

**CAPE COD REGIONAL GOVERNMENT  
ASSEMBLY OF DELEGATES  
APPROVED Journal of Proceedings - November 19, 2014**

Speaker BERGSTROM: Good afternoon. Welcome to the November 19<sup>th</sup> session of the Cape Cod Regional Government, Assembly of Delegates.

Is anyone recording this message besides our normal recording? No.

Hearing that, I will now call the meeting to order. We'll begin with a moment of silence to honor our troops who have died in service to our country and all those serving our country in the Armed Forces.

(Moment of silence.)

Thank you.

We will now stand for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker BERGSTROM: The Clerk will call the roll.

**Roll Call (87.19%): Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), Ned Hitchcock (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee) Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Anthony Scalese (4.55% - Brewster), Julia Taylor (14.61% - Falmouth – left @ 5:25 p.m.). Absent (12.81%): Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% - Provincetown), Teresa Martin (2.30% - Eastham – arrived @ 4:10 p.m.).**

Clerk O'CONNELL: Mr. Speaker, we have a quorum with 87.19 percent of the Delegates present; 12.81 percent are absent.

**Committee of the Whole**

Speaker BERGSTROM: Okay. Thank you. You should have in front of you the Calendar of Business. Are there any additions or changes to the Calendar of Business?

Hearing none. I need a motion.

Ms. KING: So moved.

Ms. MCAULIFFE: Second.

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

(Motion carried.)

Speaker BERGSTROM: You should have also received a copy of the Journal of November 5, 2014. Are there any additions or corrections to the Journal?

Hearing none. I need a motion to approve the Journal.

Ms. KING: So moved.

Ms. MCAULIFFE: Second.

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

(Motion carried.)

Speaker BERGSTROM: Now we have two of three of our County Commissioners here to bring us up-to-date on what's going on.

And also Bill Clark who we'll hear from a little later, but have a seat.

Communications from the Board of Regional Commissioners

Commissioner FLYNN: Yes, thank you, Mr. Speaker. Good afternoon and nice to be here. In terms of a report, I would like to thank our Interim County Administrator Michael Brillhart who is providing periodic reports to you on certain activities and actions taken by the County Administrator or by the County Commissioners as well, and there's one dated November 18th. I think you've all received it. And I would say if you have any questions, Sheila and I, we'd both be happy to answer them.

Speaker BERGSTROM: Do we have any questions for the County Commissioners as everybody ruffles through their papers?

Yes, Leo.

Mr. CAKOUNES: I have a couple of questions actually, but I'll start the first one. I'll make it easy for you. On our agenda, it happens to say "Communications to discuss the Board of Regional Commissioners regarding potential purchase of property." Could you give us an update on where we stand on that?

Commissioner FLYNN: I have nothing to comment on that at this time.

Mr. CAKOUNES: Okay. Thank you. Another thing, and I apologize for a second here; I thought you were going to have a longer presentation. So bear with me while I muddle through some things.

I received communications from a young lady by the name of Jean Hamilton.

Commissioner FLYNN: Yes.

Mr. CAKOUNES: She is trying to do something with that group that is concerned about the Route 6 clearing. And she was under the impression that having been a Commissioner-elect that I was the person to contact, and I explained to her that I was not a County Commissioner yet and the County Commissioners were not part of the Cape Cod Commission. She was a little confused.

And I asked her to contact you, your department. And I told her that I would bring that forward today when you came in front of us. I have a copy of her letter. Do you have it?

Commissioner FLYNN: Actually, she came to our meeting today under public comment.

Mr. CAKOUNES: Good.

Commissioner FLYNN: And she spoke about the interest that she and a group of people have in working with the state to make significant improvements to the median strip on Route 6. She gave us a packet of information and we put it on our agenda for next week's meeting. We said we're inviting her to come again and see how we can be very helpful in moving the state forward in dealing with that issue.

Mr. CAKOUNES: Excellent. Thank you. I passed out a copy of that letter to the Delegates because I think later on in our meeting I would like to maybe -- I just have a few comments on that.

Commissioner FLYNN: And I would invite you to our meeting next week too if

you want to participate in that discussion because it will be on our agenda.

Mr. CAKOUNES: Great. Thank you. One other question I have, on November 14 on your meeting, there was a Thursday, I was actually home watching it on TV and I happen to see the beginning of it and a Ms. Argo from CVEC came up under the part of public comment. And quite frankly when she started to speak, I turned the TV off because I thought I had the wrong meeting. She was not on the agenda and to my knowledge there has not been an updated agenda so if there has, I apologize.

But having gone back that evening, I reviewed the tape when Ms. Argo had some documents that she handed in under this public comment section and the Commissioners deliberated it and I believe came to some conclusion and either signed off or made changes to a document.

So my question here today is, first of all, was that action legal because it wasn't done under an agendaed item. And Number 2, is it possible to get a copy of those documents of which she passed out during that open meeting session?

Commissioner FLYNN: My response now would be just a yes and it's possible to get a copy and we will do that.

Mr. CAKOUNES: Great.

Commissioner FLYNN: And answer your other questions as well.

Mr. CAKOUNES: Great. I appreciate it. You can send it to me electronically if you don't want to bother doing it paper-wise.

I think that's it. Thank you.

Speaker BERGSTROM: John.

Mr. OHMAN: Thank you, Mr. Speaker. Yes, we just got this, Mary Pat.

Commissioner FLYNN: Oh, you just got it.

Mr. OHMAN: We just got it in our packet today. So I haven't had -- but Number 5, a newly elected County official workshop, I've been on the board for 18 years. I've never had anything like this happen. Can you give me the genesis of why we're doing this and what it means?

Commissioner LYONS: You know, when I was brought on to the Assembly of Delegates, I was handed a binder that basically had the Charter in it and said, "Congratulations." And, you know, you kind of learn by doing, any of you sort of on the job here, and if I'm speaking out of turn, if anybody's had a different experience, please let me know.

So when I became a Commissioner, I said I think we should have an orientation, like a County 101 when people come on and not only handed the Charter but to have the Charter explained like responsibilities, rules, regulations, how you conduct yourself in a meeting, sometimes it's the first time.

So I said, you know, you just come in cold. When a board -- a person is elected to the Board of Selectmen, they go to the MMA for a couple of days or at least a day training as to what bylaws and rules and laws of the General Court affect you and that sort of thing in regards -- even within your own Charter.

So it's a good -- at least it's an orientation as to a myriad of stand as far as your role. If you're elected to the State Rep. seat, the State Senate seat, they all go through a week orientation.

I felt that it was important here to have some kind of introduction. It's also an

introduction for old members to meet new members and etcetera.

That first year, if you remember Bob Troy came over and read the Charter out loud, which I didn't -- which sounds nice, you know, it sounds very nice when it's written -- read out loud but it didn't seem to be very helpful to me because it didn't clarify any of the points.

So, you know, even though I got a lot of flak for like I think we need some sort of orientation; I guess I said education one time in a meeting. I went to legislative training up in the State House because there was none offered when I was elected.

So this is a good-faith effort. I do think, you know, there's sort of a lack of communication on both of our parts. I think that we're in a place where none of us want to be. We all want to feel like we're doing our part for the County and for our own region.

And I thought this was a good-faith effort to have that orientation for all new members and current members, current Commissioners, I'm sure we will all learn things, and anybody who wants to listen. If any member of the public wants to come and listen, but it's not meant for public participation. It's really an orientation for elected officials who want to learn about what they're going to do. It would be mostly for the County but anybody else who wants any newly elected State Rep or any other office could come and see how the County interacts with their level of government.

It's been nothing -- all I've heard is suspicion from this, and it's really just a good-faith effort. So in trying to thwart communication, the communication has gone on behind the scenes, it's all suspicion, and it's all about something else. And if that's the way it's going to be received, then, you know, forget it. Let's just forget it.

But if you want to go forward and kind of wash the past couple of years and started anew, I thought it was a good attempt to do that before people are sworn in.

The reason John Giorgio was brought on is that he is more experienced with more municipalities and their interactions with our County government than probably any other lawyer that we're aware of that we've had dealings with on the outside looking in. And he's also outside the County. He's more of an independent voice, and we thought if we employed his help to do interpretation and to guide in just roles and responsibilities, it would be a good first step for us to have a better communication in the beginning.

So if people don't like that and they think that there's something else involved, I'm sorry that you feel that way. That's all there is. And if you don't want to do it, then we won't. But that's all it's about.

Speaker BERGSTROM: Before Leo, I'll get to Deborah and then Pat and then Leo.

Ms. MCCUTCHEON: I just have a question. I didn't understand. The way you're talking about it sounded like you wanted all elected County officials to come. But this looks like newly-elected so that would be Leo and --

Commissioner LYONS: No. I mean that's an unfortunate.

Ms. MCCUTCHEON: -- not that newly-elected.

Commissioner LYONS: So, again, we go into this one word. It's really all elected. I would expect if we were going to do this, I would want all of you there, all of us there, and even department heads, anybody that's a staff member because they think that there's staff that understand what their department does. You might not see it in

relation to the whole government structure.

So it's a learning experience and it's definitely something that I thought might help, but, as I say, if people want to interpret somewhere else then we'll just stay the way we are.

Commissioner FLYNN: Mr. Speaker, if I may?

Speaker BERGSTROM: Yes, sure.

Commissioner FLYNN: This is really an outgrowth of us working together with also the Commission staff to find better ways to communicate, not only with each other but with the general public and with our delegation as well. So when it says, "Newly elected officials," it includes the delegation. It includes the Senator-elect and it includes the House or the Representatives who are newly elected.

It's trying to get people together to have an opportunity to kind of meet and greet and to begin the communication links, give them an opportunity to know a little bit more about what County government is and what it means to the County and how they can be helpful and how we might be able to be helpful to them. So it's just another strategy to try to improve communications.

Commissioner LYONS: And that also fosters, you know, gives you introduction and recognition to who the members of the delegation are. You know, people from my end know Sarah Peake and maybe Cleon, but they might not be familiar with Randy Hunt and David Augustino and Brian Mannal.

So if they are able to make that meeting and there is that opportunity to converse and have that relationship already structured, that assists anyone who is working in government because then you know each other and you can pick up that phone to ask questions and clarifications and that sort of thing.

Speaker BERGSTROM: Pat, did you have something to say?

Mr. PRINCI: Sure. I just want to say I think it's a great idea. I think it will be beneficial to all people who participate, even the already elected officials that are in attendance.

Is it being held at the Barnstable Town Hall just because of the timing and the building being open and so forth?

Commissioner LYONS: And the building being open is -- and we don't want to serve wine because we know they'll start off with that first, even though we can't serve it there.

Commissioner FLYNN: It's also being held there because we had hoped to have it in the downstairs area of the 4C's, you know, below the auditorium but that wasn't available. So we opted for Barnstable Town Hall.

Mr. PRINCI: It's not a County building because of the timeframe with maintenance and so forth and no one here?

Commissioner FLYNN: Yeah, and there's no one here.

Mr. PRINCI: Okay.

Speaker BERGSTROM: Leo.

Mr. CAKOUNES: I have a huge problem with this, and, yes, I'm one of those ones who do not see this as something that was done out in the open. I reviewed minutes of the Commissioner's meetings back six months ago since I was elected because I was trying to familiarize myself with the goings-on. I see nowhere where the Commissioners

spoke about doing this in an open meeting.

How can you not feel that this is something that is possibly being done behind closed door when it, in fact, has been done behind closed doors? We, here, the legislative body, openly talked about doing something this exact fashion. We talked about doing it in this room, spread out over possibly two days, televised, inviting the public, inviting newly elected or the now elected Assembly members. And we, as a body, decided that it was best to wait until January and do it when the newly elected people were here.

