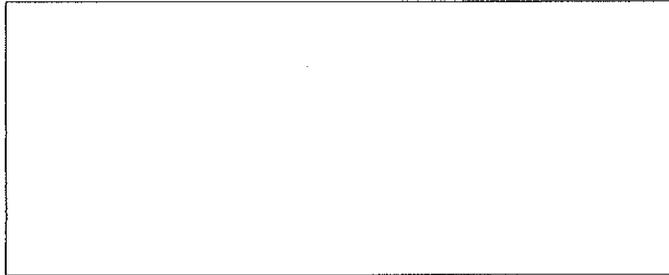


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To
2013 Barnstable County Charter
Review Committee

From
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Company
Cape Cod Regional Government

Company

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Phone
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Charter panel tackles change

By PATRICK CASSIDY
pcassidy@capecodonline.com

BARNSTABLE — Well before a formal review of the county charter kicked off Wednesday, local officials were discussing possible changes to Cape Cod's regional government.

A special commission on Barnstable County governance released recommendations in early 2012 calling for the merger of the county's legislative and executive boards. Since that time the two boards have battled over the idea and other proposed changes, finding common ground in the creation of the seven-member charter review committee.

Even as the committee moves forward, local officials are questioning the group's goals and direction.

Wellfleet officials have raised concerns that if the county's 15-member Assembly of Delegates is eliminated, smaller towns will lose a voice in the regional government.

"I think they've already decided which way they're headed," said former Wellfleet delegate and current Cape Cod Commission representative Roger Purnam. "The purpose is to get rid of the small-town vote and to me it's an outrage."

The idea of eliminating the assembly gains steam every five years or so, he said.

"That's an ongoing mantra for folks from the Outer Cape," Wellfleet Selectman Paul Pilcher, who also served previously on the assembly, said about concerns the move would have a detrimental effect on smaller towns.

Pilcher questioned the economic justification for a proposal to eliminate the assembly positions, which draw annual salaries of \$1,000 each, and to increase the size of the board of county commissioners as well as the salaries for its members from \$14,170 to between \$15,000 and \$25,000.

"It doesn't sound like economizing," he said.

Some changes may make sense, such as reducing the number of assembly meetings, he said.

James Pierce, chairman of the Sandwich Board of Selectmen, said one idea — not necessarily new — is to split the Cape's

CHARTER REVIEW

■ A hearing to take public comment on possible changes to the county charter will be at 5 p.m. Wednesday at the Assembly of Delegates chamber in the basement of Barnstable District Court.

■ Future meetings are tentatively scheduled for 5:30 p.m. on the first and third Wednesdays of each month through the fall in the assembly's chamber for more information and changes to the meeting schedule, go to www.barnstablecounty.org.

■ Public comments on the charter review can be sent in writing by email to local@barnstablecounty.org or by mail to Assembly at the 1st District Courthouse, Route 64, Barnstable, MA 02630.

regional government near Dennis so that towns with similar tax bases and related issues are grouped together.

"Has Barnstable County outlived its usefulness in some ways?" he said.

Pierce said he has been studying state revenue and education data and has found similarities between Upper and Mid-Cape towns and Plymouth County, while the Lower Cape looks more like towns on Martha's Vineyard or Nantucket.

Pierce's idea is interesting, but Cape towns would have to consider what they might lose if county government broke in two, Pilcher said.

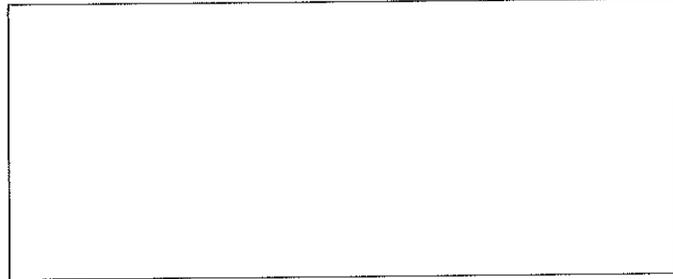
"We'd like it if they paid more attention to us," he said. "I don't think we're ready to secede."

At the charter review committee's first meeting in the assembly's chamber Wednesday, committee members dealt with more pragmatic issues, such as when to hold their meetings and what they should discuss.

"I like the idea of allowing the public into the process early on and often," said committee member and Barnstable Town Councillor Ann Caneby.

The group decided to hold a public hearing June 5.

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2013 Barnstable County Charter
Review Committee

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HOUSE DOCKET, NO. 2303 FILED ON: 1/17/2013

HOUSE No. 556

The Commonwealth of Massachusetts

PRESENTED BY:

Denise Andrews

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to recall elections in the Commonwealth.

PETITION OF:

NAME:

Denise Andrews

DISTRICT/ADDRESS:

2nd Franklin

HOUSE DOCKET, NO. 2303 FILED ON: 1/17/2013

HOUSE No. 556

By Ms. Andrews of Orange, a petition (accompanied by bill, House, No. 556) of Denise Andrews relative to recall elections in the Commonwealth. Election Laws.

The Commonwealth of Massachusetts

An Act relative to recall elections in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 50 of the General Laws, as appearing in the 2010 Official Edition,
2 is hereby amended by adding the following section:-

3

4 Section 9. Any holder of an elective office in the commonwealth may be recalled and removed
5 therefrom by the registered voters of political subdivision as herein provided, for the reason of
6 lack of fitness, incompetence, neglect of duties, corruption, malfeasance, or violation of oath. A
7 number equal to at least 25 per cent of the registered voters who cast ballots in the last preceding
8 election for the office of governor may initiate a recall petition by filing with the secretary of the
9 commonwealth an affidavit containing the name of the officer and the office held whose recall is
10 sought and a statement of the grounds of the recall. Upon certification by the secretary of the
11 commonwealth, the secretary of the commonwealth shall, within two business days, deliver to
12 the voter first named on such affidavit, petition blanks demanding such recall containing space
13 for the signatures of at least 5 times the number of signatures required below, and may, but need
14 not, provide additional blanks upon request.

