

Cape Cod National Seashore
Subcommittee on Dune Shack District Preservation and Use Plan

MEETING 6

Center for Coastal Studies Library

Monday, April 5

9am-1pm

Meeting Summary

Attendees:

Subcommittee Members Present: Sally Adams, long-time dune shack family; Janet Armstrong, long-time dune shack family; Regina Binder, Representative of Provincetown Community Compact; Bill Burke, Cultural Resources Program Manager, NPS; Rob Costa, Art's Dune Tours; Rich Delaney, Chair of CCNS Advisory Commission; Hatty Fitts, Representative of OCARC; Bill Hammatt, Representative of CCNS Advisory Commission; Joyce Johnson, Representative of Truro; Julie Schechter, Representative of Peaked Hill Trust (alternate for Carole Carlson); Austin Smith, Representative of Friends of CCNS; Paul Tasha, Representative of Provincetown; John Thomas, Representative of Provincetown.

Subcommittee Absent Members: Brenda Boleyn, Representative of CCNS Advisory Commission; Carole Carlson, Representative of Peaked Hill Trust (represented by Julie Schechter); Richard Philbrick, Representative of CCNS Advisory Commission.

CCNS and NPS: George Price, Sue Moynihan, Sandy Hamilton

CBI Facilitation Team: Patrick Field, Stacie Smith, Meredith Sciarrio

Members of the Public: Jane Rosett, Peter Clemons, Andrew Clemons, Donna Graves, Mildred Champlin, Nat Champlin

Action Items from Meeting:

- Subcommittee members to review the VLA non-profit application
- CBI to create a web survey for questions on leasing criteria and what they would like to ask an attorney about potentially developing an overarching trust/non-profit
- NPS/CCNS to look into the flexibility of concept of “highest bidder” as part of the competitive leasing process
- CBI to create a chart to clarify existing mechanisms
- CBI to send out email with dates to set May and June meetings
- CBI to distribute transition slides
- CBI will distribute Jane’s diagram on realities and priorities of living in the dunes

Introductions and Welcome

Participants introduced themselves, including names and affiliations. CBI outlined the agenda for the meeting. It was noted that once meeting summaries and draft agendas were approved by the subcommittee that they would be accessible to the public via the CCNS PEPC (Planning, Environment, and Public Comment) website (<http://parkplanning.nps.gov/CACO>).

Preliminaries

Participants were invited to review the draft March meeting summary and submit any additions or corrections to it.

One participant asked that the attendees' list noted who was absent from the meeting and all subcommittee members' affiliations. With minor corrections, the subcommittee approved the March meeting summary.

Use and Occupancy of Shacks

CBI gave a presentation building on the discussion of the use and occupancy of the dune shacks from the March meeting.

In the presentation, they indicated that the key activities for the sustainability of the District were stewardship, occupancy, engagement and access. CBI then introduced a draft chart on categories for future use which distinguished types of stewardship, types of occupancy, and potential mechanisms with all shacks sharing the same uses of contributing to the District according to the vision statement. For types of stewardship, shacks were more-or-less evenly divided into thirds between long-term families and kinships, long-term organizations, and medium-term. The chart did not identify any specific shacks or a certain number of shacks per category. It was noted that collectively this model could provide resiliency over a long-term period of time with unforeseen situations, and could be viewed as a strong risk management strategy for maintaining the District. NPS suggested that a 20-year lease, while it would require approval from the Regional Director, seemed like a feasible option for long-term shack users and had been implemented at other Parks before.

Multiple participants commented on the order of the list of uses in the chart, and some were concerned about a possible hierarchy of importance. CBI suggested that they could note to refer to the vision statement so that it would be known that the bullets were in no particular order. Another participant added that the uses could be listed in alphabetical order, because it would be completely objective and not up to future interpretation.

A participant stated concern about the uses being too restrictive or definitive. NPS noted that without some definition, it could allow for people to do whatever they want and then change the

dune experience for the future. The participant suggested that there could be points drafted about unwanted behavior to help preserve the experience.

