts
6 over time or food trucks/food carts for other
7 concessionaires. We actually have a concession
8 specialist, and each one of these we take a look at in
9 its own way and try to weigh what's going on. We
10 wouldn't have any other food competition because we
11 already have a concessionaire up at that particular
12 area. The golf course concessionaire also has a food
13 vending opportunity at the Highlands area.

14 We then have to take a look if we have people
15 asking about some of our other beaches. How close is
16 another food vendor because would we be wanting to set
17 up competition with other food vendors that are nearby?
18 What's our ability to manage it? What is some of the
19 downside? I know with some of the food trucks, for
20 instance, that we've experienced with some of our other
21 national parks that have allowed food trucks in, there's
22 a trash and a litter problem. That's not to say that
23 everybody would have that, but that's some of the
24 management concerns that we would have to consider. So,

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1 coyote issue only because we've been approached by an
2 organization that is requesting us to consider the
3 banning of hunting of coyotes during our hunting
4 program. It's been in the paper, and it's been on the
5 radio and a few things. So we're just in the process of
6 preparing our response to -- and we have to get some
7 more information from those people.

8 Prior to most of your tenures, you might know that
9 we had a hunting -- similar to the negotiated rule-
10 making for the off-road vehicles, we had a hunting
11 environmental impact statement process. It lasted six
12 years. It finished in 2007. I don't even know how much
13 money it cost. It was in the hundreds of thousands of
14 dollars. And that was both whether hunting should still
15 be appropriate as a traditional use in the Seashore,
16 which was part of its legislation, or if something like
17 pheasant hunting and stocking by the state should still
18 be allowed. So we went through that process for a real
19 long time with public meetings and all that sort of
20 thing. We came up with our record of decision in 2007.

21 So this group is asking to reopen that entire
22 process to reconsider that whole topic, so I just wanted
23 you to be aware that that was --

24 MS. AVELLAR: They're going to allow coyote

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1 yes, we get asked either for new concession
2 opportunities and food trucks or carts, and we evaluate
3 each one of them as they come along.

4 We have a whole -- we have a very active -- and
5 this probably, if you're interested -- this could be a
6 topic at some point. Not soon, but at some point.

7 I'm trying to remember. I don't want to overstate.
8 Do we have as many as 100 business -- associated
9 business permits besides our concessionaires? We have
10 multiple ski (sic) schools. We have obviously Art's
11 Dune Tours.

12 MS. MCKEAN: Surf schools, not ski.

13 MR. PRICE: Surf schools. We have guided tour
14 programs. So we have a lot of business opportunities,
15 and they basically talk to our concession person and
16 they fill out a permit. Some of them are long-term,
17 multiple years like concessionaires. Some of them are
18 just in a short-term business. So that's how we handle
19 those things when they come up.

20 MR. DELANEY: Good, okay. Let's move to Old
21 Business.

HUNTING PROGRAM

23 MR. PRICE: Actually, I'll bring up something
24 nobody asked me about, and that is the hunting of the

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1 hunting?

2 MR. PRICE: Sure.

3 MS. AVELLAR: During hunting season?

4 MR. PRICE: During hunting season under the
5 parameters as described at the state.

6 MS. AVELLAR: And fox as well because we've got so
7 many of them?

8 MR. PRICE: Well, there, again, it's an upland game
9 hunting program that the state has described as a sport.

10 MR. DELANEY: Maureen?

11 MS. BURGESS: Just a personal comment. I just
12 don't see the need for hunting coyotes. I mean, we
13 don't consume them. So I see it more as a culling. I
14 don't know why people are hunting coyotes. It's not
15 something you're going to use or consume.

16 MR. REINHART: (Inaudible).

17 MS. BURGESS: You mean as sport?

18 MR. REINHART: No, no. I mean, even -- I don't
19 want to (inaudible), whether you're eating them or not.

20 MS. BURGESS: It troubles me. I know what they're
21 doing to the plovers, but it still troubles me.

22 MS. AVELLAR: You know what I say, Maureen? I say
23 anything that's a traditional use, you don't want the
24 federal government to ever take away from you.

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1 MS. BURGESS: But we didn't have coyotes.
2 MS. AVELLAR: But we have always had hunting. We
3 had deer. We used to have raccoons. We don't see
4 raccoons anymore. We don't see skunks anymore. But we
5 see wild animals. You know, we see wild animals in
6 whatever form they come. We have turkeys now. We never
7 had those when I was a kid.

8 So I just think as a right that's been written into
9 the federal legislation, don't let anybody ever take
10 your rights away from you. Ever. Ever.

11 MR. DELANEY: All right, a couple more comments.
12 Larry?

13 MR. SPAULDING: I believe in Massachusetts the
14 hunting on coyote is year-round. I think you can hunt
15 --

16 MR. PRICE: No. Well, I don't believe so.

17 MR. SPAULDING: The reason I say that is my wife
18 walks -- in the off-season walks the dogs at first light
19 on the beach. She's seen a hunter down there regularly
20 at Chatham that she's very friendly with, and that's
21 what he's doing. She says he's out there all the time.

22 MS. BURGESS: What did he do?

23 MS. LYONS: No, that might --

24 MR. PRICE: Larry, I just had a recent conversation
LINDA M.

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1 LIVE LIGHTLY CAMPAIGN PROGRESS REPORT

2 MR. DELANEY: All right, then another Old Business
3 topic goes back to you also, Mark, the Live Lightly
4 Campaign. Tell us (inaudible).

5 MR. ROBINSON: Yeah, we just finished our first
6 conservation restriction in the Park. Bill Carlson and
7 his wife, Lonni Jean Briggs, South Wellfleet, placed a
8 conservation restriction on the back portion of their
9 property, and that's just south of Lecount Hollow. And
10 they'll be receiving both a federal income tax deduction
11 and a state tax credit for that donation.

12 MR. DELANEY: Good news.

13 MR. ROBINSON: We've got a few others in the
14 pipeline, but I can't talk about them yet.

15 MR. REINHART: What does that mean when you put a
16 conservation restriction on your property if it's in the
17 Seashore?

18 MR. ROBINSON: It's really -- in their case, it was
19 too small to have a house on it. So it's basically
20 setting aside that portion of the property as forever
21 wild. And it's surrounded on three sides by the Park,
22 so you have a nice niche complement there.

23 MS. AVELLAR: Does it increase the value of the
24 property?

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1 last week with Mass. Fish and Game, and there's a
2 request to make it year-round.

3 MR. SPAULDING: But it's not?

4 MR. PRICE: But it's not according to the state.
5 It's seasons, as I understand it. But I'm also not a
6 hunter, so I don't pay that much attention to it.

