

**CAPE COD REGIONAL GOVERNMENT
ASSEMBLY OF DELEGATES**

APPROVED Journal of Proceedings – March 20, 2013

Speaker BERGSTROM: Good afternoon. Welcome to the March 20th session of the Cape Cod Regional Government, Assembly of Delegates.

I'd like to call this meeting to order. Are we being recorded by anyone? We are being recorded also by someone outside of our normal recording.

We'll begin with a moment of silence to honor our troops who have died in service to our country and all those serving our country in the Armed Forces.

(Moment of silence.)

Thank you. We will now stand for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker BERGSTROM: The Clerk will call the roll.

Roll Call (88.87%): Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% - Provincetown), Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), Ned Hitchcock (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Teresa Martin (2.30% - Eastham), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61% - Falmouth – left the meeting at 5:20 p.m.).

Absent (11.13%): John Ohman (6.58% - Dennis), Anthony Scalese (4.55% - Brewster).

Clerk OCONNELL: Mr. Speaker, we have a quorum present with 88.87 percent of the Delegates present and 11.13 percent absent.

Committee of the Whole

Speaker BERGSTROM: Thank you.

You now have in front of you the Calendar of Business. I need a motion to approve the Calendar.

Deputy Speaker MARTIN: So moved.

Ms. KING: Second.

Speaker BERGSTROM: Moved and seconded. Any additions or corrections?

Hearing none. All those in favor, say "Aye." "Opposed?"

(Motion carried.)

Speaker BERGSTROM: You should have also received the copy of the Journal of March 6, 2013. Does anyone have any corrections or additions to the Journal?

Mr. CAKOUNES: I do.

Speaker BERGSTROM: Yes, Leo.

Mr. CAKOUNES: Thank you, Mr. Speaker. On page 12, line 31, and the present way

it says here that -- I made an amendment and it says \$3,500 in the “Sharks” program, and it’s supposed to be “Sharps,” S-h-a-r-p-s Program.”

Speaker BERGSTROM: Okay.

Mr. CAKOUNES: That’s the only addition I have.

Speaker BERGSTROM: Okay. We’ll take that as a spelling error, and we will need a motion to amend.

Mr. CAKOUNES: Well, there’s a difference between Sharps and Sharks, so I thought it needed correction.

Speaker BERGSTROM: Yeah. With that, do I have a Motion to Approve the Amended Calendar?

Deputy Speaker MARTIN: So moved.

Speaker BERGSTROM: The Calendar of Business -- Journal.

Deputy Speaker MARTIN: For the typo.

Ms. KING: Second.

Speaker BERGSTROM: Okay. Moved and seconded. All those in favor say "Aye." “Opposed?”

(Motion carried.)

Communications from the Board of Regional Commissioners

Speaker BERGSTROM: Okay. We have the Board of Regional Commissioners with us. Welcome.

Commissioner DOHERTY: And a cheerful welcome to one and all.

Commissioner FLYNN: Good afternoon. Let’s see, where can I start? Well, we want to be brief because we know you’re going to have a presentation on the budget today.

But you also know that we have been meeting for the last 3 to 4 weeks on the strategic plan for the next five years for the County.

And we were very happy, last Friday to have with us Julia Taylor, Ron Bergstrom, and Leo Cakounes. And we certainly went beyond our time limit, but I think the discussion was very good. And the entire discussion was mostly around the governance recommendations from the Special Commission.

So, it was suggested, by the Speaker, that we might come to the Assembly with -- because we know you have a Resolution, I believe, on the creation of a Charter Review Committee and we certainly support that. And it was suggested that we might want to come and offer some suggestions or recommendations on the Charter Review Committee. So that’s what I’m going to present.

We had quite a discussion today and, obviously, we’ve been talking about the Special Commission recommendations ever since we received them, which was just a little over a year ago. So it’s not a new topic for anyone.

So I think based on the potential for a Charter Review Committee to come up fairly soon; one of our recommendations would be that there be a Special Counsel assigned, procured for the Review Committee. And someone certainly with experience in Charters, that would be really important.

That the Charter Review Committee -- I’m having trouble reading my writing -- consider the -- particularly consider the Special Committee’s recommendation on Governance

and those are Items 12 through 17. We think that's really important that the Charter Review Committee begin with a review and a discussion on the recommendation.

That the recommendations can and could result in having a more democratic representation on County issues; that we recognize that the County is evolving as a regional government, and that's an important consideration for the Charter Review Committee. That sometimes we tend to look at the way things are rather than to look at the way things could be and to have some vision as to what the County could look like in another 10 years or 15 years.

That the Cape Cod Commission Act also be considered as part of the Charter Review. And that the Charter Review Committee take look at other counties around the country and other regional governments and take a look at their formation, and also the information that they receive, the responsibilities that they have, and what they do with their decisions once they make them. Where do they go? And who is affected by them?

But they really look at other counties; they're regional governments in that perspective, and that the members that are appointed to the Committee come with no predisposition as to what they think County government should be or whether it should stay the way it is; whether we should have an Assembly or not have an Assembly; whether we should have Commissioners or not have Commissioners; whether they should be 3 or 6 or 9 or whatever the case may be, but they come with an open mind.

And they really take up, if they do their research well enough, that they start out, and not looking at any particular form of government, but looking more in terms of the mission of the County and where they think the County ought to be in 20 years and what would be the best form of government to help them get there.

And I'm sure my colleagues have some comments as well.

Commissioner DOHERTY: Some time ago, and it's probably over a year ago, I think I shared with you a document I got from the National Association of County Officials on activities with regard to Charter Review that other counties have gone through, and, perhaps, that might be a useful document to look at. I think there was a County in Maine that was included in that.

The other piece is that in resources as far as looking at other counties and other counties' methods of approaching things, those are all available through NACo, and I can give you access to that.

It would be helpful if you decide to look at any comparisons to come up with some sense of the kind of counties that you'd be looking for. Think in terms of population, think in terms of urban versus rural because all of these would factor in to taking a look at how other counties do what they do.

There's a lot of resource available through the National Association of County Officials. We do have access through it because of my -- because of our support of that organization. And I'd be happy to support any inquiry with regard to that.

But I think the main thing that I'm interested in, just speaking for myself, is the importance of using what I would call directed qualified counsel to look at the Charter Review and identify those parts that are governance and those parts that are administrative in nature, and then give a -- get a list of the things that you can change through the Charter Review and the things that need to have legislative action.

I think that my recollection has been because I've observed many Charters in the past is that there's a lot of time spent on the analysis of language as opposed to taking a look at the

issues that are part of governance, and that we sometimes get tied down or let's say limited in the ability to make the Charter Review Committee's work as effective as it could be.

I make that as a suggestion, but I hope that you will take us up on the comment that you do have counsel engaged and involved prior to the sitting of the Charter Review so that you will have something that will let you start off with -- say with something that will give some direction and some weight to your initial stuff.

Getting people to volunteer their time to do this, and I think the people who have sat on it, and I know Leo has and Teresa has and Ron has, that you want to make -- Sheila has too -- you want to make as good a use of your time as possible.

So that's all I have to say on that.

Commissioner LYONS: I guess I'll have to trim it a little bit. Yes, in our discussion today that the way that I look at this process and I think it's a very good effort that we can do together. I think this is an opportunity for both boards to really look and take an evaluation of our County government.

Its 22 years old. It's been evolving. Times have changed. There is a direct charge to the Charter which I always felt was perfectly said in the first few sentences of the Preamble stating how it came to be and its mission is to look at those big issues that the towns can't handle.

And I think that we all want a democratic government that is a representation and a fair representation of all of our citizens. And what that definition is and how that is defined legally and in our minds might not always be the same.

But we should base our work together on the facts and not what we think is the most important thing to maybe our individual towns or into our own personal beings.

So I think this is a great opportunity, and I think all we can just stress is that we are willing to work and make available if its funds to get that special, you know, Special Counsel to guide through -- to guide us through this because even though we might have a feeling that, you know, this is the way it is, we may find out that it's totally not possible because it's not even in the General Counsel -- I mean the General Law Court of Massachusetts.

So, with that, I do think that this is an opportunity to work together for our future generations, and I hope that we can go forward together.

And I think Pat is right; not only would we -- would you want to consider maybe having to include the awareness of the Cape Cod Commission as a separate act and how it intersects with the Charter but also the Cape Light Compact and any other of our agencies that we deal with like that.

So with that, I'm going to say thank you.

Speaker BERGSTROM: Do any of you have any question on this for the Commissioners?

Yes, Leo.

Mr. CAKOUNES: Am I to understand then that the County Commissioners have not taken a specific vote on the type of changes they perceive would be in the best interest at this time?

Commissioner LYONS: We didn't vote.

Commissioner DOHERTY: No.

Commissioner FLYNN: No, we didn't take a vote but we're suggesting that the Charter Review Committee take up the Special Commission's recommendation on County

Governance because we think that has to be looked at.

We don't want to be the ones to say it should be this, that, or the other. But we certainly do recognize that the process needs to be democratic and it needs to be looked at.

We are going to come up with, I think, we didn't do it today, but at some point we will have the benefits of the proposal from the Special Commission in terms of County Governance. And what we have today, we're going to look at it in terms of the -- kind of a cost-benefit analysis of what it is.

We know with their recommendation, there'll be less people. And will there be less government in a sense? So, I mean that's what we hear everywhere in America and from Washington anyways that we should have less government.

When you look at the budgets in the towns, the town of Barnstable's budget must be over 160 million by now. The town of Falmouth is 112 million, and our budget is like 26 million. You know, how many people does it take to manage a government with that budget?

And there are a lot of things we cannot do because of Home Rule, and there's a lot of persuasion that we have to do with towns in a certain sense because they have the control. I mean it's their job to manage the towns and we can't do that for them.

So we have to look at what County government is, and that's why it is evolving more and more toward a regional government. That's the only way it's going to work. So if we have a regional government, what is the best organization for a regional government? Is what we have now makes sense or do we need to change it? So, I think we need to look really hard at that.

And then you have to look at, well, others have made this comment, but you look at the fact that we're a regional government; we are elected by the entire population of the Cape. The proposal is there be Commissioners elected from districts, and yet the Assembly is goes back to the individual towns.

Now there may be some merit to that. But I think that's what the Charter Review Committee -- that's what their job would be, and I think we have to work with them along the way. And when there are opportunities to comment and when they take up certain areas of the Charter -- our Charter is so long and cumbersome and wordy. If you really want to find something, you have to read about six pages to get to what you're looking for.

Somebody commented that the Constitution of the United States is a page and a half, and we could actually take our Charter and whittle it down to very, very few words, as Bill suggested, and then have an Administrative Code, which most towns have. They have a Charter that's not really all that long, that they have an Administrative Code that takes care of everything else.

So, anyway, I don't want to talk forever on that.

Mr. ANDERSON: One thing before you go on, can you turn the audio down? It's echoing like crazy over here.

Speaker BERGSTROM: Oh, you're getting blasted down there?

Mr. ANDERSON: Yeah. Please and thank you.

Speaker BERGSTROM: We're experiencing temporary technical difficulties.

Clerk O'CONNELL: Maybe if you're not that close to the mic.

Commissioner FLYNN: Maybe I'm too close to the microphone.

Speaker BERGSTROM: Anyone else? Yes, Cheryl.

Ms. ANDREWS: Thank you, Mr. Speaker. Just a quick comment. Every now and

then, I always notice I hear certain phrases getting repeated by different people. So, obviously, there must be some other conversations that are going on at meetings I've missed.

But this issue about how many people does it take to review a \$25 million budget? And I'm obliged to speak up for a different end of Cape Cod and remind everybody that 25 million is roughly about the size of the budget for Provincetown, about the size for Truro, about the size of Wellfleet. I don't know where Eastham is right now.

In those towns, we have five members of the Board of Selectmen, at least five members of the Finance Committee, and probably about two or 300 people that show up at Town Meeting.

So to have 3 and 15 doesn't seem all that outrageous to someone from a small town. Certainly when you get into a city form of government, different issue.

So, I appreciate these comments, but I think it's really critical that we remember that we have 15 towns that are different sizes.

And, in particular, I think you're going to find a great deal of scrutiny from the smaller towns to make sure that their representation and their voice at the table is maintained. Otherwise, these jokes about certain towns leaving County government will continue, and that would be a loss.

Speaker BERGSTROM: Cheryl, we don't want to go too far into arguing these things in advance.

Ms. ANDREWS: No, no, I'm done but it was stated.

Speaker BERGSTROM: Yeah, I understand. I have to say that I've been heartened by our conversation on Friday, and it seems to be a spirit of going ahead in a unified manner.

You know that we have -- I have a Resolution to amend the existing Resolution on the table. There have already been other amendments that I know are going to be submitted. I'm sure it's going to be a long siege.

But the Charter requires that we have regional representation in some form from the various communities, and so we're going to have to stick with that. I can't tell you what's going to happen before the end of the day, but I'm trying to make -- we're trying to have a representative body of people who have an open mind and have an interest in the County.

And certainly the Commissioners will be represented one way or another on that board. So, we'll go ahead and hopefully we'll get something done.

Commissioner FLYNN: All right.

Speaker BERGSTROM: Thank you, very much.

Commissioner LYONS: Thank you.

Communications from County Counsel Robert Troy

Speaker BERGSTROM: We now have communications from County Counsel, Robert Troy, concerning the Open Meeting Law, electronic communications, Freedom of Information Act, and legal representation for the Assembly.

So you've got quite a lot on your plate there.

County Counsel TROY: Ladies and gentlemen, I know you have a very busy Agenda today, so I tried to save some time.

Janice and I, in the course of having conversations about various issues, had talked about some concerns that the information that you had about these various statutes might not

be up-to-date.

So, in preparation for today, I actually lucked out. I went on the website and I have information from the Attorney General as of last week. The Attorney General just updated all of the Open Meeting Law guidance materials and including three very helpful checklists and has recodified all of the instructions about the Open Meeting Law as of March 12. And that's the handout I have for you.

I'd like each of you to take it with you and if you have any questions about it, I'm happy to address it today. But if you want to reflect on it and you want to submit any questions that I can help you, I'll be happy to do that.

The second -- so that is the Open Meeting Law. One of the things that are particularly important is to understand that the Open Meeting Law is separate from the Public Record Statute. And, actually, they are separately enforced.

The Open Meeting Law is enforced by the Attorney General's Office through the new Open Meeting of Government Division. The Public Records is administered by the Secretary of State, and that's a separate statute.

I know the Agenda reads the Freedom of Information Act. That is not applicable to County government. That is a federal law that is applicable to federal agencies.

So our responsibility under Public Records is statutory, and that statute -- it's contained actually in two statutes. I have them with me, but I know that you are familiar with them. Chapter 66, Section 10, and then the definition of Public Records, which is in Chapter 4, Section 7, Subsection 26.

So I have these materials with me. I think that they are organized and they basically -- the Attorney General, I think, has done a very good job in kind of dividing up the different questions that you might have, and I think it actually, for instance, Executive Session is covered on Pages 7 through 10; Public Participation is on Page 12; Public Records is on page 13 and 14, and Open Meeting Law Enforcement is on Pages 14 through 16.

