Speaker BERGSTROM: Good afternoon. Welcome to the July 17th session of the Cape Cod Regional Government, Assembly of Delegates.
I’d like to call this meeting to order. I don’t think we’re being recorded by anyone except our normal staff.
Then we’ll begin now with a moment of silence to honor our troops who have died in service to our country and all those serving our country in the Armed Forces.
(Moment of silence.)
Thank you.
We will now stand for the Pledge of Allegiance.
(Pledge of Allegiance.)
Speaker BERGSTROM: The Clerk will call the roll.

Roll Call (57.87%): 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), Julia Taylor (14.61% - Falmouth).
Absent (42.13%): Richard Anderson (9.15% - Bourne), Deborah McCutcheon (0.93% - Truro – arrived at 4:15 p.m.), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Anthony Scalese (4.55% - Brewster).

Clerk O’CONNELL: Mr. Speaker, we have a quorum with 57.87 percent of the Delegates present; 42.13 percent absent.

Committee of the Whole

Speaker BERGSTROM: Thank you.
I’ll now need a motion to approve the Calendar of Business.
Deputy Speaker MARTIN: So moved.
Ms. KING: Second.
Speaker BERGSTROM: Okay. Moved and seconded. Any additions or corrections to the Calendar?
Hearing none. All those in favor, say “Aye.”
(Motion carried.)
Speaker BERGSTROM: You should have received a copy of the Journal of June 19th, 2013. You’ve had a chance to review that. Are there any additions or corrections to the Journal?
Hearing none. I need a motion to --
Deputy Speaker MARTIN: Motion to Approve.
Ms. MCAULIFFE: Second.
Speaker BERGSTROM: Moved and seconded. All those in favor say "Aye."
“Opposed”?
(Motion carried.)

Speaker BERGSTROM: Okay. Next on the agenda, Communications from the Board of Regional Commissioners. I see Commissioner Doherty here. Welcome.

Communications from the Board of Regional Commissioners

Commissioner DOHERTY: And, as always, it is such a pleasure to be here. Bringing back those halcyon days when I sat on the other side of the bench.

I only have one item to submit and that is an Ordinance to provide the money to support legal services for Attorney Michael Curran for the Charter Review, and I have that here.

And we had a presentation from the Economic Development Officer of the Cape Cod Commission today, and we recommended that she get in touch with the Assembly so that she could share that information directly. But in the meantime, you can go on the webpage and her presentation is there.

Attorney Curran was supposed to be there today to give us some advice and to go over some things but he did not come. I don’t know whether he’s scheduled to come tonight. I think he is, but, in any case, we didn’t see him so we did not take any action on that piece.

So, with that, that’s all we did today.


Ms. MCAULIFFE: Just a question, is Attorney Curran for the County Commissioners or for the Charter Review Committee? I know he was hired by the County Commissioners and there was a Scope of Services from the County Commissioners, but the Charter Review -- I thought he was the Special Counsel for the Charter Review Committee.

Commissioner DOHERTY: If your specific question is was he hired by the Commissioners? Yes. Was he hired for the specific purpose of supporting the Charter Review process? That answer is yes.

Ms. MCAULIFFE: So you’re meeting with him to discuss some things relevant to the County Commissioners input to the Charter Review Committee?

Commissioner DOHERTY: Didn’t I say that? I thought I said that.

Ms. MCAULIFFE: I’m clarifying. I’m making sure that I’m understanding what you said.

Commissioner DOHERTY: Okay. We had -- you may have recalled that you received a Resolution from us, and that the Commissioners wanted to put some clarifying language to further explain what the intention was and we wanted the advice of Michael Curran to support the clarification to make sure that it was clear. So, we hoped that he would show up today to do exactly that.

Ms. MCAULIFFE: So if the Assembly had need of legal services for input to the Charter Review Committee, they could also use Michael Curran?

Commissioner DOHERTY: I believe that that’s what he’s doing for you; isn’t it?

Ms. MCAULIFFE: No, I’m not talking about the committee. I’m talking about the whole Assembly.

Commissioner DOHERTY: I don’t know how to answer that question other than to say that he was hired specifically to support the Charter Review process.

Ms. MCAULIFFE: Thank you.

Speaker BERGSTROM: Leo, did you have a question?
Mr. CAKOUNES: Well, it’s more of a comment in the light of the remarks that I just heard as opposed to a question.

The Charter Review Committee, as far as I’m concerned, was created by the Charter by the Assembly. Then we took a vote that we thought it would be smart for them to have separate legal counsel as opposed to using County Counsel and maybe find counsel that is more attuned with Charter Review.

That process has taken place, and now to my listening to the comments today, the County Commissioners are going to be asking that counsel to appear in front of them to somehow listen to what their feelings are or to put down on paper correctly what they would like input on the Charter Review process.

I’m not comfortable with that. I don’t think it’s the right process. I think we have a Charter Review Committee. We have a member of the County Commissioners on that Review Committee.

Quite frankly, if that happens, I would be putting a Resolution in then asking for that same attorney to appear in front of us as a committee on the whole to take with him to the Charter Review Committee the language of a Resolution that we passed here, specifically to the reorganization of government, County government, and also any other things we may want to have him look into the Charter for.

I don’t want to do that because I think it messes up the process, and I’m not happy to do that. But I will go on record as saying I’m also not happy that the Commissioners have taken it upon themselves to have interaction with the attorney that has been specifically for the County Review -- Charter Review process.

Ms. MCCUTCHEON: Can I --

Speaker BERGSTROM: Sure, jump in there.

Ms. MCCUTCHEON: Was it your intention to meet with him in Executive Session?

Commissioner DOHERTY: No.

Speaker BERGSTROM: Anyway, I don’t know if Bill’s aware of this, but I picked up the Commissioner’s intention to speak with Mr. Curran via email. It was sent to me by some private citizen who had looked into your agenda.

