

**CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES
CHAMBER OF THE ASSEMBLY OF DELEGATES
FIRST DISTRICT COURTHOUSE @ 4:00 P.M.
ROUTE 6A, BARNSTABLE, MA 02630**

APPROVED Journal of Proceedings - November 1, 2017

Call to Order

Speaker MCAULIFFE: All right. It's 4 o'clock. I'm going to call to order the meeting of the Assembly of Delegates. It's the Cape Cod Regional Government. It's Wednesday, November 1st, 2017, at 4 p.m.

Before we start our meeting, is there anyone recording other than our usual recorder? Okay. Thank you.

I'd like to start with a moment of silence to honor our troops who have died in service to our country and those who are serving our country in the Armed Forces.

(Moment of silence.)

Speaker MCAULIFFE: Thank you.

Please rise for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker MCAULIFFE: Thank you. Will the Clerk please call the roll?

Roll Call

Roll Call Attendance (80.64%): Edward Atwood (2.30% - Eastham- remote participation), Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Edward McManus (5.67% - Harwich), Susan Moran (14.61% - Falmouth), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Absent (19.36%): Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), Deborah McCutcheon (0.93% - Truro), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown).

Clerk O'CONNELL: Madam Speaker, we have a quorum with 80.64 percent of the Delegates present; 19.36 percent are absent.

Speaker MCAULIFFE: Thank you.

Approval of the Calendar of Business

Speaker MCAULIFFE: The calendar of business, we need a motion to approve it, and we will have to do a roll call vote because we have remote participation. Is there a motion?

Ms. MORAN: So moved.

Speaker MCAULIFFE: Is there a second?
Mr. KILLION: Second.

Roll Call to Approve the Calendar of Business

Roll Call voting “yes” (80.64%): Edward Atwood (2.30% - Eastham- remote participation), Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Edward McManus (5.67% - Harwich), Susan Moran (14.61% - Falmouth), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

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Clerk O’CONNELL: Madam Speaker, the approval of the Calendar of Business passes with 80.64 percent of the Delegates voting yes; 19.36 absent.
Speaker MCAULIFFE: Thank you.

Approval of the Journal of Proceedings for October 18, 2017

Speaker MCAULIFFE: Thank you. Our next item will be approval of the Journal of October 18, 2017. Is there anyone to move the Journal?

Mr. BERGSTROM: So moved.

Ms. MORAN: Second.

Speaker MCAULIFFE: Thank you. Another roll call.

Roll Call to Approve the Journal of Proceedings for October 18, 2017

Roll Call voting “yes” (80.64%): Edward Atwood (2.30% - Eastham- remote participation), Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Edward McManus (5.67% - Harwich), Susan Moran (14.61% - Falmouth), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Absent (19.36%): Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), Deborah McCutcheon (0.93% - Truro), Thomas O’Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% – Provincetown).

Clerk O’CONNELL: Madam Speaker, the Journal is approved with 80.64 percent of the Delegates voting yes, 19.36 percent absent.

Speaker MCAULIFFE: Thank you.

Summary: Communications from the Board of Regional Commissioners

- Commissioner Cakounes recapped for the Assembly, actions and discussions of the October 25th and November 1st board meetings.
- Commissioners approved Assembly Resolution 17-05: Interim Deputy Speaker.
- No employee political or private solicitation policy adopted by Commissioners.
- Commissioners updated Assembly regarding on-going department programs.
- Commissioners discuss adding the Mercy Otis Warren Cape Cod Freedom of Expression Award – 5th grade essay project.
- Commissioners introduced a DRAFT of Proposed Ordinance 17- ____ related to the creation of the Barnstable County Economic Development Council – input from Assembly sought.
- Commissioners created a new fund for the Cape Cod Commission for the Town of Eastham in the amount of \$25,000 to develop a complete Streets Prioritization Plan.
- Commissioners consider a DRAFT Ethics Pledge.

Details

Speaker MCAULIFFE: Communications and report on County issues from the Board of Regional Commissioners will have to wait because there are no Commissioners here.

So, we'll go to our next item, and this is communications and a presentation – whoops. Do you want to go first, or do you want to go after Fisheries?

Commissioner CAKOUNES: Oh, God, no; I'm not going to listen to that. I've already heard that about five times. Just kidding. It's up to you, Madam Speaker; do you want me to go now?

Speaker MCAULIFFE: If you're ready.

Commissioner CAKOUNES: Just got to pull my --

Speaker MCAULIFFE: Sorry, Seth, for the few more minutes.

Mr. SETH ROLBEIN: No rush.

Commissioner CAKOUNES: Where is he? There he is. How are you doing, Seth? Thank you. Sorry for being late. I, actually, misplaced my glasses, and I've been spending the last half an hour trying to find them across the street. So, I had to come up with these. I feel like Austin Powers with these on; is that the guy?

Let's see, what am I doing? I'm actually going to be reporting on two meetings today; October 25, 2017, and then today, November 1, 2017.

October 25, we, let's see, what did we do? First of all, we passed your Resolution that allowed you to appoint an Interim Deputy Speaker -- not to say that it went smoothly. A lot of questions, a lot of concern maybe because, I think, most of it was because the resolution wasn't specific to the term and when this would apply. Would the Interim Deputy Speaker be reappointed every time the

Deputy Speaker was out or would the Interim be appointed and every time the Deputy Speaker was out, this one would just step in? I guess it was the discussion on whether this is an alternate as opposed to a specific timeframe appointment.

So, a lot of questions, but it passed, so you can do it. Obviously, I think you could've done it anyhow because I believe even the counsel ruled that this was an internal affair of the Assembly, but I wanted to make sure that the Commissioners were on board with it.

I would like to maybe speak with the Speaker about it in the future just so if there's any language that has to be tweaked that we can certainly do that, you know. But, again --

Speaker MCAULIFFE: I will tell you it was intentionally vague because it is a meeting by meeting issue.

Commissioner CAKOUNES: Right. So, that's what I figured. But, anyhow, I'll sit down with you and just kind of -- I'll learn a little bit more about that.

We had a situation over at the Superior Courthouse and, actually, I believe it was something that went through all of the property owned by the County in which an individual is soliciting votes and going into people's office space and work space and soliciting, handing out handouts and soliciting support for an upcoming election. And we realize quickly that -- Jack, actually, had been on vacation at the time, and our Assistant or Interim County Administrator, Steve Tebo, couldn't put his hands quickly on a policy.

So, we, quite frankly, put together and created a policy for solicitation of County employees during work hours for political and private purposes including nonprofit donation, signatures, and votes on influencing an election.

So that policy has been adopted. It was adopted on the 25th, but it was adopted with the caveat that it be sent to counsel for a quick review before it gets implemented.

So, we do now have at least something on hand to control, if you will, people coming into the workplace and asking for donations or soliciting votes.

One thing that we did on the 25th, which I wasn't sure how it was going to be received, and it was a light agenda; so, what I did as Chair, is I loaded the agenda up with 1, 2, 3, 4, 5, 6, 7 items in which I felt that the Commissioners needed to be updated on. And it's very difficult, as you know, with three County Commissioners, we can't talk to each other in the hallway about issues, so this allowed us to have a conversation and a deliberation about items that are in front of us and that certainly are important. But we don't get a chance to be updated on.

I'll list -- go through them and, certainly, if you have any questions, through the Speaker, I'll be happy to answer anything on these specific ones.

But the first one was the anticipated grant that was supposedly coming to us for the Cape Water Collaborative Water Testing Program. If you remember, that was a quite controversial, if not -- a lot of people interested in that process. We gave in the FY17 budget 250,000-plus and we were expected to get a match back. So, there was an update on that.

Certainly an update on the Barnstable County Fire Training Academy and,

specifically, on our site for the License Site Professionals and what we are doing on the site. I have reported to this board, and you all know that I was really up to the weeds in our relationship with the town of Barnstable and how we're cleaning up the drinking water before it goes out to the residents of Barnstable through their wells, but we hadn't been updated on exactly what's going on specifically on our property there. So, I wanted the opportunity for Steve and Jack to make the presentation to the fellow Commissioners.

Again, I urge you to watch the tape because it was really informative, and I'm probably forgetting more specifics that were told to us.

The next one was the lease situation. I put this on there for my ability to update my fellow Commissioners. As you know, and I have reported to you before, I've taken on the Town of Bourne Assisted Living Center property, not only the AmeriCorps and the house in front which used to be the Human, I'm sorry, Senior Services Center, but there's also a small building that they have a community gardens in.

I took that on, and I reported to my fellow board members that, through Jack and myself, we realized quickly that we need a deed research done. We need to go back and really get all the deeds and research exactly where we stand and how that property is all divided. So, I updated my fellow Commissioners in the fact that there is -- we hired a firm, and they are going through and doing a title search, is the correct term to use, and, hopefully, I, actually, thought I was going to get some results today, but I don't have them yet, but I'm hoping by the end of the week I'll have some results from that to report.

The Early Retirement Incentive Plan; I wanted an update on that publicly because we wanted to know where we're at. And I do have something to report on that, it is sitting right now and still in the hands of the Senate and the House of Representatives. I met with them, the coalition, or what do they call that again when the --

Mr. KILLION: Delegation.

Commissioner CAKOUNES: Delegation, thank you; the Delegation on Monday specifically talking about that. And we're hoping that it's going to be -- go through relatively easy. I think that the worst-case scenario will be we may have to wait until FY19 begins in July to actually offer this, which is kind of okay for us anyhow because we were always doing this in anticipation for our next budget plan. But it has not been approved yet, but it is sitting both at the House and at the Senate.

Separation of the Cape Light Compact, I wanted an update on that. Where we're at as far as monies owed us and monies we owe them, making sure that they are, in fact, 100 percent out of this compound, and who is handling their new email accounts, and that fact that do we still have access to their old emails when they were using our account here in the event a public records request comes forward. And I'll be happy to tell you that that is moving forward.

Their auditor is working with ours, Powers & Sullivan. The unique situation is that Cape Light Compact operates on a calendar year. So, when you hear different audit dates ending, please remember that their audit ends for FY17

in January 1 of '17 and -- I mean FY16 ends January 1, '17. And then from January to July falls on the kind of the mid-year report from their auditors and certainly ours. So that's the area that they're working at now, and I was told that by January 1 everything should be complete.

They have made the transition over to the Retirement Board. The only outstanding issue now is, and I do not believe according to the report anyhow that we got from the 25th, the fact is that DPU ruled if, in fact, their Energy-Efficiency Plan can be rolled over from the old Cape Light Compact to the new Joint Powers Initiative, and that doesn't impact us at all though. So, we shouldn't even concern ourselves with it.

Our new Dredge status, the "Sand Shifter," the new dredge is still being assembled and I'm getting updated on that daily. Again, this report is for the 25th. Things have since changed since the 25th. I'll tell you that as of about two minutes ago out in the parking lot, we have not taken full possession of the unit yet because there are some outstanding mechanisms on the ship that are not operating properly. And I have stressed that or the Commissioners have stressed, basically, that we do not want to take possession of it until it is 100 percent.

Old jail renovations and when we can anticipate moving up there was the final thing. And we were told that that is underway. We are now, I believe, the next major step is going to be the new roof, put on the roofing, exterior roofing. The exterior of the building is weather tight, all the new windows are in. The interior partitions are down. The ceiling has been reinforced, and we will be working on the interior sheet rock and things on the inside, electric. And, hopefully, we'll be able to move in there in January, the first part of January.

Once again, that really concludes our discussions on the 25th of October. And that aspect of putting things like that on the agenda was received very well with my fellow Commissioners, and I believe it's going to be something that I will be doing as long as I'm Chair anyhow probably every three months or so when it looks like we have a light agenda. I'll be loading it with update situations, such as that. So, there was really no actions on the 25th.

That brings us to today's meeting. Today, we adopted some minutes, actually the minutes of October 25.

