

**CAPE COD REGIONAL GOVERNMENT
ASSEMBLY OF DELEGATES**

APPROVED Journal of Proceedings – May 15, 2013

Speaker BERGSTROM: Good afternoon. Welcome to the May 15th session of the Cape Cod Regional Government, Assembly of Delegates.

I'd like to call this meeting to order. We will now 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.

And, also, this is Police Awareness Week, and I would like to include all the policemen who have died serving their countries and their constituencies.

(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 (94.52%): 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), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61% - Falmouth). Absent (5.48%): Deborah McCutcheon (0.93% - Truro), Anthony Scalse (4.55% - Brewster).

Clerk OCONNELL: Mr. Speaker, we have a quorum present with 94.52 percent of the Delegates present and 5.48 percent absent.

Committee of the Whole

Speaker BERGSTROM: Thank you.

I'll now need a motion to approve the Calendar of Business.

Ms. KING: So moved.

Ms. MCAULIFFE: Second.

Speaker BERGSTROM: Are there any amendments or changes to the Calendar?

Deputy Speaker MARTIN: Yes, Mr. Speaker. We'd move to take Item No. 12 and move it to the first item after the "Assembly Convenes."

Speaker BERGSTROM: Okay. Can I have a second on that?

Ms. KING: Second.

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

(Motion carried.)

Speaker BERGSTROM: I need a motion -- I'll now need a vote on the Amended Calendar. All those in favor of the Amended Calendar, say "Aye." "Opposed?"

(Motion carried.)

Speaker BERGSTROM: Okay. Well now you should have received a copy of the Journal of May 1st, 2013. Are there any additions or corrections to the Journal?

Deputy Speaker MARTIN: Motion to Accept.

Speaker BERGSTROM: Okay.

Ms. KING: Second.

Speaker BERGSTROM: It's moved and seconded. All those in favor, say "Opposed?"

(Motion carried.)

Speaker BERGSTROM: We now have our favorite part of the agenda, which is Communications from the Board of Regional Commissioners. I see two -- three of the Commissioners here, a full complement.

Communications from the Board of Regional Commissioners

Commissioner FLYNN: Mr. Speaker, thank you, very much.

I think I would report today that the Commissioners did vote to approve the contract for the legal services for the Charter Review Committee.

So Michael Curran is the attorney. Some of you may already know him. I think he, many years ago, was the attorney for a Charter Review Committee here. I can't remember when. Julie might remember.

Ms. TAYLOR: He did the original Charter.

Commissioner FLYNN: The original Charter, and he will be here, I believe, this afternoon to meet with you at 5:30.

The other comment I had was when you were listening to the accountants give their report, and they were referring to the Barnstable County Retirement Systems, sometimes people don't really understand that the Barnstable County Retirement System has about 52 members, that it isn't just the County employees and the Assembly.

It's all the fire districts. It's all the water districts on the Cape. It's all the towns on the Cape, except Falmouth, and its Nantucket and the Vineyard, and it's the Ladies' Library in Brewster.

There are a number of members to the retirement system. And that 6.9 percent is what, we, as the County, are actually obligated to pay in terms of that Gatsby.

And I guess we have a Proposed Ordinance related to legal services for the Special County Charter Review and, also, actually that's what it is, two sections related to legal services, which I will give you.

And those are my comments today.

Speaker BERGSTROM: Okay. Are there any questions for the Chair of the Commission?

Mary Pat, you had on your agenda that we sent around the approval or the consideration of the recommendation of the Special Commission, did you do that?

Commissioner FLYNN: Yes. We did approve a Resolution, which we will be giving to the Charter Review Committee this afternoon.

Speaker BERGSTROM: Okay.

Commissioner FLYNN: I think our member has it and will --

Speaker BERGSTROM: Was Mr. Curran -- he wasn't at the meeting?

Commissioner FLYNN: No.

Speaker BERGSTROM: Okay. Anybody else?

Yes, Cheryl.

Ms. ANDREWS: Good afternoon.

Commissioner FLYNN: Hi, Cheryl.

