

**CAPE COD REGIONAL GOVERNMENT
ASSEMBLY OF DELEGATES
CHARTER REVIEW COMMITTEE
AUGUST 7, 2013**

Minutes for August 7, 2013

Call to Order/Attendance:

Chair BERGSTROM: Okay. Thank you all for coming today. Today is Wednesday, August 7th. This is a meeting of the Charter Review Committee. We have a quorum currently. Are we missing someone? Who are we missing?

Ms. MCAULIFFE: Ann Canedy, Linell Grundman and Austin Knight.

Meeting Minutes 7/17/13 for Approval:

Chair BERGSTROM: And I'd like to call this meeting to order. And have you had a chance to review the minutes of July 17th, and, if so, do I have a motion to approve the Minutes?

Ms. MCAULIFFE: Motion to approve.

Ms. TAYLOR: Second.

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

(Motion passed.)

New Business:

A) Communications and Discussions with Cape Cod Commission Executive Director Paul Niedzwiecki

Chair BERGSTROM: Okay. Under "New Business" we have Communications and discussion with Cape Cod Commission Executive Director Paul Niedzwiecki regarding Commission's relation to organizational structure of County government.

Well, you know why you're here, Paul, is because we're designated in the legislation as being the approval group --

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: -- or changes from regional policy plan and creation of districts. So I will give it to you if you want to have a general comment how that came about and how that relationship works.

Mr. PAUL NIEDZWIECKI: Yes. Thank you. Paul Niedzwiecki, Executive Director of the Cape Cod Commission. I made some comments to the body when the Commission met first. And so I'll just sort of abbreviate those comments.

When the Cape Cod Commission -- the Commission itself is about as old as this form of County government. And when the Commission first came about, it has some very powerful tools, namely the District of Critical Planning Concern, the DCPC. And it is important to me that there be a County legislative body that represents the people of the Cape in approving those Ordinances going forward. I think that the Assembly really sort of sprang out of that concern. There needed to be someone that was an elected representative that oversaw the actions of the appointed Cape Cod Commission, because the Cape Cod Commission, 19 members, 15 members appointed from the towns.

And so that began the relationship. And it's been I think a pretty productive relationship certainly in my almost six years here. We've pushed a lot of Ordinances through

and a new Regional Policy Plan. We're getting to do another one. So it's a relationship that works fairly well.

There has been a concern that I've expressed at times as it relates to the weighted vote. And I heard it expressed at the end of the first meeting that I was here when sort of members of the Commission musing about whom the Assembly really represents. Do they represent the towns or do they represent the people? And I think that's sort of an essential question.

And the County government as it exists now is sort of an amalgam of that. But representing the towns is important, and I think that there should be opportunities for -- that would benefit the Cape Cod Commission if we had a County government that strengthened our relationships with the towns.

So that's an important piece moving forward and I hope that's part of your consideration as a Charter Review Committee.

But it's also important in my estimation that at least with sort of DCPCs in particular, they are really sort of nominated primarily by towns. And so to have such a powerful tool that is nominated by towns, then approved by the Cape Cod Commission that has appointed representatives of the towns than to be finalized by a group representing the people that are elected from towns tends to sort of leave out the individuals that might be more directly impacted as abutters to Districts of Critical Planning Concern.

So that has been the main reason why sort of weighed in on the weighted vote issues. That and just sort of looking at its calculus. As it stands now, you've got 15 towns and it's really not a weighted vote. It's really a fractional vote. A weighted vote would mean Barnstable would have like 22 representatives, but it's a fractional way to go about making decisions, but it's based on the decennial census. And so right now four towns, the four base towns can control any vote out of the 15 towns that are -- that have an interest in play here.

But if you look at the future of the Cape and the likelihood and those areas where you think population is going to grow, which is basically in the Mid and Upper Cape. And you look at those places where population may not, which is really the Outer Cape, we have that large footprint of the National Seashore and some restrictions there and a huge percentage of second homeowners.

You could see at some point four towns controlling votes on the Assembly through this fractional representation going down to three or two. And at some point it does become out of balance, and those are just demographic observations for your consideration because you do important work and I think the challenges to the region are growing. The financial constraints that we all live under, I mean, we live in an era of declining public resources. That's not going to change. It's we have to get used to that situation and that means doing more together, and the County government is an important facilitator of those municipalities that have similar interests. So that should continue and I think you're going to continued to be called upon to do more and more important work. And so if you would give that some consideration in your review.

So those are my statements. I would answer any questions that you have.

Ms. MCAULIFFE: I have a question in terms of the demographics. So is the Cape Cod Commission then projecting that the Upper -- that the Lower Cape, excuse me, the Lower Cape is going to then see a population decline?

Mr. PAUL NIEDZWIECKI: We're not projecting, but if you look at -- we have to do 30-year build outs, for example.

Ms. MCAULIFFE: Right.

Mr. PAUL NIEDZWIECKI: And so you look at where a population is going to increase and where population might decrease. And when you look at the percentage of second homeowners and where that's weighted, certainly on the Outer Cape, the footprint of the National Seashore, the restriction around building an increased development on the Outer Cape, and you look at areas like South Yarmouth, West Yarmouth, Hyannis, Mashpee, Buzzards Bay, and you look at some of the planned growth there or you look at some of the new sort of exciting economic centers that we're considering in a place like Sandwich where there's planned development to happen, it is in my opinion much more likely that you'll see population growth on the Upper and Middle -- Mid-Cape than you would on the Outer Cape.

And it's really sort of a -- you'd need a 6,000 person deviation, you know, in the sort of existing situation or in order to wind up in a result, you had two or three communities that really controlled the vote on the Assembly of Delegates. And that's 6,000 total so that could be an increase of 3,000 on the Upper Cape, decrease on the Outer Cape, or any combination in between.

Ms. MCAULIFFE: So it's more the expansion and potential growth on the Mid- and Upper Cape as opposed to an actual decline. It's just sort of a status quo on the Outer Cape.

Mr. PAUL NIEDZWIECKI: Yes.

Ms. MCAULIFFE: Okay. Thank you.

Chair BERGSTROM: Bill.

Mr. DOHERTY: How would you respond to a hypothetical that most interest in supporting development if we followed the scenario that you're suggesting, in the growth population in the areas of poor economic reasons and for other reasons, it would seem as though that constituency would be better served if it was in more control of its own interests.

So one of the things I'm concerned with is if I were to take a look at the Cape as a whole, the question that I asked Attorney Curran was there ever a review of the weighted vote? And according to his answer, it is when it was looked at to begin with, it was looked at as having past muster because all bills that go through a legislature have, indeed, have to have some sort of review by the judicial branch to see fit there.

Now the geography if I were to break this up, if you started in Harwich and you go down to Provincetown, that's about 15,000 people. Okay. So if there's 215,000 people on the Cape, and we take a figure of merit of somewhere between 15 and 20,000 per district, we're not saying that of 400 square miles that represent the Cape about 200 square miles would have one person representing it.

Mr. PAUL NIEDZWIECKI: Yes, as it does now in the state legislature.

Mr. DOHERTY: That's the Fourth District. The state legislature is representing a district that is no larger than any other district within the whole Commonwealth.

Mr. PAUL NIEDZWIECKI: That's the point, yes.

Mr. DOHERTY: The County government has never been under the same set of say rules up to this question had been raised now.

The other piece is and this relates I think to the Cape Cod Commission. The momentum or a change in representation in some ways has been based upon an anticipation of a need that's based upon say services and let's say new ventures that might come along.

You mentioned population trends -- and I sat for six years on that Commission and I recognize that. But what I don't hear in the planning process is what other kinds of things

from either an economic aid or an economic development point of view, a recreational point of view, an overall what do we look like in 30 years? What does that representation look like? And I think you're suggesting it has to look like a district.

Mr. PAUL NIEDZWIECKI: I just think if you're going to represent individuals, they should be represented equally. If the County is going to take an action like a DCPC, for example, and you're an abutter to that DCPC as an individual, you may have a problem with it. It's likely your town nominated it. It's likely that your town's appointed representative on the Cape Cod Commission voted for it. And then it's likely that someone who represents the entire town is going to pass it on the Assembly.

And as an individual, I think you should have -- if there's a DCPC in Barnstable and a DCPC in Truro, and I call my Barnstable rep as an abutter about the Barnstable DCPC, I'm going to be fairly well represented up here.

If I'm a Truro resident and I call my Truro rep, not so much. And I hear a lot about voices and whether the town has a voice or not; I think the town should have a voice.

But it's clear to me as an individual that if you live in one town you're going to be represented much more differently than you live in another town.

Mr. DOHERTY: There are two DCPCs that I was involved with when I was on the Assembly. Julie and I were on one that went for the ponds up in -- the one in Bourne and the one -- and then it was one for --

Ms. TAYLOR: Spectacle Pond.

Mr. DOHERTY: -- the YMCA, Spectacle Pond and there was one in Harwich. In both those cases, the Assembly had an opportunity say to represent an interest of the community by following through and doing the site visits and representing the interest.

At the time I served in the Assembly, I would say that just like at the great General Court, it is in the committees and subcommittees that the work gets done and then is reported back to the Assembly -- let's see to the Legislator as a whole and to the Assembly as a whole.