And then here I am now a newly elected official getting notice of this meeting that you're going to ask me to attend some 7-8, 8 business days away from now. Quite frankly, you know, I don't think it was done out in the open. I don't think there was discussion.

There was two different scenarios given right here today. One was this is an educational forum, a forum where these newly elected and again elected representatives are going to be briefed on County government and its structure.

Then I got another explanation is this is just a social meeting where people will get to meet their new representative and their newly representatives and they'll be able to interact with each other.

Quite frankly, I'll have to tell you, sitting here as a newly-elected County Commissioner, I'm not going to go.

Commissioner LYONS: Good. So just to let you know, Leo --

Mr. CAKOUNES: And I would like to know, if you'd let me finish, I would like to know who is sponsoring it. No one is on the front page of this, and at what public meeting did the Commissioners discuss this in putting this forum together?

Commissioner LYONS: So, Leo, this is not something that was discussed in an open meeting and it wasn't something that was really an agenda item. It was discussed here. It was an idea. We came over and said we would like to do some sort of -- I thought at that time we needed a medication more than we needed an orientation.

So in an attempt to fix that and maybe because it wasn't communicated, not everything has to happen in public meeting. I go into somebody's office; I talk about this. This is a good idea. They start running with it with somebody else, then they come up and say this. This is how sometimes these things have to get done.

So because we didn't have a good communication strategy to improve our communication, we are not going to have any communication. We'll just stay with the status quo.

Speaker BERGSTROM: Now I --

Commissioner LYONS: So if that's what you're interpreting this as, and it wasn't two different interpretations, a social interaction and meet and greet at the end is a byproduct and an opportunity that can grow out of the main presentation.

Speaker BERGSTROM: All right. Sheila, I don't know if this agenda item, which is communications with the County Commissioners, is appropriate forum to flush this out. I mean no offense to you. I know Leo got into it. I'd suggest he waits --

Commissioner LYONS: And I understand and I agree.

Mr. CAKOUNES: This is exactly what this is about.

Commissioner LYONS: I'm not disputing that it was a great execution of this. It should have been totally worked out before it even -- if this is what we were going to do

or say this is what we're working on. But because that wasn't done doesn't mean that it isn't a good effort. And if you want to just not do it because of the execution, not about the situation itself, then we can just not do it.

Speaker BERGSTROM: Anyway, I'm just suggesting that before you and Leo get into a battle over this --

Commissioner LYONS: No, I'm not arguing. I mean --

Speaker BERGSTROM: -- to wait until after January 1.

Commissioner LYONS: -- I'm not disagreeing with him. I agree with him. It was poorly executed.

Mr. CAKOUNES: But, Mr. Speaker, I do disagree with you. This was communication given to us in writing today from the County Commissioners.

Commissioner LYONS: Yes.

Mr. CAKOUNES: It is a proper forum to discuss it because they maybe didn't have it in their report. This was something that I received for the first time today from the County Commissioners and I still would like my question answered "Who is sponsoring this?" Is it the County Commissioners? Is it the Cape Cod Commission or is it Ms. Lyons personally?

Speaker BERGSTROM: My only reservation, Leo, is that there's a fine line between communications and discussions of something that's substantive enough that it has to be known.

Mr. CAKOUNES: Well, I ask those questions through you.

Commissioner LYONS: Right.

Speaker BERGSTROM: I will give you wide latitude but I don't want an argument over this because we're going nowhere.

Mr. CAKOUNES: We're not arguing.

Speaker BERGSTROM: Okay.

Mr. CAKOUNES: Who's sponsoring it?

Speaker BERGSTROM: Go ahead, Leo.

Mr. CAKOUNES: Who's sponsoring it?

Commissioner LYONS: This did not -- this did -- go ahead.

Mr. CAKOUNES: Who's sponsoring it?

Commissioner FLYNN: We discuss communications all the time. We had discussed -- I have meetings with Michael Brillhart every week to go over the agenda to talk about -- we talk about communications.

I'm also a member of the Cape Cod Commission. We talk about communications of the Cape Cod Commission. It's like the number one topic of communication. We had just probably not even in regular session given thought to the fact that we have an election coming up, we're going to have newly elected members who are going to be part of Cape Cod, not just -- I wouldn't call it always the County, but Cape Cod. And there were a couple of people from the Cape Commission said, "Yeah, that's a great idea."

And the next thing I know Kristy Senatori said, "I'll put something together. I'll see if we can't have something together that might work really well that might help some of the newly elected officials," and she came up with this.

So, I mean, that's how things happen. It isn't like people get assigned a certain task all the time. Sometimes people just have a good idea and you say go for it and that's

how it happened.

Mr. CAKOUNES: Okay. Can I ask again who's sponsoring this? Can I just simply ask that? Who is sponsoring this?

Commissioner LYONS: I guess we could say we are.

Commissioner FLYNN: Barnstable County government.

Mr. CAKOUNES: Pardon me?

Commissioner LYONS: The County government.

Mr. CAKOUNES: Thank you.

Speaker BERGSTROM: Okay. Anyway, moving right along, does anybody else have any questions for the County Commissioners?

Commissioner LYONS: I would just like to know are people interested in doing this.

Speaker BERGSTROM: I think you said something -- this is my opinion and I shouldn't respond during this forum, but I guess we can respond. It's discussion. I think that it's a great idea whether the process was flawed or not is irrelevant at this point. It would have been nice to have gotten it two meetings ago.

Commissioner LYONS: I agree.

Speaker BERGSTROM: We didn't but I think -- I'll be there, you know, and whether the Delegates come with an idea of listening or whether they come ready to battle, that's up to them but.

Commissioner LYONS: Well, I'm hoping that it starts us to be able to really have a conversation. We all know where are hats are, you know, what hat we're wearing.

Speaker BERGSTROM: Okay. Suzanne.

Ms. MCAULIFFE: I agree. I think the process is a little muddy and I think that's what made us suspicious. I think because we have issues in terms of how we communicate now and deal with each other that there's naturally a level of suspicion when something kind of is sprung on us last-minute out of whatever. So we're all thinking well that's the real agenda as opposed to is this a good idea.

Two things; I think it would make a lot of sense to wait until January when people are sworn in just because I'm not sure what kind of attendance you're going to get, A, in December before the holidays, and B, before people are sworn in. Sometimes people just aren't paying attention until they come onboard. We haven't had -- I know people are watching meetings, but we haven't had attendance here from any of our newly-elected members.

Commissioner LYONS: You have Linda Zuern here today.

Ms. MCAULIFFE: We have Linda, but there are four others, I believe. So it's just a thought. I agree with Leo; it's short notice. It may not be doable and it comes right at the end of our meeting. Hopefully our meeting doesn't go over and people -- I just think that's why you should.

And the second issue in my mind is we have not resolved some of the issues in terms of how we interpret the Charter, how we get along, how we work together. And if this was just a pure social meet-and-greet, I think I'd be on board with that.

Commissioner LYONS: Uh-huh.

Ms. MCAULIFFE: Let's get to know each other, let's just say hi. But if you're going to try and educate the new Assembly members on some version of the Charter that

has been agreed on, then I start to get a little nervous. So that's just my response to this.

Commissioner LYONS: Right. Well, you know, there's -- if I can just respond to Suzanne? I mean, you know, all of these things are up to interpretation, so I'm not out to interpret it from one-side or the other because I've been on both and I see how it can work on both, and it really is a clarification of what it is.

But I would like to think that we could move to a place that, you know, we are certainly not perfect and we are really in a balance here where we're in an interim period with our Administration and we have a new Commissioner coming on and a new Assembly.

Commissioner LYONS: When people have a suspicion, its okay to pick up the phone and ask the person who you have that suspicion about a question. And one way for -- it can go both ways here, but to wait and feel like this is -- I have to say it sometimes feels like this is an inquisition. I feel that whatever is said here is then analyzed off from another room and that inanalysis is sent to all of you to what to really thing of that interaction because this is really what was going on, and it breeds suspicion where it doesn't have to be. Sometimes it's just screw up. And you know what? We're all guilty of that.

Speaker BERGSTROM: Well let's not be any more guilty than we have to be.

Commissioner LYONS: That's exactly right. And let's give each other the benefit of the doubt.

Speaker BERGSTROM: First, I'll recognize Deborah, but first I'd like to say, one of the things, I know John Giorgio. He's well respected. He's a Chatham resident. His son runs a tavern, which is another reason I like him. They pour a good pint.

Commissioner LYONS: Which one?

Speaker BERGSTROM: The Red Nun, okay, so maybe we'll all go there afterwards and have a beer.

Yes, Deborah.

Ms. MCCUTCHEON: Yes, to a certain extent I agree with some of what Suzanne said about restructuring this. I think the way that this is worded it looks exclusionary to existing people, just until you talked about it --

Commissioner LYONS: I agree. I agree.

Ms. MCCUTCHEON: That's how it looked to me, that it's for newly-elected and not for -- and I also think that the people who -- right.

Ms. TAYLOR: Recognition of all elected officials.

Ms. MCCUTCHEON: Right. It basically says, "Newly-Elected County Officials Workshop," I would read that. But I don't need to argue with you, Julia, but my point is to the Speaker here.

I agree that this should be put off until the newly-elected people are available because I think this kind of notice is extremely difficult for people.

I also would rework the language of the agenda to be more inclusionary because I think just the language of it is a bit exclusionary. And I also think that a discussion about the role of the Assembly and the Board of Regional Commissioners ought to be more of a panel discussion with more than one viewpoint being expressed.

And that's my suggestions as to how to perhaps move this into something that is a little broader, a little more inclusionary, and a little more -- something that people might

feel inclined to participate with.

Commissioner LYONS: I will take those forward. I think that's good suggestions.

Speaker BERGSTROM: Yes, Suzanne.

Ms. MCAULIFFE: This is just a last comment. I don't want the Commissioner's feeling that this is an inquisition and then come forward. This board is just used to dealing with business at the table. I think we're too big to be calling each other and calling around and kind of getting onboard.

I think the County Commissioners operate differently because you're a very small, close, tight-knit group. So I think in general we do our business at the table and that's why issues are issues is because we do our business on camera. And it's not that we're off making decisions about things and bringing them forward. It's not to be an inquisition. It's just this is where we do our business.

Commissioner LYONS: I know but as an elected people, you have a responsibility to find out what you need to find out. I used to call -- I would go over to Mark's office; I would go over to the Commission; I would attend those meetings and learn and ask questions instead of assuming and waiting for people as though it's this last-minute thing.

Ms. MCAULIFFE: I'm not saying we don't do our homework.

Commissioner LYONS: Yes.

Ms. MCAULIFFE: I'm saying we don't make decisions before we come to the table.

Commissioner LYONS: No, I understand. Well neither do we.

Speaker BERGSTROM: I'm not going to get too far into this discussion, but there have been occasions when people -- when the Delegates have come to me or to Janice and said we hear something's coming down the pike. We hear there's going to be this. We hear there's going to be that. And my answer is, well, I don't know. You know, I've heard that too but until we get formal notification that says this is what we want, we really shouldn't speculate on it; do you know what I mean?

So the idea is to get ahead of something. Once it becomes apparent that an initiative is in the works, it's always better, in my opinion, you may have a different -- to get ahead of it because otherwise you may have decided on one thing a month ago and then two weeks later said, no, no, we're going to do something else. Meanwhile, everybody is going off on what you originally decided.

So I'm thinking that for whoever sits in this chair or even if we have initiatives and so on, whoever sits in the County Commissioner's office, it's best to get something and get in front of a discussion as soon as possible so you eliminate a lot of speculation.

Commissioner LYONS: I absolutely agree and when you -- and as the Speaker, if you are aware that these questions are surfacing, if they don't feel comfortable in calling directly and ask, which all of you can, you can.