Another participant commented that the chart should not state, “preserve historical connection to artists and writers” under uses, because it sounded like the connection to art and literature was solely in the past. He added that this was about continuing to provide artists and writers with the opportunity to experience the dune shack culture.

A suggestion was made to use more general terminology, such as shack users, when referring to both non-profits and individual dune dwellers.

Medium-Term Leases

Participants were asked the following questions on medium-term leases:

- Keep 1/3 of shacks for continuous medium-term use (5 years), rotating users?
- Use medium-term shacks as a transition mechanism only if long-term occupants aren't renewing (for whatever reason)
- When long-term shack is available, allow medium-term (and past medium-term) stewards to apply?
- Other options?

Many participants stated concerns about shack maintenance if medium-term leases were issued for only a 5-year term of use. They did not think that it was long enough for proper stewardship of a shack. The suggestion was made that there be an overarching steward for a longer period of time, if there would be medium-term users for only 5 years. A participant mentioned that a shack could be used in multiple ways – for example, the Ofsevit-Malkin shack was only used 4-6 weeks out of the year by the family, and then Peaked Hill Trust managed it for the remainder of the year. This allowed for both short-term and long-term use of the shack

NPS agreed that if a shack was in bad condition that it would be hard to lease for such a short time, but other than maintenance, they felt that medium-term use might not be unrealistic. NPS added that currently there were some 3-6 year leases so a 5-year lease made sense other than deciding on the long-term maintenance. Also a 5-year occupancy could be a good way to experience the shacks.

One participant suggested having the medium-term leases be 3-10 years, or a 10-years or less - instead of a 5-year lease. NPS agreed that it made sense, especially if a non-profit wanted to help with the overall management of those shacks. CBI suggested one option that either the existing or new non-profits could have long-term stewardship over the medium-term occupancy shacks.

A participant commented that the medium-term category could be put between the long-term families and long-term organizations as a transitional stage with either families or non-profits having the overall stewardship with the shacks.

CCNS asked the subcommittee if they thought that a medium-term lease was a legitimate use of a shack, assuming that they would not roll over into long-term lease. A participant commented that if there were an overarching non-profit/trust for the District, then there would be no need to divide the shacks into groups of thirds between long-term families, long-term non-profits, and medium-term users.

Another participant asked how NPS would decide who was issued these medium-term leases in the future and noted that they need to clearly state what the requirements should be. NPS reminded them that the medium-term leases still have to comply with all CCNS and NPS leasing policies.

One participant stated that for overall stewardship there should be the option of either a long-term non-profit or a long-term family, because the future of an existing non-profit could still be uncertain.

CBI asked the subcommittee if they thought that medium-term use had value in itself and not just as a transitional function.

One participant thought that it had value in itself, because some of the more famous people who had been in the shacks had been there in a transient way. He noted that it was the nature of the town for people to come and go, and it was normal for someone to be around for 4-5 years and then gone. Also he added that all types of use had validity, and the 5-year use had some historical support.

Another participant agreed that there should be a medium-term category but was concerned about the one third distribution. Instead he suggested that the ratio be more flexible to shift between the 3 categories over time.

A participant recommended creating a tree/umbrella of who would make decisions, after NPS/CCNS, concerning the shacks. CBI suggested keeping that as an option to come back to and discuss at a later time.

Another participant questioned what the percentages of current uses were, because he believed that the distribution was 50% long-term families, 30% non-profits, 20% medium-term. He asked why it was now being discussed as one third each. CBI referred back to the chart from the March meeting with 6 shacks in long-term family, 2 long-term uncertain, 4 medium-term leases, and 5 non-profit shacks.

One participant asked whether specific shacks would be assigned into each of these categories, or whether they might move among categories while keeping the overall distribution. Another participant asked if they could just state that the shacks are roughly divided into thirds instead of exactly divided into thirds.

A participant asked NPS if there had been any shacks in the past that moved out of the long-term category and then moved back in. NPS responded that they couldn't recall that happening.

NPS clarified that, if this group does not agree to something different, the current course of action would lead to no shacks for long-term families. One participant raised concern about this, and NPS responded that since the leases for the long-term families would end, then they would lose the shacks if there was not another plan in place.