So I know you have a busy agenda. I don't know whether you have any specific questions. I am available to answer any questions now or at any time if you have any in the future.

Speaker BERGSTROM: Okay. We will start. Anybody have any questions for Attorney Troy?

Mr. CAKOUNES: I have a couple.

Speaker BERGSTROM: Okay. Leo.

Mr. CAKOUNES: In regards to posting agendas and I guess the Open Meeting Law rules, if a working group were to post a meeting and to specifically state that no public comment was to be taken because they wanted to sit around a table and work out an issue, yet they invited a couple people to come. Should they have been listed on an Agenda? How does the Open Meeting Law requirement factor in to when you are a working group?

And the reason why I ask this is because we're going to have a working group with the Charter Review Committee, we hope soon, and often times we have working sessions even with the small Finance Committee groups, and they're not really designed for public comment, if you will.

But occasionally a question comes up, someone may happen to be there, can we ask them -- can they involve themselves in the deliberation?

County Counsel TROY: That's a very good question. And, actually, one of the

anomalies of the Open Meeting Law that is not well understood, it's on Page 12 of your materials, is that there is no right to public participation under the Open Meeting Law.

And there is a right for public observance. The public has a right to be at a meeting, regardless of what the meeting is, but the public is not given a lawful right to participate under the Open Meeting Law. And if you look at Page 12, the Attorney General explains that is at the discretion of the Chair.

So, I think the answer to your question is that if you had the type of a working group that you're speaking about, the public obviously has the right to be present, but the ability to participate would be at the discretion of the Chair of that particular working group.

Speaker BERGSTROM: Can I ask you a couple of questions that in my position of Speaker have come up a couple times. One is the -- we have a listing in our agenda for Public Comment, Communications from Members of the Public.

When I was a Selectman in Chatham, we kind of limited that to announcements; you know, the VFW will be holding a fundraiser.

But as time went on, people would get up and it would become obvious after a while they were continuing a discussion that we had in a previous meeting or they were engaging in an issue that in the larger sense was ultimately going to be before the Assembly. And I had to say -- I felt uncomfortable because now the subject here is being discussed and not all of the public is aware of it. And the people who may be opposed to the point of view are not here and not aware of it.

So, how, if someone comes up and starts a public comment saying, "Well, I think the County should do this or I think you should do that," and at what point do you say, "Wait a minute. This is a topic for an agenda"?

County Counsel TROY: Right. Well, once again, the Open Meeting Law vests a lot of authority in the Chair. The Chair is delegated really the discretionary responsibility of deciding how the public body can properly fulfill the requirements of the law.

So, I think the answer is the Chair first has to make a preliminary determination as to whether or not the type of comment that is being made is appropriate.

And that goes to issues, for instance, if it's an issue where there's been no notice, that it's something that's not on the agenda, it's something distinct, and it's something the Chair perceives that perhaps is prejudicial to the ability of the body to subsequently deliberate on because there is no notice, and people from the public don't know about it; then, in that instance, I think the Chair has to say, "No. I'm sorry. We can't entertain these comments at this time, but we will put it on an agenda and we will post it."

And that, I think, leads to the second. The second problem, and this is a tricky problem for the Chair, is that if the Chair does not exercise that discretion and cut off a discussion, the danger is that the public body is going to be unwittingly involved in a discussion that is not on the agenda, and, thereby, with all good intent, is going to violate the Open Meeting Law. And the next thing, you're going to have complaints with respect to it.

So, I think that the better practice is to limit outside of relatively -- outside of things that are on the agenda for that meeting, and things that are not, you know, of the type of issue that requires deliberation, I think the Chair has to be kind of an activist at that point. And either he or she has to say to the person, "We're happy to talk about this, but we have to comply with the law, and, unfortunately, we're going to have to put this on the next available agenda."

Speaker BERGSTROM: All right. Just a point of information; my policy has been to have people that can say anything they want.

I agree with you; we'll cut them off if it's a substantive matter that's not on the agenda, but I also don't encourage any back and forth that people make from Public Comment. They can say what they want, but if they ask me a question, I won't answer them. It's not that I'm being rude, but I can't do that.

But the other question is how specific -- we've had some discussion on how specific the agenda has to be. For instance, today we had the topic of the Charter Review Committee. And I submitted a Resolution and it's been an issue and somebody else is now -- and that Resolution is now on the agenda.

Somebody else submitted a Resolution a couple days ago that's not on the agenda, but it has to do with the same topic. It has to do with the makeup of the Charter Review Committee. And at times when we get into a discussion, somebody will say, "Well, you didn't say we were going to take a vote, or you didn't say that we were going to do this; you didn't say we'll do that."

My policy, which I follow from the guy who's the Moderator in Chatham, when he moderates; he says, "If it's within the ballpark. If people know that that issue is going to be discussed, then you give them sufficient notice." But I'd like your opinion on that.

County Counsel TROY: I think that the practice that you referred to is the correct one. The law uses the word, "Topic" as opposed to "Issues." So, for instance, if the topic is a Charter Review Commission, then the public knows that that's going to be discussed.

Now, your proposal may be to have that Commission consist of five persons, but it's also conceivable because the public does have notice of that that another Delegate may have a completely different version, and it's appropriate and it's efficient too because you don't want to have to keep on holding successive meetings about the same issue. As long as I think that the Chair can make a determination that that's reasonably within the topic, then I think that's correct.

Now, on the other hand, if you had, for instance the same example that you utilized, the Charter Review Commission as the topic, and somebody came in and one of the Delegates or even a member of the public said, "Well, no, I don't think that's the way to go." We need to go back to the Legislature and move to abolish the Cape Cod Regional Government and substitute, you know, "X." That, obviously, is outside of Charter Review because it's quite broader in scope. So, I think that the rule that you use is the one that makes sense.

Speaker BERGSTROM: Okay. Well, that puts my mind at ease a little bit. It won't stop the complaints, but at least I'll be able to shut them off.

Yes, Cheryl.

Ms. ANDREWS: I was going to wait for a little while to ask my question, but since this one follows on exactly what you're asking, I'll ask it now, as long as that's okay.

Looking at today's agenda, for example, the way it reads, it says, "Communications from." Now, as a newbie to the Assembly, when I read that, that's a one-way conversation. Its information that's going to be announced and then you're going to walk away. That's how, just as a layman, that's how I read that.

Whereas, if I look at an agenda and it says, "Discussion, Presentation by and discussion with," that's very clear that what's happening now is what's going to happen. And I think that's been confusing for me because there was one time on our agenda it said, "Report

from” and yet we took the report, there was a conversation, and then there was a vote, and it felt, for me, very much outside the scope of what we had told the public.

So my question is if it’s really a Presentation by County Counsel and a Discussion with County Counsel, why wouldn’t it say that on our agenda?

County Counsel TROY: Well, the only thing I could say is I agree with you that I think that the terminology “discussion” is a very good term, because that is pretty much what we anticipate is going to happen.

And to the extent, that the agenda could have been written to be “Discussion with County Counsel,” I agree with you, that’s a better word.

Ms. ANDREWS: Thank you.

Speaker BERGSTROM: Anyway, my feeling is that if I put “discussion” on there, they’re actually going to argue with you. Okay. But if I put “communications, that means you tell us what you think, and we could ask you questions to further find out, but I think that’s a semantic.

County Counsel TROY: Well, my experience is that when people want to say something, they’re going to say it no matter what -- how you characterize it.

Speaker BERGSTROM: Leo.

Mr. CAKOUNES: Thank you. If you go back to my original question, and I’m going to paint a scenario again, the agenda went out and specifically states, “No public comment”; do you still think it’s within the purvey of the Chairperson of that particular subcommittee to allow public comment?

County Counsel TROY: No. In that instance, I think if the public has been told that there’s no comment, then I think that the Chair of that particular committee needs to stick to that because it would, in effect, be a notice to other people who might have come if they had something to say that they’re not going to be allowed to and they might not attend, and, therefore -- it could also lead to allegations that certain people were signaled that they would be able to speak, and so I think if you post it and you say there’s not going to be any public comment, the discretion is not available. You need to stick to that.

Mr. CAKOUNES: Along those lines then and because now we know that we don’t need to put that on the agenda anymore, because as you specified, the public really are not here to participate. They’re only able to participate at the whim of the Chair if they decide to participate.

Ms. ANDREWS: Not whim.

County Counsel TROY: And that’s the General Court’s law.

Mr. CAKOUNES: Right.

County Counsel TROY: I’m not saying that I recommend that. I’m just saying what the law says.

Mr. CAKOUNES: How much purvey do you believe though a Chair would have in the event one person was able to participate in a discussion and maybe another one got up, not being disruptive now because I understand that part of the law, but just it was said to that person, “No, we’re not taking any more public comment.”

Don’t you think it’s a difficult thing for the Chair to handle. I mean once you allow one person to comment, you’re almost have to, just out of courtesy if nothing else, allow other public comment.

County Counsel TROY: I agree.

Mr. CAKOUNES: Okay. Thanks.

Speaker BERGSTROM: Usually, just to get -- I don't want to get into this too much, but if we have somebody there -- if we have no public comment and we have people around that we ask questions to, they're usually resources. In other words, they're staff people. In other words, they're there as resources to the committee. They're not there as members of the public per se but that goes time to time.

We're now still on the Open Meeting Law? Are we all set with that?

Ms. ANDREWS: Actually, I had one more.

Speaker BERGSTROM: Oh, one more, Cheryl. Go ahead.

Ms. ANDREWS: Thank you. Attorney Troy, a number of us come to the Assembly with maybe too many years of service in municipal government and stacks of opinions on this topic that were generated by Town Counsel. So I'm always curious if I'm told something that just doesn't seem to fit with what I learned in town service.

And what the specific question was we have a number of committees that the Assembly has, different ones, Standing Committees, Finance, Natural Resources, and then of course every now and then committees get formed by, what, Ordinance or Resolution.

I was always under the expectation that any of those meetings would never have a quorum of the Assembly participate in them, because, by definition, a quorum of the Assembly is the Assembly is doing its business. You have to post accordingly.

And, frankly, unless a person really had inside information and just looked at the Agenda, which said, "Joint Meeting of two Committees," they wouldn't even understand that that's a quorum of the Assembly.

And especially because of the new version of Open Meeting Law which has gotten even stricter on this, which on my Housing Authority job I found out when we tried to evaluate a director using two people and now they're against that even though we weren't a quorum.

I was very surprised when I expressed to these two committees my opinion that we shouldn't be meeting jointly if a quorum of the Assembly was at the table. And I heard staff say that it was your opinion that it was not a problem with the Open Meeting Law. And that's really a contradiction to just bodies of work I've received from Town Counsel.

And I guess my question is -- maybe the question was asked incorrectly of you at the time or, if not, would you follow up on it maybe with some of the other town counsels because it's not consistent and it's quite problematic, frankly.

County Counsel TROY: Well, I think that the question that I was asked was if there is a meeting of two standing Committees, and --

Ms. ANDREWS: Joint.

County Counsel TROY: -- that meeting -- the joint meeting of the two committees is attended by a group that happens to be a quorum of the Assembly, should it be noticed as a meeting of the Assembly of Delegates? And my answer to that is no, because the Assembly of Delegates has a specific role. It's a specific organization and it has a specific membership.

And I think the question would be that the Open Meeting Law is going to apply to the Standing Committees just as it would apply to a meeting of the Assembly, but it is not a meeting of the Assembly of Delegates.

Ms. ANDREWS: So this is really a critical point, so I'm just going to follow up with this.

Speaker BERGSTROM: This is what Cheryl means by “discussion” rather than “communications.”

Ms. ANDREWS: Well, I was instructed by staff that we were allowed to ask questions. So, this is the first time I’ve ever had the chance. And, frankly, this was a surprise to me. I still see a problem with the answer in the sense that we were told specifically, for example, when I was a Selectman, we could never have a subcommittee of Selectmen that were three Selectmen. You just can’t do it.

So why all of a sudden at this level it would be okay? I don’t understand, and I’d like very much to be able to follow up with you on the issue.

County Counsel TROY: And I’m happy to answer -- if you want to give a question to Janice, and I can give you and all the Assembly back in writing with some citation, I’m happy to do that.

Ms. ANDREWS: Right.

County Counsel TROY: Let me give you an example though. In some towns, there are three Selectmen. Let’s say that there is a Committee that is formed. And on that particular Committee, there are two Selectmen who are appointed. That Committee is subject to the same requirements of the Open Meeting Law that the Board of Selectmen would have if it were meeting. But that is a meeting of that Committee. It is not a meeting of the Board of Selectmen.

And so if a vote came from that Committee and a decision was made by that Committee, that would be a decision of that Committee and it would not be a decision of the town. It would not be a decision of the Board of Selectmen. If for no other reason is that it was not noticed as a meeting of the Board of Selectmen.

But I’m happy to answer you in writing if you need some additional citation.

Ms. ANDREWS: Great. Thank you.

Speaker BERGSTROM: Okay. Well, I guess we can move on to then -- Does anybody have any questions on electronic communications? You wanted to give -- anything on that? Do we all know that -- I have a question.

I was asked -- I had a communication from a couple of individuals who were opposed to an initiative of the County, and they sent me a little PowerPoint presentation and told me what they thought. And, apparently, they were involved in a legal dispute, not with the County but with another agent.

So the next thing you know, this other party sent the Clerk a message saying they wanted all communications that I had between myself and these two individuals. And my first reaction was they’re private parties, you know, even though it was discussion, you know, somebody might advocate and call me up and say I think, you know, Commissioner Doherty doesn’t know what he’s talking about. So I’m not going to spread that around, you know. So, do they -- if someone -- if a constituent comes to me or emails me and says on an issue, is that considered a public document?

County Counsel TROY: Right. So now here we have to make the shift from the Open Meeting Law to Public Records; two different statutes with different requirements.

Sometimes they meet and sometimes there actually can be an intersection where you have to observe both laws.

But with respect to public records, there is, as you know, no distinction in the format of the public record, electronic communications are the same thing as a piece of paper.

So to make it easy, let's eliminate the issue of electronic communication and instead say it's a document. It's a document. It's a document between you and two other people. That is a public record if it is something that has to do with official business as opposed to your private business -- not private business but your private -- outside of your official activity, and it does not come within the exceptions of the statute.

And the exceptions of the statute are, you know, include a number of interests including things, privacy is one thing; a record, something to do with a criminal record, that is not a public record; trade secrets are not a public record, and they're all defined.

Now, the interesting part of the Public Record statute is that there is a presumption that the record is public, and that has to be rebutted. You have the burden of proof if you were the person who was keeping the record to say this is not a public record and here's the reason why.

The good thing about the Public Record statute is that there is a process by which I think everybody's interests, the public's right to know and the public's right and the Legislature's right to have the exemptions honored.

If you decline to give the public record, it then goes to the Secretary of State's Office and I know you all have that, and they then review it and they make a determination and they look at the exemption that you are claiming and they make a determination.

