

**CAPE COD REGIONAL GOVERNMENT  
ASSEMBLY OF DELEGATES**

APPROVED Journal of Proceedings - April 2, 2014

Speaker BERGSTROM: Good afternoon. Welcome to the Wednesday, April 2<sup>nd</sup>, 2014, session of the Cape Cod Regional Government, Assembly of Delegates.

I'd like to call this meeting to order. Is there anyone recording this meeting outside of Our normal recording process? No? Okay.

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

(Moment of silence.)

Speaker BERGSTROM: Thank you. We will now stand for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker BERGSTROM: The Clerk will call the roll.

**Roll Call (69.93%): Cheryl Andrews (1.36% -Provincetown), 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), Anthony Scalese (4.55% -Brewster), Julia Taylor (14.61% -Falmouth).**  
**Absent (30.07%): Richard Anderson (9.15% - Bourne), Patrick Princi (20.92% - Barnstable – arrived at 4:20 p.m.).**

Clerk O'CONNELL: Mr. Speaker, we have a quorum with 69.93 percent of the Delegates present; 30.07 percent absent.

**Committee of the Whole**

Speaker BERGSTROM: Okay. Thank you.

We'll now need a motion to approve the Calendar of Business.

Deputy Speaker MARTIN: So moved.

Ms. KING: Second.

Ms. MCAULIFFE: Second.

Speaker BERGSTROM: Okay. All those in favor, say "Aye."

(Motion carried.)

Speaker BERGSTROM: Okay. You should have received a copy of the Journal of March 19<sup>th</sup>, 2014. Are there any additions or corrections to the Journal?

Ms. MCAULIFFE: Move approval.

Mr. HITCHCOCK: Second.

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

Mr. CAKOUNES: I'm going to abstain. I didn't get a chance to read it.

Mr. OHMAN: Abstained.

Speaker BERGSTROM: Okay.

(Motion carried.)

Speaker BERGSTROM: We now have Communications from the Board of Regional Commissioners. I see two of the Commissioners here. Would you like to give your report?

Communications from the Board of Regional Commissioners

Commissioner FLYNN: Thank you, Mr. Speaker and members of the Assembly. Two days with Leo Cakounes is about as much as I can handle but I'll do my best.

Mr. CAKOUNES: If you could explain that.

Commissioner FLYNN: Well, I'll start out by saying that yesterday was National Service Day and all the mayors around the country who have AmeriCorps projects and who have contracts with AmeriCorps were celebrating the service that AmeriCorps provides to their communities. So even though we're not mayors, we do this each year anyway, the Commissioners do.

So we have a bus and we invite all kinds of people, anybody who wants to join us on the tour. And this year we went to view three projects in Harwich; Thompson's Field was one, and another was the Falmouth Service Center where Mr. Cakounes was very busy with the --

Mr. CAKOUNES: Food pantry.

Commissioner FLYNN: Yes, it was the food pantry there. Well, it is -- they call it the Family Food Pantry -- the Cape Cod Family Food Pantry. I'm thinking in Falmouth they call it a Service Center.

And it's amazing what they have done with the gardens that they've developed and Leo -- we helped Leo put up a fence or repair a fence; right?

Mr. CAKOUNES: Yes.

Commissioner FLYNN: So they haven't obviously gotten to the growing stage yet but they're making all their preparations.

And then we left there and went to -- what was our last project?

Commissioner LYONS: We went to dedicate the tree at the community center.

Commissioner FLYNN: Oh yes. We were going to dedicate a tree at the Community Center in Harwich, and we postponed that for other reasons.

But, anyway, we spent time with AmeriCorps there. And the thing is this is the 50<sup>th</sup> year for AmeriCorps in this country, and it's the 15<sup>th</sup> year on the Cape. And we have a nice flyer to send out that shows where in the last 15 years that AmeriCorps been here that the contributions they have made in terms of dollars to the Cape is over \$18 million, which is really amazing the work they do.

And they're so interesting, each of them, and its great just talking to them and watching them do these projects that most people don't want to do. I mean some people love to go out and work in the garden and pick briars and things like that and they do it. That's what they like to do. So it was a great day and it was a great opportunity to thank them.

And also because of the 50th anniversary, they are I think donating from the County farm a tree to each of the towns. And they've asked each town to determine where they want that tree to be. And it will have a plaque that will designate that it was -- that it was a donation from AmeriCorps.

And so that's really what we did yesterday. And we did this also with Bill Clark once a year. We go out to various parts of the Cape. I know Teresa's been on -- some of you -- I think Marcia's been on some -- where we go out and visit some of the -- we divide up the Cape;

Lower, Mid-Cape, Upper-Cape. So we can't get around the Cape each year but we go around to parts of the Cape and really look at a lot of the projects that the Extension Service does in all the various towns.

And it's helpful because you get to meet the people, some of them who work there, so many of them are all volunteers, like the volunteers at the food pantry. Other than two employees, it's all people who donate their time. So that's pretty amazing.

Commissioner LYONS: And just speaking about volunteers, there is an effort -- there is a push for so many hours of volunteer through the Volunteer Association of Cape Cod with Lisa McNeil, so there's a real effort and there's a collaboration of trying to encourage people to volunteer.

And I just wanted to really commend the people at the pantry for their hours and time. It is a lot of work they do. It is a real warehouse operation. There's only a couple of paid staff and its real work.

And the garden is real work. And I do have to say that, you know, Leo is a Delegate among us who is actually a very good example of volunteer because they were really having trouble with there -- they told us on the side how they were having so much trouble with their garden and it was pretty to look at but it wasn't very functional and not very efficient.

And they, you know, they had to call on an expert who gave his time and effort and he was out there building that along with AmeriCorps volunteers.

So, good for you, Leo. It was good to see you there and a great example for us all to follow.

Speaker BERGSTROM: Okay. Are there any questions for our Commissioners? Yes, Leo.

Mr. CAKOUNES: Thank you for those nice comments. I would like to extend the invitation to my colleagues here though on the Assembly if any of you had not had the opportunity to tour the Family Pantry of Cape Cod in Harwich and do have some time, give me a call. I'll be very happy to set something up.

It's really an amazing operation. And as you ladies saw yesterday and you -- someone mentioned -- I think it was you, Sheila, said it was a warehouse; it absolutely is a warehouse. Tractor-trailers of food coming in and going out.

We have a very, very small paid staff. I think over 300 volunteers that come in and either help unload the food, package the food, give the food out.

And then I certainly under my jurisdiction if you will as the Garden Committee Chair have at least 20 really dedicated volunteers that have been helping me and really doing all the work.

And it's something you really need to see. It's really impressive. And I'm very proud to say that I've been affiliated with them. They're a good organization.

Thank you, ladies, for coming and working so hard.

Commissioner LYONS: Well, thank you.

Mr. CAKOUNES: I did work you too.

Commissioner LYONS: Yes.

Commissioner FLYNN: Yes.

Mr. CAKOUNES: It was cold too; wasn't it?

Commissioner LYONS: It was. It was.

Commissioner FLYNN: Hanging onto that fence with no gloves, it was cold. But Leo makes a point too that the gardens that they have now, in fact, expanded them. And so now when the clients come in to the service center, they'll have fresh vegetables and fruits and it will

be great.

Because that's really what it's all about. And then they also have clothing. They have \ clothing from toddlers all the way up to any age at all for men and women -- for men, women and children.

And they sort through them, and the ones that are really not that good, they don't keep them. They send them on to the Red Cross but they keep those pieces of clothing that are really still wearable that -- it's great.

And then the other thing we did last night is we went to Buy Fresh/Buy Local and that annual meeting. And this year they had it at the Cape Cod Beer Company. And I think that Marcus who is -- she and her husband own the beer company; it's just amazing how their business has grown in the last 10 years.

But to see all the people there and the people who farm and grow, it's -- all the different people who have farms around the Cape. It was really great to see them and have some of that good green salads homegrown.

Commissioner LYONS: And also it's proving the fact that by working together and not just, you know, working within their own niche and being very protective of their own turf, but by sharing with other local businesses, encouraging local business, all those folks are lifting.

So it was a very good evening and great success.

Commissioner FLYNN: I think Paul is here so we can probably end unless you have questions.

Speaker BERGSTROM: All right. Are there no other questions for the Commissioners?

Well, thank you, very much.

Commissioner FLYNN: You're welcome.

Commissioner LYONS: Thank you.

#### Communications and Report on the Cape Cod Commission from Paul Niedzwiecki

Speaker BERGSTROM: Okay. The next item on the Agenda is a Report of the Cape Cod Commission from Executive Director, Paul Niedzwiecki.

And a discussion with the Assembly, as you probably know, the Commission has become -- got into the front pages lately and into the editorial pages. And there are petition articles on the ballot. I was at the Chatham Board of Selectmen where they gave the thumbs down to at least disapprove of the petition article filed in Chatham.