15

16 Petitioners may make exact copies of the petitions, provided that the petitioner shall bear the
17 risk that if any such copies are not exact copies, that the signatures affixed thereto shall not be
18 counted towards the total number of signatures required. The blanks shall be issued by the
19 secretary of the commonwealth with the secretary's signature and official seal attached thereto.
20 The petition shall contain the name of the person whose recall is sought, the office from which
21 recall is sought, the grounds for recall as stated in the affidavit, and shall demand the election of
22 a successor to such office. A copy of the petition shall be entered in a record book to be kept in
23 the office of the secretary of the commonwealth.

24

25 The recall petition shall be returned and filed with the secretary of the commonwealth within
26 20 days following the date of issuance of said petition. Said recall petition shall be signed by a

27 number equal to at least 25 per cent of the registered voters in said political subdivision having
28 cast ballots in the last preceding election for the office of governor, and to every signature shall
29 be added the place of residence of the signer, giving the street and number. The secretary of the
30 commonwealth shall, within 2 business days following the date of such filing, submit the recall
31 petition to the board of registrars of voters, who shall within 5 business day after the day of
32 receipt, certify in writing thereon the number of signatures which are names of voters in said
33 political subdivision as of the date such affidavit was filed with the secretary of the
34 commonwealth. The board of registrars shall, upon completion of its certification, return the
35 petition to the secretary of the commonwealth.

36

37 If the petition shall be found and certified by the secretary of the commonwealth to be
38 sufficient, the secretary shall submit the same with the secretary's certificate thereon to said
39 elected officer whose recall is being sought, written notice of the receipt of said certificate and
40 shall, if the officer sought to be removed does not resign within 5 days thereafter, thereupon
41 order a recall election to be held not less than 64 nor more than 90 days after the date the election
42 is called. If a vacancy occurs in said office after a recall election has been ordered, the election
43 shall nevertheless proceed as herein provided.

44

45 Any officer sought to be recalled may be a candidate to succeed herself or himself, and unless
46 the officer requests otherwise in writing, said town clerk shall place the officer's name on the
47 official ballot without nomination. The nomination of other candidates, the publication of the
48 warrant for the recall election, and the conduct of the same, shall all be in accordance with the
49 provisions of law relating to election, unless otherwise provided in this act.

50

51 The incumbent shall continue to perform the duties of the office until the recall election. If the
52 recall fails, or if the incumbent is re-elected, the incumbent shall continue in the office for the
53 remainder of the unexpired term. If not re-elected in the recall election, the incumbent shall be
54 deemed removed upon the qualification of the incumbent's successor, who shall hold office
55 during the unexpired term. If the successor fails to qualify within 5 days after receiving
56 notification of his election, the incumbent shall thereupon continue in the office for the
57 remainder of the incumbent's unexpired term.

58

59 Ballots used in a recall election in said political subdivision shall submit the following
60 propositions in the order indicated:

61

62 For the recall of (name of officer) (office held)

63

64 Against the recall of (name of officer) (office held)

65

66 There shall be an appropriate place for the voters to vote for either such propositions, and

67 above said propositions, there shall appear the direction "Vote for one." Under the propositions
68 shall appear the word "Candidates" and the direction "Vote for one" and beneath this the names
69 of candidates nominated as hereinbefore provided.

70

71 If a majority of the votes cast on the recall question is in the affirmative, then the candidate
72 who received the highest number of votes shall be elected. If a majority of the votes cast on the
73 recall question is in the negative, the votes cast, for candidates to fill the potential vacancy shall
74 not be counted.

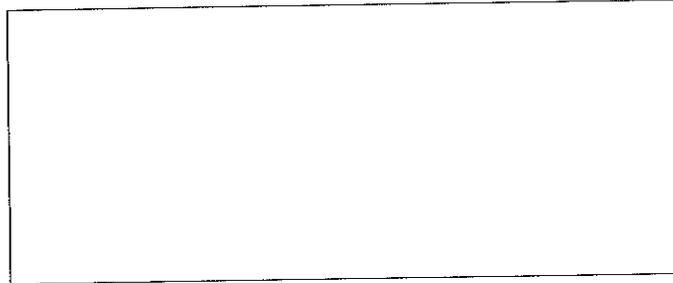
75

76 No recall petition shall be filed against an officer of said town within 1 year after the officer
77 takes office, nor in the case of an officer subjected to recall election and not removed thereby.

78

79 SECTION 2. This act shall take effect upon its passage.

Fax



Note

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To
2013 Barnstable County Charter
Review Committee

From
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Company
Cape Cod County Regional
Government

Company

Fax Number
15083626530

Fax Number

Phone
508-775-8342
Address

HOUSE DOCKET, NO. 952 FILED ON: 1/15/2013

HOUSE No. 590

The Commonwealth of Massachusetts

PRESENTED BY:

Randy Hunt, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:
An Act to amend the Barnstable County Home Rule Charter by adding a recall provision.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Ronald Beaty</i>	<i>245 Parker Rd □ West Barnstable, MA 02668</i>

HOUSE DOCKET, NO. 952 FILED ON: 1/15/2013

HOUSE No. 590

By Mr. Hunt of Sandwich (by request), a petition (accompanied by bill, House, No. 590) of Ronald Beaty relative to recall elections in Barnstable County. Election Laws.

The Commonwealth of Massachusetts

An Act to amend the Barnstable County Home Rule Charter by adding a recall provision.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The following section amends, by insertion, Article 7 of Chapter 163 of the Acts of 1988
2 (Barnstable County Home Rule Charter):--

3 Section 7.7. Recall of County Officers

4 (1) Application – Any person who holds an elected county office, with more than six
5 months remaining of the term of office at the time of the filing of the application, may be
6 recalled from the office by the voters in the manner provided in this section.

