

**CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES  
CHAMBER OF THE ASSEMBLY OF DELEGATES  
FIRST DISTRICT COURTHOUSE  
ROUTE 6A, BARNSTABLE, MA 02630**

**APPROVED Journal of Proceedings - October 5, 2016**

Speaker BERGSTROM: Good afternoon. Welcome to the Wednesday, October 5<sup>th</sup> session of the Cape Cod Regional Government, Assembly of Delegates.

Is anyone recording this meeting besides our normal recording? Okay. In that case, I will call the meeting to order.

We will begin with a moment of silence to honor our troops who have died in service to our country and all those serving our country in the Armed Forces.

(Moment of silence.)

Speaker BERGSTROM: Thank you.

We will now stand for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker BERGSTROM: The Clerk will call the roll.

**Roll Call (76.35%): Ronald Bergstrom (2.84% - Chatham), Lilli-Ann Green - (1.27% - Wellfleet), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Edward Lewis (4.55% -Brewster), Teresa Martin (2.30% -Eastham), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% – Provincetown), Julia Taylor (14.61%- Falmouth), Linda Zuern (9.15% - Bourne) .**

**Absent for Roll Call - Arrived Late via Remote Participation (2.73%): Christopher Kanaga (2.73% - Orleans – 4:10).**

**Absent for Roll Call – Arrived Late (20.92%): Patrick Princi (20.92% - Barnstable – 4:10 p.m.).**

Clerk O'CONNELL: Mr. Speaker, we have a quorum with 76.35 percent of the Delegates present; 23.65 percent absent.

Speaker BERGSTROM: Thank you.

You have in front of you today's Calendar of Business. Are there any corrections or additions to the Calendar or changes? Hearing none. I'll need a motion to accept the Calendar.

Mr. LEWIS: So moved.

Speaker BERGSTROM: Do I have a second?

Deputy Speaker MCCUTCHEON: Second.

Speaker BERGSTROM: Moved and seconded. All those in favor?

The DELEGATES: Aye. Opposed?

(Motion carried.)

Speaker BERGSTROM: You should have also received a copy of the Journal of September 21<sup>st</sup>, 2016, our last meeting. Are there any additions or corrections to the Journal?

Mr. O'MALLEY: Mr. Speaker.

Speaker BERGSTROM: Yes.

Mr. O'MALLEY: I've read through those and with one relatively technical correction that I've given to the recorder, I move approval.

Mr. LEWIS: Second.

Speaker BERGSTROM: All those in favor?

The DELEGATES: Aye. Opposed? Okay.

(Motion carried.)

### Communications from the Board of Regional Commissioners

Speaker BERGSTROM: Now we move to Communications from the Board of Regional Commissioners. We have two of the Commissioners here.

I understand that Commissioner Lyons is undergoing a little minor operation; is that happening now?

Commissioner FLYNN: Not just yet but it will within the next several days. So she will be out of commission for a while, not totally till the end of her term but for a good part of it.

Speaker BERGSTROM: Sort of replacement parts. I've had some of my parts replaced.

Commissioner FLYNN: It's a good thing that they're available if you need them.

Commissioner CAKOUNES: You guys are tempting me to -- notice how quiet I'm being?

Commissioner FLYNN: I'm working on him.

Well, good afternoon. We didn't have a very long meeting today, but we are going to be having some long ones as we move forward.

We had a discussion on our budget message that we will obviously present to the County and also to you at some point. We had our first draft. Leo did a very thorough one and I did a pretty much an outline one. So we're going to combine our thoughts and come back next week and see if we can come together with a budget message.

And you know you've seen them before, so they're pretty much outlined in terms of revenues and expenses what we think we can do in the coming year. Do we need to reduce or how are we going to go forward. So the budget message, obviously, will be our guide to that. And when we get that together by next week, we will certainly send over a copy to you.

Interestingly enough, we agreed to enter into an agreement with Chilmark on the Vineyard. Apparently, we have been providing paper services to the towns. What I mean is on the bid that they're part of our bid for paper products. And now some of the towns decided they didn't want to do that. I mean there is a cost in shipping them. But Chilmark decided that -- they opted out with all the other towns on the Vineyard but now they're opting back in again, which seems like a really good idea because I can't imagine that -- they would receive an increase in the cost of the paper and whether that would offset the transportation across the pond or not. I don't really know.

But, anyway, it's nice that we have that opportunity to support the Vineyard as well. So we'll see what happens. So we are going to go forward with our agreement

with Chilmark and see what happens with the other towns.

Leo.

Commissioner CAKOUNES: Thank you. I was just fuddling through my pages here because as I remember from time to time we meet on a weekly basis. You guys meet biweekly. So I believe that we also have to give you a report on the September 28 meeting.

Mr. LEWIS: Bimonthly.

Commissioner CAKOUNES: I'm sorry?

Mr. LEWIS: We meet bimonthly.

Commissioner CAKOUNES: I'm sorry; thank you, bimonthly. We did approve the Ordinance 16-08 which you previously approved the week before that, so that is done and gone through the system. Basically, we approved some minutes.

And then in the summary of actions there was just some basic housekeeping stuff, nothing really that jumps up to mind. There was some certificates of dissolving betterments that the chair only signed. So it's been pretty nonactive, if you will, the last two weeks. But just to give you an idea.

And today, I think the memorandum, septic betterments, minutes; it was pretty -- we spent a lot of time talking about the budget message today, and I am very, very encouraged that between my draft and what the chair put together, basically, how we ended the meeting was the chair was going to put her thoughts into creating the cover letter and cover page with all the different bullet points, and then the document that I created would be attached to the back of it. So with luck next week, we will have an approved budget message.

Speaker BERGSTROM: Okay. Are there any questions for the Commissioners? Seem to be -- yes, John.

Mr. OHMAN: Thank you, Mr. Chair. In this budget message, have you gotten clarity from Jack Meade over at his office what kind of numbers might come out of there this year and ongoing what's happened this year? We haven't really had an update in quite a while.

Commissioner CAKOUNES: We did not really approach that specifically in the budget message. I have been in contact and Jack Meade has been in contact with the Commissioners month-to-month basically telling us how things are going. Things are running a little bit ahead equal to last year this time.

One of the questions though that we did ask that I think Mr. Ohman's going to fall into really where you're going with this is we needed to close out FY16's books to find out where our beginning point is going to be. That, again, wasn't addressed in the budget message because by Charter we have to do that anyhow. And we were assured by the administration that we would be getting those figures next week. So that's a key thing to know where we're going to be getting the FY17 budget and the FY18 projected new budget from.

Speaker BERGSTROM: Yes. To follow up on that, we, hopefully, Jack Yunits and Mary will have the closeout of the 2016 budget coming up.

Commissioner CAKOUNES: Next week.

Speaker BERGSTROM: For you and then for us at the next scheduled meeting. Yes, Ed.

Mr. LEWIS: Just a short question. With one of the Commissioners out of

commission, so to speak, for a period of time, how does that work as far as there are only two Commissioners. You're now not able to talk to each other outside of this room because of --

Commissioner CAKOUNES: We can't do that anyhow.

Mr. LEWIS: I understand. But how does that work? Does that hamper you in the ability to make decisions should you disagree?

Commissioner CAKOUNES: Through the Speaker?

Speaker BERGSTROM: Go ahead.

Commissioner CAKOUNES: No, one of the Commissioners is scheduled for surgery. The surgery is a, hopefully with all prayers and everything, is a one-day event. It's an in-and-out kind of situation, may have to stay overnight, and may have to stay a couple nights to make sure everything is healing properly. And then maybe a short stint at a rehab facility, but we've been kind of hoping that the rehab will be taking place at her home and, basically, remote participation.

We've already kind of discussed that two weeks ago at one of our meetings and feel very confident that everything will be moving forward, no problems. She'll be home accessible by email and certainly accessible to remotely participate.

Mr. LEWIS: Thank you.

Commissioner FLYNN: And I might add also that we've worked very hard on this concept of collaboration. And we've had some disagreements but they've never been really major. And I think if we were in a position where it was just the two of us, I feel pretty confident that we could work it out, that we wouldn't get to that point where we -- one was in favor and one opposed.

Mr. LEWIS: Thank you.

Speaker BERGSTROM: Anybody else have any questions? Well, thank you.

Commissioner FLYNN: Thank you.

Presentation by Barnstable County Retirement Representative Judy Sprague and County Representatives Jack Yunits and Mary McIsaac

Speaker BERGSTROM: Now we have a presentation from County Administrator Jack Yunits and Finance Director Mary McIsaac on the Barnstable County Retirement Association. But I think we also have someone else who's going to speak to it; is that -- okay. Judy Sprague, okay, I don't have her on the list so sign in or sit in and tell us.

I put this on the agenda because some of us, but not all of us, are members of the Barnstable County Retirement Association, and all we know about it is occasionally you get a letter in the mail with some figures that don't amount to much.

And a long time ago I once got a letter in the mail asking me to vote on something -- among several people, none of whom I knew anything about. So I thought I would bring you guys in and find out what's going on.