So I thought that maybe some of the people in your town may ask you questions about this. There's a lot of misconceptions about how the Commission is organized and how much authority we have over them.

So with that, I will turn it to Paul.

MR. PAUL NIEDZWIECKI: Thank you, very much, Mr. Chair. For the record, Paul Niedzwiecki, Executive Director of the Cape Cod Commission.

I do have a presentation. I just have a general presentation we can run through quickly and then I would just take whatever questions anyone has.

Speaker BERGSTROM: Lights.

Mr. PAUL NIEDZWIECKI: Lights. Just to give an overview of the Commission for the benefit of anyone watching at home, some of the reasons for the Commission coming into being 23 years ago are those aspects of the Cape that really define us as one place.

So we have 400 square miles on this peninsula island; 560 miles of coastline beaches,

that's about a 1/3 of the Massachusetts coastline. And there are only two vehicle bridges that come over that one Canal.

A lot of times we talk about Economic Development and what is or is not driving Economic Development. If it's Economic Development the way they think about it on the other side of the bridge, one of the major impediments if you have a business, that business depends logistically on moving goods, services, or people. You don't really want to compete with that seasonal traffic four months out of the year.

You have regional roadways. That the regional roadways are limited in many respects compared to the rest of the state.

You also have 105 watersheds that are topical, certainly given the challenges that we have, the nutrients, nitrogen being the limiting factor in marine eco systems and phosphorus being a limiting factor in freshwater systems, 57 of those watersheds are being looked at for being nitrogen sensitive and contributing to the green water quality degradation in the bays and estuaries. And they're also subject to the Regional Wastewater planning that we're doing right now pursuant to Section 208 of the Clean Water Act.

Most importantly, it always comes back, except for one reservoir in Falmouth, all of our drinking water comes from underneath our feet. So we have one sole source aquifer. That is our most precious asset.

The Cape Cod Commission itself, our mission, "To protect the unique values and quality of life on Cape Cod by coordinating a balanced relationship between environmental protection and economic progress."

And the Commission Overview. Basically the Commission is the Barnstable County Regional Planning Agency. It was created in response to our rampant growth that was happening in the 80s in particular. And the Cape Cod Commission Act of 1989 really charged the Commission with preparing a Regional Policy Plan which is then presented to the Assembly of Delegates recommending any Districts of Critical Planning Concern that goes through the Assembly of Delegates.

And then to review and regulate Developments of Regional Impact that are indicated by the thresholds in that Regional Policy Plan and measured by the Minimum Performance Standards set in that Regional Policy Plan. And the method of appeal from any DRI is to the courts.

The Commission Overview, if you look at "Purposes." To anticipate, guide and coordinate the rate and location of development with capital facilities necessary to support such development.

To review those developments which will have impacts beyond their local communities.

Identify and protect areas whose characteristics make them particularly vulnerable to adverse effects of development.

And to preserve the social diversity of Cape Cod by promoting a fair, affordable housing for low-income and moderate-income persons.

To promote the expansion of employment opportunities, and

To implement a balanced and sustainable economic development strategy for Cape Cod capable of absorbing the effects of seasonal fluctuations in that economic activity.

So you look at the Barnstable County Regional Planning Agency and these agencies – as these agencies exist "to help communities within their jurisdictions plan and implement short- and long-range improvements for transportation, economic development, environmental, land use, and community development needs." This comes off the Mass.gov site and it refers really to all RPAs.

The RPA Legislation was adopted by the state in 1955. So every square inch in Massachusetts is covered by a Regional Planning Agency, and they're authorized local governments to voluntarily address problems and opportunities that are of a regional scope.

There are 13 RPAs that represent every town in the state. The Cape Cod Commission is the successor to the region's first RPA, the Cape Cod Planning and Economic Development Commission.

So if we look at the regional planning agencies in Massachusetts, you can see the 13 of them up there, every square inch covered. And even if you look at staff, population, budgets, the Commission falls in the middle of the pack as it relates to those factors.

So Massachusetts RPA comparison, the Commission is unique in that it's only one of two original planning agencies that have regulatory authority. The Commission Act in 1989 and the Martha's Vineyard Commission Act in 1974.

The Commission is the only RPA that is established as a County department. And that now becomes important in one respect because we are limited off a fixed number, \$2 million, in what we can request in assessments to 2-1/2 percent per year, unlike every other Regional Planning Agency in the state including the Martha's Vineyard Commission.

And we're the only RPA that can authorize development impact fees and other distinction between the Martha's Vineyard Commission is because of our attachment to the County government. And because the Assembly of Delegates serves as the Legislative body that oversees the actions of the Cape Cod Commission, our Ordinances have affect when we pass them here on the Cape.

Unlike the Vineyard Commission that has to send them up to Boston to the Attorney General's office. And we're the only RPA that's authorized by a binding regional referendum.

So if we look at the RPA Comparison and just look at -- the RPA is a regulatory authority; obviously, the Vineyard and the Cape, you look at the per capita costs of those, we're obviously much lower than our island neighbors to the south.

And if you look at the Cape Cod Commission funding, that part of the funding that is assessed to property owners is deposited in the Cape Cod Environmental Protection Fund.

The fund growth is limited to 2-1/2 percent annually as I've mentioned, and the Commission's revenues that are deposited into that Environmental Fund are from the property assessments and any additional grants, reserves, or fees that we take in and are authorized to collect.

And in that Environmental Protection Fund, the resources, if it were to go away, I think is often a misnomer, that the assessments would then be available to towns; they would not.

When the Cape Cod Commission was passed in 1989 when those first assessments went out in 1991, the average single-family home on the Cape paid \$15 a year for services of the Cape Cod Commission. That average single-family home today pays about \$20 a year for the services of the Cape Cod Commission.

And that's given that 2-1/2 percent cap. If you adjust it for inflation and compare it to every other town government, it starts to dip. So that the actual cost adjusted for inflation is less to homeowners now than it was in 1989. And so we run a structural deficit. And if we don't fill in that structural deficit with grants and other sources, we wouldn't be able to continue to sort of do what we do.

So Regional Initiatives. If you look at some of the Regional Initiatives that we're engaged in, I did mention that Section 208 Water Quality Management Plan that is being updated.

The Clean Water Act was passed in 1972. There was a lot of federal money around for

regional plans. And the construction of capital facilities to deal with pollutants that came out of pipes and did a really good job in the 80s. The government got out -- the federal government got out of funding all of that together.

So there was one water quality management done for Barnstable County on the Cape back in 1978, and we're updating that as it relates to nitrogen now.

The Regional Flyover is recent. You know about that, but even that sort of a simple coordination of those mapping efforts among 15 towns saved upwards and over really of \$1million.

And then the Cape-wide Fertilizer DCPC that has also been talked about. As we continue to go through the 208 process, we see in those -- in certain subwater sheds that would need a collection system in order to meet total maximum daily loads for nitrogen in the estuaries and bays, some of them with just a 50 percent reduction don't need collection systems.

So it is having an important impact. In fact, that's important to particular homeowners.

There's Municipal Solid Waste Negotiations that we collaborated with the 15 towns on.

Again, they're saving 19 million in savings over the life of the 10-year contract. And an additional estimated legal savings of almost 300,000.

The ePermitting grant, we worked with 14 towns. We were awarded the largest Community Innovation Challenge Grant ever awarded at a half-a-million. And we have towns that are ready to come online with ePermitting now and are scheduled for towns that are interested to come in about on average two to three towns a year until we get everyone up and running.

There's also the Private Well Identification and Mapping. There was a big issue and continues to be with NStar on the spraying of those rights-of-way that we were able to get out there with GPS equipment. So we have the best mapping in NStar rights-of-way for those -- for where the private wells are and where they exist.

There's a Third Bridge Study, discussion about that as it's moving forward now.

Pavement Management, Cape-Wide Traffic Counting that happens every summer and County Bike Planning that happens annually.

There is also the Cape Cod Ocean Management Plan that the plan itself was the result of the DCPC even though the adoptions were not -- even though the plan was not adopted as regulations pursuant to that. And that really sort of extends the jurisdiction of the towns as it relates to a lot of these ocean issues out to the state boundary.

And as we start to sort of pick up that planning process, again, we're starting to look more closely at issues like coastal erosion, identifying burrow spots out there so it's more cost effective for communities to renourish the beaches, all part of the Ocean Management Plan and what we establish there.

As well as looking at Coastal Resiliency risk and vulnerability assessment for Cape towns. And the Multi-Hazard Mitigation Plan for Barnstable County.

And when the new FEMA maps came out within a matter of days, we put out a very detailed map where people could logon to the Commission site, look at those new FEMA maps, and see if their homes were impacted.

There was also information on how to appeal that process and move forward. So we try to be helpful there.

The Open Cape Regional Area Network, and that Regional Area Network, I believe that paperwork has been signed so that's about ready to go. That will help us with ePermitting and will help us with a lot of the information sharing that we'd like to do, especially that part of it that is GIS related and has huge upload capacity needs.