I had the same impression as Leo. I thought it was kind of awkward, but then, subsequently, I received an unsolicited communication from Mr. Curran who said that he felt that it was inappropriate for him to meet specifically with the Commissioners. He felt that that would obligate him to meet with other groups including the Assembly, including other groups and so on.

So it was his intention to communicate with the County Administrator who I guess he had heard from that he would not be in front of the Commissioners. And I’m glad he did that, because the last thing I want to do in the middle of the summer when everybody’s busy is to get into a contest with the Commissioners. So he took that out of my hands by saying that he felt he would only do those things, that it was inappropriate.

So that’s between him and the Commissioners now, but I think that the Commissioners or any other group that’s interested in clarification or, you know, giving input to the committee can do so directly through the Clerk, to me through the Clerk, or work through the Committee and their concerns will be dealt with.

So, it is what it is. It’s a shopworn phrase. Anybody else?

Commissioner DOHERTY: Okay. Well, I’d like to respond to that last --
Speaker BERGSTROM: Yes.
Ms. ANDREWS: Mr. Speaker, while we’re waiting for the Commissioner, was that in writing from Attorney Curran or was that a phone call?
Speaker BERGSTROM: It was an email and I don’t know -- unfortunately, when I get emails, I don’t look to see who they’re copied to. He probably copied it to me personally through the County email. I presume everything goes to everybody, but obviously it doesn’t.
Commissioner DOHERTY: Okay. And by the way, he did, to the best of my knowledge, he didn’t communicate that to the Commissioners because we waited for an hour for him to show and he didn’t show up.
Now if he had shown up, those are some of the questions that he would have been asked. So for what it’s worth, as you asked for, I give them to you. Please share them with the Charter Review Committee in your function as being the Chair.
Speaker BERGSTROM: Okay. I will, Bill. But --
Ms. KING: Mr. Speaker.
Speaker BERGSTROM: Yeah, please say something.
Ms. KING: I’m going to join my colleague from Yarmouth and Harwich. I’m a little surprised by that you’re meeting with Attorney Curran. You made a statement and you seem to be walking it back like nobody’s business. You made a statement and you wanted to clarify your statement. You made a statement to the press. You should just leave it at that. You’ve already made your decision on what you want to do. I think --
Commissioner DOHERTY: Help me out, Marcia. You mean the Resolution?
Ms. KING: The Resolution.
Commissioner DOHERTY: Okay. So, no, we’re not talking about --
Ms. KING: Your Resolution that you seem to be walking back that I think you must have got some flack obviously from it because you’ve already made your decision on how you want this activity and this exercise to go forward. You never made any idea that you already had your decision made between the Commissioners and what you want the County to be organized as.
Like you and Suzanne, I’m surprised that you were meeting with the attorney and I would hope that you would stop meeting the attorney or meet the attorney in the right forum which is at 5:30 at the meeting of the Charter Commission. I don’t think you should be meeting with the attorney to walk back what you -- your Resolution that you’ve already made.
Commissioner DOHERTY: Thank you. Just to -- since I did not have the information or was aware that he took exception to the invitation that he received, I think I’d have to confer with the other Commissioners to find out what the next step would be.
Speaker BERGSTROM: Is the County Administrator -- is Mark Zielinski around? Is he on vacation?
Commissioner DOHERTY: He’s going on vacation tomorrow and will be gone for about a week.
Speaker BERGSTROM: But he’s been here the last few days?
Commissioner DOHERTY: Oh yes.
Speaker BERGSTROM: Okay. Yes.
Ms. MCCUTCHEON: I just ask one thing further. I’m sorry I missed the beginning of this because I really don’t understand.
You were trying to meet with counsel for the Charter Review Committee in your capacity as the employer, as the people who were paying him or retained him or -- I’m not
understanding what capacity you thought you were meeting with him?

Commissioner DOHERTY: To the best of my recollection -- my recollection was we were meeting with him because we had questions with regard to how to clarify what we intended.

There seems to be some -- there is a concern on the part of all three Commissioners that where -- I guess it’s more with me than anything else. There has not been what I’d call the beginning of what I’d call a debate with regard to the analysis of what the benefits or detriments are of any suggested form of governance.

I believe that Attorney Curran has supplied to the Charter Review Commission several - - several descriptions of what different models would look like. These were all submitted after -- I’d say after the Commissioners had come up with what I would call their opinion as to what they would like to see as far as going forward.

But I’d like to think of this as the beginning of a negotiation rather than an absolute -- this is what is written in stone because the whole thing that I’ve maintained all along is that the only place where the change can really occur is in the Charter Review process.

That’s what the Charter Review process was intended to set up, and I certainly am one person that has been attending Charter Reviews for 15 years and have never felt that the outside of the Charter Review process was there any benefit in discussing or let’s say coming up with an announcement that this is the way it should be.

But I would point out that the Assembly came up with an opinion that should be 5 and 15, and I guess the Commissioners felt well maybe we should suggest an alternative.

And if we are proposing a merger which would essentially, to use Pat’s words, would be the elimination of the Executive branch of the County Commissioners and make one Legislative branch that perhaps we should propose what size that would have.

So it’s all a process. But all of this stuff should be addressed within the Charter Review Process, I would think, and that all this opinion -- you have an opinion and the Assembly’s expressed an opinion, the County Commissioner’s have expressed an opinion, and those two opinions might not be at opposite poles, but, never the less, I would say would be the basis of a discussion within the Charter Review process where we should all end up.

Ms. MCCUTCHEON: And in seeking to frame that discussion with Attorney Curran, you were seeking to negotiate with him as the representative --

Commissioner DOHERTY: No, I didn’t say that; did I? I didn’t say that I was negotiating with -- or the Commissioners were negotiating with him. I did say that we had questions that we had for clarification that we were going to ask them.