Now I might be bringing this up more in terms of a devil's advocate than anything else, but I do know that I'm very concerned that if we move forward for any kind of a change that does not take into account consequences that we would be -- we would face what I would call a move towards we are making this change because it seems like the thing to do at the time as opposed to making a change that is coincident with a need that we can anticipate.

So I ask you as a planner for Barnstable County -- what needs are coming out that would, in your mind, require a change that is being proposed by some parties here; one in consolidation and one in expansion?

Mr. PAUL NIEDZWIECKI: From my perspective, and honestly I do not subscribe to any particular format or any Constitute -- I mean that's really sort of up to the Commissions. That's your purview. That's your prerogative.

The only thing I think I would suggest is I think individuals should be represented by equal districts. It's a very simple principle and that's what I believe should be part of a County legislative body is that it's represented -- representing individuals from equal district so that everybody's vote counts the same.

And I think that's important for DCPCs, and it's not that we've gotten DCPCs wrong, although there have been DCPCs that haven't been successful and have been defeated by less than a majority of towns. That's a fact. That has happened on really important Cape-wide DCPCs.

There may be other DCPCs that come down the line too and there are important ones that have already been voted on.

If there is a challenge to the Constitution of this body, it endangers every DCPC, past/present/future, and I think I have a fiduciary responsibility if I think there's an issue to bring that to someone's attention. That's the only thing I've tried to do.

As it relates to the fractional sort of representation back in 1989 when it was considered, it certainly made sense. It made sense back then. And if you look at the Constitutional laws as it relates to sort of weighted votes, fractional representation, redistricting law, except the law was still emerging on the local level at that point certainly, the *New York Board of Regions* case in 1989.

So no one's saying that it was a mistake made. The question is if the judiciary has gone in a certain direction defining these kinds of situations, we have important regional tools that we might want to use that the town's want us to use. Why would we put that at risk or at least not ask that question as part of your fiduciary responsibility as a Commission reviewing this government.

And I don't have any problem with anyone who disagrees. I really don't. It's just my -- I feel an obligation to sort of put it out there. There are those who feel that as a public servant I shouldn't have an opinion. I do.

Mr. DOHERTY: That's never stopped you before.

Mr. PAUL NIEDZWIECKI: Right. It hasn't, it won't, and -- but it's really not meant in any way that's meant to be detrimental, and I can't be responsible for how other people might promote the same arguments that I do. But those are the reasons why I think these things should be considered.

Mr. DOHERTY: Thank you.

Chair BERGSTROM: Paul, I've got a few questions for you. There are 19 members of the Cape Cod Commission, obviously 15 members of the town. A Native American member?

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: Governor's appointee?

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: Disabled?

Mr. PAUL NIEDZWIECKI: Minority.

Chair BERGSTROM: Minority. And what's the other one?

Mr. PAUL NIEDZWIECKI: County Commissioners.

Chair BERGSTROM: Oh, the County Commissioners. Well no wonder you're so dysfunctional. Well wait till the County Commissioner's --

You know this weighted vote thing has been on my mind and I understand why initially they pushed final decisions on things like DCPCs and changes in Regional Policy Plan to a vote to a body that's Democratic.

But in looking at the makeup of the Commission, it seems to me that if there's a Development of Regional Impact before the Commission, they can actually be approved by representatives of less than 30 percent of the population; is that not accurate?

Mr. PAUL NIEDZWIECKI: You'd need nine votes --

Chair BERGSTROM: Let's take a low -- let's say --

Mr. PAUL NIEDZWIECKI: You'd need nine votes to get out of the Cape Cod

Commission.

Chair BERGSTROM: You need nine votes. But nine votes could represent less than a minority of the population.

Mr. PAUL NIEDZWIECKI: It still represents more than four, which is what you have on the body that you sit on now.

Chair BERGSTROM: But we're talking about the population wall, the people.

Mr. PAUL NIEDZWIECKI: Right.

Chair BERGSTROM: The people from which we take our authority that a vote of the Commission can represent less than the majority of the population of Cape Cod.

Ms. MCAULIFFE: Yes.

Chair BERGSTROM: As nine, sure.

Chair BERGSTROM: Okay. See, this is the issue I have with this weighted vote is you keep switching back and forth saying the towns are --

Mr. PAUL NIEDZWIECKI: No. Let me be clear, Ron. The Cape Cod Commission is not elected.

Chair BERGSTROM: Right. I understand that.

Mr. PAUL NIEDZWIECKI: There's a big difference. There's a huge difference when you're talking about Constitutional law. It doesn't apply to Cape Cod Commission. You can look at the MBTA Advisory Board. There are a number of boards that have weighted votes because they have towns that participate financially, and the financial participating is weighted by they are appointed.

Chair BERGSTROM: But what you're saying is that let's say we have a DCPC and it's approved by less than the majority pop -- representative less the majority population. It then goes to the Assembly of Delegates where it has to be approved by representatives of the majority population of Cape Cod.

Now you can switch and say well four towns, but, see, you and I are looking at a different picture. You're looking at little town halls. I'm looking at the population of Cape Cod.

So how are we going to come on to some common ground? Should the people have the decision or should the governments have the decision? That's a question.

Mr. PAUL NIEDZWIECKI: I root for the people.

Ms. TAYLOR: The government has to make the decision representing the people. And I think what the issue is if the Cape Cod Commission can make recommendations with a rather narrow population, not a majority of the population, you then would like the people to be well represented in the next go around at the Assembly.

And, yes, the population because of the proportional representation is represented but it could be a decision made by three or four people.

Mr. PAUL NIEDZWIECKI: Right.

Ms. TAYLOR: And that's what is, to my mind, inherently unfair to all the people that are not belonging to those big towns.

Mr. PAUL NIEDZWIECKI: Well --

Ms. TAYLOR: It's legal. We know that because we've done it all along. I agree with Marcia. There hasn't been a conspiracy of the big towns to affect things.

But, you know, I'm going to leave soon and that could change. It certainly crossed my mind; I just have resisted the temptation.

In my recollection of the original planning for the new government, I got involved because Esther Snyder who was head of APCC was adamant that she was thrilled that we would have a Cape Cod Commission and then she was adamant that it be a fair legislative review.

And I don't think that the majority of the people who were on the original Charter Commission thought that having individual towns and the fraction vote was really the most fair, best system. What they thought was that was the system that they could sell to the voters because towns were used to being represented.

So it may, again, be a waste of time to try to sell to the voters that the town is not the correct way to elect people.

Chair BERGSTROM: Okay.

Ms. TAYLOR: But there has never been any doubt in my mind, and I don't think there was a doubt in the minds of the original Charter Commission that the fairest way would be some sort of regional representation. We didn't go that way though because it wasn't what people were used to, and we were desperate to get it passed because we new the Charter -- we wanted to have it be a united front with both the Commission, Cape Cod Commission, and the new review thing.

So that's the reason. Not because anyone thought it was a better system or a fair system because it's not. Only because it was what we thought we could pass. And I'm pretty much convinced after the meeting today that we can't change it because I don't believe that the Assembly, unless I made some desperate appeal for Princi, and just, you know, maybe -- I think it may even be a waste of time.

Chair BERGSTROM: Well, anyway.

Ms. TAYLOR: But I still would like to hear what it would look like if we had districts.

Chair BERGSTROM: Thank you. Since you're the dean of our Assembly, I allowed you to interrupt me. But now that you're done and mindful of the fact that you're one of the four votes that can control our destiny.

You know, you brought up -- I mean I promised I wouldn't argue with you, but, of course, I argue with everybody. So, you're on the hot seat there. By the way, we set this up not to be like an interrogation but the fact is because of the camera we have to sit here. That's the only reason.

Mr. PAUL NIEDZWIECKI: Yes. You brought up the situation. You said well if I call my -- if my representative -- if I'm from Barnstable, my representative has a lot of power, so I have a lot of power. Whereas, out in Truro, that's not true.

But the fact is I might call up my representative from Barnstable and he says to me, "You're one of 30,000. Why should I pay -- I don't care what you say. I've got thousands and thousands people that disagree with you."

If I call up my representative or I vote for a representative from Truro, I'm one of 2,000. So, in other words, my influence on that vote if you can imagine that and we can go into an argument as to whether people actually influence the vote of a representative once they're elected. But I'm not going to get into that because that's a Constitutional thing.

But my influence on my representative is much greater. In other words, if I'm a hundred homeowners who don't want a DCPC; in Barnstable, a hundred people, what do you think? In Truro, that's a lot. That's 5 percent of the population.

Ms. TAYLOR: Truro can't present it.

Chair BERGSTROM: So I, as their representative, have to listen to them. Otherwise they'll kick me out and I won't get my thousand dollars a year or whatever they pay.

So I mean there is -- I'm not saying -- there is no right answer; there is no wrong answer, but I don't think it's cut and dry that the system that we have now is that much -- is either unfair or illegal. We on the Committee, at least me, I can't speak for the Committee, I'm looking for a system that will be more efficient in delivering services to the Cape.

And also the reason you're here is the relationship with the Cape Cod Commission.

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: And I'm concerned that I've been, as you know, I've been a supporter of the Commission from the get-go. I believe that Cape Cod needs a planning agency. I believe our economy is dependent on the environment that we live in, not just the physical environment, but also the social and cultural environment that we live in. And I don't want -- and I see in my email daily attacks on the Commission. They're coming recently, you know, hither and yon.