7 MR. DELANEY: Okay, perhaps there'll be more next
8 meeting on that.

9 OLD BUSINESS

10 MR. DELANEY: Let's continue to Old Business, which
11 is yet one more challenging, interesting content.

12 CONTINUE DISCUSSION OF NSTAR SPRAYING PLANS, CLEARING

13 ALTERNATIVES AND UTILITY RIGHT-OF-WAYS

14 MR. DELANEY: NStar spraying?

15 MR. REINHART: Talked about it enough.

16 MR. ROBINSON: Yeah, I think we can put that on the
17 back burner until something new comes about.

18 MR. DELANEY: Okay.

19 MR. ROBINSON: I think we can drop it for now.

20 MR. DELANEY: Okay.

21 MR. PRICE: Should I take it off the agenda?

22 MR. ROBINSON: Yeah, take it off until something
23 else happens.

24 MR. DELANEY: Okay.

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1 MR. ROBINSON: Marginally.

2 MR. DELANEY: Good. Is there anything the town
3 representatives can do to help to keep this alive and
4 alert and people aware of it? Can you send more
5 brochures?

6 MR. ROBINSON: Sure, I mean, if everybody in the
7 Seashore who lives there has received a copy of the
8 information and the booklet. I've been talking to
9 various civic groups who represent other civic groups
10 who haven't invited me yet. I'd be happy to come.

11 MR. DELANEY: Good, get the word out.

12 Okay, any other old business from other members?

13 (No response.)

14 NEW BUSINESS

15 MR. DELANEY: All right, how about new business?

16 (No response.)

17 MR. DELANEY: We've covered a wide range of things
18 today. This has been good.

19 Is there any new business that you'd like to raise?
20 Mark?

21 MR. ROBINSON: George, if somebody came forward and
22 said they wanted to make a donation to the Cape Cod
23 National Seashore, what would your response be?

24 MR. PRICE: Terrific.

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1 (Laughter.)

2 MR. ROBINSON: All right, let's drill down a little
3 bit. What are the mechanics? Is there a separate
4 dedicated fund who they write their check to? Do you
5 have to channel it through the Friends group?

6 MR. PRICE: No, there's -- we receive cash
7 donations all the time, and the money comes to us
8 directly into the National Park Service that goes into a
9 federal fund, and then some people donate to the Friends
10 separately. And the Friends sometimes have specific
11 things they donate to, like the Old Harbor program, for
12 instance, or to the Penniman House or something like
13 that.

14 MR. ROBINSON: But do you have to take in money and
15 send it to the U.S. general fund?

16 MR. PRICE: No, it stays in our park.

17 MR. ROBINSON: Our meaning the National Park
18 Service or the National Seashore?

19 MR. PRICE: Cape Cod National Seashore.

20 MR. ROBINSON: It does. So if I wrote a check, who
21 do I write it to? The National Seashore or the National
22 Park Service?

23 MR. PRICE: Either one.

24 MR. ROBINSON: Either one, okay. And I would know
LINDA M.

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1 that the money was going to stay here on the Lower Cape
2 and not go to Philadelphia?

3 MS. LYONS: I would put Cape Cod on it just to make
4 sure.

5 (Laughter.)

6 MR. PRICE: And you get a sincere letter and
7 recognition that it was received by the superintendent.

8 MR. ROBINSON: So my point was going to be, what
9 could we do for the centennial to publicize that?

10 MR. DELANEY: Good, Mark. Thanks for coming up
11 with that idea.

12 MR. PRICE: That's a good idea. However, just like
13 the way I can't lobby, I can't solicit funds.

14 MS. LYONS: Right. Can the Friends solicit funds?

15 MR. PRICE: The Friends can, absolutely.

16 MR. NUENDEL: You can go to the Salt Pond Visitors
17 Center in the summertime, and the money that goes in
18 those containers stay with our seashore.

19 MR. PRICE: That goes into that same donation
20 account.

21 MR. ROBINSON: Does it say that on there? Because
22 I think some people would like to know specifically, as
23 I asked, does the money stay here or does it go in the
24 general fund?

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1 MR. NUENDEL: When I do the desk, I make it a point
2 to thank the person. And they don't just put dollars in
3 it sometimes. It's quite impressive. I always thank
4 them, and I always say to them that it does not go into
5 the pot in the sky; it stays right here at Cape Cod
6 National Seashore programs.

7 MR. ROBINSON: Can we put that on the box?

8 MR. NUENDEL: I don't know. I'll have to read.

9 MR. PRICE: It's on the box.

10 MS. LYONS: Yeah, there is a --

11 MR. ROBINSON: Would it be in competition with the
12 Friends group to be focusing on it somehow?

13 MR. PRICE: No.

14 MR. ROBINSON: If we found some other way to focus
15 on it?

16 MR. PRICE: No.

17 MR. DELANEY: Lilli?

18 MS. GREEN: Thank you. I have two questions, one
19 I'm assuming it's fully tax deductible. And secondly,
20 do you earmark funds that you have donated directly to
21 the Seashore here?

22 MR. PRICE: The earmarking of funds is problematic.

23 MS. GREEN: But you can earmark it for the Friends?

24 MR. PRICE: The Friends has more flexibility. If
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1 we had a separate account for the Penniman House, but
2 the problem is -- my problem, I didn't want to be
3 facetious saying that you'd receive a nice receipt from
4 the superintendent, but it's problematic for me to
5 guarantee -- if you sent me a thing that said, "I want
6 to earmark this for the painting of the Penniman House.
7 The next check is I want to repair the roof at a
8 historic house. The next one is, you know, I want to
9 pay for the paint job at the Highland House" and each
10 contribution was in a modest amount, not \$100,000,
11 there's no way administratively for us to be able to do
12 that --

13 MR. ROBINSON: That was a great thing.

14 MR. PRICE: -- and to be truthful back to you to
15 say yes, that money is going to be used for that,
16 because unless it's like the Friends' \$100,000, yes,
17 \$100,000 will go to the painting of the Penniman House.
18 But if it's a more modest contribution, then that
19 doesn't really work that well.

20 MS. GREEN: Is it tax deductible?

21 MR. PRICE: Yes, both to the Friends and to the
22 Park because the Friends is nonprofit.

23 MR. DELANEY: Sheila?

24 MS. LYONS: Say that there are some donors that
LINDA M.

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1 Mark has said and they don't want to give any money for
2 the conservation but they're going to give it to the
3 National Seashore.

4 MR. PRICE: Right.

5 MS. LYONS: So what are the pros and cons
6 depending on the vehicle you use? You could do the
7 National Park Association which goes into the federal
8 fund, but --

9 MR. PRICE: They're still non-profit.

10 MS. LYONS: That's a non-profit, but that money
11 is there.

12 MR. PRICE: The National Park Foundation, yes.

13 MS. LYONS: It's sort of like a Friends of the
14 National in a sense?

15 MR. PRICE: Yes.

16 MS. LYONS: Okay, so it's a Friends of the
17 National, but they still have -- they have the
18 discretion to be able to give you the money you need
19 to do the house down in Provincetown?