Ms. MCCUTCHEON: So you wanted him to carry your position to the --

Commissioner DOHERTY: You’re wrong. Again, you’re implying things or making an implication of what I intended to do. I think I was very clear in that we had questions we wanted answered or let’s say or guidance on. I’ve given the copy of the questions, as your Speaker has asked for, for submission to the Charter Review.

And I also was not aware of or advised that Attorney Curran had taken exception with regard to appearance. Because if we had known that, we would not have, you know, we would not have expected him to show up.

Ms. MCCUTCHEON: I just simply don’t understand why you thought it was appropriate to speak with him separate from the party he’s hired to advise and represent here.

Commissioner DOHERTY: I would defer to your superior knowledge as being a member of the Bar and say that our intention was we had some questions we thought he could
answer and we invited him to come.

Speaker BERGSTROM: Well, Leo.

Mr. CAKOUNES: On another note altogether. You mentioned in your report, Bill that you met with the Economic Development Department of the Cape Cod Commission. Can you enlighten us in any fashion or do you have any knowledge as to license plate money that has been going to the Cape Cod Commission?

I think it started out as a pledge to be a three-year program. Do you know at what point we may be at that now and if it’s the intentions of the receivers of that money to continue to fund the Cape Cod Commission with it?

Commissioner DOHERTY: Who is your representative on the Economic Development Commission?

Mr. CAKOUNES: I don’t know that.

Deputy Speaker MARTIN: I can tell you that right now no one is going because it meets at a time that no one on the committee is able to make.

Commissioner DOHERTY: Okay. That would be the person that should be able to keep you advised as to what the intention the Economic Development -- the last I heard, the three-year program was over and that there has been nothing that I can recall coming across our desk that said that the Eco -- that they were asking for approval for a large distribution of funds. That’s to the best of my recollection.

Mr. CAKOUNES: So, again, and because we’re on TV and you are a County Commissioner, to your knowledge at this time, you have no information to give the general public as far as --

Commissioner DOHERTY: If I had any information to give you, and as I say to the best of my recollection, there has been no document or request for approval.

And as you know, anything that the Economic Development Council proposes has to be approved by the County Commissioners.

Mr. CAKOUNES: That’s why I asked. Thank you.

Commissioner DOHERTY: Okay.

Speaker BERGSTROM: Bill, have the Commissioners made any progress in appointing an interim Administrator?

Commissioner DOHERTY: They have posted the job. They have advertised the job. I do not -- there was no report made by human resources today as to how many people have actually applied.

Speaker BERGSTROM: Have you gotten a -- in other words, it’s going to be for a fiscal year? Do you have any -- how long is it going to be until the services or his or her services no longer are required? In other words, what is the position going to be? How long is that position going to be filled for?

Commissioner DOHERTY: If you’re talking about the so-called interim --

Speaker BERGSTROM: Yes.

Commissioner DOHERTY: Okay. The intention was that it would be for the fiscal year because that’s what it’s funded for. And that at the end of the fiscal year it was hoped that the Charter Review process would have been completed.

The issue of governance would have been decided with regards to the direction they were going. And at that point, it would be -- we would be in a better position to recruit somebody as a full-time Administrator because they would have the benefit of knowing where the structure of governance had been decided to be at.
Speaker BERGSTROM: Is the salary on that negotiable? Is there a specific --
Commissioner DOHERTY: The salary on that is negotiable based upon what -- there
was no salary set on that.
Speaker BERGSTROM: Okay.
Commissioner DOHERTY: It was to be based upon negotiation.
Speaker BERGSTROM: Okay. And as the clock ticks, that’s going to be prorated to
however long this person serves you’re saying?
Commissioner DOHERTY: What do I think? I think that since any money that the
Commissioners spend has to be part of an appropriation that whatever is not spent as part of that
appropriation for that particular purpose would be in the General Fund. And at that point, the
decision would be made with regard to the allocation, certainly with the support of the Assembly
if it were going to be diverted to something else.
Speaker BERGSTROM: Okay. Thank you very much. Are we all set here? Well,
thank you very much. Enjoy the rest of this beautiful day.
I will send a copy of Mr. Doherty’s -- Commissioner Doherty’s questions or potential
proposed questions for Mr. Curran.
Commissioner DOHERTY: Oh, sorry, before I forget. I have with me Bill Clark who
has a wonderful invitation for the month of August. Please come up.
Mr. BILL CLARK: Thank you, Bill. I’m here to invite you to the annual tour of
Cooperative Extension projects. This year it’s going to be August 14. We plan to be in the town
of Sandwich and at least one stop on the base. Depending upon -- we’re still working out the
details. We may end up in Bourne too.
For those of you that are new on the Assembly, for the last 10 or 12 years, I’ve invited
the Commissioners and the Assembly on a bus ride to a different part of the Cape to see some of
the projects we’re working on.
And I know you get our reports, and I think it’s nice to see the actual projects right in
person. So we’ll see a variety of projects. We’ll have a light lunch and that will be it.
It’s on the 14th of August. We will meet at the back door of the Superior Court at 9 a.m.
The bus will leave. I hope to be back here by 2:30 or so in the afternoon. You’re all welcome
and that’s about it.
Oh, if you’re going to come, please let me know by the 7th of August so that I can plan
accordingly with bus and food and all.
Thanks.
Speaker BERGSTROM: Okay. Yes, Teresa.
Deputy Speaker MARTIN: I just want to say I just want to encourage anyone who
hasn’t done this to go. It’s a different area every year and you learn an enormous amount. It’s
extremely, extremely worthwhile use of time.
So, I just -- I’ve been to several of them, and if anyone here hasn’t been, I would just
really encourage you to take advantage of it.
Mr. BILL CLARK: Thank you. I think we’ve been to just about every town now on the
Cape over the years.
Last year, we went to several towns and we did lose some time in traveling, so that’s
why I’m trying to reduce the travel time and get more projects in a smaller area.
Speaker BERGSTROM: Thank you.
Do we have any communications from Public Officials?
Do we have any Communications from Members of the Public? Hearing none.
Assembly Convenes

Speaker BERGSTROM: I will now convene the Assembly. Do we have any committee reports? Quiet bunch. Report from the Clerk.

