

*submitted Green
by Kelli Green
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Aof W 12-21-16*

December 5, 2016

Jack Yunits
County Administrator
Barnstable County

Dear Jack,

At the last Assembly of Delegates meeting, you asked that I put in writing questions I have regarding the Cape Light Compact (CLC). You stated that our County attorney, Bob Troy would provide an opinion if you could not answer the questions posed. I would sincerely appreciate if you and/or Mr. Troy answer the following questions in a timely manner. Please also convey to Mr. Troy my sincere appreciation of his earlier memo clarifying issues with CLC, his attendance at the Assembly of Delegates meeting and his answers regarding CLC at that meeting.

It is my understanding that at the last Cape Light Compact (CLC) governing board meeting the board approved a new "Contract Execution Process," which purportedly gives the CLC Administrator the authority to sign contracts.

I have concerns about this process and any contract signing authority especially with Barnstable County serving as the fiscal agent for CLC and with the CLC Administrator being a County employee but also because the County is a member of CLC.

CLC is neither a County Department nor an independent entity, and it needs to be one or the other in order for the County to act as fiscal agent consistent with our County Charter according to the memo that Bob Troy, our county attorney wrote. And also according to the memo, CLC needs to become an independent entity in order to independently sign contracts.

I am under the impression that the 04 number CLC is using regarding any contract is the County's 04 number and this has been done on every contract since day 1. Is this correct?

If the CLC Administrator is signing contracts without the County's 04 number, how has this been done? Is the CLC Administrator continuing to do this?

Regardless, do contracts signed by the CLC administrator have any legal underpinnings? If not, is the CLC Administrator acting in a lawful manner as a Barnstable County employee?

As members of CLC does Barnstable County and do the towns have liability issues if the CLC Administrator is signing contracts with no backing from the County or anyone else, some worth over \$70 million a year?

If the CLC Administrator does have the authority to sign these contracts by a vote of the CLC board, can she in fact use the County's 04 number and how did she get the authority to do so?

If the contracts are being signed with the County's 04 number and the CLC Administrator is an employee of the County, is there exposure and liability for the County?

The County Administrator doesn't have the authority to sign contracts worth over \$150,000. How is it possible for a County employee to sign large contracts, some worth over \$70 million a year without County supervision?

CLC has let the County know they are looking for a relationship with a different fiscal agent. This sounds like they want to have it both ways. CLC wants to continue the relationship with the County as is which Mr. Troy has stated does not comport with the County Charter, while looking elsewhere. They want a termination with the County without actually terminating the relationship until some time in the future. Is this proper? What is the opinion of the County attorney that CLC terminate it's relationship with the County or become a County Department until they find a different situation?

CLC has a Charter – an Intergovernmental Agreement (IGA) - and in fact only exists as an IGA. The member towns and counties appointed representatives to the CLC governing board. The CLC board has been changing the CLC Charter over the years. When CLC changes the Charter, it is mandated to go back to the members and get approvals from the member towns and counties when there are substantive changes. But CLC has not done that. The CLC board has approved changes put forth. The Attorney General said that they can't do that, but they continue to do so. Could the county attorney review the original IGA signed in the late 1990s and the current IGA and render an opinion as to whether substantive changes have been made? Is the current IGA legally valid without having being executed by member towns and counties?

If there is a termination agreement with the County and CLC is in the process of moving forward in dissolving the relationship with the County, then CLC will presumably be revising their Aggregation Plan, their Services Agreement, and the Intergovernmental Agreement. It is my understanding that CLC needs to go back to the members which are the counties and the towns with these substantive changes and first get approval from the members to make these changes. Is this the understanding of the County attorney? Will CLC need to go to each town Board of Selectmen and each town meeting? Will CLC need to come before the County Commissioners and the Assembly of Delegates?

Now and going back for many years, the CLC Administrator and other CLC staff have been County employees. It makes sense for the Assembly of Delegates to receive in writing answers to the following questions. Is CLC up to date with its OPEB and pension responsibilities as regards to County employees? If not, how much money is currently owned? If CLC terminates its services agreement with the County, will past, present,

and future liabilities regarding employment – or perhaps CLC-related actions of County employees – remain with the County, or will they follow CLC?

Recently the CLC Administrator acquired insurance for CLC, at the request of the County Administrator. Has the County been provided with a copy of the policy? If CLC does not exist as an independent entity, what entity holds the insurance? Who/what is insured? Is the County as the fiscal agent and a member and are other CLC members the insured parties? How can the County be assured the insurance will cover the county as a fiscal agent and member as well as the other members when CLC is neither independent or a County department?

Thank you for attention to these questions.

Sincerely,

Lilli-Ann Green