

**CAPE COD REGIONAL GOVERNMENT
ASSEMBLY OF DELEGATES**

APPROVED Journal of Proceedings – April 18, 2012

Speaker BERGSTROM: Good afternoon. Welcome to the April 18th session of the Cape Cod Regional Government Assembly of Delegates. I will call this meeting to order and we will begin with a moment of silence to honor our troops who have died in the service to our country and to all of those serving our country in the Armed Forces.

(Moment of Silence)

Thank you.

Now we will stand for the Pledge of Allegiance.

(Pledge of Allegiance)

Thank you.

The Clerk will call the roll.

Roll Call (91.45%): Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% - Provincetown), Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Thomas Lynch (20.92% - Barnstable), Teresa Martin (2.30% - Eastham), Deborah McCutcheon (0.93% - Truro), Spyro Mitrokostas (11.02% - Yarmouth), John Ohman (6.58% - Dennis), Julia Taylor (14.61% - Falmouth).

Absent (8.55%): Christopher Kanaga (2.73% Orleans), Paul Pilcher (1.27% - Wellfleet), Anthony Scalese (4.55% - Brewster).

Clerk O'CONNELL: Mr. Speaker, we have a quorum present with 91.45 percent of the Delegates present and 8.55 percent of the Delegates absent.

Committee of the Whole

Speaker BERGSTROM: Thank you.

Now I need a motion to approve the Calendar of Business.

Deputy Speaker ANDERSON: Motion to Approve the Calendar of Business.

Ms. KING: Second.

Speaker BERGSTROM: It's been moved and seconded. Are there any additions or corrections to the Calendar?

Hearing none, all those in favor say "aye." Opposed?

(Motion passed)

You all should have received a copy of the Journal of April 4, 2012. Does anyone have any corrections to the Journal?

Hearing none, do I have a motion to approve the Journal?

Deputy Speaker ANDERSON: Motion to approve the Journal of April 4, 2012.

Ms. KING: Second.

Speaker BERGSTROM: It has been moved and seconded. All those in favor say "aye." Opposed?

Mr. CAKOUNES: With one abstention. I haven't had a chance to read it yet.

Speaker BERGSTROM: The motion passes with one abstention.

(Motion passed)

Now we come to Communications from the Board of Regional Commissioners and representing the board is Commissioner Sheila Lyons.

Communications from Board of Regional Commissioners

Commissioner LYONS: Good afternoon, everyone. Obviously this is a packed day so everybody is very interested.

(laughter)

There really isn't anything to report from the County Commissioners other than Commissioner Doherty has a very bad cold and we sent him home with a note to his mother not to send him that way again.

(laughter)

And we had a visit from the Coastal Resources Commission – I'm not saying it right – Conservation Resources, and we signed a letter in support of their securing permitting grants – funding for the rest of the Wetland Restoration Project that has been going forward. It has been an annual year-by-year appropriation so now they're trying to secure this to be a permanent appropriation until the \$30 million has been finally issued, and that's going to go through. So we signed onto that and gave a letter of support.

Also, we just talked about space up at the jail house. Nothing has been decided but we're still trying to coordinate people moving up there and having the appropriate space that they need – each department. And that was basically it today.

Speaker BERGSTROM: Do we have any questions for Commissioner Lyons?

I have a question. When the Assembly convenes, we're going to deliberate and vote on Proposed Resolution 12-01, which is a \$23,710 appropriation for the Human Services Department.

Commissioner LYONS: Yes.

Speaker BERGSTROM: Will you give us a brief explanation? You submitted it.

Commissioner LYONS: Yes. Basically, that is money that's coming out of a Salary line item into a Consulting line item. The Mass in Motion Grant that was received by the Human Services Department, which is \$60,000 a year for five years, does give money towards a salary, and Beth needs consulting. It's not enough for a full salary so she needs some consulting money to help with the administration of that grant. So it's just really a matter of moving it from one line to another. But there is no increase to a budget or added person.

Speaker BERGSTROM: So the \$23,000 is taken out of the \$60,000 grant?

Commissioner LYONS: No. This is just from her Salary line item going into a Consulting line item.

Speaker BERGSTROM: All right. Everyone seems satisfied. Wait a minute. We've got a question. Spyro?

Mr. MITROKOSTAS: Commissioner, you met last week when we had not. You took a pretty substantive position in renewing the consulting contract for the Wastewater Collaborative's staff, I guess for the lack of a better term. Was there any consideration given along the way to bringing that contact in-house and turned into an employee position as opposed to a consulting contract?

Commissioner LYONS: There hasn't been any discussion of that to date. It has worked fine the way it has gone. You're speaking about the Executive Director's position?

Mr. MITROKOSTAS: Yes. I think I was watching Andy Gottlieb prior to briefing you to get an extension of the contract.

Commissioner LYONS: With his contract, I agree.

Mr. MITROKOSTAS: I was just thinking that at some point as the issue becomes more time consuming and some of the plans that the Director of the Collaborative and the Director of the Commission are putting forward about going out and formulating the Wastewater remediation plan for the County would require that to become a full-time County position as opposed to a consulting position.

Commissioner LYONS: It may but I don't believe we've come to that crossroad yet.

Speaker BERGSTROM: I have a follow up on that. Originally, the position of the Executive Director was part of the Wastewater Collaborative and it was the feeling of the people on the Collaborative that he answered to them; in other words, he was an employee of the Collaborative. But then the Commissioners – and I think quite rightly – said no. Everybody is an employee of the Commissioners, so now he's an employee of the Commissioners. But it seems that his job, if you want, or what he's been doing has been more and more closely tied to the Cape Cod Commission. I mean he and Paul are practically joined at the hip when I talk to them.

Commissioner LYONS: Yes.