So, they actually have the first -- they make the decision as to whether or not your claim to an exception is valid. And if the person who is seeking the record is not satisfied with the administrative determination of the Secretary of State's Office, that person either has to go to the Superior Court or the Appeals Court. They're the only two courts that are given jurisdiction over that.

So there is a process, and I think the experience has been with the Secretary of State's Office has been very fair with respect to the Public Record statute and honored the exemptions.

Speaker BERGSTROM: I mean I understand that now. My only concern is that the public -- since this has nothing to do with us now, communicating among ourselves, now it has to do with the public communicating with us, and I just wondered how many people realize that if they send me an email or anyone of us an email saying something to us criticizing a County employee or something that that's a public record. And I think we should let them know.

County Counsel TROY: And I would like to say one thing about electronic communications because they are particularly pertinent. An electronic communication, and this goes to the issue of Public Records and the Open Meeting Law. This is where they intersect.

But an electronic communication that is sent to a quorum of a public body, in other words you send one to everybody, that is a public record.

If a person sends a communication to everybody here on the Assembly of Delegates and there is no response, let's say nobody responds and just says, "I want to tell you this and I don't want any responses," that is also a public record.

And, if two people in tandem all talk to each other so that there isn't a quorum but the chain continues on, that is also a public record.

So, electronic communications are very tricky, particularly, I think you all know that you and I, Ron, could have an electronic communication, and then without my knowing it,

you can in turn send it to everyone here on the Assembly of Delegates. That would render that a public record.

Ms. MCCUTCHEON: Can I ask a question?

Speaker BERGSTROM: Okay. Yes, sure, Deborah.

Ms. MCCUTCHEON: I want to thank you for your answer. I'm Deborah McCutcheon from Truro.

County Counsel TROY: Yes.

Ms. MCCUTCHEON: I want to thank you for the answer that you sent to me about another question, which I'm not going to get into, but I want to know you just raised this thing about the electronic records; how long am I required to keep the paper that is given to me in the electronic communications that come to me as an Assembly member, since the official records belong to the keeper of the records for the Assembly, which is the Clerk. Can I just wipe out my email anytime I feel like it?

County Counsel TROY: No, you may not. And, actually, there is a specific requirement that -- I don't have it right here; I will send it to you, and I'll send it to all the Assembly so that you can have that. There is a specific rule on that.

Ms. MCCUTCHEON: And that covers the notes I might take at a meeting or Agendas or things that I might be given?

County Counsel TROY: Well, notes may be a little bit different because your own personal notes if you take notes, that's a different type of document depending on, once again, under the Public Record statute, that could be a document under the Open Meeting Law, that wouldn't be a communication or a deliberation.

So, once again, as I say, it's kind of a tricky thing because the two laws were adopted at different times, and they're administered by two different agencies. So it's not a cohesive rule.

Speaker BERGSTROM: I'm just curious as the County, we get -- I know Mark's going to jump up here, but the County, we got -- within the last year or two, we've gotten a County email, so rather than get individual emails, it all goes through the County. And I'm presuming that they keep the records of communications.

County Admin. ZIELINSKI: Bob, if I might jump in, Mr. Chairman.

Speaker BERGSTROM: Yeah.

County Admin. ZIELINSKI: Could you pass me the mic otherwise I won't be heard.

County Counsel TROY: Oh sure.

County Admin. ZIELINSKI: That's what I was going to say, it's good for Bob to be here to hear this.

Deborah, you have a Barnstable County email address, and we set those up I think a few years ago specifically so that you use that for your official business here at the County. And that way I become or the County becomes the Keeper of the Record. So if you get a request for all your emails between blah, blah, blah, between these two people as long as you've used your Barnstable County address, I can just say, "IT, can you produce these records."

Now, Bob hasn't indicated, but we could charge people for that service. It takes time for people to do that. So there's that provision under the Public Records Law as well and we can do that. But that makes it easier for sort of the County to track what your email communications might have been in terms of official business.

Commissioner LYONS: Mark, isn't there also if you take a County, say something comes through –

Speaker BERGSTROM: The Chair recognizes Commission Lyons.

Commissioner LYONS: Thank you. I'm sorry. I was doing a sidebar. I wasn't really asking for the mic.

If you, and if its my understanding, if you have a communication say sent to your Barnstable County email and then you send that off to a person to their private email, that's still considered a public document even if that person isn't -- say you're going to send it to -- I'm going to send it to Ron, but I'm going to send it to his personal email, like, "Look what I just got."

That personal email of his is subject to open -- to disclosure as well, even though it's his personal email because it started with a County document. It was just another add-on.

County Admin. ZIELINSKI: Finally, just let me sort of clarify.

Speaker BERGSTROM: Yes.

County Admin. ZIELINSKI: Correct me if I'm wrong; except if I got the request for a record that was under Ron's personal email, I'm not the keeper of that record; Ron is. So he would -- we've been over this before.

Speaker BERGSTROM: I understand that, yes. I understand that. I try to avoid it. Leo, do you want to follow up?

County Counsel TROY: I'm sorry; if I could just add, because we had a little bit of an intramural discussion here, I think there is a little nuance here and I'll tell you what it is.

I think the definition of Public Record, if you look at it, and this is Chapter 4, Section 7 (26), it's the first definition; it's "any documentary material or data" that's the word, so that includes an email, "by any officer/employee of any agency," and then it goes on "division, authority or any political subdivision thereof." That kind of says that regardless of what email it's on, it's a public record.

And if you want to satisfy the burden of the law and say that you don't have to produce it because somebody may say, "I want," for instance, "Deborah McCutcheon's personal emails." A person could conceivably say that. You as the person who has received that request are going to have to say is I'm subject to the law, but it comes within an exception. So, for instance, there are a number of interagency memoranda. There are all kinds of exceptions in the document which, once again, is a separate task than the Open Meeting Law.

But I will agree to this extent, to the extent it's a personal email, I think the privacy exception, which is a very, very broad thing, covers most personal emails.

So, for instance, Deborah and Marcia are talking about some book fair or something that's going on in the County, and somebody says I want all the emails between these two Assembly of Delegates. Then, you say it's a public record but I'm not going to supply it because of the privacy exception.

Don't forget the Secretary of State many times asks to see the document in camera, does not show it to anybody, and after they see the document they make a decision.

Speaker BERGSTROM: Yeah.

Ms. MCCUTCHEON: I have a follow up.

Speaker BERGSTROM: Yeah, Deborah and then Teresa.

Ms. MCCUTCHEON: All right. And then I'll be done. On this agenda issue, if we

look at -- I just turned it off. If you look at the agenda for Communications from County Counsel, I want to ask you a question about the Charter and the procedure for Charter Review.

As I understand the Charter, the Assembly kind of has broad latitude to comprise Charter Review outside of the one -- what is it odd or years ending whatever.

Speaker BERGSTROM: Five.

County Counsel TROY: Yes.

Ms. MCCUTCHEON: Yes, 0 or 5, this isn't either one of those, but as I read the Charter, I think the Assembly has broad latitude. Is that a fair question where it's mentioned in your Agenda, and isn't it better to just say, "We're going to discuss legal issues with counsel" and have that be the item?

County Counsel TROY: Once again, the Chair's running the meeting and controls what can be talked about and what can't be talked about.

But to answer your question, I think that the issue of Charter Review is on today's agenda. So to the extent that you ask a question at this meeting, I think it's within the Chair's discretion to allow it to go forward.

On the other hand, if that were not on the agenda and a Delegate asked a specific question about something that wasn't on the Agenda, it probably is not appropriate.

And I agree. I, actually, am filing an opinion at the end of this meeting today about a question that was asked by the Assembly. I'm doing it at the end because it's not on the agenda, and I don't want to talk about it and to discuss it.

But in that opinion, I reaffirmed the authority of the Assembly -- broad authority in the Charter to control the Charter Review process. I believe the Assembly has that.

Ms. MCCUTCHEON: Thank you, sir.

Speaker BERGSTROM: Now Teresa.

Deputy Speaker MARTIN: I just want to go back to documents again because I've actually been asked this. If a document is presented at a meeting or referenced by name at a meeting, does that make it a public document? And when someone says, "Hey, I heard so-and-so mention document X, Y or Z, how do I see it; how should you respond?"

County Counsel TROY: Well, if the document comes in to an open session of the meeting under the Open Meeting Law, it can be accessed. If it's in Executive Session, then it's subject to the Rules. On the other hand, that's under the Open Meeting Law.

Under the Public Record statute, it's a completely separate document. So, for instance, if a document were presented to a Board of Selectmen and that document concerned a criminal record of somebody who was applying for something from the town that would not be a public record. It would be up to the Selectmen to say, "This is not a public record, and this is the exception," and then it could be withheld.

Deputy Speaker MARTIN: What if it's referenced in the debate or a discussion but not physically handed out? I've actually had that happen where people talked about a report and someone had come after and said, "I saw you guys were talking about that; can I -- where do I get a copy of it?" Is that a public document?

County Counsel TROY: It's a public document unless the burden of showing that it's within one of the exceptions can be satisfied. So it depends on the nature of the document.

If it's a report about some public issue, I think the answer is yes, it's going to be. If it's referred to or even if it's not referred to -- if it exists and it doesn't come with an exception, it has to be produced.

Speaker BERGSTROM: Okay. Mark, are you going to say something quick?

County Admin. ZIELINSKI: Well, sort of a follow up question about Bob's point because if I decided to say, "Teresa, you're -- I hear you're in the London phone book," you know, -- I'm sorry. "Teresa, I hear you're in the London phone book and it's a marvelous number." So we've referenced the London phone book in our discussion here.

Now somebody could come to me, because this is where they fall on my desk as the keeper of the record, "Yeah, I need a copy of the London phone book." I'm like, "Well, I don't have a copy of the London phone book. No one's ever given me one."

So that's the question sort of on a follow-up basis, Bob, if you reference a document but you don't physically possess it, how do you produce it?

Speaker BERGSTROM: Chris, did you want to ask a question?

Mr. KANAGA: Yes, thank you. This goes to the scope of the documents, and I'm wondering if someone slips a note under the door at my office that says something about wind turbines or some subject that has come before us, and I pick it up, read it, throw it in the trash; public document? And, if so, how long do I have to keep that piece of paper?

Ms. MCCUTCHEON: Exactly.

County Counsel TROY: Well, under the Public Records, it says its data or it's a document and it's either -- it was received by you, it is a public document. Therefore, you are required to maintain it.

And I'm going to have to -- you're going to be included back in that because I don't have that -- I don't want to give you the wrong -- I think I know but I'm not sure, and that's the worst thing to give you incorrect information. I'll get back to you in writing as to how long.

Ms. MCCUTCHEON: That's great.

Speaker BERGSTROM: Well, I guess we'll move right along, and the last question is legal representation to the Assembly. I brought this up on occasion.

I'll give an example. Let's say the Assembly passes an Ordinance or Resolution that says we want to raise sheep on the lawn out here.

So, off it goes to the -- and we say, "Okay" and we pass this by two-thirds. Off it goes to the Commissioners and the Commissioners say, "Forget it. We want to raise goats. We're not going to let you do this." And we say, "Well, we have a right to do it because we passed the Ordinance." Okay.

So now we've got to resolve this. So they go to the County Counsel. The County Counsel says, "Well, I'll vote on behalf of the goats. I think the Commissioners are right."

Now, I respect you're an attorney but you're not a judge. In other words, you're giving me an opinion so we might not agree and the Assembly is determined that we have a right to do something, and now we're at odds with the Commissioners; how do we resolve that?

And the two scenarios that have been brought up before the Assembly in our discussions have been (1) that we have some other counsel, separate counsel like we would on the Charter Review Committee. But in further discussions we said, "No, we simply have access to the Legal Reserve Fund that the County holds."

So the question is are we currently free to have an intramural contest with the Commissioners or anybody else who opposes it; do you know what I'm talking about?

County Counsel TROY: I understand. Let me give you my opinion. Keep in mind

that lawyers interpret things differently. So I want to just run through you the way I would analyze it, and then I will give you my opinion.

In practice, I've been County Counsel for a long time. I do not remember any occasion when the Assembly requested Special Counsel from the County Commissioners and it was denied. And I remember numerous occasions when it has been requested and been approved.

But let me back up and tell you that this -- I sent to two Delegates, and I believe all of you received my response, copies of a case that went to the Appeals Court, the *City of Boston City Council versus the Mayor of Boston*, and it deals with this exact issue.

The City Council wanted to have their own lawyer, and the Mayor of Boston said, "You can't. We have corporation counsel." And in that, what I got out of it was, everybody can read different things out of cases, but what I got out of it and what is particularly important is the authority that -- and it goes through the City of Boston and its Historical Authority and the Charter and the Governance, and that's how the court analyzed it.

So the way I would look at this is we would be in the same situation. We would look to our Charter. Now the Charter only makes a reference to the Cape Cod Regional Government Legal Officer, singular. That's all. It actually only mentions that particular individual with respect to one process.

So that's all the information we have about that. And the Charter, of course, was passed by the voters so presumptively that is some type of official record.

The second is the Administrative Code. The Administrative Code provides for general counsel and it also provides for Special Counsel appointed by the County Commissioners; that's in Subsection (c).

And in Subsection (d), it has language that says nothing in this section should be interpreted to suggest that the Assembly should not be able to have its own counsel.

And I remember because I worked with the Assembly. I remember Roland DuPont, in particular, was the person who sponsored that item. So that's authority on the subject too.

The past practice has been that when the Assembly wants to have counsel, for instance in the scenario you gave about a particular issue, that they go to the County Commissioners and they say, "Here's an issue; we disagree with County Counsel's interpretation and we want to have a second look."

And as I say, that has been freely granted. I never ever remember it not being approved. And there's no problem with that. But keep this in mind and look at the bigger models. This is one of things that Janice and I were talking about was in the Regulations about the Open Meeting Law. They talk about Regulations about County government, and it says that the posting should be over at the County Commissioner's office. And I spoke to her, and I said, "Well, we are really not a County government because a County government, the way Counties existed was it's what's called a unicameral, a single chamber. It was just County Commissioners; they ran everything.

We are a regional government, and we are a bicameral. It's a legislative model frankly based on Montesquieu and separation of powers. And it's a model which is based on a bicameral system where there are County Commissioners and there is a legislative delegation.

If you look at that, look at the other situations in which that type of government exists. One is the United States. In the United States, who is the legal officer for the corporate United States government? It is the Attorney General appointed by the President. The

Attorney General is also the lawyer for the Congress. That doesn't mean they can't have Special Counsel appointed pursuant to --

You all remember the supreme irony when the -- in Watergate when the Special Counsel, which was authorized by the Congress by a Congressional enactment and was investigating the President, was fired by the President -- he was investigating the President; I'm sorry, investigated by the President; he was investigating the President; the President then fired him. So I think if you look at that model that tells you something.

If you look at state government, the Governor -- and the state government's a little bit different. The Attorney General is not appointed as it is in the federal model; it's an elected position. But the Attorney General represents the legislative body too.