We also increased the Barnstable County Mercy Otis Warren, Cape Cod Woman of the Year Award that we established last year officially and have now kind of working through as Jack being our headman on that one. Jack asked us if we would consider offering a Cape Cod -- I'm sorry, a Mercy Otis Warren Cape Cod Freedom of Expression Award. It's something that he wanted to put out there. Basically, what it is -- it's a fifth-grade essay project, and we're kind of looking to all the schools on the Cape to the fifth-graders who want to participate, put together an essay, specifically on Mercy Otis Warren and her influence, either then or now. It's up to the writer. And then we'll present the winner with just a small plaque.

I will tell you that in the motion, the very last line says, "Absolutely no money shall be allocated to this." So please know this is a feel good thing to, once again, bring education in on the younger side of our public that we service.

Proposed Ordinance 17-Draft No. 1 has been officially voted, and it is out in the public as a draft. Now you're all looking at me going, "What are you talking about?" That is the new ordinance which is going to do away with the Economic Development Council that exists now and replace it under a whole new structure with some very defined areas in which they will be advisory in, certainly helping the Cape Cod Commission with its big plan for economic development but also still advising the County Commissioners on how to expend the license plate money into what I have termed now as not only a grant, because the mini-grants are the wrong term to use, but we use the term "grant/contracts."

So how I'm going to handle this as the Chair is the County Commissioners, you should all know, by the way, that we have had three meetings of a special meeting workshop where I invited members of the Assembly, I believe there were two there; members of the current EDC; members of the Cape Cod Commission, and all three County Commissioners participated, I'm very proud to say, and also some staff. Jack was there a few times. I think Steve attended, and I think Mary attended.

Through that process, those three meetings, we came out with this draft that was voted today. The draft has been voted by the three County Commissioners, and we're sending it out now to the world to look at. I will be in contact with the Speaker to find out if she wants to allow maybe a subcommittee to look at it unofficially before its being officially submitted as an ordinance. But it is my intentions to see if there are any changes brought forward or recommendations brought forward, probably put it on my agenda at the County Commissioners level.

I would love to see it back in two weeks, but I'll say three weeks at the most. Then we'll officially vote it as an ordinance, and I will bring it over here and hand it to you guys, and then you guys will begin the ordinance review process officially, which means, I believe, you will have to hold a public hearing on it and then vote on it in its entirety. So, I will make sure Janice gets a copy of that draft, Number 1, and it is labeled Ordinance 17-Draft No. 1. And you guys should all have it and look at it, and feel free to, either through the Speaker or me directly or Janice if you have any comments on it, please let us know, but that's how I intend on handling that.

The only other thing we did today is authorization and creation of a new fund. This is for the Cape Cod Commission for the town of Eastham in the amount of \$25,000. This is to develop a complete Streets Prioritization Plan.

Also, we authorized the \$379,383 -- \$379,833 to be accepted as a grant in the HOME Investment Partnership. This was something that is in our 2017 Consolidated Action Plan, and we had a very, very small presentation from Beth Albert just reminding us that this plan is a five-year plan and I believe we're in the third year of it.

So, this was anticipated monies, and this is monies that comes in to our HOME Investment Partnership, and then we use that money to fund, I believe, it's funded to like knock down people's mortgages or down payments and things like that. It's a specific part of the HUD, I'm sorry, the HOME Initiative Partnership Plan.

There was also a vote to authorize and execute a Certificate of Betterments which is something that I get authorized by the board to do as Chair.

The only other things that I feel that I need to or I should report on -- I'm hoping I still have it here; pardon me for just taking one second. I don't know what I did with them.

Under "My Reports" as part of the meeting today, this is not an action which we did but was more under the reports of County Commissioners. Here it is. I had kind of a busy week, and I'll just go down them very, very quickly.

I plan on having Seth come in. He's going to make a presentation to you guys, and I thought it would be appropriate that he come in and make the same presentation to us next week. The County Commissioners have already sent a letter in support of this I believe two years ago or three years ago, but I know this is a moving target, and there's all kinds of new programs coming out. So, I, personally, believe, as a single Commissioner, that this is an important issue, and we'll be very happy to have this on our agenda to follow through with a document supporting it. So, we're going to invite Seth next week.

One of the things that I do want to mention to you again -- this is under my "Reports" section, so please know that the board has not voted it. We talked about or I made a presentation to you guys about an ethics or professional conduct statement. I have drafted what I feel is a pledge as opposed to anything that has teeth to it as far as being able to sanction someone. And this pledge, basically, came out of a document that we looked at as County Commissioners almost a month and a half ago. And I think when I reported to this panel then, there seemed to be some outcry for me to do it. I think at that time I was hesitant to do it but because now I've had the ability to change it as a pledge as opposed to something that would be instituted as you must do this because, again, we have to be careful with elected officials. And also I increased it to comfort people who are appointed and more acting in behalf of the County. So, people who are on committees and commissions that we appoint.

Owen just got it a little while ago. I'll make sure that Owen sends it out to Janice, so she can send it out to all of you.

It is my intentions to just take feedback on it. It's set up with bullet points. If you think something should be removed, let me know. If you think you want to add something to it, let me know. I'll be happy to take everyone's comments in as much as I can on it. I intend on bringing this back in front of our board and voting it, and then just putting it out to all elected officials for their consideration to sign. If they don't want to sign it, that's fine. If they do want to sign it, we'd like to have a copy of it for their file.

A lot of things that I attended, and I'll wind this up really quickly, but I do have to give a plug to the Barnstable Village Association. We, basically, are their anchor store if you will. We're probably, you know, one of the largest landholders. I'm sure if you consider the golf courses and stuff like that that make up the village here or the harbors, but we certainly are their anchor store here.

I attended two events from the Barnstable Village Association. One was Friday night, a fundraiser down here at the harbor. It was an excellent time. We

had a lot of fun.

But, more importantly, what you should hear about is we had a Halloween event here on the property. And this Halloween event culminated from some local school, I'm not sure which one, but I think someone nearby here decided they did not want to have children in costume anymore on Halloween and did not want to hold this parade of the small kids.

So, the Barnstable Village Association took it on last year and asked us, the County Commissioners, permission to use our grounds and we granted them to do that. Well, we did it again this year. And I tell this story, and I'll just take a minute of your time because it's really -- I wish I had pictures of it.

I came with a tractor with a hayride, and I was parked down by the Superior Court, and I was the lead vehicle, if you will, in the parade of these little kids. And the idea was to go from there to the grandstand where the viewing stand was, and there was also some people who volunteered their time to pass out ribbons, you know, best costume, you know, cutest kid or whatever.

And when we got to that point, the idea was just to drive around the parking lot and then go back and end there where they had ice cream, hot dogs, music playing. It was quite nice.

Well, by the time I got down here to the end of the District Court and took a left, and I was behind Cape Cod Commission, the kids were still coming up by the Superior Courthouse. That line went from the Superior Courthouse all the way up to the bandstand, all the way to the front of this building, and all the way back down to the road where it intersects to get back to the Superior Courthouse again. I actually had to stop there and wait to let the kids go so I didn't cut off the kids, you know.

There had to be 700 little kids. I mean it was just absolutely amazing, and it lasted until 6 o'clock that evening, and it was a gangbuster of an event. Kudos to the Barnstable Village Association for putting it on. There was not one unhappy parent or child. Everybody just seemed to have an absolute great time.

And I want you guys to know about it because if the Barnstable Village Association comes before you and asks you for anything, let me tell you something, they're a great group of people, and they really do put an awful lot -- and they use this property a lot, and they do a good job. They do a cleanup afterwards. But the amount of kids that turned out was just absolutely shocking to me.

So that's basically about it. I attended the Silent Spring presentation, which, you know, wasn't the same-old from them. It was pretty good. That was October 25th. And, also, as I mentioned earlier, I met with the delegation on a lot of matters which concern the County.

So, with that, I'll open it up to questions. Again, I apologize for being a little late.

Speaker MCAULIFFE: Susan.

Ms. MORAN: Thank you, Commissioner, great report. The first thing that you mentioned was the update on the water quality collaborative, but I didn't catch what the update was.

Commissioner CAKOUNES: Well, the update is, basically, if you guys remember in FY17's budget, we rushed to sign some papers and make sure that we had the matching \$250,000 that we put in and that was budget time, so if you remember that crunch.

We did, in fact, receive some monies for that grant in the tune of about \$250,000. However, the Cape Cod Commission put in for a Bill which ate up the majority of that, matching funds. So, the idea or concept that those funds were going to be put into a reserve account and used for this year, I should say next year, FY18's allocations is not going to happen.

That's an important discussion that we're all going to have to have as we move forward to FY19 because the County is not in the position to continue to put up \$250,000 and not be the direct benefit of the monies being returned back from the state. So that money was used and is being used and does not increase the coffers of general County government at all so.

Ms. MORAN: Just -- so a quick follow-up. Does that mean that those funds are now not available for testing?

Commissioner CAKOUNES: No, they are. They're being used -- there was a whole list of priorities. And if you remind me either via email or you can ask Janice, I'll be happy to get you the invoice, if you will, that showed exactly what the \$250,000 went to through the Cape Cod Commission. I don't believe it was testing because that's what the 250 that we put up was for was actual testing. It was more for planning and physical work that was done other than the actual testing of waters, all in conjunction with, though, the 208 Plan and the testing.

Ms. MORAN: Okay. Then just quickly on another subject; when you do, you know, quarterly or however often this general update, how is that going to be listed on your agenda?

Commissioner CAKOUNES: I'm going to use the same way I did it this 25th because it seemed to work very well, and I haven't got an Open Meeting Law complaint filed against me yet.

But it does just say "Department Directors Updates and Status Reports." And it was broken down specifically to the departments, offices of the County Administrator, and the Department of Finance and Treasurer. And then also under the "County Dredge," it was the County Dredge Director, who is Steve Tebo, and under the "Old Jail" it specifically said, "The Facilities Director."

So, it allows us to have a really good open conversation with the people who are making these mini presentations, if you will, because I'm not trying to encourage PowerPoints or anything. What I was just trying to encourage is having these people there, so we can have this back-and-forth discussion much like we do here when I give you guys a report, you know. We don't have that ability, unless I do it like this on the agenda.

Ms. MORAN: No, I think it's a great --

Commissioner CAKOUNES: So, I think it worked really, really well. There were no votes taken, and I don't ever intend to have votes taken. It's just basically an informative thing.

Ms. MORAN: Great. That way the public will know what to look for. So,

I support that. Thank you.

Commissioner CAKOUNES: Yes. Thanks. Oh, it's very clear at the top that this is just a report and update.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: Yes, Leo, two subjects. One is -- well, actually, one subject. During your meetings on the reorganization of the EDC, has anyone suggested that anything you do might be inconsistent with the original legislation that set up the EDC?

Commissioner CAKOUNES: It was discussed.

Mr. BERGSTROM: It was.

Commissioner CAKOUNES: It was discussed and it's not so.

Mr. BERGSTROM: Well, you say it's not. I'm just wondering if that's going to be an issue going forward.

Commissioner CAKOUNES: Anything that we do at the County Commissioners' level, we certainly will make sure it's run by County Counsel before we move forward.

But at this specific time, it doesn't do anything to the state statute that exists. It doesn't even reference the state statute in it, I believe. I just references how much money we get. In fact, that was one of the sticking points that we talked about. We made it very general as I was putting in the specific percentage. But, no, it does not at all affect the state statute. And we'll make sure that counsel weighs in on that.

Mr. BERGSTROM: Refresh my memory for me. At one point, we would review -- this body would review the EDC budget. There was some money that the County would include in their budget that wasn't covered by license plate money. In other words, the staff, any kind of funding, and then that later on, I believe, it's a couple years ago now, was pushed onto their responsibility through the funds. Do you know where that stands?

Commissioner CAKOUNES: No, to my knowledge about history is that the EDC monies were kept in a separate pool, not commingled with County funds, it's always the way it's been. And the EDC used to use portions of that money for staff. They actually had a full-time staffer working.

When that, through transition or I'm not sure why, but when that person left, a relationship began with the EDC, who was an advisory board appointed by the Commissioners and the Cape Cod Commission; the Cape Cod Commission took over a lot of that staff person's duties and actually never got compensated for it. Then metamorphed to the Cape Cod Commission asking for a grant, and that grant -- portions of that grant were allocated to the staff work and also portions of that grant went to leverage other grants as the Commission does so well.