Speaker BERGSTROM: Sheila, until you vote on something, not to take up Leo - - but until you vote on something and you send it to us --

Commissioner LYONS: Right.

Speaker BERGSTROM: -- asking you what you're going to do doesn't make any sense. You have to have something that's official.

Commissioner LYONS: Yes, I -- okay. Well, I still think that people --

Speaker BERGSTROM: Now I'm (Inaudible).

Commissioner LYONS: Now I still think that you can ask questions before anything is voted in and say, you know, is this the direction you're going in. I don't think that's a good direction. You know, that's all okay too.

Speaker BERGSTROM: Well, I'll be there wherever whenever. Okay. Moving right along. So is that it or do you have anything else?

Commissioner FLYNN: That's it.

Speaker BERGSTROM: Okay. Thank you, very much.

Commissioner LYONS: Thank you.

Speaker BERGSTROM: Now we're going to talk to Mr. Clark. What am I going to do about my winter moths, Mr. Clark?

Mr. BILL CLARK: Is that on the agenda?

Speaker BERGSTROM: No, and my tomatoes too.

#### Communications from Cooperative Extension Director Bill Clark

Mr. BILL CLARK: Pass those on, please. Good afternoon and thank you and appreciate you inviting me to the meeting today.

Apparently about a month ago there were a few questions from members about what's happening with the fertilizer regulations, and the Clerk called and asked me if I'd come to the meeting. So, here I am.

And if you don't mind, I would like to invite Jon Idman here from the Cape Cod Commission since this is a DCPC from the Commission and he's been the lead on that. So, Jon, if you don't mind.

And just by way of review, 2012/2011 -- I think it might have even been fiscal '12, the Mass. Department of -- the Legislature passed amended Chapter 128 which gave the Mass. Department of Agriculture authority to regulate fertilizer in Massachusetts.

However, in that legislation, they carved out an opportunity for the Cape and the Vineyard to develop their own local regulations. So it went to the DCPC process, through the Commission. It passed. This group approved that. So here we are.

Did I miss anything, John?

MR. JON IDMAN: That's a synopsis.

Mr. BILL CLARK: Okay. Just a quick synopsis; I know you all were here last year when this happened. So, to date, what's happened since then, a group of us met. It was Jon and industry folks and all and developed a model bylaw. The model bylaw was sent out to all the towns given them the opportunity to develop their own local regulation.

We also -- personally, I've been to a lot of meetings with boards of health, other groups, conservation groups, boards of health, industry meetings about this topic. So that's what's been going on.

What's the role of the Cooperative Extension? Well, we are the educational piece, the Commissioners and the regulatory board. We're education. The pamphlet I gave you was developed. We sent one of those to every single household on Cape Cod, so roughly 160,000 of those were sent out.

So the funds that you provided us were partially used to develop that brochure and

every household on Cape Cod got one.

Ms. MCAULIFFE: I never got one.

Mr. OHMAN: When?

Mr. BILL CLARK: Last spring. We sent it out the beginning of the season and every household -- sorry to hear that some of you didn't get it because I know I got at least 30 phone calls from folks saying that they got it and they were pleased with it and some of them were seasonal houses. So I'm glad to hear that.

Like most of us, I have half of my street is seasonal. And people said to me, "Gee, I got that and it looks good." So anyways, sorry to hear that some of you didn't get it or maybe it came with all the other stuff you get and you tossed it. I hope not. But anyways, they were paid for and sent out through a mailing company to be distributed to all the folks on the Cape.

Also, our other role is certification. And, we, in that model bylaw, set up a certification process for individuals who were professional and knew what they were doing and also those that are nonprofessionals that would like to become more knowledgeable in fertilizer. That has not taken off because it's a chicken-and-egg thing. We're waiting for towns to adopt bylaws that include a certification. And then we'll develop the certification for folks to become trained.

To date, Mashpee has passed a bylaw and it went through the Commission last week and approved. That does not include a certification. Brewster adopted a bylaw Monday night at their Town Meeting. Now it has to come back to the Commission for local -- Commission approval and that does not include certification.

As we speak, the town of Chatham, through their Board of Health, is entertaining a bylaw that does include certification. Tomorrow night the town of Barnstable through their Council will be discussing and they had a discussion; they had an open meeting two weeks ago and tomorrow night they're voting on the bylaw.

And the town of Eastham is -- they're having a public meeting tomorrow afternoon at their Board of Health, and they will be soon voting on a bylaw. All three of those include a certification process. Once they're passed, if they pass and once they go through the Commission and they become a true bylaw, then we will set up a certification process and start certifying folks for that part of the bylaw.

So that's a quick overview. Welcome any comments from Jon.

MR. JON IDMAN: I think Bill did a terrific job on that brochure. It's unfortunate that some of you didn't get it because it really does layout some of the fine points of the Best Management Practices. It really distills them into something that really all applicators on Cape Cod can use.

The reason I attended today is just to support Bill. I noticed that this was an agendaed item for you. And really County Extension's role is going to be critical in this regulatory process.

He mentioned Mashpee had developed a bylaw; that is somewhat of an outlier because they had to relate in some way to a grandfathered nitrogen control bylaw. I think the other regulations, bylaws and ordinances that come down the line will be a little more standard, closer to what the Commission's model is.

And towns that don't -- aren't proposing a certification program at this time, I think what you'll see, this chick-and-egg problem is that they will likely modify their

bylaws or regulations in the future once that they see that a certification program is a reality.

So I think Bill will continue -- Bill's office will continue to be central to this undertaking and central to what the Commission is trying to do here as well. So we fully support him and his office in his work here.

Speaker BERGSTROM: Okay. Do you have any questions?

Mr. BILL CLARK: One more thing, if I could. I did attend and I have attended several of the Cape Cod Landscape Association meetings. I kind of was the speaker last Friday at their annual meeting which was very well attended. And I encouraged them to become certified even if you don't have to be. I think it's in their favor. It's something they can use as a marketing tool for their business.

A lot of them already have the educational components and all of the certifications, and that just sort of codifies it. So when they are working with people and their customers and all, they can say they are certified and I think it will go a long way.

Another group that is very well trained and very interested in working with us is the Cape Cod Golf Association, Golf Managers Association. It's a very big industry on the Cape. A very active industry and a big part of our economy, and I know working with them they do a super job in managing what they do but they are interested in certification.

So I think what's going to happen is even if only three or four towns actually required -- I think a lot of the industry is going to become certified anyways.

Speaker BERGSTROM: Leo, did you have a question?

Mr. CAKOUNES: Well, actually, they answered my first question because I wanted them to elaborate on the certification. I'm kind of hoping it goes the other way and starts out with three towns and they realize that they don't need the certification and hopefully all will join that, but at least we addressed that.

Could you guys, and maybe you Jon, specifically, you may know better than Bill, could you comment on Barnstable, Eastham and Chatham's and Brewster's because I'm not sure Brewster's on the input side of the regulations. Are they following an actual regulation or are they following Mashpee's and having a recommended amount?

MR. JON IDMAN: No. Brewster adopted its bylaw. It recommends as a maximum annual amount two pounds of nitrogen annually. I don't recall off the top of my head what the one-time application would be. It's obviously less than two.

Mr. BILL CLARK: One pound.

MR. JON IDMAN: One pound. The town of Eastham is proposing the poundage that's proposed in the model bylaw and regulation 3.2 pounds annually. Chatham is proposing that same amount that was proposed in the model regulation and bylaw, and Barnstable is also proposing the same, 3.2. However, it would be 0.9 per application.

Mr. CAKOUNES: Thank you. May I, Mr. Speaker?

Speaker BERGSTROM: Yes.

Mr. CAKOUNES: I just would like the Assembly members here to take note of this because a lot of hard work went into this. I was on the stakeholders' committee meeting. I sat with both these gentlemen many, many times on this.

And two of the key things that we really need to watch on this, that I feel anyhow, the certification which we've discussed and you understand the ramifications and pluses

on that.

But the second and really more importantly is the application rate because the stakeholders really, with Jon's guidance, we really batted around a lot of science and a lot of what really is going to work to keep lawns in good, live condition here on Cape Cod.

And that's where we came up with our rates or the rates -- I said ours but the suggested rates that are in the model bylaw. Some towns have taken on what they call a recommended rate, and they are far less. And my concern is that as these get adopted around the Cape that somehow these far less recommended rates turn into their new regulation rates. And that's going to leave some towns and communities with lawns that will not be able to stay alive.

I mean, quite frankly, we've heard testimony that they'll be brown within a short time because they need this input of nitrogen. So I'm really, really concerned on those numbers, and I'm hoping that as we move forward with this we all watch them closely and we do what we have been elected here to do. We advise our towns on things because, you know, the mentality out there, well, Jon's recommended bylaw says one pound yearly, 3.2 over the course of the whole year, well if that's going to save us 40 million, let's drop it down to a half a pound with one pound for the whole year. That will save us a whole million and that's not how it works. There's a science behind this recommendation and this recommended application rate, and I'm really hoping that you all take it serious and bring it back to your towns because it's not just plugging and erasing numbers. It's really going to be confusing when we end up with 15 towns with some of them having regulations that meet what the Cape Cod Commission has come forth with and others that have a regulation that is recommended, which is really far less.

I just want you to keep an eye on it and thank both you gentlemen for coming here today.

Mr. BILL CLARK: If I could just respond quickly? First of all, should a town not adopt anything, they become part of the state regulations.

MR. JON IDMAN: By years end.

Mr. BILL CLARK: By December 31. So if they do nothing by December 31 --

Mr. OHMAN: Of this year?

Mr. BILL CLARK: -- of this year. You heard the towns that I mentioned but there's several that did not mention come under the state. The state allows -- actually, the state and the Commission must go by the UMass BMP's, the Best Management Practices that are recommended. And those UMass has a higher threshold. They have -- they're up to four pounds of N. We went down to 3.2 per year. So the Cape is stricter. It can't be any more lenient than the state.

Speaker BERGSTROM: Okay. Did you have a question, Pat?

Mr. PRINCI: Just a question about the certification process and the cost to small businesses. I remember we did put some monies aside for these mailings and also for the certification. Now, I remember you mentioned before it was going to be an online certification and what will the cost of that be? How long would the certification process be? Is it just a handbook they study and then take a test? What does that entail?

Mr. BILL CLARK: We haven't figured it out yet, but, yes. We're going to have a face-to-face training, and I have staff at the University of Mass. who specialize in this and are willing to come and work with us and we'll have an online training. It will sort

of be like the ethics training that we all take where there's a discussion of a topic and then there's questions following that for you to answer.

Mr. PRINCI: It's not looking -- meant to be a revenue stream for the certification?

Mr. BILL CLARK: No. I think I heard clearly, loud and clear from this group as well as the Commissioners that we did not want to penalize small businesses that we were going to not charge, if I remember correctly.

Mr. PRINCI: Right. That's what I wanted to --

Mr. BILL CLARK: If you want me to charge, I'd be happy to charge.

Mr. PRINCI: No. I was hoping that you were going to follow through with what you had said and the monies that we had put aside by not charging.

Mr. BILL CLARK: And that was fiscal '14 that you put it aside, so some of it was rolled -- we spend the money last May so that was fiscal '14.

Mr. PRINCI: With the timing of you rolling out the certification, obviously the busy time of year is closer to April, so would you try and roll that out immediately after the end of this year?

Mr. BILL CLARK: By December 31, we'll know which towns have adopted bylaws and which once require certification and we'll be up and running. I'll be spending part of December putting this together with hopes of getting it going in the early part of the winter.

So that's the plan. The money was allocated in fiscal '14. There was nothing in fiscal '15; however, I did rollover some fiscal '14 for this purpose. There was a small amount of money in there for contracting with UMass to help us put this together. I think it was \$5,000.