Report from the Clerk

Clerk O’CONNELL: Well a few of the items that I had planned to remind you about have already been covered or will be by someone else.

So, I have nothing to report today.

Other Business

Speaker BERGSTROM: Okay. Under Other Business, I just put this item on because we went through an extensive discussion with -- is it Rogers & Gray?

Mr. KILLION: Sullivan.

Speaker BERGSTROM: Rogers & Sullivan who were the auditors of the Cape Light Compact. I wonder if anybody has any questions on that or they’re happy with it and what to follow-up on it. Then this would be a time to voice your opinion.

Do we have anybody who wants to voice their opinion? Leo.

Mr. CAKOUNES: Don’t ask my opinion or you’ll get it. First of all, it’s Sullivan & Rogers Company. Second of all, it’s not an audit. It was an Agreed-Upon Procedure and Status of Finances.

Speaker BERGSTROM: I knew that but I didn’t want to drag this too much --

Mr. CAKOUNES: Okay. I’m not calling it an audit anymore.

I personally have been asked by a number of people who watched the meeting and are concerned in this matter that we possibly move forward and go back to the original recommendations of the Assembly when we had our Special Committee formed.

I’ve expressed to them and I will express to my fellow members here that I would like to wait until the final work is done by Sullivan & Rogers.

He expressed to us that they still had some hope in things that they were working on and that they had planned on having everything all compiled and done by August, I believe. I think he even said September 1 is the latest.

So, with not hearing -- at this time making a motion to do anything and hearing someone use the excuse, if you will, well, we haven’t got all of it back from them yet. I plan on waiting. I would like to see the actual final documents that are coming forth from Sullivan & Rogers.

I will tell you up until this point; I am not pleased with some of the questions that we asked and some of the answers that we got back. I don’t feel as if the initial questions that were done in the subcommittee have been answered and, specifically, I don’t think some of the procedures that we were concerned about have been addressed.

But without getting into that in depth at this time, I would just like to tell the rest of my colleagues and for those of you at home that I’ve been following this, that I would like to wait, get the final paperwork in, and then have this re-agendaed so we can decide where we want to go from there.

That’s my personal input on it. Thank you.

Speaker BERGSTROM: Julia.
Ms. TAYLOR: Well, it’s funny that you should mention, Leo that you had heard from people who had seen the meeting on television because, of course, I was not here, so I wasn’t at the meeting.

And really it was very interesting to get a sense of the meeting in a different perspective. And it was actually very upsetting. I was very surprised at the cross-examination tone of our auditors, and I think it’s important to keep in mind that CLC has been audited every year by our auditors.

But now we have now asked and they volunteered to do an independent financial statement which we will have as you say in August or September for 2009, ’10, and ’11 going forward.

And I believe it was their suggestion, the auditors -- Rogers’ suggestion that they do this Agreed-Upon Procedures because of the cost and that it would save $400,000 if CLC agreed to do that instead of the audited Independent Financial Statement.

Apparently their board discussed that suggestion by the auditors and agreed on it. Remember that board is made up of the people appointed by our towns, and I think now pretty heavily supported by our towns. And they thought it would be good to save the $400,000 since the Agreed-Upon Procedures Report did not turn up one iota of unusual, inappropriate, illegal, or suspicious information. There was nothing inappropriate or illegal about any of the CLC expenditures in that Special -- the Agreed-Upon Procedures.

Now, I really am not usually into paranoid political fantasies, so it’s inconceivable to me that Maggie Downey, that Joyce Flynn, that Mark Zielinski have been spending money inappropriately and that the other people from each of our towns appointed by our Selectmen supported by our Selectmen in recent months on these very issues are engaged in some sort of problem.

If, in fact, I were someone who went for paranoid political fantasy life, I’d be wondering about Mr. Bibler. I’d be wondering, you know, gosh, I never met a civic activist anything like him in my 40+ years of civic involvement.

I’d be thinking if I were a paranoid fantasy type, I’d be thinking, gosh, is he the real deal with this transparency and clarity of government? Is that really what he’s all about, or is he about some sort of anti-wind and anti-solar? I mean could he be a TOOL that would be T-O-O-L underlined, of the Oil, capital O, and G, Gas, Special, capital S, Interest, capital I. I mean that’s where my paranoid fantasies would go.

But, again, that’s not me. I don’t really go that way. So I think if people have some feeling and perhaps waiting until September is a good idea that there is some reason to suspect fraud, then bring an ordinance asking for $400,000 to do the Independent Financial Statement for all those years, I would not vote for it because I think it would be a spectacular waste of taxpayer money. And I’m saying that over and over again.

However, that is the proper procedure. To have this kind of discussions which impugn misbehavior by people involved in CLC and CVEC, I just don’t think that’s right. I think it’s very disrespectful of the boards of those organizations and their sponsors, the Selectmen.

I think it makes us, the Assembly, look bad. And I think we’re at a time when it’s good for us to look good. And we need to be a check and balance and that is our job, but it isn’t to be running around acting as if there’s some fraud going on in agencies over which we are not in control and which, in fact, have been doing the correct thing.

Speaker BERGSTROM: All right. Just -- yes, Chris.