Basically, the ordinance that you will be seeing actually defines what is going on, as opposed to suggesting that we change something. What is going on is just not reflected in the original ordinance, and we wanted to make sure that the present ordinance really reflects what's going on. There is a relationship between the EDC and the Cape Cod Commission and that needs to be reflected in the ordinance.

Mr. BERGSTROM: The only reason I bring it up is because the EDC -- I thought the EDC was almost treated like an Enterprise Fund. You know, I applaud the Cape Cod Commission to take upon all this responsibility but, in a sense, that's public money too.

So, I'm wondering if they are now covering the administrative cost of the EDC separate from the money the EDC receives from the license plate currently in this budget, this budget year?

Commissioner CAKOUNES: Currently, they are -- in this budget year right now, the Cape Cod Commission has received no money at all from the License Plate Fund, none. So currently they are continuing to do the staffing and hosting of the website and whatever other clerical work is done with their own funds. No monies have been allocated in this year's budget.

The way the ordinance is written up is that the Cape Cod Commission will no longer go to the EDC and work out a budget but, in fact, go directly to the County Commissioners. The County Commissioners are the ones who are in charge of the money. They're the ones who sign the contracts. They're the ones who distribute the money. They're the ones that should hear why the Cape Cod Commission wants X amount of dollars, and also make them come back and show the Commissioners what have you done with it, and is it working or is it not working as opposed to having this third-party doing our work for us.

Mr. BERGSTROM: So, in your opinion, and I know you've got one --

Commissioner CAKOUNES: Yes.

Mr. BERGSTROM: -- it's not inconsistent --

Commissioner CAKOUNES: Don't ask if you don't want to hear it.

Mr. BERGSTROM: -- it's not inconsistent with the way the EDC which was originally set up for them to cover their own administrative expenses. They've done it in the past?

Commissioner CAKOUNES: Absolutely, they've done it in the past. Absolutely. In the old days, they absolutely used license plate money to pay administration. And then, at some point as I said, when that particular person moved on, they metamorphed into a relationship with Cape Cod Commission so.

Speaker MCAULIFFE: Anyone else? Thank you, very much.

Commissioner CAKOUNES: Okay. Thank you. Sorry, Seth, it took longer than I thought.

Summary: Communications from the Cape Cod Fisheries Trust Director Seth Rolbein

- Director asked Assembly for support of a resolution to be send to the New England Fisheries Management Council to create a herring buffer zone off Cape Cod waters.

Details

Speaker MCAULIFFE: The next item is a presentation from Cape Cod Fisheries Trust Director Seth Rolbein. And this is regarding creation of a buffer zone for midwater trawling for herring off the Cape Cod coastline.

Mr. SETH ROLBEIN: Thank you.

Speaker MCAULIFFE: Thank you for coming.

Mr. SETH ROLBEIN: Thank you. Thank you, very much, to all of you for having us. I'd like to introduce Amanda Cousart, a great colleague at the Alliance, and I would be remiss if I didn't mention that Abigail is behind me back here with Jack, and thank her for all her good work on river herring in particular in our communities.

We're here to ask for some support and for some help. We believe that the situation off our shoreline right now with our herring fleet, the herring fleet that's been fishing off the Cape, is a really serious challenge to our community, to our community's history, to our community's future economic growth and to our fisherman, and to our habitat.

Not coincidental that maybe one of the first public officials in colonial times was the herring warden for each town. And that almost all of our towns have a herring river by name and in fact. Herring has played a huge role in the culture and the history and the economy of the Cape.

As you all know in recent years, our herring runs have been rebuilt. Many of you have been involved in helping make that happen. They're a tremendous community resource, and we're looking forward to the return of our river herring.

Those river herring have a cousin and they're called the "Ocean herring," the "Atlantic herring." The Atlantic herring most of us don't know quite as well as we know the river herring because they don't come up into fresh water to spawn, but they travel the world. They intermingle with their cousins, and they survive as an extremely important forage fish that serve all of our recreational fishermen, our commercial fishermen and, in fact, our entire habitat from tuna fish and whales right through to birds and small fish.

There's a particular form of fishing that takes place off our coast; it's called midwater trawling, usually done in pairs of boats that are about 150 feet long each. They tow between them a net about the size of a football field. It's an indiscriminate form of fishing. It takes pretty much everything in its path up onto the decks. It takes -- it's searching for ocean herring. It cannot distinguish between our herring, the river herring, and the ocean herring.

The latest reports show that just off of our Cape Cod waters in our region 30 metric tons of river herring have been caught in near shore areas around our peninsula and discarded, killed and left, and that's just what's been reported.

At the same time, as we all know in our state laws, none of us are allowed to take a single herring from any of our herring runs any longer. So, it's a dramatic moment in our history.

The Alliance feels that it's one of the most important things that we can do to revive our off-shore habitat to push midwater trawling farther offshore, not eliminate it, continue to provide herring in the whole variety of ways it is provided, but move it from three miles off our shore to some place significantly farther off so that the large schooling groups of fish that come to us every year can make it.

So, we've been making visits around the peninsula and much more broadly to build support for a proposal that's moving into the New England Fisheries

Management Council, which is the federal body that makes the sort of penultimate recommendations on fishing policy in federal waters by December.

Our hope is that we can pass a new policy there which will essentially push midwater herring trawlers farther offshore. The exact locations need to be negotiated. But to our minds, at least a dozen miles is probably appropriate, and for those of you like Ron who understand the waters extremely well, the Great South Channel is particularly important in terms of this.

So, we've been reaching around for support. And Mary, who understands this as well as I do, has been very gracious and sort of working with us a little bit in thinking about this. We've gone to a number of our towns already. We've been to the County Selectmen and Councilors' Association, all have been very supportive. Our Conservation Trusts have met and have been very supportive, APCC as well. Our commercial fishermen and our recreational fishermen are united on this, which is not a common occurrence but it's a good occurrence. And we're really hoping that we can make a breakthrough on an issue that's been a thorn in our community's side for a long time.

Our thought, our hope is that you might be willing to entertain a resolution that we could send on to the New England Fisheries Management Council letting them know of your interest and concern in the issue, and that's what I've got.

Speaker MCAULIFFE: Great. Are there any questions -- I'm going to go to -- is it Ed?

Mr. MCMANUS: Yes.

Speaker MCAULIFFE: Yes.

Mr. MCMANUS: Well, it's not so much a question as a comment. At the last meeting of the Cape Cod and Islands Selectmen and Councilors' Association, the matter was taken up with representatives from Nantucket, Martha's Vineyard, and nine of the 15 towns of Cape Cod voted to send a letter in support of extending the -- or, whatever, moving the mile limit further out for midwater trawling. And we've sent that letter on and sent you a copy.

Ms. AMANDA COUSART: I received it.

Mr. MCMANUS: Yes.

Mr. SETH ROLBEIN: We've gotten it. Thank you, Ed. It was a great letter.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: Just one thing. Seth, you opened up your comments talking about the Alliance. But for the people who are listening, could you say exactly who that is?

Mr. SETH ROLBEIN: Yes, forgive me. The Cape Cod Commercial Fishermen's Alliance, which some of you may know as, "The Hook" from the old days, is the group that is working on this. The Alliance has been around for over 20 years now, and I serve as the Director of the Cape Cod Fisheries Trust, which one day I'll tell you all about, but it's a program of the Alliance to help keep our small boat fleet intact.

Mr. BERGSTROM: Okay. I think they changed their name because they used to be the Cape Cod Hook Fishermen's Association and people kept calling

them “The Hookers.” We still have the Hookers’ Ball every year.

Mr. SETH ROLBEIN: Right. I was going to say we still have the Hookers’ Ball, and you’re all welcome to come, and you’ll have a good time, I guarantee.

Speaker MCAULIFFE: Mary.

Ms. CHAFFEE: Seth, one question about -- you mentioned 30 metric tons of herring were caught; what period of time?

Mr. SETH ROLBEIN: That’s this fishing year and Amanda knows this better than me. And, by the way, I should have said shad too, right?

Ms. AMANDA COUSART: So how they set -- it’s called a river herring and shad bycatch cap, and I set it for each individual area. There’s four areas that the management scheme is subdivided into, and they don’t distinguish between river herring and shad because they just consider them the same for all intents and purposes. And each area has a different amount that they’re allowed to catch, and it’s actually 32 metric tons is the amount that’s in the Cape Cod midwater trawl area. There’s more in other areas, like it’s called Area 2 and Area 1 and Area 3, and there’s also Area 1A up in Maine that doesn’t allow midwater trawling. So, it’s actually banned nine months out of the year there, and it’s actually been very successful, not surprisingly, at returning the river herring to the traditional spawning runs up in Maine. So, we know that what we’re doing will work.

But the 32 is the river herring and shad bycatch that’s set annually. And last year, it was about -- I think it was about 15 or 16 metric tons that they were allowed to catch. So, this fishing year that number actually doubled.

Speaker MCAULIFFE: Jim.

Mr. KILLION: Thank you, Madam Speaker. Unlike the Delegate from Chatham, I don’t know all that much about fishing. One thing I do know is you typically go where the fish are.

So, what is it that the industry would have to do? I assume they’re fishing closer to shore because that’s where the fish are and you want them to go further offshore. Why don’t they do that now? What’s the rationale behind that thought?

Mr. SETH ROLBEIN: It’s really an economy of scale, amount of time and fuel for the return at certain times of the year argues for these large boats, mostly from Gloucester, to come just over three miles off our shore. The resources define really as an Atlantic Ocean resource.

So, herring, as a whole, in the Atlantic are not an endangered fish. They’re not in trouble. But what we are working on, as they have done already in the Gulf of Maine, is really a concept of what the scientists call “localized depletion.” We’re trying to really help people understand that you can’t look at the entire ocean as a single entity; you have to look at its neighborhoods.

So, the trawlers come here because the fish are here, that’s for sure. This is not the only place they are, but, yes, it’s an economically viable place for them to come.

Mr. KILLION: And what sort of distance would you like to move this to?

Mr. SETH ROLBEIN: There are three or four different alternatives that have been proposed to New England Fisheries Management Council right now and

that's how they operate. They'll consider a suite of options, and then they'll meet and discuss which one they want.

In our opinion, two things are really important. One, that this preferably not be a seasonal closure in order to allow spawning herring to do their thing, and the other one is that the Great South Channel and a buffer zone of at least 12 miles be created around our shoreline. Excuse me.

Mr. KILLION: Okay.

Mr. SETH ROLBEIN: So, yes, that could change.

Speaker MCAULIFFE: Oh, I'm sorry.

Ms. AMANDA COUSART: I'll just add one correction to that. There's actually nine alternatives under consideration by the Council, but there's, in the iterations that they're in, they're very similar. So, if you're interested in seeing specifically what they are, I can --

Mr. SETH ROLBEIN: We can definitely get them for you.

Ms. AMANDA COUSART: -- I have that information here if you'd like it.

Mr. KILLION: So it could be based on seasons and distance?

Ms. AMANDA COUSART: Yes, seasons, distance, area. Some are done by minute squares.

Speaker MCAULIFFE: Linda.

Ms. ZUERN: Thank you, Madam Speaker. If the commercial fishermen are for your resolution, have you found anyone opposed to it and why are they opposed?

Mr. SETH ROLBEIN: So if there's been -- the opposition that surfaced, there are these midwater trawl companies themselves, there aren't many. There are only maybe a half a dozen to a dozen, although they're very successful in what they do.

The other opposition has come -- well, yeah, opposition I'd say, from some elements of the lobstering community that want herring as bait. So, herring is a very good bait in lobster pots. This would not end the availability of herring, but it might make herring more expensive for some of the reasons that we just discussed.

So, there is some opposition around bait for lobsters.

Ms. ZUERN: Okay. Thank you.

Mr. SETH ROLBEIN: Sure.

Speaker MCAULIFFE: Any further questions? Yes, Ed.