Speaker BERGSTROM: So at some point wouldn't it seem to be more appropriate to make him contracted under the Cape Cod Commission since he seems to be moving away from his position as the Executive Director of the Collaborative – I don't mean to lay this on you – and more and more working with the Commission on Wastewater issues?

Commissioner LYONS: But they are two different departments and they're bringing the expertise in from those two departments going forward. One is really looking at the regulation and use of this, and the other is guiding implementation and direction. So I don't think there's really a need for that at this moment.

If that is the case and it becomes more work, I think that that discussion will be brought to our attention by those parties and we can consider that. But right now that's not an issue for either of them or for us.

Speaker BERGSTROM: John?

Mr. OHMAN: Thank you, Mr. Speaker.

Commissioner Lyons, have you done anymore work towards resolving what you're going to go forward with the Special Committee on County Governance?

Commissioner LYONS: We have not and that probably will not come up for another two weeks at the very earliest, and I'm not even sure if it will come up then, but I do think that it's a conversation that we have to pick up again. We had a lot of discussion and no decision, and I do think that we have to come to some decision-making so that it can come forward to the Assembly.

Speaker BERGSTROM: Well, thank you.

Commissioner LYONS: Thank you.

Speaker BERGSTROM: Give Bill our best wishes for a speedy recovery.

Commissioner LYONS: I'm sure if he's watching he'll hear those and we do wish him a speedy recovery and hopefully we didn't all get infected today and carrying it over here to you.

(laughter)

So with that, I wish you a good budget hearing.

Speaker BERGSTROM: Thank you.

Are there any Communications from Members of the Public?

Are there any Communications from Public Officials?

Assembly Convenes

Proposed Resolution 12-01: To approve certain budget transfers for fiscal year 2012 in accordance with Barnstable County Ordinance 11-06.

Speaker BERGSTROM Hearing none, the Assembly is now Convened and we'll begin with a discussion of Proposed Resolution 12-01: To approve certain budget transfers for fiscal year 2012 in accordance with Barnstable County Ordinance 11-06 – (Human Services Department. The amount is \$23,710.

You just heard Commissioner Lyons describe the need for this. Is there any discussion on this?

There is no discussion. In that case I will call for a motion.

Mr. CAKOUNES: Is there a report from the subcommittee?

Speaker BERGSTROM: A Resolution doesn't require a Finance Committee meeting. I gave them the option. Did you look at it, John?

Mr. OHMAN: We didn't look at it. I don't know if Human Services did or not.

Speaker BERGSTROM: Did it go to Human Services?

Ms. O'CONNELL: No. As I referred back to how we've handled these in the past, it does not go to a committee for review.

Speaker BERGSTROM: Will somebody make a motion then?

Ms. KING: Do you want me to make the motion?

Speaker BERGSTROM: Yes.

Ms. KING: I make a motion, Mr. Speaker, to vote Resolution 12-01 to transfer from line item 0013101-5100 decrease by \$23,710, and increase line item 0013102-5239 by \$23,710.

I don't know if anyone else has it but I have a letter from Beth to explain it so people will know what it's for.

Mr. MITROKOSTAS: Did the motion get a second?

Speaker BERGSTROM: Do we have a second?

Mr. CAKOUNES: Yes, I'll second it.

Speaker BERGSTROM: So it's been moved and seconded. Go ahead.

Ms. KING: I don't have to explain it. I'll move on.

Speaker BERGSTROM: So your motion is to approve this amount?

Ms. KING: Yes.

Speaker BERGSTROM: And Leo is seconding the approval.

Yes, Leo?

Mr. CAKOUNES: Does the letter in question state the reason why this \$23,710 is available in the Salary line item?

Ms. KING: Yes, it does. What happened was they have this Mass in Motion Grant and that pays for half of the Staff Salary/Fringes and those two items total \$23,710. So what Beth wants to do is to take that money, since it is being subsidized by the grant, and move it into a line item for a consultant because she had asked for a new person into the new fiscal year but she didn't get it so she wants to use this money to hire a consultant to do some additional activities. That's what she wants to do so that's what it is.

Mr. CAKOUNES: Thank you.

Ms. KING: Thank you, Mr. Speaker.

Speaker BERGSTROM: Okay. Is there any further comment on this?

Hearing none, we'll call the roll.

Roll Call Vote on Proposed Resolution 12-01: To approve certain budget transfers for fiscal year 2012 in accordance with Barnstable County Ordinance 11-06.

Voting YES (91.45%): Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% - Provincetown), Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Thomas Lynch (20.92% - Barnstable), Teresa Martin (2.30% - Eastham), Deborah McCutcheon (0.93% - Truro), Spyro Mitrokostas (11.02% - Yarmouth), John Ohman (6.58% - Dennis), Julia Taylor (14.61% - Falmouth).

Voting NO (0%).

Absent (8.55%): Christopher Kanaga (2.73% Orleans), Paul Pilcher (1.27% - Wellfleet), Anthony Scalse (4.55% - Brewster).

Ms. O'CONNELL: Mr. Speaker, Proposed Resolution 12-01 passes with 91.45 percent of the Delegates voting "yes," and 8.55 percent are absent.

Proposed Resolution 12-01: To approve certain budget transfers for fiscal year 2012 in accordance with Barnstable County Ordinance 11-06.

Speaker BERGSTROM: Thank you.

Now we have Report of Committees.

The Finance Committee needs to approve their minutes of 3/14/12 and 4/4/12.

John?

Report of Committees

Mr. OHMAN: Thank you, Mr. Speaker.

I'm going to ask that the Finance Committee Members that were present at the March 14, 2012 meeting to vote. Members present were Tom Lynch, Leo Cakounes, and Marcia King.

All those in favor of approving those minutes?

There is no opposed. That's 3-0, Mr. Speaker.