20 MR. PRICE: Yes.

21 MS. LYONS: You get a direct donation, and then you
22 have the Friends. So what's the flexibility? What's
23 the restrictions on those? What gives you a little bit
24 greater ease to do what you have to do, and what -- do

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1 profits. So we have no paper between us and him. It
2 was just something he wanted to do, and that's going
3 into that donation account for the Seashore.

4 There are others that are particularly --
5 especially if a loved one passes, they'll put in the
6 paper in lieu of flowers send a donation, and we receive
7 those throughout the course of the year.

8 MS. LYONS: And the donation account gives you --
9 you can use that at your discretion as you need it?

10 MR. PRICE: Yes, right.

11 MS. LYONS: So that's like money you have there for
12 you to fill in things?

13 MR. PRICE: Yes.

14 MS. LYONS: And the others are subject to people's
15 -- even the association, the national association would
16 be -- does your request line up with the other parks or
17 it's time to give them this and that's how that works?

18 MR. PRICE: Right.

19 MR. DELANEY: Larry?

20 MR. SPAULDING: George, with that donation account,
21 if the year goes by and you haven't used it, does it
22 stay in the donation account?

23 MR. PRICE: Yes.

24 MR. DELANEY: Mark, go back to the beginning.

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1 you have a preference, I guess? What are the
2 differences and what are the --

3 MR. ROBINSON: The Friends has a board of directors
4 that makes funding decisions.

5 MS. LYONS: Right.

6 MR. ROBINSON: And they might have different
7 priorities at a given time. They would obviously listen
8 to the superintendent's needs.

9 MR. PRICE: Well, they have different priorities,
10 but they're in business to support the Cape Cod National
11 Seashore.

12 MR. ROBINSON: Right.

13 MR. PRICE: So it's not like they're going off the
14 reservation.

15 MS. LYONS: Right, okay.

16 MR. PRICE: There are a lot of things that they do.
17 They have the abilities as a nonprofit group to solicit
18 those funds. We're a lot more passive on the funds that
19 we receive.

20 We occasionally will get a significant check based
21 on something. There's one gentleman who in his part-
22 time is making Cape Cod-based jewelry, and he's giving
23 -- on his own initiative, he's sending us a check for --
24 the last one was like 1,200 bucks for a portion of the

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1 MR. ROBINSON: Is the Advisory Commission a federal
2 agency that can't solicit?

3 MR. PRICE: Remember, you only exist for one
4 purpose as a group, and that's to advise the Park on
5 policy.

6 MR. ROBINSON: What if our chairman wrote something
7 on behalf of the Advisory Commission?

8 MS. LYONS: Like a PR event?

9 MR. ROBINSON: Encourage people to give either to
10 the Friends or to the Park directly. That's not the
11 superintendent soliciting.

12 MR. DELANEY: No. I don't know. It would be new
13 ground for us to pursue.

14 MR. ROBINSON: We also have the Nickerson
15 scholarship. I mean, that hasn't received big infusions
16 of funds in recent years.

17 MR. PRICE: Remember, the Friends has been
18 administering that for you all because this group
19 doesn't have a charter or ability to deal with a
20 fiduciary --

21 MR. ROBINSON: Well, we shouldn't be in competition
22 with the Friends, but I think, as you said, people have
23 the opportunity to give to either/or. People like
24 having choices.

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1 MR. DELANEY: I think that would be the most
2 germane topic because the Nickerson scholarship has been
3 part of us. We've had people seated on the committee.
4 If we were going to do some sort of fundraising effort
5 around the centennial, our 300th meeting or something,
6 if we got the word out and we all spoke back in our
7 communities or a letter.

8 MR. PRICE: Right.

9 MR. DELANEY: I don't see why that would not be --
10 why that would be against our charter, and it might be a
11 good way to do it because I can almost see the message
12 now. We sit here and have the privilege and the
13 interesting discussions with the superintendent. Look
14 at the whole list of issues that we went through today,
15 each one of which is probably worthy of more study
16 through a Nickerson scholar, and, you know, getting more
17 good scientific information to back our recommendations
18 to the superintendent would be really germane. I think
19 you're on to something, Mark. That might be --

20 MR. ROBINSON: A hundred dollars for a hundred
21 years.

22 MR. DELANEY: Yeah, three hundred for three hundred
23 years.

24 MR. PRICE: Well, that goes to your point, making
LINDA M.

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1 sure we get the word out as to what it's going to be
2 used for and advise the public.

3 MR. DELANEY: I think that does not conflict with
4 the Friends of Cape Cod National Seashore because they
5 are our colleagues or they administer that fund on our
6 behalf. So this may be a good way to go.

7 Did someone else want to comment on this?

8 MS. BURGESS: I just have a question regarding
9 Nickerson.

10 MR. DELANEY: Maureen?

11 MS. BURGESS: George, Megan Tyrrell has been our --
12 on the Nickerson Committee, our leading person.

13 MR. PRICE: Yes.

14 MS. BURGESS: Has she left the Park?

15 MR. PRICE: Yes, Dr. Megan Tyrrell has now left
16 Cape Cod National Seashore. She's now working for the
17 United States Fish and Wildlife Service. So last month
18 was her last month. We're in the process of replacing
19 her position, and if you have outstanding questions
20 about the Nickerson, I would go to Jason Taylor, who's
21 the chair of natural resources and science.

22 MS. BURGESS: Because she's done all the outreach
23 on that before the committee. I wonder who's going to
24 take that over.

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1 MR. PRICE: You're the connection from this group
2 to that group, right?

3 MS. BURGESS: Yes.

4 MR. PRICE: At some point if you want to just touch
5 base with Jason, and I could let him know that you're
6 interested in --

7 MS. BURGESS: We got an e-mail, but I couldn't tell
8 if it was a temporary reassignment or if she had totally
9 left.

10 MR. PRICE: She left.

11 MR. DELANEY: Lilli, on this topic or something
12 else?

13 MS. GREEN: On this topic.

14 MR. DELANEY: Okay.

15 MS. GREEN: So what would the action steps be to
16 move forward in this direction, and what would be the
17 latitude that the committee would have? Has the
18 committee ever put out press releases?

19 MR. DELANEY: I think it would be to ask Mark and
20 anyone else on the committee to maybe write up a short
21 paragraph, half page on what this might look like that
22 we could discuss at our next meeting.

23 Anyone else interested in --

24 MR. ROBINSON: What is the pinnacle year of the
LINDA M.

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1 centennial? '15 or '16?

2 MR. PRICE: '16.

3 MR. SPAULDING: I'm not volunteering, but I think
4 we need to know exactly what our authority is before we
5 get too far.

6 MR. PRICE: Yeah, because if you were to send that
7 -- see, right now if you send that to (inaudible), it's
8 under our letter. So then we have a conflict of
9 solicitation even though it's a different group.