Finance Director MCISAAC: Well, let me introduce Judy Sprague. She is a member of the board of Barnstable County Retirement. She's an appointed member as am I but, literally, my appointment is statutory, and I am the chair of the board and the treasurer for Barnstable County Retirement under the statute that enables the retirement

system because they are linked by law to Barnstable County in terms of -- at least in terms of the treasury and the board construction.

So there are several other board members elected and appointed. We all receive some compensation which is a stipend for being a member of the board. And we meet monthly and other times as necessary. But, generally, it's a monthly meeting and we direct the Executive Director by our votes and she runs -- she or he runs the day-to-day operations of the Retirement Board and the association. And she has five employees?

Ms. JUDY SPRAGUE: Seven.

Finance Director MCISAAC: Seven. So there are six other employees that are full-time that work at the retirement system day in and day out and serves as the members both active and retired. And I think that we --

Speaker BERGSTROM: Just who is a member of -- who is eligible as membership? I know there's some maybe some differences even among people in this room depending on how long they served, whether they're vested.

Mr. KANAGA: Janice, I'm on telephone line.

MS. O'CONNELL: Thank you.

Ms. JUDY SPRAGUE: Sure. One depends when you're vested as to when you joined the system. As of April 2<sup>nd</sup>, 2012, it changed and you have to serve longer in Barnstable County -- Barnstable retirement system to qualify and be vested in the system.

But prior to that, which I'm going to assume most of you were at the 10 years and you become vested in the system at the age of 55, you are eligible to seek retirement. But depending on your age and the length of service determines what type of retirement you're going to receive.

If you are an elected official, you have to receive a stipend of at least \$5,000 or more to become a member. If you are an employee, you have to work 25 hours or more to become a member.

Speaker BERGSTROM: That's according to the 2012 change in the legislation?

Ms. JUDY SPRAGUE: That's according to -- since it started. Originally, you have to have 25 hours of service, and it changed in 2012 to a \$5,000 stipend, yes.

Speaker BERGSTROM: And that's retroactive?

Ms. JUDY SPRAGUE: Yes. You can no longer contribute. If you were an elected official and were a member, it doesn't count your service after that point.

Speaker BERGSTROM: Okay. Well go ahead. I didn't mean to interrupt.

Ms. JUDY SPRAGUE: The handouts that I hope you all received have a brief synopsis of the financial position, the amount of active members and retired members in the system. Our funding ratio because we're a member of PRIT, which is our major investment that we have to do. We have two other smaller investment companies but PRIT is the main one that we have.

We have unfunded liabilities which that's part of the assessments that are given to each member unit that has to be fulfilled and, hopefully, as long as no other incidents happen like 2008, Barnstable County Retirement will be fully funded by the year 2036.

Speaker BERGSTROM: Well, do I have any questions here besides me? I don't know how many people it affects. The market value of our investments right now, according to your sheet here, is 869.9 million?

Ms. JUDY SPRAGUE: That's correct. That's as of the end of 2015.

Speaker BERGSTROM: And you've got a 1.23 percent return.

Ms. JUDY SPRAGUE: Correct.

Speaker BERGSTROM: As opposed to the previous years when you got 7.62; is that right?

Ms. JUDY SPRAGUE: Correct.

Speaker BERGSTROM: What happened?

Ms. JUDY SPRAGUE: Look at the market. It's been very tough getting any type of money, even as far as interest goes with investments. But I'd have to say that PRIT's been very good. They're a very strong investment company and they do excellent work.

Speaker BERGSTROM: I mean the interest rates have been low for years. I mean they've been low for five or six years.

Ms. JUDY SPRAGUE: Right.

Speaker BERGSTROM: So, obviously, before 2015 even though, you know, you were only getting, let's say, 1 percent on a return on an investment, the County seemed to have gotten seven; is that just luck or any idea?

Ms. JUDY SPRAGUE: I can't say its luck.

Speaker BERGSTROM: Right.

Ms. JUDY SPRAGUE: PRIT's (Public Retirees Investment Trust) the one that does most of the investing and chooses it. But last year was a very tough year. I'm sure that anyone that has any investments have seen that there were six months that they just dropped and weren't getting any type of returns.

Speaker BERGSTROM: Okay. How many members are there on the board?

Ms. JUDY SPRAGUE: There are five members.

Speaker BERGSTROM: And how many of them are statutory-type?

Ms. JUDY SPRAGUE: I am statutory as an advisory board member. I'm appointed by the advisory board. Mary Pat Flynn is appointed as one of the County Commissioners. Mary McIsaac is the chairman as the County Treasurer, and then two other members are elected.

Speaker BERGSTROM: So if you were to get hit by a bus, not that -- and they had to replace you, there would be four members who would vote to replace you; is that --

Ms. JUDY SPRAGUE: No. It would be the advisory board members, which are all the treasurers in Barnstable County.

Speaker BERGSTROM: Oh, okay. That's --

Ms. JUDY SPRAGUE: For each unit, yes.

Speaker BERGSTROM: And do they ever meet -- the advisory board members meet monthly or is it just you guys that meet monthly?

Ms. JUDY SPRAGUE: We can call a meeting for Barnstable County Retirement, but the Cape and Island treasurers meet regularly for different meetings.

Speaker BERGSTROM: Yes. Now do you have any relationship to the state, you know, as far as -- this is totally in-house. We have our own investments and we control the whole thing. I'm not sure we're audited or controlled by the state but we're not part of any bigger system is what I mean?

Ms. JUDY SPRAGUE: Well, we're part of PERAC which regulates everyone but.

Speaker BERGSTROM: Okay.

Ms. JUDY SPRAGUE: We have to follow those laws and regulations; Chapter 32 and any others.

Speaker BERGSTROM: And there's no -- are there any considerations in investment besides simply return -- of course, you passed this on to some company, right?

Ms. JUDY SPRAGUE: Correct.

Speaker BERGSTROM: And they're basically judged on the return on investment.

Ms. JUDY SPRAGUE: Well, I can't remember what year it was, but the state was mandating that retirement systems put most of their investments into PRIT. Before that, everyone was in charge of doing their own.

Speaker BERGSTROM: Okay. All right. Well I think I've exhausted that pretty much. But you think that going forward we can deal with the maintenance of effort, whatever it is, unfunded liabilities rather.

Ms. JUDY SPRAGUE: Correct.

Speaker BERGSTROM: As long as we keep on the same -- Do we contribute enough each year, for instance, in the budget, Mary, to keep that schedule?

Finance Director MCISAAC: Yes.

Speaker BERGSTROM: Okay. All right. Well, thank you, very much.

Commissioner FLYNN: Do you mind if I say one thing?

Finance Director MCISAAC: Sure.

Commissioner FLYNN: So, as Judy said, I've been on the retirement board since 2008. And when I came on the board, the assets of the board were about \$500,000 -- I mean 500 --

Ms. JUDY SPRAGUE: Five hundred million.

Commissioner FLYNN: Yes, no, 5 million. Sorry. I forget those zeros -- 5 million and that time the things changed. That was the point at which the retirement board decided to move the assets to the state. And so the PRIT board -- and the PRIT board when they hired their new Executive Director Michael Trotsky, who if you ever look at him or Google him or look to see what the state does, he was recognized nationally as one of the either first or second most competent retirement managers in the country. So I think he's really done a good job. So I was saying in '08 it was \$500 million and now it's close to 9 million.

Ms. JUDY SPRAGUE: 945 million.

Commissioner FLYNN: Yes, \$945 million. So it has increased that much. And it's not because of me but because of moving with the state and paying much more attention I think to the investments. So it has increased dramatically.

Speaker BERGSTROM: Yes, okay, Ed and then Brian.

Mr. LEWIS: Just a little -- because there's a little confusion, and I don't do it myself, but for anybody who either is watching on TV or will watch on TV at some point. All of the employees in Barnstable County are members of the Barnstable County Retirement System; am I correct? All of the employees of the different towns, in other words, every town this is their retirement system, the Barnstable County Retirement system; is that correct?

Finance Director MCISAAC: Barnstable County is a retirement system for all of the towns and governmental units on Cape Cod and the Islands, yes.

Mr. LEWIS: Now --

Finance Director MCISAAC: Except for Falmouth that has their own retirement system.

Mr. LEWIS: Now you have a market value of \$870 million, and the towns as well as the school districts have this OPEB and what they're contributing, money on a yearly basis if they are or they aren't, but they're asked, you know, that's part of our responsibility whether it's a school district or a town. And they're funding it through their operational expenses whatever their budgets.

The County, I assume, does the same thing for their employees; am I correct so far?

Finance Director MCISAAC: County with respect to Barnstable County Retirement system?

Mr. LEWIS: No.

Finance Director MCISAAC: Or Barnstable County --

Mr. LEWIS: Barnstable County and similar to the town of Brewster and the town of Mashpee, whatever, they have -- they contribute to this as a town as against the individuals. They contribute money into this retirement system and this OPEB because they're -- well, most of the towns, at least on the Cape, they're not anywhere near fully funded at this point as far as their future expenditures there --

Finance Director MCISAAC: Sure.

Mr. LEWIS: -- what's required as far as the law states. So they have till 2036 or somewhere in that vein in order for it to become fully funded.

Finance Director MCISAAC: Right.

Mr. LEWIS: Would that be correct?