(Motion passed)

Moving on to the draft minutes from the Finance meeting on April 4, 2012, there were four Committee Members present.

Having read those minutes, all those in favor?

That's 4-0, Mr. Speaker.

(Motion passed)

Speaker BERGSTROM: The Finance Committee had a meeting today and they will report the budget out at our next meeting, in which case we'll call for a vote if that's the wish of the Delegates. Do we have a Report from the Clerk?

Report from the Clerk

Ms. O'CONNELL: I'm doing all of the talking today.

(laughter)

I just want to let everyone know, because there have been some questions about nomination papers and when they're going to be available, I did speak to the Elections Division today. By law, they have to be out by May 8th but they anticipate that they will be coming out sooner. We should

have them sometime around the 24th of April. So I will have them. May 2nd I will have them available for you but you can also get them from your Town Clerk's Office.

With regard to the subsequent dates of when the Town Clerk has to receive them and review them and give them back to you, etc, I'll have that information for you as well. I'll put it in an email so that you'll have it at your disposal.

Just a quick reminder, May 2nd, – which will be the next meeting – there will be a vote on the budget. Preceding the Assembly meeting, at 2:00 o'clock, there will also be a meeting of the Special Committee on inquiry into CLC and CVEC. You'll get all of those official notices. I'm just giving you this in advance in case you need to make an accommodation on your schedule.

On the 16th of May, which is the second monthly meeting for the Assembly in May, the Finance Committee will be meeting with the auditors to review the fiscal year 2011 audit. That will take place at 3:00 o'clock. But at 2:30 the committee will also be meeting, I anticipate, for a public hearing on a Proposed Ordinance that we haven't received yet but I know it is coming.

So, again, you'll get those official notices when the time is appropriate for me to post them but I'm just trying to give you a little bit of advance notice.

Speaker BERGSTROM: I just want to make one thing clear just so that we can avoid any criticism. The papers are available not just to the Delegates but to anyone who wishes to take out papers, and they'll also be available, I think, at the Town Clerks', although they haven't always had Assembly papers at the Town Clerks'. As County Clerk, Janice will make them available to anyone who wishes to take out papers.

Okay. Under Other Business, we have a Discussion regarding the charter review process and I'm going to bump this to Jim Killion, who requested this agenda item, and he'll give us an intro.

Other Business

Charter review Process and Special Commission Recommendations

Mr. KILLION: Thank you, Mr. Speaker.

I know that some of you have been getting some questions from people in your town about the Special Commission's report and how the Assembly plans to address it, and I'm not sure what the best way to address it is. The Delegate from Harwich corrected me in terms of the last charter review which was done and some of the recommendations that were made.

I have to give a report to my Selectmen in a couple of weeks and I want to be able to discuss with them the last few charter reviews that were completed and what the recommendations were so that I can tell them where we're going. But I'd also like to give them a hint as to how we may proceed with the recommendations that have been submitted. If anyone has any thoughts on beginning those discussions shortly after the budget is done, or are we going to break their recommendation into some pieces and discuss them? But obviously people will want to know how we feel about it and how we may want to proceed.

Speaker BERGSTROM: Leo?

Mr. CAKOUNES: Having been on the previous Charter Review Committee that you just previously mentioned, I do have a folder with the actual language of the charter change and kind of brief explanations on how it would affect the thing. If I can dig that up, I'll be happy to get you a copy of it because I think it would be a good referral when you do your report to the Selectmen.

At the time I had issued it and we all had gotten it because I went to my Selectmen – it was a ballot question – and I wanted to make sure that the Selectmen got the word out there to the general

public so that they knew what they were voting on, so I'll do my best to make sure that you get a copy of that.

In regards to your question on where do we go from here, I'm pretty well set to the fact that – and we've discussed this previously – the County Commissioners took it upon themselves to, some say, appoint a committee, some say ask a committee to go and do some investigative work for them and come forward with some recommendations to them. Subsequently that has been done.

I don't feel as if that report was either sanctioned by us or we asked them to go out and do that, so I don't feel that we presently have anything in front of us to act on. The question was asked of one of the Commissioners today if they had taken any position. I'm telling people who ask me what the Assembly's position is on some of these recommendations – we don't have them before us yet. No one has said that they want to move forward with these.

As you will remember, two weeks ago I clearly asked what the Commissioners' stand was on it, especially on the Wastewater issue and certainly on the Governance issue, on whether they intended on moving forward to changing the structure of County government. And although they said that they believe they will be doing it, we haven't seen anything yet. So I'm not sure.

I thought we had this discussion once and we decided to go with my friend from Barnstable's suggestion that we not act until we get asked to act. Certainly if we're going to talk about the way we feel, then it should be on the agenda and I'm open to do that, too. But I was pretty comfortable in just waiting until we get something in front of us.

Ms. TAYLOR: Mr. Speaker?

Speaker BERGSTROM: Yes, Julia.

Ms. TAYLOR: James, I'm hoping to speak to the Selectmen on the subject also because I think the public needs further information and I think it's very important that we try to lay out at a Selectmen's meeting, which presumably the public will get further information from, what the differences are between what the Special Commission proposed in terms of change in governance and what we have existing, because God knows not everyone is fully aware of what the existing setup is and so then it's very hard for them to come to any conclusions about what the changes would mean.

I'm particularly reminded that today I just was forwarded an essay – an Op-Ed piece online, **Cape Cod Today**, I forget which one – at any rate, it has major errors in it discussing who is on the Special Commission. It referred to bureaucrats. Now bureaucrats are people who work full-time in government agencies and are usually not too interested in change because they want to protect their jobs. There were, however, some part-time elected officials on the Commission, such as Ron and me, but the rest of the group were business people – a wide variety of citizens. And it was primarily those people who voted in favor of these suggested proposed changes. This person also was not aware that it would have to go to the voters. He was accusing the bureaucrats of foisting a change on the public. I've forgotten some of the other problems.