So Economic Development in the Cape Cod Commission Act; it was mentioned 17 times. It's 1 of the 9 goals of the Regional Policy Plan; 1 of 8 Standards & Criteria's for DRIs; it's 1 of 5 Required Positions, statutory positions required at the Commission.

And our purpose really is to encourage that sustainable economic growth and development and build towards a year-round economy.

And, additionally, when I took over as Executive Director about 6-1/2 years ago now, it was really after the 21<sup>st</sup> Century Taskforce has just met with a list of recommendations there.

And you can see that these recommendations to the extent that towns wanted us to do it have been implemented. So to create a regional land-use vision map reflecting local preferences. We've done that in the towns that wanted to create the land-use vision maps.

Reorganize the policy plan; we did that.

Separate planning from regulatory; we did that.

Consult towns on the maps, standards, and regulations; we did that and we continue to do that.

Allow RPP changes at any time, not just the five-year update. We amended the -- we've amended it four times since 2009.

Require maps and zoning changes and timelines of Local Comprehensive Plans.

Identify potential DCPCs within towns. We don't identify potential DCPC within towns. The towns do that. They made it pretty clear that they don't want us identifying those areas for them.

To help develop a regional housing strategy, a regional best practices toolkit was completed. A workshop was held in 2008.

To offer Cape Cod Commission town and joint review processes. That is optional now.

Many towns don't take advantage of the joint review because they would prefer to control the timetable on the local level for pretty good reasons that they have on a local level.

To establish a fast-track process. Projects of Community Benefit are available to all the Limited DRI review. It was adopted in 2011. And the additional amendments adopted last year in 2013 will really help us expedite that process a lot.

Our fast-track for municipal projects, municipal offices are no longer reviewed by the Cape Cod Commission.

Change DRI thresholds to be use- and map-based. The Chapter H thresholds adopted in 2009 reflect that, and that's certainly reflected in an even stronger, more immediate way as they were amended in 2013.

Use project schedules for each DRI; we do that. We use Microsoft Project. We use project schedules. And if you watched especially some of the more controversial projects, the New Generation Wind Project in Bourne and even the recent Lowe's Project, the Cape Cod Commission makes available and puts online as its being reviewed every document that comes in. And I believe sets the bar for transparency in that regard.

We maintain notes for each DRI meeting and working session. Minutes are taken of all the hearings and meetings and maintained as part of the record.

Analyze completed DRIs to identify areas of improvement. We've done that. And one of the ways that we will use the Chapter H -- the amended Chapter H in 2013 is to raise thresholds based on some of the DRIs that we've seen, especially two that have come through over the last 18 months. There was one in Bourne and one in Falmouth. It was Teledyne

Benthos in Falmouth and Hydroid in Bourne. Both tech companies; great companies. Hydroid came in. They had 60 people. They paid an average wage that was in the mid-\$60,000 range, and they had a projected growth of 5 to 10 people a year for the next 5 to 10 years. They

should not have come here and would not if Bourne had used Chapter H to raise the thresholds in that Industrial Service and Trade area.

We can now go in there and raise those thresholds appropriately so that more business like that don't have to come through the Commission.

The good news is that they came through the Commission in 30 days; there was no mitigation. The president came in about six weeks ago to talk to me and saying that they were off on their growth projections because they were already at 150 people. So that's a good story.

Analyze completed -- so we are in the process of doing that and you'll see action from us on that within the next few months.

Require DRI site visits. Done.

Change DRI mitigation options. They're incorporated into the 2009 Regional Policy Plan.

Help towns consider the use of impact fees. We've had several workshops with municipal officials in September 2007. And we researched best practices; no towns to date have adopted impact fees.

Increase the use of Development Agreements and Growth Incentive Zones. We revised Chapter D for Development Agreements. And so we were -- one of the first ones we do when I got here was a Development Agreement for two hotels in Yarmouth, and that was a great learning process. And we got that one done. That was good.

There's the Growth Incentive Zone in Yarmouth, and some of the development that's half pursuant to that is the Historic Hyannis Growth Incentive Zone. We just did a Growth Incentive Zone in Buzzards Bay in Bourne last year.

We've also done Development Agreements of 750,000 square feet in the Industrial Service and Trade area in the town of Barnstable.

We're pretty far down the road in Mashpee with the expansion of Mashpee Commons in a three-party development agreement, but the Planning Board decided that they didn't want it because they wanted the mitigation. But I'm sure that that will come back and we'll see that.

So we have done all of that.

So on the Management and Communications Recommendations; customer service training happens with the staff.

To establish public relations policy; we have done that. We were criticized for it but we've done it.

Meet with each Board of Selectmen annually, and we've been pretty good at getting in front of the boards on an annual basis.

Establish joint panel with Selectmen and Councilor Association. I'm an associate member; the director's associate member now, and we give the Selectmen and Councilor's Association regular updates. They've just requested another one.

Improve each Cape Cod Commission member's relation in their own town. We've tried to provide the Commission members with as much support in sort of a of newsletter format to be able to go back to their towns and do that.

Revise ex parte communications policy was adopted. Cape Cod Commission Members Communications Policy of 2008 revised that.

Improve procedures for town input on DRIs. A memo is routinely sent by the regulatory staff when a referral is received, and town input is encouraged through the process.

But I will say that we've had recent feedback in the town of Mashpee, and the town of Mashpee Planning Board would like draft decisions emailed to them and communicated to them prior to the final decision, and I think that's absolutely appropriate. So we'll continue to refine

that also.

Pursue staff training to improve technical services. GIS staff especially has been upgrading their SQL server training and a lot of their expertise that you see on display a lot from us.

Offer training to Commission members and town officials.

Measure and report the progress on RPP goals. The objectives, goals, standards and measures based on the RPP are incorporated into the annual reports. So every annual report reports back on those measures.

And redesign the website. So we did it. When I first got here, the initial redesign in 2007, there was a substantial revision in 2011, but we're working on a new revision now and we're doing that as part of the joint communications program with the County so that we get all the County websites talking to each other, so you only have to search one to find whatever you're looking for and to give them an updated look.

So the Regional Policy Plan Update 2014. "Section 8. The Assembly of Delegates shall, by the Ordinance established by process for a thorough review and amendment of the Regional Policy Plan, at intervals not to exceed five years." So we have to update the Regional Policy Plan this year. So as soon as we get our draft 208 plan the end of June, we're going to start on the Regional Policy Plan review.

This is an important process for the Assembly, for the towns and for members of the community. That Regional Policy Plan contains within it all the minimum performance standards that the regulatory program uses.

And so the town of Yarmouth, for example, had a great deal of input when we did the last five-year update. And there are more improvements to make. We even note them internally at the Commission when we come across them so that when we go through the update we can put in the suggested changes that we've seen.

One of the changes we made five years ago that may not be working that well relates to affordable housing mitigation charged to commercial development. So I think that's something that we're going to revisit when we start this summer to look at Regional Policy Plan update.

But it's a great opportunity for those who want the Commission to sort of change and evolve. This is the process that it can use to do that.

In addition to the Regional Policy Plan, the Commission within its 23 years has been examined by an outside blue-ribbon panel twice. So it seems like every 10 years we get an outside review. We have the five-year Regional Policy Plan review.

There are the provisions within the County Charter to grieve any County department including the Cape Cod Commission. So there are a lot of methods by which anyone who has a concern, a complaint, a suggested improvement of the Commission can articulate that.

And the evidence is that we act on those suggestions when they come through the process as defined by the Act and there's consensus around.

So thank you for that rather lengthy presentation. A little bit longer than I thought.

Speaker BERGSTROM: Thank you for that explanation. I think there's a lot of people who don't understand how the Commission works and so on.

I'll open it up to discussion from the Delegates. Anybody have any questions? Yes. Suzanne.

Ms. MCAULIFFE: More comment than question. As a representative from Yarmouth, I think we were a very squeaky wheel at a lot of the first time things for the Cape Cod Commission. I know we could fill rooms regularly on subcommittee meetings for the last Regional Policy Plan.

And at the time, there was some listening, but I'm very happy to hear -- we didn't think there was enough in Yarmouth, but I'm glad to hear now that some of the things that we had talked about in the last go around now they're beginning to think that, yes, in fact, those are things that need to be addressed.

And we were also first with some of the, as you said, some of the agreements and a lot of Growth Incentive Zones.

Mr. PAUL NIEDZWIECKI: Yes.

Ms. MCAULIFFE: So we've learned to work with the Commission, and I would say that the thing that gives me the most optimism I think is that the Commission every time they work with a group or a town, they take what they have you know kind of gleaned from working with each municipality because all 15 of us are different and that's the problem. It is not a one-size-fits-all.

So I'm glad to see that the Commission is still growing and changing and accommodating each individual town while trying to take care of the region.

Thank you.