Ms. ANDREWS: Just one quick comment. I haven't had a chance to look at your video from the meeting last week, and I hate to just bring up negative things, but once in a while I've got to bring up positive things too because I know you and I agree on a number of things.

But this one kind of got me, and that was the issue of the strategic meetings with Carole Ridley. I asked a couple weeks ago about it because I understood that you folks were moving your meetings over to Dennis, and I really didn't understand why. Frankly, I still kind of don't.

Then what I heard was -- well, I got a call about it that you folks actually met with -- during your regular meeting in your regular room but all of a sudden turned off the tape recorder and the video. And I don't know the details. I haven't had a chance to look at the video but I just want to tell you as one constituent that I'm finding it upsetting and concerning and disappointing.

When I raised the issue last time, Sheila -- Ms. Lyons was here as the Commissioner that day, and she kind of looked at me and said, "Well, didn't your Board of Selectmen do that when you were there?" And the answer was, "No." We met in the same room every time.

Whatever we talked about was on TV and everything was recorded so that if someone couldn't come to a meeting, they could watch it. And I certainly can't come to the meetings. It's too far.

So I learned an awful lot about what you folks are thinking and doing by watching you, and the idea that you would turn off the tape before a meeting was over, it was disappointing to hear.

Maybe there's something I'm missing about the story. So I thought I raise the problem.

Commissioner FLYNN: Thank you for your comment. We consider that a workshop meeting, and it's more of a relaxed setting. It's not a really formal meeting. We don't follow procedural rules and processes where the Chair actually exercises any kind of jurisdiction or, what do I want to say, process over it. We turn it over to the consultant, so the consultant really drives the process.

And I guess in my town where I live, I'm more accustomed to that type of a setting where you have it away from where you were -- normally work. It's not that you want to -- it's just that it's more of a workshop setting than sitting in Room 11 and 12. We just couldn't use the Dennis department -- police department room on that day. That's why we had it, and it was also a change in the meeting.

We had to cancel the regular meeting, and everyone agreed that the best time to have the workshop was following our regular meeting, so that's why we didn't tape it. Because it's more of a workshop and it's really -- it's just thinking and trying to -- you're not making decisions in a way -- in a sense but you're trying to come to consensus on issues.

And I think for -- I take your comments very seriously. Thank you. We'll think about it the next time.

Speaker BERGSTROM: Okay. Anybody else for the Chair of the Commissioners? Yes, Leo.

Mr. CAKOUNES: Thank you, Mr. Speaker. Quite frankly, I find the practice of shutting the tape off to go into that strategic planning session very disconcerting. And I was personally bothered by it, and I've heard from a number of people across that are bothered by it.

Your agenda stated that at 12:45 at a regular session of your meeting, you will be, in fact, discussing the strategic plan and you didn't do that. You closed the meeting or you suspended the meeting for a brief session and then shut the videotape off, well within your right, perfectly legal.

But I'll just have to tell you that I did not attend Wednesday's meeting personally because I was under the impression that you would do the right thing and allow the tape to run so people at home could see and follow and watch it. But you decided not to do that.

One other thing I have is two weeks ago I asked you for a document in relation, again, to this strategic planning meetings for a March 15 meeting.

And I'm reading now from our unapproved Journal, "Mr. Cakounes, I was wondering if we would please ask to have -- sent me via" and you kind of broke in and said, "That is a draft document. It is not the final document because we weren't completed it yet. It was just a talking document. I mean you could view it. It's not a presentation, but it has no merit because it is not the final document. It is just a draft of what we are going to produce on the strategic plan."

And, once again, I asked that again. "It was a document that was in a proceeding of an open session, could I" -- and you broke in, "That's right. It doesn't mean it's a public document. It's a draft."

Well, with that statement, which I, again, found very disconcerting, I spent a week researching Public Records Law, and, quite frankly, didn't realize that I had it in my possession from our own County Attorney who gave us a packet about four weeks ago.

Section 22 of the Open Meetings Law and Minutes and Records states, and I'm only going to come up with the highlighted part, that you must list all documents and other exhibits used in a meeting.

In Section 22D, "Documents and other exhibits, such as photographs, recordings, maps used by any body in an open or executive session along with the Minutes are part of the official record."