But there's clearly a lot of misinformation and I do think that we have an obligation – I don't think we have an obligation to take a position at the moment, but I do think we have an obligation to try and explain what the present governing structure is and what the proposed governing structure is, and possibly citizens will want to then get in touch with us and have some views about which they prefer. You've heard my views ad nauseam I'm sure, but I do think that we need to do that.

Anyone who is a Member of the Assembly, of course, could propose a charter change and we could then debate it and we could pass it. I don't think anyone has an urgent desire to do that. Even I, who voted in favor of the changes, don't feel that it's time yet for me to push that forward.

So I think we should do as much talking about the proposals and educating people as we can and leave it a little longer to see whether the Commissioners are going to come forward.

Speaker BERGSTROM: Leo?

Mr. CAKOUNES: Thank you for reminding me, Ms. Taylor. I actually, myself, went to the Selectmen's meeting also in the Town of Harwich with the actual printed copy when we received it from that County Governance Board, if you will. And I got on the agenda so that it was done properly. So the following week the five Selectmen all had copies of the actual report, and basically I just stood up at the podium and I went through all 17 recommendations and explained the procedure on some of them and how some of them are basically housekeeping or internal changing of locating one department to another; and tried to separate the big ones, which again are the County Governance and the Wastewater issues.

I, at that time, stated that the Assembly had not taken any positions on it; that I personally, as their representative, would offer my opinion if they wanted it, but I was doing it more as kind of a heads-up and explanation. I admit that we should all be doing that to just let the public be aware and also to clarify the procedure because even then some of the Selectmen didn't realize that the changing of the County Governance especially, is something that's going to require a charter change and is going to require the full vote of the people.

In the other aspect – the Wastewater thing – there are other ways for them doing that. They could create – like we created the Cape Cod Commission, there are ways that they could go about that, too. So just in the venue of explanation and getting the word out there, I did in fact go to my Selectmen and I encourage all of us to do that.

Speaker BERGSTROM: You've heard me before discuss this with the Commissioners when they've come before us, there are two issues here. One is the obvious issue of whether or not we're going to change County Governance. The other issue, which kind of sticks in my craw and has from the very beginning, is the fact that the Commissioners chose to bypass the process that was set up in the charter in order to do this.

They've never really come out and said this but maybe they feel that maybe we shouldn't be the ones who decide how our organization is formed. But, on the other hand, the people who wrote the charter must have understood that. They must have made the decision that the Assembly of Delegates, as representing the various towns, should be the ones who vote on charter changes.

They swore up and down this wasn't a Charter Commission and indeed I believe that the Commission – which I was a part of, and also Julia – went far beyond looking at the County Governance. They looked at every aspect of County government. They went into Mosquito Control. They went to everything; and they did a lot of work and they spent a lot of time at it so I would have to give them credit for that.

With that being said, they're still reporting back to the Commissioners and somebody seems to be waiting – the Commissioners – like three Hamlets they're deciding what they're going to do, but in truth they don't have anymore authority to push this than the Boy Scouts do. They have no role at all in changing the charter anymore than any other organization – the League of Women Voters – anybody could do it. A private citizen could pass it.

And this is not a criticism, maybe a difference of opinion, but I think when they got that report they should have decided – having empowered these 25 or 26 people – to stand behind it and then come to us and said look these are the recommendations that we've made. I said, "Look, I don't necessarily give you my support but I will certainly offer you the opportunity to present it to the Assembly and call for a vote."

They've chosen not to do that. They feel that they should go out to the public first. Maybe that's the right decision, I don't know, but it puts the Assembly in an awkward position because when we're bypassed like that, as we have been in other things – I'm not going to go into it in detail but there are other things. We voted on that big DCPC about wind turbines around the Cape and then they decided after we had turned it down that they didn't have to come to us anyway and we really have no

defense against that unless we want to hire a lawyer and argue with them. I think that the issue of County Governance is an important one, but the issue of the relationship between the Commissioners and the Assembly is something that's going to have to be straightened out regardless of the direction of these recommendations at some point. So that's my little speech for today.

Leo?

Mr. CAKOUNES: Could I just add one thing to that just to clarify things for the public. When you referred to the Assembly doing the charter change and putting together a Charter Review Committee, it needs to be recognized that that Charter Review Committee is not made up of all Assembly of Delegates' Members. The last one that we had was made up of – there was one sitting County Commissioner on it; there were a number of members of the public; there was a gentleman who, I believe, was a Selectman in town; and I think there two of us from the actual Assembly.

So when you follow the charter process, it's pretty good. I just want the public to know that when we refer to the Charter Review Committee it is not just the Members of the Assembly looking at County government. It is actually made up of a number of different people.

Speaker BERGSTROM: Curiously enough, if you look into the charter you will find that the Assembly can recommend changes to the Assembly. The Charter Review Committee refers to a mandatory review every five years but we can review this every day if we wanted to and make recommendations. The language is pretty clear. I'd advise everybody to read it. I read it four times and you have to read it a couple of times to really understand what it says.

There are changes that can be made that do not affect the terms of office of the Commissioners, the Assembly, and the Chief Executive, but there are also changes that can be made outside of that in a different process. But I recommend that you do that.

I have one more problem and that is that it's all well and good to say we're not going to take a stand on this because the Commissioners haven't done anything but somebody is going to come up to me at Stop & Shop and say here's what you're doing now, here's the recommendations of the Commission, what do you think?

Julia?