7 (2) Recall Petitions – If the officer is elected from the county at large, one hundred and
8 fifty or more voters may file with the county clerk an affidavit containing the name of the officer
9 whose recall is sought and a statement of the grounds for recall; if the officer is elected from any
10 municipality into which the county is divided the signatures on such petitions shall contain the
11 names of at least twenty-five voters from the said municipality. The petitions relating to an
12 officer elected from the county at large shall contain the names of at least twenty-five voters in
13 each of any six municipalities within the county. When submitted to the county clerk the
14 signatures shall bear the certification of the registrars of voters of the municipality in which
15 collected that they are the names of voters in said municipality.

16 Within seven days following receipt the county clerk shall certify such petitions with
17 regard to the sufficiency and validity and shall thereupon deliver to the ten persons first named
18 on such petitions, petition blanks demanding said recall, printed forms of which the county clerk
19 shall keep available. The blanks may be completed by printing or typewriting; they shall be
20 addressed to the assembly of delegates; they shall contain the names of the ten persons to whom
21 they are issued and the grounds for recall as stated in the affidavit; they shall demand the election
22 of a successor to the office; they shall be dated and signed by the county clerk. The recall
23 petitions shall be returned to the office of the county clerk within twenty days following the date
24 they are issued, signed by at least fifteen percent of the total number of persons registered to vote

25 in the county as of the date of the most recent state election if the officer is elected at large and
26 by fifteen percent of the total number of persons registered to vote in the municipality as of the
27 date of the most recent state election if the officer is elected from a municipality.

28 The county clerk shall within three days following such filing, submit the petitions to the
29 board of registrars of voters in the several municipalities from which collected which boards of
30 registrars of voters shall within five days thereafter certify thereon the number of signatures
31 which are the names of voters.

32 (3) Recall Elections – The county clerk shall review the petitions as certified by the
33 registrars of voters of the several municipalities and if the county clerk determines that
34 collectively the petitions are sufficient, the county clerk shall forthwith submit the same with a
35 certificate so stating to the assembly of delegates. Upon its receipt of the certified petition, the
36 assembly of delegates shall forthwith give notice, in writing, of said petition to the officer whose
37 recall is sought. If said officer does not resign from office within five days following delivery of
38 the said notice, the assembly of delegates shall order a special election to be held not less than
39 ninety nor more than one hundred twenty days after the date of the certification of the county
40 clerk that the petition is sufficient; provided, however, if a regular biennial state election is to be
41 held within one hundred fifty days of such certification the recall election shall be held in
42 conjunction therewith and no special election shall be held. If a vacancy occurs in the office after
43 a recall election has been ordered, the election shall nevertheless proceed as provided in this
44 section, but only the ballots for candidates need be counted.

45 (4) Nomination of Candidates – An officer sought to be recalled may not be a candidate
46 to be elected to the same office if the vote on the recall is in the affirmative. The nomination of
47 other candidates, the publication of the warrant for the recall election, and the conduct of the
48 same shall be in conformity with the provisions of law relating to county elections generally,
49 unless otherwise provided in this section.

50 (5) Propositions on the Ballot – Ballots used at the recall election shall state the
51 proposition in the order indicated:

52 For the recall of (name of officer)

53 Against the recall of (name of officer)

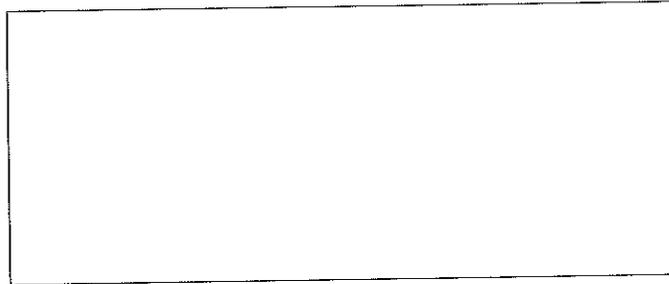
54 Adjacent to each proposition shall be a place to vote for either of said propositions. After
55 the said proposition shall appear the words "candidates" and the names of candidates arranged by
56 a lottery drawn by the county clerk. If a majority of the votes cast is in favor of the recall, and
57 provided at least twenty five percent of the total number of voters as of the date of the most
58 recent biennial state election have participated at such recall election, the officer shall be deemed
59 to be recalled and the ballots for candidates shall then be counted and the candidate receiving the
60 highest number of votes shall be declared elected.

61 (6) Officeholder -- The incumbent shall continue to hold office and perform the duties
62 until the recall election. If not then recalled, the officer shall continue in office for the remainder
63 of the unexpired term, subject to recall as provided in section (7) below.

64 If the officer is recalled, the office shall be deemed vacant upon the certification of the
65 election results. The candidate who receives the highest number of votes shall serve for the
66 balance of the unexpired term.

67 (7) Repeat of Recall Petition -- No recall shall be filed against an officer within six
68 months after taking office, or in the case of an officer subjected to a recall election and not
69 recalled thereby, until at least six months after the election at which the recall was submitted to
70 the voters.

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To
2013 Barnstable County Charter
Review Committee

From
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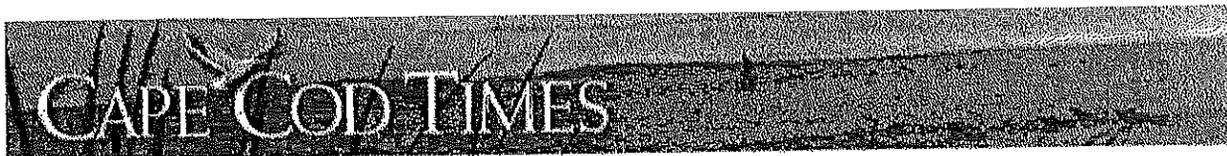
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Assembly of Delegates is critical to Cape governance

April 06, 2013 2:10 AM

I commend your March 27 editorial, "County contortions," for adeptly describing the state of affairs pertaining to the dynamic political processes at work to improve and make Barnstable County government more effective.

But you also provide a highly skewed perspective regarding what the eventual outcome of this process should be.