Mr. KANAGA: Just to refresh my own recollection, it seems to me that the suspicion if
we want to characterize it as such -- I apologize for my voice, everyone, was, in fact, invited by the failure to provide public documents and public information to the public of which we are members and representatives, and that that was brought on by their own actions, not a witch hunt set on them by someone else.

Speaker BERGSTROM: Okay. I’d just like to say something just in response to what Julia had said.

My concern -- I know that you proposed this audit as a way of trying to demonstrate that Cape Light Compact was doing everything, that it was kosher.

But my concern, and I think I expressed it at the time, was that it simply wouldn’t address the questions that we were asking and that it would be put forward once again as something to say, “Well, look, we did everything they asked and now they’re still after us” and to throw themselves on the ground and throw a tantrum and say --.

As a strategy for trying to keep their critics at bay, this claim of being sinned against is not working. It hasn’t worked for three years. When they yelled and screamed that it’s the anti-wind turbine people who are against us. They’re all against -- Bibler’s against us. It has no effect on me or anyone else who’s a critic.

In other words, it just empowers me to say, “Fine. After your tantrum, I’m still going to ask the same questions I’ve been asking all along.”

The fact is that this organization was formed for the purpose of ratepayer advocacy. They were supposed to work for the people who paid their electric bills. And from what you say and from what they’ve been saying for the last 10 years is, “Oh, we answer to the towns.”

Meanwhile, so they’re answering to the people who they’re paying. The people who are running this organization are the people who are on the receiving end of the money who are -- and not only are they on the receiving end of the money, but the money they’re getting is only a small portion, a very small portion of what the ratepayers are being overcharged for.

So if we’ve been overcharged $30 million over the course of 10 years, and they can point to say, “Well, we did this in Brewster and we did this in Eastham,” sure that represents a very small bit.

So the criticism of the Cape Light Compact is not saying you’re not doing anything illegal. What they’re saying is you’re not doing what you’re supposed to be doing.

Ms. TAYLOR: But, Ron, we are not the policymakers for CVEC or CLC.

Speaker BERGSTROM: Well, who represents the ratepayers? Who represents the people who are paying the bills? Answer me that.

Ms. TAYLOR: It isn’t us.

Speaker BERGSTROM: Well, who is it then?

Ms. TAYLOR: It is the members who are appointed by the Selectmen. Those are the people who are answerable to the ratepayers and are in charge of CLC. We can --

So, an audit is a reasonable thing but to determine the policy of how they should be spending their money, that is not within our purview. We are not a policy group for those organizations.

Speaker BERGSTROM: Yeah. All right. Rescue me here before I get --

Ms. MCCUTCHEON: Mr. Speaker, I’d just like to respond very briefly to this because I tell you, quite frankly, I was floored when the gentleman from Sullivan & Worcester --

Ms. TAYLOR: Rogers.

Ms. MCCUTCHEON: -- Rogers sat here and said every year since its inception Cape Light Compact has been audited as part of the Barnstable County audit. That’s something Mark
Zielinski said was not true. That’s something Maggie Downey said was not true and they came before us. Okay. So there’s contradictory information.

Now, leading --

Ms. TAYLOR: But can I tell you the difference?
Ms. MCCUTCHEON: No, let me finish.
Ms. TAYLOR: They’re two different things.
Ms. MCCUTCHEON: I don’t think anybody interrupted you.
Ms. TAYLOR: Sorry.
Ms. MCCUTCHEON: So let me finish. As I said, I was somewhat floored by that presentation. I don’t think that anyone here is having paranoid delusions about criminal or fraudulent activity.

I think what the concern here is is that there is an organization that was set up by this County, not by some amorphous group independent of the County, but by the accounting through a Municipal Services Agreement that is supervised by the County.

And if the County then doesn’t have some obligation to ensure that what it set out to provide is being provided, I think the County, and the Assembly as part of the County, is failing in its obligations.

Now, that then brings you to the question of what is the concern here. Well, since Cape Light Compact started, what we see is that Cape Light -- consumers who sign up with Cape Light Compact -- and that’s by default everybody, and you have to opt out -- are paying more for electricity than people that buy it from NStar.

Now why is that? Well, the thing that came to light in this little exploration was a perhaps overly close relationship with a particular supplier.

Now, you take those facts and I think that warrants an examination by somebody who’s independent, not by us. Not by somebody hired by Cape Light Compact, but by someone who is independent.

And I will say that the Agreed-Upon Procedures -- Leo is absolutely right. When you say that the premise is that they can spend anything they want on anything they want on anything, then you can examine everything they spent and whatever it was was right. Well, that’s the universe in which we are being asked to say that enough is enough.

Now, I think that there are a lot of people here who are involved in Cape Light Compact who deal with all good faith and their best efforts to do a good job. But I think that there is a serious, serious lack of transparency and lack of accountability that is costing Cape Light’s consumers thousands and millions of dollars annually. And I think that’s where the concern is.

So, I agree with Leo that we wait until they finish whatever they’re doing.

Speaker BERGSTROM: Yes, Suzanne.

Ms. MCAULIFFE: Yes, I agree with what the Delegate from Truro has just said. Also, in the town of Yarmouth, there are Barnstable County residents who are not happy with the lack of oversight by the County, the CLC, are individual towns. The Boards of Selectmen and the towns don’t feel like they have any clout even though they nominate a representative, that representative is one of a board.

So, the town of Yarmouth is specifically, through citizens and through its Board of Selectmen, been warning the County and sort of waiting on the Assembly to take some action or to do something about oversight.

Now the town is very happy with the energy rebate and the energy programs that Cape Light Compact has produced for the town. The residents in the town of Yarmouth have
benefited greatly.

What the town’s not happy with is the lack of transparency, and that’s where they don’t feel that, like as an individual town, they really have any ability to have any oversight because they’re just sort of one member at the table, and they think the County, even though we’re supposedly just the fiscal agent, is the place to go.