So, what I got out of all of this is that the model says that most bicameral government organizations work through a single legal officer, but in certain situations there are exceptions when it is needed that the legislative body needs its own opinion and there is a way of doing that. Congress passes a law, the Legislature can pass a law at the state level, and I think at the County level the Assembly requests the County Commissioners to appoint a counsel. Obviously, the Assembly chooses its own lawyer, but they asked for that.

I think the issue of whether the money's available is really not material. It's a question of whether or not the process has fallen.

So that's my answer on that.

Speaker BERGSTROM: Good enough. Okay.

County Counsel TROY: I'm sorry; it is confusing and I understand. It's a confusing issue.

Speaker BERGSTROM: Well, hopefully, it will never come to that. Leo, did you want to follow up?

Mr. CAKOUNES: Just because I thought I heard you say at the very beginning because I understood everything you said after the statement that I thought you said with exception of the Assembly being able to hire their own counsel.

So, if the Assembly voted to hire their own counsel or separate counsel for some specific purpose, does that, in fact, still need to be approved by the Commissioners under the Special Counsel language in the agreement that we operate under?

County Counsel TROY: And, Leo, the reason why it's confusing is because I don't have an answer to that question. It's not clear in the Administrative Code. I said that in my letter back. It's not clear that (d) -- the question is is Subsection (d) which says the Assembly can do that, is that independent clause or is that to be read in the context of (c) which says you have to go to the Commissioners?

So, I can't give you an answer on that.

Speaker BERGSTROM: Well, let me give you an answer to that -- my answer to it, a third opinion is the reason I asked these questions is because we're doing two things right now. We're going through a budget; we're also going to a Charter Review Committee.

So the question of how -- if there's any ambiguity in that language we can deal with that through the Charter Review process and the Administrative Code.

County Counsel TROY: But I will say this, this is one place the Charter doesn't need to be fixed. As far as, the Charter Review Committee is specifically authorized in the Charter to have independent counsel.

Speaker BERGSTROM: But I mean if there's ambiguity in the language as to

whether or not the Assembly can have Special Counsel and that ambiguity is to the language in the Charter or the Administrative Code that can be corrected in the process.

County Counsel TROY: Yes.

Speaker BERGSTROM: Leo.

Mr. CAKOUNES: Thank you for being upfront because it clarified everything. The only other question I have is because I'm a big one with intent. Personally, I think intent means a lot. You mentioned earlier that you were actually here and present when a gentleman -- I think you said Ronald DuPont put that language --

Mr. ANDERSON: Roland.

Mr. CAKOUNES: Roland DuPont, thank you. What do you believe his intent at that time was for Subsection (d) to, in fact, supersede the previous section where it has to be approved, or that the Assembly was exempt from the previous section, or do you have an opinion on the intent?

County Counsel TROY: I don't. I can't tell you what his intention was. I mean, as you know, Roland served both here as the Speaker and he was also a County Commissioner. I think he was elected by the Assembly to fill a position -- a vacant position. It might have been Rob O'Leary's position on the County Commissioners.

So, I don't honestly know that. I can tell you this though that it would have been a better idea when that part of the Administrative Code was adopted if we had looked at that more carefully and tried to clear up that ambiguity.

Mr. CAKOUNES: Thank you.

Speaker BERGSTROM: Well, thank you, very much.

County Counsel TROY: Thank you.

Speaker BERGSTROM: You have been very informative.

County Counsel TROY: Thank you.

Speaker BERGSTROM: Do we have somebody else that -- So, I'm sure there will be follow up questions so you can look at your email, which will be a public document.

County Counsel TROY: Thank you.

Communications from County Finance Director Mark Zielinski

Speaker BERGSTROM: We now go up to Communications from Counsel Finance Director, Mark Zielinski, concerning the Fiscal Year 2014 Budget and related questions. Mark.

Mr. CAKOUNES: Can we ask Mark questions?

County Admin. ZIELINSKI: It's not a discussion; it's a communication. Thank you, Mr. Speaker. I will be as quick as possible. Maybe that should be in focus a little bit. How is that? Is that better?

Thank you, Bob. That was very helpful. So this is the presentation that I would have given when we delivered the Budget, and I apologize about not being here. I was ill that day. So it's just a 10,000 foot overview of the Fiscal 2014 Budget.

And I know you guys are working very hard on it already. You spent the past four weeks reviewing it. And I think you're just about done with all the Department reviews.

So I know you're intimately aware of what's in here, so I won't spend too much time going over it. You see it's just about a \$28 million budget, and that's substantially up from

FY '13. But don't forget, over the past few years, we've been in sort of a retrenchment mode where the budget's actually gone down. It's gone down by a substantial amount.

So you see it's an 18.2 percent increase from Fiscal '13. But there are some qualifiers in that as you are intimately aware now; \$2 million of that increase is really due to the dredge replacement that we're talking about. And of the 18 percent, that accounts for about 9 percent of that.

When I was here a little bit earlier, the Speaker also asked me to look at some of the other sort of pieces that are in there. \$308,300 are due to other Capital projects, most specifically in the Facilities Department, which you heard a little bit about from Steven today at the Budget Hearing, his Budget Hearing.

There's a little bit in there from our IT as well in terms of an increase. And \$263,283 or 1.1 percent of the 18.2 percent is due to the retirement and health insurance increases. Those are sort of those inadvertent increases that we really have no control over. So those are two big pieces in the budget as well.

In terms of the Revenues, both the County tax and the Cape Cod Commission tax increased 2.5 percent. I think that brings both of them over \$3 million for Fiscal Year '14.

And when you see those as well in your towns, keep in mind that this was a year that the EQV numbers changed. So, and every other year the DOR issues their new Equalized Value Numbers, and so it's not just a straight 2.5 percent increase for each town's assessment. It can do funky things because one town's Equalized Value can change relative to another town's Equalized Value at different rates. So it can do some strange things with the assessment.

We left the Deeds Excise Rate the same. It's \$2.70 per thousand. The Deeds Excise does increase though to 8 million. You heard from Jack Meade today and things are looking much better in terms of the deeds numbers. And our revenues from the deeds numbers.

The good news is the Registry business revenues exceed their department costs so we get a little boost from that number as well, and that's pretty consistent. That's happened pretty consistently over time. I think there was a couple of years over the past where their department costs exceeded their business revenues, but that's pretty rare.

That's a total Capital program. The \$3,691,400 of which 2 million of that is for the Dredge Replacement.

And, of course, we've been doing the past few years no Treasury Balance Fund. We're not assuming anything left over at the end of this year to fund next year's budget.

That's the chart that's in the budget. You've seen where the revenues are coming from in terms of the percentage, tax revenues. It's a percentage down a little bit this year, that's because the bond number, the borrowing for the Capital program is substantially up. So it's driven some of the other numbers down a little bit.

And that's the expenditures by group. You see Salaries, 40 percent, and Fringe Benefits, 16 percent, so they make up 56 percent of the Budget. That's pretty -- that's actually down a little bit I think from previous years because the expenditures that we're increasing really are in most of the other groups and that's because we've been short funding those groups over the past few years. We really haven't.

We've been sort of cutting back in each of the departments when we had to cut and going with as little as possible in terms of their contractual services, supplies, and equipment. And there's going to be a need to sort of build out those budgets back up just a little bit to

reach levels of a few years ago.

These are some of the Budget highlights. Just to mention, the County Administrator position; the Commissioners have indicated to you that they want to split the County Administrator position and the Director of Finance position. That's funded in there.

We did do the Arts Foundation again for 35,000. I should mention the proposal in the budget to separate the Assistant County Administrator's functions and fund those 75 out of the Energy Efficient Fund, 25 percent out of County funds.

Information Technology; we are continuing the Capital program for the wide-area networking phone systems and those types of things. And also in there is the Wellfleet IT Services, which I think Wellfleet's pretty happy about. They were here for the -- Tim King, who's the Assistant Town Administrator, was here for the budget review and he had good words to say. So that's encouraging.

You know, the Facilities Department, I had spoke a little bit about the Capital improvements that we're doing there. That's a substantial increase from last year. There are some needs at the Superior Court on the roof and on the front of the building; the parking lot needs some work, so we're going to be working on those.

And we're continuing to fund the Rest Area operation out of the License Plate Fund.

Cooperative Extension; we do have a full-time grant-funded position, a Solid Waste Reduction Coordinator in the Cooperative's Extension Budget, and they're also funding the Forest Fire Prevention and Management Mini-Grant programs, 25,000. We did 20,000 in each of those for this year, so that's up a little bit.

We talked about the Capital repurchase of the Dredge, Replacement Dredge. This will also give us the opportunity for at least a few years, a couple years to run two dredges. There's been a lot of talk about purchasing a second dredge for the sake of having a second dredge. This will give us the opportunity to see if that's really something that is needed, wanted, and that we can work on. So this will give us an opportunity to do that because we'll be able to operate the old dredge for a period of time.

Health Department. There are a couple of part-time positions that we funded in the Health Department. It's a Management Team Assistant as a part-time position and two positions in the Health Lab, a Lab Analyst and a Lab Assistant that we funded in the budget.

Also, Human Services, we did fund the Project Assistant, a full-time position that's 25 percent grant-funded from the Mass in Motion grant.

Children's Cove; this year we're assuming -- it's actually DCF, Department of Children and Families, funding of 100,000 along with the 80,000 for the SAIN Coordinator that we've been getting right along.

This year from DCF, we're getting 65,000. Stacy was pretty confident about the \$100,000 number so that's what we plugged into the budget for next year.

We're continuing with the Elder Services money for Meals-On-Wheels, 75,000, and we are continuing to pay the Public Safety, the remaining Unfunded Pension Liability for the remaining Sheriff's people.

We're doing a little bit of something with the Cape Cod Commission; we're calling it the joint initiatives. You see it in the Budget, and it's really with the Strategic Information Office, and that's follow-up to the whole Open Cape plan.

It gives us in the public sector the opportunity to do a number of things both for the County and for individual towns and units. And we're funding two positions in there; a

Systems Development Manager and an Applications Implementation Manager. And what those will really do is give us the opportunity to build and market a lot of IT solutions for our local towns.

And we did enhance the Municipal Support Initiative for the Water Protection Collaborative.

And, finally, on Shared Costs, we did fund the 2 percent COLA in there. And also for this year on the two appropriate reserve lines there's \$50,000 total in there; \$25,000 in each of those lines. This year we only carried 10,000 in each of those lines, which we haven't used yet.

So that's my brief presentation.

Speaker BERGSTROM: Okay. Do we have any questions for Mr. Zielinski? Yes, Leo, of all people.

Mr. CAKOUNES: Just before I forget, you briefly said I think before this last slide about the two positions under the Cape Cod Commission's Joint Initiative.

But, in fact, one of those positions is being funded from the Cape Cod Commission?

County Admin. ZIELINSKI: Correct, and one is from the County.

Mr. CAKOUNES: And one is from the County. I just wanted to make sure that I understood that when I saw the presentation.

Speaker BERGSTROM: Mark, I missed the \$300,000 for the Water Collaborative. Now we know that -- I don't know if it's the Commission or Barnstable County has been given a grant three -- who's the recipient of the three points --

County Admin. ZIELINSKI: 3.2?

Speaker BERGSTROM: 3.2 million.

County Admin. ZIELINSKI: Well, the County's the official recipient. But you remember a few years ago the Wastewater Collaborative started the Municipal Support Initiative, and it's really a program to get money into the towns' hands for the building of their Wastewater Management Plans.

So last year we went down a little bit. This year we brought it back up a little bit.

Speaker BERGSTROM: And did you expend that money last year? In other words was it --

County Admin. ZIELINSKI: Yes. There hasn't been one year that we've gone through the Wastewater Collaborative that they haven't gone through their budget. That's right.

Speaker BERGSTROM: Who reviews -- I mean, I don't want to show my ignorance, but do they have individual initiatives they apply for or do you simply distribute the money by population or something?

County Admin. ZIELINSKI: No. It's done through -- I'm not sure you want to use the competitive bid, but they do an award through --yeah, exactly, proposals.

Speaker BERGSTROM: And it's voted on by the Collaborative?

County Admin. ZIELINSKI: I believe so, yes.

Commissioner LYONS: Yep. No, Chatham actually received a lot of those funds in years past.

Speaker BERGSTROM: Oh, we get tons of money.

County Admin. ZIELINSKI: You get tons of money.

Commissioner LYONS: But you did. I mean Bob Duncanson was -- Dr. Duncanson

was on the --

County Admin. ZIELINSKI: Chatham and Harwich; that's where all the money went.

Commissioner LYONS: They got a lot of technical assistance.

Speaker BERGSTROM: Yes. Suzanne.

Ms. MCAULIFFE: I have a question on Capital, and I apologize if you have given this to us. There's been a lot of information with the Budget.

Do you have a long-range Capital Plan that the County has like a 3, 5, 7 year plan?

County Admin. ZIELINSKI: We actually do. We do have a five-year plan which, actually, I think it was asked for and I have forgotten to send it. So I will send it over via the Speaker to Janice and she can distribute it to you.

Ms. MCAULIFFE: Okay. And my second point is because capital is so crucial because it's always the first thing that gets cut when the money's tight. And it's also something that when it's in the budget can fluctuate when debts going on and going off. And I think it can kind of dilute what's really going on in an operational budget.

Going forward, perhaps the County and the Assembly might want to consider just having capital be a separate vote as opposed to rolled in the way you do it. I'm not suggesting that for this year; I'm just saying going forward because then it puts your capital in our minds and everybody's mind kind of front and center and isn't mingled so much with operational.

County Admin. ZIELINSKI: Sure can.

Ms. MCAULIFFE: It's just my perspective. And it's just a request that perhaps the Assembly can discuss or the County can discuss going forward. Thank you.

County Admin. ZIELINSKI: Just to mention -- I don't have the Charter in front of me, but I'm not sure what the Charter -- there's some specific language in the Charter about the transmittal letter and what the budget actually is, and it might say, "Operating in Capital." So that might be something for the Charter Review Committee.

Speaker BERGSTROM: Yeah. Apparently the Charter says that the Commissioners or whoever should submit a Capital Budget, I don't know, 30 days or 10 days or something before the official operating budget.

Apparently, Janice has dredged up an old Resolution which changes that, which brings up the question whether you can change a Charter by Resolution. So, I agree with Mark that the language has to be cleaned up.

And I think that when and if we hire an attorney, by the time the Charter Review Committee gets to the point where they're looking at it, a lot of those ambiguities will already have been cleared up by someone who knows what they're doing. Not that we don't but -- okay.

Yes, Deborah.

Ms. MCCUTCHEON: I just have a couple of questions. My understanding is that the Charter, whatever the date was, inquires that there be a separate document and you're saying you have one for five years (Inaudible).

County Admin. ZIELINSKI: We did a five-year for the Commissioners. The Commissioners asked to do a five-year. Just to go back on this sort of separate capital thing, way, way, way back when, this is pre -Janice and I think pre most of us except for Julia. I just point Julia out but she's here.