Adherence to the politically motivated special commission and your recommendations will result in the complete elimination of our egalitarian county legislature. What would remain will essentially be a seven-member Board of County Commissioners. No democratic system of "checks and balances" would continue to exist. Moreover, unlike nearly every local government charter in Massachusetts, the Barnstable County home rule charter does not contain an essential element, a comprehensive "recall provision."

Voters would have no emergency recourse or means for direct intervention of regional government decrees. You and the special commission promote a plan with no direct avenue to petition for redress of grievances.

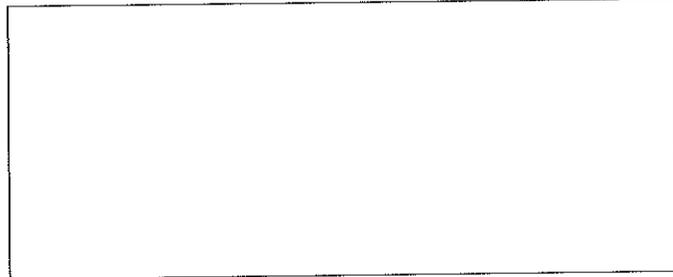
Your conclusion that "keeping the assembly intact would not provide the necessary leadership to move the county forward" is flawed. Adoption of an equitable charter recall provision and the continued existence of our democratically elected Assembly of Delegates are of paramount importance!

Ron Beaty

West Barnstable

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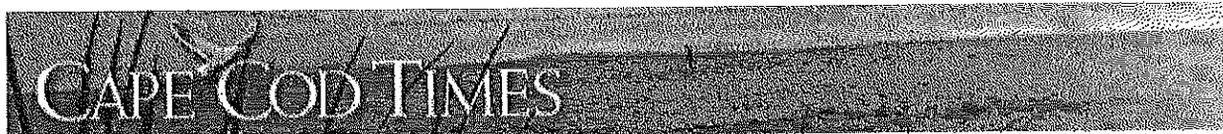
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Charter needs a recall provision

By RON BEATY
January 29, 2013 2:00 AM

Restructuring our Cape Cod regional government has been a major topic of ongoing civic discourse for quite some time now. However, since the beginning, one major and vital component has been missing from this whole civil equation and political process: creation of a countywide recall charter provision.

From Bourne and Falmouth all the way down to Truro and Provincetown, every Cape Cod town charter contains a recall provision. Our neighboring county, Plymouth, recently adopted a new home rule charter; it also possesses a recall mechanism for the removal of elected public officials guilty of malfeasance. The Barnstable County Home Rule Charter does not.

The original 1988 enabling legislation sponsored by Tom Cahir and Henri Rauschenbach, among others, did contain a comprehensive recall provision for Cape Cod voters to avail themselves of as part of Article 7. However, for some unknown reason, it was removed before final passage of the legislation. For 24 years, all that remained to remind anyone that it once existed was the lone word "recall" in the title caption of Article 7 of the charter, without any further explanation afterward.

The full recall provision now needs to be reinstated and officially inserted back into our county charter via a formal charter amendment process. Why?

Various political science and civics books describe the concept of recall as a vehicle enabling the direct application of citizen control over government. It helps to ensure accountability. For this reason, the mechanism of recall should be adopted as a suitable electoral tool that permits the voters to retire regional public officials for reasons they deem just and appropriate. An equitably crafted recall provision helps to ensure that county government officials will first and foremost represent the interests of the Cape Cod citizenry.

The expansive character of the recall authority mirrors its role as the proposed cure for a damaged democracy, whenever such a problem may occur. A sincere desire to tangibly reform the local democratic process whenever the need arises is what rests at the center of the effort to create a relevant recall provision for our county home rule charter. As with our respective Cape municipalities, it will serve only to strengthen the control of the people over the devices and processes of local government, while lessening the power of special interests. The power of a countywide recall provision can also achieve all of this and more.

Political power is placed directly back into the hands of the people through three types of openly democratic instruments: the initiative, the referendum and the recall. All three of these mechanisms are considered to be tools by which regional electorate can guarantee that county government remains inclusive and transparent. The Barnstable County Home Rule Charter possesses the first two, but it desperately requires the third as well.

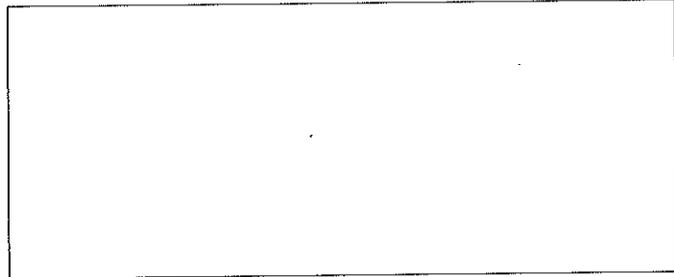
As a staunch supporter for adoption of a county charter recall provision, I wish to point to the unmitigated fact that its establishment is solidly grounded in the sovereign power of the people. The role of our each and every one of our county officials is that of a delegate, whose obligation is to provide influence to the views of his or her constituents and not to implement his or her own decrees.

A logically worded and judiciously applied regional recall provision is vitally necessary to maintain a popular government by and for the people and to eradicate any improper control by private interests over our county executive and legislative bodies. Appropriately amending our county charter will provide the guarantee that we all need for continued fair treatment and transparent functioning on the part of all aspects of our Cape Cod regional government.

Ron Beaty lives in West Barnstable.

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Note

Please take notice of the attached CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS.

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CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____, who qualified for the office of
(Name)

_____, on _____, certify pursuant
(Office) (Date)

to G.L. c. 30A, § 20(g), that I have received copies of the following Open Meeting Law materials:

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) regulations promulgated by the Attorney General under G.L. c. 30A, § 25; and
- 3) educational materials promulgated by the Attorney General under G.L. c. 30A, § 19(b), explaining the Open Meeting Law and its application.