We have a resident who’s going to call a Town Meeting to bring the CLC in to answer questions. Now, nothing will force them to show up.

Just as with the Assembly, it’s been difficult to have CLC board members come in and answer questions of the public. One can’t blame them. Perhaps it’s going to be a hostile group, so they just elect not to show up. But they have not been available and this just further adds to the issue of transparency.

And if they’re doing everything right, then maybe there should be a little bit more willingness to be more open and transparent the way other governments are in other governmental bodies.

And I would also say I’m very familiar with many, many, many activists like Mr. Bibler. I can name you five or six in Yarmouth alone.

So, for 26 years of dealing with either school people or municipal people, there are people who come up with ideas and might not be the most presentable or the most precise in how they say things, but sometimes, a lot of the time, there’s a cardinal truth.

One of the biggest ones was a man name Gary Lopez who brought the education funding issue to the forefront on the Cape and determined through his hard work that the Cape was not being treated fairly by the Education Funding Formula. And we went before the Supreme Judicial Court on that but he was not someone who could get up and talk to a group of Legislators. He was someone who had the ideas and his method of presentation wasn’t necessarily the best.

So, sometimes even in all the noise, there is some truth.

Speaker BERGSTROM: I’d just like to say that I put this on the Agenda, and I’m going to take a page out of Julia’s book. She’s right in one sense is that we only have a limited authority in here. We had authority under the Charter to look into the affairs of any branch of Barnstable County government.

And I agree that I think CLC fits squarely into that description. But I mean it doesn’t make it -- and even though I’m not going to back off on any of the criticisms I’ve made and I stand by the report that our committee put out, I mean, there’s only so much we can do.

And I think the only other thing that we could do that we haven’t done is request that the IG’s office do an independent audit and a study similar to the one they did for Open Cape where they analyzed the whole operation and how it was organized and made some criticisms and recommendations.

I agree with Leo. I don’t think we should do that. I mean we’ve already addressed that and I don’t remember what the result was. But we should wait until August when we get this audit and then that’s really the only step that we can take now is to put this -- if we feel that, you know, it’s not a question of us wanting to steer a committee which has a separate governing body. It’s a question of whether what they’re doing is consistent with the Legislation that set them up in the first place. That’s what it is.

In other words, that’s where the question is. Is it consistent with their mission? And I think that that’s going to have to be determined by someone other than this body, and I think it’s going to have to be determined by someone other than them.
So that’s -- I think we should rather than go over old ground, I think we should be proactive and decide if we’re going to take another step or not and maybe we should put that off until we get the final audit.

Yes, Cheryl.

Ms. ANDREWS: Just a question.

Speaker BERGSTROM: Question away.

Ms. ANDREWS: There are a lot of people at the table here that know a lot more about this than I do, so I have a question.

And the question is and it’s because CLC is not a government entity --

Speaker BERGSTROM: It’s a public entity.

Ms. ANDREWS: Okay. Well that’s my question is did they have an obligation to the public then to have open books? I mean that’s, you know, I -- you talked about impugning. I felt a little impugned by the comments of one Delegate suggesting somehow paranoia was involved.

Ms. TAYLOR: No. I was speaking of my own paranoia fantasies.

Ms. ANDREWS: Well, I’ve never used the word fraud, and, frankly, I have no reason to use the word fraud or a lot of the other words I heard.

My concern and it’s always been sort of where I always come from on everything is the word transparency now is the big one. I don’t know when that got invented but it’s all about honesty and letting the public be able to see the books.

What I heard after the subcommittee on CLC and CVEC after I listened to their reports was there were a lot of questions where there were accounts and it wasn’t clear at all what the money was used for.

Under the law, does the Cape Light Compact have an obligation to have an open set of books?

Speaker BERGSTROM: Within certain restrictions. For instance, say they have contracts with -- negotiating contracts and so on.

Ms. ANDREWS: Yes, I’m not talking about --

Speaker BERGSTROM: They have certain privacy requirements. But as far as, and I’m not the expert on this, but --

Mr. CAKOUNES: I am.

Speaker BERGSTROM: Leo. The farmer over here knows everything there is to know about --

Mr. CAKOUNES: Well, the answer to your question, Cheryl, is real simple. The Cape Light Compact has no books. Please understand, they have no books.

They use our checking account. They use the County’s financial books. We are their financial arm and we are a governmental body, and, yes, at any given time anyone can request to see, as far as I’m concerned, any check that the County writes no matter who they’re writing it for.

So, please understand, Cape Light Compact does not have a separate bank account, a separate checking account, a separate secretary and person who writes and does checks for them. They use Mark Zielinski and they use the County’s checking accounts.

There’s a sub-account in the computer with a four digit number, but its one County government account. Does that answer your question?

Ms. ANDREWS: Well, it leads to the next naturally then. And I appreciate the education here because I’m -- we’re all learning.
I understand the County’s the fiscal agent for Cape Light Compact, and you’re defining a little bit more about what that means. The implication then would be then if the Assembly of Delegates which your committee was, you know, the subcommittee of the Delegates made a request to Mark Zielinski then, and I remember this happened for a particular answer on a question.

Under public records request, the answers to those questions should have been provided and weren’t; is that fair? I mean I remember we had a request for -- is that correct?

Mr. CAKOUNES: Yes.

Ms. ANDREWS: I mean that’s my question is is then is the subset of Barnstable County’s books that administer the CLC’s finances, are those public records and if they are then anyone should be able to request them; is that fair?

Mr. CAKOUNES: That’s my understanding.

Speaker BERGSTROM: Yes, that’s my understanding too. As far as paranoia goes, the best quote I have on that is Hunter Thompson who said, “You’re not paranoid, people really are out to get you.”