Ms. TAYLOR: I think that the Commissioners do plan to make some significant changes. My impression is that they do want to have a stronger Executive and that's one of the major suggestions, and I think that they think they can do that within the budgeting process and with some Ordinance changes. So I don't think that they're ignoring it and putting it on the total back burner. That's true for a number of the other recommendations of the many. Some of them are already underway. The RUSS concept I think they're already putting out an RFP on.

They've certainly already made process on the Wastewater issue with the request for a full report by the end of the year from the Cape Cod Commission and from the Wastewater Collaborative. So I don't think we can really say that they are ignoring the report. That is underway.

But I do think that they're reluctant – I'm totally guessing – but I can understand why they might be reluctant to walk in and say okay, we are recommending abolishing the Assembly, abolishing the Commissioners and coming up with a brand-new legislative arrangement that does not include individual representatives from each town.

That's what they see as the most, I think, controversial with the public and I think we see as a lot of pros and cons either way. So I don't think that we're ready to have a final view on it and they aren't either and that's why I do think it's worth getting feedback. Does the public feel very, very strongly that they want, in each of their towns, to have an individual member even if that member only has a small fraction of the vote? Or do they, in fact, see the need for people elected from regions rather than from towns.

We know what the Special Commission recommended – regional – but let's see whether the voters, if they want to get fully informed about it, see what they feel strongly about.

Speaker BERGSTROM: I think Cheryl has an opinion on this.

Ms. ANDREWS: You'd be surprised because actually what Julia was just saying is, I think, maybe a little bit of where I see a problem in that the way it was just presented now, let's go to the public and tell them that they can choose (a) or (b). I happen to think that there's a (c). I think some change makes sense. I get the sense from talking to all of you that you think some changes make sense. But I haven't heard anybody necessarily agree with what was in the Special Commission.

So where I'm coming from, I'm waiting soon to hear a process outlined by our Commissioners. If we don't, I really think that we should just go ahead and have the conversation ourselves. Why should 27 people or 26 people sit around and have the privilege of talking about County government? Why don't we have the privilege of sitting around talking about County government – particularly the more senior Members that have seen some of the problems and would like to see them changed? So I think at some point – I might not be ready to say it today – but I think at some point soon I'm going to be interested in seeing that Charter Review Committee formed.

My question to you, Ron, was does the charter specify how many people have to be on it or is there latitude?

Speaker BERGSTROM: We establish that by Ordinance. The Ordinance determines who is on it. But you have to remember that you don't have to have a Charter Review Committee to change the charter.

Ms. ANDREWS: Right.

Speaker BERGSTROM: You don't have to have a Charter Review Committee to change the charter. The Assembly can recommend directly to the Legislature changes in the charter.

Ms. ANDREWS: But in essence we have to act as a Charter Review Committee?

Speaker BERGSTROM: Yes, that's true. You're mandated to have this particular charter review every five years – at least that's the way I read the language.

Ms. ANDREWS: All right, I'll just say it again, I'm not ready today but if I don't see some kind of a clear message coming from the Executive soon, I would be interested in hearing from others about us taking a leadership role in talking about some changes that we're interested in.

The second comment that I wanted to make is back on exactly what Ms. Taylor said, again, let's talk to the public about an (a) or a (b) and I saw the exact same type of argument laid out by the Executive Director of the Cape Cod Commission in the **Cape Cod Times** this week. If you looked at the byline it said something about – and I don't have it in front of me – but the byline said something about we can't continue to do nothing. That's what it said in his article. So the way that it was presented in the **Cape Cod Times** was (a) do nothing, or (b) do what Paul and Andy are working on. In other words, those were the two choices.

I keep looking at it from someone who has had plenty of background on this issue and saying what do you mean we're doing nothing? Actually quite a bit is going on. Your town is doing things. My town is doing things. Some towns have done quite a bit more than others. So it's not like we're doing nothing.

So the point that I'm getting at is if you go out to the public and you give them (a) and (b) and say pick one; some people will put that forward, but I think there's a real concern here that maybe there's a (c) and that we may be very interested in coming up with that. I hope that we have that discussion; someone needs to.

Speaker BERGSTROM: Yes, Deborah?

Ms. McCUTCHEON: Thank you.

I really appreciate getting these two documents – these prior charter review things. I haven't read them completely yet so I can't respond to that. But when this issue first came up in terms of the Special Commission Report, I listened to Mr. Lynch talk about, and Julia Taylor talk about, let's wait and see what happens, and they made a lot of sense to me. However, I think you've said it many times but today was the first time it really penetrated my head, it's really, I think, true that we have since the Business Roundtable thing came out, kind of stood around and wrung our hands and said, "Oh, the sky is falling and we're not doing anything about it."

I really think that the Assembly ought to be having some kind of hearings. I don't think we need a Charter Review Commission. I just read that whole provision. We can make recommendations. The question is what should they be? We haven't even talked about it among ourselves nor have we solicited any information from the public and I think that's what we ought to be doing. I really think that we can't just wait for the situation to descent upon us as a fait accompli – things carved in stone – and then, as Cheryl said, then it is a choice of (a) or (b). There isn't room to delineate a third option. So I'm hearing you about let's try to take some initiative here rather than just be reactive.

Speaker BERGSTROM: Yes, Julia?

Ms. TAYLOR: I definitely would assume that it is not (a) or (b) – if we say (a) is the existing, and (b) is the proposal by the Special Commission. It's my impression that the Commissioners are not ready to say (a) or (b) but are thinking about a possible (c), and would expect that we would weigh in with (d) and if there could be some sort of comprise and plan. I don't see it at all as it's (a) or (b).

But I think that we'll be the most likely to have a successful result if what comes out is some sort of discussion between the Commissioners and the Assembly. I think it would be unfortunate if in fact we saw it as being our plan versus their plan. That's, I think, a formula for ending up with (a) or no plan. I would hope that it would definitely be that nothing is written in stone in the least.