10 MR. DELANEY: Can we get a reading from --

11 MR. ROBINSON: Well, we could try to run it through
12 the Friends group since they're already doing this.

13 MR. PRICE: If we did it under the Friends group,
14 it's no problem.

15 MR. ROBINSON: Have some kind of twist, you know,
16 the centennial and a hundred dollars each or --

17 MR. DELANEY: A 300 club. People each willing to
18 give a thousand dollars, a hundred dollars, but
19 something to join the club. And that means all of a
20 sudden the Nickerson --

21 MR. ROBINSON: The Centennial Club.

22 MR. DELANEY: The Centennial Club. That means also
23 that Nickerson has probably ten times as much or five
24 times as much money as they have. They have a small

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1 budget.
 2 MS. BURGESS: Oh, yeah, they have very little
 3 money.
 4 MR. DELANEY: But we could help build that
 5 endowment or that kitty.
 6 So, Mark, I'd be happy to -- and if you want to
 7 bounce a draft paragraph off me.
 8 Or anyone else might react to it? Sheila?
 9 MS. LYONS: I just wanted -- maybe we should talk
 10 to the Friends.
 11 MR. DELANEY: Well, that would be the second step.
 12 MS. LYONS: And say, "How can we help? We want to
 13 be able to have --" --
 14 MR. DELANEY: The second step will be to take this
 15 idea once we get it honed a little better and sit down
 16 with the Friends and see if they'd be interested in
 17 managing it, shepherding it for us.
 18 Okay, good. All right, thanks, Mark.
 19 DATE AND AGENDA FOR NEXT MEETING
 20 MR. DELANEY: All right, let's move to a date and
 21 an agenda for our next meeting.
 22 So we would be looking at March, I believe.
 23 MR. PRICE: Right, March gives us time for the
 24 Federal Register.
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1 MS. DOUCETTE: Late March, yeah.
 2 MR. PRICE: Late March.
 3 MR. DELANEY: So that means the Mondays are -- the
 4 late Mondays are the 16th or the 23rd.
 5 MS. DOUCETTE: The 16th can be tight.
 6 MR. DELANEY: Or the 30th.
 7 MR. PRICE: Do you want to do the 30th?
 8 MR. SPAULDING: I'd rather do the 30th.
 9 MR. NUENDEL: Me too.
 10 MS. AVELLAR: The 30th?
 11 MR. DELANEY: Yeah.
 12 MS. LYONS: I can do either.
 13 MR. DELANEY: The Red Sox are playing the Marlins
 14 in a spring training game on the 23rd of March.
 15 MS. LYONS: So I guess it has to be the 30th.
 16 MS. AVELLAR: So the 30th in Florida.
 17 MR. DELANEY: Just in case you're interested.
 18 For no particular reason. So the 30th would be good
 19 for me.
 20 MS. AVELLAR: One o'clock?
 21 MR. PRICE: Yes, one o'clock.
 22 MR. DELANEY: Is that good for you, Superintendent?
 23 MR. PRICE: It would be, and I think that would be
 24 a good timing for our shorebird management rollout.
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1 MR. DELANEY: So there's one topic for sure --
 2 almost for sure, likely. The shorebird management and
 3 nature presentation will be part of the discussion.
 4 I would imagine we'll hear back more from Orleans
 5 about Orleans/Eastham potentially.
 6 Any other topics that we want to focus, emphasize
 7 in that meeting? We'll always hear our regular --
 8 MS. BURGESS: Maybe we'll have some information on
 9 that act, that bill, the proposal for increasing the
 10 EPZ.
 11 And if I could. I'm sorry. In the packet of
 12 information, you're going to find a bill that was
 13 proposed -- a House bill that was proposed back in '90,
 14 and I just put that in there because I believe from
 15 talking to Diane at Cape Downwinders that they probably
 16 are suggesting to Senator Wolf that they use a similar
 17 bill. The one that Sara put out last year died, as you
 18 know, and it never got out of public health.
 19 So people have been trying to do this for a long
 20 time. It's not new. I mean, it goes back a ways. This
 21 has just never gotten through the House and the Senate.
 22 MR. REINHART: That's the way it works up there.
 23 MR. DELANEY: Yeah, just keep batting.
 24 Okay, so any other topics that we want to focus on
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1 in particular?
 2 (No response.)
 3 MR. DELANEY: So we'll produce an agenda as always.
 4 PUBLIC COMMENT
 5 MR. DELANEY: Now we'll move to Public Comment.
 6 We do have some members of the public here. Is
 7 there anyone who would like to raise a topic?
 8 Yes, please identify yourself, and we're glad
 9 you're here. Thank you.
 10 AUDIENCE MEMBER (AIMEE ECKMAN): Well, thank you
 11 for the opportunity.
 12 My name is Aimee Eckman. I'm a resident of Eastham
 13 and one of the former selectmen that the superintendent
 14 referred to regarding the Nauset Spit issue. And I'd
 15 just like to take the opportunity to publicly thank the
 16 superintendent for backing Eastham in their enforcement
 17 of the bylaw prohibiting the ORVs and to support him in
 18 the assertion that the Seashore does own the property
 19 out on that portion of the spit.
 20 So thank you.
 21 MR. DELANEY: Thank you. Thank you for being here.
 22 Any other comments from the public or topics to be
 23 raised?
 24 (No response.)
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ADJOURNMENT

MR. DELANEY: Okay, hearing none. I guess we move to the last item on the agenda, which is a motion to adjourn.

MS. AVELLAR: So moved.

MS. LYONS: Second.

MR. DELANEY: All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

MR. DELANEY: Good, thank you very much.

(Whereupon, at 3:04 p.m. the proceedings were 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 109 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, January 12, 2015, commencing at 1:05 p.m.

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

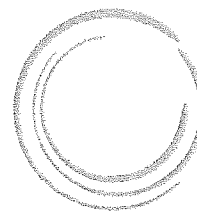
IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 6th day of March, 2015.

Linda M. Corcoran - Court Reporter
My commission expires:
August 28, 2020

LINDA M.

Info

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BARNSTABLE, MASSACHUSETTS 02630



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COMMISSION

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CERTIFIED MAIL — RETURN RECEIPT REQUESTED
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March 16, 2015

Ms. Sheila Vanderhoef
Town Administrator
Town of Eastham
2500 State Highway
Eastham, MA 02642

RE: Eastham Water Supply System — JR14023
• Development of Regional Impact Decision — Registry of Deeds Recording

Dear Ms. Vanderhoef:

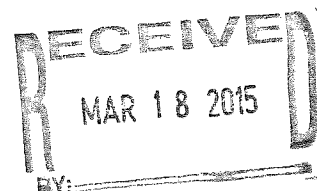
Enclosed please find a copy of the Development of Regional Impact decision for the Eastham Water Supply System project that was recorded at the Barnstable County Registry of Deeds by the Cape Cod Commission on March 13, 2015.

Thank you for your attention to this matter and should you have any questions, please do not hesitate to call.