Speaker BERGSTROM: Thank you. Anyone else? Yes, Leo.

Mr. CAKOUNES: Paul, we had a Finance Committee before the meeting started here and the question came up, so I've got three or four questions for you. Some of them from that leftover and some of them are from your presentation.

In preparing your budget, is your budget brought forth in front of the Cape Cod Commissioners for approval prior to you submitting it to the County Commissioners?

Mr. PAUL NIEDZWIECKI: It goes to the Executive Committee of the Cape Cod Commission.

Mr. CAKOUNES: Just the Executive Committee?

Mr. PAUL NIEDZWIECKI: Just the Executive Committee. It goes from the Executive Committee to the County Commissioners.

Mr. CAKOUNES: And how many members are on the Executive Committee?

Mr. PAUL NIEDZWIECKI: There's 7 or more, so it's generally more than half of the Commission itself.

Mr. CAKOUNES: You had mentioned in your presentation -- Can I just go right down my list, Mr. Speaker?

Speaker BERGSTROM: Go ahead. You've got the floor, Leo.

Mr. CAKOUNES: Thank you. You had mentioned in your presentation and you went kind of quickly when you were talking about the 2-1/2 percent --

MR. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: -- that you are subject to the Prop 2-1/2 basically.

Mr. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: And you had said that the other -- and am I using the correct term "Regional Planning Authorities"?

Mr. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: They are not subject to Prop 2-1/2?

MR. PAUL NIEDZWIECKI: Nope. No. We're subject to it because we're tied to the County. So just as you are subject to the assessment provisions of the Mass. General Laws and Proposition 2-1/2, I think it's -- I'm not going to try to quote the M.G.L. but we're subject to the same thing.

Mr. CAKOUNES: Are the other regional planning authorities, do they have any taxing authority at all as far as how do they --

Mr. PAUL NIEDZWIECKI: They charge town's assessments.

Mr. CAKOUNES: Pardon me?

Mr. PAUL NIEDZWIECKI: They charge municipal assessments as we do, but they are outside of 2-1/2; we're not.

Mr. CAKOUNES: And once again, in your presentation you had mentioned, and I want to get the number correctly, was it 15 Regional Planning Authorities that are --

MR. PAUL NIEDZWIECKI: Thirteen.

Mr. CAKOUNES: Pardon me?

Mr. PAUL NIEDZWIECKI: Thirteen.

Mr. CAKOUNES: Thirteen. And I don't know if you said it or not, but is this a requirement by state statute that a town belong to a Regional Planning Authority?

Mr. PAUL NIEDZWIECKI: Yes. It's a requirement.

Mr. CAKOUNES: So being the devil's advocate and just trying to understand the process here because that's one reason why I certainly am glad that you're here today because this question's being asked in my town.

If, in fact, a town decides to take a vote and I understand the way the thing is written "withdraw from the Cape Cod Commission," which I'm not even sure is legal, would that not mean that that community would then need to by state statute either align themselves or somehow create a 15<sup>th</sup> or 14<sup>th</sup> Regional Planning Authority?

Mr. PAUL NIEDZWIECKI: I don't know the answer to that and neither do you and neither do the towns. And that's why the question in its format shouldn't be put in front of the town voters.

Mr. CAKOUNES: Right.

Mr. PAUL NIEDZWIECKI: Because you would have to put yourself in -- first of all, you can't withdraw from the Cape Cod Commission. You can amend the Cape Cod Commission -- amend or repeal the Cape Cod Commission Act. But the concept of withdrawal is contained in the act anywhere. It's not there.

And if you look at the way the Martha's Vineyard Commission came together, I think it's a good example of the differences because in certain parts where the acts read almost identically, but in some parts, they're very different.

And given that the Vineyard happened in 1974 and the Commission, the Cape Cod Commission happened in 1989, one would have to assume the legislative intent that they intended those differences for a purpose.

The six towns of the Martha's Vineyard -- of Dukes County had votes on the same day but they were town votes to join the Commission. They are not part of Dukes County, so they're more of a special district.

So if a town through whatever means the town has to vote, Town Meeting or otherwise, were to decide it didn't want to belong to that anymore, they could with very simple language send that as they have in the past to the legislature where it would be treated as a Home Rule petition.

The Cape Cod Commission Act was voted on a County level. If you broke it down by towns or towns like Bourne that did not by majority vote to join 23 years ago. They are part -- we are part -- that's why we are part of Barnstable County government.

That's why the most confusing thing to me about this effort is that the petitioner's grieving the wrong government. And there are any number of ways the petitioner could grieve the right government but they're not. You know, they're not doing that so one would have to assume there's some intent or planned reason for them not doing that.

But if the Legislature -- if some town were to act on it and it's been ruled out of order by many town counsels on the Cape -- if it were to make it through and be voted by a majority, I'm not sure what the Legislature would do with it. It's just as drafted what would they do. I mean conceivably you could run the gamut, but I could come up with a list of possible reactions they could have to that particular piece of language.

One of which would be to leave you uncovered by a regional planning agency because the list says they can do whatever they want. But if they do that, there's no transportation money. There's no wastewater money. There's no DLTA money. There's none of the funds that come by your association as a municipality across the state with a regional planning agency.

So, I don't know. And it brings me to my real sort of problem with the language as drafted, you do not have enough information to tell the voters whether they can or cannot do this or whether if there is action it will increase their costs, increase the size of local government, increase the assessment to the town by affiliation maybe even (indiscernible); you'd have to go to New Bedford if you have a problem.

You know, it doesn't answer any of those questions. So no taxpayer that votes on this is going to have a clear understanding of what it means to them.

I can tell you what our assessment means to them. They know that exactly. But by almost any method that I can envision, if it were ever to get to that point and take that action, you would be increasing the cost to homeowners in your town, not decreasing.

Speaker BERGSTROM: Just let me just jump in here for a minute, Leo, because it's relevant.

I was at the Chatham Board of Selectmen's meeting yesterday and one of the topics on the agenda was the placing warrant articles on the -- placing articles on the town warrant. And there was a series of articles, citizen's petitions that were submitted that were judged as sort of in violation of the Charter.

For instance, they said they wanted to change the town departments, which is a power left to the town manager, and it was explained by our attorney that had no effect because you can't trump the Charter.

However, the policy in Chatham was regardless of whether it was deficient, they would put it on the warrant anyway. You're telling me that some towns -- I was surprised some towns do not put it on if it's legally deficient.

Mr. PAUL NIEDZWIECKI: No. It's going to go on in every town.

Speaker BERGSTROM: It does go on.

Mr. PAUL NIEDZWIECKI: Yes, it's pretty much the same. If you have 10 signatures

--

Speaker BERGSTROM: It goes on whether it's --

Mr. PAUL NIEDZWIECKI: It goes on whether it's actionable or not.

Speaker BERGSTROM: Okay.

Mr. PAUL NIEDZWIECKI: And so I think it answers the question as to why that method was chosen. It is clearly the lowest hanging piece of fruit if your intent is to be disruptive. So that's --

Speaker BERGSTROM: Okay, Leo, I didn't mean to interrupt you.

Mr. CAKOUNES: No. It's okay. I was just going to ask Paul if I could have a copy of that PowerPoint that you have here today.

Mr. PAUL NIEDZWIECKI: Sure. I'd be happy to.

Mr. OHMAN: Me too.

Mr. CAKOUNES: Great. No, I think you answered exactly what I wanted to hear, you know, because I think a lot of people that are going to be listening, certainly people that go to Town Meeting, like myself, very active in our local Town Meeting, I want to be able to express some of the thoughts that you gave us here this evening because it's an important vote. And people need to realize the concept and relationship between the Regional Planning Authority and not having a Regional Planning Authority. And I think that needs to be communicated out there.

Mr. PAUL NIEDZWIECKI: Thank you.

Speaker BERGSTROM: Marcia, did you have something?

Ms. KING: Yes. Another quick one. Paul, is someone going to be at every Town Meeting? I mean I just saw my warrant yesterday. It was executed and our last article was a petition. Will there be somebody there to talk about this, to explain this because I agree. My friends all think, "Oh, if we get out, we're all going to save millions of dollars." And I try to argue it but I'm not as eloquent as you have been.

Mr. PAUL NIEDZWIECKI: Right. Well --

Ms. KING: Will there be somebody, I hope?

Mr. PAUL NIEDZWIECKI: Yeah. We have requested the ability to address a Town Meeting; five of them happen on the same night.

Ms. KING: Fun.

Mr. PAUL NIEDZWIECKI: So that's going to be a little bit -- yeah, I mean that's part of the approach too is, you know, we're out three or four nights a week now chasing around people that are on a schedule and then they don't show up. It's part of the drill, you know, part of the drill.

But we'll make every effort to be there to have someone who has a fact sheet available to inform voters about what the potential consequences are of this article.

Ms. KING: Thank you.

Speaker BERGSTROM: Julia.