Mr. MCMANUS: Well, the other comment though for the lobster fishermen when the herring runs were healthy, they were allowed to take herring out of the runs for bait.

Mr. SETH ROLBEIN: That's true.

Mr. MCMANUS: And this seems to cut out the middleman of having to buy it from the midwater trawlers.

Mr. SETH ROLBEIN: That's true.

Ms. AMANDA COUSART: A little irony.

Mr. SETH ROLBEIN: Yes, that's a good point. I hadn't thought of that one. That's good.

Speaker MCAULIFFE: Yes, Mary.

Ms. CHAFFEE: One last question; do I understand correctly that there's two meetings that the Council will have over the next six months to consider this?

MS. AMANDA COUSART: So what will happen in the next couple weeks and next coming month is that it will first go through the advisory panel who will make a recommendation to the committee on what they want their preferred alternative or not to be, and then the Council in December will make their decision based on the recommendation from their subcommittee.

And then after the subcommittee, it will go out for a period of public comment, which anyone is invited to participate in based on the Council's decision.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: Yes, of course I'm for this. I think one thing some of the people miss out on the fact that there's a lot of commercial fishermen affected by this. But, you know, I used to fish in Long Island when I was a kid, and there were thousands of people who were recreational fishermen and they used this for bait, and with kids and caught them, and that whole industry has collapsed as well as a lot of the commercial fishing industry too. People don't go out in small boats anymore because there's nothing to catch.

Mr. SETH ROLBEIN: Right.

Mr. BERGSTROM: And they within -- well, my remembrance, I used a lot of the game fish like bass and bluefish used to come in closer because they were chasing the river herring. They'd come right in the Ryder's Cove that's on 28.

But anyway, specifically, what are we recommending? You have all these options. I'm looking to make a motion here or to pass a resolution.

Speaker MCAULIFFE: Ron, we have a resolution coming --

Mr. BERGSTROM: You have it?

Speaker MCAULIFFE: -- in under our meeting.

Mr. BERGSTROM: Okay.

Speaker MCAULIFFE: Mary Chaffee has worked very hard on preparing a resolution. So, under our business, she will present it for a vote next week -- next meeting, but it will be coming in today.

Mr. BERGSTROM: Okay. That's what I want to hear.

Ms. AMANDA COUSART: Thanks.

Speaker MCAULIFFE: And I want to thank Mary for bringing this to my attention as well. She was at the Selectmen & Councilors' meeting and said, you know, we really need to hear from this group, and we really need to consider this. And I'm glad that you were able to make it on such short notice and, hopefully, we can contribute something to, if our resolution passes, which I'm getting a sense of the meeting, we'll be able to add our voice to the weight of other voices coming from the Cape.

Mr. SETH ROLBEIN: That would be wonderful, and we thank you for listening to us and for caring about it.

Speaker MCAULIFFE: And we will have you back in your other hat at some point if you would be interested in giving us an update on the fisheries in

general.

Mr. SETH ROLBEIN: I'd be glad to do it.

Speaker MCAULIFFE: Great. Thank you.

Mr. SETH ROLBEIN: Thank you.

MS. AMANDA COUSART: I'll leave a couple of informational flyers on the table in the back if any members of the public or the delegation are interested in having them.

Speaker MCAULIFFE: Thank you.

Ms. MORAN: Thank you.

Speaker MCAULIFFE: Are there any communications from public officials? All right.

Summary: Public Hearing on Proposed Ordinance 17-13: Cape Cod Commission's Proposed Eastham District of Critical Planning Concern (DCPC).

- Overview and presentation by CCC Chief Planner Sharon Rooney.
- Paul Lagg, Eastham Town Planner spoke in support of the creation of the Eastham DCPC.
- Aimee Eckman from the Board of Selectman spoke in support of the creation of the Eastham DCPC.
- Proposed Eastham DCPC received no opposition from the town.

Details

Speaker MCAULIFFE: Our next item is a public hearing on Proposed Ordinance 17-13. This is the Cape Cod Commission Proposed Eastham District of Critical Planning Concern, a DCPC.

So, the Cape Cod Commission, I see Sharon and crew here. So, would you like to come up to the table?

Ms. SHARON ROONEY: Sure.

Speaker MCAULIFFE: This is a public hearing for people to make comment, and this is a District of Critical Planning Concern, a DCPC, as I said, and this is pursuant to the Cape Cod Commission Act and this is for the town of Eastum (phonetic) Eastham. I always mispronounce it; Eastham. And if you would be so kind to give us a little bit of information, and we'll see if there's anyone here who wants to speak on it.

Ms. SHARON ROONEY: Sure. For the record, Sharon Rooney, Chief Planner with the Cape Cod Commission, and also with me is Paul Lagg, the Eastham Town Planner. With your permission, I do have a PowerPoint presentation that would cover background on the proposed DCPC and go forward?

Thank you. And I apologize for being turned to the side here. So, I'm just going to give you brief background for anyone who is new to the Assembly or may not be familiar with the Cape Cod Commission Act. It's a provision for a District of Critical Planning Concern.

But under Section 10 of the Cape Cod Commission Act, the Commission may propose designation of certain areas which are of critical value to Barnstable County and must be preserved for one or more of the following factors.

So, I've highlighted here in the case of Eastham, their concerns or the factors are the presence of natural, economic, and values of regional statewide or national significance.

And the second is the presence or proposed establishment of a major capital public facility or area of public investment. And I'll cover these two factors in a little more detail.

But first, the proposed district boundaries consists of the Route 6 corridor from Old Orchard Road to the Wellfleet town line in Eastham, which consists of approximately 280 acres of land and just under three acres of open water.

The issues of concern for the town of Eastham are not surprisingly U.S. Route 6, which is both a federal and state highway. The town recently approved construction of \$130 million public water supply system. This area is the town's primary commercial area and has been designated as suitable for the development of affordable housing, and a portion of the proposed district is within the Salt Pond nitrogen-impacted subembayment.

This the image may be a little bit small but why designate a DCPC? First, the most important really is it allows a town or multiple towns to take a timeout to plan comprehensively without the pressure of pending development permits. In essence, a limited moratorium goes into effect during consideration of the DCPC. And the town can adopt special rules and regulations, called "Implementing Regulations" to protect resources within the district.

And there's also an extensive public hearing process that allows for public input both in the development of local regulations and during the designation process.

And then, finally, activities that are deemed to not be detrimental to the purposes of the district can be allowed to proceed during the designation process. So, these are the mean considerations in designating a DCPC in the town of Eastham. The Board of Selectmen voted unanimously to take this time out or to request taking this timeout to do this planning.

So, there are three types of districts that have been proposed. The first is an Economic or Development Resource District; second, is an Affordable Housing Resource District, and the third is a Transportation Management District.

And the reasons for the district's designation is, first, the potential for uncontrolled or inappropriate development. I will cover this in a little more detail, the fact that the district is bisected by a four-lane undivided highway with multiple curb cuts and very high traffic volumes. Commercial zoning that today is very permissive and it allows for the potential for uncontrolled or inappropriate development, and the fact that the town recently made this approval for town water in a proposed district.

Concerning transportation, Route 6, I'm sure most of you are aware, this section of Route 6 is a four-lane undivided highway that could not be constructed today in the Commonwealth. And the section of road we did some analysis, the

Cape Cod Commission Transportation staff, that there are over a hundred crashes in a two-year period between 2012 and '14.

This section of roadway also has over a hundred curb cuts and lacks adequate pedestrian and bicycle accommodations.

It's also an area that the town has spent considerable time and resources developing comprehensive planning for the area to envision a different future. These are some sketches from plans prepared by Stantec. The town went through significant planning process a few years back looking at different future for the North Eastham area. So that's the reason behind their designation as an economic or affordable housing resource district as well.

I want to walk you through briefly where we are in the process right now. First, the town, Board of Selectmen, nominated the DCPC on August 24th. And on August 31st, the Commission accepted the nomination for consideration which began a limited moratorium on essentially commercial development.

Commission hearing officer, we held a public hearing in the town of Eastham on October 3rd, and we had a very good turnout of good support for the proposed nomination. And the Commission on October 12th recommended designation of the DCPC to this body.

So, where we are today, November 1st, just a couple weeks later, is the public hearing today and potentially a decision by the Assembly on the proposed designation by ordinance. And if the Assembly votes to designate or enact the ordinance, then the town has up to 12 months to adopt these implementing regulations, these special rules and regulations pertaining to the district.

Public input to date has been, first, the unanimous vote of the Board of Selectmen to nominate the DCPC. We've had a strong public support at the public hearing held in the town as well as at the Commission meetings that I've noted here.

We've received five letters of support and no testimony or letters in opposition, pretty unique in the history of DCPCs. I'm sure some of you are aware and have been through the DCPC process yourselves, pretty unique that there's very strong support in the town to go forward with this effort.

So, getting to the draft ordinance that was submitted to you, there are five basic values and resources that would be protected by the district designation.

The first is the improved coastal water quality through stormwater standards for the Salt Pond area. Balanced economic growth in terms of pursuing more mixed-use development and affordable housing in the area. The provision of adequate capital facilities. The fact that the town has voted to construct town water in this area, as well as the transportation resource of Route 6. To pursue development of an adequate supply of fair affordable housing, and the town of Eastham is well below the 10 percent affordable housing goals set by the state. And then, finally, the preservation of architectural values through adoption of design guidelines and other measures.

And, again, in the ordinance, contains goals and interests of the district. These are the goals that the town is seeking to obtain through designation of this DCPC. They would like to protect the character of the existing commercial area

by encouraging mixed-use development and supporting the local economy while also improving bicycle and pedestrian safety along Route 6.

And there are a number of traffic management measures that they'd like to take but some include managing or minimizing the traffic conflicts and improving access management and expanding opportunities for affordable housing, addressing stormwater issues, and supporting appropriate scale businesses.

So, going forward in the DCPC, the town in proposing this nomination and the Commission through the Commission Act, there are guidelines for -- to guide the effort for the implementing regulations going forward.

So, the guidelines and these implementing regulations could take a variety of forms, but the key issues that we're looking at are appropriate site layout and design standards to encourage a more village-style development pattern in this area. Encouraging the creation of affordable housing. Best Management Practices for stormwater. Promoting interconnectivity between properties and especially along Route 6. And, finally and not least important, to work with the state Department of Transportation to develop a Transportation Management Plan for Route 6. This effort -- that particular effort will take a substantial amount of time but it's pretty critical to making some comprehensive changes along that corridor.

So, finally, the recommended action today is to vote to enact by ordinance the Board of Selectmen's request to designate the Eastham District of Critical Planning Concern. I know Paul Lagg would like to make a few comments and there may be selectmen here also. I'm happy to answer any questions you might have.

Thank you for your time.

Speaker MCAULIFFE: Thank you. Any questions on the presentation of Sharon? Yes, Patrick.

Mr. PRINCI: Thanks, Sharon, for your presentation.

Ms. SHARON ROONEY: Sure.

Mr. PRINCI: And also thanks to the Cape Cod Commission for really working closely with the town of Barnstable, Eastham, and other towns across the Cape to really give towns control of their future development or, in this instance, a freeze on development so they can put in proper planning tools for potential projects that would benefit the entire town and community.

My question is that as you mentioned the traffic issues there, it's no secret of the amount of traffic hazards and deaths and so forth that happened along that stretch, and the public safety department and Eastham Police do a great job enforcing speeds throughout the year.

And in my experience on the Barnstable Planning Board, part of our resolutions to a lot of these types of traffic problems have been the opposite of what a DCPC is with a Growth Incentive Zone to get mitigation monies to assist us in trying to rework certain traffic patterns and develop other solutions to alleviate more or less the congestion. We have more problems in Hyannis with cars not moving than cars going too fast.

Ms. SHARON ROONEY: Right.

Mr. PRINCI: So part of this DCPC in essence is to -- because, as I look at

it, the problem isn't going to go away with a DCPC. However, if you put in place proper tools for future development, I'm in hopes that you can have some sort of zones that can get more mitigation and assistance to the towns to improve environmental qualities and, more importantly, some of the traffic issues that exist along there.