Yes, Leo.

Mr. CAKOUNES: Thank you. I used that bit of time just to answer the question. There are a couple things that I want to clarify.

It was mentioned here today that CLC has been audited in the past as long as the County’s been around by the County audit. That is not true.

I asked the accountants, Sullivan & Rogers, specifically when they were here, “Do you do an in depth audit of Cape Light Compact as part of your audit of the County?” And I even used the example the Dredge Account. “Do you look at it separately?” And their answer was, “No, we do not.” They only look at it as a part of the whole.

So they do not get specifically audited as a division or a department of the County. That needs to be driven home.

Ms. TAYLOR: Mr. Speaker.

Speaker BERGSTROM: Yes.

Ms. TAYLOR: My understanding is similar to yours. They are not audited separately from the County. They are treated like other parts of the County by the general County audit.

If we wanted something else, which, in fact, we’re now going to get in August, that’s going to be an audited Independent Financial Statement of CLC, and that’s quite expensive but we’re going to get it for 2009, 2010, and 2011, and it’s going to be ongoing.

What we thought we were going to get was an independent -- an audited Independent Financial Statement for previous years. But the auditors, Rogers & -- now I’m forgetting --

Speaker BERGSTROM: Sullivan.

Ms. TAYLOR: -- Sullivan, suggested that because that would be an additional $400,000 that maybe we’d have the Independent Financial Statement for those later years but we would instead have this agreed-upon procedures report for the earlier years.

So, they are part of the County audit, but what we wanted which is to see everything, that’s apparently called an Independent Financial Statement, and that’s what we’re getting in August for ’09, ’10, and ’11 and forward.

This other thing was the cheaper version. If we decide we can’t handle the cheaper version and we have to have an audited Independent Financial Statement then we can request that, but we would have to pay $400,000 for that.
That’s what I’m personally not in favor of because I don’t think those audits or the Independent Financial Statements are going to reveal anything other than we might not agree with their policies.

I could be with Ron on the policies, but I’m not a policymaker for CLC or CVEC. So all we can do is deal with this money because that is our responsibility, and in August we’re going to have those Independent Financial Statements for the three years, and I think that will probably satisfy us.

But we could spend another $400,000 and do it for the previous years if we think there’s something funny about those years. But the policies are something that they’re going to have to deal with definitely. Not us.

Mr. CAKOUNES: Can I finish, Mr. Speaker?

Speaker BERGSTROM: Yes, Leo.

Mr. CAKOUNES: Thank you. The only other two points I would like to make is that I did ask the question in regards to CLC’s operation at any time did the Sullivan & Rogers report reflect that they actually went in the red? And the only way he was able to answer that question was that at the time that they do their audit, that specific month, no they were not. But he had not gone back the previous 12 months within that year to see if they had dipped into the red.

Why I’m very concerned about that is because it has come to my understanding by not only our own financial Administrator at a meeting which I asked him that when that does happen, County funds are used to pay the bills while waiting for the energy -- the mil adder money or what I refer to as the Reserve Fund money to come in.

That’s very disconcerting and I’m very -- I want to investigate and look into that more as a member, not only of this board, but as the Finance Committee.

Because, once again, I have an obligation to the citizens and the residents of the County on how we’re managing their money. And if we’re using their money to supplement someone else’s bills because they haven’t been paid yet, I need to learn more about that.

I also would like to clarify two other things. One is the Energy Efficiency Funds is what a lot of people have been spending a lot of time on. And I don’t recollect/remember and I certainly will tell you I, personally, have no problems with how CLC has been managing the Energy Efficiency Funds.

But for those members of the public and for those people out there that don’t understand this, those funds would come to you, the consumer, regardless if Cape Light Compact exists or doesn’t.

There are many communities that use NStar and use these other private companies, as does Cape Light Compact, to go around and give you your light bulbs and your energy efficiency rebates and all those things that are wonderful things that come out of the Energy Efficiency Fund.

We get that no matter if we have a Cape Cod Light or we don’t or whether we use ConEdison or we don’t.

The area of concern is the Mil Adder Funds. That’s the money that to my personal opinion thought was going to be put aside in some kind of a statutory reserve so that the ratepayers, in fact, would have the ability to enjoy the lowest possible rate that they could get for their electricity.

I won’t get into discussing that because, Julia, you are right, that is the policy of Cape Light Compact. They now are moving forward to change their bylaws yet once again to allow a smaller amount of majority of people present to, in fact, vote to disperse those funds.
The problem that I see it is, yes, they’re using those funds and they’re making communities very happy, especially Boards of Selectmen and people in the government world by funding projects, whether it be solar or funding projects whether it be for some kind of energy reserve. But they’re not using those funds for, in my estimation, the ratepayers, the people who really deserve the lowest rate possible.

Now I only bring that up because I think people at home -- I know its nickels and dimes on their bills, but they need to research this.

As far as I’m concerned, it’s in the last years that they’ve been in existence it has been an additional tax, an additional tax. They’ve been taking money that I think they should have been using to keep the rates down low and instead funding projects in the community. Although very good projects, projects in the community.

And whether we, as a board, should look into that or not, Julia, I will certainly acquiesce and say, okay, maybe it’s none of our business what their policy is. But I do think that we have the obligation at least to tell ratepayers that this is what’s going on. Let them decide if they want to continue being members or not.

And, once again, I’m going to wait and I hope you will support me to look into it further and get some questions answered.


Ms. TAYLOR: Mr. Speaker, one point. I mean I certainly agree with you, Leo that we do need to know how we’re spending the money as we go along if that’s -- so I think that’s an excellent question.

I guess the answer that Cape Light Compact would give to the second point you made is that their idea of stabilizing rates is to support long-term alternative energy sources that they see as benefiting ratepayers in the long run and stabilizing rates.