I have read and understand the requirements of the Open Meeting Law and the consequences for violating it. I further understand that the materials I have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes in the Open Meeting Law during my term of office.

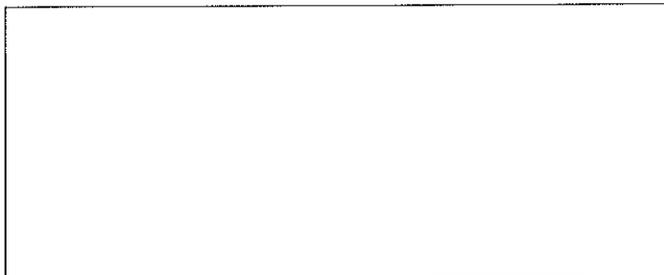
(Name)

(Name of Public Body)

(Date)

Pursuant to G.L. c. 30A, § 20(g), an executed copy of this certificate shall be retained, according to the relevant records retention schedule, by the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.

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Note

Please provide each member of the County Charter Review Committee with a copy of this perspective. Thank you.

To
2013 Barnstable County Charter
Review Committee

From
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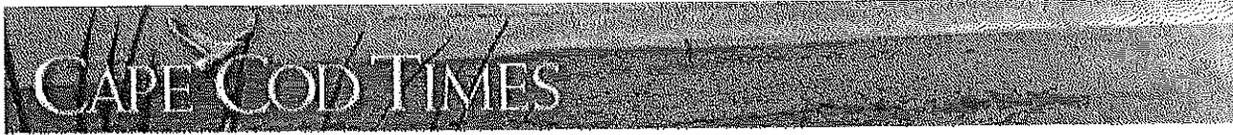
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County government is fine as is

By RON BEATY

January 06, 2012 2:00 AM

Ever since Colonial times, counties have existed in conjunction with Massachusetts government. Barnstable County was founded in the year 1685. Initially, counties had mainly judicial purposes; but gradually more and more duties were assimilated, like management of the local prison system, control of specific medical care institutions, roadway maintenance, farming matters and recording of real estate deeds.

Massachusetts statutes established the process for electing public officials, such as county commissioners, clerks of courts, county sheriffs, registers of deeds and probate, as well as district attorneys. Up until a quarter-century ago, Barnstable County was akin to other counties within the state; it had no legislative power.

That all changed with the Barnstable County Home Rule Charter of 1988. It created specific rights of home rule, along with more and better prospects for improved citizen involvement regarding the Cape Cod regional government.

The charter authorized establishment of a regional legislative body known as the County Assembly of Delegates, which has the power to promulgate laws of regional impact and jurisdiction. Said charter declares:

We, the people of Barnstable County, in order to gain for ourselves and for our communities all the rights, powers, privileges, duties, and obligations which may now or in the future be derived from county government, do establish for ourselves and for our communities the means and structure to deal with regional issues which transcend the existing boundaries of municipal governments. This home rule charter for Barnstable County places the power and responsibility to deal with unique problems of Barnstable County in a county government directly responsible to the people of Barnstable County.

In recent months, members of the Barnstable County Special Commission on County Governance, appointed by the County Commissioners, have held and continue to hold meetings to explore and examine the structure and role of the regional government here on Cape Cod.

As a native-born Cape Coddler, I must take this opportunity to express my views regarding the structure and status of our regional government.

In recent years, I have had firsthand experience in dealing with the county administrator, the Assembly of Delegates, the County Commissioners, as well as other county components. I have always found each of these experiences to be highly positive, enlightening, informative, worthwhile and cordial.

The special commission claims it seeks to address the need for strong executive county administrative leadership; the existing two-branch structure of the regional government; the representation and role of the board of regional commissioners; the representation and role of the Assembly of Delegates; and the county's relationship with the 15 towns of Barnstable County.

The special commission needs to fully approach its task in a fair and balanced manner, something it has apparently failed miserably at up to this point. Furthermore, it needs to be logical and reasonable about any final recommended changes to the Cape Cod regional government.

I have a very straightforward and simple statement to communicate to the special commission: The existing fundamental structure of our regional government is just fine at present and functions quite well exactly the way that it is! It does not require any drastic changes (like a "mayor of Cape Cod") or "tweaking," as some others may have suggested.

Many Cape Coddlers, myself included, would vehemently oppose any sort of radical reorganization or restructuring of our county government. I would like to emphatically voice my absolute opposition to one particularly ill-advised

and undemocratic course of action recently presented to the special commission: the complete abolition of the County Assembly of Delegates.

The Assembly of Delegates is the duly elected democratic voice of the people of Cape Cod, and provides us with the requisite protections against overzealous special-interest groups and power-hungry individuals. The county assembly as a representative legislative body is the epitome of the American system of checks and balances as embodied in both the Barnstable County home rule charter and the United States Constitution.

Ron Beaty lives in West Barnstable.

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June 1, 2013

ATTENTION: 2013 Barnstable County Charter Review Committee

Dear Charter Review Committee Members:

RE: Additional Testimony to the Charter Review Committee Regarding Adoption of a County Charter Recall Election Provision

Cape Cod voters and taxpayers deserve to have the option of taking back their regional government, if a public official violates the citizens' trust. A rationally and carefully crafted recall provision will help to return power to the people and empower them to police their elected officials.

Like many of you, I believe that the most powerful voices in our representative democracy are the voters and they should be able to call for a redress of grievances by petitioning for the firing of elected officials who are derelict in their duties and just don't do their jobs. If an elected does not do his or her job or are irresponsible in their job, then they should lose their job. This is how things are done in the private sector. Why shouldn't we hold our elected representative to the same standard?

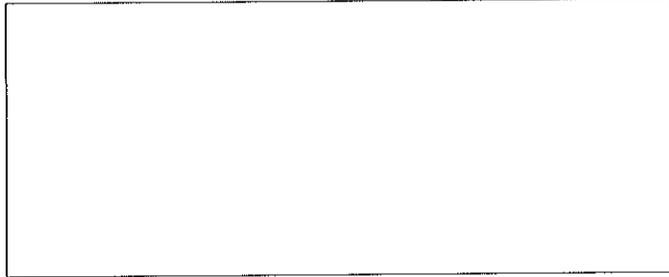
You should partner with, and trust, the people to clean up our county government whenever the circumstances should warrant such action.