And then E goes even further to say, "The Minutes of any open session, notes, recordings, or other materials used in preparation for such Minutes and all documents and exhibits used at the session shall be public record entered in the entirety and not exempt from disclosure." So, quite frankly, I feel that, and I'm going to request today two things from you.

One is that your minutes of those strategic planning sessions actually have attached to them any documents which you received via Ms. Ridley or any other documents that you were talking about or used as a discussion point, because, by law, you're required to do that.

Because I don't want to wait another 8 weeks, as I have been waiting for the first documents I asked for, I prepared an official request for public records, and I'd like to hand you that today.

Commissioner FLYNN: Good. Thank you.

Mr. CAKOUNES: And, hopefully, I will get these documents within a timely fashion.

Commissioner FLYNN: I'm sure you will. If I may make a comment on that? You have to remember that these were not -- maybe it's better if I just don't say -- these are workshops.

Mr. CAKOUNES: Probably.

Commissioner FLYNN: Now granted they are posted because there is a majority of the Commissioners present. Therefore, any time any public body meets with a quorum, it's considered -- it has to be posted. But it's not a regular meeting. It's a workshop setting.

And I'm not saying that the Open Meeting Law doesn't apply to that; it does. But because it is a posted meeting, any members of the public may attend if they so wish. We thought about the fact of having them. It's always nice when you have your workshop sessions outside of your workplace. It puts you in a totally different mental frame of mind.

I've been part of these kinds of strategic plans for over 20 years now, and we usually always try to have them outside of the workplace because people are more relaxed. They think better. There are a lot of positives to having it there.

As long as it's posted and the public knows that the meeting is there, and they are certainly welcome and able to attend if they so wish. But in terms of using the TV and paying for the video of all those hours of meetings, that's very expensive. And because it was not a meeting of the Commissioners, but a strategic plan, we chose not to do that. That's the reason why.

But I will take your request.

Speaker BERGSTROM: All right. I'm going to just caution everybody, as I do regularly every so often, is the item on the agenda is "Communications from the Board of Regional Commissioners, which means they can -- this is an informational session. So they can tell us something and we could ask them questions to follow up on what they tell us, but we cannot, in my view, open up a dialogue in any subject and beat it to death because it's not on the agenda.

That's not my rules but that's the rules that were sent down from the Open Meeting Law.

So, thank you. Unless there's something else? Yes.

Ms. MCAULIFFE: Just a comment, because it was so difficult to discriminate between work sessions and strategic planning sessions and regular meetings. My experience in the Town of Yarmouth was everything was on camera.

So, all our workshop meetings were on camera, in addition to all our meetings, because you've got to be very challenging to discriminate what should be open/what shouldn't be open.

And, frankly, we got used to working with the cameras on. So I'm just saying that the illusion or -- I'm not asking for a response, I'm just saying, that the illusion that something's behind closed doors was just so challenging that we just decided to go open with everything.

And I think that it just makes everyone feel a lot more comfortable when everything's open to the public because they are public meetings.

Commissioner FLYNN: They are public. No question.

Speaker BERGSTROM: Thank you. Anybody else?

Okay. Well, thank you, very much. Communications from Public Officials?
Are there any Communications from Public Officials?

Communications from Members of the Public

Speaker BERGSTROM: Or are there any Communications from Members of the Public?

I see a member of the public. Please identify yourself.

Mr. JIM ROGERS: Jim Rogers from Sandwich. I'd like to note the passing of a United States Army Veteran, Preston Ribnik, who in spite of his passionate speeches here, decrying questionable practices within Barnstable County government, was always one of the Assembly's greatest advocates.

This was the one place in County government where he felt he was being listened to and respected.

Preston was a person of great integrity and honor. In the Jewish tradition of which he was a member, a Mitch, someone with a listening heart who believed that when we see that something in our society is askew, we have a responsibility to speak up and help repair the world.

Speaker BERGSTROM: Is there any other Communications from Members of the Public? Hearing none. The Assembly will now convene.

Assembly Convenes

Speaker BERGSTROM: We'll begin with a committee report on Proposed Ordinance 13-05. The Proposed Ordinance was submitted to the Clerk of the Assembly of Delegates for the Cape Cod Commission on April 11, 2013.