I have no idea whether they’re correct in that, and I don’t even know how I would know whether they were correct in that, but I don’t think we can make that determination. I think their boards have to make that determination.

Speaker BERGSTROM: I think the one thing that came out of the discussion is -- early on, if you read the Charter or whatever of the Cape Light Compact, it speaks initially about getting the best rate, you know, getting the best rate for the customers.

And for quite a while, what they did was they used the -- what do they call it? The standard offer or something like that? They would say that they had an obligation written into their bylaws that they would beat the standard offer, which means they would get a lower rate than what was available to the consumer.

Well, for various reasons and it wasn’t their fault, but they had long-term contracts and they were forced into those contracts during times when the energy market was high, especially after Katrina, they were unable to that.

So, recently, I guess within the last couple years they decided they were no longer obliged to beat the standard offer and the excuse was, “Well, there is no standard offer anymore because there’s a lot of competing companies.”

To me, that begs the question is why was that in there in the first place? If it was in there as just a technicality, in other words, if somebody put that in there and said well you have to get the better price than what’s available to the consumer, and for them to say well this little mechanism -- the standard offer is no longer there anymore so we no longer have the obligation.

Why was the obligation written into their bylaws in the first place? It seems clear to the
casual observer. I guess the average person would read is that they made a commitment early on that their idea of ratepayer relief was to get a better price.

I mean if you read their -- the organizational structure, how they were set up, that was clear. And since then, they backed off on that.

So, when you say that we’re looking at -- we’re disagreeing with their policies, we’re not just disagreeing with their policies. We’re pointing out the inconsistencies between what they say they were going to and what they’re actually doing.

They said they’re going to provide ratepayer relief by providing the lowest price but they’re not doing that. And when it became apparent that they couldn’t do that, they simply said, “Well, it’s no longer in effect.”

Ms. TAYLOR: The state changed the law, that’s why.

Speaker BERGSTROM: So, it’s just a question of, to me, when I -- when we propose going to the IG’s office, the reason we did that was because we didn’t want to know that they took in $5 from this source and here’s the check to show how they spent it.

We wanted a broader outlook to see whether the policies and procedures they had were consistent with the Legislation that set them up with their bylaws with the intention of the people who created them. And that’s what would be accomplished if the -- if we look at the IG’s report on Open Cape, they didn’t talk too much about the finances. They said, “Well, this is how you set up. This is your Board of Directors. We feel that you should be doing it a separate way.” Whether it’s consistent with the financing -- which probably Teresa knows more about than I do.

So we took a broader look on it, and I agree with Julia. We’ve done what we can do, but I still feel that there’s enough of an issue there that somebody beyond our scope can look at this and try to, you know.

And, quite frankly, the strategy the Cape Light Compact has taken was basically to say no to everything. Everything. They shot down every suggestion we made. They have thwarted every attempt by the public, stonewalled them all along.

Their strategy was you’ve left us alone for 12 years. What are you doing here? Get out of our face. We’re doing fine. We’re doing everything right. And that simple fact -- that strategy is why there are people after them every day. Every day. It’s like hitting the tar baby. They get stuck deeper and deeper because they refuse to budge. They stick with that strategy.

But it’s frustrating. People have, and I know I’m rambling on here, but people have this idea that, well, we’ll just put them off and they’ll get frustrated. But, personally, when people start to put you off, what you do is you just get more determined to get the information you need.

So we have an irresistible force and an inanimate object. But I’m hoping that we can bring this to a close. There’s been some criticism with Cape Light Compact and the public.

Mr. Powicki submitted a big diatribe against them, and at some point it’s going to go beyond us to some -- to the ratepayers, I would hope, and hopefully to the IG or the AG and they can decide what they want to do.

Anyway, did I beat everybody into silence here? Yes, Chris.

Mr. KANAGA: I guess that’s an almost. No, I feel like I want to call the question, although I guess there isn’t one.

I do have some other business if this is an appropriate time?

Speaker BERGSTROM: Yes. Move on to Other Business.

Mr. KANAGA: On a happier note, this is an announcement or a reminder, I’m not sure
which, that on the 21st of August, this meeting will occur at Nauset Beach at the Gazebo, as historically is the case.

   Food will be provided graciously by John Ohman at Liam’s afterwards, and you’re all invited to attend with, I think as John puts it, your significant other and hope to see you there.

Speaker BERGSTROM: Thank you, very much. I’m sure unlike this that will be a very well attended meeting. No problems with quorum on those beach meetings.

Mr. KANAGA: No.

Speaker BERGSTROM: Okay. Does anybody else have any business to be brought before the Assembly?

Deputy Speaker MARTIN: Motion to adjourn.

Ms. MCAULIFFE: No, wait a minute. There’s been a lot of talk about the mosquito control in coming under County government. And the reason I’m bringing it up is there’s an Assembly member who’s now on record as having an opinion about it.

I don’t know if the Assembly has ever had a presentation by the mosquito control recently, and perhaps -- I have been to 9 or 10 presentations on an annual basis from mosquito control.

So I think it’s worthwhile hearing from them before we perhaps form an opinion if we’re going to on a future agenda have them come in and tell us what and why it’s such a great idea for them to come under the County.

Speaker BERGSTROM: Okay, duly noted. Now, if they can do something about the greenhead flies.

Ms. MCAULIFFE: It’s the blue boxes, that’s why. That’s why we need the mosquito control.

Speaker BERGSTROM: Okay.

Deputy Speaker MARTIN: Motion to adjourn.

Ms. KING: Second.

Speaker BERGSTROM: All those in favor, say, “Aye.”

Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates at 5:15 p.m.

Respectfully submitted by:

Janice O’Connell, Clerk
Assembly of Delegates