I will support this wholeheartedly today. However, I'm just hopeful that the town of Eastham will begin to really work at some tools through the Commission to try and resolve some of those problems through mitigation.

Ms. SHARON ROONEY: Sure. Paul may want to respond to --

Speaker MCAULIFFE: Paul, yes, I had you signed up on the sign-up sheet. I'm sorry; I didn't mean to cut you off in mid-presentation.

Mr. PAUL LAGG: That's all right.

Speaker MCAULIFFE: If you wanted to make some comments, and then we can go back to the Assembly.

Mr. PAUL LAGG: Thank you. Again, Paul Lagg, Eastham Town Planner. And just for the record with me here in support, Aimee Eckman from the Board of Selectman and Michael Lorencio, our Assistant Town Administrator.

With your indulgence, I'd just like to read a statement in support of our proposal. Spurred by our new public water system, recent increases in commercial development in Eastham have raised concerns in the community about the impact of community character, traffic along Route 6, and the long-term effects on our local economy. In order to start addressing these concerns, we have nominated the area of North Eastham as a DCPC.

As you've seen through Sharon's presentation, the concerns of the community reflected and the criteria that we cited which were economic development, affordable housing, and transportation management.

Within the past year, several large and small developments have been approved or proposed along Route 6. These developments have placed a new emphasis on the dangerous traffic situation created along Route 6. They've also revealed the shortcomings of our local bylaws and highlighted the need for Eastham to update our regulations so that we can anticipate future land use needs and also adapt to our regulations to encourage appropriate levels of development that meet the needs of our business community, residents, and visitors to Eastham.

I'd just like to highlight a few examples that illustrate our concerns and, I believe, justify that a DCPC is appropriate in Eastham. You just saw some of these same numbers, but I think they're important and bear repeating.

Along this corridor on Route 6 between 25,000 and 30,000 cars and vehicles travel per day in the summer. There are over a hundred curb cuts along this stretch of Route 6. Those curb cuts force motorists into dangerous situations and they segment the businesses from each other along this corridor.

Along the same stretch of highway there are zero sidewalks on the east side of Route 6, which is where the majority of the businesses are located. There are also zero accommodations for ADA -- that would meet ADA compliance along this stretch of highway.

There were over 100 crashes reported between 2012 and 2014 along this

stretch, and there have been three fatalities with one near-fatality that just happened a few weeks ago at the end of the summer.

In addition, the community has realized that our current bylaw does not contain regulations or guidelines that promote consistent architectural design. Our bylaw doesn't currently incentivize a creation of affordable housing, and it doesn't really require appropriate traffic or safety accommodations in new developments and new proposals.

As a result, Eastham has not been able to establish the type of vibrant village center that supports local businesses and serves as an anchor like so many other Cape communities.

It's important to note that Route 6 is a major regional and federal highway, but it's also Eastham's Main Street. We don't have a village center located off the highway like other communities do. So, this is our Main Street and it's really -- traffic -- the traffic situation really impacts daily life and especially in the summer. People coordinate their lives around traffic patterns on Route 6.

So as a result, we have not been able to diversify our housing stock through our zoning. We have -- our affordable housing levels have been stagnant over the last several years. We're just about at 2 percent out of the required 10 percent mandated by the state. And, really, what we've seen is the cumulative traffic impacts of previous developments have started to catch up, and it really worsened the traffic safety situation along Route 6. And we just feel that a DCPC would allow the town to look at this stretch comprehensively and address a variety of issues.

And to the point made by -- just a minute ago, it's going to take significant coordination between the Town and working closely with the Cape Cod Commission and MassDOT to really address the severe traffic situation along Route 6. So, our goal with the DCPC, it's not going to solve the traffic situation on its own, but we feel that the DCPC will allow the Town to get our house in order, look at our zoning bylaws, and do everything that we possibly can within the parameters that we control to set the groundwork for appropriate development. And we hope that that will really give us some strong leverage with MassDOT to have some meaningful and serious conversations about, you know, meeting us halfway, if you will, to talk about what they can do to help us address Route 6.

And that's really at the crux of the DCPC designation is to really look comprehensively at all these factors and really create a village center-style development and improve traffic safety in something -- an area that Eastham can be proud of and will meet our needs for the future.

So, we look for your support and I'm happy to answer any questions. Thank you.

Speaker MCAULIFFE: Thank you, Paul. Yes, Susan.

Ms. MORAN: So just looking comprehensively, I mean there are so many interesting issues. Falmouth being, you know, kind of the speedway to the steamship and the Vineyard, there are a lot of parallels. And I'm thinking to myself here, you know, Eastham is just sort of -- it's a beautiful place, love going there. I often have to force myself to keep my eyes on the road because the

scenery is so beautiful.

But I'm also now thinking I'm not really going to go to Provincetown anymore. I mean it's kind of interesting that when you have a gateway role in the island of Cape Cod, you know, how that works out. And I'm just curious, you know, and, Sharon, in your experience, what do you expect in terms of the effects on say Provincetown or areas, you know, since we really are talking about a main thoroughfare?

Ms. SHARON ROONEY: Well, I think ultimately if users of the roadway can, you know, be safer and proceed both to stay in Eastham and then to continue on, I don't think that that will hurt Eastham -- I mean Eastham/Provincetown ultimately. I think their goal is to improve safety, perhaps get people to slow down, travel more safely, avoid crashes and accidents. I mean I think if it continues to be unsafe that could discourage more people from using the roadway and proceeding to other towns on the Lower Cape. So, it will have an effect.

Anyway, I would like to note that part of our effort with this will be -- our transportation staff is going to be preparing a traffic model, transportation model for the district. That is going to take a significant amount of time, but it is going to allow us to look at different land use scenarios, future development scenarios, and how the roadway configuration may change and vice versa. So, thanks.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: Yes, I'm going to bring up the elephant in the room, but that old golf driving range is sitting right there; isn't it?

Ms. SHARON ROONEY: Yes.

Mr. BERGSTROM: And it's been a bone of contention in the past. But there hasn't been any negative feedback from potential developers and stuff or legal action or am I being optimistic?

Mr. PAUL LAGG: That property is currently -- there was a 40B affordable housing development proposed there. The zoning board denied that permit, but it's currently under appeal. And there's not too much I can say on it at this point. But it's under appeal and --

Mr. BERGSTROM: Will that be affected -- does the creation of a DCPC affect -- but see, local regulations can be overcome by a 40B. Can the Cape Cod Commission's regulations be 40B (Indiscernible)?

Ms. SHARON ROONEY: No, it wouldn't.

Mr. BERGSTROM: It wouldn't affect it?

Ms. SHARON ROONEY: It wouldn't affect a 40B, no.

Mr. BERGSTROM: So it's just a matter then of traffic patterns and road cuts and so on. I'm just looking at, you know, I follow Eastham a little bit so I know what's going on up there.

Mr. PAUL LAGG: I think it's worth noting that we have this 40B proposed at the former driving range.

Mr. BERGSTROM: Right.

Mr. PAUL LAGG: The town also owns a 10-acre site right down the street, right in the heart of this proposed district, which a 65-unit affordable housing development has been permitted. And, you know, we're just waiting for

the financing to come together.

So, this area is going to have an influx of resident -- affordable residential which is greatly needed. But, you know, my belief is that really just bolsters the need to look at this comprehensively, improve the safety. You know, we want to have a vibrant area where people can walk across the street, go to the local shops and just feel like you belong out there on a bike or walking because, you know, if you go out there now, you just, you know, I've done it myself; you just feel like you have no business being out there unless you're in a car.

This is our Main Street as well as Route 6, and this is our major commercial village center area so.

Mr. BERGSTROM: This is all good but I was involved, as you probably know, a little bit in transportation on the RTA, and I've always -- and also in my town of Chatham, and going to what Patrick said and a little bit about what Susan said, is sometimes expanding -- improving the infrastructure simply results in more people deciding to make that trip. So, you're ramping it up to the next level like, for instance, she said, "Well, I wouldn't go to Provincetown because it's too crowded." But now I'm saying, "Well, now I'll go because they just changed the road and made it easier."

I'm just being the skunk at the picnic here, but I think this is a good idea. And, certainly, we need some improvements, especially the safety improvements in some of those areas.

Ms. SHARON ROONEY: If I could just briefly respond. The town -- their goal is to encourage mixed-use development, and numerous studies have shown that there's a lot of interaction between residential and commercial.

So, rather than increasing and providing businesses for more traffic, hopefully, those uses interact and people get out of their cars and walk around rather than just increasing more cars.

Speaker MCAULIFFE: Yes, Linda.

Ms. ZUERN: Thank you, Madam Speaker. I just wanted to make a comment, first of all, of not having the 10 percent required by the state for affordable housing.

I talked to somebody who was involved in creating that 40B log years and years ago, and he said the formula was set up so that towns would never reach that 10 percent. So, it's impossible for any of our towns to reach it. I just wanted to make that statement.

And then I also went on Google Maps and looked at some of the businesses in the area that you're talking about. And, to me, they look like wonderful businesses and they're not too high; they're not too commercialized as far as I could see. And I didn't know what the real problem was by just riding down those roads and seeing the types of businesses that I saw.

And you also were talking about appropriate businesses. So, what does that mean, "appropriate"?

And then my other question is can't the town do this without going through a DCPC? Can't you work with the state on the roads? Can't you work with the Planning Board to change your zoning and do this without a DCPC?

Thank you.

MR. PAUL LAGG: Well, a major benefit from the DCPC is the temporary moratorium, and there's no doubt that was a major reason why the selectmen voted to move forward because we have seen, as I mentioned earlier, several proposals, some of which were not favorably looked upon and caused some community concern about what the future of Eastham was and community character issues.

So, just from a practical process standpoint, the DCPC has allowed us to have this moratorium so that we could, you know, gather our resources and assess our zoning. So, I don't think we could -- it would be a lot harder to do that without the DCPC and having this moratorium. It's given us some breathing room.

But, actually, I think it has sort of been a catalyst for the community. We haven't had no negative feedback towards this, and I think that the community sees this as an opportunity to get serious. I mean we have not been idle over the years in trying to make improvements. Traffic safety is a paramount concern for any proposal that comes before the planning and zoning board, whether it's a mom and pop store or a large development.

But without the proper tools, without the proper zoning, the Planning Board can only do so much. As I mentioned, our zoning bylaws are very lax in what we can require. We don't have strong requirements for improving traffic safety. So, it's really on a case-by-case basis the planning board trying to work with applicants on proposals to try to get the best possible result.

But I think it helps the Town; it also helps make it easier on potential developers when we have zoning in place that lays out clearly what you can and what you can't do, what should be encouraged, and that comes to requirements through design guidelines because it just makes it more palatable for a developer to come in in Eastham and say, "I want to do something in Eastham, and I know if I follow the bylaw, you know, there's less ambiguity, less gray area." And, again, that's trying to seek a balance between protecting the community character but also trying to invest in the future of what kind of developments are appropriate for Eastham.

We, obviously, want to protect our local business and the community character, sort of the level of commercial activity in town, but we realize that, you know, we need to diversify. I think the water project and wastewater is right behind it. When you realize that there's going to be significant infrastructure involved in that and significant issues, significant issues on the tax base.

And so, I think this is also trying to be proactive about can we encourage and incentivize, create the framework for new types of commercial development, new types of businesses that might be appropriate to fit in the context of Eastham, complement existing businesses. So, this is all part of a larger plan, just look comprehensively.

Ms. ZUERN: Okay. And I asked about what you considered appropriate businesses?

MR. PAUL LAGG: We recently, as part of this overall effort, we recently had the Urban Land Institute, which is a nonprofit organization come down to Eastham and do sort of a one-day intensive workshop with us and to analyze our

assets and the pros and cons of Eastham to assess like where -- what's the development potential, what's the investment potential? Who would want to locate in Eastham?