Committee Report – Proposed Ordinance 13-05

Speaker BERGSTROM: The public hearing was scheduled and held by the Standing Committee on Government Regulations on Wednesday, May 1, 2013, at 3:30 p.m. The Public Hearing was duly advertised in the Cape Cod Times.

The purpose of the Proposed Ordinance was to amend and language relative to a qualification after a mishearing, Section 7, Chapter A, "Enabling Regulations of the Cod of Cape Cod Commission Regulations."

We had a full complement of the committee, read the public notice. Jessica Wielgus, who is here, provided an explanation relative to this Proposed Ordinance. This Proposed Ordinance will allow board members who miss one Public Hearing to rehabilitate themselves (laughter), isn't that what they do in China? Don't they rehabilitate people using specific methods available, such as writing a transcript, so on and so forth, is referred to as the "Mullen Rule."

You guys/people that served on other committees should be familiar with this. It used to be if you missed a meeting and there was a series of hearings on a single issue, you could not then vote. Now that prohibition has been removed with the Mullen Rule.

And you can, if you demonstrate, that you have read the minutes and are aware of

the controversy, miss a meeting and still qualify for a vote. But, however, that rule has to be adopted by the various bodies, which it is relevant, and one of them which is us.

So does everybody understand that? That's the report of the committee. Okay. I don't know if I need a vote on that.

Clerk O'CONNELL: No.

Speaker BERGSTROM: Not really. It was a Public Hearing.

Ms. ANDREWS: Can I just ask a quick question?

Speaker BERGSTROM: Sure.

Ms. ANDREWS: I don't want to belabor the point because it sounds pretty sensible, and I see no reason to not vote for it.

The only question I had was because I didn't attend any of these hearings on this issue is there's an assumption here, and I just want to check if it's true. That by not having this in place now, it's creating a hardship for applicants? Is that fair because they're losing the voting -- the number of voting members on it?

Speaker BERGSTROM: Actually, Cheryl, what I'm going to do is I've finished giving the report; okay? And I will now introduce the actual issue, and then I'll answer your question, okay, just to be procedural.

Ms. ANDREWS: Oh, well, I guess I was asking a question about the report but, okay, I'll wait.

Speaker BERGSTROM: So that's the report. Now I'll need a -- the next issue is Proposed Ordinance 13-05, Chapter A, Code of Cape Cod Commission to add qualifying language. So, now, that's on the issue, and I will now answer your question. Okay. The answer is --

Ms. KING: I'll make a motion.

Speaker BERGSTROM: Do you want to put it on the table?

Ms. TAYLOR: I'll move that.

Speaker BERGSTROM: Moved and --

Deputy Speaker MARTIN: Second.

Proposed Ordinance 13-05: Section 7 (vii) Chapter A, Enabling Regulations of the Code of Cape Cod Commission Regulations of General Application shall be amended to include the following language:

Qualification after a Missed Hearing

(b) Notwithstanding any general or special law to the contrary, for hearings held for review of developments of regional impact and adjudicatory hearings, a member of the Cape Cod Commission shall not be disqualified from voting in a matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he/she has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing.

Speaker BERGSTROM: Okay. Moved and seconded. The issue is that some committees, for instance the Board of Appeals in Chatham, for instance, needs a supermajority to pass a lot of things, four votes out of five.

And if they lose, unfortunately, the way things go is they're asked to come back with

a changed site plan, so there could be a series of hearings, four or five hearings before a person misses a meeting. Someone else could miss a meeting later on, and that would almost eliminate the possibility of it being passed.

So it became a problem so that's why -- that is my understanding is the advantage to having this ruling.

Okay. So we all understand that? Are there any other questions or comments on the Mullen Rule that we are going to adopt?

Okay. I'll call for a vote. Do we need a roll call?

Roll Call Vote on Proposed Ordinance 13-05: Section 7 (vii) Chapter A, Enabling Regulations of the Code of Cape Cod Commission Regulations of General Application shall be amended to include the following language:

Qualification after a Missed Hearing

(b) Notwithstanding any general or special law to the contrary, for hearings held for review of developments of regional impact and adjudicatory hearings, a member of the Cape Cod Commission shall not be disqualified from voting in a matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he/she has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing.