It is my standpoint that allowing for public recall of bad county officials will help not only put officials on notice but also give a stronger voice to the people. I am strongly in favor of a recall election provision. They are a device that would help to restore public confidence in our regional government officials while resolving about what to do with any unethical ones.

Thank you.

Ron Beaty
245 Parker Road
West Barnstable, MA 02668

Fax



Note

As mandated by motion, vote and approval of the Assembly of Delegates, please issue copies of Resolution 13-01 to the Charter Review Committee members for their information. Thank you.

did so on 6/5/13

To
2013 Barnstable County Charter
Review Committee

From
Not Applicable

Company
Cape Cod Regional Government

Company

Fax Number
15083626530

Fax Number

Phone
508-775-8342
Address

*Amended by
FINAL VERSION
Approved*

BARNSTABLE COUNTY

In the Year Two Thousand and Thirteen

PROPOSED RESOLUTION 13-01

Whereas, the members of the Assembly of Delegates and the Barnstable County Commissioners have been reviewing the structure and efficiency of Barnstable County Government; and

Whereas, two reports commissioned by the County and issued within the past eighteen (18) months, and numerous comments received from the public have recommended a restructuring of County Government;

NOW THEREFORE,

BE IT HEREBY RESOLVED that we, the Barnstable County Assembly of Delegates agree to consider a restructuring of the current County Government model and recommend the following Executive and Legislative Branch models:

EXECUTIVE BRANCH: The executive powers of the Cape Cod regional government (Barnstable County) shall be exercised by a board of regional commissioners consisting of five members. Each member shall be elected from one of (5) five districts of Barnstable County. ~~Such districts shall be established by vote of the Legislative Branch (Assembly of Delegates) and each district shall include approximately 20% of the population of Barnstable County. The election of County Commissioners shall be non-partisan. Any resident of an at-large district who obtains (100) fifty certified signatures of residents from that district shall be eligible to run for that office in general elections. The length of term for a County Commissioner shall be (3) three years. In the first election following the adoption of this plan change, one Commissioner shall be elected for a (3) three year term, two Commissioners for (2) two year terms, and two Commissioners for a one year term. A random drawing shall determine the term period for each of the five positions and the district represented shall remain for each Commissioner shall be elected for a three year term so that at least one position shall be open to election every year.~~

Deleted

~~The Board of County Commissioners shall have the power to approve the management and operation of the Office of the Administrator and Barnstable County, and shall set and determine policy of the County as well as the development of a County-wide Budget for the approval by the Legislative Branch.~~

added
↓
so-called
→
strong

County Administrator: A County Administrator shall be appointed to manage the day to day affairs and business of Barnstable County. ~~The responsibilities of the County Administrator shall include, but are not limited to, oversight of all department heads, all department budgets, personnel policies and actions, and all Capital Improvement Plans. The Administrator shall report to the Executive Branch (Board of County Commissioners) and shall implement policies and directives adopted by votes of the Board of County Commissioners.~~

deleted

LEGISLATIVE BRANCH: The Assembly of Delegates shall consist of one elected non-partisan representative from each town in Barnstable County, with a weighted vote system.

~~The primary duty shall be to function as the legislative body of Barnstable County. This shall include, but not be limited to, the approval of all capital expenditures of the County, all bond issues, public statements and recommendations, and oversight of the County Budget.~~

deleted

~~The primary procedures of the Assembly of Delegates shall include, but not be limited to, the ability to accept public input during meetings and deliberations.~~

~~It is intended by the members of the Assembly of Delegates that the above recommendations shall require changes to the Barnstable County Charter.~~

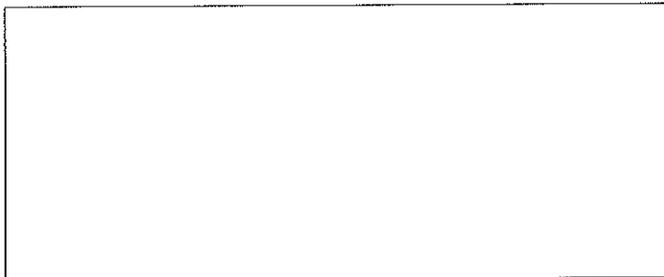
This Resolution represents the opinion of the Assembly of Delegates relative to the model and the initial steps that are necessary to implement a restructuring of County Government.

The Assembly of Delegates shall seek to refine the concepts outlined in this Resolution by working with the Barnstable County Commissioners, legal counsel, and/or any subcommittees created for this specific purpose so as to present a single restructured governance model for approval by the population of Barnstable County.

Respectively Submitted By: Leo G. Cakounes, Town of Harwich Delegate

Amended by Cheryl Andrews, Town of Provincetown Delegate

Fax



Note

Please provide the attached document to each member of the County Charter Review Committee. Thank you.

To
2013 Barnstable County Charter
Review Committee

From
Not Applicable

Company
Cape Cod Regional Government

Company

Fax Number
15083626530

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Address

Which Form of County Government is Right for Us?

A charter specifies a form of government. Because of its significance, a county government's form of government arguably influences every facet of its operation. Therefore, it is one of the most fundamental issues to address in the early work of a charter commission. Oftentimes, form of government is not on the table for discussion. However, for many counties, the underlying form of government is fair game. It is certainly a matter of discussion for a regional government entity trying to expand its size and control over the local geographical area. .