But the first step for us would be for us to talk to the Selectmen and get feedback from the public. I would not recommend a charter review as outlined. That's a very lengthy and difficult process. At least we can say from the Special Commission we've got some wide-spread information and ideas. We don't have to adopt them but it is some information and we could get more. But I think if we think in terms of a joint process by the Commissioners and the Assembly we could probably come up with something pretty good.

Speaker BERGSTROM: I would just like to say that I'm sort of on the other side of the fence on this because I really believe that discussion starts with somebody putting something on the table. Now the Commissioners empowered this group and they reported back to the Commissioners and I was ready for the Commissioners to put something on the table but instead they punted.

But if you go up to the Legislature – and Tom can correct me on this – they don't sit around discussing things in general – what are the Red Sox doing? Somebody files a bill and that becomes the basis of the discussion. Somebody puts something on the table – a Resolution or an Ordinance – saying I think we should do (a), (b), or (c). This is what we should do. And then it either passes, fails, or gets amended to death, but eventually something comes out of it.

So there has to be a commitment. You can't just dance around this. If you ask the general public what they want, you're going to get (a), (b), (c), (d), (e), (f), (g), (h) and (i). So somebody has to put something on the table. Julia says, "We're not ready to put this," but any one of us could take the language of that Special Commission and put it in the form of a Resolution and file it with the Assembly and then we would see where everybody stood. I can understand why you may not want to do that, but I feel that we should take it up. I'm with Deborah on this. I think we should take a stand at some point.

Julia?

Ms. TAYLOR: I really feel that we're not going to get anything on the table from the public, of course; that's not their job. But I do feel that the public can understand the distinction between what Assembly Members or some sort of a Legislative body, elected by regions, as opposed to a Legislative body elected by town and representing the town. That's a pretty straight-forward significant difference between (a) the existing system, town-based elections, and (b) what the Special Commission recommended, regionally-based representatives. That's the significant issue that the public could have strong opinions on. If they do, then I think it would be desirable for us to respond to that and I think that we, and/or the Commissioners, are completely capable of working out the details of that. It's not rocket science.

But that's the big issue. Is there really a strong appetite, as the Special Commission believes, to eliminate town-based elections to the Legislative body? That's the question. That's what we need – people – more info on.

Speaker BERGSTROM: Deborah?

Ms. McCUTCHEON: I really don't agree that that's the overarching issue. But I do agree, Julia, when you talk about there needs to be a collaborative process and you've said that for a couple of months now, but I don't see any invitation to a collaborative process happening anywhere. We have our little conversations and they have their meetings at the Special Commission, but that's not a collaborative process.

I'm certainly not advocating that we should have some kind of hearings before we have some idea about what we, as a body, might support. I don't know if the issue about regionalization falls out on calculation demographic-wise. I've been to my Board of Selectmen; Leo has been to his, and there have been several other people. I don't think people in Truro want to have their representation eliminated. As Tom has said, Barnstable will always have representation no matter what model you adopt. I don't think that's the overarching issue. I think that if we're going to be part of this process we need to figure out a way to be part of it and what's happening right now is that we're not.

Speaker BERGSTROM: Jim?

Mr. KILLION: I think everyone gets my point here. I know before the recommendations came out we had this discussion and it was my understanding when these did show up that we would begin to discuss them, and they're here. I think to Deborah's point it comes down to whether we want to be driving this bus or do we want to be sitting in the back.

I think that we should start to look at these recommendations and see if we like them, don't like them, make changes to them, add to them, but I would rather be the one in control of this process than sitting around waiting because I think it's kind of clear that these debates are continuing in a form that we're not probably privy to; or if we are, we're not part of it, and I would rather be a major part of the discussion that's obviously going to have a big impact on County government and on the Assembly of Delegates.

So it would be my recommendation that we do get involved and get involved heavily now before these changes are thrown out to the public because I think it's clear the path that they're going to choose. I don't think they intend on coming through here to get these done. They're going to find another way. So we might as well take the lead on it and lead the way than follow.

Speaker BERGSTROM: The question comes up – and obviously we're voting on the budget at the next meeting – but once that's done we'll have more time to discuss other things. If we do have a discussion on these issues though, I'd rather have people take a stand. We can't just beat it to death for weeks and weeks. We have to find out. We have to look around the table and say who is for this and who is against it. It has to be a substantive discussion leading to some kind of – if not consensus at least a majority understanding.

Leo?

Mr. CAKOUNES: I don't have the report in front of me but if I remember correctly there were 17 recommendations, but the last 5 were basically under the auspice of the changing of County Governance.

I'll just throw this out there for discussion purposes. Maybe after the budget hearings, we can schedule two or three of these topics for us to discuss and someone can make a motion to support it or not support it, or whatever, and then pretty much by the end of a couple of meetings we would have at least taken a stand on the actual recommendations if people feel comfortable doing that. Again, I wanted to talk about it before we got it so, believe me, I'll talk about it whenever you guys want to.

(laughter)

Speaker BERGSTROM: The Open Meeting Law, which we're about to discuss, is tightening up a little bit because I'm not certain – I'll ask the Clerk – as a Selectman we took votes on things all the time. We would make a motion, it would be accepted, and we'd take a vote. But now there seems to be some controversy as to whether we have to announce in advance we're going to take a vote on something. I don't think so. I think as long as the subject is on the agenda and it's under discussion that somebody could make a motion and it could be approved. So we understand that?

Leo?

Mr. CAKOUNES: That subject came up recently at a Harwich Board of Selectmen's meeting where they had on the agenda to review such-and-such document, and after they reviewed it they took a vote. A point-of-order was called from somebody from the audience because the agenda did not say that they were going to review and vote.