Voting YES (94.52%): 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), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61% - Falmouth). ABSENT (5.48%): Deborah McCutcheon (0.93% - Truro), Anthony Scalese (4.55% - Brewster).

Clerk O'CONNELL: Mr. Speaker, Proposed Ordinance 13-05 passes with 94.52 percent of the Delegates voting "Yes"; 5.48 percent are "absent."

Speaker BERGSTROM: Thank you.

Reconsideration – Resolution 13-03

Be It Resolved:

As of July 1 2013, no employee, or elected official of Barnstable County shall be employed by, serve as a Board of Directors, Trustee, or on any Committee, or Commission, appointed or elected, of an organization in which the Cape Cod Regional Government known as Barnstable County is the fiscal agent.

This shall not affect the employee's participation in any agency or department of Barnstable County Government.

Furthermore: This ordinance upon its adoption shall be referred to the next Charter review committee for its consideration for insertion into the County Charter. Suggested site: Article 6-1 New Sec. (a) and subsequent adoption into the Manual of Governance and Procedures.

Speaker BERGSTROM: Okay. I'll move on to the Assembly Reconsideration/Vote on Resolution 13-03, disapproved by the Board of County Commissioners on 4/24/13.

And with that, I'm giving her a heads up in advance, I'm going to turn this over to Janice, who's done the background on this thing. Did you look into the –

Clerk O'CONNELL: I sent in your packets this week a copy of the letter that we received or I received from the Commissioners regarding Resolution 13-03 and the disapproval by the County Commissioners.

We are required to bring that back to the Assembly and reconsider it. And if it does pass, it must pass by 66.23 percent of the Delegates representing Barnstable County. And that's what you will have to do today is reconsider that Resolution.

Speaker BERGSTROM: Okay. So there was a question as to whether or not we would reconsider a Resolution.

Ms. ANDREWS: Oh you said 2/3, you mean 2/3rds.

Clerk O'CONNELL: Yes sorry, 66 --

Ms. ANDREWS: You said .23, okay -- point 66.

Speaker BERGSTROM: We put our heads together and we looked at the Charter and we decided, indeed, even in a Resolution we have the opportunity to reconsider. So that's what it is. So with that --

Mr. CAKOUNES: Mr. Speaker.

Speaker BERGSTROM: Yes, Leo.

Mr. CAKOUNES: Just a question directly to that comment that was just made. The 66 is two-thirds of the majority, not the two-thirds of the majority present? What number are we using?

Clerk O'CONNELL: It's got to be from the majority of Delegates representing Barnstable County, not of what is present.

Mr. CAKOUNES: Okay. Thank you. I just wanted to clarify that.

Speaker BERGSTROM: Okay. Well, I am going to need a motion to reconsider Resolution 13-03.

Ms. MCAULIFFE: I would move to reconsider.

Mr. CAKOUNES: Second.

Speaker BERGSTROM: Moved and seconded. Now, comments. Leo, do you have something to say on this?

Mr. CAKOUNES: I do. Just to make it easier for everyone, I believe you all have a copy of it. Janice was gracious enough to send me a copy of the letter in Word format, as opposed to .pdf, so I was able to copy the actual nine; I think it is, total areas that the Commissioners were concerned about.

And then in red, I have put my thoughts down under those. I don't know if you want to go through each and every one of them individually, but I will tell you that all nine of them I found -- I came to the conclusions that they were unfounded.

I will be as brief as possible, Mr. Speaker, and just go through them one at a time quickly, if you'd like. Or if everybody would like to discuss them one at a time, I will go with your lead, sir.

Speaker BERGSTROM: You can keep going if you want, Leo.

Mr. CAKOUNES: Well then, as quick as possible, the first one was that the Resolution undercuts the principles and concepts of regionalization.

I concluded that this does not in the Resolution only prohibits County employees from serving on Boards or Committees, and it does not prohibit an appointment of an individual serving as the County representative. So I didn't agree with that one.