I'm sure it's not, you know, that they're coming from unsolicited in my email. And I'm looking for a way of reassuring the population that ultimately we'll have -- the Commission is not as it's portrayed as some out of control agency that can do whatever it wants. And I'm looking to instill that in the minds of the people of Cape Cod that this is an agency that works for them, is responsible to the public, and it is accessible and that there are many -- not many layers but there are enough layers of approval and disapproval that they can have confidence that decisions are being made in an appropriate fashion.

So that's why I mean -- I don't know, you know, we can argue about different ways that we can do that, but I mean do you feel right now that you have the confidence of the public in the way you operate and the way its operating now?

Mr. PAUL NIEDZWIECKI: Absolutely.

Chair BERGSTROM: Okay.

Mr. PAUL NIEDZWIECKI: I do. I mean I think we do have problems, and you talk about the power of one person. I mean -- one person --

Chair BERGSTROM: I think it's like 30,000 people, not one person.

Mr. PAUL NIEDZWIECKI: Yes, but I think there's one person because one person with multiple Internet personalities has a big influence on this body.

Chair BERGSTROM: Oh, you mean the hacker. Yes.

Mr. PAUL NIEDZWIECKI: And on Selectmen on this town -- on the peninsula and I know that. And nobody's making any effort, although it's easy enough to do with the Google search opportunities that we have to find out whether this is just one person, and we know that it is, but nobody stands up and says anything about that. Its like, "Oh my God, there's some uproar about the Cape Cod Commission" when there's not.

Ms. TAYLOR: I was going to say it mentioned every week.

Chair BERGSTROM: I brought up -- that's not true -- once in public session I brought up the -- I don't know if you're familiar with the Exorcist, the movie the Exorcist. As father --

Mr. DOHERTY: My head is spinning.

Chair BERGSTROM: Yes. Well, appropriately so, I might add. But when the Exorcist starts walking the stairs where the girl, the afflicted girl, father, the other one, Father

Karass or whatever his name is, says, “Let me tell you about the multiple personalities that this demon is.” And the Exorcist turns around and he says, “There’s only one.” And that is what happens on the Internet. They can have many names and they can have many kinds of personalities, but there’s only one source.

Mr. PAUL NIEDZWIECKI: But it has influence. I mean what are you going to do? I think public officials should be sort of more than a scratch on the surface when they get an email from somebody that doesn’t exist.

Mr. DOHERTY: Let me proffer this anecdote. I’ve been to Assembly primarily because I had voted against the Cape Cod Commission when it came to be, and I read the Charter and I discovered that the Assembly is what controlled the Cape Cod Commission.

Mr. PAUL NIEDZWIECKI: Yes.

Mr. DOHERTY: So, after having served in the Assembly and having I guess co-opt because I read the Regulations, I read what the Cape Cod Commission was doing. I looked at the outcomes that were there and I discovered that it was a net good.

Now the person you’re talking about is -- I’m familiar with his education, and he should remember that he’s supposed to resolve doubt by study and he hasn’t done that.

Mr. PAUL NIEDZWIECKI: Yes.

Mr. DOHERTY: So the point is that the what I would call the thread of the propaganda principal of if you put something that sounds reasonable and framed it as being a totally truthful statement, you will get the reaction of the public on the point of he couldn’t be saying that large a problem without it being true because people don’t do that.

Now, I am a fan of Siwar, as you know, and have read Mao and Goebbels and all of that, and I find out that that’s the thread of all of it. That there is a reasonable tone and if it’s framed in an articulate way, it is presumed to have more weight than if it were just someone that, let’s say at a Town Meeting or at a Selectmen’s meeting, because as a housing official, I have gotten unanimous support at Town Meeting and then had seven people show up at the Selectmen, and the Selectmen would basically would roll over and throw the thing out.

So the thought that you have that says that all people are represented, all people are not represented by the will of the people unless the people who are elected to serve with them stand up for what they believe in.

My history as an elected official both in the Assembly and as a County Commissioner have been that in the main, the people who were elected stand up for principles. The only fault that I’ve had over time is that it could benefit from what I could call better preparation. It could benefit from what I would call an understandable conduit of communication between the agencies.

As far as service delivery, I don’t think that governance has anything to do with service delivery other than supporting them to make sure that they do deliver the service.

What I’m really concerned with all of this is if we don’t carefully consider what we’re about, we could materially affect the ability that we have demonstrated over time -- over, let’s see, I’ve been doing this for what almost 15 years, that, let’s say, impede the ability of the service agencies that are part of the conclusion that have actually delivered good and faithful service at a very competent level to the people that they represent.

As a County Commissioner, according to my opinion, are responsible for setting policy because we’re elected to do that. We hire people to implement that policy. The legislature, the Assembly, has the responsibility of examining through the budget which is the direct

expression of the Commissioners policy to decide whether or not you approve that policy and approve that legislative part.

Now I don't remember except for one time that the budget wasn't approved.

Ms. MCAULIFFE: I want to weigh in here.

Chair BERGSTROM: Yeah, let's get on to the Constitutional issues.

Ms. MCAULIFFE: Yes, no, I want to get onto the issue of the DCPC and the Cape Cod Commission.

I think that the proposal that's really being promoted in a very politicized, you know, Selectmen to Selectmen, Town by Town, either consolidation or the merger, whatever you want to call it, into five or seven people. I think that will make people very nervous because I think what you will have then is people will feel that, yes, from governmental prospective, it's very efficient, very organized.

But when you get down to the relationship with the Commission and you get down to people overseeing what the regulatory body is going to do, I think they're going to be very nervous that five people are going to be so like-minded and so sort of pro-government that they won't have a voice.

So one of the things that I feel this group needs to do is make sure that not only did the individuals of the residents that you were bringing up, but also everyone on the Cape feels that they have more of a direct oversight into things that are their day-to-day.

And as you said, as an abutter, you know, you may or may not have a say. But if you feel that you have a closer tie whether it's an Assembly of Delegates or 15 member legislative body or however we do that, I think from my read to go to just five or seven is going to make people so uncomfortable with -- just for the Cape Cod Commission alone regardless of how efficient it is as a governmental structure.

And I think that's going to be a problem to sell to people is that you can say this is the best, most efficient, from our perspective this is going to deliver services. It's going to work great. It's going to save money. They're not going to care because what they're going to want is to make sure that they have a say in what their future and their planning and the regulatory process goes.

So from where I sit, we need to make sure that the residents and the towns and everybody feels like they can still have a voice at the table.

Mr. PAUL NIEDZWIECKI: Yes. And I'm not -- I don't promote any particular proposal.

Ms. MCAULIFFE: No. I'm just saying the proposal that's being -- the Commissioners are going Town by Town, Selectmen by Selectmen presenting their Resolution as was the outcome of the Special Commission and that's fine.

Mr. DOHERTY: Excuse me.

Ms. MCAULIFFE: I'm speaking. I'm speaking.

Mr. DOHERTY: Sorry.

Ms. MCAULIFFE: And that's fine because that's their -- it was their group that they appointed. It was the outcome of that group. But I'm just saying from our perspective that may be what works best for them. That may not be how we see things.

Mr. PAUL NIEDZWIECKI: Yes. Well, I'm completely respectful of the process and everybody's opinion. If you recommended an Assembly of Delegates that had 50 people, that would be okay with me too. Mine's about principal. It's about representation of people

equally and that's it. That's where it begins and ends.

Chair BERGSTROM: I could argue philosophy with Paul but that's not why he's here. He's here more or less to explain the relationship and any changes in that relationship.

So I'm going to move on a little bit and ask him -- right now, you're appointed -- you were hired by the Commissioners; is that right?

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: And so you don't really answer to the Administrator; you answer directly to the Commissioners?

Mr. PAUL NIEDZWIECKI: I do.

Chair BERGSTROM: Now one of the proposals -- there's many proposals on the table and one of -- several of them envision a larger legislative body and a single larger legislative body. Let's say 12. It would be kind of awkward for you to answer to 12 people.

Mr. PAUL NIEDZWIECKI: I've done it before.

Chair BERGSTROM: Well, yeah. In concert with that, they're talking about and I think even almost a universal recommendation even among the Commissioners to appoint a Stronger Administrator.

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: So how would you envision your relationship? I mean would you then become -- and then you're also the head of a body which has its own legislative authority and so on. So you kind of have to go through this carefully to make sure that we do it in a right way if, indeed, we make this change. So how do you envision that relationship?

Mr. PAUL NIEDZWIECKI: Well, the relationship as it exists now between the Executive Director and the Commissioners is there in part because the County Administrator has very little daily interaction. And neither the County Administrator nor the Board of County Commissioners can direct the Executive Director or Commission members in how they interpret the Cape Cod Commission Act.

So, I always felt it was unfair to put the Administrator in the position of having to review the Executive Director. How are they going to do that with any sort of integrity?

Now to mention the Administrator, just as a grammatical exercise, an Administrator derives his authority -- his or her authority from the elected body that they represent. It's subrogated authority.

And Executive Director as part of a state act has authority, as does my Chief Regulatory Officer called out directly in the Act.

And so to put somebody who can't direct somebody to do something in charge of them I think is a very frustrating thing to do. And so it's not clean the way the Cape Cod Commission Act matches up with the County all the time.