One participant commented that there should not be set percentages, because it may not make sense in the future. He added that the goal should be to have long-term leases for families and non-profits and not medium-term leases. Another participant suggested evenly splitting the shacks between individuals and non-profits and then creating more descriptive subcategories under those two entities. Many participants agreed with this proposed breakdown.

A participant noted that some of the long-term families have different family members stay in the shacks for short periods of time, comparable to the short-term stays of visitors to the non-profit shacks. She added that if the shacks were split between the long-term families and non-profits and then broken down into subcategories then it could benefit all users.

Another participant asked if the medium-term occupants could renew their leases or if it would be intended that they could only have the shack for 5 years. CCNS responded that there would be no automatic renewal, and they would have to go through the competitive leasing process. NPS added that medium-term occupants would not be prohibited from reapplying for another 5-year lease, but NPS would more likely want to put in new users so they could also experience the shacks, leaving aside the concerns about maintenance.

One participant questioned what would happen when the current leases for the shacks end. CBI responded that this was part of the task of the subcommittee. The preservation and use plan needed to lay out what the District should look like in the future, to help determine how the shacks will be used after the leases conclude.

CBI reminded the group that the NPS mechanisms might change in the future, and if the subcommittee set their options based solely on current mechanisms, then they would be limiting themselves. They advised the subcommittee to focus on the vision for the District, which could take their objectives into the future.

A suggestion was made to have the subcommittee address the front of the room when they speak and to remember to raise their hands so that people do not talk over each other.

A participant commented that since the shacks are in a historical district, then decisions should be made in consideration of the individuals who have been there over time. He noted that everyone was a new person to the shacks at one point, so they should have a medium-term lease option to allow new users to experience the shacks. Additionally he recommended that the RFP process include having either long-term families or non-profits write letters of support for prospective users in order for them to be approved for a medium-term lease. He commented that there should not be someone leasing a shack who does not have the knowledge and skills to thrive in the dunes. Lastly he added that in the leasing process there should be some preference given to those who have a history in the shacks because it is a historical district.

Another participant agreed that the long-term users had worked hard to live there and was concerned about maintenance knowledge for medium-term users. Also she questioned that medium-term leases would add value to the District. NPS commented that Eugene O'Neill was only there for several summers, and he added great value to the District.

One participant suggested that long-term individuals could be on one end of the leasing spectrum and long-term non-profits on the other end with medium-term users in the middle. He added that each long-term category could have up to 50% of the total shacks, because he believed that the percentages should be flexible for the future. Another participant commented that designating the two long-term groups with "up to 50%" of the shacks could be a problem, because it could be interpreted that one of those groups could have 0%.

A comment was made that the subcommittee was experiencing "vision exhaustion", and they needed to focus on more concrete information and mechanisms next.

Public Comment

A member of the public commented on the reality of life in the dunes and the priorities that need to be considered. She drew a diagram illustrating her point, which CBI agreed distribute at the next meeting.

Another member of the public asked the subcommittee to remember the Malicoats even though their shack is not under NPS control. He added that the subcommittee should consider language about abutters and their connection to neighbors in the dunes. Also he suggested someone research the New England Organization for Preservation of Antiquities, because the language could be helpful with the vision. He noted that there was a lot of tradition with the Del Deo family and with the Chanel shack, and he didn't want them to be cast aside.

NPS stated that they're looking at the subcommittee's report as being sustainable, because after it goes through EA process then it becomes guidelines for the District. He recommended an ongoing subcommittee of the Advisory Commission to help ensure that the NPS/CCNS stayed true to the vision and with overall institutional memory moving forward. A participant agreed that it would be beneficial to have an ongoing subcommittee in place to work on implementing the guidelines in the future.

A member of the public added that there was great value in looking further into the future and not just the next 20 years.

A participant commented on how NPS has a phrase about being in the "forever business" and to remind everyone that this work is ongoing. NPS added that they were fortunate because they had an on-going Advisory Commission.