So I would say to cover yourself, again, if we're going to pick a number of these recommendations – unless you want to look at the whole document in one session; that's entirely up to the Speaker how he wants to approach it – but I certainly would write on there to discuss and vote and that way we're covered; and if we don't vote, we don't vote.

Speaker BERGSTROM: Cheryl?

Ms. ANDREWS: I was going to say almost exactly the same thing that the Delegate from Harwich is saying because why not? If you're looking for someone to put something forward, the Commission did – the 27-member Commission did. So put forward the one that we want to talk about and then we debate it and then if we want to amend it we can do that.

Speaker BERGSTROM: So we vote on the budget next month. When is the meeting after that?

Ms. O'CONNELL: The 16th.

Speaker BERGSTROM: The 16th of May is the next meeting after the budget so you have until the 16th of May to come and propose something or recommend something.

Ms. ANDREWS: The only other comment that I would make is that the message that I hope, at least coming from me, is that I would like the County Commissioners to outline a process by which they're going to consider these recommendations. What I'm hearing is frustration that the process hasn't been really explained to us so that we understand how they're going to get input from the public, how they're going to arrive at their conclusions, and are there going to be any meetings that include the Assembly?

If they put something forward in the near term that explains the process that would help me decide whether we need to do what we're talking about. But until I see something from them saying that, I feel the same way. I feel like the Assembly is being left out, and I certainly didn't hear much about the public either.

I heard maybe two or three, not even hearings but forums, and I know that means the Lower Cape usually gets – my end of the Cape will get short shrift because my folks are not going to drive to Orleans to debate about Assembly of Delegates. I know they won't.

Speaker BERGSTROM: The issue – of those of us who attended those meetings and I kept harping on this – are you going to go to the ballot this November or are you going to do something else? It wasn't because I was in a hurry but because if they don't do that – and obviously they're not going to – this Sword of Damocles is going to be hanging over us for another two years. It's going to be two years before it can go away. So we could be sitting here for two years every so often discussing this thing. That's why I said, let's – and I'm not going to use the colloquialism – but either do it or don't do it.

(laughter)

So they've chosen not to do it. So the process that Cheryl discusses – this could be like the 21st Century Task Force. It could on and on and on. I just felt that it should come to some sort of resolution. If the Assembly were to take a strong stand and let's say vote these things down, I think the message would be sent that they weren't going to go anywhere. If we support them, then there would be an easier process.

Spyro?

Mr. MITROKOSTAS: Those of you who are contemplating proceeding with the process, I would like to suggest that you come to us, not borrowing the work of the Special Commission because I think that's somebody else's homework, but proactively come up with your own recommendations and suggestions of what you want to have discussed.

I think if we start with that document or that report you end up hamstringing a real official charter review process if in case we want to start one up. So if you have an original thought, I'd love to hear it. If you want to borrow Recommendation #13 or 14 and start the discussion there, I personally would not support that idea.

Speaker BERGSTROM: Well, I think this discussion will be re-enjoined in three weeks. Deborah?

Ms. McCUTCHEON: Are we going to continue to have this on our agenda so that we can talk about it?

Speaker BERGSTROM: Yes.

Ms. McCUTCHEON: Because it seems to me that it may be appropriate to have some further discussion about it.

Also, just sort of a substantive matter, it would be nice if the Commissioners would outline a process by which all of this is going to take place. We can't make them do that. We can talk about what kind of a process we'd like to see and we can come up with that kind of a recommendation, but I feel like we've been sitting around waiting to be invited to come to the party. I'm kind of ready to have our own party.

Speaker BERGSTROM: My feeling has always been that the charter says that charter changes run through the Assembly. It's not that we've been sitting around waiting to be invited to the party. We're sitting around waiting for them to come to us and then to deliberate on this. Now they've made some suggestions that they weren't going to do that, but I think that they're realizing now that without the support of the Assembly, without going through the process as set out in the charter, they're going to have two things against them. They're going to have to go to the Legislature with major changes in how the government is structured, and they're also going to have to go to the Legislature and explain why they're not doing it according to how the voters five years ago decided it was going to be done. Anyway, I don't want to beat this to death but we will definitely have further discussions on this. I encourage anybody to file nonbinding Resolutions, or whatever, so that we have something on the table that we're actually voting on.

Anyway, Cheryl, you're up with a Discussion regarding the Open Meeting Law.

Open Meeting Law

Ms. ANDREWS: Thank you, Mr. Speaker.

This agenda item came about because we met two weeks ago and it was the first meeting I think that we had had after two meetings of the County Commissioners that had come to my attention and I had mentioned them to a couple of the Delegates from the Lower Cape. Frankly, I was a bit taken aback by what I saw. When I came to County government, I thought if anything it would be just in compliance with the Open Meeting Law, whether it's the spirit of it or the actual wording of it, it would just be even stronger than what I was used to, and it seems to be actually a little bit in the other direction.

So I mentioned it. I think two of the senior members of the Delegates kind of looked at me and advised me to make a complaint with the Attorney General. I gave that some thought. I've seen that done. I've seen that approach taken. And I think that approach is usually taken by somebody who has a different interest than I have. My interest was more putting some light on it, making sure everybody knew about it, and finding out what people thought about it. Did you see it the way I did or am I splitting hairs?

But it was, like I said, upsetting enough to me that I mentioned it to a couple of people and I don't see the need to make a complaint to the Attorney General. Like I said, I don't think that that's necessarily constructive here. So what I did decide to do after talking with these folks is I wrote a letter to the Commissioners myself and referenced the two meetings that I discovered. It's all in the letter. I had Jan copy you. The bottom line was I didn't know anything about this issue until recently where somebody had put an article in our mail. There is some article online about Wastewater and it referenced a meeting. So I went and looked at our website to look at this meeting and it didn't fit. It wasn't on the agenda.