But it's real easy to draw a piece a paper and say, "Well it should be a triangle." I mean geometry is pretty easy. In practice, there are issues with it. But having said that, does it really matter? No, other than I think it lacks integrity.

Chair BERGSTROM: Yeah, but the problem I have -- let's say you walk out the door and you get hit by a bus. Hopefully it's not going to be an RTA bus. And we have to hire a new Executive Director under this new form. I mean how would that be done?

Mr. PAUL NIEDZWIECKI: Well the hiring process wouldn't change because it's set by the Act.

Chair BERGSTROM: So it's basically what is --

Mr. PAUL NIEDZWIECKI: The Executive Committee of the Cape Cod Commission puts that add in the paper. They interview candidates and they give a list of three candidates to the Board of County Commissioners.

Chair BERGSTROM: Oh, okay. So it's limited by --

Mr. PAUL NIEDZWIECKI: Absolutely.

Chair BERGSTROM: You have actual authority. Okay.

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: And so then it ultimately I guess the decision would be up to the legislative body whether they would approve of that or the Administrator? I mean now we're talking about --

Mr. PAUL NIEDZWIECKI: The Board of County Commissioners as it's called out in the Act right now has the final approval on the hiring of the Executive Director of the Cape Cod Commission.

Chair BERGSTROM: But supposedly we don't have -- now we have a unified group. I don't know what you're going to call them. If we have 7, maybe the 7 Samurai or the 7 -- We're not going to call them Commissioners because the Commissioners have said, "No, no, it's not Commissioners." So we'll have to have a name for them.

Mr. PAUL NIEDZWIECKI: If you were to form a Charter that reorganized the bodies, whether you had two bodies or one body, you would in the Charter in the draft -- you would have an attorney draft it. In the drafting, they would say -- they would look at the other statutes that interact with the County Charter.

Chair BERGSTROM: Okay.

Mr. PAUL NIEDZWIECKI: And it would say where the Cape Cod Commission Act says, "Assembly of Delegates," it means whatever it is.

Chair BERGSTROM: Yes.

Mr. PAUL NIEDZWIECKI: And so that's how -- that's how you deal with it. When the town of Barnstable changed its form of government and went to more of a city form of government, they did the same thing.

So where state statutes call out that a Board of Selectmen will take an action on something that is now in the town Charter of Barnstable delegated to the town manager. And those powers that were a town meeting powers are vested in Town Council. And so that's how you deal with it.

Chair BERGSTROM: I have one more question for you and I promise I'll get you off the hot seat. You talked about having -- I mean from my understanding of the Cape Cod Commission, it gains its authority then the fact that even though I might have a project in let's say Dennis, that it's not specifically for the Dennis people to decide because a large project would have impacts all over the Cape. I mean that's the premise on which you operate.

So a DCPC -- you could say that a DCPC in let's say Barnstable would have more effect on the abutters let's say in Mashpee or Yarmouth, but, then again, you go back to the premise that theoretically it has impacts all over the Cape. That's why we have a Cape Cod Commission, which is why I understand it's set up the way it is that every town has a vote.

It's not really the idea that -- I live in Harwich so why are you bothering me? Or I live next to you, what are you bothering me supposedly? And I agree with that. I mean I agree with that premise that any DCPC or any Development of Regional Impact has a Cape-wide

impact economically and so on.

So, I mean isn't it imperative to be true to the premise that the Commission has set up that people from all over the Cape would have a say in these developments as much as the people who live right next door.

Mr. PAUL NIEDZWIECKI: You keep saying that we're not going to have these philosophical discussions and then you bring up a philosophical point.

But I'd agree with you, Ron. I think people should have more of a say in what happens with the Cape Cod Commission. People not governments.

Chair BERGSTROM: Right.

Mr. PAUL NIEDZWIECKI: We have enough government. The governments have appointees on the Cape Cod Commission already. I think the people need a voice. I think the people should be equally represented. It's the beginning and the end of my argument. I mean that's -- and I believe that to my core. I believe that that's the way democracy's supposed to work.

Chair BERGSTROM: Would you support a change in the Commission Act and allow, you know, the Commission members to be appointed from districts rather than have individual towns?

Ms. TAYLOR: Well there's no one to appoint you from a district.

Ms. MCAULIFFE: Right.

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: That's true too. We're elected. Well I guess that doesn't matter --

Mr. PAUL NIEDZWIECKI: It raises -- I think that's for the Commission to speak on; not me, not the Executive Director.

Chair BERGSTROM: We're wandering off here.

Ms. TAYLOR: Let's hear what the layout would be. I'm just curious what it would be if you had the districts say --

Ms. MCAULIFFE: Say 15 districts.

Ms. TAYLOR: -- say 15 or 12 or 13.

Mr. PAUL NIEDZWIECKI: I think as we were directed -- really there's more of a function of the GIS Department just gave you a couple of maps. One that looked at 15 districts and one that looked at 11. So that's for your perusal.

What we also have is good because it's kind of hard to get is sort of the precinct populations. So you've got 67 voting FED Voter Districts for a Federal Census Bureau on the Cape. So you can draw your lines however you want.

Ms. MCAULIFFE: Sixty-seven sounds good.

Mr. PAUL NIEDZWIECKI: Sixty-seven precincts are right now.

The last thing I would say before we look at the maps though is part of my looking forward, whether it's looking for demographics or looking for the challenges whether economic development or wastewater, you have a different Cape Cod Commission now than you did six years ago.

We have a development agreement in Yarmouth is the first one that we did, an \$80 million twin hotel renovation. We have a 750,000 square feet by a development agreement in the town of Barnstable.

We're working in Sandwich Triangle now in a very aggressive way to stimulate

economic development there. We've got a Growth Incentives Zone in Buzzards Bay.

If you look at where we are planning for growth where we have adequate infrastructure, these demographics are going to change. So that's part of what -- I have to say this is not the Cape Cod Commission that existed 6 or 7 years ago. It's different. We actually are promoting development where it's appropriate to do that.

And so we have a fiduciary responsibility on the other end to make sure that we're planning for that. And part of that is testifying in front of this Commission as you consider the various serious matters that are in front of you.

And regardless of what the outcome is, nobody needs to be demonized in the process. I have an opinion. I think I have a fiduciary duty to express that based on the facts that I presented to you. That's it.

You'll make your recommendations. What happens happens. And then we've got to get back to business because we have a lot of work to do together.

So, with that, we'll give you the maps. It is sort of interesting to sort of look at how it might break down. And even in my experience in the town of Barnstable, which is a big town, it's the fourth-largest municipal land mass in Massachusetts. It has five separate political entities within itself. That's fire districts, four water companies.

And I would even say that it has seven very defined villages, and people take their village identity very seriously. And even if you suggested quartering the town of Barnstable, I'm not sure the people in West Barnstable if you told them they were going to have their own Assembly member and that they weren't -- and that Hyannis was going to have its own Assembly member, I'm not sure they would be upset by that.

You know, there's nobody that represents as an elected official the town of Barnstable except on this body. So it's sort of expressed by the citizens of Barnstable in their Charter that that's the way that they prefer it. And so you know it's not always what it appears to be.

So, with that, I think we can -- we'll give you the maps and you can do whatever you want. If we can be of any assistance in looking at different districts, we're willing to do that. And if not, I think it's a nice academic exercise to go through.

Chair BERGSTROM: Okay. I've got one more question for you. I promise it's not a philosophical one. Very direct. Something we discussed -- something that the Special Commission on County Governance.

Assuming that we go to a single legislative body, let's say 11 or 13, and a Strong Administrator.

Mr. PAUL NIEDZWIECKI: Yes.

Chair BERGSTROM: The question brought before and has been brought -- elected or appointed Administrator?

Mr. PAUL NIEDZWIECKI: That's not for me to weigh in on.

Chair BERGSTROM: Okay. Fair enough.

Mr. PAUL NIEDZWIECKI: It doesn't matter to me. That's not -- that's not my thing.

Mr. DOHERTY: You don't dance very well.

Mr. PAUL NIEDZWIECKI: No, I don't.

Chair BERGSTROM: Yes, when in doubt, no comment. That's my feeling. Anybody else?

Mr. PAUL NIEDZWIECKI: I mean if I were -- it depends on what the structure of the legislative body is. If it's all district representation, you might want somebody elected at

large and maybe you want them to be an executive and maybe you don't.

If you have some district representation and some at-large representation on the same legislative body, then you probably don't need it. So, I think it's a very practical -- it's a hypothetical --

Chair BERGSTROM: So towns in Connecticut have like a one of the Town Council becomes the de facto Mayor.

Mr. PAUL NIEDZWIECKI: Well it's a form of government in Massachusetts too. The city of Worcester has that -- basically the person that gets the most town votes on the City Council is the mayor.

Chair BERGSTROM: Yes.

Ms. MCAULIFFE: Yes.

Mr. PAUL NIEDZWIECKI: There are a number of different ways.

Chair BERGSTROM: Okay. You have some maps for us, which we were unable to obtain.

Mr. DOHERTY: And the opinion that's been out, I'm going to take some exception to the idea that the Commissioners as a whole are going out peddling a position.

One of the Commissioners has, indeed, gone around to the towns. One of the other Commissioners was invited to one town to talk about it. I have not received any invitations nor would I go because I maintained to the Commissioners that there is a process in place called a Charter Review and the Charter Review is what the outcome will be.