Speaker BERGSTROM: Okay. Bill, I have a couple questions for you.

Mr. BILL CLARK: Sure.

Speaker BERGSTROM: One is, just a quick one. They repaved the road next -- in front of my house and behind my house, Queen Anne Road. And after they do that, they go along the sides of the road where they devegetated, actually they lay some pipeline and they spread this stuff, which is supposed to grow into grass; do you know what I'm talking about?

Mr. BILL CLARK: Yes.

Speaker BERGSTROM: It's blue.

Mr. BILL CLARK: Yes.

Speaker BERGSTROM: Now does that contain any fertilizers or chemicals? Do you know what's in that?

Mr. BILL CLARK: Some do and some do not. It probably does contain some fertilizer, yes.

Speaker BERGSTROM: Okay.

Mr. BILL CLARK: And it's a fiber cellulose mix that provides for moisture retention so the seeds can germinate and it does give a little boost of fertilizer.

Speaker BERGSTROM: So is there nitrogen in that mix?

Mr. BILL CLARK: Yes.

Speaker BERGSTROM: Okay. And is anybody paying attention to that?

Mr. BILL CLARK: I am not. I don't know who is.

Speaker BERGSTROM: Okay. I am because it's right behind my house.

Mr. BILL CLARK: If a town passes a bylaw and whoever the enforcement agency is in the town could look into that I supposed.

Speaker BERGSTROM: Okay. The other question is that --

Mr. BILL CLARK: The flipside is, however, if the grass doesn't grow, then you're going to have sediments washing away and so as a result of that. So I would encourage -- I would hope that they're using slow-release nutrient and that's the intent.

Speaker BERGSTROM: Okay. The other question is is that there's a whole controversy now coming up about -- besides nitrogen and other things is about emerging contaminants. Do you know if the fertilizers that people put on their lawns contain anything of a chemical nature, anything besides nutrients, besides nitrogen? I mean I know you're not a chemist. But is there anything in there that would raise a red flag?

Mr. BILL CLARK: Well, up until a couple years ago, the fertilizers carried nitrogen, phosphorus and potassium.

Speaker BERGSTROM: Yes.

Mr. BILL CLARK: When the Mass. law passed, they regulated phosphorus. Phosphorus cannot be used unless you're starting a new lawn or if you're a soil test that's less than three years old indicating that there's a need for phosphorus.

So if you go to a garden center today and buy fertilizer for your lawn and the commercial companies for about seven years now have been using fertilizer that has zero phosphorus. So they contain potassium and nitrogen. Those are the two elements unless they're starter fertilizers.

Now occasionally they'll use mixes. They'll put an insecticide or an herbicide, like a preemergence crabgrass control mixed in. And in order to do that, you have to have a license to do that. So that's regulated under the Mass.

Pesticide --

Speaker BERGSTROM: You're talking about that's in the mix or is that someone who's applying it, the mixes --

Mr. BILL CLARK: It's already mixed. So you can get a product, for example, fertilizer plus preemergence crabgrass control.

Speaker BERGSTROM: Okay.

Mr. BILL CLARK: Or fertilizer plus insecticide.

Speaker BERGSTROM: In other words, it will be labeled.

Mr. BILL CLARK: It will be labeled, clearly labeled, yes.

Speaker BERGSTROM: And the only other question I have to ask is that, you know, landscaping is a competitive business and I'm just trying to relate this to my town of Chatham. You know you have Mr. Trump and he has a big house on the water and he rips down all the Rosa Rugosa and he plants a big lawn.

Mr. BILL CLARK: Uh-huh.

Speaker BERGSTROM: Nice and green and he hires Mr. Eldridge or Mr. Nickerson to come in and treat his lawn. Well, if his lawns not green, he's going to get somebody else. In other words, so there's a pressure, a competitive pressure to make that the nicest lawn you can, otherwise you're going to be replaced by somebody at will.

Mr. BILL CLARK: Sure.

Speaker BERGSTROM: And that's my concern when you have these

recommended applications is that it seems to fly in the face of, you know, the marketplace is that if the pressure is on the landscaper to have the greener lawn as possible and he's the one who's going to do it, you know, what do you do? What kind of control can you put on it? What kind of enforcement do you plan to prevent it?

Mr. BILL CLARK: Well, this goes back to education, and this is I did my undergraduate and graduate work in botany and soil science, so this is my field so I can tell you. Should a person apply the recommended rate at the recommended time and the recommended formulation, then it should not pose a threat.

So my hope is the folks you're referring to are hiring trained individuals. And I'm not going to say there's -- my guess is there's something above zero that could move but it's not much above zero.

The flipside of that is if the lawn goes downhill and you have erosion, particularly in a freshwater environment if there's phosphorus in the organic matter or the minerals and that ends up in the waterways that can cause eutrophication. The nitrogen on the salt water environment can cause eutrophication. So it's a balancing act. And most towns require a buffer strip between a resource and the lawn anyways. I'm sure there's some preexisting, nonconforming situations but --

Speaker BERGSTROM: One would hope the ConComm would enforce those regulations but they don't always, you know, that's a local issue.

Mr. BILL CLARK: Every town has a different regulation there. Yes.

Speaker BERGSTROM: I'm just concerned because growing a lawn on Cape Cod is not the easiest thing to do and there are also other factors. I mean I don't have a lawn but whatever I do grow turns brown and stuff like that. So there's going to be people who think and are not as educated as you, well, my lawn's not what I want it to be. It's because I didn't throw enough of the stuff on it. But I'm confident --

Mr. BILL CLARK: Well, we're aware of that and when we develop the model bylaw we have a certification and a noncertification program. The noncertified applicators, the homeowners, they're more restricted as to what they can do.

Speaker BERGSTROM: Okay.

Mr. BILL CLARK: So it all comes back to -- and back to enforcement. In some of the towns that have elected not to go forward is based on lack of the ability to enforce.

Speaker BERGSTROM: Well I agree with everything you do and it's a big issue in Chatham. Freshwater ponds especially phosphorus and nutrients, you know, we have a big wastewater management plant.

So I'm going to support the position in my town more restrictive, but we'll see where the other towns go.

So, yes, John.

Mr. OHMAN: Thank you, Mr. Speaker. I remember a discussion about runoff is an accelerator to the problems that are caused by over fertilizing. I didn't see anything in this brochure and I was wondering if no one goes through the certification process is that problem being addressed by anyone in the state?

Mr. BILL CLARK: Well runoff -- fertilizer runoff from lawns?

Mr. OHMAN: From lawns into driveways, improper applications.

Mr. BILL CLARK: Oh, there should be a section in there about impervious surfaces.

Mr. CAKOUNES: Impervious surfaces.

Mr. BILL CLARK: I gave them all out so I don't have it to refer to.

Ms. MCAULIFFE: Right here.

Mr. BILL CLARK: Impervious surfaces, there's a whole section there.

Mr. OHMAN: All right. Thank you.

Mr. BILL CLARK: Did you find it?

Mr. OHMAN: If the state regulations take effect, are they very lenient on impervious surfaces as well?

Mr. BILL CLARK: No. They are under the UMass BMPs they reference that. They say, obviously, any overthrow it's called so if a person is careless and the nutrients by the road or by the driveway, the nutrients end up on the driveway or the road, it's suggested that they're blown back on the grass or swept off and taken away.

Mr. OHMAN: Okay.

Mr. BILL CLARK: But it is referenced in there; did you find it?

Mr. OHMAN: Yes.

Speaker BERGSTROM: Well, if there are no other questions, thank you, very much.

Mr. BILL CLARK: Okay.

Speaker BERGSTROM: And hopefully we'll know by December 31 who's on board and who isn't.

Mr. BILL CLARK: Great. Thank you.

Speaker BERGSTROM: Okay. Do we have any Communications from Public Officials? Hearing none.

Do we have any Communications from members of the public? Yes, I see a member of the public. Please identify yourself.

Mr. CAKOUNES: Does he have to?

#### Communications from Members of the Public

Mr. ERIC BIBLER: I'm Eric Bibler, Weston, Connecticut. Thanks for recognizing me. The Speaker has told me in no uncertain terms that he wants me to avoid saying things that I've said 10 times before, so that's going to severely limit my remarks today. I'm just kidding.

I have all new information and I think it's all relevant to you and I'll try to be brief.

Speaker BERGSTROM: Is your microphone on?

Mr. ERIC BIBLER: Now it is. Sorry. So, just briefly, to put on my anti-wind whacko hat, I wanted to make you all aware of something. On October 22, I believe that's the correct date, Barnstable County approved an agreement to buy -- to be an off-taker of production from Future Generation Wind in Plymouth. I don't know whether you all know that. I don't think you were ever consulted on that.

This is a contract brokered by CVEC to a number of towns. And Future Generation Wind needs these commitments from credit-worthy counterparties, like yourself, in order to get their financing.

The project is a four wind turbine project. They are 500 feet tall, not 400, 500

feet approximately I think 480. It's right on the border of Bourne. I just want to remind you all that this body approved the Minimum Performance Standards for wind turbines on Cape Cod. I think it was Resolution 11-05, I don't remember, or '04. That provided that any industrial wind turbine project had a setback of 10 times the rotor diameter for the wind turbine and if there were any residences within that parameter of 10 times the rotor diameter, there would automatically be a Development of Regional Impact and they would be subject to incredibly rigorous scrutiny.

These wind turbines, four of them, and they can be much worse when they're multiple. They're huge. And the rotor diameter is 318 feet. So that means 10 times the rotor diameter is about 6/10ths of a mile, 3,180 feet. There are hundreds of homes within the 10 times rotor diameter and many of those homes are on Cape Cod. I didn't know whether you knew that but they're in Bourne.

So, speaking of lack of communication, you know I look around this room and I think there may be 10 towns on the Cape, I mean there's some you don't hear about, but there may be 10 towns out of the 15 here that rejected a wind turbine project. Feelings obviously ran very high, and this statute/ordinance was enacted by you and by the -- I'm sorry by the County Commissioners and the Cape Cod Commission on their recommendation to protect the residents on Cape Cod.

Now I think the County -- I don't know the number -- I think you're going to save like \$10,000 a year by doing this. And you are going to be exporting incredible misery to Plymouth, your neighbors just across the border, and you're going to be importing it from Plymouth to Bourne.

So I'm only mentioning that because I don't think anyone in this room was really aware of it. Now, I have these documents for you. One of them is a letter from the chairman of the Bourne Board of Health, and it was written to the Selectmen in Duxbury urging them to consider carefully whether or not they should become an off-taker and support this project because it was going to have an impact on residents in Bourne. This is the letter to Duxbury. And the chairman, Cynthia Coffin, sent a copy of the very stringent regulations that the Bourne Board of Health has enacted and I have a copy for you. I'm sorry; I only have a hard copy. I just got it today but I hope you'll circulate that and I hope you'll consider whether or not you really want to commit to this now.

I didn't know until Leo mentioned it today that Liz Argo, whose special projects coordinator for CVEC, was in to see the Commissioners last week. These commitments, these final commitments were all due by November 19<sup>th</sup> or 17<sup>th</sup>. I can't remember which. So I suspect -- and I know that there were some revisions. So I suspect that this comment and this approval and these documents, you know, had to do with these amendments to the contracts that were nowhere on this agenda. Most of these discussions occurred during executive session and then finally the vote came out. So I hope you'll be aware of that.

I wanted to also pass along to you -- I got some documents today. Some of you may have noticed that I occasionally wrangle with CVEC and CLC over document requests, and I have a couple documents I was told would take a half an hour to produce. I couldn't have them electronically and so forth. I reviewed 93 pages of executive session minutes today because I didn't want to pay a fortune for them. I drove 200 miles to do that. So here are two documents and I also have an invoice for \$1.27 because I

timed the actual time. It took two minutes of their time to give these to me. And I have copies for you. I can't give them to you today.