Mechanisms

George opened the discussion on mechanisms noting that many other parks were looking to the dune shacks as an example. He commented that the concept of an overarching umbrella non-profit might be possible, but would be subject to the same leasing criteria followed by NPS. George stated that the leasing process had changed in the last 20 years, and the best option for the subcommittee was to develop a vision. He did some research, and was happy to learn that they could add criteria about long-term connection to the District for the leases. George suggested dividing the shacks into thirds between long-term families, long-term non-profits, and medium-term users because those who had a long-term connection to the District would still have a better chance of leasing a shack. George also shared the information that, currently, CCNS would not get to serve on the committee for decisions of who could lease a shack. Rather, it would be the NPS regional office in Philadelphia, so the criteria would need to be as descriptive as possible. Also, he added that 20 years was the maximum term he could get for long-term leases. CCNS noted that there were still some discrepancies that they needed to discuss with the NPS, such as whether rent values would need to be a determining factor.

A participant asked if the NPS regional office was familiar with the shacks and if they would understand what the criteria meant. George responded that there was not a way to determine that, so the subcommittee needed to make the criteria very specific.

Another participant asked if it was possible for all shacks to be leased to one group and then sub-leased to individuals. George replied that the group doing the subleases would still have to follow all the requirements of the federal government. They added that it was a different situation for someone to lease a building to carry out a program than to subleasing it out to a resident.

One participant asked if they could define a program that served the Park and maintained the current mix of uses. NPS responded that it probably would not be possible, because it would seem like they were trying to evade the existing laws.

Another participant asked if creating an overarching trust would be a way to shift the decision-making to local entities. NPS did not foresee the solicitors signing off on a trust that would be issuing long-term leases, but they agreed to hear more about this option. CBI asked if the potential overarching trust could make the decisions as long as they obeyed the criteria and only issued 20-year leases. NPS did not think it was a possibility, because a non-government employee could not review lease applications and the Superintendent could not abdicate his responsibility as a manager. A participant asked if this was true for only long-term leases. CCNS responded that for all individual leases it was a competitive process and therefore decided in the NPS regional office. NPS added that the Biscayne National Park was unable to sustain their trust due to internal politics.

CBI suggested that the subcommittee might begin exploring the creation of an overarching trust, perhaps by coming together around existing District needs, and then they might expand its role over time. As requested at an earlier meeting, CBI provided the group with the application for assistance in non-profit incorporation from the Volunteer Lawyers for the Arts, and asked if anyone would like to pursue that further. CBI noted that it might not be a short-term answer for how use and occupancy decisions could be made.

A participant asked for NPS to give an overview what had been said thus far on the leasing process and NPS mechanisms. NPS stated that the current leasing mechanisms seemed to be the best way to implement the vision and would definitely work with the non-profits. The short-term and long-term leases would be issued through the NPS regional office in Philadelphia based on the leasing criteria. He noted that the decisions had been moved out to the regional offices to remove any possible favoritism. The participant also asked about rent values being considered as criteria and the concept of the “highest bidder”. NPS explained that if two people had identical applications for the same shack but had different bid amounts, then the lease could possibly be determined by rent value.

A participant asked that if the group was about educating the community, then could they pass as a non-profit. CBI responded that their legal advice said it was unlikely, but CBI distributed the non-profit application in case anyone in the subcommittee wanted to pursue it further as an option. Another participant added that there was often the stipulation that the shacks would have to be open to the public, which would be difficult.

Many participants needed more clarity around non-profit leases or agreements in comparison with medium-term and long-term leases. They also requested more information on whether an overarching trust could be feasible. CBI agreed to write up a chart, with CCNS assistance

CBI asked the group again if there was anyone who would pursue the non-profit application and contact a non-profit lawyer to see if developing an overarching trust would be possible. Then the lawyer could come to a subcommittee meeting and speak with the group. One participant was concerned that the lawyer would need to be fine-tuned to the situation and be able to move quickly, because the effort could be completely futile and could stall their process.

