BARNSTABLE COUNTY ASSEMBLY OF DELEGATES
Report / Journal Minutes of the Standing Committee on Finance
Proposed Ordinance 16-05
March 30, 2016

Dear Mr. Speaker and Assembly Delegates:

This is a report and transcript on Proposed Ordinance 16-05. The proposed ordinance was submitted to the Assembly of Delegates by the Board of Regional Commissioners at the Assembly of Delegates regular meeting on March 2, 2016.

A public hearing was scheduled and held by the Standing Committee on Finance on Wednesday, March 30, 2016 at 2:00 p.m. at the Assembly of Delegates Chamber Hall, First District Courthouse Route 6A, Barnstable, Massachusetts. The public hearing was duly advertised in the Cape Cod Times on March 23, 2016.

The purpose of the proposed ordinance was to add to amend Ordinance 09-06 (which amended Ordinance 89-3), Section 1 (a), that imposed an excise tax on certain deeds and other instruments to be recorded at the Registry of Deeds, by increasing the amount from $1.35 to $1.53, effective July 1, 2016.

Committee members present on: Chairman John Ohman, Teresa Martin, Suzanne McAuliffe, and Deborah McCutcheon. Absent: Julia Taylor.

Chairman John Ohman opened the public hearing and identified the purpose to attendees. As follows…..

Chairperson OHMAN: Good afternoon. I'd like to welcome you all to the Assembly of Delegates. The Finance Committee is here to listen to public testimony on a Public Hearing on Proposed Barnstable County Ordinance 16–05 to raise the County tax from $1.35 per 500 to $1.53 per 500.

And we're going to organize this so that we're going to ask that any Public Official who is signed in that would like to speak will speak first; who do I have? Mr. Bergeron.

Mr. WAYNE BERGERON: Thank you and good afternoon to everybody. My name is Wayne Bergeron. I'm a Selectman in the town of Dennis. I want to be clear that I'm speaking for myself; the Board of Selectmen has not taken a position on this. We did not get it on the agenda on time to meet the requirements, so I'm speaking for myself.

So the good news is is I'm not a realtor here or given you letters you've seen many times before. And what I would really like to do is speak from Dennis's perspective of what the County has to offer. I think it plays very importantly to what's in front of you right now.

A few examples, and there are many that the County does, one of the biggest ones for the town of Dennis is the dredge. Every year we dredge out the entrance with the County to Sesuit Harbor. If we had to buy a dredge yourself, hire the people to run it, pay all the concurrent insurances that would go with it, it would be an astronomical

investment on the part of our town. Thanks to the County, we don't have to do that. It's very important.

We get tremendous help with our aquaculture. We have a number of agriculturists growing oysters off of Crowes Pasture. They receive help and guidance as our shellfish warden does and natural resources from the County, the Extension.

Many of you are aware of one of the best things we've done in a long time in Dennis, as part of a group, which was to purchase the 30 acres involved with the Aquaculture Research Corporation. And there are many players and Bill Clark was a huge one from County Extension and that happened also because of the County.

So it's important that we keep the services for all of our towns, just not for Dennis, with all the many things the County has to offer. I know with it looking to go up 18 cents on this proposed ordinance for the excise tax on property that has been sold, and I understand probably also there are some real estate people that aren't happy about it.

That stated, my own math brought me to about for a $325,000 sale, it's about another $117, and I would stand corrected from anybody. This is just a quick look at what we had. The point I want to make is you're not going to find a situation where a person's not going to sell a $325,000 house because they have to pay $117 more dollars and put the sale off. It's going to happen. I understand the concern of being burdened but this is how we chose through this process to pay for County services and it's an important process.

I urge you to vote this proposed ordinance through. It's going to save the town government and the taxpayers, the taxpayers in each of these towns, a tremendous amount of money for services we don't have to provide ourselves.

And I thank you for your time.

Chairperson OHMAN: Thank you. Any other County Officials? Mary Pat Flynn.

Commissioner FLYNN: Yes, good afternoon. Mary Pat Flynn, Chairman of the Barnstable County Commissioners. No one ever likes to increase taxes and all of us have been involved in our own communities and we know at the municipal level that the only way to raise taxes is to utilize the two-and-a-half percent that the state allows municipalities to do. Two-and-a-half percent really doesn't ever meet the increase in expenses that we know we all -- we have them ourselves, so we know how much the town has them. Just the cost of services, it increases. The cost of union contracts increase. So the two-and-a half percent is almost something that towns do religiously each year. At least the towns I'm familiar with have done so.