One of them is a letter from the Inspector General to CVEC ordering them not to destroy any documents. It's dated October 8, 2014. It's the only correspondence apparently between the two, but it obviously indicates that the investigation has expanded to include CVEC which is something we didn't previously know.

The other document that I got was something I noticed in executive session minutes from 2011, a reference to it, that were not released until 2014, just recently, and this is called "Rights and Obligations." This is for the special committee members and for all of you. I think you want this. "Rights and Obligations of Membership in CVEC."

So they wouldn't give it to me via email so I drove here to get it. And this I obtained because I had received an inquiry from one of the agencies who's investigating asking me if I was aware of any document other than a PowerPoint presentation that specifically set forth this commitment on the part of CVEC to deliver 10 percent of all the benefits of CVEC projects to the Cape Light Compact. And two months ago, my answer to that question was no. Today, my answer to that question is yes, here it is. This is the document that explicitly states CVEC's commitment to deliver 10 percent of all the economic benefits of the Cape Light Compact to Cape Light Compact members.

And in case you haven't really been following all the inside baseball of this, the Cape Light -- I'm sorry; I misspoke. It's not the Cape Light Compact. A handful of insiders at the Cape Light Compact and CVEC including some dual directors without the knowledge or consent of the Cape Light Compact board in 2011 forfeited this 10 percent without telling the board and agreed to that. So I have a copy of that document. (Bell.) Somebody else is timing me but I don't think it's the Speaker.

So then I have just one other thing I want to mention. You know, you spoke to me about, Mr. Speaker, and you said, okay, we all received this brief from the Attorney General last week, and we can read it, and you don't have to dwell on it.

But I just want to address one aspect about it and I just want to ask you all to read it again a couple of times carefully. This is actually quite important.

These previous filings by the Attorney General were very respectful in terms of citing a lot of evidence and saying, you know, this may have happened, you know, they may indicate something or not. It didn't say "or not" but it was very respectfully distant.

This document states in no uncertain terms that the Attorney General is stating that there are numerous clear violations of law on an ongoing basis and that the Cape Light Compact as it's presently constituted and has been constituted for over 10 years is an illegal operation. And that every nickel that they've transferred to the Cape and Vineyard Electric Cooperative had been illegitimately transferred.

I'll just read the one paragraph here which is very important for you and I'll tell you why in a second.

"Regardless of whether the department, the DPU, is the enforcing authority or not, it's readily apparent based on the public record that the operational adder is an improper tax and not a permissible fee.

This is not a close case. It is only a matter of time before some class of similarly situated taxpayers," they meant ratepayers I think, "challenges the operational adder in Superior Court, irrespective of the Department's decision in this docket.

As the public hearing on the Cape Light's Compact plan reflected a number of Cape Cod citizens and other interested persons passionately object to the Cape Light Compact's operational adder. The statute contains no obligation for the department to approve a municipal aggregation plan that is destined to be struck down in material part by review in court.

In addition to the questionable practice of a state agency approving a municipal aggregation plan that clearly violates the laws of the Commonwealth, an approval of the plan would also result in needless administrative action."

I believe that there are going to be prosecutions I mean in terms of restitution of this illegal tax which results in millions of dollars. This brief also, for the first time I think, notes that the municipalities had side agreements for electricity at cheaper rates than the members of aggregation.

And any 10 ratepayers, just so you know, can go down and file a lawsuit. It only takes 10, and I think that there's a very good case here for a class-action lawsuit. So just want to caution people in this room.

And I don't know whether I've mentioned this before, but I went -- you know I went, because I've said that before, I went to the Attorney General and the Inspector General in 2011. And when I went to visit them, I implored them to act quickly. And the reason I asked them to act quickly is precisely because of this. The more time went on, these projects got in the ground and we compounded this problem, once they had to unwind it, it was going to be all that much messier.

So I'm done now but I think that this body and the County Commissioners as well should begin exploring what the consequences of this might be.

Speaker BERGSTROM: Mr. Bibler, I don't normally respond but I have one quick question for you to clarify your remarks. You said you expect they'll be prosecutions. The Attorney General referred to as civil case. Did you mean prosecution? Did you mean that it would be a court case?

Mr. ERIC BIBLER: You know, I guess I don't know the proper terminology, frankly.

Speaker BERGSTROM: Well, prosecution is a criminal offense.

Mr. ERIC BIBLER: Okay. I don't mean that at all. Let me clarify. I don't mean that at all. What I mean is that I think that what has been identified is millions and millions of dollars that have been transferred, you know, from ratepayers, you know, an illegal tax has been imposed and then the monies been transferred and then these benefits, millions of dollars of benefits, have flowed to a single ratepayer class which the AG has declared to be inequitable.

So thank you for bringing it up because I really am not trying -- I am not trying to raise the specter of any individuals being pursued or anything like that. I'm talking completely about money being, you know, possibly reallocated.

Speaker BERGSTROM: Thank you. Would anybody else like to speak? Yes, Ms. Lyons, who's been timing you.

Commissioner LYONS: Nope, nope.

You know, I think that everybody should take a look at the opinion of the Attorney General's office. I think it has been sent to all of you and it is very good to read because it is the Attorney General's opinion to DPW (sic) and it's their argument.

And even within that, I mean I took a look at it today because Mr. Bibler is over and he was saying that there was an order from the Attorney General's office to suspend all activities and that they should suspend their activity until further notice and it's not what it says.

It basically says that, "Thus, the Department should deny the Cape Light" -- so they're making this argument to the DPW and they said --

Mr. CAKOUNES: DPU.

Commissioner LYONS: -- they should deny the Compact's petition and leave -- with leave to file a revised aggregation plan once the Cape Light Compact has secured necessary municipal approvals. In the interim, the Cape Light Compact should be directed to conduct its operations consistent with the aggregation plan that was approved by the department in the interim.

So they're duking this out, the two of them. And as far as I'm concerned, it's in their hands. And whatever comes out of that, if there's a directive that we do business differently, we will. And if it's not a directive, we won't.

And as far as all the other questions, I think that they're in the hands of the Inspector General's office, which now has expanded to CVEC. So I think that they're in the proper hands and I look forward to their opinion. And if there's anything to be implemented on our behalf, it will be immediately. So I just wanted to point that out. So, thank you.

Speaker BERGSTROM: Thank you, Ms. Lyons. Okay. In that case, are there any other members of the public who wish to speak? Hearing none.

### Assembly Convenes

Speaker BERGSTROM: The Assembly will now convene. We'll begin with Committee Report and Vote on Proposed Ordinances. And I will turn this over to the chair of the Finance Committee, Mr. Ohman.

### Committee Reports / Assembly Ordinance Votes

Mr. OHMAN: Thank you, Mr. Speaker. The Finance Committee met today to discuss Proposed Ordinance 14-08 in a public hearing. We actually had had the discussion on November 5 at great length and come to the conclusion that it was a good idea. This ordinance was brought forth by Delegate Princi from Barnstable and Delegate Killion from --

Clerk O'CONNELL: 14-03.

Mr. OHMAN: Yes, 08 was the only one.

Speaker BERGSTROM: John, excuse me. You're going to have to do 08 first.

Mr. OHMAN: Yes, I'm doing 08.

Mr. CAKOUNES: Oh, you're doing 08 first?

Clerk O'CONNELL: No, 03 first.

Speaker BERGSTROM: 03 first. You can start again.

Mr. OHMAN: Okay. Let's start again. I was going to do the public hearing

today. Okay. I think I reported on this at our last meeting, but I can report again if you wish on Ordinance 14-03. It was a miscellaneous contingency for legal services for \$10,000 to be used by the Assembly of Delegates at their convenience for special counsel. The committee voted 2 to 1 to present it to the board to be approved. And I would move that forward right now.

Mr. CAKOUNES: Second.

Proposed Ordinance 14-03:

To transfer appropriations within the County's operating budget for Fiscal Year 2015, as enacted in Ordinance No. 14-02, by making appropriations transfers for the Fiscal Year two-thousand and fifteen.

The sum set forth in section one, for the several purposes set forth therein and subject to the conditions set forth in sections four through twelve of Barnstable County Ordinance 14-02, are hereby transferred from the County appropriated Legal Services account (Budget 0019102-5235) to the designated budget group as transferred appropriations for Barnstable County for the fiscal year ending June thirtieth, two thousand and fifteen.

Speaker BERGSTROM: Okay. Is there any discussion among the Delegates on this? Do we know what we're voting on?

Julia, yes.

Ms. TAYLOR: I'm afraid I missed -- was not able to be here for that hearing. So I'm not sure exactly, but I would have voted no-no on a Finance Committee meeting if I had been.

I think Leo made it clear when we originally talked about that he was very interested in our hiring a lawyer so that he could ask many, many, many questions particularly about Cape Light Compact and CVEC. And I just think that's a ridiculous waste of taxpayers' money given that a great many of these issues are being explored legally at no cost to the Barnstable taxpayers.

Secondly, I think it's very clear that any time we need to hire a special counsel for a particular project, we can do so. We don't need to have someone on retainer. We don't need to put the money aside now. There's a plan. We know it. It's worked. We've done it before. There's no need to put money aside for what I think would be primarily a fishing expedition that we don't need.

Speaker BERGSTROM: Okay. Anybody else?

Mr. OHMAN: Mr. Speaker.

Speaker BERGSTROM: Yes.

Mr. OHMAN: During that discussion, we did amend this ordinance to say on line 4, "Relative to matters relating to the separation of powers related to the Charter."

And basically made it much more specific, the obligations under which we can use that money.

Speaker BERGSTROM: Okay. Yes. Just because some of you may -- this might have confused some of -- let me give you a little background because I was asked by the Assembly to do a little investigation.

We had a meeting here. I forget what the issue was but we had a dispute with the County Commissioners. The subject came up as to whether we would accept the opinion

of the County Counsel or whether we would be able to hire an attorney on our own to dispute something. And Mr. Troy, the County Counsel, submitted to us in writing a series of questions, and he said, “Don’t hire an attorney on a specific case.” He said, “The best thing you could do is hire an attorney to give you an opinion as to whether you could hire an attorney.” That’s what he said. He said, “Why don’t you have -- if you don’t trust me,” meaning him, “why don’t you get somebody else to look into the Charter and they will tell you you’re your rights are as far as hiring special counsel in any instance, not particular instance but in any kind of instance.

So that was my -- unfortunately, I’ve been unable to unearth that piece of paper that he handed to us at the meeting, but it had specific questions on it.

So I also contacted some attorneys and an attorney in practice in, you know, for towns and cities and he said that something like that is not going to cost any more than \$10,000. He said, “\$10,000 is an outside figure.”

So the discussion came up in the Finance Committee, and John can correct me if I’m wrong, as to whether or not if we had the power to hire an outside attorney whether it will be a blank check that they weren’t ready to swallow without a certain limit, without a certain ceiling on the amount of money spent.

So, without getting into whether it’s a good idea or bad idea, that’s where we’ve gotten -- Jim submitted this ordinance. That’s where we are right now.

So, Jim, did you want to divulge on that?

Mr. KILLION: Yes, thank you, Mr. Speaker. This is something we’ve obviously been discussing for a number of months and we originally brought this -- or I brought it to the Finance Committee, we were simply looking to encumber for this purpose.

At the time, the Delegate from Falmouth thought that that was rather broad so we actually narrowed it down to hopefully (Julia’s cell phone ringing.) satisfy her desire to see that we weren’t looking to tap into the entire legal fund.

But where this comes about obviously is more relevant to the separation of powers within County government. Specifically, I want to call your attention to some correspondence from last year.