But we used to submit the separate capital plan like at the end of January, and I think

the reaction was that was why are we doing this? The budget's coming over in three weeks. So we sort of then henced the Resolution, I think, that Janice found that said why are we doing this? There's no reason to do it.

Ms. MCCUTCHEON: I don't have any problem with the timing of it of getting it with the budget, but I think it would be helpful to have this -- it does have the estimates of the methods of financing and annual cost of operating things.

County Admin. ZIELINSKI: Right.

Ms. MCCUTCHEON: Right. And that I think would be very useful. I mean I agree maybe there's a reason to look at breaking that out separately in the future as suggested by Ms. McAuliffe. But I would like to see it.

I know you probably gave this to us already, so I'm just going to reveal my ignorance. We don't have an audit yet for Fiscal Year '12; true?

County Admin. ZIELINSKI: I believe they are finalizing that right now, yeah.

Ms. MCCUTCHEON: But we don't have that?

County Admin. ZIELINSKI: You don't have the final version, no.

Ms. MCCUTCHEON: Have we been given unaudited figures for year-end '12?

County Admin. ZIELINSKI: You should have year-end budget numbers, yes, certainly. Those are certainly out.

Ms. MCCUTCHEON: I was interested in year-end expenditures and income.

County Admin. ZIELINSKI: You should have -- yeah, those should have gone out in the summer at some point in time.

Ms. MCCUTCHEON: Well, I'm unable to --

County Admin. ZIELINSKI: Okay. For year-end '12, that's easy to do, yep.

Ms. MCCUTCHEON: For year-end '12. And last time you were here, I asked you for year to date. What we have is the first two quarters.

County Admin. ZIELINSKI: Right. And I checked. We've been doing those quarterly. So, since its March 20, I said to JoAnn and Tricia, "Why don't we just do them at the end of March" if that's all right.

Ms. MCCUTCHEON: Okay. That's fine.

County Admin. ZIELINSKI: Yeah.

Ms. MCCUTCHEON: That's fine.

Speaker BERGSTROM: Mark, there's a legal ad in today's paper for accounting services; does that have anything to do with the audit? Did you know that?

County Admin. ZIELINSKI: Yes, I did. It's been six years -- maybe nine years -- six years since we did the last bid for accounting services, so we did a bid for accounting services.

Speaker BERGSTROM: Are you required to do that?

County Admin. ZIELINSKI: No, its best practice I guess is what I'd call it.

Accounting Services under Chapter 30(b) is one of those exempt things, like legal services, so you don't have to, but we've done it over time.

Speaker BERGSTROM: Yeah. Teresa.

Deputy Speaker MARTIN: I'm sorry; I might have missed something so I apologize if I'm asking something you already answered. I get where the 18.2 percent more spending is coming from.

Could you talk a little bit more about where the 18.2 percent more income is coming from because I'm kind of confused.

County Admin. ZIELINSKI: I would say most of it is from the Deeds number. We're going from 7 to 8,000,000 on the Deeds number. We are going up a bit on the Deeds Business revenue. I think we're going up 225,000 on that one.

And the biggest single one is there's \$2 million in the bond issue assumption for the Dredge replacement, and the debt service associated with that specific 2 million for the dredge is in the Dredge Enterprise Fund. We specifically put some debt service money because the Dredge is an Enterprise Fund. The Enterprise Fund and its rates have to cover the debt service associated with the dredge.

Speaker BERGSTROM: Yeah, Deborah.

Ms. MCCUTCHEON: I just had one thing further. When the IT Department people were in talking about a variety of things, it seemed that there were some specific and identifiable costs that were sort of in kind cost to CLC, for the Cape Light Compact.

And in that context, there was also discussion of occasionally carrying some of their costs; I believe you said in your budget. I guess there's a lot of -- I'd like -- I'm wondering if we could have a break down of what the in kind costs --

County Admin. ZIELINSKI: How much that is? Yeah, off the top of my head, I don't know, and there's nothing assumed in this budget to come from the CLC for IT Services, but that's certainly something we could look at.

Ms. MCCUTCHEON: Well, I understand it's going to be assumed to come from them. Just the gentleman from the IT Department appeared to have a pretty clear idea of how much equipment and how much it costs that --

County Admin. ZIELINSKI: Oh yeah, it was certainly something we can figure out. Yeah, that's not really --

Ms. MCCUTCHEON: It seemed to me that might be a relevant consideration.

County Admin. ZIELINSKI: Yeah, I guess I broadened it because sort of historically this has happened. The Cape Cod Commission is somewhat similar but what we've done in the past is, as you remember we were talking about that, Billy Travers' salary is in his -- his base salary's in the Commission budget. That's how we sort of always had taken care of that, that kind of cost sharing issue.

But that's something that we should probably look at more comprehensively for all -- across all of the County departments where we're spending the money and what for.

Speaker BERGSTROM: Yeah, I didn't really want to get into this today, but I understand how you're changing the job description of Maggie who's now the assistant and transferring her over to CLC.

And I've had some discussions, which I'm sure are public records, with a couple of people who note, and the suggestion came up that rather than have all these transfers back and forth for individual items and, for instance Cape Light Compact or any other similar organization that you just let out a service contract. In other words, you say we'll do this; we'll be the fiscal agent for -- you'll calculate it in your head and say whatever --

County Admin. ZIELINSKI: Flat rate, yeah, exactly.

Speaker BERGSTROM: Has that ever come to consideration?

County Admin. ZIELINSKI: Yes. We've done that for a number of things. We do that in some cases like for Orleans for the health inspector thing. George basically has a flat rate that we charge Orleans. We all agree that that's what we're going -- and if we spend more resources doing the contract this year than the contracts paid them, that's the way it

goes.

Speaker BERGSTROM: Okay. Leo.

Mr. CAKOUNES: I think this kind of question goes along with my Delegate from Yarmouth's position, so I'm just seeing the way some things are presented.

You mentioned the assistant's position which now is going to be cost-shared with CLC. And in your budget, you actually show a revenue stream coming from CLC for X amount of \$93,000. You show us carrying a \$104,000 salary, and we're coming up with the 25 percent because that's the division of the work.

County Admin. ZIELINSKI: Right.

Mr. CAKOUNES: That's not my question. So with that in that form of accounting, we also have -- I should say Cape Light Compact has other staff that are, in fact, employees of Barnstable County.

County Admin. ZIELINSKI: Correct.

Mr. CAKOUNES: They're in our retirement system. They, I assume, reimburse us for their salary because I remember when I first came here, we used to actually get a sheet that said I want to say close to a million dollars. Most of it was, once again, staffing. And it showed money out and money in.

County Admin. ZIELINSKI: Right.

Mr. CAKOUNES: We no longer do that, and I'm wondering if that's -- can we do that because I think its good information for us to have.

County Admin. ZIELINSKI: Well, they're all paid directly out of the Energy Efficiency Fund. There's no reimbursement. All of their costs associated with their fringes and supplies and all of those come directly out of the Energy Efficiency Fund.

Mr. CAKOUNES: But their checks are written from the County though? They get County checks?

County Admin. ZIELINSKI: Yeah, that's exactly right.

Mr. CAKOUNES: And, once again, I'm not disputing whether we should be doing it or not doing it; I'm just saying as far as the County purposes, its money in/money out. The old days we used to show \$1,100,000 in -- and I'm only throwing a number out there; don't anyone quote me on that -- and 1,100,000 out.

County Admin. ZIELINSKI: Right.

Mr. CAKOUNES: Again, it was just accounting information. And I'm wondering if --

County Admin. ZIELINSKI: You can get the accounting information. That's all available.

Mr. CAKOUNES: Okay.

County Admin. ZIELINSKI: Yeah, no question about that.

Mr. CAKOUNES: Thanks.

Speaker BERGSTROM: Part of this -- I take some responsibility for this because I brought up the subject of the format in which the budget was presented. I had hoped that to be a separate discussion way before we even got into the actual budget, but I never really followed up on that.

So I'm thinking between now and next year, we'll have a discussion with the Commissioners and with Mark as to the best way to present the budget so that everyone can understand what's going on.

County Admin. ZIELINSKI: Yeah, we'd be pleased to have a workshop like that.

Speaker BERGSTROM: Chris.

Mr. KANAGA: Yeah, just a quick question that you might be able to provide some information on. We're reviewing some of these budgets, as you know, and some of the line items -- the charges and obligations kind of goes out of whack year to year on some -- I mean there are huge increases.

County Admin. ZIELINSKI: Right.

Mr. KANAGA: Can you explain a little bit about what is in that line item?

County Admin. ZIELINSKI: Well charges and obligations are typically like red or subscriptions, dues; it's kind of a -- I hate to call it a weird catch-all but that's sort of what it is. It's got some strange things in there.

And then I think we answered the specific one that came up with Stacy a few minutes ago. She came back and said, "What's that 15,000 for?" And that was for paving the lower lot at her facility.

Mr. KANAGA: Okay. So it's sort of an overhead charge. Is any of this allocated department to department or is it always a specific?

County Admin. ZIELINSKI: The ones that are in a department budget are specific to that department. Yeah, there's no need to allocate it further.

Speaker BERGSTROM: Okay. Well, thank you, very much, Mark.

County Admin. ZIELINSKI: My pleasure. Thank you.

Speaker BERGSTROM: And hopefully we'll have a budget to the Commissioners by the end of next month.

County Admin. ZIELINSKI: First of May.

Speaker BERGSTROM: May 1 if everything goes well, which I hope it will.

Communications from Members of the Public

Speaker BERGSTROM: We now move on to communications from Public Officials?

Okay. We now move on to Communications from Members of the Public. Okay. I see a member of the public, heeding the information we got from County Counsel as to the limiting discussion to subjects not normally covered.

Mr. JIM ROGERS: Thank you. I'd like to invoke related questions under topic 11. My related question has to do with a letter that you all received from CVEC; CVEC's answer to the request for documents.

This is a question I had hoped somebody would have asked of Mr. Zielinski since he's the treasurer of CVEC.

It's taken two months for CVEC to say, "There's no answer. We don't have an answer for you." I remind you of a famous headline, I think it was when President Ford refused to bail out New York City, and the headline was "President to New York, drop dead."

You're being told to drop dead by CVEC. I'm used to that. I've been told to drop dead for the past two or three years, but I hope you will not take this. I hope you will not take this from CVEC. You deserve something more substantive than what you have just received.

Thank you.

Ms. KING: You should identify yourself for the reporter.

Mr. JIM ROGERS: Jim Rogers of Sandwich.

Speaker BERGSTROM: Yes, I see another hand up in the back.

Mr. PRESTON RIBNICK: My name is Preston Ribnick from Wellfleet, and I just have two really brief comments.

First is I really didn't understand what the attorney was saying, frankly, and I'm a member of the public so I guess I have a right to comment.

What I think I heard him say regarding Open Meeting Law was that under the items on your agenda that says, "Communications from Members of the Public," I firmly believe that the public should be allowed and, frankly, encouraged to appear before the Assembly and to express themselves on any topic.

The comments must be respectful and certainly brief, but I think it shouldn't be limited to the topics that are on the agenda, if I heard him right, because if that were the case, then how can members of the public ever come before you and raise issues before the Assembly.

And I draw your attention to what happened in our case about a year ago and a half ago and after 14 consecutive weeks of appearing before the Barnstable County Commissioners and not having anybody with --the Chairperson who runs the meeting wouldn't even acknowledge us many times or ever considered putting the topics of CVEC or CLC on the agenda.

We diverted our attentions under the Charter and we began to appear before the Assembly. And you were courteous enough to listen to our concerns which led to the appointment of the Special Committee, and we know what happened since then.

So, I'm not sure I heard exactly the way that conversation was going, but from a member of the public, I hope that you would continue to be open to members of the public appearing very briefly and presenting on any topic that they felt motivated to.

One last point, Mr. Speaker, I'm really speechless, frankly. My minds like turning around in my head how CVEC had put forth a letter two months after the original one went to them asking for very specific routine financial documents that every public entity maintains and should make available to any member of the public who requests it. And after two years of requesting it, we have had no success from the public.

And then to have the Assembly of Delegates make a very specific request and then to have almost 2 months later the CVEC come back with the response essentially saying we're not going to give you any of the documents. It really astounds me.

And as Mr. Rogers said from Sandwich, I am so hopeful that in the very near future that with all the other very important matters here that you're dealing with that you don't let this stand.

This, to me, is, frankly, I think it's a reprehensible act that they've done here, and I hope that you remedy it.

Thank you, sir.

Speaker BERGSTROM: Thank you. Okay. Are there any further comments from members of the public? Hearing none.

Assembly Convenes

Proposed Resolution 13-02

To establish a Charter Review Committee, required by Article 9, General Provisions, Section 9-4, Periodic Review, Charter and Ordinances, Subsection (a), Charter/Ordinance Review, of the Barnstable County Home Rule Charter.

BE IT HEREBY RESOLVED by the Barnstable County Assembly of Delegates:

Amends Resolution 09-02 and in accordance with Article 9, General Provisions, Section 9-4, Charter and Ordinances, Subsection (a), Charter/Ordinance Review, a Charter Review Committee is hereby established to review the Barnstable County Home Rule Charter, as amended, and Ordinances of the County, for the purpose of determining if any amendments or revisions are necessary or desirable. The Charter Review Committee shall make a report, with recommendations, to the Assembly of Delegates not later than ten months following the date such committee is appointed. The Committee shall be appointed by the Speaker and shall consist of five members. The composition of the Committee shall be:

- 1) The Speaker and Deputy Speaker;
- 2) One County Commissioner;
- 3) The President of the Cape Cod Selectmen & Councilors' Association;
- 4) One at-large member selected by the Board of Regional Commissioners.

Speaker BERGSTROM: Okay. The Assembly will now convene, and we will consider Proposed Resolution 13-02 to establish a Charter Review Committee.

I think I actually submitted this, and you should have a copy of it in front of you. I had discussions with the Commissioners on this on Friday. You've also heard their comments here earlier today. So I'll open up the discussion to the Delegates.

We are the body designated by the Charter to review the Committee. So we'll start with Cheryl.

Ms. ANDREWS: Thank you, Mr. Speaker. I have a number of questions, but I will certainly make the first one short so we can defer to all of them. I'm sure you have tons of questions.

My first one because I was not on the Assembly for a very long time and the last Charter review finished, there's a lot about previous Charter Reviews that I don't know.

And my question has to do with location. When you have the last, 2010, Charter Review, did you folks always meet in the same place and was it -- All right. I started looking at the minutes online, and I got the sense that the meetings moved around and that sometimes you lost a lot of members.

And that was one question I had because I think this maybe one of the most important Charter reviews that ever happened, and I'd like to attend. So, I'd like to know if it's going to be in the same place, in the same location, and the same time each meeting?

Speaker BERGSTROM: No, honestly, we held all the meetings right here at that table.

Ms. ANDREWS: Okay. Thank you.

Ms. KING: Mr. Speaker, the last one we may have, but I think the one before that they went around the Cape. So they had to -- I think the one we last had maybe happened here, but I think a couple of Speakers ago, they did go around. So, just to let you know.