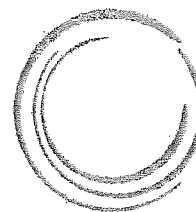
Sincerely,

Gail Hanley
Commission Clerk

Enclosure



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DECISION OF THE CAPE COD COMMISSION

DATE: FEBRUARY 5, 2015

TO: MARK WHITE, ENVIRONMENTAL PARTNERS GROUP
1900 CROWN COLONY DRIVE, STE. 402, QUINCY, MA 02169

FROM: CAPE COD COMMISSION

RE: DEVELOPMENT OF REGIONAL IMPACT DECISION

PROJECT APPLICANT: TOWN OF EASTHAM
C/O SHEILA VANDERHOEF, TOWN MANAGER
TOWN HALL
2500 STATE HIGHWAY
EASTHAM, MA 02642

PROJECT NUMBER: JR14023

PROJECT: EASTHAM WATER SUPPLY SYSTEM, EASTHAM, MA

LOCATION: TOWN OF EASTHAM

The Cape Cod Commission (Commission) hereby approves with conditions the Application of the Town of Eastham (Applicant) for the Eastham Water Supply System (Project) as a Development of Regional Impact (DRI) in accordance with Sections 12 and 13 of the Cape Cod Commission Act (Act). This decision is rendered pursuant to a vote of the Cape Cod Commission on February 5, 2015.

PROCEDURAL HISTORY

The Town of Eastham submitted an Expanded Environmental Notification Form (EENF) to the Executive Office of Energy and Environmental Affairs – MEPA Unit (MEPA) on October 14,

2014. The Commission provided comments on the EENF on November 19, 2014. MEPA issued a certificate on the EENF on November 26, 2014 allowing the Applicant to file a single Environmental Impact Report (SEIR), which is the functional equivalent of a Final Environmental Impact Report (FEIR). (The terms "SEIR" and "FEIR" are used interchangeably herein.)

Joint Review was initiated in December 2014, with the review of the single Environmental Impact Report for the Eastham Water System. The Applicant requested Joint MEPA/Commission Review pursuant to the Memorandum of Understanding between the Commission and MEPA. The FEIR was published in the MEPA Environmental Monitor on December 24, 2014. The Commission received the application for Joint Review from the Applicant's representative, Mark White, of Environmental Partners Group on December 19, 2014. Additionally, the Project is undergoing simultaneous FEIR/ DRI review pursuant to Section 13(b) of the Commission Act that provides in relevant part:

...for any development subject to the provisions of sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws, the commission shall conduct the public hearing referred to in subsection (a) within ninety days of the secretary of environmental affairs certification that no environmental impact report is required, or, if an environmental impact report is required, within forty-five days after the secretary of environmental affairs certifies the adequacy of the final environmental impact report; provided, however, that for any plan or project proposed by a public or quasi-public entity for managing wastewater, watersheds, water resources or water quality, the commission may conduct the public hearing under subsection (a) and issue the decision under subsection (e) jointly, prior to or concurrent with the issuance of a certificate by the secretary of energy and environmental affairs or a successor agency, certifying compliance with said sections 61 to 62H, inclusive, of chapter 30 of the General Laws...

A Joint MEPA/DRI Review public hearing was held on January 13, 2015 and the DRI hearing was continued to February 5, 2015 meeting of the Cape Cod Commission. Commission staff comments on the FEIR were submitted to MEPA on January 23, 2015 and a certificate on the FEIR was issued by the Secretary of EEA on January 30, 2015. The purpose of the January 13, 2015 public hearing was to gather information for the Joint MEPA/DRI Review of the Project and review a staff report and draft DRI decision prepared by Commission staff.

PROJECT DESCRIPTION

The system will involve construction of two well fields, a water storage tank, and 45 miles of distribution system piping. The two wells fields, located at so-called "District G" and the Nauset Regional High School (NRHS), have already been permitted by the Massachusetts Department of Environmental Protection (DEP) under their drinking water new water supply source approval program. The water storage tank is to be located at the Applicant's District G property, and will be located adjacent to an existing wireless communications tower. The distribution system includes transmission mains located throughout the town to provide the "backbone" of the distribution system that, should the Applicant decide to do so in the future, would also allow the Applicant to extend the system by installing laterals to these transmission mains.

The water system is to be almost entirely constructed on previously disturbed land and existing roadway areas and rights of way. The overall land area where construction activities will occur is estimated to be 22.8 acres. 96% of the project area is associated with water main installations, which will occur predominantly within existing roadway areas. The storage tank and well fields are to be constructed in previously disturbed areas, of which only approximately 0.46 acres will occur in undisturbed area. New structures resulting from the Project consist of a small pump house at each of the two well fields (26' x 11' in size) and a water storage tank. The water storage tank will have a foundation footprint of approximately 800 square feet (32' diameter) and will be approximately 135' tall.

The application materials indicate that small portions of the Project are located in the towns of Wellfleet and Orleans to provide a “looped” system. The Applicant has offered to have an inter-town connection to the Orleans water supply system, which many other towns on the Cape have implemented. If necessary, as permitting for the Project proceeds, alternative plans without portions of the Project in Wellfleet or Orleans shall be submitted to the Commission in the future for review and approval.

JURISDICTION

The Project comes under the jurisdiction of the Commission pursuant to Section 2(d)(i) of the Commission’s *Enabling Regulations* which requires proposed development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA (MGL Chapter 30, Sections 61 to 62H, inclusive) to undergo Development of Regional Impact (DRI) review.

RECORD MATERIALS

TABLE 1: MATERIALS SUBMITTED FOR THE RECORD

<i>Materials from Cape Cod Commission</i>	<i>Date Sent</i>
Staff report	1/7/14
Minutes from 1/13/15 hearing	1/23/15
<i>Materials from Applicant</i>	<i>Date Sent</i>
DRI Distribution List	12/18/14
Environmental Impact Report, dated 12/15/14	12/19/14
Email Mark White to Jeffrey Ribeiro re: Project Benefits	1/9/15
<i>Materials from Public Agencies/Towns/State/Federal</i>	<i>Date Sent</i>
n/a	
<i>Materials to/from Members of the Public</i>	<i>Date Sent</i>
n/a	

FINDINGS

The Commission hereby finds as follows:

GENERAL FINDINGS

GF1. The Project consists of two well fields, a water storage tank, and 45 miles of distribution system piping.

GF2. The Project comes under the jurisdiction of the Commission pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations*, which requires proposed development for which an EIR is required to be prepared under the provisions of MEPA to undergo mandatory DRI review.

GF3. The Secretary issued a Final Certificate on January 30, 2015 stating that the single EIR adequately and properly complies with MEPA and its implementing regulations.

GF4. The first substantive DRI public hearing on the Project was held on January 13, 2015, continued to February 5, 2015.