If you remember this body voted to refer the CLC matter to the Inspector General’s office and the County Commissioners didn’t agree with that vote and they went to great lengths to try and strike down their vote, in fact, speaking with Mr. Troy, giving you interpretation. Mr. Troy told him that we were clearly within our rights to vote that matter within the resolution process.

But in their response to the Inspector General’s office about our resolution, they made a couple of notes, and one of them being that the Barnstable County Charter Intergovernmental Agreement responsibility of the executive branch of County government. We respectfully remind the Assembly that Intergovernmental Agreements and contracts and the like are not under their jurisdiction.

They further went on to establish that the Barnstable County serves voluntarily as the fiscal agent. These services are conducted through written contracts that are negotiated by the Commissioners through deliberate and public process and publicly available.

I think the points they were trying to make there is that it was none of our business. But, however, the 2.8 of the Charter clearly puts investigations within our

purview.

Some my point being that if we were looking at something the Commissioners were doing which was somehow more complex in what we were looking at and we need to get special counsel, should we really have to go to them for permission to do so? And this is just one example of perhaps many, but I think the whole purpose of my ordinance is to make sure that we do have the ability to go out and get counsel if we need it to maintain the separation of powers, which I believe is very important for a functioning government.

So that is the purpose of this ordinance to get that matter squared away so in the future we can get special counsel when we need it and be unimpeded in doing so.

Speaker BERGSTROM: Leo.

Mr. CAKOUNES: I absolutely support this. I won't be here to enjoy the fruits of it, so I will give you my unfettered opinion. This is long overdue. This board needs to be aware of what's going on.

I want to briefly read to you minutes which I have gotten from the Barnstable -- Town of Barnstable in their Solar subcommittee meeting back in May 9, 2011.

A gentleman by the name of Kevin Batt asked, "What if CVEC were to discover or if the landfill cap were to be pierced? Shouldn't it be the town be able to go after ACE?" I assume ACE is the developer.

Jeff Bernstein who's the attorney for CVEC replied, "That if CVEC were to dissolve, the County -- the County would step into the shoes of CVEC." He also said, "That the contracts contain sureties, protections and identifications to protect the town in all cases."

I'm sorry, but you people are going to be the legislative body. You are now and you're not being treated as such. You need to know where you stand and what the exposure is of this County when we are signing contracts such as this.

I take offense to the previous read section that this is no business of the legislative body, that it's an executive decision because if things were to go bad, according to an attorney, this is going to come back on the County's shoes.

So please realize what you're voting here today. You're only transferring \$10,000 from an approved budget that has over 50,000 in it under a line item specifically for legal services. And you're taking that \$10,000 and putting it into a line item under the auspice and control of the Assembly specifically for legal services. You're not spending anything. This is just a movement to show that you will be, and I hope you will be, next year going down a path to try and secure some legal counsel that is going to help the legislative body of Barnstable County understand what their position is and their authority is as it's spelled out in the Charter.

So please support this.

Speaker BERGSTROM: Yes, go ahead, Deborah.

Ms. MCCUTCHEON: I support this but not for any of the reasons that have been articulated here. I have long advocated for transparency in our budget deliberations and in the budgets that we get from departments and in our own transactions, and if it is likely that we may need to hire special counsel, there should be funds in the budget for it. We're looking at two years of shortfalls that we didn't know happened until they were already done. This is one step forward in that direction. Thank you.

Speaker BERGSTROM: I'd like to say a couple of comments that, you know, sometimes -- I know you've all read the Charter and I have but it's a long document, but once in a while something jumps out at you that you totally forgot about. Do you know this body has subpoena power, that we can subpoena witnesses?

I mean I wouldn't know how to subpoena a witness. What do you do? Knock on their door and hand them a piece of paper? I mean I would think you'd need some advice on that.

Mr. KANAGA: I'll be glad to do it.

Speaker BERGSTROM: But there is -- I'm sorry that the whole CVEC/CLC mess has gotten involved, you know, has morphed into this and I know I understand the history of it and I don't blame Julia at all for her suspicions.

But there are serious questions you come into. For instance, when we asked the IG to come in, the Commissioners rejected it, and they said that they had the right to reject it because it asked for action on the part of, it was a call for action.

Well, my understanding of that well we weren't calling for the County to act. We were simply calling for somebody else to act. If you're following Troy's interpretation -- if the County Commissioners sent the letter asking the Boy Scouts to have a fundraiser, that's calling for action and they don't ask us.

Now they may not have to ask us because we act by ordinances and resolution. And there's a section in the Charter that says that ordinances and resolutions go to the Commissioners except when it's expressing an opinion of the Assembly.

So I'm not arguing one side or the other. It's a more complicated question than I can deal with. And, hopefully, this \$10,000 will sit there and marinate for the next 20 years. But it could be that, you know, some of the Delegates, as you've seen, kind of object to something or feel that they're being -- not being -- their opinions are not being respected. And just the fact that we have the ability to question the decision I think will make it a better environment going forward. Rather than just blow us off and say, "Guess what, guys? We're going to veto that."

If they know that they're really going to have to -- I say "they" but it could go the other way too. They're going to have to justify what they do at least to some extent. I think it creates a better atmosphere. So that's my little speech.

Yes, Teresa, the newest columnist for the Cape Cod Times.

Deputy Speaker MARTIN: I just would like to clarify in my own mind because we have had this discussion over and over and I do remember being told that the first thing to find out was whether or not we actually have the right to spend this money.

So my understanding through all of this is that we're saying -- we're transferring money into a fund to find out from an attorney if we can actually have the right under the Charter to hire an attorney; is that correct?

Speaker BERGSTROM: Yes, as far as I know.

Mr. KILLION: That is the purpose of this ordinance is to get that question answered. It isn't just to put the money away and not spend it. It's to get that question answered.

And as you remember when Mr. Troy was in here, he suggested that very thing because it was a question he didn't feel comfortable answering for us.

Speaker BERGSTROM: Okay. Are we ready to take a vote on this?

Is it going to be a roll call vote?

Clerk O'CONNELL: Yes.

Speaker BERGSTROM: So we will go ahead and see where we are.

**Roll Call Vote on Proposed Ordinance 14-03: To transfer appropriations within the County's operating budget for Fiscal Year 2015, as enacted in Ordinance No. 14-02, by making appropriations transfers for the Fiscal Year two-thousand and fifteen. The sum set forth in section one, for the several purposes set forth therein and subject to the conditions set forth in sections four through twelve of Barnstable County Ordinance 14-02, are hereby transferred from the County appropriated Legal Services account (Budget 0019102-5235) to the designated budget group as transferred appropriations for Barnstable County for the fiscal year ending June thirtieth, two thousand and fifteen.**

**Voting YES (66.00%):** Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), Ned Hitchcock (1.27% - Wellfleet), Christopher Kanaga (2.73%- Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% -Truro), Patrick Princi (20.92% - Barnstable), Anthony Scalese (4.55% - Brewster).

**Voting NO (23.49%):** Teresa Martin (2.30% - Eastham), John Ohman (6.58% - Dennis), Julia Taylor (14.61%- Falmouth).

**Absent (10.51%):** Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% Provincetown).

Clerk O'CONNELL: Mr. Speaker, Proposed Ordinance 14-03 passes with 66 percent of the Delegates voting "Yes"; 23.49 percent "No"; 10.51 percent absent. It now becomes known as Ordinance 14-07.

**Whereupon, it was moved, seconded, and by a roll call vote with 66.00 percent voting "yes";**

**VOTED:**

**To transfer appropriations within the County's operating budget for Fiscal Year 2015, as enacted in Ordinance No. 14-02, by making appropriations transfers for the Fiscal Year two-thousand and fifteen.**

**The sum set forth in section one, for the several purposes set forth therein and subject to the conditions set forth in sections four through twelve of Barnstable County Ordinance 14-02, are hereby transferred from the County appropriated Legal Services account (Budget 0019102-5235) to the designated budget group as transferred appropriations for Barnstable County for the fiscal year ending June thirtieth, two thousand and fifteen.**

Speaker BERGSTROM: John, your back.

Mr. OHMAN: Thank you, Mr. Speaker. Moving on to Ordinance 14-08

We held a public hearing, which is actually required under this, but we had previously thoroughly discussed this on November 5. It's regarding the purpose of the proposed ordinance was to restrict the transfer of money from special revenue accounts,

savings account, or any other account in which unrestricted funds are placed for the purposes of increasing income revenue if projections fall short.

It's become practice for the Finance Committee -- finance board over at the Commissioner's side to make up for any significant shortfalls by taking out of special accounts or fund reserves.

And we thought this practice was not a good idea to go forth -- to keep going forward. So we had a discussion and I believe the committee voted as -- just a public meeting 3 to 0. When we actually convened today, we rediscussed it under public hearing. There was no members of the public that commented. There was no members in written in form to comment on it.

This board voted 4 to 0 to bring it forward in a positive manner to the Assembly of Delegates and I do so now. I would ask for your approval of Ordinance 14-08 as written.

Ms. KING: Second.

Proposed Ordinance 14-08:

Upon the passage of the Barnstable county budget for any (all) fiscal year(s), no transfers of monies from either a Special Revenue Account, Reserve Account, Savings Account, or any account in which unrestricted funds are placed, shall be transferred into the county budget for the purpose of increasing (supplementing) the income revenue if it falls short of the projection for that fiscal year. Such a transfer shall require an ordinance and follow the procedure in which the full Assembly of Delegates shall be notified of said shortfall of projected revenue. At which time a vote shall occur to transfer funds from a specific unrestricted account(s) to supplement the projected income revenue or an amendment proposed to cut the expense side of that fiscal year budget thus restoring a balanced budget.

Speaker BERGSTROM: Okay. Motion to approve is on the table. It's been moved and seconded. Any further discussion on this? Yes, Suzanne.

Ms. MCAULIFFE: Yes. I think it's just part of our business to know exactly what's happening in the budget. And I was privy to the discussions when this first came up and not the discussions today. But it really is -- we are not making good, solid decisions on budgets if we don't know what's happening during the year to the budgets, where the monies or shortfalls are, or monies being moved around. And I think it's not that we're trying to exert any self-control over things, so much as we really need to be better informed about what revenue projections are being met and where monies are coming from so that we can have good decisions about budgets going forward.

Speaker BERGSTROM: Okay. Anybody else have a question on this?

Mr. CAKOUNES: Thank you, Mr. Speaker. This is just good municipal finance practice. I don't believe that any one of you that is sitting here that come from your towns can tell me that when you pass a budget at your Town Meeting that midway through that budget series if you're projected income is way down that your Chief Financial Officer just goes over to the savings account and pulls some money out and puts it in. And at the end of the year you've met your budget. And that's what the practice is that's been going on here.

This holds our financial department to the same scrutiny that all of your towns hold their own financial departments too. That once a budget is approved, not only are the expenditures approved but the projected income is also approved.

And as we go through the year, if there's a shortfall in that projected income, then it will be on the onus of the finance department to come here. We meet every two weeks. This is not like your town that only meets once a year at Town Meeting. This legislative body meets every two weeks. It would not be far conceived that our finance department couldn't come here in January or February and say, "Hey, you know what? We're not meeting our expectations."

We need to either transfer some money from a savings account or we need to revisit the budget and cut some areas that have not already been started. This is good municipal financial practice. And it's about time we start endorsing it. And I appreciate Mr. Princi joining me in bringing this forward.

Speaker BERGSTROM: All right. Just a question for both sponsors, Leo and Patrick, I should have been on top of this earlier. But it says, "At which time a vote shall incur to transfer funds from a specific unrestricted account, so on and so forth. I mean you're talking about an ordinance here; right? You're submitting an ordinance.

Mr. CAKOUNES: That's correct.