Speaker BERGSTROM: Okay. Yes, Pat.

Mr. PRINCI: I want to commend you, Mr. Speaker, for putting this together. I'm very much in favor of a Charter Review Commission, as we have a lot of matters that need to be sort of hashed out.

However, I am concerned with the potential makeup of the Charter Review Commission. It says here in your Resolution, "The Deputy Speaker and Speaker." My concerns are more so having fair representation from the town of Barnstable and also the Mid-Cape area, and my fellow Delegate from Yarmouth as well.

We have the Speaker and Deputy Speaker; that's Chatham and Eastham; one County Commissioner either Falmouth or Harwich or Wellfleet; the President of the Cape Cod Councilors, that's Sandwich, and the only hope that by this is that we get a fair representation from the Mid-Cape on this review committee is either in the hands of the County Commissioners for their one appointed, and in your hands, Mr. Speaker, as far as the three other appointees.

And my concern comes, basically, also from when you look at the makeup of the Committees and the Chairs of the Assembly it's as such. Most of the Chairs are from either the Lower Cape or the Upper Cape.

And if you look at the Finance Committee, there's no representation on the Finance Committee from the Mid-Cape.

So I'm hoping that we can possibly, you know, wait to hear from some other Delegates that there is other language in there similar to the one that was comprised of in '09 whereas there is specific language in there for Upper Cape, Mid-Cape, and Lower Cape areas to have that representation.

Speaker BERGSTROM: Thank you. Anybody else? Yeah, we'll start with Suzanne.

Ms. MCAULIFFE: I hadn't looked that closely at the representation in terms of Mid-Cape being represented. I just figured because we were the newest people on the Assembly and the least experienced that sort of the experience trumped in terms of chairing committees and representation.

But I do hear you in terms of representation for a Charter Commission, and I had two ideas and I don't know how to propose these. One is in terms of numbers which might increase one or two more appointed. I know you've got odd numbers. We might increase chances for more of a Mid-Cape representation.

And then also specifically I mentioned the last meeting, and I'd like to amend to -- I'm not going to amend on the numbers. That's clear because I want people to hash that out, but I'd like to amend that it not be the President of the Cape Cod Selectmen and Councilors' Association, because as I told you in my experience in 10 years, I think two or three times the President was voted out while they were President. So it was sort of a -- almost a curse.

So I would propose to amend that it is an elected official representative from the Cape Cod Selectmen and Councilors' Association.

Speaker BERGSTROM: You know, just a procedural matter here. My Resolution is actually amending an existing Resolution. In other words, we have a Resolution on the books

now as to the makeup of the Charter Review Committee. I didn't feel that we had to go by that Resolution because it's not a 5-year committee.

But we talked to County Counsel and he said, "You're better off going along with the language in the Charter for the 5-year committee."

So now the only thing in the Charter that says that -- the only specification in the Charter is representation from the various municipalities, which is why I put in the President of the Cape Cod Selectmen & Councilor's Association to fulfill that requirement.

Now if the Delegates don't like my proposal and I don't blame you if you don't, it would be easier for me to withdraw that proposal and you could directly amend the previous Resolution. In other words, the Resolution that's on the books now.

The previous Resolution has memberships from all three regions. It has a County Commissioner. It has, I think, what is it? You got it? I don't even have it in front of me.

Ms. MCCUTCHEON: I have it in front of me.

Speaker BERGSTROM: What does it say?

Ms. MCCUTCHEON: It says -- I, frankly, think it's a much better composition, but I'll speak to that later.

It says the "Speaker or the Deputy Speaker." It says "Three Delegates from the Assembly representing the Upper, Mid, and Lower Cape areas; one County Commissioner; four Cape residents representing the Upper, Mid, and Lower, and one at-large member selected from nominees from the towns within Barnstable County reflecting a geographical balance for the regions. And the Chair shall be elected by the members of the Committee."

I do -- well, I don't have the floor right now because you just asked the question.

Speaker BERGSTROM: Yeah, well my feeling -- I don't want to interrupt anybody else, but my feeling is that, yeah, if you guys want to expand this, its fine. The problem and we have two other people who are on that committee that could speak to it is that 9 is a lot of people. I thought that 9 were too many.

I thought 5 may not be enough, so maybe we'll compromise on a number. I won't suggest what that number is but.

Mr. ANDERSON: It has to be odd; it's got to be 7.

Speaker BERGSTROM: But I mean, plus, so much of the work has already been done, as the Chair of the Commissioners' said, "We're looking at the report of the Special Commission on County Governance."

Ms. KING: No, no, we shouldn't do that. Why would you do that?

Ms. ANDREWS: Don't bring that up. Don't bring that up.

Ms. MCCUTCHEON: I want to speak to this.

Speaker BERGSTROM: All right. Let me finish. A lot of reviews of the Charter have already been done. So I just felt that -- and, also, when we did the previous incarnation of the Charter Review Committee, we sent out nominations. In other words, we asked for nominations from the various towns and people came forward, and then we picked from them. It was a time-consuming process, and I thought that it would be easier to simply pick people from outside.

And I agree with Pat; it should have regional balance. And if I have any appointment authority in it, I will make sure it does have regional balance. So, anyway, so now you can have at it.

We'll give Leo a chance and then back to Deborah.

Mr. CAKOUNES: I want to approach this in a couple of different ways. I don't want to -- I will just weigh in very quickly on the makeup. I agree; I think it should be changed.

I did send today by email a copy -- I don't know if our Clerk -- everyone has this? Have they received mine?

Clerk O'CONNELL: No.

Mr. CAKOUNES: Then I would like to ask if the Clerk could copy it so I could hand it out because it would make it easier for me to reference it.

I take issue with the Section of the Charter that it refers to, which is 9-4. 9-4 specifically talks about the five-year review. I'm not asking here as a Delegate on this board that we do a five-year periodically review. That's not what my intentions and my voting to support the organization of a Charter Review Committee.

I'm here to support the creation of a Charter Review Committee, more specifically under Section 9-1, which goes on to specifically state that a whole other different reason for doing this.

When you kind of take out the aspect of this periodic review, I believe it puts us into a different mindset. I want to remind the Assembly members that there was a Resolution put forward on the restructure of County government. It did pass by a majority of this board. It called for a pre-complete restructuring. Five County Commissioners voted for the 20 percent representation across the Cape, language for a strong Administrator, and leaving the Assembly as a representative body that it is.

I threw comments into that Resolution that I would like to see the Assembly have a little bit more authority, maybe different things. Those are the things that I would like to see our appointed Charter Review Committee to look at.

I would not support and I will not support a Charter Review Committee to be brought together to continue to look at different things and different ideas, and to continue to look at all these other different committees that have come forward with their ideas because I don't want to see them waste nine months and then come back to this board and not have this board support the general concepts of what they've wasted nine months in doing.

For lack of a better explanation, I believe, and although maybe some of you who voted against the Resolution will not agree with me, but I do believe that the Assembly has laid out a roadmap.

What I would like to do now is appoint a Charter Review Committee to take that roadmap, fine-tune it, and come back to us with a general, again, white page piece of paper saying this is where we're going.

And then once it's voted here and in support by the majority, then it will go to some kind of County Counsel to, in fact, do the legal verbiage.

Now that's not to say in the meantime that they cannot look at other things that we -- I think should take the time to show the subcommittee that we are in support or not in support of.

And I won't deliberate it now, but just so you can understand what I'm talking about. There is the public has been calling out for some recall language. At some point, we should vote on whether we support our new formed committee to look at this or not. Because if we don't support it, why should they be wasting their time to look at it.

So right now going back to the original Charter, I did take the time to go through the amendments. For deletion, are in red. I referenced Section 9-1 as opposed to 9-4. I do also

put in here in large print, “And prepare a petition to be filed in a timely manner with the State Legislature for their enactment.”

Why I did that? It’s because under Section 9-1 where it discusses the changing of the membership of the majority -- I’m sorry; we’re changing the composition mode or election term of office that there will, in fact, have to be special legislation approving that, then the Assembly of Delegates shall file a petition.

So I thought it would be prudent to have that language in there. Let the subcommittee work on the correct vehicle, if you will, that we’re supposed to go down if, in fact, they’re going to be focusing on the roadmap that we’ve already voted.

Again, I believe now you have a copy of my proposed changes in front of you. I will just show you that the makeup that I went with was in red it was “five” that was the existing. I propose a “seven-member board.” Once again, I served on a nine-member; I do believe that was too many.

Speaker BERGSTROM: Oh, I’m so glad you thought it was too, Leo.

Mr. CAKOUNES: I left just “The Speaker.” I have no problem with saying -- changing that. I would put down “One County Commissioner or their representation” allowing them to chose someone to come to the table; “Three members of the Assembly.” I admit that I left out that they should have been probably geographically chosen; “Two members at large are chosen by the Speaker.”

I have no problem with amending my makeup listening to Ms. McCutcheon’s discussion. I think her makeup was probably a little better.

But I do think the first thing that I want to know and I would like to have some discussion on is the very first part of this Resolution. Because if we’re voting for to makeup a Charter Review Committee under 9-1, I’ll have to tell you I will not -- I’m sorry; under 9-4 for the periodically review, I probably won’t be supporting it.

Speaker BERGSTROM: Yeah, Deborah.

Ms. MCCUTCHEON: Okay. I really appreciate being given credit for the Resolution 9-02, which was passed before I was even on the Assembly. That was the original composition of the Charter Review from some years ago, and I thought it was fairly constituted.

I agree with much of what Leo said, and I will tell you what I don’t agree with. I did call the Speaker and tell him that I didn’t like his Committee. I thought it was -- in my words, “a bad job.” It afforded so little broad representation that I thought it preordained a conclusion.

I have very strong feelings about the composition of the Assembly. I think everybody knows that. I think that small communities have a voice here that outweighs their population in some ways, and that fair debate leads us to reasoned conclusions.

That being said, I don’t think that we should go into a review of the Charter with my preconceived notions or the Commissioners preconceived notions as binding upon the outcome.

I know the Commissioners, or at least am aware, that there is a lot of support for the idea that the Assembly should be abolished. I’m not going to say that I object to having people who have that point of view on this Commission. But I think it needs to be fairly constituted to represent all of these points of view.

I’m going to speak in favor of a nine-person committee. A nine-person committee;

five is quorum. Five people are enough to have a meeting with a rational outcome. You get three people having a meeting making decisions, you end up with something that is not as, I think, as valid. Okay.

So that being said, what I would propose is that we look at integrating these Ordinances and try to come up with a formula for a Committee that we can charge to undertake and review the Charter.

Now I disagree with Leo about his interpretation of the Charter. There is a procedure under 9.4 for a periodic review. Absent that, I think that the Assembly of Delegates has broad review -- broad authority under the Charter to undertake a review.

Mr. CAKOUNES: Yeah, 9-1.

Ms. MCCUTCHEON: File a -- it's just generally under Article 9. We would not be proceeding with the -- because it's not an odd year or an even year or whatever that was, the 0 or 5 or something; we're not there.

So, but we have authority to convene a committee, decide who the committee is, hire a lawyer for them; please do that because that's where you get a product when you send a bunch of citizens off and you don't have a meeting, and somebody's who's job it is to write up stuff for them, you don't end up with a product, witness our last Charter review.

And I'm not sure we're ready to vote on this today, but I think there are a lot of good ideas here. I just think that we need to go into this with an idea that we want to come out with a fair and rational outcome that hopefully this entire Assembly can support.

Speaker BERGSTROM: Okay. I just want to comment on that. I happen to agree with both Leo and Deborah that I don't think the Charter limits us to the language in that section that speaks of a periodic review.

However, the language is so broad that it would be very simple to comply with it in any form of committee that we have anyway. In other words, if I were to appoint a Selectman from Provincetown and a Selectman from Bourne and a Counselor from -- where are you --

Mr. PRINCI: Barnstable.

(Laughter.)

Speaker BERGSTROM: Barnstable. That would fulfill the requirements of the municipal representation. So in other words I'm just saying is we could avoid that legal argument by simply appointing the right people who have -- so we have municipal representation on the committee.

I'm going to weigh in on this. I'm going to, first of all, I'm not going to move forward my Resolution which is I'm going to -- we're going to have a debate and we can then come up with another Resolution. We've already noticed it on the Agenda.

I still think -- this is what I think right now. Having heard Leo, having heard Deborah; Leo's for 7; I was for 5; Leo's for 7; Deborah's for 9, but I think if we took Leo's Resolution and we said, "Speaker, one County Commissioner or their representative" then we could have two members of the Assembly. We could eliminate the President of the Cape Cod Selectmen & Councilor's Association. And then we could have three members at large, three members being representatives of the municipalities, one from the Upper Cape, Lower Cape, and Mid-Cape.

Now, speaking to Pat's argument about not having a representative for the Mid-Cape, this is kind of an aside now, what happens is that the Mid-Cape towns have such big votes, for instance Yarmouth and Barnstable, that often times I was in a position of putting a committee

together, next thing I knew that committee had a majority vote. So I tried to avoid putting too many big votes on a committee because if I did that, then the other Delegates felt like they were not going to have any say in the end.

Ms. MCCUTCHEON: .9 percent.

Speaker BERGSTROM: Yeah, but you put Deborah, she's safe. She's only at .9.

Ms. MCCUTCHEON: I'm a full vote.

Speaker BERGSTROM: That's where I'm headed. If we could have a 7-member committee, appoint three people at-large; I could find three municipal officials who want -- who are familiar with this and could operate and could enter the committee and do a job. Have three Delegates including myself and two others, and a County Commissioner Representative; it wouldn't be weighed in favor of the Assembly. It wouldn't be weighed in favor, you know, I think it would be a better balance. So that's where I am on that. Leo.

Mr. CAKOUNES: I just want to clarify something because I think my fellow Assembly member stated that I did not believe we don't have the authority to do this.

I want to clarify that the Proposed Resolution states in the body of the Resolution itself under Section 9-4. And what I'm telling you is that I will not support a Resolution that specifically creates it for the purposes of a periodic review. I have the Charter right in front of me. That's what 9-4 is for.

I want to do it under 9-1, which gives the Assembly the authority to change the Charter on a non-even year, not looking at it as general provisions of the Charter, but because we want to change the Charter because we have specific things we are looking at.

So I believe we agree and not disagree with what I'm saying. It's just I don't want to see the periodic review section of the Charter being referred to.

Speaker BERGSTROM: Well, Leo --

Mr. CAKOUNES: Just Section 9-1.

Speaker BERGSTROM: -- I haven't moved the Resolution that I submitted. So right now, the floor is open to anybody who wants to --

Mr. CAKOUNES: The only thing I think I would say, if I may, with that is because nothing's been moved, nothing's been even placed on the floor for discussion; if -- you have my copy in front of you. If we want or someone would like to kick around the ideas of the makeup and we could somehow come to a consensus that we think would pass, I would be willing to move my amended version at some time after we do a little bit more deliberating. Thank you.