Acting independently of the Charter Review is, to me, counterintuitive. That's what we have a Charter Review for. So I just want to make that clear.

Ms. MCAULIFFE: No, I stand corrected. It is a couple of the Commissioners. And if Commissioners act independently, I'm not aware that that's something that a governmental body -- I don't think people have authority when they act independently.

So when you're going to represent the Commissioners, then --

Chair BERGSTROM: Anyway. Thanks a lot, Paul.

Ms. MCAULIFFE: But, you're right. It was not you. And I think that's appropriate as a member of the Charter Review. You're staying true to the group that you set up. But there are Commissioners who are politicized --

Chair BERGSTROM: Anyway.

Ms. MCAULIFFE: Yes, okay.

Chair BERGSTROM: I'd like to get part of this meeting and actually some deliberation over where we want to go in this. So, thank you for coming. And certainly thank you for these maps because it will help us a lot. Very practical.

Ms. MCAULIFFE: Thank you.

Chair BERGSTROM: And I'll send you a list of other questions later on.

Mr. DOHERTY: Oh, Paul, did you get the list of questions that we gave to Attorney Curran?

Mr. PAUL NIEDZWIECKI: No.

Mr. CURRAN: Janice sent them out to everybody. The letter that I responded to you?

Mr. DOHERTY: Yes.

Mr. CURRAN: Janice sent that to everybody. I don't know if Paul got it. No, I don't think so. I don't know. You'd have to ask Janice.

Mr. DOHERTY: Okay. Janice, would you send a copy of the responses of Attorney

Curran to Paul Niedzwiecki so he can see the questions he's responded to.

MS. JESSICA WIELGUS: Mr. Chair, you had asked me to forward them to you.

Chair BERGSTROM: Yes, please.

MS. JESSICA WIELGUS: I'm Jessica Wielgus; I'm Commission Counsel. And at the request of the Committee and your Attorney, Mr. Curran, you had asked us to deliver to you through our GIS potential breakdowns for a 15-Member District and for an 11-Member District.

So what we've provided to you are four maps. The first one, which is outlined in blue, is just a simple breakdown of the town's themselves as the lines exist now.

You have a second map which is of the Barnstable County Voter Precincts. So it shows all the numbers by precinct themselves.

Ms. TAYLOR: You can just fool with that oneself.

MS. JESSICA WIELGUS: You then have a map which is outlined in purple and that one is a 15-District map which is the GIS basically took the voter precincts as you see it outlined in the numbers here.

One of the things that they focused on was the requirement and equal protection clause of One Voter/One District as even as possible in terms of these precincts themselves.

When they did that on a 15-District map, the percent deviation that came out from that was over 12 percent. It was close to 13 percent. And the reason for that if you look at the Voter Precinct Map is when you get down to the Orleans area, that particular precinct either has to be included in the Outer Cape or not. And when you include it in the Outer Cape, it creates too high of a number as it relates to the rest of them. If you exclude it, it's too low of a number.

So that brings you to the 11-District Map that you asked us to do. And that's the one that's outlined in red.

Ms. TAYLOR: Let's see the red one.

MS. JESSICA WIELGUS: When you look at the 11-Member District, it comes up to a much more even distribution based on the voter precincts because the percent deviation goes down to a little over 5 percent.

And I did prepare a memo to Paul which he asked me to submit to you about the equal protection clause and the case laws as it developed on the constitutionality of weighted vote. And one of the things that they focus on in that is the percent deviation, and that the kind of cut off point if you will for the deviation is no more than 10 percent is what they like to see.

So when you look at the 15-District where it goes over that 10, it's not the best breakdown. When you go down to the 11-Member District and it goes down to that 5.9 percent, it's well within the range of constitutionality.

The other interesting thing that came out -- well, you hadn't asked us for a 13-Member District, but when you -- GIS looked at the breakdown when you get down to average voters when you break them up by the precincts and it comes out to about 3,315 per precinct when you multiply that out. When you divide it into 13 Districts, it comes out to an even number.

Ms. TAYLOR: So we really could go with a 13.

MS. JESSICA WIELGUS: -- it goes lower than the 5.9 percent. It goes down to almost 4 percent, which is pretty interesting. But where we had been asked to do those lines, we didn't draw those lines but as you can see when you look at the precincts and the GIS Department was doing this for illustrative purposes. So certainly you could move these

precincts or the lines around a little bit based on the precincts.

Ms. TAYLOR: Yes.

MS. JESSICA WIELGUS: So this isn't carved in stone. It's more just to give you a general notion.

Ms. TAYLOR: So 15 is not as good as 11 or 13 for being fair.

MS. JESSICA WIELGUS: Fifteen does work with the constitutional scheme.

Ms. TAYLOR: Yes.

MS. JESSICA WIELGUS: You get closer with 11 and you get even closer with 13.

And then the next iteration down that comes out to close to an even number is five. So you go lower than 11 -- in between 11 and 5, you can't get there.

So those are pretty much the breakdowns that bring you to where you would like to be.

Ms. MCAULIFFE: But 5 does work?

MS. JESSICA WIELGUS: Five, I believe, I can also look at the number. It comes close to the 13. I can check that number right now.

Mr. DOHERTY: I had done that in a more crude way and 5 did work in terms of --

MS. JESSICA WIELGUS: Five came out even as well.

Ms. TAYLOR: Okay. Five and 13.

MS. JESSICA WIELGUS: Five and 13.

Chair BERGSTROM: Jessica, I assume that if you do this kind of construct that it's going to go back to the Census. In other words, it would be -- the legislature is required to reapportion votes according to the census if they go above that number, 10 percent.

So we would be under the same obligation -- I presume we'd be under the same obligation, although the census comes out in 2020 and it finds that one district is proved, we would have to reapportion if we went along with that.

Mr. CURRAN: You must use the district -- the precinct lines drawn by the towns. You must use those. It can't be deviated in any way.

Ms. TAYLOR: Okay.

Chair BERGSTROM: So that would mean that make these things even. If we were to adopt one of these, they would have to change -- well, wouldn't have to but they presumably could change after the --

MS. JESSICA WIELGUS: That's generally what happens. Yes.

Chair BERGSTROM: Yes.

Mr. CURRAN: The State Legislature says no precincts should be more than 4,000 inhabitants. That's the only restriction that the state has.

Ms. TAYLOR: Which is a problem with some of ours.

Chair BERGSTROM: Yes, like Chatham went from 2 to 1 and it really wasn't feasible because we have 6,000 voters. But I mean I can assume that they take that into consideration.

Ms. TAYLOR: Well, gee, I'd love to see the 13 now.

MS. JESSICA WIELGUS: We can bring that to you if you'd like.

Ms. MCAULIFFE: And 13 worked in terms --

Ms. TAYLOR: Perfectly.

MS. JESSICA WIELGUS: Yeah, it came out to an even number.

Ms. MCAULIFFE: Yes. But even if it's 12, some governmental bodies have it that

their president doesn't vote --

Mr. CURRAN: Give the Speaker a casting vote.

Ms. MCAULIFFE: -- right -- to create a --

Mr. CURRAN: Break a tie. Make or break a tie.

Ms. MCAULIFFE: Yes, right.

Chair BERGSTROM: Well, I appreciate your doing this because we had a heck of a time and Janice was on top of this. And the usually cooperative Secretary of States office seemed to not be able to deal with this.

Ms. MCAULIFFE: It's summer. It's summer.

Chair BERGSTROM: You know, the 20-year-old intern that we talked to seemed to know where these things were. But this makes the job a lot easier.

So we'll slice and dice this as we go along and see what we come up with.

MS. JESSICA WIELGUS: Okay. And let us know how else we can be of assistance.

Ms. MCAULIFFE: Can we see 13?

MS. JESSICA WIELGUS: We certainly can bring 13 to you.

Ms. TAYLOR: We'd love to see 13.

MS. JESSICA WIELGUS: Yes.

Chair BERGSTROM: Thank you.

Mr. DOHERTY: And since you talked about the 5, I think you should provide that as well.

Ms. TAYLOR: Oh yes, might as well see the five.

MS. JESSICA WIELGUS: Sure. Okay.

Mr. PAUL NIEDZWIECKI: Did you give them the spreadsheet too?

Ms. MCAULIFFE: Yes. Thank you.

Ms. TAYLOR: Terrific. Thank you so much.

Ms. MCAULIFFE: It's so helpful.

Ms. TAYLOR: It's really very very interesting.

Mr. CURRAN: Thank you.

New Business continued....

B. Discussion regarding Governance Issues and Models

Chair BERGSTROM: Anyway, moving right along. We now have on our agenda "Discussion regarding governance." So now it's time for us to mull these different options over. And I know you've had a chance to read what Mike has sent us, different governmental models. And, also, we now have precinct maps to do it.

Ms. TAYLOR: I guess my question would be does anyone feel having seen the 15 and the 11 and kind of imagining the 13 being at least the correct numbers no question. Would anyone have any interest in pursuing that kind of district representation or shall we just drop it since it's so clear that the Assembly is so wedded to their existing situation.

Chair BERGSTROM: Well, I don't know that -- I mean I honestly think that we should give an honest appraisal to the Assembly of where we stand and let them make the decision even though it may be an exercise in futility.