Other participants asked about the attorneys from the Stiltsville Trust (Biscayne National Park) and from Mineral King. Additional suggestions were made that the request come from CBI or NPS since the rest of them were very involved, or the subcommittee could list questions that they would want to ask an attorney. CBI asked that everyone review the application on their own time, and then CBI would compile the subcommittee’s questions for the attorney. Another participant stated that the application seemed like it would be for a group that was further along than the subcommittee currently was.

A participant asked if they could consult with the NPS regional office in Philadelphia about what they would need for criteria. NPS recommended that the subcommittee assembled their criteria first, and added that the best thing the subcommittee could do was to describe what they wanted.

Participants were asked if they found any intriguing information in the case studies. One participant quoted from the Isle Royale fact sheet about how some individuals were able to put their life leases in their children’s names, but NPS attributed that to the time period.

One participant asked NPS how detailed the criteria should be and if they should start working on it immediately. NPS responded that the criteria should be clear and limited. CBI explained

that they would soon be asking the subcommittee what they wanted for leasing criteria. NPS added that the subcommittee's criteria could be added as an appendix for EA.

Next Steps

CBI informed the subcommittee that they would create web surveys for the different questions mentioned in today's meeting. They asked the group that if they don't like the web surveys to please let CBI know so that we can call them or find other means of outreach.

A participant commented that the concept of "highest bidder" being part of the competitive process seemed contrary to Dune Shack history. NPS/CCNS stated that they would investigate the flexibility of rent values as leasing criteria.

CBI stated that they would send out a link with May and June meeting date options and asked that subcommittee members responded with their availability. Also it was confirmed that there would definitely be a subcommittee meeting on April 27.

A participant voiced concern about the timeline, and whether there was enough time to accomplish everything. Another participant asked if June was a set end date for the subcommittee's work. NPS confirmed that they had to end in June because of limits on funding. Another participant asked if there could be an additional meeting in May, so that they would meet twice in April and twice in May. CBI stated that they would review schedules and see if it would be feasible.

A participant stated that it seemed like it was more important to determine criteria than to define mechanisms. NPS agreed that they needed to write what they wanted to accomplish. Another participant asked if NPS would develop criteria that could help support local community advice and consent. NPS responded that an ongoing subcommittee could help do this by watching over how the plan was implemented. A participant asked if the criteria could be expanded so that there could be a volunteer group of shack users that would help to maintain the park as partial payment to use the shacks. NPS replied that the volunteer group would be valuable, but it could not be directly linked to the leases.

One participant asked to review the transition survey results. Participants provided the following responses concerning transition:

- Maximize continuity of occupancy, to the extent possible
- Plan should clarify how each shack should be used among the mix of uses
- Contribution to significance of the district should be a factor
- If current leaseholder has done their job (maintenance, etc.), they should be able to renew
- If not, then some kind of RFQ or RFP

In response to the subcommittee's survey results, CBI proposed the following transition elements:

- 3 years prior to end of term (lease, stipulation, agreement, etc.) process initiated
- CCNS/NPS, in consultation with ongoing Dune Shack Subcommittee of Advisory Commission, makes decisions

- If lease and special agreement is the mechanism, a special set of criteria to distinguish qualities for applicants
 - Long-term connection
 - Memory/history
 - Ability to handle maintenance, etc.
 - Commitment to District values
 - Willingness to engage in District as a whole (“engagement”)
 - Etc.
- Transition process must ensure balance of stewardship and uses is maintained

Another participant asked if the group could have copies of the slides. CBI agreed to distribute them to the subcommittee.

A participant commented that it was unclear as to what the transition meant. CBI explained that the subcommittee would need to decide this for the report, but they needed to develop the system first.

Public Comment

A member of the public asked CCNS about the Cape Cod Modern House Trust and the Hatch House, because he had read that the Hatch House would be available for rent at \$5K/week. CCNS responded that they were unaware of this price.

Another of the public member expressed concern that he would need to write a letter to the NPS regional office to be able to apply for a lease for his home and then possibly not get it.

A member of the public asked if his existing agreement would be legally protected and kept intact regardless of what the subcommittee decided. NPS clarified that the existing agreements would absolutely stay intact, and once the plan was in place then it would immediately affect the leases after they end.

Adjourned at 1:00pm