Finance Director MCISAAC: Right. All of the units are contributing what's assessed to them in order to catch up the funding by 2036. So it will be fully funded by the schedules as long as the retirement and all of the units adhere to that. And they're assessed in the fashion that that will complete the schedule in 2036.

Mr. LEWIS: I'm sorry to be long-winded.

Finance Director MCISAAC: Sure.

Mr. LEWIS: But once they get -- they'll be fully funded, there are according to -- you have how many members here?

Ms. JUDY SPRAGUE: 4,696.

Mr. LEWIS: Something like -- active is 4,696 retired, 26 -- so about 7,000 some round, give or take, 7,000 members altogether.

Finance Director MCISAAC: Yes.

Mr. LEWIS: And do you know what the number is over to have the retirement system fully funded for all towns and all municipals what that number is?

Finance Director MCISAAC: What the gross number would be?

Mr. LEWIS: Yes.

Finance Director MCISAAC: I don't have that but we can get that for you.

Mr. LEWIS: No, I'm just curious. Several billion, I assume, since 960 million isn't close.

Finance Director MCISAAC: Well, the liability, of course, it is increasing

exponentially because of the expected life increases with people and various other factors, sure.

Mr. LEWIS: It just seems --

Finance Director MCISAAC: It's a huge number.

Mr. LEWIS: -- the numbers are huge --

Finance Director MCISAAC: They are.

Finance Director MCISAAC: -- for the amount of 7,000 employees. If I divide 7,000 into a couple of billion, that's a lot of money. I mean just from a basic type thing.

Ms. JUDY SPRAGUE: Over the life.

Finance Director MCISAAC: Over someone's lifetime it adds up, yes.

Mr. LEWIS: Yes, it does. But still they're contributing every year. It's not like when they catch up they stop contributing.

Ms. JUDY SPRAGUE: Correct.

Finance Director MCISAAC: Right.

Ms. JUDY SPRAGUE: The towns contribute, the municipalities, and school districts, the County and they contribute every year.

Ms. JUDY SPRAGUE: I believe right now the estimated unfunded liability will total over 57 billion.

Mr. LEWIS: You know, that's a number -- it's a hard number to get to to put your arms around when you think about the number of employees that you have and the amount of money that it takes to -- because someone moves into retirement, someone takes their place, eventually they go bye-bye.

So it's a huge number, and it's hard to get to realize how much money is needed to fully fund a retirement system of 7,000 employees.

Ms. JUDY SPRAGUE: It is but when you look at what Barnstable County Retirement is paying out monthly to the current retirees, it's over three-quarters of a million dollars monthly.

Mr. LEWIS: I think that when I started my career many, many years ago, I made the wrong choice. I think I should've worked for a municipality.

Speaker BERGSTROM: Yes, Brian.

Mr. O'MALLEY: I would like to clarify a response that was kind of in passing to a question that the Speaker put and that was about the direction of the investments. Is it, A, solely on the basis of best return, or, B, are there any considerations added in as to where those investments are going? And I refer specifically here to what might be called socially responsible, not an oil extractive kinds of industries. Is there any consideration given to that in your discussions?

Finance Director MCISAAC: Discussions of the board?

Ms. JUDY SPRAGUE: The board itself?

Mr. O'MALLEY: The board itself. I presume the board accepts recommendations from your investment firm.

Finance Director MCISAAC: Most of our money has been turned over to what's called PRIT, which is the state's organization that has received most of the funding or most of the treasury balances of numbers of retirement systems.

And what Judy referred to in the past was that a time when the state determined whether retirement systems were operating successfully or they were

underperforming. And the underperforming systems were strongly urged by a certain date to turn over their funds for investment to PRIT or they would be taken over by the state.

And at that time, Barnstable County voted to voluntarily turn over their investing and their funding to PRIT, and it's been invested there since with the returns that, you know, Pat has talked about and Judy commented on.

But they have a broad array of investing, you know yourself, small-cap large-cap, the whole portfolio of investing.

Mr. O'MALLEY: Right.

Finance Director MCISAAC: We don't directly vote on that.

Mr. O'MALLEY: This is not under our control. I --

Finance Director MCISAAC: We don't directly vote on that. I mean, obviously, we have every right to express our opinion about where the funding portfolio is at the moment and what the plan for it is.

But we don't send them our instruction about what to move where and where to invest and how long the holdings are.

Mr. O'MALLEY: Understood. Thank you.

Finance Director MCISAAC: Okay.

Mr. O'MALLEY: What is that acronym, that PRIT?

Finance Director MCISAAC: Public Retirees Investment Trust.

Ms. JUDY SPRAGUE: Investment Trust.

Mr. O'MALLEY: Thank you. Question answered.

Finance Director MCISAAC: Thank you.

Speaker BERGSTROM: And I want you to know that Dr. O'Malley is partially responsible for the shortfaling because they get good medical care. Now people are living longer, so that's why there's such a difference.

All right. Well, thank you, very much.

Finance Director MCISAAC: You're entirely welcome.

Ms. JUDY SPRAGUE: You're welcome.

Speaker BERGSTROM: Yes, I should note that Chris Kanaga is now online with us so he's with us in spirit but not physically.

Mr. KANAGA: Thank you.

Speaker BERGSTROM: Okay. Moving right along, we have communications from public officials. Communications from members of the public. I guess I hear a member of the public. Please identify yourself and make sure your mic is on. When the green light is on, it's on.

Mr. LOU GONZAGA: The green light is on.

Speaker BERGSTROM: Okay.

Mr. LOU GONZAGA: Lou Gonzaga, Centerville. Through you, Mr. Speaker, I have a question to ask.

Speaker BERGSTROM: Well, I have to tell you right away --

Mr. LOU GONZAGA: Or not a question. I'd like to make some --

Speaker BERGSTROM: You can comment -- you can question but we can't answer.

Mr. LOU GONZAGA: No problem. No problem whatsoever. You're going to have Resolution 16-08 in front of you today. And I just can't believe it took that

long to get here. And some of you I see are here for part of the investigation back in 2012 to hold the Cape Cod Light Compact to find out what they're all about. I'm going to put it that way.

They state that they are an asset to the community. I don't think they are. I just moved into a new home, had my wife take care of the electrical. When I got the bill and I saw Cape Cod Light Compact, I screamed, and I come from the energy field. Not screamed at her; I just said, "What?"

So I went out and I took a look and went out to the market and I did really, really well. And to take a look at this organization that's gone this long without accountabilities, and I know you're putting a Band-Aid onto it, you know, you need to have them come on board but a liability was created.

So what happens if they don't want to come on board? The liability of employees that are vested underneath them, where are they going to go?

I would say if you're going to vote on this tonight, I would either take it to a study or add on that you can come on board as part of the County but subject to the following conditions: an MOU, Memorandum of Understanding; timetables, not when they want.

Don't be afraid because I've heard also that, oh, they can go up to the legislation. Well, the Board of Directors are here. The voters, we'll go up there to the State House and say, "No way. You're not coming on board."

People forget that it's the public that are the Board of Directors of the elected officials. And that's where it needs to be. You guys are a great organization but step up with leadership capabilities. Thank you, very much.

Speaker BERGSTROM: Any other member of the public wish to address the Assembly? Hearing none.

### **Assembly Convenes**

Speaker BERGSTROM: The Assembly will now convene, and we'll begin with Proposed Resolution 16-07, Resource Development Office, AmeriCorps budget transfer of 54,920. You didn't look at this in finance; did you? This is routine pretty much?

### **Proposed Resolution 16-07:**

**To approve certain budget transfers for fiscal year 2017 in accordance with Barnstable County Ordinance 16-07.**

**NOW, THEREFORE,**

**BE IT HEREBY RESOLVED that the Barnstable County Assembly of Delegates Proclaims:**

**The following transfers between budget groups one, two, three, seven, and nine for fiscal year 2017 are approved:**

**For the Resource Development Office, AmeriCorps Cape Cod Program:**

**Decrease 0011117-5750 by \$ 54,920 Misc Match Expend-AmeriCorps grant**

**Increase 0011111-5101 by \$ 32,900.00 Member salaries**

**0011112-5203 by \$ 1,500.00 Trash removal for the residential houses**

**0011112-5213 by \$ 2,000.00 Phone costs for residential houses/staff**

cell

0011112-5221 by \$ 680.00 Electric expenses for residential houses

0011112-5223 by \$ 1,200.00 Heating fuel costs for residential houses

0011112-5225 by \$ 3,000.00 Cable charges for residential houses

0011113-5399 by \$ 9,700.00 Miscellaneous Supplies

0011119-5982 by \$ 1,316.00 Workers Comp-match to member fringes

0011119-5983 by \$ 2,146.00 Insurance-match to member insurance

0011119-5984 by \$ 478.00 Medicare-match to member fringes

Mr. OHMAN: No, Mr. Speaker, we didn't, but I'd be happy to give a short explanation about it. If we all were here last session, Commissioner Cakounes gave a very concise evaluation of what this was.

Essentially in the 2017 budget, the Commissioners passed to us a \$54,920 line item to fund their portion of the AmeriCorps people and we approved that as part of the budget process.

This now has come -- it's a fairly routine, customary thing that they now have that money ready to split up into different categories, and the categories are all split up in 16-07.

It's pretty perfunctory. I would urge you to pass this as stated, and as so, I would move to recommend approval of 16-07.