And I know how important it is to try and maintain the services that governments provide to their residents. And I think what we're looking at here is our ability to provide the regional services that we have been providing over the last several years that we're providing now and the regional services that we really would like to be able to plan to do in the future.

And you may note too that there was a period when over a number of years the County did not utilize that two-and-a-half percent, and that actually resulted in about an $8 million loss over time of not being able to have those funds available to us in a budget.

So we really in a year -- those combined years where the two-and-a-half percent

was not utilized have resulted in an eight million loss in revenue. So we're already in a certain sense behind the eight-ball.

And there was a time, and I remember it very well, when the town -- when the County had excess funds and decided, right here in this room, decided to return some of those monies back to the town instead of putting them into a Reserve Fund or some way in order to keep them for the future and that amounted to two million at that time. And I remember how thrilled the towns were to be able to get money back from the County.

So we haven't always made great decisions in the past. We didn't really make, I would say, bad ones, but we sometimes made decisions for the benefit of others which resulted in not having a great benefit to the County.

I think the Commissioners agree, and I can speak for them on this matter, that it is a small increase that will affect the sale of a property as Wayne Bergeron has indicated. And I think where we are now is if we don't -- because, first of all, you do know that we realized some mistakes that have been made over the last several years, and that is that capital items that we purchased, we did not borrow or bond, rather, as most -- every government does. We actually paid cash for them. So any excess cash that we did have instead of saving it and reserving it and instead of bonding for those capital expenses, we paid cash for them. So now the results of that is we look at our -- the funds we have now and we don't have any funds in reserve at all anymore. We're done with that. That's over.

But going forward, that won't happen again because we have a very capable and competent Administrator and Finance Director. And if you look back at the audits, which I did, I went back five years in the audits to see was there any recommendation from the auditors that said that we should do something differently, that we should capitalize our purchase of equipment. There was never anything in there.

So, I'm not blaming anyone. I'm just saying it didn't happen and going forward we have to do better and what will help us get through this time right now is to have that increase in the deeds excise tax.

So I hope you will support it. Thank you.

Chairperson OHMAN: Any other County or Public Officials? Please, Mr. Yunits.

Administrator YUNITS: Thanks, John. Good afternoon. I'm Jack Yunits, the new County Administrator. Thanks for the opportunity to let me speak, and I'll be as brief as possible.

Pat already handled the issue about budget problems. Certainly budget problems concern citizens that are strongly anti-tax and rightly so. We made a lot of mistakes in this County over the years. And I, being the newcomer, am blessed with the duty to try to fix it. So we did bring in the auditor and we are going in the right direction.

And I think it's important to say that because when you're called upon to do something everybody hates, and that's raising taxes, the only way you can justify it is to say the evils of the past are going to be fixed, and we intend to do that for you. We intend to go through every real estate transaction that has occurred in the last twenty-five years, and if they're not done right, we're going to fix them. We intend to go over all available sources of revenue from the transmission tower on the hill to any other sources of revenue we can possibly raise. We intend to go to a cost recovery system on our

grants.

We intend to do the things that our County is really destined to do under its Charter to protect the assets of the County that the people own. And to do that, we're going to need a little bit of time and we're going to need a little bit of money.

Going back to what Wayne just said, take the 208 Program. We just signed a $950,000 grant from the Commonwealth of Massachusetts to perform services throughout the County and to deal with some far more important issue for realtors than the $130 tax -- I mean -- the small tax increase that may amount to $130 as Wayne indicated.

We're going to try to clean the water. We're going to try to protect the water. We're going to protect our estuaries. We're going to protect the fishing industry. And you start with a baseline data survey that the 208 program will give us. If we don't have enough money going forward to fund the budget and the 208 Program, we lose the grants. The grants, in the long run, will do more for our Cape Cod future than a stamp tax will hurt. And you do that cost-benefit analysis all the time.

I happen to be in the housing market right now trying to sell and trying to buy. And on either end, $130 or even $350 is small potatoes because nothing out here of any value is selling for less than $375,000 anywhere. For the most part, the homes I'm looking at for a three-bedroom ranch are about $500,000. The extra two or $300 that may be involved in that transaction is not going to make or break the day.