Ms. TAYLOR: Yeah, thanks, Paul. This is good information for people. And I think it's important to realize there's sort of two strands to generalized worries about the Commission that I've heard over the many, many years.

One is the expense, and I think you've made it clear why that is not a good plan to withdraw if that were even possible.

But I think the other strand is is it Democratic or is this some agency that has too much power and is to -- runs roughshod? And I think it's very important for people who have forgotten or weren't here when the Commission Act was passed at the same time as the Charter that we're operating for the County was passed. There was a concerted effort to not have a Commission that was like a Steamship Authority or a Port Authority that really -- who they were answerable to was a little unclear.

And so we're different from the other regional planning agencies in this very important, essential way which is that what regulations get passed by the planning agency for the Cape have to be passed by Democratically-elected representatives at the Assembly.

That is a key element and it doesn't exist for the other Regional Planning Agencies in the same way.

Mr. PAUL NIEDZWIECKI: Yeah, and I think those are two good points. One of the criticisms out there is and I see this "Take back local control."

You've got 19 members of the Cape Cod Commission, 15 of them are appointed by the towns. The towns are the Cape Cod Commission and those are the Boards of Selectmen that

make those appointments.

But you're right, Julia, in that we stand alone in those categories that we showed you because of our attachment to Barnstable County Regional Government, but especially because of the attachment to the Assembly of Delegates as the Democratically-elected legislative counterweight to everything the Commission does except its rulings on individual regulatory matters where it sits as a quasijudicial board.

Ms. TAYLOR: Like a Zoning Board of Appeals.

Mr. PAUL NIEDZWIECKI: Like a Zoning Board. And the appeal from the quasi-judicial board is to the courts, not to the Assembly.

So there's the Assembly and the appointed Cape Cod Commissioners work in kind of a bicameral way. But in many instances, it provides more local representation than some people get in towns.

I think in my example, I live in the town of Barnstable. When I go to vote for my town leadership, I'm voting for 1/13<sup>th</sup>; that's it. And those 13 councilors, they've hired a manager.

When I go to vote for Patrick, I get the whole town, you know. And then the manager appoints, and that's the only case the manager appoints in the town of Barnstable, a representative to the Commission, but I get to vote for Patrick so I kind of get to vote twice for the stuff that happens on the County level. I only get to vote once in a fractional way for what happens at the town level.

So the local control argument is just not even close to being factual, for the most part.

And it also tends -- well, we need elected Commissioners. The Martha's Vineyard Commission has elected Commissioners. They have like 21 or 23 total, which is big. Nine of them are elected. They're elected at-large on the island, and they're not a majority of the board.

So when you sit in a quasijudicial capacity, you don't have to worry about ethical issues of whether you need to recuse. If you had an elected Cape Cod Commission and you had a developer that had funded their campaigns of more than half the Commissioners, they would get a constructive grant of whatever they wanted to do.

So, the local control or the elected representatives, I don't, and maybe it's me, but I don't really understand it yet, but the act says what the act says and there are procedures to change the act. And there are procedures that should be respectful of the existing government that we live in and are a department of in my opinion.

Speaker BERGSTROM: Yes, Leo, you're back.

Mr. CAKOUNES: Thank you. Paul, you just mentioned in your last statement that there are certain things that are structured in the act and the act can be changed.

Specifically, DRIs, and let's just talk about DRIs alone in the review process for a DRI.

There is a subcommittee. The subcommittee reports to the full County Commissioner board.

Mr. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: And then the full County Commiss -- I mean the Cape Cod Commissioners vote on it.

Mr. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: Is that process right there within the statute within the act?

Mr. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: So if someone wanted to change just the DRI review process, they would have to go through a process of changing the entire act or that section of the act?

Mr. PAUL NIEDZWIECKI: The process of reviewing Developments of Regional Impact is in the act. The thresholds that trigger the review are not.

Mr. CAKOUNES: The thresholds; right.

Mr. PAUL NIEDZWIECKI: But the process is, and that appeal to either Land Court or Superior Court is in the act.

Mr. CAKOUNES: Okay. The reason why I mention that is because I know you just hammered home the fact about the local control.

There are some people out there that think in a DRI review, and I'll use my town for an example, is the town of Harwich was having a large company come in and going to build there that they really shouldn't have somebody from Falmouth or as far away as Sandwich voting on whether that is a Development of Regional Impact because it's theoretically really not. It impacts Harwich. It impacts Chatham. It impacts Dennis and maybe Brewster.

So there are some people out there that are saying maybe that process of reviewing a Development of Regional Impact could be looked at to, and I'll use the words that you don't like, to bring in local control, local meaning the three neighboring towns as opposed to towns that are 40 miles away.

Mr. PAUL NIEDZWIECKI: Yes.

Mr. CAKOUNES: And, again, I'm only asking this because this is the kind of thing that I am thinking is going to come forward for the argument to pull away -- to vote yes on these articles that are out --

Mr. PAUL NIEDZWIECKI: But, you know, operationalize it though. You have one place defined by its geography. You have a Commission that represents it all.

How do you select how far is far enough? How close is close enough, you know, when you get there? It's difficult. You have 19 members, right, so you have 15 towns and then you have four members that don't represent towns so do those four members then wind up with more of a say, you know, just the only thing I ask people is just to think through whatever the premise is.

And before you do that, consider the source of the argument because I'm still not sure what the trigger is other than I've had one person chasing me around for two years to find every possible violation of Open Meeting Law or whatever it is.

But nobody's pointed to one thing and said, "That's it" other than we've had a very controversial decision on Lowe's lately that's under appeal.

But if you just look at the record, the subcommittee on Lowe's was split 2 to 3. And the full Commission voted 8 to 6 meaning if there had been one vote that changed the other way, that decision goes the other way.

And if you look at the hours of public testimony that were put into that and how the local voices in that process were elevated by the Cape Cod Commission review as happened with the New Generation Wind Project in Bourne.

I would argue the opposite. I think the Commission process is a regional asset but it amplifies the local concerns. It does not in any way encroach upon any sort of local authority because we don't really have -- the Commission has no authority to tell the towns what to do about anything, except when an individual -- when a parcel-specific project triggers a threshold and that local control has to stop so they can be reviewed on a regional level. That's it.

So that's the other thing, you know, overlord stuff, that we're controlling everything.

What are we controlling? I don't know, you know, it defies logic at times.

Speaker BERGSTROM: Well let's let Pat in here.

Mr. PRINCI: Hi, Paul. Thanks for the hard work on the Commission, and I just want to cite an example.

Barnstable was one, I believe, one of the first towns to get on board with their Growth

Incentive Zone, if I'm correct? And if you remember Hyannis about 20 years ago, as I do, I mean there really wasn't all that much to it.

And we did actually with this Growth Incentive Zone that was established through the Cape Cod Commission with the Planning Board, with the Growth Management Department, we have all the tools necessary in place for us to manage control within the town of Barnstable, more particularly Hyannis, some of the higher impact areas.

We've had some great projects that we worked hard on and approved. Some have moved forward but some have just -- I think it was just a developer seeing, you know, what they could get getting the approval, but then they never followed through and developed that. And some of those, I believe, timelines are maybe even less.

Now let's just say that our towns moving forward with a project and we're not necessarily following the Regional Policy Plan. It hasn't happened yet, but if that were to happen, what do you folks at the Commission do? Do you kind of watch and see what we're doing? I know you're there for assistance when we need it, as we often have, but do you watch what we're doing?

And if we're not following the Regional Policy Plan, it hasn't happened, but what would happen? Would you come in and sort of drop the hammer and then take over control of that.

Mr. PAUL NIEDZWIECKI: Well, I mean it's hard to react to hypotheticals.

Mr. PRINCI: I know.

Mr. PAUL NIEDZWIECKI: But I'm willing to chase that one around a little bit.

You know if it's in the Growth Incentive Zone, again 600 units, residential units, and a million square feet of commercial development downtown Hyannis, and, as you know, I was on the town side when we started that and finished that negotiation. I was the assistant town manager in Barnstable and very proud of that.

And what I understood on the municipal side at that time is that redevelopment is difficult to do. It's more expensive than greenfield development.

So we didn't provide incentives that only existed on Main Street and didn't exist in other places in town, we weren't going to get the development that we wanted on Main Street. So that's why the Growth Incentive Zone worked for us.

Now what we did was we went through with the Commission what our capital planning -- what our capital plan was for downtown based on how does that -- the Growth Incentive Zone developed. So add a certain number of residential units or add a certain increase in commercial development, it triggered the sort of redesign of the West End rotary is one that I remember.

That will at some point when you hit that point after being triggered.

Other than that, things happened downtown, and there haven't been any violations that I know of. If there were and some abutter was aggrieved by that, I'm sure that they would bring that to our attention, but those are conversation that we tend to have with towns, sometimes building commissioners that should have referred things. That has happened in other towns; they didn't. And it's more of a conversation unless there's a pattern.