Mr. MCMANUS: Second.

Speaker BERGSTROM: Okay. We'll have to take a vote on this, voice.

**Roll Call Voting "YES" (100.00%): Ronald Bergstrom (2.84% - Chatham), Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Edward Lewis (4.55% - Brewster), Teresa Martin (2.30% - Eastham), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61%- Falmouth), Linda Zuern (9.15% - Bourne).**

Clerk O'CONNELL: Mr. Speaker, Proposed Resolution 16-07 passes with 100 percent of the Delegates voting yes.

**Resolution 16-07:**

**To approve certain budget transfers for fiscal year 2017 in accordance with Barnstable County Ordinance 16-07.**

**NOW, THEREFORE,**

**BE IT HEREBY RESOLVED that the Barnstable County Assembly of Delegates**

**Proclaims:**

**The following transfers between budget groups one, two, three, seven, and nine for fiscal year 2017 are approved:**

**For the Resource Development Office, AmeriCorps Cape Cod Program:**

**Decrease 0011117-5750 by \$ 54,920 Misc Match Expend-AmeriCorps grant**

**Increase 0011111-5101 by \$ 32,900.00 Member salaries**

0011112-5203 by \$ 1,500.00 Trash removal for the residential houses  
0011112-5213 by \$ 2,000.00 Phone costs for residential houses/staff  
cell  
0011112-5221 by \$ 680.00 Electric expenses for residential houses  
0011112-5223 by \$ 1,200.00 Heating fuel costs for residential houses  
0011112-5225 by \$ 3,000.00 Cable charges for residential houses  
0011113-5399 by \$ 9,700.00 Miscellaneous Supplies  
0011119-5982 by \$ 1,316.00 Workers Comp-match to member fringes  
0011119-5983 by \$ 2,146.00 Insurance-match to member insurance  
0011119-5984 by \$ 478.00 Medicare-match to member fringes

Speaker BERGSTROM: Thank you. Now I move to Item 13 on our agenda. Proposed Resolution 16-08 regarding Cape Light Compact structured as a County department. It was submitted by Sandwich Delegate James Killion.

I'm going to turn this over to Jim to explain what -- hopefully read it because I think there are a lot of people out there that don't know what it says.

And I strongly recommend that the Assembly suspend the rules at some point and allow the County Administrator who's been involved in negotiations to address us, if necessary.

So Jim, you're on.

Mr. KILLION: Should I put it on the floor, Mr. Speaker?

Speaker BERGSTROM: What's that?

Mr. KILLION: Would you like to put the Resolution on the floor?

Speaker BERGSTROM: Yes. You have to move it.

**Proposed Resolution 16-08:**

**Whereas, Section 1-5 of the Barnstable County Charter enables Barnstable County to enter into agreements with any other governmental unit and**

**Whereas, the Cape Light Compact exists as the result of contractual agreements and therefore does not constitute a governmental unit and**

**Whereas, County Counsel has reviewed the Administrative Service Agreement between Barnstable County and the Cape Light Compact and determined serious potential violations of the Barnstable County Charter and MGL Chapter 40 Section 4A currently exist and**

**Whereas, County Counsel's review of the proposed revisions to the existing Administrative Service Agreement has revealed significant defects,**

**NOW, THEREFORE,**

**BE IT HEREBY RESOLVED that the Barnstable County Assembly of Delegates Proclaims:**

**In accordance with Barnstable County Charter Section 2-8 b (ix), the Board of Regional Commissioners acting as the Executive Branch of County Government should prepare an Ordinance in which the following action shall be taken; Direct the Cape Light Compact to immediately pursue a definite course of action which seeks to amend their Inter-Governmental Agreement which upon revision, the result shall be the creation of a Department of Barnstable County Government, subject to all provisions within the Barnstable County Charter and Administrative**

**Code capable of entering into a legally binding Administrative Service Agreement with Barnstable County.**

**Upon acceptance by Cape Light Compact Board, the Board of Regional Commissioner shall prepare an Ordinance outlining the new Structure and present it to the Assembly for action.**

**Absent any immediate action by the Cape Light Compact to become a Department of Barnstable County, the Board of Regional Commissioners shall seek to immediately terminate the existing Administrative Services Agreement.**

Mr. KILLION: Okay. So I'll make a motion to put the resolution on the floor, please.

Ms. KING: Second.

Speaker BERGSTROM: Okay. Moved and seconded. Now you're up.

Mr. KILLION: I will read the Resolution and this was precipitated by a memo which County Counsel presented to us two weeks ago. It begins, "Whereas, Section 1-5 of the Barnstable County Charter enables Barnstable County to enter into agreements with any other governmental unit; and, Whereas, the Cape Light Compact exists as a result of contractual agreements and, therefore, does not constitute a governmental unit; and, Whereas, County Counsel has reviewed the administrative service agreement between Barnstable County and the Cape Light Compact and determined serious potential violations of Barnstable County Charter and Mass. General Law Chapter 40, Section 4A currently exist; and Whereas, County Counsel's review of the proposed revisions to the existing Administrative Service Agreement has revealed significant defects. Now, therefore, be it resolved that the Barnstable County Assembly of Delegates proclaims in accordance with Barnstable County Charter Section 2-8b (ix), the Board of Regional Commissioners acting as the Executive Branch of County government should prepare an ordinance in which the following actions shall be taken; Direct the Cape Light Compact to immediately pursue a definite course of action which seeks to amend their Intergovernmental Agreement which, upon revision, the result shall be the creation of a department of Barnstable County government, subject to all provisions within Barnstable County Charter and Administrative Code capable of entering into a legally binding Administrative Service Agreement with Barnstable County. Upon acceptance by Cape Light Compact board, the Board of Regional Commissioners shall prepare an ordinance outlining the new structure and present it to the Assembly for action. Absent any immediate action by the Cape Light Compact to become a department of Barnstable County, the Board of Regional Commissioners shall seek to immediately terminate the existing Administrative Services Agreement."

So just to back up a little bit to the memo, which was presented to us two weeks ago by Mr. Troy. Obviously, the glaring parts of that being that the Cape Light Compact is not actually a governmental unit which would preclude the County from entering into agreements with them.

From that memo, Mr. Troy suggests a couple of options to remedy that. One of them being, of course, is to have -- to solicit the governing board of Cape Light

Compact and the towns that are responsible for them to actually change their Intergovernmental Agreement to actually allow them to become an agency of Barnstable County.

The second potential solution would be for CLC to seek legislative remedy. Now, obviously, we have two, in my opinion, very different approaches to this matter, one of them being at a state level and one of them being at a local level.

My issue with going to the state level is losing control of the process. As the Delegate from Brewster pointed out several weeks ago, the State Representative Randy Hunt has actually approached CLC and has been lobbying up at the State House to change the structure of CLC to allow for an elected governing board.

So one would have to think if the CLC reaches out to the legislature to make some changes to try and work around the problems we currently have with the County that the structure that we get out of the legislature may not be exactly what the County wants.

So the point of my Resolution is that I would like to see a local solution developed. Now I realize that there are discussions going and perhaps there are what I'd call work around measures, but I actually see this is an opportunity to strengthen County government. We can actually bring this entity into the jurisdiction of the Assembly and the Commissioners and the Administrator and whereby creating a greater sense of accountability, a greater sense of structure.

I find it rather ironic that in my time here we spend an inordinate amount of time working on problems related to CLC, whether perceived or otherwise. The CLC has become a source of great concern to the public, and I think this is a solution to that problem the fact that we would actually have some authority. We will be able to assure the public that there is accountability. There's accountability through the ballot box and through the administrative branch of County government.

So, concluding that, the point of the Resolution is to point the County in that direction. It's really is a very simple vote. If you agree that you believe the County would be stronger and the CLC would be stronger by making them part of County government, then I hope for an affirmative vote on the resolution. I mean, clearly, this isn't binding to anyone.

However, I think it gives the Assembly some voice. I think we all recall criticism that this body has taken for having little relevance if we're not being proactive in matters. This is my way of saying we speak for over 200,000 citizens of Cape Cod. Let's give them a voice on this discussion to say these are the matters we would like the Commissioners to take up, the Administrator to take up, CLC to take up and have that discussion.

I'm hopeful that wherever that discussion leads, it will come back to the Assembly for a vote but there is no guarantee of that. They could make changes. They could make other arrangements that we would never have a voice in. This may be our one opportunity to give it that voice.

So, I hope we can have a substantive discussion on how we feel the relationship with the Cape Light Compact and Barnstable County shall continue going forward.

Thank you.

Speaker BERGSTROM: Yes, John.

**Mr. OHMAN: Mr. Speaker, I would like to propose to suspend the rules so I could hear from -- directly from County Administrator Yunits.**

**Deputy Speaker MCCUTCHEON: Second.**

**Speaker BERGSTROM: Moved and seconded. All those in favor? Aye. Opposed? Jack, do you want to tell us where we stand right now?**

Administrator YUNITS: Thanks. We had already scheduled, a few weeks ago, a four-hour session tomorrow. Bob Troy, myself, Maggie Downey, and her counsel will be present at this meeting, and our hope is to get this matter finally resolved.