What are going to make or break the day are the roof and the clean water I have in the well in the back yard. How much is it going to cost to pump out the septic? These are the things a homeowner really asks.

I respect the realtors, believe me, I'm working with them right now. But for the million dollar guys that are going to buy homes on the water, the extra $300 is what they'll spend at lunch. It really should not be the deterrent. We're not asking for the world here. We're asking for a regional temporary solution till we get our house back in order. And I'm committing to you here and now that I will get the house back in order if it's conceivable and possible. I'm blessed with some great people in that office that are committed to doing the same thing.

So I ask you to give us the opportunity to do so. We have the full support of our three Commissioners to do so but we do need -- we need this money or there will be some radical changes and they won't be good.

Thank you, very much, for your time.

Chairperson OHMAN: Thank you. Anybody else of the Public Officials? Seeing none. Anybody from the public? I do have one person that signed up. Mimi Frank, please.

Ms. MIMI FRANK: Yes, my name is Mimi Frank and I'm from Falmouth, and I've done some research since this issue came up because I want people to realize that this doesn't just affect the sale of a house. If I choose to change the title of my house and put it either in a trust or I want to give it to my daughter, not only do I have to pay exorbitant filing fees that used to be $25 to $50 that are now $200 with a surcharge, but I also have to pay on the value of the home.

Now this home isn't even changing hands -- I mean it's not being sold. It's just

being conveyed without monetary funds. So it affects a lot more people than you think it affects and I know it's affecting -- it will affect me directly.

Also, in my research, what I did is I found out that there are 22 Registry of Deeds in the state of Massachusetts. I called every one of them. We are the only Registry of Deeds that is charging $6.12. Now you're talking you want to make it even more. Everyone else charges $4.56. Where's the equity there? That was a big question to me.

The other thing that I found extremely deceptive when this goes out to the public is they'll talk two different figures. They'll talk on the $500 figure or the $1,000 figure, in other words, of value. And I found it very interesting -- we should always use the same number. It's going to be per $1,000 or per $500 because it comes out, obviously, if you think it's going up 12 cents versus 34 cents; do you see what I mean when I say that? So we should always be using the same figure. Either use $500 or use $1,000.

I also found something very interesting in that when you look at doing your deeds and when all this goes through, they round up. Now, I don't know about you, but if it was less than whatever, you always rounded down. Well, not in this case. It always goes in favor of the Registry.

Another thing, I don't think -- I mean the County has made mistakes. We all know that. We've all made mistakes, but the reserves have been mismanaged, misused; we have reserve funds. It's really questionable about what was happening with those Reserve Funds, and I ask the County, please, don't make a mistake again on the back of the taxpayers. We're already paying more than any other Registry of Deeds in the state of Massachusetts.

So, please, go through your budget, go through with your red pencils, there's money there. Don't put it on the backs of we, property owners, who may want to just change a deed, not necessarily even selling a house.

So I'm asking that you -- to use a tax so to -- whether it be balance your budget or get more money into your budget, it sounds so easy. Oh, what's 34 cents or what's another $300? Somebody's not going to not buy their house for $300.

Well, I have a question for you. Are you going to come back to us next year and ask for more again? The thing is I don't think we should be using this tax to try to work on the County budget when you don't even know that that's a set amount. It would be different if you knew you were going to get exactly X amount of dollars per year. But depending on how the real estate market goes this year, you could get more; you could get less. Why would you be trying to work with your budget on an item that you never know what the outcome -- what the final outcome at the end of the year is going to be for your money? That doesn't make any sense to me and I'm in finance and I would never do that.

So, obviously, I'm very opposed to this. I would like to see us come back to the $4.56 and take the rest of that money away myself, personally. I certainly don't want to see it go up by 30 cents, by 15 cents, by 5 cents.

Thank you for your time.

Chairperson OHMAN: Thank you. There was no one else --

Clerk O'CONNELL: Yes, John, someone else just walked in and signed to speak.

Chairperson OHMAN: I will get to that. Okay. So if anybody else would like to speak now, just raise your hand and I'll recognize you. Sir, please, come up and identify yourself.

Mr. RYAN CASTLE: I'm Ryan Castle. I'm the CEO of the Cape Cod and Islands Association of REALTORS representing the members here today. We have about 2,000 realtors that live in Barnstable County. And we are here to just say we oppose raising the deed excise tax.