Mr. PRINCI: How come we're not seeing -- I would have expected -- I know the economy in the past hasn't been as great but it is getting much better; I'm just wondering why we haven't seen more. When it first came forward, I expected to see a lot more economic growth in the town and, frankly, there hasn't really been all that much.

Mr. PAUL NIEDZWIECKI: Well, you know, I think a lot of their consternation with the Commission is the perception that if we weren't here, everything would be -- every town would have -- would be the Emerald City.

But that's -- you know, the reality is that Cape Cod is a difficult place to develop on.

And you have a seasonal economy that drives the economy down here, and it does at times conflict with aspects of the year-round economy. And I think that's why we are invested in issues like the broadband initiative of OpenCape because that tends to change the paradigm; right? Instead of moving work to people -- instead of moving people to work, you can move work to people. And then you don't have the conflict with the bridge. Now you have possibilities that you didn't have before.

The thing with some of the transportation discussions, the rail discussions, you know, water and wastewater infrastructure discussions, how a lot of these towns are limited in their capacity on the wastewater side redevelopment.

So even as part of the 208 plan, what you've heard consistently from the Commission is that there are some of these towns that need to stimulate their commercial tax base in order to stop shifting cause onto the residential tax base, especially if that is going to assume some sort of capital construction project to deal with the wastewater problem.

And so we are trying to identify those areas. We've done a lot of work with the town of Sandwich, for example, that are approximate to the existing single-family developments that are all on Title V and contributing to the nitrogen problem. And the right kind of design and development can actually have a net-environmental benefit because you can build a facility that can remove more nitrogen from existing sources even while bringing new sources online.

And I just left Secretary Bialecki at Barnstable Town Hall; we were talking about the Growth Incentive Zone downtown and our efforts to do exactly that. So there is no inherent conflict between the environment and the economy. We're looking for appropriate places for development to happen and they're there. So Hyannis, and you remember, I was pushing for -- we were limited by the Town Council at three stories.

So I'll just give you another anecdote as to why Hyannis is difficult. Once you go to three stories, you need an elevator. Elevators are expensive. So elevators start to make sense when you have five stories but not three stories.

So there's some basics of development that will get in the way. But having said that, if you look at the property values downtown since the Growth Incentive Zone, and you see certain parcels that have increased over 400 percent in value.

And you see, as we've done a study, if you take a look at that Hyannis Growth Incentive Zone and all of the surrounding real estate as we went through the great recession, downtown did better. It held firm, you know, and it was better.

We know these work. You do have to give them time. And sometimes you have to be more aggressive in how you permit once we've stepped out of the way too.

When I was the assistant town manager and were talking about why doesn't Hyannis develop more and people would say, "Oh, it's the Cape Cod Commission." And I said, "Oh, okay. Well how do we get rid of them?"

Mr. CAKOUNES: See.

Mr. PAUL NIEDZWIECKI: Yes, see. But we didn't want to get rid of them everywhere because we weren't insane.

Because we knew if we got rid of them everywhere, you'd take the incentive you're trying to create in the most difficult part of your town that you want to create economic development in.

So we got that and we put it together and it made sense and it's working, but the first thing I did is say, "Okay. I think we can do this Growth Incentive Zone-thing with the Commission."

So, okay, check that box. They're out of the way now. Now you're a developer and you

come into Main Street, Hyannis; what do you got to deal with? And the local process was awful. It was awful. We had 14 different zones and all kinds of -- so I knew just point at the Cape Commission and say "They're the problem" because we're everybody's favorite dog to kick.

It isn't the kind of depth in thought that the public deserves. And I don't personally like people that kick dogs either.

But, you know, we had to simplify that regulatory process in Hyannis, and I think you can still simplify it more. And even when you do that, the difficulty -- and Douglas stores was a major driver -- is a major driver behind Mashpee Commons; I would talk to him all the time.

And when I was the assistant town manager and I had the guts to say this stuff, I would say, "Douglas, well the difference between Main Street, Hyannis and Mashpee Commons is it's the Geppetto complex"; right? You know, Mashpee Commons is a wooden doll and Main Street, Hyannis is a real live boy.

And so you have all these different ownership interests; right? You don't just have one owner who's going to develop and get control of that. You're going to deal with business improvement districts, and the individual business owners, and the Hyannis Area Chamber, and then there's a Regional Chamber on top of that; all of that gets complicated at times.

But having said that, I think the Hyannis Growth Incentive Zone has been tremendously successful, but it doesn't just end with the passage of any Growth Incentive Zone. You have to continue to evolve and work at it and work in a direction that you know is going to work.

Speaker BERGSTROM: Okay. John.

Mr. OHMAN: Thank you, Mr. Speaker. And thank you for letting me use the mic.

Mr. CAKOUNES: I warned it up for you.

Mr. OHMAN: Paul, I thought that the sand burrowing plan was intriguing. I thought it was a dead issue. And I know how important it is for the town of Sandwich and the town of Dennis.

Mr. PAUL NIEDZWIECKI: No.

Mr. OHMAN: Breeze through it, but is it alive and well?

Mr. PAUL NIEDZWIECKI: Yes. Oh yes.

Mr. OHMAN: What kind of timeline is it?

Mr. PAUL NIEDZWIECKI: Looking at sort of coastal erosion issues, you know, we have to deal with that. And so the state has begun to think about their Ocean Management Plan again, so it's about five years. It's time to update it. That's always been the second phase.

So the state, to the extent that they were resistant before, I think are a little bit more open now to looking at how we manage these resources.

But having established that jurisdiction and having established through our participation and process some expertise out there, we're in a much better position to have them ease state regulations and allow us to manage those resources in a way that best serves the people of Cape Cod.

And you see the exact same thing is happening on the 208 plan; right? You look at wastewater planning now and you go through the MEPA process, so you trigger Massachusetts Environmental Policy Act, DEP Review, Commission Review, and you're putting together a Comprehensive Wastewater Management Plan. And you have to put it together based on one side of your town to the other side of your town and its 20 or 30 years out and all this engineering. And you're not going to get that kind of plan without a really big number.

But we know in some of these watersheds, individual watersheds that we have consensus about how to move forward. And Falmouth knew this, right, so they had their

Lawrence Pond scenario with the culvert opening. They're trying five different alternatives down there. And then in Little Pond, they're actually doing sewer.

So they came and went and filed MEPA and they said, "No, we don't want to file a big plan. Don't make us do that because it will impede our ability to get anything done. We want to do these projects that are actually going to remove nutrients."

You know and the state sort of had a conversation with us; "Well, what do you -- what are you going to do? You know, they can't do that. They've got to file the full Comprehensive Wastewater Management Plan. We have to know what the backup plan is." And my answer to them was very direct; "I'm with Falmouth. If you actually want to get these projects done, we don't need Comprehensive Wastewater Management Plans. We need targeted Wastewater Management Plans."

And so MEPA changed the way that they review these projects because of the information that we put in front of them through the 208 process and because of all the hard work that Falmouth has done.

So the second-half of this 208 process is all about taking the grass-roots effort and making changes on top at the state and the federal level so that we can solve a wastewater problem on our own terms in a decentralized way where we don't build what we don't need if we can't, or if we need to build collection facilities, we have assistants from the state and federal government in order to do that.

So we have legislation that's passed the Senate that's in the house now that goes beyond 0 percent and starts to give debt forgiveness associated with wastewater. So we get that out of the house. That's a grant over time. And you will see within the next few months the first federal money for nutrient remediation for nitrogen on the Cape. And it may only be 3 to \$500,000 but it's going to happen and it's going to start to open that window.

So that's what we can do. That's how we can move, and that's why I think the Coastal Erosion Plan right now has a much higher level of success than the rest.

Speaker BERGSTROM: Paul, can I ask you a couple questions? First, I talked to the Selectmen in Chatham in opposition to the warrant article that was presented -- petition article that was presented.

And as far as the issue of local control goes, I just use the example of the Centerville DCPC saying these were tools that were given to a town that would not have in order -- in other words, the DCPC process basically allows them to do things that would not normally be able to do under normal zoning.

Mr. PAUL NIEDZWIECKI: Yes.

Speaker BERGSTROM: So in a sense, it gives the local communities more control by doing that.

Mr. PAUL NIEDZWIECKI: Right.

Speaker BERGSTROM: And also, in regards to what Pat says, I have to say this is a little off-topic but part of the problem we have with economic development is we've got 30 years of supply-side economic theory, which has been totally a waste of time.

The whole idea that you start out with investment and that you invest in something and create a product and people will magically go to their basement where they have this barrel of money, reach into the barrel, and run out and buy your product.

Demand is what drives the economy. I'm a demand-side guy. I believe that businesses come in because there's a demand for their -- a preexisting demand for their product, and if there isn't, they're going to fail. And if there isn't a preexisting demand for their product or an expanding demand, all their doing is their cannibalizing other businesses that are already on the

Cape.