I do want to say, in Maggie's defense, that this is not something that they've been putting off or we've been putting off. We've actually been working on this since about April. And we suspended a little bit during the summer and we're back at it now. But this time we decided just to lock ourselves in a room for four hours so we can't be disturbed and hopefully get it done.

And I would say to the Delegate who proposed this Resolution that I absolutely think the Assembly should be involved. If we, obviously, reach an agreement tomorrow and there's a contract, every bit of it should be discussed here and, of course, with the Commissioners as well, obviously. I think it's an important thing.

You remember what -- some of the great things that this group has done -- the Compact has done is measured in kilowatts savings in terms of energy conservations. So they're doing an awful lot of good things for the County, and we want to be sure that the roles get defined. And, right now, they're not clearly defined. It's extremely confusing. I'm not going to say it's unlawful or illegal in any way but it's extremely confusing.

And, quite frankly, the people that we represent, meaning my staff, are exposed. They have no input into the contracts that they approve, and that's not a good way to do business period. We have to clarify that. We have to define it. We have to know what a fiscal manager does. We have to be compensated accurately and precisely under Section 4A of Chapter 40.

And granted there are things that get way too complicated for politically elected boards to handle sometimes unless that is their sole duty.

I know in a lot of cases municipal power plants have elected boards. There are a whole set of rules that apply to this industry because of the proprietary interest, because of the competition, price setting, commodities, prejudices in a limited way. There's a whole set of rules handed down by the Commonwealth of Massachusetts under Chapter 164 that apply to this particular industry. So it gets pretty complicated especially in terms of open meeting.

So it would be tough to manage from a political perspective but towns do it. Municipal power companies all over Massachusetts have elected boards. So if that be the ultimate solution and that's probably why the representative has so suggested it, that will be legislative, not ours.

In the meantime, our job is to get in that room tomorrow and try to get a resolution so that the roles finally get defined and the duties get set.

Believe me, I think about this a lot. I think about the importance of involving the Assembly and the Commissioners in these types of very important determinations. So whether it be determined that this is a county department or an

independent governmental agency served by a county department, they're very difficult defining moments that have to be addressed. And somehow, as long as County assets are being used, the Assembly and the Commissioners have to have some oversight responsibilities. And that's our job tomorrow to figure out how we can define that, insert that into this agreement and make sure that you remain a part of this.

I think probably in retrospect it's probably Maggie's biggest regret that a lack of transparency did develop years ago that caused a lot of the problems that never should have been caused and diluted the product and the goodwill that they were doing. But we can resolve that tomorrow, and that's our hope. So that's where we stand now.

Again, we're going to be locked in for four hours. We hope to have a draft and we're scheduled to go back in two weeks for two hours to finish it.

Speaker BERGSTROM: All right. I'd just like to comment before I turn it over to the rest of the Assembly is that sitting in front of you there's some people, including myself, who have been critics of the Cape Light Compact in the past. Putting that aside right now, I guess what we're considering at this moment is the interest of Barnstable County. In other words, I'm not worried about what Cape Light Compact does in the context of this resolution. I'm interested in our relationships and our exposure and the financial mechanisms that we have to create in order to make sure that the County is protected.

Because I know that you and your staff and the Commissioners have reviewed our relationship with all sorts of organizations that come under the County umbrella and this is part of it.

So I know there are probably people that want to jump up and go through the past, but I'm more concerned about the future and where we're going. So having said that --

Administrator YUNITS: I can't agree with you more, Mr. Speaker. And, believe me, we've analyzed a lot of that on its inception. And we're not going to work with people or personalities; we're going to work with a contract.

Speaker BERGSTROM: Okay. Starting in reverse alphabetical order, I'll recognize Linda.

Ms. ZUERN: Thank you. I thought our choices were to make it a county government, a department, or to change the laws of the legislative level or to make it independent. And for me to take a vote today, I don't feel comfortable taking that vote until I know what the pros and cons are on those choices.

So if we're going to make it a county government, what are the pros and cons of that? If they're going to change it in, I guess we don't really have any choice on that, but if we're going to let it be independent, what are the pros and cons?

So I feel that there is still some information that I need in order to make that decision instead of rushing into it today. Either a study be done or, you know, just a little more time so that we can see, you know, sometimes when we rush into correcting something or solving a problem too quickly then we find that we have all these other things that we didn't think about ahead of time and they cause more problems than what we had before.

Administrator YUNITS: True.

Ms. ZUERN: And I also would like to suspend the rules to have Commissioner Cakounes address that as well because he was the one who brought this

issue up.

Speaker BERGSTROM: Well, we'll see. So you want to suspend the rules to allow Commissioner Cakounes to speak?

Ms. ZUERN: Well, yes, I'd like Mr. Yunits to address it and then also Commissioner Cakounes to give his idea on --

Speaker BERGSTROM: I don't really know if we have to individually suspend the rules for --

Ms. MCAULIFFE: It's already suspended.

Speaker BERGSTROM: It's already suspended, so I think if Leo wants to say something and he usually does, he can speak.

Yes, Ed.

Mr. LEWIS: Could we have the Assembly speak and then have, you know, so that everybody has an opportunity and then have the Commissioners talk?

Speaker BERGSTROM: Well, I would prefer that, and the reason I had Jack come up is because I wanted everybody to understand where we stand now.

Mr. LEWIS: I know.

Speaker BERGSTROM: Why don't we go -- we'll have Leo available. Why don't we go around the room first and we'll get there. Deborah and then Pat.

Ms. ZUERN: Thank you.

Deputy Speaker MCCUTCHEON: Okay. Thank you, very much. I don't understand what the process is in your mind as far as ratification or implementation. Just ratification, let's start with, of any ultimate agreement that might reach out of this discussion.

I mean, for example, I can think of some issues that were to come up immediately; confidentiality issues, issues of release for any mistakes that might've been made in the past. I think those are all issues that could very easily be the price of making a deal here.

And I'd like to know what the ratification process is? Is it just the County Commissioners? Does it come here to be ratified? I think Department of Public Utilities probably has an interest here. So what do you have to say about that, Mr. Yunits?

Administrator YUNITS: Well, I think you're right. The issues that we -- have been studied, quite frankly, are the Commissioners' exposure by signing these contracts that they don't participate in.

Now granted Maggie comes and answers questions, whether they have questions on a particular contract before them, but they're not part of the deliberating body. They don't know the vendors.

And when they affix their name to that contract and it doesn't say as to form, as to -- and for financial agent only limiting their liability on every contract, they're exposed. We're exposed; the County's exposed. That's easy to fix and I think we can do that.

As far as past, we have had hired a company to do an actuarial study of the potential OPEB obligations that we're owed and any retirement or other personnel obligations that we might be owed for the past history of using County employees that we haven't been reimbursed for yet. We have to get that settled.

The third thing is, and by the way that follows; if nothing positive happens tomorrow and CLC is to say we're going to find another financial management, they go

the town of Provincetown or some other community and convinces them to adopt them, those obligations follow the Compact. They're not our responsibility. Under Section 4A of 40, they follow the Compact.

So I mean that's an option they have. That's their decision. And as Lilli said, there are some issues that we have to deal with regarding the options. We have to know our options if we can't get a resolution contractually.

Deputy Speaker MCCUTCHEON: I'd just like to follow up a little bit on this. What I'm really concerned about is the procedure in your meeting and how that interfaces with how ratification of this is achieved after presumably an agreement is reached.

I am not as much concerned about the liability of the County Commissioners, although I do think that's an issue. I think there is the potential down the road for ratepayer litigation over the manner in which CLC has used money and diverted it to CVEC. Now that's ratepayer money -- ratepayer litigation, the liability for that could very well fall on the fiscal agent that permitted it all to happen.

And I guess what I'm concerned about is if you get in the room and you get a deal for giving away the store, is there some way that we get to look at the store before they signed ink on the deal, and, if so, what's the way?

Administrator YUNITS: We had an insurance audit done this past spring and significant changes were made to the coverage. None of it's retroactive. But for future claims, EOA would be covered; negligence on their board would be covered. We had to do that, obviously, because of the questions you're raising right now, Deborah.

And now Cape Light Compact has put out a bid to get their own insurance, but we're part of the MIIA -- the MIIA coverage that we have is supervising it so that we will remain covered for those kinds of exposures going forward.

But part of the discussions tomorrow, obviously, are going to include setting up reserve funds for those eventual, possible occurrences out of their revenue stream, which is pretty significant.

Deputy Speaker MCCUTCHEON: I don't like to torture you, but I had not yet heard what the procedure for ratification of any deal that's reached tomorrow is. Does it just go to the County Commissioners? Does it come to us? Where does it go? And who gets to see it before we're signed onto it?

Administrator YUNITS: You know, in my opinion, it would be tantamount to some type of agency agreement which requires your approval under the Charter. Essentially, County employees, if there is an agreement that satisfies the Commissioners, that agreement would come back here.

And under your Charter, I think its Section 1.4.3, but under that section, that would, under the legislative part of your Charter, I think that would require your approval. Either way, it would be absolutely impossible given your level of scrutiny and transparency that's required right now to ever think about having an agreement that has the full force and effect if it doesn't have the approval of both boards here in the County.

Deputy Speaker MCCUTCHEON: All right. I just have one further follow-up question.