Speaker BERGSTROM: Okay. Do we all understand what's going on here?

Ms. ANDREWS: Not really. Because I guess my experience has always been you don't really have a discussion unless you put the Resolution on the floor and I thought you had.

If you haven't put it on the floor, then I guess we're just having a free-wheeling conversation about Charter Review.

Speaker BERGSTROM: It doesn't matter. You can do it either way.

Ms. ANDREWS: Well, it does because every time someone opens their mouth they've got a new idea, and I don't want to comment on all of them. You know, we could be here for the next five years.

I actually agree with Leo. If the big difference between one section of the Charter and the other is simply the purpose of this Charter review, you know --

Ms. MCCUTCHEON: I agree.

Ms. ANDREWS: -- there's not a big issue. I have read some of the minutes of the last Charter review. My sense is that people should not allow themselves to be appointed to this unless they plan on a pretty high attendance record. And, therefore, it should be 7 and those 7 better show up. And if they don't, they should be replaced.

I hope they are because we're empowering with them to do something really important and that's always been an issue for me that you have folks that don't show up and then all of a sudden we're announcing in the press that it was a unanimous vote, and I, of course, have the audacity to say, "Unanimous vote of who?" And I'm not told because we don't know who was there and how many of them were there. And then it dilutes the whole process again.

So, I'm leaning towards 7. I'm also -- I really am not going to vote for this unless -- well, I shouldn't say it that way. I'm feeling strongly Ron that you should be the Chair of this Review Committee. I do think it needs someone with a lot of Chairing experience and someone that will make sure that it doesn't go down, what we call it in Provincetown, a rat hole where they start talking about something for three months and you get nothing done.

I keep hearing us all say the same thing. We're going to do this regardless of who thinks what. Do it right.

So, I'm leaning towards 7. I'm leaning towards you being Chair for this to happen. I hope all the meetings are here on a regular basis so all of us can attend.

And as far as all these different ideas, I guess the big question I have, Ron; you came up with 1, 1, 2, and 3, with the 3 being at-large, but I wasn't clear under your proposal who would appoint them.

Frankly, from what I read in the Charter, you appoint this committee, and if you defer too many positions to the County Commissioners, then it begs the question is this actually appointed by you or by them.

So I hope the final one that comes before us for a vote says what you were saying, which is the Speaker, One Commissioner, two members of the Assembly, and I think you said three at-large appointed by you --

Speaker BERGSTROM: Representing a geographic balance.

Ms. ANDREWS: -- as Chair. Certainly attempting to have some balance. Ironically, I feel the same way as far as geographic balance. I hope you appoint a Charter Review Committee of people that are skilled to have the conversation.

I looked at the minutes from the last Charter review, and it was very clear some people were expressing their opinions without any basis of experience or fact. That will not serve as well. Thank you.

Speaker BERGSTROM: Well, I don't want to get too far into this. In reviewing the last review, the issue was that I have a philosophy when you have a committee meeting and you discuss issues like this is that you leave the table having accomplished something. In other words, the meeting should have a beginning and an end, and, although, you can't always make -- sometimes you need further information, you should always be a progressive march toward whatever goal that you were trying to accomplish.

And too often in the last Charter Review Committee we wound up re-discussing things that we had already discussed and beat to death. And this is not just us. Every elected appointed body in the world does this but it can be a real problem.

So, Leo, why don't you put your motion on the floor.

Mr. CAKOUNES: Well, first of all, Mr. Speaker, I will just ask you how you would prefer me to do this. You have submitted a Resolution 13-02.

Speaker BERGSTROM: Right.

Mr. CAKOUNES: I have, in fact, worked out a document which is amending that. Would you prefer that I just make a motion to move forward 13-02 as amended or would you prefer to move 13-2, and then I'll move my amendment?

Speaker BERGSTROM: All right. Well, this is something that we have to discuss because we seem to be of a mind that we are not going by the 9-4 section of the Charter; okay.

Now, if we do that, if we are of that mind, then we don't have to amend the previous Resolution because the previous Resolution speaks about the Charter Review Committee established under 9-4. All right? So now we don't have to amend anything. Now we can put forward a separate stand-alone Resolution; all right? As long as we're on good legal ground doing that.

Ms. ANDREWS: No. I think clearly most of us are trying to explain that, no, you noticed on our agenda a Resolution.

Speaker BERGSTROM: Right.

Ms. ANDREWS: That should go on the floor. We can amend as much of it as we see fit.

Speaker BERGSTROM: I don't have to move my Resolution if I don't want to. Do you understand?

Ms. ANDREWS: Yes, I do, Ron, but if you don't, we haven't noticed that we were going to talk about.

Speaker BERGSTROM: So, what I'm saying is that we no longer -- if we presume that we are not forming a committee under 9-4, then we don't have to worry about amending -- we don't have to worry about dealing with the previous Resolution under 9-4. Now we're dealing with a separate Charter Review in the interim between 5-year reviews.

So, I'm going to make a ruling, which I could be overruled by County Counsel again because he didn't like it the first time, we are now dealing with a separate Charter review under 9-1; do we understand that?

Ms. MCCUTCHEON: I think that's right.

Speaker BERGSTROM: Deborah agrees. Leo, do you agree that we're dealing with a separate issue of the Charter Review Committee under 9-1? That's what you just said.

Mr. CAKOUNES: That's exactly what I believe, Mr. Speaker. What I'm asking you is how you would like to proceed. I feel that we have agendaed and we have put out there for the general public a Resolution 13-02.

Speaker BERGSTROM: Right.

Mr. CAKOUNES: There was language to that, and I've amended it, and I've brought forward and filed in a timely fashion an amendment to that.

Now if you would rather me take that up as the general -- the amended version as the Resolution --

Speaker BERGSTROM: Yes.

Mr. CAKOUNES: -- then I certainly would be more than happy to do that.

Speaker BERGSTROM: That would be --

Mr. CAKOUNES: I would suggest that, and, again, I'm not the Chairman and rightfully so because I'm not good at this stuff, but my suggestion would be that the

Resolution 13-2 as presented by you will be put on the floor and I will immediately amend it.

Ms. ANDREWS: Mr. Speaker, can I make that motion?

Ms. MCAULIFFE: Second.

Speaker BERGSTROM: Well, you can move the Resolution if you want to. Go ahead.

Ms. ANDREWS: I just did.

Speaker BERGSTROM: Okay. Moved and seconded.

(Motion carries)

Amendment to Resolution 13-02

To establish a Charter Review Committee, required by Article 9, General Provisions, Section 9(-4)-1, (Periodic Review, Charter and Ordinances, Subsection (a), Charter/Ordinance Review,) of the Barnstable County Home Rule Charter.

BE IT HEREBY RESOLVED by the Barnstable County Assembly of Delegates:

Amends Resolution 09-02 and in accordance with Article 9, General Provisions, Section 9-(4)-1, Charter and Ordinances, (Subsection (a), Charter/Ordinance Review,) a Charter Review Committee is hereby established to review the Barnstable County Home Rule Charter, as amended, and Ordinances of the County, for the purpose of determining if any amendments or revisions are necessary or desirable, AND PREPARE A PETITION TO BE FILED IN A TIMELY MANNER WITH THE STATE LEGISLATURE FOR THEIR ENACTMENT. The Charter Review Committee shall make a report, with recommendations, to the Assembly of Delegates not later than ten months following the date such committee is appointed. The Committee shall be appointed by the Speaker and shall consist of (five) Seven members. The composition of the Committee shall be:

- 1) The Speaker (and Deputy Speaker);
- 2) One County Commissioner; OR THEIR REPRESENTATIVE
- 3) THREE MEMBERS OF THE ASSEMBLY
- 3) The President of the Cape Cod Selectmen & Counselors' Association; and
- 4) TWO MEMBERS AT-LARGE SELECTED BY THE SPEAKER
- 4) One at-large member selected by the Board of Regional Commissioners.

Mr. CAKOUNES: Mr. Chairman, I would like to propose an amendment to the Resolution 13-02.

Ms. MCCUTCHEON: Second.

Mr. CAKOUNES: On the amendment?

Speaker BERGSTROM: Yeah, we have to --

Mr. CAKOUNES: Now I'd like to speak on the amendment. Those of you in the audience that done have a copy, we'll make sure you get one. I'm hoping that everyone here on the Assembly does have a copy.

For the reasons of understanding it, anything in red is proposed to be deleted. And I

added some language in large capital print. I will go through it as quickly as possible so it is read into the record.

On the first line, it refers to Section 9-4. I changed it to 9-1. It calls for a periodic review of the Charter and Ordinance under Subsection (a) of the Charter Ordinance Review; I propose deleting that language.

Down on the second paragraph of the actual Resolution itself, it refers to the general provisions 9-4. It is my intentions to delete the 9-4 and replace it with 9-1.

The other thing that I will be deleting is in that same sentence. It refers to Subsection (a) the Charter Ordinance Review. I propose to delete that.

Halfway down in that paragraph after the word “revisions are necessary and desirable” I added a comma, and then the following sentence, “And prepare a petition to be filed in a timely manner with the State Legislature for their enactment.”

At the end of the paragraph, the statement says the Committee shall be appointed by the Speaker and consist of five members. It’s my intentions to delete the number “5” and replace it with “7.”

Specifically to the makeup of the Committee, the Resolution as it was filed will be changed by, “Number 1, the Speaker the “And Deputy Speaker” shall be removed only leaving “Number 1, the Speaker.”

Number 2 will read, “One County Commissioner” and I’ve added “or their representative.”

Number 3, I intended to delete in its entirety, it says, “The President of Cape Cod Selectmen & Councilor’s Association” that will be deleted and replaced with a new Number 3 which specifies “Three (3) members of the Assembly.

And Number 4, I intend to delete in its entirety, it reads, “One at-large member selected by the Board of Regional Commissioners” and replace that with “Number 4, two (2) members selected -- two (2) Members at-large selected by the Speaker.”

And that is my amendment in its entirety. I have no problem with -- well, let’s put it out for discussion.

Ms. MCCUTCHEON: I’d like to move an amendment to the amendment. In the language about the petition, I would amend that to say, “And prepare a petition for filing with the State Legislature under the procedure of Section 9-1” because I think what Leo has outlined is not the right way to phrase it.

Speaker BERGSTROM: Where’s County Counsel when you need him?

Ms. ANDREWS: Deborah, just a procedural question. Wouldn’t it be better just to vote up or down on Leo’s amendment and then once that amended version is on the floor, proceed to amend that?

Ms. MCCUTCHEON: Sure. All right.

Ms. ANDREWS: I’m just asking.

Ms. MCCUTCHEON: I withdraw it.

Mr. CAKOUNES: That’s the best way.

Ms. MCCUTCHEON: I’m unhappy with the language, but I withdraw it.

Speaker BERGSTROM: Okay. So we’re not going to amend the -- I think we’ve been down this road before. It’s better to pass the amendment and then amend the final. So we have a motion on the floor. Do we have any discussion about up or down on Leo’s amendment?

All right. All those in favor say, “Aye.” “Opposed ?”
(Motion carried.)

Amendment to Amended Resolution 13-02

Speaker BERGSTROM: Okay. I want to offer an amendment now to the current Resolution 13-02.

And I would like to **change the language of the current version Number 3 to say “Two (2) members of the Assembly”** and the reason I’m doing this is because I am a member of the Assembly. I will be on that committee, and I represent a certain section of the Cape. And by having two more members, I can then represent three distinct areas of the Cape.

So that would be two members of the Assembly, and then **I would also amend Number 4 to say “Three (3) Members at-large selected by the Speaker.” And to add the language, “Representing three distinct geographic areas of Cape Cod.”**

Ms. ANDREWS: I’ll second that.

Speaker BERGSTROM: Okay. Do you understand what I’m doing now? Okay. You understand that. So it’s moved and seconded.

Mr. ANDERSON: I have a question.

Speaker BERGSTROM: Yeah.

Mr. ANDERSON: So you’re saying that you’re going to appoint two other members from the Assembly of Delegates?

Speaker BERGSTROM: Right.

Mr. ANDERSON: And you’re going to fulfill the area as the Lower-Cape representative?

Speaker BERGSTROM: Well, Chatham is kind of like, you know, I think of myself as Lower Cape.

Mr. ANDERSON: Okay. So but there is going to be representation from Upper, Lower and Mid?

Speaker BERGSTROM: Right.

Mr. ANDERSON: And are you saying that you’re going to fulfill one of those or you’re not going to fulfill one of those?

Speaker BERGSTROM: I’m going to fulfill one of those because there will be three members -- on this version, there will be three members of the Assembly.

Mr. ANDERSON: Yes.

Speaker BERGSTROM: There will also be three at-large members who are not members of the Assembly.

Mr. ANDERSON: Right.

Speaker BERGSTROM: Okay. It’s been moved and seconded. Leo.

Mr. CAKOUNES: I’ll speak to the amendment only. I’m probably not going to be in support of it. I feel that once again under the specific reasons of why we’re putting this Charter together is because we have some specific areas that we want them to look into. And I think it should be, in fact, heavily weighted by the Assembly. This is not a periodic review. This is a reason why we’re putting this together.

I like the way I originally made it up. I think the Speaker is fine to be there. I have no

problem with him being the Chair or not Chair if that language wanted to be added, but I won't be supporting the amendment.

Speaker BERGSTROM: Okay. Yes, Deborah.

Ms. MCCUTCHEON: I'd like to speak to the amendment with all due respect to everybody on the other side of Bass River that would be all of you except for -- we don't really think of Chatham as being, you know --

(Laughter.)

Ms. MCCUTCHEON: But I meant that's true. Chatham is a -- Chatham is a city.

Speaker BERGSTROM: We're lower Nantucket.

Ms. MCCUTCHEON: The rest of us are in rural kind of areas, except for Provincetown and Truro in the winter. I'm just saying.

Speaker BERGSTROM: Okay.

Ms. MCCUTCHEON: This is why I like nine.

Speaker BERGSTROM: Anyway, if there's no further comment, we'll take a vote on my amendment. Oh, we do have a further comment. Cheryl.

Ms. ANDREWS: While at the risk of stating the obvious, maybe, clearly there's a little bit of a conversation about how this committee could be weighted one way or the other.

And, you know, if you come in with a preordained end, clearly you're already lobbying for how you want this committee to go.

And for as much as I've had a lot of opinions, I'm leaning towards the concept that neither group has the majority and that we trust -- trust our Speaker to fill the rest of these slots in a balanced way.

And I plan to attend the meetings. And if it's not balanced, it will be a failure. So that's the reason why I quickly seconded the motion, even though I understand the concept of having four Assembly members on this.

I'm going to go ahead and take the leap of faith and give this one shot because I think this is our big shot. So, Ron, I made that speech only because I wanted you to hear it because we're watching you. Thanks.

Speaker BERGSTROM: Okay. I'm going to call for -- Yeah, Pat.

Mr. PRINCI: Just a very quick comment. I don't feel that there should be a lot of Assembly members on this committee. As I have had heard talk out there that part of this -- it's in the recommendations of the Special Commission to abolish the Assembly. So, therefore, I feel that I like what you're saying by taking away one member of the Assembly and adding in another member appointed from the public. Thank you.