But I do believe that I personally feel that the Board of County Commissioners should be expanded, I mean I personally feel. Regardless of how -- if we don't do this, in other

words if we don't go to a single legislative body, I feel that the Ordinance that was passed by the Assembly is a fallback because I think that 5 -- having been a Selectmen member of 5, seeing what 3 can do, seeing what 7 never can come to agreement, I think we're better off with 5.

And I do thing that -- So I think we should make a recommendation going forward to the Assembly to at least affect that change. I'm also in favor of --

Ms. TAYLOR: I would agree with that.

Chair BERGSTROM: -- a Strong Administrator, you know.

Mr. DOHERTY: I think, and since I'm on this committee, I'd like to --

Chair BERGSTROM: Yes, tell us, Bill.

Mr. DOHERTY: -- that if you pursue a Strong Executive, why would you need 5 people?

Ms. TAYLOR: Right.

Mr. DOHERTY: It seems to me that the Strong Executive performing the functions of an Executive would fill that role. And expanding it is adding rather than subtracting.

Ms. TAYLOR: That's how I feel. To me, that just gets rid of any chance of leadership when you've got the 5.

Chair BERGSTROM: Well --

Ms. TAYLOR: And then why should the poor Administrator have to deal with these 5 plus these 11, 12, 13, 15, eh! I mean --

Mr. DOHERTY: Well, Norfolk County, for example, would elect a chair that basically functions as an executive that hires the County manager. And you have other examples: Sullivan County, New York does that; Ulster County did that but their reason for hiring a -- excuse me, electing an Executive was that there were issues of corruption among -- on the Board of Commissioners.

So they fell back on their legislative body and had one elected Executive who operated to, let's say, to put the budget together, to, let's say, to set policy and then put that for approval on an annual basis before the Legislature.

Now the legislation function, as I understand it, is one of oversight and, let's say, and support or not support for, let's say, for policy decisions that are being made by the Executive branch. That's how the Congress operates. And that's how the Assembly operates.

And, again, the primary policy document that the Commissioners or the Executive branch does is the budget. The budget is the statement of policy based upon how your Executive branch feels that the money should be spent with the exception that the Cape Cod Commission Act says that you don't have any real control over the Cape Cod Commission Act because that's a separate piece of legislation.

But the Cape Cod Commission has the check and balance of having the oversight from the Assembly. And, indeed, the DCPCs have to be supported by the Assembly. That's where the representative democracy piece comes in.

Now the question comes up that we've been talking about here is the present set up representative enough? And I would pose the same question that I asked because of my experience.

The first thing that you're taught in any kind of an organization when a change is proposed is why do anything at all? And that question hasn't been answered. But the

Assembly has passed an Ordinance that says that you want a Strong Executive.

To me, the only question is does that Executive -- is that Executive to be an elected person as we get to this process or an appointed one.

An elected person would be one that would represent -- would be representing the position and would be setting policy that would be supported by the Assembly.

An appointed person would still have to have some oversight. So the question comes up is whether or not what is the proper construct to provide oversight for the Executive branch?

Chair BERGSTROM: Well -- yes, go ahead, Julia.

Ms. TAYLOR: I can see reasons for change. I like a fairly good-size legislative body. I don't really feel strongly that it has to be a particular number but I want it to be sizable and I want the districts to be not too big.

But I prefer for the same reasons as Paul that it be represented by districts because I think that is so much fairer to the individual voters of the Cape.

Then -- so I want that because I wanted to oversee the Cape Cod Commission primarily and to vote on the budget.

Then I would like to have an Executive Branch that was probably more efficient and more capable of individual -- I would prefer it to be smaller, not bigger. I would like it to be more dynamic and more of an individual leader.

I don't see the need of a \$25 million budget having 12/15 legislators and 5 policymakers. I think you have a leader, and that leader either would be elected Cape-wide or appointed by this legislative body. I think that, to me, to go to 5 I just think eh! Are we crazy? I don't know.

I understand the town model, but, you know, gee whiz, that's a 350-year-old model. I'd rather --

Chair BERGSTROM: Well, what about Falmouth? Falmouth has five Selectmen. But you also have an elected legislature of hundreds of people. Hundreds.

Ms. TAYLOR: I understand. But we only meet twice a year. And would I hold up the Selectmen of Falmouth as a model for how I would redo my County? No. Au contraire.

Chair BERGSTROM: Well, I think we've had many meetings as to -- many discussions. I think in the interest of moving ahead, I think that me, personally, I'm probably the only one -- I don't have any problem with the weighted vote. I think it's the fairest way despite what everybody said.

But let's take this model that's presented to us and, Bill, you weren't here for the Assembly meeting, but I brought up the fact that we both served on the RTA. The RTA has 15 members. Let's decided -- whether appointed or elected or districts or not, we'll just put that aside.

Fifteen members. We hired an Administrator. That Administrator runs the show.

The Board comes in on key points, they're listed, obviously, the budget, hiring the Administrator. He does all the hiring underneath it, and there are some things about the fare increases or changes in policies that affect ridership and so on and spending and changes in the structure of the government. So it's limited.

We have probably 6 or 8 meetings a year, and a lot of it is done by subcommittee. So now I'm looking at these maps and I'm saying these are very similar situations. The only question if we were to go to that system and it works very well at the RTA, a well-run

organization. They have a good staff. They're responsible to the public.

The Administrator acts not only unlike our Administrator who basically assists the Commissioners, the Administrator acts as the front person.

Ms. TAYLOR: Does the work.

Chair BERGSTROM: He's out there. He's talking to the Boards of Selectmen. He's talking to the public. He represents the board.

The only question now is not -- if you would adopt this model is, do you appoint or elect that person? You know, and that's an interesting point. Do we want someone who's basically the Czar of Barnstable County.

Ms. MCAULIFFE: I would support the larger numbers whether it's -- 11 would be the smallest, but I think you'd have more authority to sell 13.

Ms. TAYLOR: Thirteen just sounds perfect.

Ms. MCAULIFFE: Because that actually is going to increase especially the Outer Cape towns, it's going to increase their say at the table. They're going to go from having one percent in a town or one point something to maybe a 5 or 6 percent or a 7 or 8 percent voice at the table depending on how much we do.

But I very much would then want that the elected officials representing the various districts then hire an Administrator because I think if you get an elected person, you might end up with someone who might not have the necessary skills to do a very technical job.

And I think of like a Town Administrator, years ago the Selectmen did the jobs until they went to the professionals, and it really was a disservice to towns to not have professionals in the job particularly in today's navigation of regulations and government and bidding laws and all the things that need to be done.

So I would support an elected distribution of however we want to do that. And even if we -- and go to 15 districts because that gives each town more clout even though it doesn't give them a separate person, it gives them more clout. And then they would then hire their Administrator. That's my two cents.

Chair BERGSTROM: Well, what I'm looking to get out of this meeting is a sense, and we talked about this last meeting, and I think Julia put it into a writing form, is we're starting to limit our options.

In other words, Option 1, the first option that was in front of us what a recommendations of the Special Commission. Okay.

Option 2 would be this map, let's say, 11 or 13 with a Strong Administrator. So one body.

Option 3, obviously, would be to leave the system the way it is.

Ms. MCAULIFFE: Right.

Chair BERGSTROM: So we have those three. And I'm wondering if this committee - it's only 4 of us here, so we don't have a complete idea, are will to basically winnow down our options to those three and discuss the relative merits of those three. Because, you know, we can have meeting after meeting where we beat this around, but sooner or later we're going to have to make a decision.

Ms. TAYLOR: Right. There is the concept of this, you know, but the body of the five and then some legislative thing that, you know --

Chair BERGSTROM: Well, I mean, Leo -- that is an Ordinance passed by the Assembly so I guess we should include that.

Ms. MCAULIFFE: That's seven, and that mathematically is not feasible. Because it has to be five --

Ms. TAYLOR: Seven didn't work.

Ms. MCAULIFFE: Right. Seven doesn't work. And that's their model. It's not five. It isn't a 5 plus 2 at-large?

Chair BERGSTROM: No, no.

Ms. TAYLOR: No, no, no.

Chair BERGSTROM: We had -- the Assembly passed an Ordinance --

Ms. TAYLOR: Of 5 Commissioners and the same Assembly.

Chair BERGSTROM: -- simply expanding the Commissioners. Yes.

Ms. MCAULIFFE: Right. Yes.

Ms. TAYLOR: So that's --

Ms. MCAULIFFE: That could be Option 4.

Ms. TAYLOR: So there's the existing system. There are the 5 and the existing Assembly. There's the one and maybe the 13 probably is the one that works the best.

Ms. MCAULIFFE: Uh-huh.

Chair BERGSTROM: Yes.

Ms. TAYLOR: And then that one person being either elected or hired by the --

Now, can I ask Mr. Curran a question? If we say had this 13 Assembly and we hired an Administrator, such as Barnstable does with a Strong Administrator, does that change what that legislative body is?

Mr. CURRAN: To a certain extent it would because the legislature then would be involved in policymaking in giving directives to the Administrator.

Ms. TAYLOR: Yes, that's what I assumed. So, personally, I don't object to that, and I guess if I were going to have say 13 people, I mean, either they would stay like they are and then I guess you need some other -- could a 13-Member Board be a modest policymaker comparable to the --

Ms. MCAULIFFE: Barnstable Town Council.