So they come in and they say, “Well, I’ll create 100 jobs” and don’t tell you that 100 jobs are going to be lost because they’re -- the company’s -- Anyway, that’s neither here nor there.

One of the -- not the attacks but one of the strategies that I’ve gotten unfortunately through some people is to question the financing on the Cape Cod Commission. You have a -- I don’t want to call it a dedicated revenue stream, but in other words you’re treated as off-budget by the Assembly, in other words as long as you cover your own expenses the last few years.

Mr. PAUL NIEDZWIECKI: Right.

Speaker BERGSTROM: And of course the classic criticism of that is, well, you’re simply going to put on staff and --

Mr. PAUL NIEDZWIECKI: Yes.

Speaker BERGSTROM: -- you know, to whatever -- up to whatever level of your income. If I would -- and I’m not going to do this because I’ve got other things to do with my life, but if I were to go into your budget and look at the staffing and the salaries paid to the employees, they would be pretty much consistent with what’s paid in the private sector, you think, or do you -- do you know what I mean?

Mr. PAUL NIEDZWIECKI: They would be lower.

Speaker BERGSTROM: It would be lower.

Mr. PAUL NIEDZWIECKI: Yeah. The County actually has a process underway now to reevaluate all the job descriptions. So I think that kind of information will be available to you this year.

Speaker BERGSTROM: Okay.

Mr. PAUL NIEDZWIECKI: But what I will say is I’ve heard that too, some sort of bloated budget. We’re not -- in the RPAs, you know, we’re in the middle of the pack as it relates to budget. And that part of the budget that is carried on the backs of homeowners is just that EPF. So that’s a much smaller number, and that’s the one that’s declining over time.

And if you wanted to flip that and look at just the 216,000 year-round residents and what they pay, it gets even lower.

So those who think that the Cape Cod Commission is expensive to year-round residents of the Cape should be a year-round resident someplace else and then understand what their assessment is to that Regional Planning Agency. We are a good deal and we leverage a lot of money.

And as relates to the staff because it really -- the harassment goes just beyond the Executive Director; it goes right to the staff. There are fewer people, fewer FTEs or people, however you want to count it, fewer working for the Cape Cod Commission now than when I started 6-1/2 years ago.

Speaker BERGSTROM: Okay.

Mr. PAUL NIEDZWIECKI: So I mean the physical discipline, the eternal management of that agency, the transparency in the review of DRIs, there’s no duplication in anything that the town does. Towns can’t do DCPCs on their own; they do them through the Commission.

And even the DRIs, right, your ability to come in and say, “Is this development good or bad for my local economy?” That does not exist at the local level. You don’t have that ability.

It’s only through the Commission that you get that.

Speaker BERGSTROM: Okay. The other question -- so if I, off the top of your head, what percentage of the budget if you consider everybody in the building as far as the Cape Cod Commission whether they’re working on grants or through Cape Cod Commission assessments,

what percentage do you think is paid for by grants as opposed to the regular --

Mr. PAUL NIEDZWIECKI: Like 40 percent.

Speaker BERGSTROM: Forty percent?

Mr. PAUL NIEDZWIECKI: Yes.

Speaker BERGSTROM: Okay. And those grants would terminate at some point and be replaced with others as the time goes on?

Mr. PAUL NIEDZWIECKI: Yes. Yes.

Speaker BERGSTROM: All right. The other, final question I have is probably a little tougher is, you know, you've gone through a controversial Development of Regional Impact in Dennis there, and, of course, it was a big public hue and cry on both sides, some people for and some people against.

Mr. PAUL NIEDZWIECKI: Yes.

Speaker BERGSTROM: You know, you're a regulatory agency that works under certain criteria, so I guess my question is how much leeway do you have to consider public input when it's not directly related to the criteria that you're looking at?

In other words, I could come in and say I don't like it for reason X, Y, and Z but it may not be within the Commission's authority to make those judgments.

Mr. PAUL NIEDZWIECKI: Yes.

Speaker BERGSTROM: So is it difficult to explain to the public that you have limited -- what your authority is and what -- how the decisions are made and --

Mr. PAUL NIEDZWIECKI: Yes. The process, the regulatory process, the DRI process has two major components. The first is that all of the Minimum Performance Standards in the Regional Policy Plan are measured against that project. Those Minimum Performance Standards tend to be more formulaic equations of a development's impact on a region in a financial way and this is rarely explained either.

But if a development comes into your town and they're going to make traffic worse and so you need a new stoplight, the question is who pays for the stoplight? Do you want the developer to pay for the stoplight or do you want the taxpayer to pay for the stoplight?

And you through the Cape Cod Commission have the ability to have a developer pay for the stoplight. Now why do I think that we should have that ability on the Cape where they don't have it in other places? Because the 216,000 year-round residents of this peninsula get screwed on just about every state formula that there is, whether it's education, transportation or wastewater.

I mean look at wastewater. If you've got to build a traditional facility, you've got peak-flow pricing. You have to build for maximum capacity which happens four weeks out of the year; last two weeks of July, first two weeks of August.

So, yes, I think the year-round residents of the Cape probably deserve that ability, and that's what the Cape Cod Commission does.

Speaker BERGSTROM: All right. My question is you don't act like, for instance a politician would say, "Well, I have X number of constituents are for this and I have X number against it," you have --

Mr. PAUL NIEDZWIECKI: No.

Speaker BERGSTROM: -- you have regulations you have to adhere to and --

Mr. PAUL NIEDZWIECKI: Once we've been through the Minimum Performance Standards and we've calculated the mitigation, there's the Benefits/Detriments Analysis. So the Commissioners can weigh their testimony and decide which -- how it influences their decision

about what parts of this project they consider to be benefits and what parts they consider to be detriments, all of which have to be consistent with the Regional Policy Plan. So they can't just go outside of the Regional Policy Plan paradigm and say, "I don't like it because it's orange."

You know, they can't do that.

Ms. MCCUTCHEON: Mr. Speaker.

Speaker BERGSTROM: Yes.

Ms. MCCUTCHEON: My own experiences with the Cape Cod Commission in Truro is extremely helpful for the town. And I would hope that when you get out there in opposition to this is that you're talking more in line with what you just said about the citizens getting screwed and the Cape Cod Commission's there to help you, and all of this stuff about the DRIs and the Performance Standards because too often the fact that this is really a town-gown dressed up in another costume is overlooked.

And I think in Truro what has happened is that when people from the Cape Cod Commission have come and have met with people and had talked about what's happening, that has removed the distance and made people have to deal with your staff as staff and as people who are contributing to the solution to a problem rather than someone who's parked down in Barnstable and doesn't drive all the way up there.

So I want you to understand that first of all you have I think the support of most of the people who vote in Truro, maybe not the people who talk but most of the people who vote.

And I hope that you take that message to heart because I think the way that that support has come to you is not by emphasizing the intelligent parts of the program but rather the gut reaction that the Commission is there to protect you.

Speaker BERGSTROM: And I think the Delegate from Truro really enjoys the Cape Cod Commission because Truro has the same vote as Barnstable on the Cape Cod Commission.

Mr. PAUL NIEDZWIECKI: I hear what you're saying, Deborah, and I agree with it and I hear it.

Ms. MCCUTCHEON: It's not the size of the vote; I keep saying that. It's not the size of the vote. The Cape Cod Commission's first big experience in Truro at least that I'm aware of is when we kept out a Stop & Shop.

Mr. PAUL NIEDZWIECKI: Yes, I remember that.

Ms. MCCUTCHEON: And that was something that people still remember the Cape Cod Commission being extraordinarily helpful about, and I think that that was primarily due to the staff from the Commission rather than rules and the law and the fact of jurisdiction so.

Speaker BERGSTROM: Okay. Yes, Cheryl.

Ms. ANDREWS: At the risk of piping in as the other Outer-Cape Delegate, I totally agree with Deborah. And I wanted to say personally to you, Paul, that you and I have debated a couple of different issues pretty seriously now. I think we're about at 10 years now, and I don't think either one of us are going away.

Mr. PAUL NIEDZWIECKI: I know that.

Ms. ANDREWS: And we're going to keep debating, and often we have not agreed and a few times we have.

But I voted for the Cape Cod Commission in 1989, and I've said that every time I've debated you, and I still support the Cape Cod Commission. And, frankly, two things. One, the Commission should be controversial periodically. If it's not, you're probably not doing your job. And what was the second thing?

Ms. ANDREWS: No, that was your idea. You do that one. And the second one I wanted to say to you was it's a little bit of what Deb was saying too is that today you spoke a

little differently than I've heard you speak in a while.

Mr. PAUL NIEDZWIECKI: Yes

Ms. ANDREWS: I know sometimes you take it very personally and you get a little aggressive towards the person who's questioning you. But to the extent that mostly today you ignored the source. You slipped a few times, but you tried hard not to talk about the person that irritates you and instead you talked a little more from the heart today from my perspective --

Mr. PAUL NIEDZWIECKI: Yes.