So I'll drop it there except to say that I sent out the letter. It went out twice, my apologies. The first one went out this morning before breakfast. I shouldn't have done that. The actual corrected date went out around noontime today. So you have it. The Commissioners have it. It's out there and I hope they address it because in the end it's not about filing a complaint or playing gotcha at all. It's about, I feel, representing my constituent's means that we fight constantly to have the highest bar when it comes to our compliance with the agenda, minutes and transparency. Some people will say we videotape all of the meetings. Well that's nice after-the-fact. And if something is discussed at a meeting and you don't know that, you're not going to sit there and watch a meeting for three hours trying to look and see if it was discussed. We just don't have that kind of time.

So really the agenda is a critical document for notifying the public, either before the meeting or, frankly, even after the meeting, that a conversation happened and if you want to go see it on video – this is a real luxury having a video; we didn't always have this. So it's great.

So that's what the original issue was that I had raised. Some of the other Delegates from the Lower Cape – we had discussed it after the meeting. So the letter is there. I hope it's responded to. I'm not sure that it will be. But I hope everybody understands what it's about.

It's simply that – and I don't know what it is about me but I reflexively always fight for the little guy. The little guy is Joe Q Public walking down the street who hasn't a clue. And this stuff, regardless of what we do with it, affects them and they have a right. They have a right to know ahead of time what the Commissioners are discussing particularly where we're talking about things that we're just not being invited to.

The only other comment that I'll make is the word "relevant" came up a lot during the Special Commission's meetings. I think I've heard Ms. Taylor use it. I heard maybe Rob O'Leary use it. A

number of people used the word “relevant” and they were talking about is County government going to be relevant in the next two years, or three years, or four years, or five years?

If County government can’t act at least as professional as the towns in terms of the Sunshine Laws, the Public Records Laws, Open Meeting Law, then, no, County government will not be relevant – how can it be? – because people don’t respect it.

So my message is, if we want County government to be relevant than we have to at least give the public what all of the other towns are giving them and, frankly, a little bit more. I’m encouraged, for example, to see that our Clerk has been putting our agendas on the website so they don’t just disappear the day after the meeting. If you want to go back and see an agenda, it’s there.

I don’t think that there’s anything in the Open Meeting Law that demands that anything get on a website because it was written before websites existed. But we all understand the spirit of it and we all understand that most of our constituents have computers – so we do it.

I’m really proud of the work that the Assembly has done. Barnstable’s town website – I’ve just been amazed at it. I think it was sort of the image that I had all along of what a good town website should be like where you have the video things and agenda altogether. But like I said, it’s not because the law requires it. It’s just because common sense says we owe that to our constituents.

So as this whole issue of process, and Governance, and Wastewater, and all of this goes forward, regardless of the issue, I was really disappointed with what I discovered and I hope you all are too and I hope the Commissioners can sort of rededicate themselves to raising the bar just a little bit. I don’t see the need to necessarily put this on the agenda again. If the Commissioners wish to raise it, that’s fine. But clearly you folks gave me the message that it wasn’t appropriate for us to debate another government entity’s position and I got that so that’s why I sent the letter out instead. It didn’t really provide any information for them.

Speaker BERGSTROM: Cheryl, originally the controversy was that the Commissioners wound up discussing Wastewater and they hadn’t put it on the agenda, but then Mary Pat said at one point that it was on the agenda. I didn’t get clear from your letter whether you went back and you found out that indeed it wasn’t.

Ms. ANDREWS: No. What I would suggest you do is to do what I did – get the dates, look at the agendas. I should have copied the agendas with this memo and I didn’t – again, I forgot it. The video exists. The agenda exists. Take a look at it yourself.

Speaker BERGSTROM: I don’t doubt you.

Ms. ANDREWS: You should. Please do. Go watch it because I take this Wastewater thing very seriously and I’m the geeky one that sat there on a Sunday morning with my computer because I realize that I don’t watch a lot of their meetings. So I started watching them. And that was when I looked at the agenda and looked at the meeting I was pretty concerned. So look at the dates. I’ll send out those agendas and just check it out for yourself.

Speaker BERGSTROM: Okay.

Is there any Other Business to be brought before the Assembly?

Do you want to say something, Leo?

Mr. CAKOUNES: The Open Meeting Law segment that we’re discussing – I know that it has been over two years, I think, since we’ve had anyone here from the state to give us a little kind of slap in the face, or shake of the hand, or a little direction. I would respectfully ask the Speaker that maybe we should think about, throughout the summer, maybe contacting the state and see if we can’t schedule something in November maybe, or after the election, because if there are any new people sitting here, at least they’ll have the opportunity to come and to be briefed. Those of us, if any of us are lucky enough to make it back again, will certainly have that opportunity to refresh our memories.

Certainly I think that there are other departments that are affiliated with the County that have not been keeping good minutes or posting good things. I think it might be a good idea for us to host, if you will, an informational thing like that.

Speaker BERGSTROM: I think it's a good idea and I'll ask Janice to look into that because sometimes you have to schedule those things months ahead of time. There's language in there that says that you can broach discussion on an issue as long as you don't reasonably expect that it will be on the agenda. In other words, if you don't expect it to be on the agenda and somebody discusses it, you're free then to discuss it, which I think is a very confusing requirement but we do what we can anyway.

Is there any Other Business to be brought before the Assembly?

Deputy Speaker ANDERSON: Motion to adjourn.

Ms. KING: Second.

Speaker BERGSTROM: Moved and seconded. All those in favor say "aye." Opposed?

Whereupon, it was moved, seconded and voted to adjourn the Assembly of Delegates at 5:00 p.m.

Respectfully submitted:

Janice O'Connell, Clerk
Assembly of Delegates