And what we're really trying to see is could we -- could Eastham be a community where I guess I would say industries that complement the local economy. So maritime industries, research industries, things that would complement the seasonal tourist industry but also, you know, I can't tell you specifically what types but just certainly appropriate -- well, I'm not sure if I'm getting --

Speaker MCAULIFFE: You know it when it comes along.

MR. PAUL LAGG: It's sort of -- yes.

Ms. ZUERN: If I could just make one more statement? I know that the Planning Board can set height limits and areas and, you know, buffer zones and things like that. So sometimes I think that that is probably an easier thing to do than try to keep out certain kinds of businesses, whether you don't want box stores or you don't want, you know, whatever it is that if you set the right regulations to begin with, then you're actually controlling that kind of business.

But to say that there are some appropriate businesses, I think sometimes that's getting into discrimination then but --

MR. PAUL LAGG: Yes, I guess the way I would describe it is we actually want to have zoning in place that would allow property owners and developers to have more flexibility and to be able to use their property more creatively and have more options. Because the zoning, in some ways, we don't have a lot of control over things like architectural design and site design, but in other ways we have strict setback requirements that really limit -- we have a hundred foot setback off Route 6. So, right off the bat, your development envelope is severely impacted. And that limits what you can do. That limits the type of design -- type of building you can design, your parking design, and so those are the things we want to look at so that we actually incentivize and create and make it easier for folks to have more flexibility in exchange for things like design guidelines.

So, it's a give-and-take, and that's what we want to have. You know, we want to be able to give folks more latitude in what they can do with their property in exchange for knowing that we can get a design that will reflect the community character of Eastham. And, hopefully, that will attract the types of businesses that will complement what we already have in Eastham.

So, yes, we certainly can't control the types of businesses, but I think we set the groundwork for what we think will work in Eastham and go from there.

Ms. ZUERN: And I think a couple of other members have already said that when you start growing, then you do have other problems. And if you're going to start bringing more affordable housing in and more businesses in a mixed-use, you will end up having to have a wastewater treatment system as well.

MR. PAUL LAGG: Yes.

Ms. ZUERN: Sometimes those things get more expensive as you're expanding.

MR. PAUL LAGG: Yes. I mean, again, this was spurred. We realized after the water was available on Route 6 that we started seeing an increase in the proposals and people want to use their property now; they see the potential. And so, we realize this is going to happen. We need to -- developments going to happen, we need to get ahead of it as best we can. So, it's certainly -- this is an area we want to encourage some affordable housing, you know, more housing and along with that comes the appropriate infrastructure needed.

Speaker MCAULIFFE: Ed.

Mr. MCMANUS: Yes, I think in Eastham's efforts, I applaud them in attempting to get a handle on providing affordable housing and those comments on the 40B program. Currently, in Massachusetts 51 communities have exceeded the 10 percent cap. Some 190 municipalities that are within 150 units of getting to the 10 percent cap; another 38 communities are either at 8 percent or 9 percent of the 10 percent threshold. And another 70 communities that are at 6 percent. So, I think most -- many communities have met it. Some are within a unit's away of striking it by probably the end of 2019 over 250 communities out of the 300 and -- how many in Massachusetts?

Mr. PAUL LAGG: Fifty-one.

Speaker MCAULIFFE: Fifty-one.

Mr. MCMANUS: Three hundred and fifty will have met the 10 percent cap. So, to say that it was a cap -- a limit set that nobody could ever achieve is improper. It's one that many communities are very likely to achieve within a year or two.

Speaker MCAULIFFE: Thank you. Edward, on the speakerphone, are you wanting to speak?

Mr. ATWOOD: Yes, actually, I do. Please.

Speaker MCAULIFFE: Okay. Edward Atwood. Go ahead.

Mr. ATWOOD: Thank you. I just want to take this time to thank Sharon from the Cape Cod Commission and, finally, Paul Lagg, our town planner. I think it's no secret to anyone who's lived in Eastham for quite a while that planning in Eastham in terms of zoning has not necessarily been very active. We've kind of have been behind the 8-ball.

So, I'm totally in support of this. I definitely ask that my fellow Delegates support this also. It will give Eastham the time that we need to allow our Town to grow in a way that our community desires it to.

So that's, again, thank you, very much, for being here and for your thorough presentation.

Speaker MCAULIFFE: Thank you. I do have Aimee Eckman, who has signed up, Selectmen from Eastham. Welcome.

Ms. AIMEE ECKMAN: Thank you, Madam Speaker. I really can't add too much to what was already presented to you. They pretty much hit every category.

But one thing that really hits me is the safety, and it's been brought up a couple different angles, and I think one of our main focuses is to look at this area comprehensively because right now when a developer comes in and wants to put

whether it's housing or anything else, it's usually not enough to trigger a traffic study.

But you add all these up and that's why we're kind of in the mess we are now with Route 6 is a lot of these places haven't tripped, you know, traffic safety studies and things like that.

So, I think looking at it comprehensively, we have a lot of properties in Eastham that were developed maybe in the 50s and 60s that really are looking maybe to change and do something new.

Well, there's some big parcels up there. So, we really have to look at what are all the impacts of buildout in Eastham. Because, right now, there's some campgrounds in there; what if they were to sell and buildout, put some large-scale development in there? What would those impacts be? So, we really have to look at the whole thing.

And support for this was brought up. Yes, you said the DCPCs have usually seen some sort of controversy and opposition and that this was rare to see this, you know, coming from Eastham that there's no opposition. Well, you don't know how rare that is for Eastham in general. I think most of our big projects in Eastham have been very polarizing in town. This is very unique. We have zero opposition.

So, I really encourage everyone to support this and let us move forward and get something really good, good on the books for us, and make it safe for everyone to come visit and pass through and enjoy Eastham.

Thank you.

Speaker MCAULIFFE: Thank you. Is there anyone else who hasn't signed up who wanted to speak on this? Any further questions from the Delegates? All right.

Then the Public Hearing is now closed for Proposed Ordinance 17-13, the proposed Eastham District of Critical Planning Concern.

Speaker MCAULIFFE: Our last item before we are -- before the Assembly convenes is we have an item for anyone from the public who wishes to address the Assembly on any general matter or any matter coming up? Seeing none.

Assembly Convenes

Summary: Proposed Ordinance 17-13 – CCC proposed Eastham District of critical Planning Concern (DCPC)

- Assembly votes to adopt Proposed Ordinance 17-13 – becomes Ordinance 17-12 (submitted to the County Commissioners as Ordinance 17-12 for approval or rejection).

Proposed Ordinance 17-13:

To establish a District of Critical Planning Concern pursuant to the Cape Cod Commission Act in Eastham, Massachusetts.

BARNSTABLE COUNTY hereby ordains:

Section 1.0 Source of Authority/Qualification

As authorized by Section 10 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, the Cape Cod Commission (“Commission”) hereby proposes the Town of Eastham District, hereinafter described, for designation as a District of Critical Planning Concern (“District” or “DCPC”). The designation of this District was nominated by the Eastham Board of Selectmen.

The proposed Town of Eastham District qualifies under Section 10(a) of the Cape Cod Commission Act for proposed designation as a DCPC due to the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.

Section 2.0 Effective Date

The District of Critical Concern set forth herein shall be effective following passage as an ordinance and upon recording of the ordinance with the Barnstable County Registry of Deeds.

Section 3.0 Description of the Proposed District

The proposed boundary of the District of Critical Planning Concern (hereinafter “DCPC”) encompasses commercially zoned land in the Town of Eastham, including District C Industrial, District D Retail Sales and Service, and District E Residential/Limited Commercial, and all land within the North Eastham Overlay District bounded on the north by the Eastham/Wellfleet Town boundary, to the south by Old Orchard Road, to the east by the Cape Cod Rail Trail, and to the west by Herring Brook Road and Massasoit Road. The proposed District consists of approximately 280 acres of land area and approximately 2.9 acres of open water. A map of the proposed District is appended to this Decision as Exhibit “B”. Included within the overall district are approximately 0.46 acres of land owned by the Commonwealth of Massachusetts – Cape Cod Rail Trail, a 10-acre parcel owned by the Town of Eastham, and U.S. Route 6 state highway right-of-way.

Section 4.0 Types of Districts

The Eastham DCPC is designated for the following types of districts:

1. Economic or Development Resource District
2. Affordable Housing Resource District
3. Transportation Management District

Section 4.1 Reasons for the District’s Designation

The area designated as a DCPC by this decision is of critical concern to the region because of the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.

The potential for uncontrolled or inappropriate development exists within the District. The proposed District is bisected by a four-lane undivided highway with multiple curb cuts and higher traffic volumes than other sections of U.S. Route 6. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial development proposals whose layout and design could be improved with adequate regulatory

controls. Implementing regulations will allow the Town to provide the regulations desired by the community and ensure that this local economic center will grow in a way that existing infrastructure can support.

The Commission finds that the proposed district will preserve and maintain values and resources intended to be protected by the Act. The Commission specifically finds that controlled development within the proposed Town of Eastham District is important for the protection of coastal water quality; balanced economic growth; the provision of adequate capital facilities, including transportation and water supply; the coordination of the provision of adequate capital facilities with the achievement of other goals; the development of an adequate supply of fair affordable housing; and the preservation of architectural values. The Commission finds that there are planning and regulatory tools available which are likely to be effective in protecting or otherwise meeting the objectives of the District and that current regulatory mechanisms are not in place to control growth and development in a manner that would appropriately manage and protect the resources within the proposed District.

The Commission makes the following additional findings regarding the critical concerns in the proposed District:

4.1.1 Water Resources

The southeasterly portion of the proposed District lies within the contributing area to the Salt Pond sub-embayment, within the Nauset Harbor watershed. According to the Final Massachusetts Estuary Project (“MEP”) Technical Report for Nauset Harbor, the Salt Pond sub-embayment watershed requires significant nitrogen removal (i.e. removal of 100% of the septic load). An approved Total Maximum Daily Load (“TMDL”) report, currently in progress, will require nitrogen reductions in the Salt Pond sub-embayment. Reductions in nitrogen loading within the watershed could be targeted to both development and redevelopment.

Stormwater management retrofits or installations of best management practices (“BMPs”) within the District that treat for nitrogen would reduce nitrogen loading to Salt Pond and greater Nauset watershed. Additionally, minimizing turf (i.e. fertilizer application), impervious surfaces (i.e. generation of stormwater runoff), and inadequately treated wastewater discharges within the Nauset Marsh watershed would help mitigate any increase in nitrogen load to the already-impaired embayments.

4.1.2 Economic Resources

The proposed District is the Town’s core commercial area and is primarily zoned for general business use, which allows a variety of retail, accommodations, and other commercial uses. The Town has invested considerable funds into the proposed District by authorizing the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town. The advantage to developing the area in a controlled manner include addressing the

impact of future growth on the character of the community.

4.1.3 Provision of Adequate Capital Facilities

The proposed District is bisected by U.S. Route 6, a Federal/State highway that serves as the major travel corridor to the Outer Cape towns of Wellfleet, Truro and Provincetown with average summer daily traffic volumes of approximately 25,000 - 30,000 vehicles/day. Average summer daily traffic volumes on Route 6 at the Wellfleet/Truro town line average 14,000 vehicles/day, and 12,000 vehicles/day at the Truro/Provincetown town line. Summer traffic congestion and safety on Route 6 impacts both residents and visitors daily. The Eastham section of Route 6 consists of a four-lane cross-section with 12-foot vehicle lanes and a 5-foot sidewalk on the west side of the roadway. There are no sidewalks on the east side of the roadway where most of the businesses and numerous curb cuts are located. There are approximately 100 curb cuts along the approximately 2.5-mile section of Route 6 within the proposed District.

The corridor lacks sufficient bicycle and pedestrian accommodations, and has not received upgrades to mitigate traffic volumes, safety issues, and stormwater runoff. As a state highway, Route 6 is under the jurisdiction of the Massachusetts Department of Transportation (“MassDOT”) and the Town lacks the capacity and the regulatory framework to implement comprehensive improvements to the roadway.

In 2015, Eastham Town Meeting authorized the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town.