Ms. TAYLOR: -- the Town Council, is that a role that we think is suitable for a big group like 13 people from all over the Cape? Or do we think, oh, that doesn't work well. We'd have a lot of problems with that.

Chair BERGSTROM: Well, you know, the thing is --

Ms. TAYLOR: Because I understand why you wanted appointed, but then that does put a little more power on this 13 people that we now have on the Assembly.

Ms. MCAULIFFE: Right.

Chair BERGSTROM: But that's determined by -- I mean if you look at a town Charter, for instance, as Suzanne talked about, they went from three -- basically three people sitting in a room hiring and policy decisions, when they went to the town Charters, they delineate the responsibilities of the Selectmen versus the Administrator.

It's not the same in every town. For instance, in Chatham, there's a very Strong Administrator. He does all the hiring and firing. The only say that the Selectmen have is we could actually veto a hiring, which we really --

Ms. TAYLOR: But you wouldn't want 13 people hiring and firing.

Chair BERGSTROM: No. But --

Ms. MCAULIFFE: That's why you'd have your Administrator set that up in the Charter. That's why the governance had to come first is once we know how we want it to look, then you set up what your Charter's going to look like to deliver that.

And if you have a Strong Administrator, you can delegate a lot of that and then you'd have perhaps bimonthly meetings or two meetings a month perhaps on policy and approvals and sort of the bigger policy decisions, not the nitty-gritty day-to-day Administrator one, and it changes the Assembly and the County Commissioners into one Council.

Chair BERGSTROM: All right. Let me ask Mike a question too. Mike, one of the things I was concerned about is that the counties in Massachusetts have been disappearing, you know. A lot of the authority, for instance, the Sheriffs was sloughed off to the state, and they -- I mean I think Counties probably predate even the Commonwealth of Massachusetts.

Mr. CURRAN: Yes.

Chair BERGSTROM: They've been around for a long time. So now the Legislature is up there not -- paying attention to the big picture, not paying attention to us. They know we're a County government, you know, and they know what a County government is.

So here we decide a couple years ago that we are no longer Barnstable County. We are now the Cape Cod Regional Government. All right. They kind of ignored that. Call yourself whatever you want, but my name is -- when the Commissioners run, they run as County Commissioners.

Mr. CURRAN: Yes.

Chair BERGSTROM: So now what we're doing is we're getting rid of County Commissioners, calling ourselves something else, and we're sending that up to the Legislature. My concern is they're going to look at this and say, "Hey, wait a minute. Now you're getting away from the model that we understand and you're creating a whole other --"

Ms. MCAULIFFE: Call them Commissioners then.

Mr. CURRAN: Well, the Department of Revenue has been on a program to really promote regionalization of services to try to encourage municipalities to get together and do things jointly, you know, for their economic advantage primarily.

I think this fits right in with that program of the Department of Revenue. I've not spoken to the people in the Revenue Department who are doing that. I think they're the same people who -- they also do Charter consulting work. They work with cities and towns now on Charters on there. I'm not too thrilled about that, of course, but.

Chair BERGSTROM: So you don't think the legislature would balk at this?

Mr. CURRAN: No, not at all. I think this really fits in to -- this is the coming age. And obviously the Legislature would recommend it. Ultimately, if it's going to happen, it would be because the Legislature adopts it in an Act.

Chair BERGSTROM: Right. Yes.

Mr. CURRAN: So it would be a matter -- a lot of it's going to come -- I'm sure I've touched on this before. When municipal legislation, County legislation and subunits of government legislation is before the Legislature, the key people, you know, out of 240 members the really key people are the four or five people from Barnstable County, your Representatives and Senator, they're for the Act.

Unless there's some problem with the leadership, the bill will pass. I mean that's just the way the game is played up there. They help their friends, punish their enemies. And if you're part of the --

Chair BERGSTROM: We play that game here too in Barnstable County.

Ms. MCAULIFFE: And we've seen sort of the dearth created by the abolishment of Counties because Franklin County at some of the municipalities in the western part of the state who, similar to the Cape, do not have resources and they've had to regionalize. And they called themselves, "Franklin County Regional Government" or "Council" whatever.

Mr. DOHERTY: Council of Government.

Mr. CURRAN: Council of Government.

Ms. MCAULIFFE: Right. So something had to fill the void because County does supply at some level the regionalization.

Mr. CURRAN: Well it can or could. I mean it never did. So this other, you know, -- in other states, as I'm sure you know, the Counties are everything.

Ms. MCAULIFFE: They run everything.

Chair BERGSTROM: Yes. Well, --

Ms. TAYLOR: Could we -- let's list our things again now. We've got existing structure.

Chair BERGSTROM: Right.

Ms. TAYLOR: We have 5 Commissioners and existing Assembly.

We have new Assembly with probably 13, that's the magic number; right? With 13 districts and an elected leader.

Mr. CURRAN: Chief Executive.

Ms. TAYLOR: Chief Executive. And we've got the 13 and the appointed hired by them leader.

Okay. Do we want any other --

Ms. MCAULIFFE: The recommendations of the Special Commission have to be on there.

Chair BERGSTROM: Well, we've got the recommendations of the Special Commission, unless we want to toss them. I don't like them either but we sat in the room with them for --

Mr. CURRAN: You're setting up a dichotomy if you have an elected Chief Executive and an Administrator appointed by the legislature.

Ms. TAYLOR: No, no, no. We wouldn't have both. Those would be all --

Mr. CURRAN: Okay. Or either/or.

Ms. MCAULIFFE: One, yes. There are two options.

Ms. TAYLOR: Does anyone here want to put forward the Special Commission's report?

Mr. DOHERTY: Not me.

Chair BERGSTROM: Not me.

Ms. MCAULIFFE: Not me.

Ms. TAYLOR: Not me. Okay. So drop that.

Chair BERGSTROM: All right. Now here's an issue that I think I brought -- maybe we'd talk to Mike about it or maybe someone else is that as a practical sense let's say we go with the 13 and a hired Administrator. We could hire -- you really want someone with a profile.

Ms. MCAULIFFE: Yes.

Chair BERGSTROM: You wind up if you get -- let's say, just an example, you might

hire someone who's been a legislator, for instance, Tom Cahir, he was on the legislature. Let's say I hired an Eric Turkington or a Rob O'Leary, you really got to have this person as really going to be the front person for Barnstable County.

Ms. MCAULIFFE: I want a front person.

Ms. MCAULIFFE: Yes.

Chair BERGSTROM: But now you've got to have someone who's actually running the show.

Ms. MCAULIFFE: Right.

Chair BERGSTROM: Not that they won't be running the show, but they've got to have somebody who's in the office.

Ms. MCAULIFFE: A financial person and an Administrative.

Ms. TAYLOR: Yes, but it's

still --

Chair BERGSTROM: They call them Assisted Administrators.

Ms. MCAULIFFE: Right. But it's no worse than, you know.

Ms. MCAULIFFE: Absolutely.

Ms. TAYLOR: Five -- if you admit 5 County Commissioners and 15 (noise), then a new Heavy Administrator and then the new Finance Director, I think that's just too many people.

Chair BERGSTROM: Well, I would like to see the finance director have separate authority from the Administrator. As they do in the towns of Massachusetts, the Finance Director not only answers -- or the Treasurer not only answers to the Board of Selectmen and the Administrator, but they also have state responsibilities.

Ms. MCAULIFFE: State responsibilities, right.

Chair BERGSTROM: And that, to me, is very important that we don't have that here. Well, we do have it in a way.

Ms. MCAULIFFE: Well, let's figure out --

Ms. TAYLOR: All right. So how many have we got, Janice? I gave you my list.

Clerk O'CONNELL: Four.

Chair BERGSTROM: My preferences are, A, the existing, and that's political as well as philosophical because I think it's an easier sell.

Ms. MCAULIFFE: So that's Number 1.

Chair BERGSTROM: All right. That's Number 1. Secondly, I would go with the 13 or 11, it doesn't matter, but let's say 13 and a Strong Administrator with executive powers and limited powers to the legislature, budgetary authority, which is huge as we're finding out in Washington.

Ms. MCAULIFFE: And Cape Cod Commission authority.

Chair BERGSTROM: Well, Cape Cod Commission is another issue. The problem is if you're hiring -- if you have 13 people, with all due respect to Paul who I think is a great Administrator, if you have 13 people in charge of hiring someone that will be --

Ms. MCAULIFFE: No, no.

Chair BERGSTROM: That person's going to be --

Ms. MCAULIFFE: I'm talking just the DCPCs I'm saying.

Chair BERGSTROM: Well, I -- yeah. I don't --

Ms. TAYLOR: Oh no, no, no. That still has to go back to the Legislative Branch.

Ms. MCAULIFFE: That's what I meant, the Legislative Branch. That's what I thought you were talking about.

Chair BERGSTROM: But the reason I asked is because you have 13 people who are hiring someone that person's going to have a job for life because -- but --

Mr. DOHERTY: Now wait a minute now. Let's go back to the RTA. It did take a long time to get support to make that change.

Chair BERGSTROM: It sure did.

Mr. DOHERTY: And God knows that I was there for all of it.

Chair BERGSTROM: Yes, I know.

Mr. DOHERTY: But a change did get made once we lined everybody up. Now the same thing could happen in the 13 in the district, 13.