The Resolution undermines the principles of executive authority granted to the County Commissioners. Again, my thoughts were the Resolution does not affect the appointing authority of the Executive Body. They still have the ability to appoint someone. That practice will just be that it can no longer be an employee of the County.

Number 3 says the Resolution shall affect the efforts to reflect perceived conflict of interest alleged for certain governmental entities which Barnstable County participates. Commissioners have already undertaken the corrective action in the process through the FY 2014 budget -- or 2014 to resolve these problems.

And my comment on that is even more disconcerting because I'm tired of hearing everyone say, "Yes, we know there's a problem, and, yes, we're trying to resolve it." Okay. You guys passed the '14 budget without doing it. I don't want to see this go on any further.

So I think Number 3 is actually in my favor because they do recognize that there is a problem.

Number 4 says the Resolution proposed is an overly broad remedy that would impact other regional agencies. And it goes on to list a number of regional agencies. I find that statement completely untrue; as a Resolution specifically addresses that it shall not affect the departments of the County.

So a number of those agencies that were listed in their comments, it would not affect, such as the Cape Cod Commission, The Wastewater Collaborative, the Housing Consortium, Children's Cove, and certainly not the Cooperative Extension.

Once again, it was only directed to -- the original Resolution was only directed to agencies that we are the fiscal agent for and that are not part of Barnstable County government. So all those ones listed above are irrelevant.

Number 5 says the Resolution impinges on the executive power to appoint qualified individuals to committees and commissions. And I absolutely disagree with that too. With 200,000-plus residents across Cape Cod, I find it ridiculous that we have to strictly use County employees to sit on boards in counties and commissions to bring our views and representation to those boards.

We certainly have a huge pool of volunteers and people that would be willing to serve. So I take issue with Number 5 also.

Number 6 states that the Charter Review Committee is being constituted and this Proposal is appropriate and recommended to reform County Government.

Once again, a statement that I feel is in favor of this then because that's why I brought it forward when I did, knowing we had a Charter Review Committee looking at this. In fact, there's language in the Resolution which directs the Resolution to the Charter Review Committee so that they can deal with specific language, not only in the Charter but possibly in the policies and procedures handbook.

Number 7. Massachusetts General Law, Chapter 268A that goes on to explain "Special Municipal Employees." And my answer to that is that the fact that the state categories "Special Employees" in Mass. General Law 268A is evidence to show that

Special Municipal Employees are treated differently than County employees. And, quite frankly, I don't see a connection between the two.

But, again, being the simple-minded farmer, I would say to you then you possibly, and I don't agree with it, but you possibly could include that you could not appoint a special municipal employee to serve on one of these boards and committees. So that maybe limits your pool of 200,000 now down to 197,000.

So, once again, I don't think it affects us that much. But I don't agree with it because, once again, the state goes to great lengths to put the label, if you will, "Special Municipal Employee" under Chapter 268A, which is entirely different than a County employee.

Number 8 said the governmental agencies are targeted. The Resolutions are legally constituted under the law. I take issue with that. This Resolution does not target specifically any agencies. All it does is it has absolutely no effect on a service agreement that we have or our ability to perform our duties as fiscal agents to these agencies.

All its doing is saying that if we have representation on their boards and committees, we will pick someone who is not a County employee. And, hopefully even more specifically, not someone who's actually employed by the County to do their fiscal agent work.

Although it doesn't say that specifically, but that's certainly my intent.

And Number 9 says, "Section 1-5 of the Barnstable County Charter specifically authorizes the participation of Barnstable County into intergovernmental relationships.

And, once again, I state that I do not believe that this Resolution in any way affects the County and its intergovernmental agreements or its County's participation with any of these agencies and only limits their pool of people that they would be, in fact, putting on their boards or committees.

Furthermore, I just go on to mention a couple of other things in hopes that you will support me in revoting this.

At the County Commissioners' meeting, it was mentioned during the meeting that the Assembly had no authority to take this action. And I take issue with that, and I have actually stated the Charter, "Section 4-1, Subsection (i), which requires that by Ordinance the Assembly of Delegates may reorganize, consolidate, establish, create, merge, divide, alter any term of office, manner of selection or a multi-member body" and it goes on.