One is, quite frankly, any tax on a home transaction further hurts the affordability of housing on Cape Cod. Let's be clear, whether it's a little bit, whether it's a lot, going after making home purchases more expensive as we have a collective effort on Cape Cod trying to keep housing affordable, trying to get young professionals to move here. Anything, these type of little add-ons -- you add-on here; you add-on there; it starts adding up. It makes housing more affordable. It makes buying houses more affordable. If you think sellers pay it, yeah, sellers pay it at the closing table but it's built in to the cost of transaction.

We also don't believe using the deed excise tax to fund County operations is the right way to go. You use the deed excise tax to fund the operations of recording a deed. So we firmly believe in that. And we also believe that since you're using it to benefit programs to the entire community, if you think these programs are valuable, they need to be funded by the entire community, not picking off just home-buyers and home-sellers to pay the tax.

So, thank you, very much.

Chairperson OHMAN: Thank you, Mr. Castle. I want you to know that we did receive your letter as well and it will be written into the record.

Mr. RYAN CASTLE: I wasn't sure if I could make it so that's why.

Chairperson OHMAN: Thank you, anybody else? I don't see anybody from the board. We're all set. Would you like to close the Public Hearing? Do I hear a motion?

Deborah McCutcheon motioned, and was seconded, to close the public hearing. Motion carried 4-0-0.

Chairperson OHMAN: We are now going to discuss this internally. You're welcome to stay. It's an open meeting but we're going to discuss it and decide what we are -- we don't have the final say. We can recommend to the entire Assembly, for the record, is how this is going to go. Many of the Assembly are here as well and I'm grateful for that. Thank you.

So we're going to have a discussion. We will recommend or not recommend this to the Assembly and they will have their way at a future meeting probably in April, one of the two meetings in April.

Suzanne.

Ms. MCAULIFFE: I'll start. I really appreciate the comments that were made today. I learned a lot. But I also think that there are things that I'm learning too about some of the funding for County government. So some of the ideas I'm going to put

forward may be more in the form of question that someone could answer.

I believe that when County government in Barnstable County was designated that one of the sources of revenue that was designated was the deeds tax, not only the assessments from the towns, the deeds tax. So it is designated in the town or, excuse me, in the County of Barnstable as a revenue source.

Where in other counties, in fact, many of the counties don't exist anymore, their Registry money probably goes directly to the state because it's not set up as a funding mechanism.

Fair or not, right or not, that's something that, certainly, we can talk about or look into. That's the way it was set up.

The second point is they have not raised the deeds tax in seven years and I don't believe that it needs to be raised every year. I don't believe that it's something with like the municipalities where you have a built-in increase of two-and-a-half percent every year, but I think it was designed to provide revenue and here we are in pretty significant financial difficulties and we are trying to pull together money so that we can solve these difficulties.

And as you heard from our new Administrator, they need to be able to go forward with some of the things that they need to do. And I think what we need to do is look at whether we feel the budget has been paired and trimmed enough and has been responsibly cut in to make sure that the money is, in fact, going to be used not just to build up reserves but is actually going to be used to help the County move forward.

And my last comment that I wanted to make, Selectmen Bergeron sort of covered this; I think that, like it or not, where this tax is, the County provides services for everyone. And some of that money comes from your assessment from the towns; you may not like that. And some of the money comes from whether you have to pay for water quality testing. You have to pay for certain things, like shellfishing licenses, things like that. It's something that the County provides a service to every resident on the Cape at some point or another and that is a service that you are getting not only for your assessment but from the other sources of revenue that we have.

So I think that without the County, I think the Cape would be in a very different position. I think the County would be having to -- be unaffordable because I think all of these costs that the County can regionalize and share and do efficiently and effectively would fall on individuals and we would have a Nantucket as opposed to a Cape Cod.

Chairperson OHMAN: Teresa.

Ms. MARTIN: I agree with an awful lot of what Suzanne said. You know, I'm really hard on this budget season because I feel like for the first time, since I've been here, there are actually some real honest conversations about what the dynamics are that enable the County to exist and deliver services and that's incredibly positive. And I think it's important that those conversations and the processes that will come out of them are able to go forward, however, that funding may come from.

I my own mind, I still have a lot of questions about where that balance is. I'm getting emails from people telling me to spend money on things, things that I have not wanted to spend our money ever, yet I'm still getting all these requests. And I don't know if other people are getting these requests. So I feel like this conversation -- where the balance is and what the priorities are is still in flux.