Administrator YUNITS: And that will be a big point tomorrow; I know it will be in the discussions. It's been a point I've had since day one.

Deputy Speaker MCCUTCHEON: I'll let you go, Mr. Yunits. Thank you,

very much.

Speaker BERGSTROM: Patrick, do you have something to say?

Mr. PRINCI: Yes. I'm a little bit -- I'm slightly in agreement with the Delegate from Bourne whereby it could be putting the cart before the horse pending that this meeting is tomorrow. It seems like it's going to be a significant meeting with a lot of work taking place.

However, I also appreciate the Delegate from Sandwich's Resolution to basically go on record that the Assembly wants to have it be -- have it all done right in a sense, however.

I would suggest that perhaps since you suggested earlier in your comments that we have a seat at the table that perhaps a member of our Energy and Telecommunications Committee perhaps the chair or the vice chair through the Speaker could possibly attend that meeting tomorrow, listen and hear what happens, table this Resolution to a future meeting or withdraw this Resolution to a future meeting, or withdraw this Resolution and come back with an ordinance, something stronger in the future.

That would just be my suggestion. I'm not ready to support this today.

Speaker BERGSTROM: Okay. Just before I turn it over, you have another meeting scheduled after this one.

Administrator YUNITS: Yes, in two weeks I believe we have another two hour session, right.

Speaker BERGSTROM: One of my concerns with putting this on the agenda today was the fact that that meeting would take place immediately before the Commissioners' meeting and before our next meeting, which is on the 19<sup>th</sup> - all right?

So it's conceivable, although unlikely, that an agreement could come down, the Commissioners could sign off on an agreement before we ever see it again. But Jack is saying that's not going to happen but that's why we're dealing with --

Administrator YUNITS: I know one Commissioner in particular that wouldn't let that happen.

Speaker BERGSTROM: I wonder who that would be?

Commissioner CAKOUNES: That's only one though.

Speaker BERGSTROM: Suzanne.

Ms. MCAULIFFE: Yes, when I came on the Assembly four years ago, the County was very much involved in the administration, current administration at the time, pretty much involved in operating in its own way and not allowing anyone else in County government to really have access or work with County government.

It has gradually changed and it has gotten really collegial, collaborative, open, and transparent in the last four years that I've been on.

Cape Light Compact operates in a manner that makes the County government look open. Cape Light Compact has always been shrouded in mystery, defensiveness, outright dissing of members of the public who would go to meetings and they would actually have meetings and go into executive session and then not come back. It was a very challenging group of people to work with. And because the County wasn't really involved in helping us work with them, they just sort of stiff-armed everybody the way -- the way that they continue to do today.

They are a group of very smart, nice, interested, involved, engaged people.

They do some great things, but I do not like the way they operate. I never have and until they become a governmental agency or go off on their own, those are my two options. I've said this for the last two years; either become part of the County or go on your own because I have no conscience for something that calls itself a quasigovernmental agency that can turn around and tell everybody to just go away, including the public and elected officials.

So I will support this because I think going into your meeting tomorrow you could come in with the force of a resolution saying the Assembly needs something to happen, and I don't want to hear your this and that and this and that about why this can't happen or the confusion or the complexity. It has to happen; it has to be done.

The second point; the history of using County employees was outrageous. We had employees that were full-time CLC employees that were paid and worked for the County and that started as a practice that should've never been allowed and did happen. Maggie Downey was the Assistant County Administrator and was 75 percent CLC employee.

As recently as when Bob Lawton came on, we had people in finance before Mary McIsaac came who were doing the County and the CLC business so it made it challenging for County employees to do their jobs because people were doing CLC's work.

And to this day, CLC does not pay rent so -- according to OpenCape where they share a space. So I would say you have a challenge ahead of you. As I said, great people doing great things but I do not like the way they operate.

Speaker BERGSTROM: Okay. Ed and I think I see a hand over there.

Mr. LEWIS: Well, I have to disagree to a certain extent with my colleague from Yarmouth. I think the resolution while I commend the representative from Sandwich for bringing this to the fore and bringing it so there's an open discussion on this; I think that's excellent but I also think it's too soon.

I have a great deal of faith in maybe -- in our new County Administrator. I have a great deal of faith in the County Commissioners. This is a legal issue which has to be negotiated between the County Executive, Administrator, and Cape Light Compact, and the two attorneys. I'm not sure when you put two attorneys in the same room you're going to get an agreement but you're going to try to get an agreement.

I would prefer not to force our hand and force their hand with a resolution prior to letting them have their discussions, letting them come back to the Commissioners and, ultimately, at some point to the Assembly.

I think, based on conversations that I've had, that the Commissioners have made it very clear as to exactly what they expect from the agreement. And if they don't get that, then there will be no agreement. And then they'll move on from there.

But I think at this juncture, that we have to let the negotiators go to the table and work with what they've got and see where they can come from there. I think the Cape Light Compact has had some issues in the past as it relates to transparency, as it relates to their ability to communicate with the public and with the Assembly. But I think overall I would not cast them in this light.

I do believe they pay rent, but I'm not positive about that. I've been told that they pay rent for the place that they're using now.

So I can't support this not because I don't agree with what the

representative from Sandwich has put forth but I think it's too soon, and I think we leave it up to our County Administrator to go and negotiate in good faith and come back with whatever he comes back with. And then the Commissioners come to us with what they feel and then we can work from there. Thank you.

Speaker BERGSTROM: Brian.

Mr. O'MALLEY: Being in my first term here in the Assembly, I have -- during the term when this subject has not really been on the table very much up until just recently. I worked diligently to try to review some of the old material and gain a fuller understanding of where we are.

It's pretty clear to me that this function -- the Cape Light Compact is one that fits precisely in with what we do as a County and very clearly should be under our umbrella rather than under the umbrella of one of the towns or some other organization. It clearly is something that we should sponsor and try to make function more effectively than it does and more transparently than it does in particular.

With respect to the proposed resolution on the floor, I, in general, am in support of it. I think we should move in that direction. However, I would say at this time that given that there's a very substantial significant meeting planned for tomorrow that the passage of a Resolution at this point would tend only to harden the sides, and I don't think that's a direction we should go when you go into a room to try to have a conversation. I'm really a great believer in the ability to negotiate and to create -- try to find some compromise here.

And I think that certainly if it falls apart at our next meeting we could pass such a resolution. But I think it would do us -- it would do the process better for us to lay this on the table and let these discussions play themselves out. I'll leave it with that.

Administrator YUNITS: Thank you.

Speaker BERGSTROM: Yes, Teresa.

Ms. MARTIN: I just want to say back what I'm hearing to make sure I'm understanding it right. So one of the things I hear in the Resolution is I'm frustrated something has to change. Maybe this will push things forward. And what I'm hearing Jack say is there's six hours of attorney time booked and that's going to help come up with this very concrete structures for how a change can happen. So is that correct that's what the six -- so are you guys just talking for six hours or is the output of this something that is an actionable change?

Administrator YUNITS: You know, the things that I'm hearing today, obviously, I've heard before in terms of transparency, in terms of the Assembly having a role. I think this is why this discussion tonight is going to be very helpful and very important because I think you're getting your message out loud and clear.

So tomorrow at the negotiating table, we can finally work towards a real structural change, especially in today's day. With open meeting law changes and public records law changes, the world demands transparency. And notwithstanding the simple restrictions that are put forth in 164 regarding some of the proprietary interests that need to be in executive session in these kinds of events and that happens with the munis too. They go into executive session all the time because of the law. You still can't frustrate the public's right to know.

And by giving the Assembly more oversight going forward which is what we intend to do, bargain for tomorrow, we might solve a lot of these issues. It's not just

finances. It is administration. And it is the whole political reality, whether you call it a tax or you call it a fee, it's still public money that funds the Compact, and the public has a right to be part of the process.

So that's going to be a big part of the discussions tomorrow.

Speaker BERGSTROM: Lilli and then I'll go back to Jim and Deborah.

Ms. GREEN: Thank you, Mr. Speaker. I don't think that anyone that I've ever heard says that CLC doesn't do a lot of good things. First of all, I think no one would dispute that. They do a lot of good things in the county.

But I hear a very clear message about two directions; either it being a county department or being independent at this juncture. And the proposed resolution in front of us today, I think, would clear up a lot of the questions that have -- I've seen in the past six years from the ratepayers, from the Assembly, from the Attorney General's office, and the office of the Inspector General from what I understand.

So if the action on the table before the county would -- I think it's more like will the County decide that we are willing to allow Cape Light Compact to be a county department. I mean it's going to be a big job to move in that direction.

But the Cape Cod Commission is a county department. It's structured -- there was an oversight board that is elected, just like the Assembly is elected. That kind of a structure, to me, seems like it would actually clear up a lot of the issues that I've heard over the years.

I think that also that the big issue about the employees -- this is a little bit of this and a little bit of that, and we have insurance, and they have insurance. But if something horrible happens, like a car accident, hopefully never will happen, but if it did, I mean, I did talk to insurance -- an attorney who deals a lot with insurance, and I wonder if there's just too much liability if it continues the way it is.

And if it was a county department, perhaps it would clear up those issues of liability as well as accountability, which the public and the Assembly and the Attorney General's office has had a lot of questions about. And I think that would be a very positive direction.