Ms. TAYLOR: And at least you're dealing where you don't have to just -- well --

Chair BERGSTROM: All right. I digress. Those are my -- in that order.

Ms. TAYLOR: All right. Do we want to -- not tonight --

Ms. MCAULIFFE: No, for the next meeting.

Ms. TAYLOR: -- for the next meeting right down our pros and cons of each of those options.

Mr. DOHERTY: Amen.

Ms. TAYLOR: How about that?

Ms. MCAULIFFE: Yes. Perfect.

Ms. TAYLOR: And order -- suggest that the other members use those four at the moment to write down their pros and cons.

Chair BERGSTROM: I agree with you, but I think we should make specific -- right now a specific -- how many have we got because I think maybe Mike could help us out to flush it out a little bit because it's not just a simple matter of saying, okay, we have 13, 11.

I mean if you look at Charters including the County Charter, the responsibilities that delineate very specifically that they would change if they --

Ms. TAYLOR: I know but we --

Chair BERGSTROM: So you have to know what to do.

Ms. TAYLOR: Yeah, they would. They would. But we would have the 13 and --

Ms. MCAULIFFE: But we could determine how much we wanted.

Ms. TAYLOR: Yes.

Ms. MCAULIFFE: If people wanted a very strong legislature, you'd give them powers to meet monthly and do all the policy. If you want more of an oversight, bigger picture than you write that down.

Mr. DOHERTY: A Strong Executive says that he or she is running everything, and you do not want to have somebody looking over their shoulders every day.

Ms. TAYLOR: I agree.

Ms. MCAULIFFE: Right.

Mr. DOHERTY: You need --

Ms. TAYLOR: That's why I don't want to have the 5 Commissioners.

Mr. DOHERTY: There is a time when you can focus and concentrate your energy and effort in order to get something done. That's around budget time.

Ms. TAYLOR: Yes.

Chair BERGSTROM: Yes.

Mr. DOHERTY: The rest of the time -- when I sat on the Assembly I think, and Julie and I had this conversation when I was on the Assembly, what do you do? Once the budget is done, what do you do? You show up and oh.

Ms. TAYLOR: Well, we've seen what we do.

Mr. DOHERTY: Well.

Chair BERGSTROM: Well, the thing is, Bill, is that you have the power -- the Counties have the power to change -- in other words, in the town of Chatham, once the budget is passed by the Town Meeting, it's very difficult to change it. It's very difficult to move money around from one department to another. But we have the power. You simply send an Ordinance over to us and you switch the money around.

So, in a way, a lot of what the Assembly does now is some of it is basically altering the budget during the fiscal year.

Mr. DOHERTY: At the request of the Executive.

Chair BERGSTROM: At the request of the Executive.

Ms. TAYLOR: Right.

Ms. MCAULIFFE: Right.

Ms. TAYLOR: And that would continue if you wanted an Executive.

Ms. MCAULIFFE: Also I think the DCPCs are very important right now too, you know, whatever's coming down the road to the Commission.

Mr. DOHERTY: The trend is to find professional management.

Ms. TAYLOR: Right.

Ms. MCAULIFFE: Right.

Mr. DOHERTY: The trend is supported because professional management delivers professional results. You know, in America, all you have to do is be over 21 and not serving a sentence for a felony or something to get elected.

So I think that's an important --

Chair BERGSTROM: Stay off the Internet too I think is --

Ms. TAYLOR: Yes.

Chair BERGSTROM: But, I mean, I'm going to go back into my philosophy here. But in thinking about these things, I go back to the original founders of the country and the argument between someone like Alexander Hamilton who believed that the organization would not be effective without strong leadership, somebody who had authority.

And Jefferson said, "No, no, we want a diffuse authority, and we want to have competing centers for power because we don't want it to be abused." And we've never had an answer to the question. You've got to come up with the right balance.

Mr. DOHERTY: It was called the Whiskey Rebellion. That's when Hamilton's plot in order to run things ran afoul, which supported in a way Jefferson's. And as you know, we had to have a civil war before all of that was resolved.

Chair BERGSTROM: Well, now we have no government in Washington so it doesn't matter.

Mr. DOHERTY: Okay. Right now, we have four issues. You pointed four things for us to look at.

Ms. MCAULIFFE: Okay. Next meeting.

Chair BERGSTROM: Well, first of all, are we set on our options? Option 1.

Ms. MCAULIFFE: Keep it as it is.

Chair BERGSTROM: Keep it as it is.

Option 2; go to the 13 Districts with a Strong --

Ms. MCAULIFFE: Thirteen with a Strong Executive. We don't have to talk about whether it's appointed or elected at this point.

Chair BERGSTROM: Okay.

Ms. MCAULIFFE: Option 3 would be the Assembly's position of --

Chair BERGSTROM: Five.

Ms. MCAULIFFE: -- 5 and 15.

Chair BERGSTROM: And none of us here are willing to go with the recommendations of the Special Commission, so we can take that off the table for now anyway.

Ms. MCAULIFFE: Right.

Chair BERGSTROM: We'll talk it over again with the remaining members. But I wanted -- okay. So those are the three options we've come up with. I think we've come a long way with this.

Ms. MCAULIFFE: Yes.

Chair BERGSTROM: Thanks to Jessica's and Paul's help.

Ms. MCAULIFFE: Yes. Thank you. And Julia's idea. This is Julia's.

Chair BERGSTROM: And if I get elected, I'll have great loyalty to district whatever it is.

I'll listen to everybody in the district they will have my ear.

Ms. MCAULIFFE: All right. So pros and cons. You can maybe have an email sent out with the options and just say everybody come with your pros and cons for each option.

Chair BERGSTROM: Well, I'm going to support our poor, beleaguered Clerk will probably try to -- having heard those options will write them down. We'll have a transcript of the meeting and so we can go from there.

Ms. MCAULIFFE: Right.

Chair BERGSTROM: And we'll send it out to all the -- let's send it out to everybody on the list.

Okay. Is there any other business to be brought before the Committee? Mike, do you have anything to add?

Mr. CURRAN: Not, not really. No.

Ms. MCAULIFFE: Thank you. I meant thank you for your input, not thank you for that.

Next Meeting:

Ms. O'CONNELL: Your next meeting.

Chair BERGSTROM: Next meeting. Next meeting; I'm sorry.

Mr. CURRAN: I do want to speak to you though after the meeting.

Chair BERGSTROM: Yes. We have a date -- our next meeting of the Assembly is not going to be conducive to a Charter Review Committee Meeting. So I've discussed with Janice having another meeting.

Ms. TAYLOR: After a million fried clams we couldn't come up with any sensible --

Chair BERGSTROM: Another meeting in August and the options are next week --

Clerk O'CONNELL: Well, I think the consensus that I got from the majority of the members was the 28th --

Chair BERGSTROM: The 28th, yes.

Clerk O'CONNELL: -- of August, and that's a Wednesday at 4:00 p.m.

Chair BERGSTROM: Okay. And the next meeting of the Assembly after that would be early in September so.

Clerk O'CONNELL: September 2. It's the following week.

Chair BERGSTROM: So we're going to have two meetings within a week.

Ms. TAYLOR: What's wrong with the 28th? Why can't we have a Charter Review Meeting on the 28th?

Chair BERGSTROM: We can.

Ms. MCAULIFFE: We are.

Ms. TAYLOR: Oh, we are.

Clerk O'CONNELL: I think you're going to.

Ms. MCAULIFFE: Yes, we are.

Ms. TAYLOR: Okay.

Ms. MCAULIFFE: Because we'd rather have that than not enough time.

Clerk O'CONNELL: I queried the majority.

Chair BERGSTROM: I'm thinking about another public -- another meeting that would accommodate public comment.

Ms. MCAULIFFE: After that.

Ms. TAYLOR: After that.

Chair BERGSTROM: And maybe --

Ms. TAYLOR: That might be time for that.

Chair BERGSTROM: Yes, okay.

Ms. MCAULIFFE: To do that and also send a letter out to all Boards of Selectmen saying once we have come up with options that we all agree with, just say this is what we're thinking about. Tell us what you think.

Chair BERGSTROM: Eventually it's going to have to go -- according to the Charter, the first thing it would have to go to the Assembly.

Ms. TAYLOR: Well, we know that.

Ms. MCAULIFFE: We can do the Assembly too.

Chair BERGSTROM: Yes, okay.

Ms. TAYLOR: But we might, might possibly next week feel much more strongly about two of the four options or not.

Chair BERGSTROM: I'm still concerned that the relationship between the Administrator and the Legislative body has to be clearly defined. And it's going to be grunt work.

Ms. TAYLOR: Of course.

Ms. MCAULIFFE: It will be. It will be.

Ms. TAYLOR: But I mean that's what councils and --

Chair BERGSTROM: All right. Do I have --

Ms. MCAULIFFE: That's where all our power is.

Chair BERGSTROM: Yes. We have one more item on the Agenda, number 6.

Ms. MCAULIFFE: Move to adjourn.

Chair BERGSTROM: Okay.

Mr. DOHERTY: Second.

Chair BERGSTROM: All those in favor? “Aye”. “Opposed”?

(Motion carried.)

Whereupon, it was moved, seconded, and voted to adjourn the Charter Review Committee at 7:00 p.m.

Respectfully submitted by:

Janice O’Connell, Clerk
Assembly of Delegates