4.1.4 Provision of Adequate Supply of Fair Affordable Housing

The availability of public transit provided by the Cape Cod Regional Transit Authority (“CCRTA”) Flex bus, coupled with the proximity of commercial and retail services along Route 6 and the availability of town water, makes the proposed District an appropriate location for affordable housing. The Town is seeking to diversify its housing stock by promoting mixed- use/village style development. This type of development will provide additional opportunities to accommodate appropriately designed residential units at higher densities, which is a vital component in making the development of affordable housing economically viable within the District.

4.1.5 Preservation of Architectural Values and Appropriate Site Design

In 2014, the Town approved overlay zoning within the proposed District to encourage mixed-use development in a traditional village-style development pattern. The overlay zoning has not yielded any new mixed-use development and the bylaw has not been effective in producing the form and type of development desired by the Town. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial

development proposals whose impacts, layout and design could be improved with adequate regulatory controls.

Section 5.0 Guidelines for Proposed Implementing Regulations

The following guidelines shall serve as the basis for the future establishment of implementing regulations to be adopted by the Town of Eastham pursuant to Section 11 of the Cape Cod Commission Act. In order for the implementing regulations to be approved, they must be found by the Commission to be consistent with the following guidelines.

Section 5.1 Goals and Interests

The objective of these Guidelines is to ensure protection of the following goals and interests of the District through the establishment of implementing regulations by the Town of Eastham. The goals and interests of the District are to:

Enhance and protect the character of Eastham's commercial areas.

Encourage mixed-use development.

Support and enhance the local economy in North Eastham.

Improve bicyclist and pedestrian safety and access along the Route 6 corridor.

Minimize traffic conflicts and improve access management throughout the District.

Expand opportunities for creation of affordable housing.

Adopt best management practices to manage nutrients discharged through stormwater within the District.

Support appropriate-scale businesses, as well as compatible public/private institutional uses and maritime uses.

Section 5.2 Guidelines

5.2.1 The town could consider adopting appropriate site layout and design standards to achieve traditional village style development.

Eastham's underlying zoning regulations, including dimensional requirements discourage the compact development form desired by the town in this area.

Allowing smaller lot sizes would encourage creation of a higher density village-style design. Reduced setbacks would facilitate improved site design, by allowing buildings to be closer to the street and encouraging parking to be located behind buildings, thereby promoting village character and pedestrian accessibility

The town could develop design guidelines or standards to encourage building and site design that promotes a mix of uses consistent with traditional village style development. The town could adopt building size limits based on the size and scale of existing structures and traditional village style form.

5.2.2 The town could adopt regulations to encourage creation of a range of affordable housing.

The town could examine existing regulations to encourage a range of appropriately designed affordable housing to meet a range of housing needs.

The town could develop design guidelines or standards to encourage higher density housing consistent with traditional village style residential design.

The town could consider adopting inclusionary zoning that could require new development to provide affordable dwelling units.

The town could consider encouraging creation of affordable accessory units by creating incentives for property owners to add them, such as a by-right allowance.

The Town could review its zoning bylaw and revise it as necessary to incorporate design requirements or guidelines to assist property owners in designing accessory units that would match the existing character of surrounding neighborhoods. Consideration of the adoption of design guidelines could be considered part of a minimum criteria for allowing accessory apartments by-right.

5.2.3 Development and redevelopment in the District could incorporate best management practices (Low Impact Development) to reduce stormwater impacts to resources.

New development and redevelopment may increase stormwater impacts to water resources. The town could adopt Best Management practices that are consistent with model LID bylaws.

5.2.4 Development and redevelopment should promote interconnectivity between properties to improve access for bicyclists, pedestrians, and motorists.

The town could adopt zoning and subdivision regulations to promote shared driveways, reduce curb cuts, and enhance circulation between sites.

5.2.5 The Town may consider working with the Cape Cod Commission and MassDOT to develop a transportation management plan to address the deficiencies on U.S. Route 6, including adequate pedestrian and bicycle accommodations, access management, intersection safety as well as safety along the corridor.

In addition, the transportation management plan will include a Cape Cod Commission corridor study of Route 6 to determine the best type of roadway system for Eastham (e.g., center turn lanes, a boulevard-type design, traffic signals, etc.). The Cape Cod Commission study is expected to be completed in the fall of 2018.

After concept-level plans have been developed and consensus has been reached on the best plan to move forward, the Town of Eastham, the Cape Cod Commission and MassDOT should work together to implement the design plans. The town may then amend or adopt its implementing regulations based on the results of the study.

Section 5.4 Review of Developments of Regional Impact (DRI) within the DCPC

The regulations adopted pursuant to these Guidelines in no way alter the process for the referral and review of Developments of Regional Impact according to the Act and Regulations of the Cape Cod Commission.

Section 5.5 Timeframe for Action

The Town of Eastham has one year from the date of the enactment of an ordinance by the Assembly of Delegates establishing the Eastham DCPC to adopt and incorporate implementing regulations that are consistent with the Cape Cod Commission guidelines into its official bylaws, regulations and maps. The Cape Cod Commission may grant an additional ninety-day extension of this time limit and may carry forward implementing regulations on the Town's behalf as provided by Section 11 of the Cape Cod Commission Act.

Details

Speaker MCAULIFFE: The Assembly will convene. We will go right into

a vote on Proposed Ordinance 17-13. As I said, the Cape Cod Commission proposed Eastham District of Critical Planning Concern, DCPC.

Are there any -- yes, I'll go to Ed and then Ron. Could I have a motion to put this on the floor?

Mr. MCMANUS: Well, Madam Speaker, that's what I was seeking to -- I'd like to make a motion that the Assembly of Delegates adopt Proposed Ordinance 17-13 to establish a District of Critical Planning Concern pursuant to the Cape Cod Commission Act in Eastham, Massachusetts.

Mr. BERGSTROM: Second.

Speaker MCAULIFFE: And then there's a second.

Speaker MCAULIFFE: Okay. Any further discussion? I would be remiss if I didn't weigh in briefly for the town of Yarmouth. We are the Route 28 thru way with the 1950s development, and we have had Growth Incentive Zones and DCPCs, but there's no way to get your arms around things when they happen piecemeal. You really do need to take a deep breath, take a look, and see what's happening. And the Town has benefited greatly from working with the Cape Cod Commission in using the Commission's resources to help try and get -- to improve the Town. And there's no way an individual town could do it on its own.

So, I applaud Eastham for taking advantage of the Commission.

So, we will have a roll call vote.

Roll Call to vote on Proposed Ordinance 17-13

Roll Call voting "yes" (80.64%): Edward Atwood (2.30% - Eastham- remote participation), Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Edward McManus (5.67% - Harwich), Susan Moran (14.61% - Falmouth), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Absent (19.36%): Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), Deborah McCutcheon (0.93% - Truro), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown).

Clerk O'CONNELL: Madam Speaker, Proposed Ordinance 17-13 passes with 80.64 percent of the Delegates voting yes; 19.36 percent absent, now known as Ordinance 17-12.

Ordinance 17-12:

To establish a District of Critical Planning Concern pursuant to the Cape Cod Commission Act in Eastham, Massachusetts.

BARNSTABLE COUNTY hereby ordains:

Section 1.0 Source of Authority/Qualification

As authorized by Section 10 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended. the Cape Cod Commission ("Commission") hereby

proposes the Town of Eastham District, hereinafter described, for designation as a District of Critical Planning Concern (“District” or “DCPC”). The designation of this District was nominated by the Eastham Board of Selectmen.

The proposed Town of Eastham District qualifies under Section 10(a) of the Cape Cod Commission Act for proposed designation as a DCPC due to the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.

Section 2.0 Effective Date

The District of Critical Concern set forth herein shall be effective following passage as an ordinance and upon recording of the ordinance with the Barnstable County Registry of Deeds.

Section 3.0 Description of the Proposed District

The proposed boundary of the District of Critical Planning Concern (hereinafter “DCPC”) encompasses commercially zoned land in the Town of Eastham, including District C Industrial, District D Retail Sales and Service, and District E Residential/Limited Commercial, and all land within the North Eastham Overlay District bounded on the north by the Eastham/Wellfleet Town boundary, to the south by Old Orchard Road, to the east by the Cape Cod Rail Trail, and to the west by Herring Brook Road and Massasoit Road. The proposed District consists of approximately 280 acres of land area and approximately 2.9 acres of open water.

A map of the proposed District is appended to this Decision as Exhibit “B”.

Included within the overall district are approximately 0.46 acres of land owned by the Commonwealth of Massachusetts – Cape Cod Rail Trail, a 10-acre parcel owned by the Town of Eastham, and U.S. Route 6 state highway right-of-way.

Section 4.0 Types of Districts

The Eastham DCPC is designated for the following types of districts:

4. Economic or Development Resource District
5. Affordable Housing Resource District
6. Transportation Management District

Section 4.1 Reasons for the District’s Designation

The area designated as a DCPC by this decision is of critical concern to the region because of the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.

The potential for uncontrolled or inappropriate development exists within the District. The proposed District is bisected by a four-lane undivided highway with multiple curb cuts and higher traffic volumes than other sections of U.S. Route 6. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial development proposals whose layout and design could be improved with adequate regulatory controls. Implementing regulations will allow the Town to provide the regulations desired by the community and ensure that this local economic center will grow in a way that existing infrastructure can support.

The Commission finds that the proposed district will preserve and maintain values and resources intended to be protected by the Act. The Commission specifically finds that controlled development within the proposed Town of Eastham District is important for the protection of coastal water quality; balanced economic growth; the provision of adequate capital facilities, including transportation and water supply; the coordination of the provision of adequate capital facilities with the achievement of other goals; the development of an adequate supply of fair affordable housing; and the preservation of architectural values. The Commission finds that there are planning and regulatory tools available which are likely to be effective in protecting or otherwise meeting the objectives of the District and that current regulatory mechanisms are not in place to control growth and development in a manner that would appropriately manage and protect the resources within the proposed District.

The Commission makes the following additional findings regarding the critical concerns in the proposed District:

4.1.1 Water Resources

The southeasterly portion of the proposed District lies within the contributing area to the Salt Pond sub-embayment, within the Nauset Harbor watershed. According to the Final Massachusetts Estuary Project (“MEP”) Technical Report for Nauset Harbor, the Salt Pond sub-embayment watershed requires significant nitrogen removal (i.e. removal of 100% of the septic load). An approved Total Maximum Daily Load (“TMDL”) report, currently in progress, will require nitrogen reductions in the Salt Pond sub-embayment. Reductions in nitrogen loading within the watershed could be targeted to both development and redevelopment.

Stormwater management retrofits or installations of best management practices (“BMPs”) within the District that treat for nitrogen would reduce nitrogen loading to Salt Pond and greater Nauset watershed. Additionally, minimizing turf (i.e. fertilizer application), impervious surfaces (i.e. generation of stormwater runoff), and inadequately treated wastewater discharges within the Nauset Marsh watershed would help mitigate any increase in nitrogen load to the already-impaired embayments.

4.1.2 Economic Resources

The proposed District is the Town’s core commercial area and is primarily zoned for general business use, which allows a variety of retail, accommodations, and other commercial uses. The Town has invested considerable funds into the proposed District by authorizing the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town. The advantage to developing the area in a controlled manner include addressing the impact of future growth on the character of the community.

4.1.3 Provision of Adequate Capital Facilities

The proposed District is bisected by U.S. Route 6, a Federal/State highway that serves as the major travel corridor to the Outer Cape towns of Wellfleet, Truro and Provincetown with average summer daily traffic volumes of approximately 25,000 - 30,000 vehicles/day. Average summer daily traffic volumes on Route 6 at the Wellfleet/Truro town line average 14,000 vehicles/day, and 12,000 vehicles/day at the Truro/Provincetown town line. Summer traffic congestion and safety on Route 6 impacts both residents and visitors daily. The Eastham section of Route 6 consists of a four-lane cross-section with 12-foot vehicle lanes and a 5-foot sidewalk on the west side of the roadway. There are no sidewalks on the east side of the roadway where most of the businesses and numerous curb cuts are located. There are approximately 100 curb cuts along the approximately 2.5-mile section of Route 6 within the proposed District.