As far as the contracting procurement, the agreements on moving forward, I think that the County has a lot of experience in the procurement process and could be a support to the Cape Light Compact especially given the situation that they're facing now and will face in the future. And being a county department could clear up and be a very supportive role in that direction.

Also, again, the good that the Cape Light Compact does, a lot of it is due to those energy-efficiency funds of 33 million-plus.

And as far as something I've seen even recently in the lower-Cape is, and I hesitate to say this, but how lower-Cape towns were offered something by the Cape Light Compact before even the board even knew about it. They never voted on it, and they didn't know about it, that the town was offered -- the towns were offered something for free, free stuff. But really the free stuff is the ratepayers' money that the ratepayers are paying into this.

I think that that needs some oversight. I mean more than what it is today and I think that being a county department would lend that structure just the same as the county has a structure now.

And, again, there is that elephant in the room about what was called the mil

adder that the Attorney General's office called an illegal tax to the public. It's now changed. It's now called an operational adder. It used to have to come before the ratepayers in order to raise the rates so that, however, in the last agreement with DPU that even though the Cape Light Compact had doubled it when it was supposed to go to the public and hear from the public it did not but now it doesn't have to. It can just raise that at any point in time.

I have an issue with that. I think that needs to be cleared up. In a County department, I believe that issue would be addressed. I understand now that that operational adder, this illegal tax, that it was called an illegal tax by the Attorney General is now being used to fund the OPEB contribution. And I think that the ratepayers might be surprised to hear that. I was surprised to hear that.

And also the other elephant in the room is the legal fees. I understand that last year the legal fees were in excess of \$850,000 and somebody said "Way in excess of that."

So I would like to make it loud and clear that I would like to see this Proposed Resolution passed today to send a clear message that the Assembly feels that this is -- I mean there are a lot of issues that have not been resolved, and if the county is willing to take on Cape Light Compact as a county department and it would be a lot of work on your behalf, Jack, as well as others in the county, I think it would be a positive thing for the county, the towns, and the ratepayers.

So I applaud Delegate Killion for proposing this. And I hope that even if it's not voted on favorably today that you've heard enough from the delegates to understand these messages loud and clear from a lot of the delegates. We want to be a part of the process. We want you to come back to us and talk to us before anything is finalized with Cape Light Compact and a lot of these issues could be cleared up if it becomes a county department.

Thank you, very much, for your time.

Speaker BERGSTROM: Linda.

Ms. ZUERN: When Lilli was talking another question came to mind. If Cape Light Compact is independent, would it be able to charge all residents a rate or would it just be the people that are under that agreement?

Administrator YUNITS: Yes, the rates aren't set by the Compact. The rates are set by the legislature and DPU.

Ms. ZUERN: So it would still include everyone in the county even though it was independent?

Speaker BERGSTROM: It's a compilation -- it's an agreement between the 15 towns. This is why it's confusing. It's confusing to me too. The Cape Light Compact, and you can correct me if I'm wrong, is an Intergovernmental Agreement between the 15 towns.

Ms. ZUERN: Right.

Speaker BERGSTROM: So they, in a sense, represent a part -- well, I was going to say apart from Barnstable County, they're also -- the 15 towns are also Barnstable County but they're also the Cape Light Compact.

Ms. ZUERN: But what I'm asking is if it becomes independent, totally independent whether it could still charge that rate?

Commissioner CAKOUNES: Yes, absolutely.

Deputy Speaker MCCUTCHEON: DPU.

Ms. ZUERN: To everyone?

Commissioner CAKOUNES: To their ratepayers.

Ms. MCAULIFFE: You opt in to CLC rates.

Mr. LEWIS: Not everybody --

Ms. MCAULIFFE: Right, you opt in.

Mr. LEWIS: -- uses Cape Light Compact.

Ms. ZUERN: So it would only be those people who opted in?

Commissioner CAKOUNES: Right.

Ms. ZUERN: So it wouldn't be everybody so they would have a choice whether they wanted to opt in or not.

Commissioner CAKOUNES: You do now.

Administrator YUNITS: You do now.

Speaker BERGSTROM: Okay. We'll go with Deborah and then back to -- we'll work our way down this way.

Deputy Speaker MCCUTCHEON: I'm a little troubled by all this talk about independence. I looked at the statute for where the Intermunicipal Agreement comes from. It does appear to me and I find no litigation amplifying or explaining this, but it does appear to me that unless the county -- if the county agrees, we can let them go to another municipal servicer.

But if we don't agree, they can't go. So it seems to me that the price for that is not as perhaps as high as one might think. What's your position on that, Mr. Yunits?

Administrator YUNITS: You know, I really can't answer that. I'm not sure about it. I do know this that I think if they wanted to make a move, they would have to have the approval of all 22 members, fellow members including the county.

Deputy Speaker MCCUTCHEON: I think that's a minimum.

Administrator YUNITS: So that means a lot of town meetings. It looks to me like a pretty complicated process for them to pick another financial management.

Deputy Speaker MCCUTCHEON: And they cannot function as an independent agency because they are a creature of statutory creation as an Intermunicipal Agreement.

Administrator YUNITS: That's right. Right.

Deputy Speaker MCCUTCHEON: So they have no independent existence.

Administrator YUNITS: That's right.

Speaker BERGSTROM: Ed McManus.

Mr. MCMANUS: Given that they are a creature of the 22 different agencies or municipalities, how are, in these negotiations, who's representing them?

Administrator YUNITS: Well the Compact lawyer will be their representative technically.

Mr. MCMANUS: Okay.

Administrator YUNITS: And we do have a member on the board. There is a Commissioner who sits on the board. There probably should be an Assembly person sitting on the board as well. That would probably solve a lot of these issues.

Mr. MCMANUS: Yes, well, personally, I disagree with that because, you know, the other agencies, their representative is an appointee of their executive body to have -- they're not really going to have all 22 town meetings appoint a representative. It

just doesn't make sense.

Speaker BERGSTROM: All right. Ed and then we'll go back to Jim.

Mr. LEWIS: A couple of points. Number 1, they're not an elected board, the governing board of Cape Light Compact. They're appointed by the various boards of selectmen in Hyannis -- I mean in Barnstable. The councilors appoint the representative. They're not elected.

Number 2, one of the things that, as I said before as far as being a part of the county that would be fine with me. But it's not the Assembly's purview in my judgment to sit and get involved in every little part of what any of the departments do and, in this instance, the Cape Light Compact questioning how they go about getting rates; who they charge; what they charge; where they charge.

You either have a department and you give them the ability to do what they report to, whether the County executive, and move on from there.

But I think we're getting way a far here and we're just -- we're letting a lot of past histories get involved in some of the things that we're saying. And there's too many innuendos that come up here that if they're proved wrong are never corrected on television for the public. And that's one of the things -- the problems I have when someone sits there and states numbers, that they're doing this; they're doing that. And when it's proved that that's not completely correct, it never gets corrected to the public. So the public only hears one thing.

And I think we're way a far here and, as I said before, let Jack and the lawyers -- let them sit down and they can work this thing out and see what happens. But it's not going to be something where the Assembly sits down and has a seat at the table with regard to negotiations nor does the Commissioners that does -- that the Assembly have a seat on the governing board of the Cape Light Compact. That's all set up by legislation. If you want to correct the legislation, be my guest.

But I do believe also that if they want to go independent and go with the town as the financial agent that the governing board has the ability to make that decision. They don't have to go back to 15 or 22 town meetings and do that. I think their governing board has that decision, but I think that's in the legislation.

But I would prefer to move on and just vote the Resolution one way or the other.

Speaker BERGSTROM: Okay. Jim.

Mr. KILLION: Thank you, Mr. Speaker. Good afternoon, Mr. Yunits. Just to touch on some of the concerns others have had. What do you see as a downside to the county should, in fact, they become a county agency versus the relationship we currently have?

Administrator YUNITS: I don't see -- I mean I can't envision a downside necessarily. It will be complicated. We may need legislative involvement in a change to accomplish that similar to what the Cape Cod Commission has so that they have their own separate enabling legislation and the rules are spelled out legislatively.

You know, when the Commissioners need to hear from the Cape Cod Commission, they appear and they ask questions. We don't get involved in the day-to-day operations necessarily because by statute they are a regulatory agency. And they need that autonomy to regulate impartially. And it's similar to that with this complicated field of law and regulation and what the Compact does.

It's not something that anybody across the way would have the capacity to take over overnight. So the board would have to stay in place for the Compact. The independent contract negotiations would have to stay in place. The myriad of special rules that are set by DPU would have to be enforced by the Compact, and the only difference would be that the county would have a little bit of more oversight over the long-term annual operation and not the day-to-day operation. I don't see much of a difference in what we're going to try to achieve by contract and what we achieve by a Resolution like this.

Mr. KILLION: The goal of the proposed resolution is not to take over the day-to-day operations of CLC.

Administrator YUNITS: Right. That's correct.

Mr. KILLION: Or to change it. So that being said with little downside, what do you see as the upside to this of becoming a county agency?

Administrator Yunits: You know, it's certainly better control of the revenue long-term in terms of management and --

Mr. KILLION: More accountability?

Administrator YUNITS: -- more accountability.