So in my own mind, I'm still trying to sort it out, but I do know the County is valuable and important and does things that we all need to make this region thrive. I know that we need to make sure those priority activities are funded properly. But I think that discussion is still going on.

So I guess I'm just kind of throwing a big question mark of I know what's important and I'm not quite sure how I feel this question fits into making sure those important things are able to happen.

Chairperson OHMAN: Deborah.

Ms. MCCUTCHEON: Thank you. And I want to thank everybody who came here today to speak and to listen to this. I noticed that the Chair made us all go first, right, instead of -- I mean, he's supposed to provide leadership rather than, you know, backing us up and retreat. Isn't that true?

So I will say I approach this tax increase question with a very negative attitude and I was, you know, firmly set against it. I have spent multiple hours pouring over the budget, which I admit I have math skills that are a little slim, but I've got calculators and computers.

I spent quite a bit of time with the new treasurer, the new County Treasurer, and I have to tell you, for the first time since I've been here I think that they've done a budget that's a clean budget, and I think that they need the money. So those are two things.

I think that there is a problem and I raised this problem when this tax increase was first put forward. What are you going to do next year when you need more money when the monster of this government needs to be fed a little bit more of whatever?

I think that this may be a very different kind of year because I think that in the past, while I'm fond of strong language, so I'll use some; I think the budget's been pretty much plundered in the past and they're trying to, very hard, to recover some of that, find out where it's gone, see where are leases are, find out why we gave away so much money and property to various questionable enterprises. But we need an opportunity to make it happen and, therefore, reluctantly, I'm going to support this.

Chairperson OHMAN: And from the Chair's perspective, and I'd like to say I've always deferred to the philosophy of Harry Belafonte, "The Woman is Always Smarter."

Ms. MCCUTCHEON: Well, that may be true but, nonetheless, you were in retreat.

Chairperson OHMAN: Well, and I've got to tell you, I've been in the Assembly now for 19 years, hard to say but it's true, and we've only broached the subject once before in 2009. It was presented to me then and I present it to you now as well. This is an emergency break-this-glass. We're at the near the height of what we can charge for the real estate tax right now. There may be one more in the future time that we can tax it a little bit but we're at the end.

So we need to make sure that everything in this budget as we complete the budget process has been looked at very carefully and I think it has. I think I've seen a much more open process than I've ever seen from Jump Street this year in my 19 years on the Assembly. I'm appreciative of that. Thank you, very much, to the capable staff that's doing that.

So I'd like to look at this as this is one of our last chances to raise taxes. We don't have another tax process. We don't have a property tax like the towns do. We rely

on grants and state funding and the real estate tax provides anywhere from 9 million of our budget and it's very, very important to us. I don't take this lightly. And I am going to support this.

I also want you to know that we are the only Registry that takes taxes as a form of revenue, and we also get with it a very toxic retirement, sheriff's retirement benefit tax that we have to pay. It's about 1.4 million of that. So that was the albatross that was hung around the ability to retain the Registry fees when we went through this process with the state and got rid of the Sheriff's Department as part of our governance.

So, I, reluctantly, am going to support this because we need it and we need to give it a new team at the top of the County a chance to succeed and not cut services as Selectman Bergeron had pointed out that we do.

I mean I'd like to find the press in here showing to the citizens of Barnstable County just how much we do for the County through all of our departments. It's remarkable what we're able to pull off with a $28 million budget. It's lean, it's mean, and it's got to be defended, and I stand ready to do that.

Thank you.

Ms. MCAULIFFE: What's your pleasure?

Chairperson OHMAN: Is there further discussion? Hearing none. I'll take a vote. Any of those of you who would like to bring this forward in a positive manner?

Suzanne McAuliffe motioned, and was seconded, to recommend support of the increase in the deeds excise tax from $1.35 to $1.53 per $500 effective July 1, 2016. Motion carried 3-0-1. Deborah McCutcheon abstained.

Chairperson OHMAN: With that, I will take a motion to adjourn.

Ms. MCAULIFFE: Move to adjourn.

Ms. MARTIN: Second.

Chairperson OHMAN: All those in favor? Aye. 4-0-0.

Thank you, very much.

Meeting adjourned at 2:30 p.m.

Submitted by:
Janice O'Connell, Clerk
Assembly of Delegates