Speaker BERGSTROM: I mean you feel the language is adequate? I don't know. I'll ask the Clerk; what do you think? Is it good enough?

Mr. CAKOUNES: Well, I think anytime you transfer funds, you need an ordinance so I think that's kind of --

Speaker BERGSTROM: It's implied okay. All right. Any other questions? All right. Yes.

Mr. KANAGA: It's not really a question but I'm in favor of this and I think -- unless I'm reading it wrong from the information we just got, it looks like the inflated revenue budget was repeated with the same numbers or approximately the same numbers in fiscal 2015.

So this is another reason for us to be able to stay on top of the revenue shortfalls as the year goes by and look at it a year in arrears.

Speaker BERGSTROM: Okay.

Mr. CAKOUNES: You have no idea.

Speaker BERGSTROM: Okay. Once again, it's a voice vote -- I mean a roll call vote.

**Roll Call Vote on Proposed Ordinance 14-08: Upon the passage of the Barnstable county budget for any (all) fiscal year(s), no transfers of monies from either a Special Revenue Account, Reserve Account, Savings Account, or any account in which unrestricted funds are placed, shall be transferred into the county budget for the purpose of increasing (supplementing) the income revenue if it falls short of the projection for that fiscal year. Such a transfer shall require an ordinance and follow the procedure in which the full Assembly of Delegates shall be notified of said shortfall of projected revenue. At which time a vote shall occur to transfer funds from a specific unrestricted account(s) to supplement the projected income revenue**

**or an amendment proposed to cut the expense side of that fiscal year budget thus restoring a balanced budget.**

**Voting YES (74.88%):** Ronald Bergstrom (2.84% - Chatham), Leo Cakounes (5.67% - Harwich), Ned Hitchcock (1.27% - Wellfleet), Christopher Kanaga (2.73%- Orleans), James Killion (9.58% - Sandwich), Marcia King (6.49% - Mashpee), Teresa Martin (2.30% - Eastham), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% -Truro), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Anthony Scalese (4.55% - Brewster).  
**Absent (25.12%):** Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% Provincetown), Julia Taylor (14.61%- Falmouth).

Clerk O'CONNELL: Mr. Speaker, Proposed Ordinance 14-08 passes with 74.88 percent of the Delegates voting "Yes"; 25.12 percent absent; no one voting no. It now becomes known as Ordinance 14-08.

**Whereupon, it was moved, seconded, and by a roll call vote with 74.88 percent voting "yes";**

**VOTED:**

**Upon the passage of the Barnstable county budget for any (all) fiscal year(s), no transfers of monies from either a Special Revenue Account, Reserve Account, Savings Account, or any account in which unrestricted funds are placed, shall be transferred into the county budget for the purpose of increasing (supplementing) the income revenue if it falls short of the projection for that fiscal year. Such a transfer shall require an ordinance and follow the procedure in which the full Assembly of Delegates shall be notified of said shortfall of projected revenue. At which time a vote shall occur to transfer funds from a specific unrestricted account(s) to supplement the projected income revenue or an amendment proposed to cut the expense side of that fiscal year budget thus restoring a balanced budget.**

Speaker BERGSTROM: Thank you.

Mr. CAKOUNES: Thank you, very much.

#### Report from the Clerk

Speaker BERGSTROM: Okay. Now we have a report from the Clerk.

Clerk O'CONNELL: I'll try to be quick about it. I do have a few items, mostly informational and reminders.

When the Assembly meets as a new Assembly in January, we are under the Commissioners umbrella, policy umbrella for remote participation. As far as I know at this point, we do have a few Delegates, it is my understanding that will not be able to be at the very first meeting and will be participating remotely. If there's anyone else that suspects that they're not going to be able to attend and you can let me know in advance, I would greatly appreciate that. And remote participation will be via conference call, telephone.

And the Speaker at that time, I think it's going to be Julia until they select a new

Speaker, will have the responsibility of looking at the criteria for the policy and making sure that the people who are going to remote in fall within the parameters that are allowed by law for remote participation.

On to the next item, I sent you an email regarding committee choices or preferences. Just to remind you that I'd appreciate it if you could give those back to me. Once a new speaker is chosen, that's the first thing that a new speaker will be responsible for doing and that's putting together committee assignments, and we'll need to have that done right away in January when a speaker is selected.

Next item is the MMA conference in January. I tried to make contact with all Delegates individually. Are you planning on attending? Are you not? Because I'd like to make those reservations, if you will, far enough in advance that it clears all the hurdles so that when you get there, you've got a badge. And in order to do that, I need to make those registrations far enough in advance. So I'm asking you to commit by the middle of December.

Next item. I sent you an email regarding conflict of interest. Hopefully you've had a chance to review that. And I've provided you a copy as a courtesy in your individual folders. So when you feel comfortable, if you could please sign that and return it to me. It's required by the County every year and this is the time of year that we have to do it - December.

Reminder about the holiday gathering, that's coming up in December. You can see me anytime with your payment for that function.

The next item is with regards to the notification that you received today about a December 3 workshop. As a courtesy to the administration, if you want to let me know whether or not you plan on attending, I'm more than happy to pass that information along to them. Thinking tonight, as there was some conversation about this, it may be helpful for them to know how many Delegates plan on attending just in case they want to give consideration to postponing it to another point in time.

Next item - we received and I passed out to you today, I also sent it to you electronically, the memo from Mr. Brillhart regarding the activities of the Commissioners. I want to point your attention out to Item No. 6, Succession Planning. I had the opportunity to work on this committee. I was the chair of this committee and I worked along with several other department heads; Bill Clark who was here tonight was one that sat on the committee with me. We prepared the report and I guess myself and other committee members will be formally delivering that report to the Board of County Commissioners on December 3.

And with regards to the upcoming budget schedule, I spent some time today looking at and thinking about how the Assembly may want to look at approaching their budget for fiscal year '16. And with the Speaker's permission at the next meeting, after I've had some discussion with him and the Chair of Finance, I'd like to come forward with good, bad, or indifferent, I'm going to throw something out there with regards to a suggestion or approach on FY'16 budget.

I think based on my observations that there needs to be some consolidating done with regards to department that come in and talk to committees, that you may or may not have any control over, and get them under the department's umbrella where they really belong for purposes of budget justification; And also compressing the schedule down to

possibly two Wednesdays, off-Assembly meeting Wednesdays, where we can get all the committees processed through budget reviews maybe 1 to 5 in the afternoon, two Wednesdays and that's it.

We've got to consider the fact that we're going to have ordinances coming through and I've got to make a provision to allow for public hearings for those. I don't want committees to feel rushed because there's an Assembly meeting coming at four o'clock and you have to hurry through that material.

So I'm going to put together a tentative schedule and bounce it off your wall and see what you think because not only is it helpful to have Delegates know as soon as possible when these commitments are, likewise the department heads as well, so we can get everybody scheduled and on that track knowing when these things are going to happen.

And it will also give you an opportunity to have more time to deliberate on the budget, vote on the budget, make changes, and be able to react not in haste with oh my God, it's May 30<sup>th</sup> and we've got to have it done.

So that's what will happen maybe next time. And that's it. That's all I have.

Speaker BERGSTROM: Yes, I just say that -- of course I worked with -- we've all worked, not all of us, but some of us work with other clerks and the scheduling these budget hearings is the biggest nightmare because people have to -- we all have different schedules; we all can't make it. Some committees, not all have been known to put off decisions (laughter), you know, saying, well, we'll meet again next week only to find out that next week's all booked up where people can't make it. So you really have to come in -- I think that Janice has some good ideas to put on the table and we'll try to make it as easy as possible for her and also for the people participating with the presumption that we're all going to be reviewing the budget.

But I still believe, having gone through this, that the committee decisions, the individual decisions should be taken into great consideration by the Finance Committee and by the final vote of the Assembly. So don't think you're wasting your time there because I don't have the time to go over the whole budget and interview people. So I'm going to rely on the Human Service Committee. I'm going to rely on the various committees, environment committees.

#### Other Business

Ms. MCCUTCHEON: Mr. Speaker, if I may?

Speaker BERGSTROM: Yes.

Ms. MCCUTCHEON: I requested that the next item be put on the agenda because I --

Speaker BERGSTROM: Oh, okay. That's where it came from.

Ms. MCCUTCHEON: -- haven't had an opportunity to review this letter from the County accountant prior to the last meeting. I did review it. I looked very carefully at all the information that was attached to it. I think this is a real good-faith effort on the part of the County to come forward with a commitment to give us information. It's a little less specific than I would like to see, but I think it's a real good-faith effort and I thank

you for giving me an opportunity to speak to it.

I have something I'd like to raise under "Other Business."

Speaker BERGSTROM: Sure.

Ms. MCCUTCHEON: May I go ahead?

Speaker BERGSTROM: Yes, go ahead.

Ms. MCCUTCHEON: There has --

Speaker BERGSTROM: Unless somebody else has a question on that submission and we all received it. Okay.

Ms. MCCUTCHEON: Okay. We just heard some discussion about plans for the future for the budget and I noticed you speaking in the first person about I and what I would do about the committee hearings and the rest of it. There's been some discussion kind of off the record and in private about who is going to be Speaker in the next session.

I'd like to in my haste or urge or interest in having some transparency in how we do business, I'd like to have that as an agenda item in December. I'd like to have the new, reelected people invited to attend, and I'd like to have a discussion about who wants to be and why they want to be, and how they see this body moving forward and what they would hope to accomplish. Because I think what's -- I think we're not getting that kind of information, and I think it's real important. Who is the Speaker is important for the public face of this organization and for what debate we move forward, and I think that that's how we make it public.

Speaker BERGSTROM: Well, you know, that's -- I've had this discussion with Deborah and it kind of breaks precedent. I mean you're going to dispense with all the intrigue and dishonesty and so on that goes along with this kind of thing and it makes life interesting.

But if that's your pleasure, I don't know. What are the other members -- yeah, Ned, what do you think about this?

Mr. HITCHCOCK: Here we go. I think this is an excellent idea because I tend to be one of those guys that don't get a lot of phone calls and whispers. So I'd really be interested if there are any number of people who are interested in being the Speaker.

I think they should tell us what they think the role of the Speaker is. I'd like to see them discuss, well, I don't know, a handful of other things; what the hot topics are and what the things that we ought to be looking at, and most particularly, where we are in this whole notion of Charter review and revision and so forth and so on.

So that would be on my list of questions. Thanks.

Speaker BERGSTROM: Okay. Yes, first Leo.

Mr. CAKOUNES: I'm not going to be here but I'll throw my two cents in anyhow. Just as a suggestion, we have our annual holiday luncheon on Wednesday, December 17, and I believe that is our last meeting of the year in December.

Would it be okay to maybe invite the new Assembly members to attend not only the December 17 meeting but then extend them an invitation --

Speaker BERGSTROM: I think we have done that in the past. As a matter of fact, I think you attended one of the --

Mr. CAKOUNES: Yes, come to our holiday meeting and that way there they will have a chance to -- if they're going to be voting, there's I believe 4 new members, they'll have a chance to meet the new perspective Speaker and maybe socialize with some of the

existing members here too.

Just a thought.

Speaker BERGSTROM: Yes, Suzanne.

Ms. MCAULIFFE: Yes. Having participated in numerable chairman votes that I guess were sort of supposed to be fixed and then turned out to be total upheaval.

I think it would be very good to have people who are interested in being Speaker to toss their hats in the ring and then talk about what they see their roles are and what they would like to do. It would help all of us be informed about it, and I think it would give more of an openness to the process as opposed to who gets a phone call and who's going to rally behind whom. Then that would cut that out, hopefully.

Speaker BERGSTROM: Yes.

Ms. MCAULIFFE: And then you could make a decision based on -- it's like running for the position.