GF5. According to the application materials and review by Commission staff, the Project is consistent with local development by-laws and the town's Local Comprehensive Plan as the first stated goal in the LCP is to "*Protect/improve water quality and supply.*"

GF5(a). While the proposed water tower is beyond the height limitations for District G as set forth in the Town of Eastham Zoning By-laws, the project does not deviate from the by-law's intent, stating in part:

"the Water Resource Protection District is designed to protect the public health by preventing contamination of the ground and surface water resources providing a portion of the potential public water supply for the Town of Eastham."

GF6. The Project has previously received complete funding from Eastham Town Meeting.

GF7. Benefits of the Project are that it:

1. Allows the Town to meet, at least in part, the first goal of its LCP;
2. Provides for a comprehensive, predictable, cost effective, and safe drinking water supply for current and future needs of the Town;
3. Provides for a fast-track, permanent solution for drinking water to properties in the vicinity of the landfill that have degraded water quality;
4. Facilitates regional cooperation between municipal and other governmental agencies;
5. Provides fire protection coverage to 85% of the community;
6. Positions of the Town to expand its water system to serve the entire community, should it decide to do so in the future;
7. Allows the Town to take advantage of favorable funding opportunities that are being made available through the State Revolving Fund; and
8. Provides free potable water to Nauset Regional High School through a recorded easement between the Town and the school district.

LAND USE FINDINGS

LUF1. Land Use Goal LU1 (Compact Growth and Resource Protection) seeks to minimize adverse impacts of development on the land by using land efficiently and protecting sensitive

resources, and to create vibrant communities by directing growth and redevelopment to appropriate locations. Given that the land surrounding the well sites has been zoned for water protection as required by DEP, the proposed development does not present a threat to the resources and/or characteristics intended to be protected and maintained by its land use category and meets Minimum Performance Standard (MPS) LU1.1 (Development Location).

LUF2. While MPS LU1.2 (Compact Development) only applies to building development, the Project may be a vehicle for future projects to meet the MPS as it is assumed that the Project, as well as the LCP Build-out analyses, will drive more efficient redevelopment patterns within the town by allowing for development that is more compact.

LUF3. MPS LU2.1 (Connections to Existing Infrastructure) is likewise met as the proposed project is intended to support and serve existing and future needs, based on the town's existing compact development patterns.

ECONOMIC DEVELOPMENT FINDINGS

EDF1. MPS ED4.1 (Demonstrated Need and Public Benefit) states that new infrastructure projects "shall improve the availability, reliability, quality, and cost of services." Given that there is no existing municipal water service in the town; that private drinking water wells serve properties in the town; and that drinking water wells in some parts of the town have been compromised, the Project is essential to ensure that safe drinking water is available throughout the Town of Eastham to serve present and future needs.

WATER RESOURCES FINDINGS

WRF1. The Project consists of the delivery of 378,000 gpd annual average flow of high quality drinking water to provide relief to residents in the down-gradient area of the municipal landfill and other residential and commercial users of private wells that have experienced decreased quality of their drinking water from private wells. The Project will provide for seasonal average demands of 734,000 gpd with capacity to provide for peak day demands exceeding 1,000,000 gpd. The Project consists of developing two water supply sites in District G and the Nauset Regional High School with permitted capacities of 995,000 and 833,000 gpd respectively. The Applicant has previously received new source approval and water withdrawal permits from DEP for the wells.

WRF2. MPS WR1.2 (Identification of Drinking Water Wells) requires identification of proposed drinking water wells and existing private drinking water wells on abutting properties within 400 feet. The Applicant has assessed the impact of the development on the water quality of these wells and all other existing wells that may potentially be affected by the proposed development. The application materials include the results of the pump tests, groundwater modeling, and impact analysis showing no significant impact to existing private wells.

WRF3. The RPP addresses the potential impacts from water withdrawals on surface water dependent ecosystems. The application materials include the results of the pump tests, groundwater modeling, and impact analysis which are requirements for projects with a water withdrawal exceeding 20,000 gpd. The application materials and supplemental reports indicate

the absence of surface water dependent ecosystems in proximity to the wells and the area of drawdown, as well as a barely measureable decrease in stream flow at Hatches Creek under average pumping conditions. To further comply with MPS WR1.3 (Groundwater Study Requirement), this decision shall be conditioned on Commission review and approval of a monitoring plan to evaluate groundwater levels at Hatches Creek and the pumping wells prior to any construction commencing.

WRF4. While current project plans do not show any new turf or landscaping associated with the Project, the Applicant must submit a Turf and Landscape Management Plan if any turf or landscaping is included as project plans are finalized, in order to comply with MPS WR1.5 (Turf and Landscape Management Plan).

WRF5. The Project meets RPP Best Development Practices (BDPs) WR1.6 (Management of Water Withdrawals/Wastewater Discharges) and WR1.7 (Use of Water-conservation Technologies) through requirements imposed by DEP and the Commission.

WRF6. DEP requires that the Applicant adopt a Wellhead Protection bylaw for the delineated Zone IIs, meeting BDP WR1.9 (Greater Protection of Groundwater/Surface Water). The prohibitions and performance standards of the bylaw once adopted will provide preventative measures, similar to the RPP, to protect the water quality. The Applicant shall provide copies of the bylaw to Commission staff for review prior to adoption, and as adopted.

WRF7. Project plans show the use of propane for emergency power generators at the site, meeting MPS WR2.2 (Prohibition on Hazardous Materials/Wastes). Any release of propane gas will not impair the quality of groundwater, thus this decision shall be conditioned on the use of propane or similar natural gas as the only fuel used at the well sites for such purposes.

WRF8. To comply with MPS WR7.9 (Best Management Practices During Construction), this decision shall be conditioned on the Applicant providing final project plans that show construction Best Management Practices (BMPs) for erosion and sedimentation controls are specified and in place prior to construction to prevent erosion, control sediment movement, and stabilize exposed soils for review and approval by Commission staff.

WRF9. As the Project proposes no wastewater, MPS' under Water Resources Goals WR3 (Marine Water Recharge Areas), WR4 (Freshwater Ponds and Lakes), and WR6 (Public and Private Wastewater Treatment Facilities) do not apply.

NATURAL RESOURCES FINDINGS

NRF1. Portions of the project will occur within the boundaries of the Inner Cape Cod Bay Area of Critical Environmental Concern (ACEC). The RPP prohibits new development within ACECs, but does not prohibit redevelopment. Because so much of the work is proposed within existing disturbed areas, the Project complies with MPS CR2.5 (Barrier Beaches, Coastal Dunes and Their Buffers).

NRF2. As no portions of the Project are located offshore, MPS' under the RPP issue area of Marine Resources does not apply.