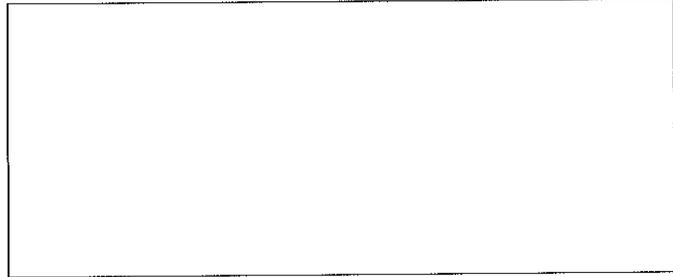
It is hard to exaggerate the significance of a county's underlying form of government. A county's form of government is the constitutional and legal basis for assigning authority and functions to government officials and creates its overall framework. Form shapes the nature of official roles and channels interactions into likely patterns of relationships, i.e., who talks to whom, who gives instructions to whom, and how are those instructions interpreted and acted on by the recipient. The United States is unique in having widespread use of two forms of government based on different constitutional principles. The essential differentiating characteristic is whether power is divided between a strong administrator and Board of County Commissioners or between a Board of County Commissioners and a county legislature, like the Assembly of Delegates.

A county's decision about governmental form should be made only after a thorough and thoughtful examination of the different forms, the governmental characteristics represented by each, and the qualities local citizens would like to see in their government. This single decision will arguably influence more facets of government than any other. If the community is discussing form of government as a part of the charter review process, it might be helpful to step back and ask why form of government is on the table. As mentioned earlier, governmental form is a critical and necessary question for a county examining home rule charter. In other cases, a county in the midst of charter reform may consider moving away from its current form of government. To begin the discussion of the latter case, the following questions may be useful:

- *What is the specific catalyst or impetus for desiring a change in the form of government?*
- *How will the proposed change in structure, function, and powers impact governmental leadership, management, operations, processes, and services - both positively and negatively?*

Interestingly, while form of government is one of the most profound decisions a community can make about its county government, it is also one of the most commonly misunderstood. How a particular form of government plays out in everyday governmental operations is often not understood by many citizens. This lack of understanding poses a challenge when attempting to engage citizens in a meaningful discussion on the topic. At times, misunderstandings and misperceptions regarding the different forms of local government undermine constructive dialogue. Informal opposing groups advocating one form over the other can spark potentially uncomfortable and passionate debates. For this reason, conversations surrounding form of government should be handled delicately. For those commissions discussing form, a useful starting point is the presentation of an unbiased, fact-based, educational overview of the different forms.

Fax



Note

Please immediately comply with all criteria and requirements of the Massachusetts Open Meeting Law when conducting your respective official meetings and public hearings. Thank you.

To
ATTENTION: County Charter Review
Committee

From
Not Applicable

Company
Barnstable County Government

Company

Fax Number
15083626530

Fax Number

Phone
508-775-8342
Address



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

February 11, 2013

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www.mass.gov/ago

OML 2013 - 15

Robert S. Troy
Troy Wall Associates
90 Route 6A
Sandwich, MA 02563-1866

RE: Open Meeting Law Complaint

Dear Attorney Troy:

This office received a complaint from David Still II, Editor of the Barnstable Patriot Newspaper, dated August 9, 2011, alleging that the Barnstable County Board of Regional Commissioners (the "Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint specifically alleges that the Board listed "Votes of the Board of Regional Commissioners" as a topic for its June 29, 2011 meeting, and that the topic did not provide enough specificity to give the public an understanding of the topic that would be discussed at the meeting. The complaint was originally filed with the Board on or about July 20, 2011, and the Board responded to that complaint by letter dated August 5, 2011.¹

We appreciate the patience of the parties while we reviewed this matter. Following our review, we find that the Board's notice for its June 29, 2011 meeting did not meet the requirements of the Open Meeting Law. In reaching this determination, we reviewed the July 20, 2011 complaint and the Board's August 5, 2011 response. We also reviewed the notice posted for the June 29, 2011 and August 3, 2011 meetings. Finally, we reviewed the minutes and video recording from the June 29, 2011 meeting.

FACTS

The Board scheduled a meeting for June 29, 2011. In its notice for the meeting, the Board listed three topics: 1) "Vote to Approve Minutes of previous meetings(s);" 2) "Votes of the Board of Regional Commissioners;" and 3) "Ratify the actions taken by the County Administrator and/or Assistant County Administrator regarding Personnel Actions." During the June 29, 2011 meeting, a motion was made to "Approve the Summary of Actions." The motion was seconded and passed. Although not specifically identified or discussed during the June 29, 2011 meeting, the June 29, 2011 minutes provide an enumerated list describing in detail twenty-nine (29) actions that were ratified by the Board as a result of this vote.

¹ The Open Meeting Law requires that "all complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website." 940 CMR 29.05. Although this complaint was not submitted on the Open Meeting Law Complaint Form, the Board responded to the substantive issues raised in the complaint.

In the Board's August 5, 2011 response to the complaint, the Board states, "[t]he act of voting to execute documents that have previously been approved by County personnel does [not] constitute a 'topic' to be 'discussed' within the scope of the Open Meeting Law. Such action is a routine ministerial matter that does not require deliberation or discussion." The Board contends that because there was no "discussion" of these items "such actions are not required to be individually listed on the meeting notice's list of topics." The Board further contends that the "[e]xecution of documents by a public body does not require a vote but instead requires the ministerial act of signing a document."

DISCUSSION

The Open Meeting Law states in relevant part that, "[e]xcept in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays." G.L. c. 30 § 20(b). Furthermore, "[n]otice shall be printed in a legible, easily understandable format and shall contain the date, time, and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting." *Id.* Any topic discussed at a meeting, which was reasonably anticipated by the chair of the public body, must be listed in a meeting notice with "sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting." 940 CMR 29.03.²

Here, the Board makes clear in its August 5, 2011 response that the chair of the Board reasonably anticipated the items to be ratified during the June 29, 2011 meeting. However, the notice for the June 29, 2011 meeting included only a broadly stated item indicating that the actions taken by the County Administrator and/or Assistant County Administrator regarding personnel actions would be ratified during the meeting. The Open Meeting Law requires that the Board list those topics anticipated by the chair with sufficient specificity to reasonably advise the public of issues to be discussed at the meeting. 940 CMR 29.03. A notice which states "Votes of the Board of Regional Commissioners" and "Ratify the action taken by the County Administrator and/or Assistant County Administrator regarding Personnel Actions" does not provide sufficient specificity. *See* OML 2011-11 (finding that a soil conservation board was required to list in its notice the specific permits it would consider at a meeting).³ Although the

² See also the section of our office's website that includes Frequently Asked Questions pertaining to the Open Meeting Law, www.mass.gov/ago/openmeeting.