Speaker BERGSTROM: All right. Word of caution; this has to do with an internal matter of the Assembly; okay? It's not -- the public doesn't have any participating in this, so it's a whole bunch of different rules that take place.

In other words, you have more flexibility to discuss with each other. I wouldn't suggest you email back and forth, but if you wanted to send out a letter/email saying, "I'm interested in being Speaker; here's why." I don't think that runs a foul any regulation -- of course I'm not sure. I'll probably get arrested tomorrow but I'm pretty sure.

Ms. MCAULIFFE: But Mr. Speaker, don't you think having this discussion in the open whether it's a public meeting or not, it's just having, you know, in an open session is truly more --

Speaker BERGSTROM: Well, no, I don't mind having it --

Ms. MCAULIFFE: -- than having it be by letters or by -- it is a departure but it doesn't mean that internal business and discussions can't be held in public. It just -- we wouldn't have public comment and public participation.

Speaker BERGSTROM: The only -- it's not that I object to it. I mean we do what we want. We can do what we want. Normally legislative bodies don't consider internal organizational matters as a matter for discussion to the actual vote. But there's no reason we can't do it but --

Ms. MCAULIFFE: And people don't have to be here. They can watch. That's the advantage of doing it at the table is they can watch the meeting. They don't have to come and physically be here.

Speaker BERGSTROM: Well, I will -- if it's the wish of the Assembly, I will put that on the agenda for the 17<sup>th</sup>, assuming we're still talking to each other after that and a meeting.

Yeah, Pat, what do you think?

Mr. PRINCI: It's kind of funny because I think we could possibly be one of the first legislative bodies that ever does something this way. And I did talk to Deborah the other night about it and it took me a while to understand exactly what she was saying after working so many years at the State House when all that committee stuff is all done behind closed doors. It was somewhat refreshing, and, you know, what Ned said, I mean, you're right. You probably won't get many calls based on the percentage of vote and --

Speaker BERGSTROM: Well, no. It's one man-one vote, Pat.

Ms. KING: One man-one vote.

Speaker BERGSTROM: So you're back in the peanut gallery. You only have one vote.

Mr. PRINCI: Oh, well, I take that back --

Speaker BERGSTROM: See now, you insulted him.

Mr. PRINCI: But it's an important role to have like for this body, and I don't see why we can't break the mold and maybe do something like that.

Speaker BERGSTROM: Well, I think it's important. I mean I think -- tend to, you know, think that the speaker doesn't drive policy as much as the Delegates do. I think, you know, I mean I was going to say there's probably been 20 ordinances or resolutions proposed by various Delegates in the time I've been here and 15 of them and then Leo. So I mean there's an opportunity for anyone whether they're Speaker or not to drive the bus if they want to, but I agree with you.

So I'll schedule for the 17<sup>th</sup> and meanwhile my only piece of advice is that it's in the interest of the Assembly when they sit down on January 1 to know who this next Speaker is going to be. I just, I mean, you know, maybe I'm wrong but that's how it normally goes.

Yes, Leo.

Mr. CAKOUNES: Can we move on to something else?

Speaker BERGSTROM: Sure. Gladly.

Mr. CAKOUNES: Oh, wait a minute.

Speaker BERGSTROM: Wait a minute; Jim.

Mr. KILLION: If I could, Mr. Speaker?

Speaker BERGSTROM: Yes.

Mr. KILLION: What we're discussing with the letter from the Accountant. Are we still discussing that?

Mr. CAKOUNES: No, that's been closed.

Mr. KILLION: No. I thought we were still.

Speaker BERGSTROM: Well, yes, go ahead.

Mr. KILLION: What I'd like is looking over the numbers, these were the numbers as of the end of the first quarter. And it appears that the Registry of Deeds numbers are only at just about 19 percent, about 30 percent below projection.

What I'd like to do is if we could get a historical revenue projection from the registry, in other words, when do they collect the bulk of their receipts? Because, obviously, they're the largest -- one of the largest contributors, and I really would like to know where we are with their revenues.

Speaker BERGSTROM: We could do that one of two ways. I can either send a letter to the Clerk, to Jack Meade, and ask him or you could -- if we could ask him to be here. I don't know if he would be here or not.

Mr. KILLION: Either one. Attendance is best, but if he can send a letter, that will be fine.

Speaker BERGSTROM: Leo, did you have something?

Mr. CAKOUNES: Actually, I have three things and I'm going to go through them very quickly. I don't expect to deliberate them and discuss them. Firstly, I sent out

earlier a letter dated November 8 from a young lady by the name of Jean Hamilton. I just want to draw that the attention she asked to have some governmental body be the go-to agent to help put together any future plans which might be dealing with the DOT and the stripping of Route 6.

In this letter, she references the Cape Cod Commission, but I'll tell you I really believe she meant the County Commissioners after my discussion with her. I'm happy to say that earlier the Commissioners reported that they are speaking with her, and it will be on her next agenda and I intend on attending. So I want to bring that up to your attention.

The second thing is on the Barnstable County Commissioners -- County administration had sent us these 10 things that they're doing. I would really appreciate if you would show some attention to Number 4, the "Campus Planning and Space Needs."

If I were to be here as an Assembly member next year, I would be filing a resolution asking for the new Speaker to probably put together a needs assessment -- campus needs assessment committee because this has to be done by people who are affiliated with the legislative and not just department heads. This is a really, really important part of our next five-year planning, and I think you're going to see something even come up next year on some of this.

And the second one which is equally important, if not even a little bit more so, is Number 9, "The Bond Issues for the Capital Projects." There is some talk and you will be proudly seeing relatively soon an ordinance asking for a \$2.85 million bond issue to cover some maintenance projects. And I won't give you my personal opinion on that right now, but I want to draw that to your attention because I think it's going to be something that you need to be aware of especially when you're going to be deliberately our next budget.

And then the third thing, I passed out very quickly before I started speaking, it's three pages but it's stapled together. The first page is Resolution 13-01. Just to refresh your memory, 13-01 was passed by this body on February 6, 2013. I won't read the whole resolution but to remind you it basically said to leave the Legislative body as it is but to increase the Executive branch from the current 3 County Commissioners to 5.

Why I attached this is because the next two following sheets are a worksheet that I put together and it's for your information only in case you, as the Legislative body, next term decide to take this up again. I thought some of these numbers would be relevant to your discussion of this.

And I'll go down it really quickly so you'll understand the format. But basically all the numbers on these two sheets were derived from the recent County Commissioners' election. There were two people running for one seat. It was a Cape-wide election, and what I did was I took the totals in each town and put them under headings, "Candidate A or Candidate B."

And you'll see under District 1, if we went to 5 County Commissioners, we'd have to have five districts. So on this worksheet what I did is I took District 1 and I know that in reality this would be precincts of certain towns, but for this exercise I only did it with the entire town. I included Harwich, Eastham, Chatham, Orleans, Provincetown, Truro and Wellfleet.

And then you'll notice I have the totals, and then you'll notice way over to the right the winner of that if that had been a separate district would have been Candidate B.

And then equally I did the same with District 2, isolating Brewster, Dennis and Yarmouth. And, once again, the winner of that would have been Candidate B. Now these are all actual numbers. So they are something that you can refer to if you're contemplating on during this in the future.

Barnstable I left as its own district, only because it was 9,000 votes and I tried to break it up into a total of 9,000. And Candidate A would have won that district. And subsequently it goes on to District 4 and 5.

The results show that Candidate A would have won the election -- I'm sorry; the results of the actual numbers are that Candidate A did win the entire election by a margin of 621 votes; 91,427 were cast.

And just for your, once again, information, 7 towns voted for Candidate A and 9 towns voted for Candidate B.

So my conclusion with this worksheet that I put together is that if we were to go with five districts as opposed to one district, the entire Barnstable County, the results would have been a lot different. Each district would have, it appears anyhow, that districts would have won -- would have selected the candidate that they supported in the majority of.

At that goes to my argument when I originally proposed Resolution 13-01 that I think it is a better representation of the people across the Cape. Again, I don't expect any deliberation or discussion on this. I only give this to you because, once again, they're hot off the press. They're good numbers and you may want to use them in future deliberations.

Thank you. That's it. You've only got two more meetings with me, by the way.

Speaker BERGSTROM: Okay. Suzanne.

Ms. MCAULIFFE: Yes. On the same letter, Number 10, "Employee Contract." I forgot to bring this up when the Commissioners were here. But I'm interested in hearing from them specifically if you can invite them to the next meeting, what decisions they have made in terms of the administration going forward.

I saw from the minutes, and it's not listed here that they gave Mr. Lawton a contract, Interim Director of Finance, but I believe the contract was just from January to March, which from the minutes, and then they made -- they extended Mr. Zielinski's contract to the end of December --

Mr. CAKOUNES: Sick leave.

Ms. MCAULIFFE: -- his sick leave to the end of December. So I'm confused. You're going to have a budget put to bed or you're working on your budget. You're bringing someone in in January when technically shouldn't they be coming on when they're, you know, when you're doing the budget.

It's just I'm not following what they're thinking is. I did not go to the meeting. I was not privy to their discussion, so perhaps they could come in and explain their reasoning behind some of their interim decisions going forward.

Speaker BERGSTROM: Maybe to take suggestions on it. It looks like Janice is going to be busy because I think a letter to them asking those questions to explain the duration and the purpose of the contracts that they've signed or intend to sign.

Ms. MCAULIFFE: Right. Because to me --

Speaker BERGSTROM: I mean you can still discuss it with them but at least

they'll know when they (Inaudible).

Ms. MCAULIFFE: Right. Exactly. I just want to -- and there may be a very logical reason. It's just it is not -- I could not divide in front --

Speaker BERGSTROM: A logical reason?

Ms. MCAULIFFE: Not divided. And Number 2, I think Mr. Bibler gave some very compelling testimony today on the wind turbine and their impact on Bourne. And I don't know if this body can do anything or it's probably out of our purview and maybe it's just for information, but maybe the Cape Cod Commission needs to -- I don't know if they can propose DRIs --

Speaker BERGSTROM: Well, we have in the building the new Delegate or the Delegate-elect from Bourne, so perhaps she could go back to the Board of Selectmen, whom she knows very well, and bring that up with them as to what their opinion is and whether they feel they're a stakeholder in this and it should have --

Ms. MCAULIFFE: Right, decide from there. But I just wanted to acknowledge that, you know, I heard some rumbling, you know, out there and there are decisions made that impact us that we have no control over.

Speaker BERGSTROM: Do you know that that blade is longer than a football field? A football field is only 300 feet.

Mr. ERIC BIBLER: No, the diameter.

Speaker BERGSTROM: Diameter.

Ms. MCAULIFFE: And what Falmouth has gone through, you would think that - I know Yarmouth has bylaws for wind turbines and one of the -- we have commercial, municipal and residential. And one of ours is minimum of 10 acres, so you're not getting anywhere near a wind turbine because of a lot of the issues. So --

Speaker BERGSTROM: I don't know if the Assembly can take this up but I mean we'll see in the future. Yeah.

Mr. CAKOUNES: Mr. Speaker, I asked at our open session the County Commissioners to forward me any document which I believe is relevant to the discussion we're having right now too. I don't know because I haven't seen it because they brought it in under a public comment part of the agenda and voted it and signed it.

So I would respectfully ask that when it does come and I'm sure it's going to come through Janice that she forward that, go ahead and just forward it to all the members of the Assembly because I think it's going to be an important document, especially with the discussions that we're having here. Thank you.

Speaker BERGSTROM: All right.

Deputy Speaker MARTIN: Motion to adjourn.

Ms. KING: Second.

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

**Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates at 5:55 p.m.**

**Respectfully submitted by:**

**Janice O'Connell, Clerk  
Assembly of Delegate**