NRF3. The two well sites and water tank will be located on previously disturbed town-owned properties and will require minimal additional clearing. These three sites are located within mapped habitat for rare species, but are not adjacent to wetlands or vernal pools. According to the application materials, the water main installations largely consist of redevelopment within existing road rights of way and will result in minimal clearing. Thus, as outlined in Technical Bulletin 92-002 *Guidelines for Natural Resources Inventory*, it is appropriate to release the Applicant from preparation of a Natural Resources Inventory under MPS WPH1.1 (Natural Resources Inventory).

NRF4. In order to comply with other MPS under RPP Wildlife and Plant Habitat Goal WPH1 (Prevent Loss, Minimize Adverse Impact, and Maintain Diversity), the Applicant shall continue to work closely with the Natural Heritage and Endangered Species Program (NHESP) to minimize impacts and mitigate, as necessary. Based on conversations with the Applicant, a "No Take" letter is anticipated. This decision shall be conditioned on the Applicant providing Commission staff a copy of said letter and other pertinent correspondence with NHESP prior to any construction commencing.

NRF5. In order to comply with MPS under RPP Wetlands Goal WET1 (Wetlands Protection), all work proposed within the buffer zone to wetlands and/or within the boundaries of the ACEC, including but not limited to water main installations, shall be designed to minimize disturbance and utilize BMPs during construction. The RPP allows for utility work within buffer zones so long as impacts are minimized and there are no other feasible alternatives. This decision shall be conditioned on Commission review and approval of said plans prior to any construction commencing on portions of the Project depicted therein.

NRF6. MPS' under the RPP issue area of Open Space Protection/Recreation do not apply, as there is a minimal amount of clearing associated with the project and mitigation is not required from municipal entities.

TRANSPORTATION FINDINGS

TRF1. As there are no new, proposed ongoing vehicle trips beyond the construction phase of the project, and no new access or egress points from Rte. 6 proposed, no associated permanent and sustained transportation impacts are expected. Thus, MPS' under the RPP issue area of Transportation do not apply.

TRF2. MassDOT has jurisdiction over the work within the Rte. 6 right of way, and the Applicant shall work with MassDOT to manage transportation impacts during the construction phase of the Project. This decision shall be conditioned on the Applicant obtaining all necessary federal, state, and local roadwork permits, and that the Commission is provided with a copy of such permits and approval prior to commencement of project construction on portions of the Project for which they are required.

WASTE MANAGEMENT FINDINGS

WMF1. Project plans show the use of propane for emergency power generators at the site, meeting MPS WM1.2 (Hazardous Materials/Waste Restrictions). Any release of propane gas will

not impair the quality of groundwater, thus this decision shall be conditioned on the use of propane or similar natural gas as the only fuel used at the well sites for such purposes.

WMF2. The project will create some construction and demolition (C&D) waste during installation, thus this decision shall be conditioned on the Applicant providing a narrative C&D waste plan prior to the commencement of construction to comply with MPS WM2 (C&D Waste Plan).

WMF3. Other MPS' under the issue area of Waste Management do not apply, as the Project will not result in any significant creation of solid waste once operational.

ENERGY FINDINGS

EF1. The RPP issues area of Energy only addresses building development and wind energy conversion facility development. Therefore, the standards and goals do not apply.

AFFORDABLE HOUSING FINDINGS

AHF1. Goals and standards under the issue area of Affordable Housing do not apply to municipal infrastructure projects, such as a municipal water service system.

HISTORIC PRESERVATION/COMMUNITY CHARACTER FINDINGS

HPCCF1. The photo renderings of the proposed District G storage tank provide views from several locations. The photo renderings show where the water tank is likely to be visible, and confirm that historic areas of town and key visitor areas are outside of the visibility zone. While a portion of the Cape Cod Rail Trail will have a clear view, it is a limited portion where there are already industrial uses so the tower's visibility is unlikely to have a significant impact on the trail users' experience. Thus, the Project meets MPS HPCC2.3 (Avoid Adverse Visual Impacts).

HPCCF2. The FEIR has listed and described in the context of the proposed construction layout all of the Town's historic districts including the Old Town Center Historic District, a local historic district; the Town Hall Center Historic District; the Fort Hill Rural Historic District; the Collins Cottage Historic District. The Applicant did not include individual historic properties such as town cemeteries and buildings previously considered for an historic district in the Rock Harbor area.

HPCCF3. To comply with MPS HPCC1.1 (Historic Structures), this decision shall be conditioned on Commission review and approval of final construction plans that address work on adjacent road layouts and the installation of hydrants within historic districts and adjacent to individual National Register or National Register eligible properties, including but not limited to the cemeteries and Bridge Road historic properties.

HPCCF4. The Massachusetts Historical Commission (MHC) has provided comments during the MEPA process that focus on potential archaeological resources. More detailed construction plans will be needed as permitting proceeds to determine how sensitive historic and archaeological resources which may be encountered may be appropriately accommodated

during installation. To comply with MPS HPCC1.3 (Archeological Sites), this decision shall be conditioned on the Applicant providing Commission staff a copy of any pertinent correspondence between the Applicant and MHC and/or the National Park Service/Cape Cod National Seashore.

HPCCF5. While current project plans do not show any new turf or landscaping associated with the project, the Applicant must submit a landscape plan for review and approval by Commission staff if any turf or landscaping is included as project plans are finalized. Likewise, a photometric plan and fixture details must be submitted for review and approval by Commission staff if any exterior lighting is included as project plans are finalized.

CONCLUSION

Based on the Findings above, the Commission hereby concludes and finds further that:

1. Subject to and upon satisfaction of the conditions identified in this decision, the Project is consistent with the Act and the 2009 Regional Policy Plan (as amended).
2. The Project is consistent with Eastham's Local Comprehensive Plan.
3. The Project is consistent with municipal development by-laws, subject to the Applicant obtaining all required local approvals, licenses, and permits for the Project, including but not limited to an Order of Conditions from the Eastham Conservation Commission, a zoning variance from the Eastham Zoning Board of Appeals for water tower height, and a road opening permit.
4. The Project is consistent with regulation adopted pursuant to the Cape-wide Fertilizer Management District of Critical Planning Concern, which is the only DCPC applicable to the Project. The Eastham Conservation Commission and Board of Health adopted implementing regulations pursuant to said DCPC, though the Project does not propose any establishment of turf, or use of any fertilizer or other nutrient containing material as a fertility source for turf.
5. The probable project benefit outweighs the probable project detriment.

The Commission hereby approves the application of the Town of Eastham for its Water Supply System as a DRI, subject to the following conditions:

GENERAL CONDITIONS

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

GC2. Failure to comply, and remain in compliance, with all findings and conditions stated herein, and with all related Commission laws and regulations, shall be deemed cause to revoke or modify this decision.

GC3. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project, including but not limited to roadway permits. Specifically, prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain all necessary municipal permits, licenses and approvals for the project, including but not limited to a Wetlands Order of Conditions.

GC3(a). The project's consistency with municipal development by-laws or ordinances shall be evidenced and confirmed by the Applicant obtaining all said necessary municipal permits, licenses and approvals.