The corridor lacks sufficient bicycle and pedestrian accommodations, and has not received upgrades to mitigate traffic volumes, safety issues, and stormwater runoff. As a state highway, Route 6 is under the jurisdiction of the Massachusetts Department of Transportation (“MassDOT”) and the Town lacks the capacity and the regulatory framework to implement comprehensive improvements to the roadway.

In 2015, Eastham Town Meeting authorized the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town.

4.1.4 Provision of Adequate Supply of Fair Affordable Housing

The availability of public transit provided by the Cape Cod Regional Transit Authority (“CCRTA”) Flex bus, coupled with the proximity of commercial and retail services along Route 6 and the availability of town water, makes the proposed District an appropriate location for affordable housing. The Town is seeking to diversify its housing stock by promoting mixed- use/village style development. This type of development will provide additional opportunities to accommodate appropriately designed residential units at higher densities, which is a vital component in making the development of affordable housing economically viable within the District.

4.1.5 Preservation of Architectural Values and Appropriate Site Design

In 2014, the Town approved overlay zoning within the proposed District to encourage mixed-use development in a traditional village-style development pattern. The overlay zoning has not yielded any new mixed-use development and the bylaw has not been effective in producing the form and type of development desired by the Town. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial development proposals whose impacts, layout and design could be improved with adequate regulatory controls.

Section 5.0 Guidelines for Proposed Implementing Regulations

The following guidelines shall serve as the basis for the future establishment of implementing regulations to be adopted by the Town of Eastham pursuant to Section 11 of the Cape Cod Commission Act. In order for the implementing regulations to be approved, they must be found by the Commission to be consistent with the following guidelines.

Section 5.1 Goals and Interests

The objective of these Guidelines is to ensure protection of the following goals and interests of the District through the establishment of implementing regulations by the Town of Eastham. The goals and interests of the District are to:

Enhance and protect the character of Eastham’s commercial areas.

Encourage mixed-use development.

Support and enhance the local economy in North Eastham.

Improve bicyclist and pedestrian safety and access along the Route 6 corridor.

Minimize traffic conflicts and improve access management throughout the District.

Expand opportunities for creation of affordable housing.

Adopt best management practices to manage nutrients discharged through stormwater within the District.

Support appropriate-scale businesses, as well as compatible public/private institutional uses and maritime uses.

Section 5.2 Guidelines

5.2.1 The town could consider adopting appropriate site layout and design standards to achieve traditional village style development.

Eastham's underlying zoning regulations, including dimensional requirements discourage the compact development form desired by the town in this area.

Allowing smaller lot sizes would encourage creation of a higher density village-style design. Reduced setbacks would facilitate improved site design, by allowing buildings to be closer to the street and encouraging parking to be located behind buildings, thereby promoting village character and pedestrian accessibility

The town could develop design guidelines or standards to encourage building and site design that promotes a mix of uses consistent with traditional village style development. The town could adopt building size limits based on the size and scale of existing structures and traditional village style form.

5.2.2 The town could adopt regulations to encourage creation of a range of affordable housing.

The town could examine existing regulations to encourage a range of appropriately designed affordable housing to meet a range of housing needs.

The town could develop design guidelines or standards to encourage higher density housing consistent with traditional village style residential design.

The town could consider adopting inclusionary zoning that could require new development to provide affordable dwelling units.

The town could consider encouraging creation of affordable accessory units by creating incentives for property owners to add them, such as a by-right allowance.

The Town could review its zoning bylaw and revise it as necessary to incorporate design requirements or guidelines to assist property owners in designing accessory units that would match the existing character of surrounding neighborhoods.

Consideration of the adoption of design guidelines could be considered part of a minimum criteria for allowing accessory apartments by-right.

5.2.3 Development and redevelopment in the District could incorporate best management practices (Low Impact Development) to reduce stormwater impacts to resources.

New development and redevelopment may increase stormwater impacts to water resources. The town could adopt Best Management practices that are consistent with model LID bylaws.

5.2.4 Development and redevelopment should promote interconnectivity between properties to improve access for bicyclists, pedestrians, and motorists.

The town could adopt zoning and subdivision regulations to promote shared driveways, reduce curb cuts, and enhance circulation between sites.

5.2.5 The Town may consider working with the Cape Cod Commission and MassDOT to develop a transportation management plan to address the deficiencies on U.S. Route 6, including adequate pedestrian and bicycle accommodations, access management, intersection safety as well as safety along the corridor.

In addition, the transportation management plan will include a Cape Cod Commission corridor study of Route 6 to determine the best type of roadway system for Eastham (e.g., center turn lanes, a boulevard-type design, traffic signals, etc.). The Cape Cod Commission study is expected to be completed in the fall of 2018.

After concept-level plans have been developed and consensus has been reached on the best plan to move forward, the Town of Eastham, the Cape Cod Commission and MassDOT should work together to implement the design plans. The town may then amend or adopt its implementing regulations based on the results of the study.

Section 5.4 Review of Developments of Regional Impact (DRI) within the DCPC

The regulations adopted pursuant to these Guidelines in no way alter the process for the referral and review of Developments of Regional Impact according to the Act and Regulations of the Cape Cod Commission.

Section 5.5 Timeframe for Action

The Town of Eastham has one year from the date of the enactment of an ordinance by the Assembly of Delegates establishing the Eastham DCPC to adopt and incorporate implementing regulations that are consistent with the Cape Cod Commission guidelines into its official bylaws, regulations and maps. The Cape Cod Commission may grant an additional ninety-day extension of this time limit and may carry forward implementing regulations on the Town's behalf as provided by Section 11 of the Cape Cod Commission Act.

Speaker MCAULIFFE: Thank you.

Ms. AIMEE ECKMAN: Thank you, very much.

Speaker MCAULIFFE: And good luck.

Mr. PAUL LAGG: Thank you.

Speaker MCAULIFFE: We haven't had any committee meetings, so we have no committee reports.

Summary: Report from the Clerk

- Update regarding MMA registrations.
- Open Meeting Law receipts.
- Holiday Gathering on December 20, 2017.

Details

Speaker MCAULIFFE: Yes, thank you, Madam Speaker. Just briefly, I want to thank everyone for submitting their interest in attending the MMA. I have all of that in process, so there won't be any problems with getting everyone registered on time.

And I did receive, last week, several Open Meeting Law receipts. If anyone else has one and wants to turn it in, I'm accepting them.

And last, with regard to the holiday gathering on December 20, I received a lot of responses. There are still a few people who have to get back to me yet. Whether or not there's one or two people going, just let me know, and you can start paying up at any time.

So that's it. That's all I have to report today.

Summary: Other Business

- DRAFT Economic Development Council Proposed Ordinance suggested for committee input and review.
- Submission by Delegates Mary Chaffee and Brian O'Malley of Proposed Resolution 17-08 for Herring Buffer Zone.
- Submission by Delegate Ronald Bergstrom of Proposed Ordinance 17-14 to restructure Board of Commissioners from 3 to 5 members (calendar assignment January 2018).

Details

Speaker MCAULIFFE: Thank you. Under "Other Business," before we go to the resolution coming in, the Economic Development Council's ordinance that is in draft form, did the subcommittee want to meet to review this, or do you want to just have individual members -- it's up to their Chair.

Mr. MCMANUS: Well, I was going to ask after it was presented that the staff -- I don't know how you do it but plan to schedule a meeting of the Economic Development Committee at our next meeting.

Speaker MCAULIFFE: Yes. I think that would be great.

Mr. MCMANUS: Yes.

Speaker MCAULIFFE: So you can contact Janice and she'll contact, you know, pick a time, have the committee review it. And, also, any individual not on the committee can either go, you know, you'll give them directly to Leo. But this is out there as a draft and there is a solicitation for input so everybody here is encouraged to weigh in.

Yes, Susan.

Ms. MORAN: With respect to giving comments directly to Leo, I was wondering if it might be more organized if the comments came to the committee?

Speaker MCAULIFFE: That's a good point. Yes, anyone who has comments, perhaps funnel them through the committee Chairman Ed McManus, and then he can pull together an Assembly response to the ordinance. And he can present it to us and then we can, you know, go forward with a response.

But this was very similar to the Wastewater Collaborative ordinance that kind of had a lot of work put into it and a lot of consensus before it was put up for a vote.

Mr. MCMANUS: Okay.

Speaker MCAULIFFE: Okay. So, I'll leave that up to you then.

Mr. MCMANUS: Okay.

Speaker MCAULIFFE: And then under "Other Business," Mary, you had an item? Yes.

Ms. CHAFFEE: Madam Speaker, I'd like to submit a Proposed Resolution for the Assembly to consider. If adopted, it would support the establishment of a federally designated buffer zone around Cape Cod that would prohibit midwater trawlers from operating near the Cape shores.

Speaker MCAULIFFE: That's great. So, this will come on our agenda at our next meeting for a vote. And I appreciate -- yes, Mary.

Ms. CHAFFEE: And I'd also like to mention that the Delegate from Provincetown was a cosponsor.

Speaker MCAULIFFE: Yes. Dr. O'Malley helped Mary work on this. So, this is great. Thank you for bringing this forward.

Anything else? Yes, Ron.

Mr. BERGSTROM: Yes. I'd like to submit a proposed ordinance. This is a follow-up to the resolution passed by the Assembly to recommend changes in the Charter and to expand the number of County Commissioners to five and to have them vote by districts.

And, also, the ordinance only contains the actual language in it that will be placed in the Charter. Other issues, I can address them, but this is just basically language that has to be placed in the Charter. So, I'll have follow-up information coming forward on what the districts are and so on.

So, I take a minimalist view towards Charter changes. So here we go.

Speaker MCAULIFFE: Great. I think I was talking to the Clerk about this. I would like to hold a separate hearing on this because there has been a lot of interest in governmental structure as far as the County goes, and I would like to be prepared to not have it take over one of our meetings.

So, this would probably, thank you, come under governmental regulations, a subcommittee would hold a special separate hearing. And I was thinking of January because that gives us time to advertise and let people know. I don't want to be accused of sliding something in right before the holidays and people not being aware of it and being too busy to deal with it.

So, if we put this on -- if that's acceptable to you --

Mr. BERGSTROM: The more time I have to correct mistakes or omissions, the better off I'll be.

Speaker MCAULIFFE: Okay. So, this will be then for a public hearing in January, and then after that a vote of the Assembly.

Yes, Susan.

Ms. MORAN: Just particularly the interest of the League of Women Voters I think supports your concept about publicizing it. So, we appreciate that.

Speaker MCAULIFFE: Yes, Ed.

Mr. MCMANUS: With the receipt of both of these two items, again, if it's possible, can the Clerk send copies out tomorrow or the next day?

Speaker MCAULIFFE: Yes.

Clerk O'CONNELL: Yes.

Speaker MCAULIFFE: Yes.

Mr. MCMANUS: So we can begin our individual reviews.

Clerk O'CONNELL: They'll be on the website tomorrow morning too.

Mr. MCMANUS: Good. Thank you.

Clerk O'CONNELL: I put all the documents, once they've been submitted, new items that we didn't have in advance of the meeting, I put those up so.

Speaker MCAULIFFE: Yes, send them electronically, if you don't mind. Just one less step.

Clerk O'CONNELL: Yes.

Speaker MCAULIFFE: Thank you. Thank you.

Anything else?

Mr. BERGSTROM: Move to adjourn.

Speaker MCAULIFFE: We are adjourned. Thank you, very much.
Whereupon, it was moved 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 11/1/17
- Unapproved Journal of Proceedings of 10/18/17
- Fisheries/Trawlers handout
- Public Hearing Notice: Proposed Ordinance 17-13
- PowerPoint presentation from Cape Cod Commission regarding Eastham DCPC
- Proposed Ordinance 17-13

- Proposed Resolution 17-08 submitted by Delegates Chaffee and O'Malley
- Proposed Ordinance 17-14 submitted by Delegate Ronald Bergstrom