So, quite frankly, when I originally brought this forward, I brought it forth as an Ordinance because I read that section of the Charter.

But then because of a letter that we got from County Counsel, I felt that it was -- it hadn't addressed every single part of the Charter that should have been to be brought forth as an Ordinance at that time.

So I re-brought it forth, lived through the Ordinance, and brought it forth as a Resolution to say that this is what we want to have happen, an opinion, if you will, of this body so that the Charter Review Committee could, in fact, institute it in the correct sections and areas of the Charter.

I go on in the last page of the document that I handed out, I just go on to assess the Charter Section 3-8, and our esteemed secretary has already done that just to give you a heads up on this measure and why its here in front of you again for a revote.

So with all that said, I know there's a lot to take in. I did request that the members watched the meeting in which the County Commissioners came up with this conclusion. I

hope some of you did.

I don't know what more to say other than I disagree with just about every point, if not every point, that they've made to, in fact, vote down this Resolution.

And I'm hoping at this time that you will join me in a revote. It's the right thing to do. It's obviously mentioned and we have discussed this before and many times in the conflict of interest laws, we need to start cleaning up this government and we've got to start now.

So let's just join me, please, and pass this. Take a stand for the right thing. Thank you.

Speaker BERGSTROM: Okay. Any other comments? Yes, Pat.

Mr. PRINCI: Leo, I'll be supporting this, as I did before. However, after I voted in favor of it before, I did do a little research and look into it.

And I know you might not want to hear this, but the County does recognize there's a problem and they are doing something about it, like you had said earlier, which is great. I know that there has been opinions sent to Ethics, and they're awaiting some of those responses back.

And the main reason why I will support this is the last paragraph, whereas it's sent to the Charter Review Commission for review and perhaps they'll have more information to review with opinions and so forth from Ethics and make the right decision. So you've got my support on this.

Speaker BERGSTROM: Okay. Anybody else? I am going to support this. I've already said that I thought that disputes between the Commissioners and the Assembly should be dealt with, basically, by some kind of reasonable compromises.

However, Leo has basically submitted the Ordinance so I've got to take a vote. I think that -- I know that when the towns appoint members/bodies, they tend not to appoint employees.

Some members, such as the Regional Transit Authority members are, many of them Planning Board/Town Planners and so on, but other, for instance, the Cape Cod Commission, I think, are all volunteers. I don't think any of them are employees of the towns.

So, I don't think this has -- I don't think this requires any heavy lifting. Some of the logistical problems that the Commissioners brought up I think can be easily overcome. So for that reason, I'm going to support it.

Okay. Anybody else? Yes, Cheryl.

Ms. ANDREWS: Thank you, Mr. Speaker. I'm certainly aware of a number of other types of committees and boards where even employees of towns are sent.

The real difference here is where the County is the fiscal agent and then has some of its heavy-hitting, top-level employees serving on those groups. We ended up with a public that really saw those groups, CVEC and CLC in particular, as being County driven, County department and County groups.

And recently when the CVEC -- not CVEC -- that proclamation that ended up circulating on Cape Cod a couple weeks ago supporting CVEC. When it ended up in front of the Board of Selectmen in Provincetown, I wasn't there that night because it wasn't on the agenda.

It was -- I did hear about it and I watched it online and I actually saw my -- town, you know, this is tough to say but it's the truth; I saw my town staff, who actually is the rep

town employee to the group, explain to the Board of Selectmen that it was a County agency.

And so, you know, more and I'm thinking, "Wow, my staff just told the Selectmen that they were supporting a County agency." Then I'm thinking, "No, actually, not they're supporting a collaborative that they are a member of."

And it was just really disappointing that they didn't understand it. And if the Selectmen don't understand it, no wonder the public doesn't understand it.

So I think we all seem to be agreeing on the general principle here that these groups are ready to take the ball and run with it and they're doing well. Let them do it and let the County step back and simply be the fiscal agent.

And if we need to put it in writing so that everyone's learned a lesson, and now we've put it in writing so we don't do it again, then it's okay.