GC4. No development work, as the term "*development*" is defined or referred to in the Cape Cod Commission Act (Act), Regulations, and as approved herein, shall be undertaken until this decision is final and the Commission Clerk certifies that the decision appeal period has elapsed or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated, or otherwise disposed of.

GC5. Prior to issuance of any Preliminary Certificate of Compliance by the Cape Cod Commission for development as the term "*development*" is defined in the Cape Cod Commission Act, and as approved herein, the Applicant shall submit final project plans as approved by state, federal, and local authorities for review by Commission staff who shall determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with the Eastham Water System FEIR, dated December 15, 2014, prepared by Environmental Partners Group, approved, referenced, and incorporated herein, the Commission shall require that the Applicant seek a modification to this decision for further review and approval of the project plans changes in accordance with the "*Modification*" section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

GC6. All plans and documents required to be submitted as conditions of this decision shall hereby be incorporated into this condition as and when received, reviewed, and approved by Commission staff.

GC7. Prior to undertaking any development as the term "*development*" is defined or referred to in the Commission Act, Regulations, and as approved herein, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that evidences that all conditions in this decision required to have been satisfied prior to the issuance of a Preliminary Certificate of Compliance have been satisfied, and that the Project is in compliance with this decision. The Commission may issue Partial or multiple Preliminary Certificates of Compliance if the Applicant proceeds to develop the Project in segments or phases, and in this event, Commission staff will establish a schedule in which outstanding Conditions must be satisfied prior to issuance of any subsequent Certificates of Compliance.

GC8. The Applicant shall obtain a Final Certificate of Compliance from the Commission prior to system operation that evidences that all conditions in this decision have been satisfied and that the Project is in compliance with this decision.

GC9. Commission staff will undertake a review of the Project's compliance with this decision, including the applicable conditions hereof, upon the Applicant's request to the Commission for issuance of any Preliminary or Final Certificate of Compliance. At the time the Applicant requests such a Certificate, it shall provide Commission staff a list of key project contact(s), along with their telephone numbers, mailing addresses, and email addresses, in the event questions arise during the Commission's compliance review. As part of its compliance review,

Commission staff may make, and the Applicant hereby authorizes, site inspections upon reasonable notice to the Applicant, as such visits are needed. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

GC10. Prior to the issuance of a Preliminary Certificate of Compliance, but not until the appeal period for this decision has elapsed, or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated or otherwise disposed of, the Applicant shall record a copy of this decision with the Barnstable Registry of Deeds and provide a copy of the same to Commission staff of such recording. This decision shall not be effective until a copy of the same has been so recorded.

GC11. Prior to issuance of a preliminary Certificate of Compliance, the Applicant shall provide evidence to the Commission that a copy of this decision has been provided to the general contractor for the Project.

GC12. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain, and provide evidence to the Commission of the same, any licenses, consents, easements or other property rights necessary to construct the Project, including from private property owners, the Cape Cod National Seashore, town of Wellfleet, town of Orleans. If locating the Project partially in the towns of Orleans or Wellfleet is determined infeasible, an alternative Project layout entirely within the town of Eastham shall be provided to Commission staff for review and approval prior to project construction, or any relevant phase thereof, approval of such alternative layout to be reflected in a Certificate of Compliance.

WATER RESOURCES CONDITIONS

WRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide a monitoring plan to evaluate groundwater levels at Hatches Creek and the pumping wells for review and approval by Commission staff. The monitoring plan shall indicate that the Commission will receive copies of regular water supply reporting to DEP including Annual Statistic Reports and consumer confidence reports.

WRC2. Prior to issuance of a Final Certificate of Compliance, the Applicant shall provide copies of the Wellhead Protection bylaw for the delineated Zone IIs to Commission staff for review prior to adoption, and as adopted.

WRC3. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide final construction plans for review and approval by Commission staff that show construction Best Management Practices (BMPs) for erosion and sedimentation controls are specified and in place prior to construction to prevent erosion, control sediment movement, and stabilize exposed soils.

WRC4. The Project shall use only propane or similar natural gas as the only fuel used at the well sites for emergency power generation.

NATURAL RESOURCES CONDITIONS

NRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide for review and approval by Commission staff final construction plans for all work proposed within the buffer zone to wetlands and/or within the boundaries of the ACEC, including but not limited to water main installations, that minimize disturbance and utilize BMPs during construction.

NRC2. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide Commission staff a copy of a "No Take" letter from NHESP and/or any other pertinent correspondence from NHESP. The Applicant shall comply with any conditions required by NHESP to ensure no impact to rare species.

NRC3. Prior to issuance of a Preliminary Certificate of Compliance, the town shall develop invasive species best management practices for Commission staff review and approval for the construction and operational phases of the Project.

WASTE MANAGEMENT CONDITIONS

WMC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide a narrative C&D waste plan for review and approval by Commission staff.

HISTORIC PRESERVATION/COMMUNITY CHARACTER CONDITIONS

HPCCC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide for review and approval by Commission staff final construction plans that address work on adjacent road layouts and the installation of hydrants within historic districts, and identify and address individual State or National Register properties adjacent to the Project, including but not limited to the cemeteries and Bridge Road historic properties identified as eligible for the National Register.

HPCCC2. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide Commission staff a copy of any pertinent correspondence between the Applicant and MHC and/or the National Park Service/Cape Cod National Seashore, including correspondence regarding archaeological resources that may exist in the Project layout.

HPCCC3. The Applicant shall submit a final landscape plan for review and approval by Commission staff if any turf or landscaping is included as project plans are finalized, in which case Commission approval of such plan shall be evidenced in a Certificate of Compliance.

HPCCC4. The Applicant shall submit a photometric plan and fixture details for review and approval by Commission staff if any exterior lighting is included as project plans are finalized, in which case Commission approval of such plan shall be evidenced in a Certificate of Compliance.

SEE NEXT PAGE FOR SIGNATURES

SIGNATURES

Executed this 5th day of February 2015.

Richard E. Roy
Signature

Richard E. Roy, Chairman
Print Name and Title

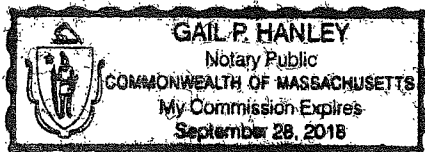
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

February 5, 2015

Before me, the undersigned notary public, personally
appeared Richard E. Roy,

in his/her capacity as Chairman of the Cape Cod
Commission, whose name is signed on the preceding document, and such person
acknowledged to me that he/she signed such document voluntarily for its stated
purpose. The identity of such person was proved to me through satisfactory evidence of
identification, which was [] photographic identification with signature issued by a
federal or state governmental agency, [] oath or affirmation of a credible witness, or [x]
personal knowledge of the undersigned.



Gail P. Hanley
Notary Public

My Commission Expires: 9-28-18