Mr. KILLION: Thank you. And just in closing, what I'm hearing around the Assembly is there's a lot of agreement that this is probably a worthwhile Resolution. I don't think the Assembly putting forth an opinion of how they think this should be structured is going to inhibit the negotiations, but it will let them know this is how we think it should be done.

I don't think we should wait until the hearings are conducted. This is our opinion. Let them have our opinion as they go forward. I think it would be more constructive for this group to know how the Assembly feels than to sit on the sidelines and then wait till all this is passed.

Speaker BERGSTROM: Ed.

Ms. KING: Move the question.

Mr. LEWIS: Second.

Speaker BERGSTROM: You're not going to move the question unless I move it. You can move it all day but it's up to me. Yes.

Ms. ZUERN: You promised that we could hear from Mr. Cakounes first.

Commissioner FLYNN: Ha-ha.

Speaker BERGSTROM: All right. Before we hear --

Ms. ZUERN: I took it as a promise.

Speaker BERGSTROM: All right. I'll recognize Mr. Cakounes but before I do, I have to say it's my understanding in speaking with both of these gentlemen that these negotiations are not just a matter of people coming in and having a cup of coffee and saying oh, geez, this is great that they're contentious. In other words, there are serious issues of disagreement between the parties that have to be resolved.

Now as Speaker, I'm concerned with the process. So there's a proposed resolution on the floor and I've dealt with this before in Chatham is that people will come in and say when you present them with something to vote on, they say, well, I'm talking about the public, they'll say, well, you know, how come we didn't have an input into this before it's presented to us? But if you give them input, they'll say well, we can't decide on this because it isn't the final document. So it's back and forth.

Does the Assembly think that we can sit back, wait until these guys go through a contentious negotiation and then say, “We don't like it,” in which case what do I do about that?

In other words, if, indeed, we vote it down, do we then submit another resolution -- in other words, how do we resolve -- how do we make sure that the efforts of the Commissioners and the Administrator are not lost if, indeed, this body does not agree with the final negotiations?

Now it's conceivable that we could do that like we do with the budget message. But think about that when you think about this proposed resolution. What is the best course of action should we in advance demonstrate our concerns or should we wait until a document is put in front of us and then say, well, we like it or we don't like it.

Anyway, Leo, do you have something to say?

Commissioner CAKOUNES: I have a lot to say, but I'm going to make it as brief as possible because I know you guys want to move forward on this.

First of all, I agree with 100 percent everything you've just said and that's an important thing. This is here today because I asked my board of Commissioners to have this exact discussion. They did not feel comfortable having that discussion. They have not -- the Board of Commissioners have not taken even a suggestive position on how the future between -- relationship between the Cape Light Compact and the County should go forward.

The motion was to give it to the attorney and the Administrator to go bang out some kind of an agreement and that passed. So I think it's great that you're hearing passing this proposed resolution.

A couple of comments I want to make. First of all, it's a nonbinding Resolution. Not only is it nonbinding, the first statement of it “To direct the Cape Light Compact too immediately”; you have no authority over the Cape Light Compact to direct them to do anything. So, quite frankly, if you pass this today, they're most likely going to laugh at it and throw in the barrel anyhow. You have no authority to direct them to do anything. This is a suggestive resolution.

However, it's very positive. It's positive in the fact that for almost 8 years I have been trying to find some kind of resolution to the relationship between the Cape Light Compact and Barnstable County. So when someone says this should go to committee or this needs to go to further study, the time this agreement has hit the road and its running. Now is the time for you people to weigh in. This is a positive resolution. Its saying consider Cape Light Compact to become a full county -- Barnstable County department. That's all it is saying. And then saying if you don't want to consider that, then please have the freedom to look elsewhere for a new financial fiscal agent.

You need to know that since March I have not signed any Cape Light Compact agreements because as much -- and Jack is a lawyer so I'm going to have to throw him in this same pool; as much as these lawyers will tell you that we are protected through some kind of a financial agreement which specifies what we're really doing for you, the first paragraph of these million, multimillion dollar contracts says, “Cape Light Compact and Barnstable County collectively shall” blah, blah, blah, blah, blah.

Now I don't care if any of you are lawyers or not. I'm a simple farmer but I'll tell you right now when I sign those contracts, I'm on the hook for whatever is in that contract and that has to stop. Because I am not aware as an Administrator of what's in that

contract until the day it's put in front of me for me it has to be signed to it.

County attorneys have not looked at it. Now Cape Light Compact's attorneys may have looked at it but county attorneys haven't looked at it. That is a flaw in the process and you're not going to get around that with any kind of legal agreement that these lawyers are pretending on that they're going to write.

Secondly, I love lawyers. One of my biggest regrets in life is I didn't go to law school but believe you me after working through with meetings with lawyers on this one, I'm kind of glad I didn't.

So far I have heard Chapter -- Section 4A of Chapter 40 used three different ways to somehow say three different ways it's this. The last paragraph of this chapter is real specific on who is responsible for the employees. And the responsibility of those employees goes to the governmental unit that is providing the service; okay?

Cape Light Compact is not a governmental unit. It's a bunch of people that got together, signed a municipal agreement, they do not have a Social Security number. They are not an entity in the eyes of the government. They cannot employ people.

So we, Barnstable County, are conceived as being the employees. So when Jack uses that --

Speaker BERGSTROM: Leo, turn down the volume on your mic.

Commissioner CAKOUNES: I'm sorry; I don't even know how to do it. When Jack uses that section to first of all say that, yes, Barnstable County is responsible for the employees because there are employees, but if the Cape Light Compact decides to go somewhere else, they're going to take those responsibilities with them.

Again, its lawyer mumbo-jumbo and it needs to be cleared up. No service agreement is going to do this. It's pretty clear to me, a simple farmer that two things have to happen. Either it has to become a department of Barnstable County or they'd have to apply for their own Social Security number and become a governmental unit.

Until that happens, there is no way that I'm going to be signing any agreement in which, as Mr. Lewis stated, an appointed board from every town on Cape Cod hires, fires, and is responsible for the day-to-day operations of employees of Barnstable County. That just cannot go on any longer.

If we were to have a sexual harassment lawsuit by one of these employees, who do you think is going to be on the hook for it? Because according to a lawyer when you ask him when he's looking this way under section 40A -- I mean Chapter 40A, Section 4, Barnstable County's responsible. But if you catch him looking that way, oh no, it's Cape Light Compact's responsibility. Remember, Cape Light Compact cannot have employees. They have no 04 number.

Speaker BERGSTROM: I'm thinking the Assembly wants to move on this.

Commissioner CAKOUNES: Thank you. Please vote for this. All its doing is a positive move. It's a positive move telling the Cape Light Compact that we are willing to take them under as a full department of Barnstable County.

Speaker BERGSTROM: So, I think we're ready to move on this; did I get that impression? Okay. We'll take a voice vote on this.

Ms. MCAULIFFE: Do a roll call.

Speaker BERGSTROM: I mean a roll call.

**Roll Call Voting "YES" (35.29%): Ronald Bergstrom (2.84% - Chatham), Lilli-Ann**

**Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Suzanne McAuliffe (11.02% - Yarmouth), Brian O'Malley (1.36% - Provincetown).**

**Voting "NO" (63.78%): Edward Lewis (4.55% -Brewster), Teresa Martin (2.30% - Eastham), Edward McManus (5.67% - Harwich), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61%- Falmouth), Linda Zuern (9.15% - Bourne).**

**Voting "PRESENT" (0.93%): Deborah McCutcheon (0.93% - Truro).**

**Clerk O'CONNELL: Mr. Speaker, Proposed Resolution 16-08 fails to pass with 63.78 percent voting no; 35.29 percent voting yes; 0.93 percent voting present.**

Report from the Clerk

Speaker BERGSTROM: Thank you. Moving on right now we have a report from the Clerk.

MS. O'CONNELL: Yes. Just one item. If you would please check your folders before you leave so that I can get your mileage logs for the end of the meeting. And that's all I have to report.

Other Business

Speaker BERGSTROM: Okay. Is there any other business to go before -- yes, Lilli?

Ms. GREEN: Thank you. I'd like to propose a resolution and have it on the agenda for next time. I'm also a member of the Cape Cod National Seashore Advisory Commission which met recently and decided and voted to send a letter to Governor Baker regarding the closing of Pilgrim Power Plant.

And I would like to propose a Resolution with a letter to be discussed next time.

Speaker BERGSTROM: Okay. You just have to submit it -- officially submit it to the Clerk.

Ms. GREEN: Thank you. I have copies. I'll send them around to the Delegates.

Speaker BERGSTROM: Okay. Well she can electronically do that. Anybody else?

Ms. MCAULIFFE: Moved to adjourn.

Ms. KING: Second.

Speaker BERGSTROM: All those in favor? Aye.

**Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates at 5:40 p.m.**

**Submitted by:**

**Janice O’Connell, Clerk  
Assembly of Delegates**

List of materials used and submitted at the meeting:

- Business Calendar of 10/5/16
- Unapproved Journal of Proceedings of 9/21/16
- Barnstable County Retirement System handout
- Proposed Resolution 16-07
- Proposed Resolution 16-08
- Proposed Resolution 16-09 submitted by Wellfleet Delegate Lilli-Ann Green