Speaker BERGSTROM: Okay. I'm going to call for a voice vote on -- call the roll on this because it's going to be a split vote.

Mr. ANDERSON: Could you give the final of what you're going to have? You said about four different things on how you're going to do this.

Speaker BERGSTROM: No, no, no. I'm amending Leo's Resolution -- to include 1. The Speaker, 2. One County Commissioner or their representative; 3. Two members of the Assembly; 4. Three members at-large selected by the Speaker.

Mr. ANDERSON: Oh, okay. Thank you.

Clerk O'CONNELL: Representing three distinct geographic areas.

Speaker BERGSTROM: Representing three distinct geographic areas.

Ms. ANDREWS: Could I amend -- oh, wait. We can't. Right. I want to make you

Chair.

Speaker BERGSTROM: The Delegate from Provincetown suggests that we not do that.

Ms. ANDREWS: That's right, she did.

Speaker BERGSTROM: Okay. So, we'll take a roll call vote now.

Roll Call Vote on Amendment to Amended Resolution 13-02:

Voting YES (62.19%): Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% - Provincetown), Ronald Bergstrom (2.84% - Chatham), Ned Hitchcock (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Teresa Martin (2.30% - Eastham), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Patrick Princi (20.92% - Barnstable).

Voting NO (12.16%): Leo Cakounes (5.67% - Harwich), Marcia King (6.49% - Mashpee).

Absent (25.74%): John Ohman (6.58% - Dennis), Anthony Scalese (4.55% - Brewster) Julia Taylor (14.61% - Falmouth).

Clerk O'CONNELL: Mr. Speaker, the amendment to Amended Resolution 13-02 passes with 62.19 percent voting "Yes"; 12.16 voting "No"; and 25.74 percent absent.

Speaker BERGSTROM: Okay. That now becomes the current Resolution on the floor.

2nd Amendment to Amended Resolution 13-02

Ms. ANDREWS: Thank you, Mr. Speaker. May I offer an amendment? We add language that will state that the Speaker of the Assembly of Delegates will Chair this committee.

Speaker BERGSTROM: Yes. Do you have a second on that?

Mr. KANAGA: Second.

Speaker BERGSTROM: The Speaker may have to check with his wife. He's chairing enough committees already.

Okay. It's been moved and seconded; any discussion on that?

Okay. All those in favor, say "Aye." "Opposed?"

(Amendment carried.)

Speaker BERGSTROM: I'm going to be sorry about that. Deborah.

3rd Amendment to Amended Resolution 13-02

Ms. MCCUTCHEON: I propose that we **change the language that says, "And prepare a petition to be filed in a timely manner with the State Legislature for their enactment" to read, "And prepare a draft petition for filing with the State Legislature under the procedure outlined in Section 9.1."**

Ms. KING: Second.

Speaker BERGSTROM: Okay. It's been moved and seconded.

Ms. MCCUTCHEON: I have another piece to that amendment and I -- I'll do that amendment. I also want to amend to add ---

This is just to make different language, and I'll read it again; "And prepare a draft petition for filing with the State Legislature under the procedure outlined in Section 9-1."

Speaker BERGSTROM: Okay. That's already been seconded, so that's the motion on the floor. Any discussion on that amendment? Yes, Leo.

Mr. CAKOUNES: Just because I love batting back-and-forth things with attorneys. The Resolution, the very first line states amend Resolution -- I'm sorry. "In accordance with Article 9 General Provisions Section 9-1."

So I feel legally we're covered. I certainly will not argue it, and I certainly will accept and vote for your additions, but I feel we're already covered.

I think your concerns are covered with the first half of the Resolution, but I'll support it.

Speaker BERGSTROM: For your information, just to make -- I'll take a vote on this in a minute, but I'm going to run this by County Counsel even after it's approved. So if we have to come back and clean up the language for some reason or another and we agree with what he says, we can do that.

But right now, this is Deborah's motion that's on the floor. So, okay. All those in favor of Deborah's recommend -- amendment, say "Aye." "Opposed?"

(Amendment carried.)

Speaker BERGSTROM: Okay. You're on the floor again.

4th Amendment to Amended Resolution 13-02

Ms. MCCUTCHEON: Okay. And the other thing I want to do is to -- **after the first process of Section 9-1, we insert the language that says, "The Assembly of Delegates directs that Special Counsel be retained for purposes of this review."**

Speaker BERGSTROM: Okay. Does everyone understand what this is? This goes along with the suggestion made by the County Commissioners, so, apparently, they're going to approve it.

Ms. ANDREWS: I'll second that.

Speaker BERGSTROM: Moved and seconded. You all understand we're entitled under the Charter to have Special Counsel, and I think that's a good idea.

Okay. All right. It's been moved and seconded. All those in favor say, "Aye". "Opposed?"

(Amendment carried.)

Speaker BERGSTROM: Okay. Are we coming to the end here? No further amendments?

Mr. CAKOUNES: Let's vote on it as amended four times.

Speaker BERGSTROM: Okay. Well, no, we've been voting all along, I hope.

Mr. CAKOUNES: Amendments. Now we have to vote it as amended four times.

Mr. ANDERSON: Mr. Speaker.

Speaker BERGSTROM: Yes.

Mr. ANDERSON: Could we get this printed out so that we know what we're voting on. I'm sure people have got hen scratches all over their paper?

Clerk O'CONNELL: Not now.

Ms. KING: Not now.

Clerk O'CONNELL: You're not going to get it now.

Mr. ANDERSON: Nobody can type it up now?

Clerk O'CONNELL: No.

Speaker BERGSTROM: Okay. Leo started this run with -- as an amendment.

Mr. CAKOUNES: Right.

Speaker BERGSTROM: So to my original submission, which I put on the floor. So, he's right. Now we need to vote on this whole package.

So, the package is this. We're going to have a Committee with seven members: A Speaker, County Commissioner or their representative, two members of the Assembly, and three members at-large.

Deborah has put in some legal language to make sure we're on good ground according to the Charter as to how this is established. And we've also indicated -- mandated that we have legal counsel assist us from the beginning of the process. That's where we are with this.

Ms. MCAULIFFE: You've forgotten that you will be Chair.

Speaker BERGSTROM: And I'm going to be Chair. And the members are going to be picked from distinct geographic areas.

Ms. ANDREWS: By you.

Ms. MCCUTCHEON: Can I move that we request that the Speaker write this up, obtain opinion of counsel, and come back to our next meeting with a revised Ordinance?

Speaker BERGSTROM: Well --

Ms. MCCUTCHEON: I know everybody's -- all right. I withdraw it.

Speaker BERGSTROM: I don't want to lose what we've already done.

Ms. MCCUTCHEON: No, I understand that. On the other hand --

Speaker BERGSTROM: Yeah, we've got to go forward. So that is the Resolution on the floor.

So why don't we take a voice vote -- I mean a roll call vote. Poor Janice; she's writing over here.

Amended Resolution 13-02 with (4) Amendments

Roll Call Vote on Amended Resolution 13-02 with (4) Amendments:

Voting YES (65.11%): Cheryl Andrews (1.36% - Provincetown), Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), Ned Hitchcock (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Teresa Martin (2.30% - Eastham), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Patrick Princi (20.92% - Barnstable),.

Voting PRESENT (9.15%): Richard Anderson (9.15% - Bourne).

Absent (25.74%): John Ohman (6.58% - Dennis), Anthony Scalese (4.55% - Brewster) Julia Taylor (14.61% - Falmouth).

Clerk O'CONNELL: Mr. Speaker, Amended Resolution 13-02 with (4) Amendments passes with 65.11 percent voting "Yes"; 9.15 percent voting "Present"; and 25.74 percent

absent.

Whereupon, it was moved, seconded, and by a roll call vote with 65.11 percent voting “yes”;
VOTED:

To establish a Charter Review Committee, required by Article 9, General Provisions, Section 9-1, of the Barnstable County Home Rule Charter.

BE IT HEREBY RESOLVED by the Barnstable County Assembly of Delegates:

Amends Resolution 09-02 and in accordance with Article 9, General Provisions, Section 9-1, Charter and Ordinances, a Charter Review Committee is hereby established to review the Barnstable County Home Rule Charter, as amended, and Ordinances of the County, for the purpose of determining if any amendments or revisions are necessary or desirable and prepare a draft petition for filing with the State Legislature under the procedure outlined in Section 9-1. The Assembly of Delegates directs that Special Counsel be retained for purposes of this review. The Charter Review Committee shall make a report, with recommendations, to the Assembly of Delegates not later than ten months following the date such committee is appointed. The Committee shall be appointed by the Speaker and shall consist of seven members. The composition of the Committee shall be:

- 1) The Speaker
- 2) One County Commissioner or their representative
- 3) Two members of the Assembly
- 4) Three members at-large selected by the Speaker representing three distinct geographic areas of Cape Cod

The Speaker will be the Chair of the Committee.

Speaker BERGSTROM: Thank you. We’ve done some good work here. It was an uphill battle.

Committee Reports / Minutes

Moving right along. We have a Committee Report from the Health and Human Services. I think that’s Julia. She’s not here?

Mr. KANAGA: Yes, that’s Deborah.

Speaker BERGSTROM: Oh, that’s right. That’s Chris. Deborah, do we have a quorum of that board?

Ms. MCCUTCHEON: Me, Suzanne, and Patrick.

Speaker BERGSTROM: Yes. Okay.

Ms. MCCUTCHEON: So me, Suzanne and Patrick are the quorum.

Speaker BERGSTROM: Yes.

Ms. MCCUTCHEON: And then we had -- wait, am I supposed to call a meeting to order or something?

Speaker BERGSTROM: No. You’re just simply submitting -- you’re moving the Minutes of that meeting.

Ms. MCCUTCHEON: Okay. Has everybody had an opportunity to review the

Minutes? I move that we approve the Minutes of the meeting of March 6, 2013, of the Standing Committee on Health and Human Services.

Ms. MCAULIFFE: Second.

Ms. MCCUTCHEON: All in favor?

(Minutes moved.)

Speaker BERGSTROM: Okay. Now we have a report from our beleaguered Clerk.

Report from the Clerk

Clerk O'CONNELL: Good evening. Just a couple of reminders with regards to the training that you need to complete for your Conflict of Interest.

I sent an email to everyone as a reminder. You need to respond and acknowledge that email and then get the training done. And your deadline is April 5.

Also beware that you probably got an email from the State also with regards to completing the Statement of Financial Interests, which that's going to be coming up. That's going to be due in May. They told me that they sent an email out on Friday the 15th of March.

Mr. KANAGA: They did. There were two different ones though and one said May 15 and one said May 1.

Clerk O'CONNELL: You want to go by the one that has the -- I think your drop dead deadline is the 28th of May. They consider you to be elected officials for purposes of completing that report, not employees.

So that's the one that you have to follow. And I think that's the one that the drop dead date May 28.

I think its May 15, and if you don't reply in two weeks -- then bigger trouble.

Mr. KANAGA: Okay.

Clerk O'CONNELL: And there were also some additional pieces of information that I did forward to you. We did receive a copy of the 2008 CLC Energy Efficient Fund Report that was inadvertently left off from that packet that I received and posted as PDFs on the website. So we have that.

And I also put in your folder a copy of a Proclamation that P-town executed.

Ms. ANDREWS: Provincetown.

Clerk O'CONNELL: I'm sorry; Provincetown. And that's in your folder as well.

And also we did as noted earlier receive a copy of a letter referenced from CVEC President to the Speaker. So those are pieces of information that I have forwarded and provided to you.

Please feel free, if you haven't already consumed the little chocolate Easter bunny.

Mr. KANAGA: Someone stole mine.

Ms. ANDREWS: Mine ran away. Thank you.

Clerk O'CONNELL: And that's it. That's all I have.

Other Business

Speaker BERGSTROM: Does anybody else have any business before –

Mr. CAKOUNES: I have something.

Speaker BERGSTROM: Leo.

Mr. CAKOUNES: Janice, do we have to supply you with that compliance thing we print off for the financial thing or is that something we just keep for our own files?

Clerk O'CONNELL: Not the SFI, but your Conflict of Interest, if you give me a copy of that, yes, and I can leave it in the folder.

Ms. KING: Oh.

Clerk O'CONNELL: Your certificate for completing that?

Ms. KING: Oh, I thought I had to mail it to Ms. Dolan --

Mr. HITCHCOCK: Donelan.

Ms. KING: -- at the Public -- Donelan, whatever her name is.

Mr. HITCHCOCK: Donelan.

Ms. KING: I will mail it to her.

Clerk O'CONNELL: But I think you're able to print one.

Ms. KING: Yeah, no, I did, but I was going to mail it to her tomorrow. Yeah. Do you need a copy of it?

Clerk O'CONNELL: Well, I'll keep it in the file. I've been keeping a copy, which shows compliance that I have it.

Ms. KING: Oh, okay.

Mr. CAKOUNES: Mr. Chairman/Mr. Speaker?

Speaker BERGSTROM: Yes.

Mr. CAKOUNES: In regards to the letter that we received back from CLC -- sorry, CVEC in response to our requests, I think that probably people should realize that the letter says that we do not have those particular items in that electronic forum.

I presume we asked for them in the wrong electronic forum in which they use. I would respectfully request that the Speaker re-issue the same request and just add the language in whichever electronic form you have it in.

Just for the sake of understanding, we use this term Munis, and I guess they don't use Munis, so their answer was, "We don't have that in Munis, so we can't give it to you."

I would respectfully ask that the Chairman resubmit the request and ask for it in whichever form they use. Maybe they use a large feather pen; I don't know. Or one that erases.

(Laughter.)

Speaker BERGSTROM: I'm going to have to review -- I, unfortunately, did not -- I got that and I kind of put it aside and promised I wouldn't look at it for a while until I calmed down.

But I have to look at the original Resolution that was passed by this committee, the original requests that were made, compare it with the response that we got from CVEC and see what information they need or what -- I agree with you.

Mr. CAKOUNES: I'll bring forward a new Resolution then if you think it's necessary in two weeks but I --

Speaker BERGSTROM: Well, if I haven't acted by then, you can do that. Okay. But I want to make sure -- because I don't want the same answer, Leo. I want to make sure I ask the right question.

Ms. MCCUTCHEON: I want to comment on that.

Speaker BERGSTROM: Yes.

Ms. MCCUTCHEON: I did point out to the Speaker earlier in regard to that that the Charter gives us subpoena power. Nobody's listening to me.

Speaker BERGSTROM: Yes. I understand.

Ms. MCAULIFFE: I heard you.

Speaker BERGSTROM: Now, did you have a motion?

Deputy Speaker MARTIN: Motion to adjourn, please.

Ms. KING: Second.

Speaker BERGSTROM: Okay. Motion – all in favor?. We're done.

(Motion carried.)

Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates at 6:30 p.m.

Respectfully submitted by:

Janice O'Connell, Clerk
Assembly of Delegates