Q: How specific must the listing of topics be in the meeting notice?

A: The listing of topics must contain enough specificity to give the public an understanding of each topic that will be discussed. It is not sufficient to list broad topic categories, such as "Old Business." For example, when the Chair of a Board of Selectmen reasonably anticipates a discussion about on-going traffic improvement projects in town at the next Board meeting, it would be appropriate for the Chair to list that topic in the notice as: "Discussion of Traffic Improvement Projects at the intersection of Main and Pleasant Streets; and at the intersection of Elm and Oak Streets." In some instances, there may be overlap in the posting requirements of the Open Meeting Law and other statutes. In most cases, the information required by the controlling statute will satisfy the Open Meeting Law meeting notice requirements, however for specific questions please contact the Division of Open Government.

³ Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

Board did not discuss each item to be ratified during the June 29, 2011 meeting, to the extent that the Board was aware which specific actions it would ratify during that meeting, it should have taken the additional step of listing details of those specific actions in the meeting notice. This level of detail is necessary to enable the public to understand what business will be transacted by the Board and, where members of the public have an interest, to attend the meeting and witness the relevant deliberations. Even where a public body does not intend to discuss a topic before conducting a vote, the specific topic should be listed in the notice so that members of the public are aware of the potential action.

We acknowledge and commend the actions that the Board has taken in response to this complaint, including its commitment to list in future notices any documents that require discussion or deliberation prior to execution. The Board has also indicated that if deliberation is required with respect to execution of a specific document that was not included in the meeting notice, such item will not be discussed and will be placed on the agenda for the following meeting.

CONCLUSION

We find that the Board's notice for its June 29, 2011 meeting was not sufficiently specific to comply with the Open Meeting Law. We do not believe the Board acted with intent to circumvent the requirements of the Open Meeting Law, and the Board has committed to including additional detail in future meeting notices. We therefore order the Board's immediate and future compliance with the Open Meeting Law, and caution the Board that future similar violations may be considered evidence of intent to violate the Open Meeting Law. See 940 CMR 29.02.

We now consider the complaint addressed by this determination to be resolved. Please feel free to contact me if you have any questions or believe any facts in this letter to be inaccurate.

Sincerely,



Jonathan Scarsic
Assistant Attorney General
Division of Open Government

cc: David Still II
cc: Barnstable County Board of Regional Commissioners

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by this order may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of this order.



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
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(617) 727-4765 TTY
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May 8, 2012

OML 2012-33

Frank K. Duffy, Jr.
Town Counsel
Town of Falmouth
157 Locust Street
Falmouth, MA 02540

Re: Open Meeting Law Complaint

Dear Attorney Duffy:

This office received a complaint on December 7, 2011 from Marc Finneran, alleging a violation of the Open Meeting Law, G.L. c. 30A, §§18-25, by the Falmouth Board of Selectmen (the "Board"). Mr. Finneran alleges that "[t]he [Board] as appointing authority [failed] to ensure receipt of Open Meeting Law materials to all Boards and Committees" within the Town of Falmouth. The complaint was originally received by the Board on October 7, 2011. We received your response on behalf of the Board in a letter dated October 18, 2011.

The Attorney General assumed responsibility for enforcement of the Open Meeting Law as it applies to local public bodies on July 1, 2010. Since that date, each member of a local public body has been required to certify within two weeks of taking the oath of office or entering into performance of office that he or she received a copy of the Open Meeting Law, G.L. c. 30A, §§ 18-25; the Attorney General's Open Meeting Law regulations; and a copy of the Attorney General's Open Meeting Law Guide, G.L. c. 30A, § 20(g); 940 CMR 29.04(1). The municipal clerk must deliver these materials to public body members, and retain copies of the certification forms. Id.

The Board admitted in its response that the Town as a whole did not comply with the certification requirement of the new law prior to September 2011. The response indicated that the Town Clerk was unaware of the certification requirement prior to September 2011, and it was common practice before that time for the Town Clerk to distribute a copy of the "old" municipal Open Meeting Law, G.L. c. 39, §§ 23A-C, and an Open Meeting Law pamphlet that was

prepared by Town Counsel¹ to newly appointed members. The pamphlet contained an overview of the Open Meeting Law, and was revised in September 2010 to include provisions of the "new" Open Meeting Law. Members were also required to sign a log upon receipt of the materials.

Upon learning of the certification requirement in September 2011, the Town Clerk began to distribute the required materials upon appointment and file the certification form with each individual's letter of appointment. Furthermore, the response noted that Town Counsel has conducted several Open Meeting Law trainings since that time for Town officials and distributed the Attorney General's Open Meeting Law Guide during the trainings.

From Town Counsel's response, we infer that the Board's members also failed to comply with the Open Meeting Law's certification requirement prior to September 2011. Based upon the response to the complaint, however, it appears the Town has taken appropriate steps to ensure compliance by all public bodies in Falmouth going forward. To confirm that it is currently in compliance, we order the Board, within two weeks of receiving this determination, to send our office copies of the completed certifications for all current members of the Board. Furthermore, we order immediate and future compliance with the Open Meeting Law. Upon receipt of the Board's certifications, we will consider this matter closed. Please be advised that closing this complaint does not resolve any other complaints that are currently pending with our office.

Sincerely,



Amy L. Nable
Assistant Attorney General
Director, Division of Open Government

cc: Marc Finneran

¹ For purposes of clarity in this letter, we will refer to you in the third person.