The only concern I had when this came before us last time was because I am not an expert in the scope of County government. I thought was there possibly some board that we were going to impact and be unaware of it. And in this response, no response is listed. If there was a board and they said, Look, this Resolution may cause a problem, that might change my vote, but I don't see it here.

So, therefore, my support stands. Thank you.

Speaker BERGSTROM: Anybody else? Okay. Well, we'll go for a vote on it.

Mr. HITCHCOCK: There needs to be a motion.

Mr. KANAGA: Is there a motion?

Ms. KING: Yes. I moved it.

Speaker BERGSTROM: It's been moved and seconded. It's been on the floor.

Mr. CAKOUNES: I seconded that.

Roll Call Vote on Reconsideration of Resolution 13-03:

Be It Resolved:

As of July 1 2013, no employee, or elected official of Barnstable County shall be employed by, serve as a Board of Directors, Trustee, or on any Committee, or Commission, appointed or elected, of an organization in which the Cape Cod Regional Government known as Barnstable County is the fiscal agent.

This shall not affect the employee's participation in any agency or department of Barnstable County Government.

Furthermore: This ordinance upon its adoption shall be referred to the next Charter review committee for its consideration for insertion into the County Charter.

Suggested site: Article 6-1 New Sec. (a) and subsequent adoption into the Manual of Governance and Procedures.

Voting YES (61.45%): 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), Marcia King (6.49% - Mashpee), Suzanne McAuliffe (11.02% - Yarmouth), Patrick Princi (20.92% - Barnstable).

Voting NO (23.49%): Teresa Martin (2.30% - Eastham), John Ohman (6.58% - Dennis), Julia Taylor (14.61% - Falmouth).

Voting PRESENT (9.58%): James Killion (9.58% - Sandwich).

ABSENT (5.48%): Deborah McCutcheon (0.93% - Truro), Anthony Scalese (4.55% - Brewster).

Clerk O'CONNELL: Mr. Speaker, Reconsideration Vote for Resolution 13-03 does not pass or has failed because it received a vote of 61.45 percent voting "Yes"; 23.49 percent voting "No"; 9.58 percent voting "Present," and we have 5.48 percent "Absent." It takes two-third majority to pass and it did not receive a two-third majority vote of yes.

Speaker BERGSTROM: Thank you. We now move on to the next item of business, a Report from the Clerk.

Report from the Clerk

Clerk O'CONNELL: Just one item today. Based on the submission of the Proposed Ordinance from the Commissioners for funding for the special counsel, the Finance Committee will be meeting on June 5th, which is the next scheduled meeting day for the Assembly at a time yet to be determined. I have to get together with the Chair and assign a time for that particular public hearing.

And that's all I have for today.

Other Business

Speaker BERGSTROM: Okay. Thank you. We now have a report from John Ohman regarding selection committee and recommendation of Order.

Mr. OHMAN: Thank you, Mr. Speaker. Part of the Assembly's job is to audit the - - well have an auditor perform -- an audit performed on the Executive Branch every year. And we do this in three-year increments and we hire an agency that will do this audit in I think three-year terms. And this is the year we're doing it.

And we had a committee of Janice O'Connell, Mark Zielinski, Joanne Nelson and I previewed four RFP's, including the present organization. These guys right here; Sullivan & Rogers, and three others.

We spent about an hour and a half reviewing just the proposals without the money involved. And to a person, everyone in the room came up with Sullivan & Rogers as the most-qualified person/company, to do that, with the others ranking 2, 3, and 4 in various permutations.

When it came down to money, at first it seemed like Sullivan & Rogers was going to be a little more expensive than the other and looked into it more deeply. There were contingencies put on federal audits and the numbers and such that would bring them either equal to or even more money than Sullivan & Rogers.

So with that in conclusion, we unanimously voted to retain Sullivan & Rogers for three or more consecutive years.

Speaker BERGSTROM: Thank you. Is there any other business to be brought before the Assembly?

Deputy Speaker MARTIN: Motion to adjourn.

Ms. KING: Second.

Speaker BERGSTROM: Okay. All those in favor, say "aye." "Opposed?"

**Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates
at 4:50 p.m**

Respectfully submitted by:

Janice O'Connell, Clerk
Assembly of Delegates