Ms. ANDREWS: -- than I've heard you talk in a long time, particularly when you talk about your experiences of being assistant town manager of Barnstable I think serves you well because it reminds people that you live here and it reminds people that you experience what goes on here on the Cape from a town perspective as well as from the Commission perspective.

And I think that's really good for people to experience. It was good for me to listen to today. You will not have to come to Provincetown because you're not on the ballot in Provincetown. We have enough to do up there in the warrant than deal with this.

But I think your presentation was very good and the fact that you choose, regardless of whether it's legal or not, the fact that you chose to just deal with it is a good academic exercise and an opportunity is really what I mean to say, an opportunity to speak to the Cape again and say, "Here's what we're doing" factually and lay it out and say "Let's keep talking about it."

Part of what hurts the Commission is the same thing that hurts the Assembly and hurts the County Commissioners, which is people don't understand it.

So to the extent you keep doing that and, you know, teaching everybody, then it's a good day and I think you had a good afternoon.

So, nice to see you.

Mr. PAUL NIEDZWIECKI: Thank you, Cheryl.

Speaker BERGSTROM: Paul, when do we expect to have the revision of the Regional Policy Plan? Any idea?

Mr. PAUL NIEDZWIECKI: Yeah, just from a staff allocation perspective, the 208 draft is due on June 1. So then we would sort of kick that off as soon as possible so we're going to be into it in June.

Speaker BERGSTROM: Okay. What I say is are you required to do it within this session of fiscal year 2014?

Mr. PAUL NIEDZWIECKI: Yes.

Speaker BERGSTROM: Do you think you'd have -- the only thing I think is it would be nice if we had it before the election because I agree that this is a Democratic body and people have complaints about how the County operates, they have the choice of reelecting us or not. If it's not possible, it's not possible.

Mr. PAUL NIEDZWIECKI: Yes, I would -- yes, we will do that. I want to get into it as soon as possible. There are changes I want to make that having been here for six years, I think I can make some recommendations that will probably improve where we are as a region.

Suzanne mentioned earlier Yarmouth participation the first time. The Cape Cod Commission Act only requires three subregional meetings when we update the Regional Policy Plan. So we have three subregional meetings. Nobody shows up. Nobody showed up when we did them five years ago.

So I said, okay, we're going to have stakeholder groups and we're going to drag the people that hate us the most out into the streets and around these tables and we're going to listen to them. And that Regional Policy Plan was full of red ink that was incorporated.

And I think that process grew out of the process that we had in the Growth Incentive

Zone downtown Hyannis because that blew up the first time that they tried to do that.

And I recognized long ago that you have to run an honest process where you put people around a table and you actually listen to what they say and you try to incorporate that. And it's not an easy thing to do, but it's the only thing that produces any lasting result. And we did it in Hyannis and we started it with the Regional Policy Planning 5 years ago.

And the 208 plan now has taken it to another level. We have 170 stakeholders Cape-wide. We have 270 people at a summit in January in Hyannis to talk about this issue. And so the Regional Policy Plan in its next revision will take that on too.

So to get a little bit more sleep, I would probably be in a better mood and I'd be less aggressive with people and it would be a lot better.

But I guess sleep is not part of the job description so we're going to get right to it as soon as we get that draft in.

Speaker BERGSTROM: Okay. Anyway, have we got anybody else? Yes, Pat.

Mr. PRINCI: Quick question. I have a couple questions about some finance-type things. As far as -- where was the -- the Cape Cod Commission, has it always been in that building that's on Main Street there?

Mr. PAUL NIEDZWIECKI: No, it was here.

Mr. PRINCI: Oh, it was in here.

Mr. PAUL NIEDZWIECKI: Yes, and then I think the first Commission was in this room.

Mr. PRINCI: Is that building a County building right now?

Mr. PAUL NIEDZWIECKI: No. It is privately owned. We're the only County department that pays rent.

Mr. PRINCI: How much is the rent?

Mr. PAUL NIEDZWIECKI: It's like 150,000 a year.

Mr. PRINCI: Okay. And another question about finances. I know that part of the job is expelling misinformation out there and so forth. How much of your resources that should be spent towards the 208 and Regional Policy Plans and other things that you kind of should be doing, how much of your resources are being spent on quelling misinformation that's out there in dealing with these types of issues over sort of what I can see as a knee-jerk reaction over one particular project?

Mr. PAUL NIEDZWIECKI: I have a thousand emails from one individual.

Ms. MCCUTCHEON: So do I.

Mr. PAUL NIEDZWIECKI: Yes, in a year; right?

Ms. TAYLOR: Yes.

Mr. PAUL NIEDZWIECKI: But as publications, these are real public records so you have to take them in, you have to reference them. And then you put the time in and go out -- one person has caused taxpayers more than some towns pay in assessment easily.

Speaker BERGSTROM: Okay. Well, Paul, thanks and I appreciate it. I'm sure the people will get a chance to listen to this, either its Livestreamed or I can reference it if somebody in my town asks me about the Commission and what it does, I can send them to the website and they can hear your explanation.

Mr. PAUL NIEDZWIECKI: Yes. Absolutely. And we have an open door too. So I look forward to getting a Regional Policy Plan in part because that -- it involves the Assembly of Delegates and the rest of County government.

Speaker BERGSTROM: Yes.

Deputy Speaker MARTIN: I actually just want to ask; you referred to just an open door.

Mr. PAUL NIEDZWIECKI: Yes.

Deputy Speaker MARTIN: And that's actually a question I have was there's been some things in the news, talk about lots more retail space and the bridge, blah, blah, blah.

Mr. PAUL NIEDZWIECKI: Yes.

Deputy Speaker MARTIN: And you hear what you hear on the news. What's the best way to get accurate information about what you're really saying versus what may be being reported because that's the only way I get the information right now.

Mr. PAUL NIEDZWIECKI: Yes.

Deputy Speaker MARTIN: And I feel that gap.

Mr. PAUL NIEDZWIECKI: The gap in the press?

Deputy Speaker MARTIN: The gap in what I hear reported and what may or may not be, you know, what the thinking is behind lots more retail, for example.

Mr. PAUL NIEDZWIECKI: Yes. This is -- we have to -- yeah, and it's difficult with the press. Things have changed. And even when I read accounts, that the press has this sort of false equivalency whenever there are two sides to an issue.

And I think at times maybe they don't delve into the facts or the backgrounds as much as they should. And that's not always true and there are some shining examples of the press that have done a great job in covering this.

But the bottom line is I think we have to do a better job. So instead of having one massive newsletter that we mail to everybody, we should have that newsletter but then we should have newsletters that just go to our Commissioners to talk about stuff that is specific in their towns so that they can be more facile with that information when they're out in their town.

And we should have a newsletter that just comes to the Assembly of Delegates to let you know what we're doing and to sort of hopefully have that interact well with your agenda.

So as part of this sort of joint communications strategy that we've been working on for about six months now, I know that's part of it, and I think you'll see it very soon.

And I hope now -- I will just let you know that I've had certain people sending mass emails to local town boards saying, "The Commission's budget is outrageous. Oh, by the way, don't talk to the Cape Cod Commission about it because you wouldn't want to be confused by those audited financial records they have."

So sometimes whatever we say isn't going to matter. So the best way to get people engaged in what we do is through these larger stakeholder processes; I'm convinced. The 208 program has been great. So I want to be able to mimic that in many ways with the updated Regional Policy Plan.

And the other suggestion that's come out of the joint communications plan was I think it may sound like it's not important but I think it is is a County Academy of sorts; right? The town of Barnstable runs a Town Academy, incredibly successful. You bring 20-40 people in.

You do it with volunteers. You educate them about what the County does. Then you get a chance to really sort of live and breathe it, and then they go back to their communities as ambassadors for what we do. I think it's an important program.

Speaker BERGSTROM: Okay. Well thank you once again. It will be interesting to see. I'm confident that the Cape will once again support the Commission. They always have and I anticipate they will in the future. We'll see.

Mr. PAUL NIEDZWIECKI: Thank you, Mr. Chair.

Speaker BERGSTROM: Okay. Moving right along. Are there any Communications from Public Officials? Any Communications from Members of the Public? Hearing none.

Assembly Convenes

Speaker BERGSTROM: The Assembly will now convene. The Finance Committee has already approved their minutes during the meeting previous to this meeting.

Committee Reports

Speaker BERGSTROM: So Public Service. Is there a Vice Chair of Public Service?

Mr. PRINCI: Yes. On March 19, we met with the Registry of Deeds, the County Dredge, the Fire Training Academy employees, all gave their presentations as the process dictates.

And we submit to you our report. And is there a motion by any members there?

Ms. ANDREWS: Yes. I'll move to approve the Minutes.

Ms. KING: Second.

Mr. SCALESE: Second.

Mr. PRINCI: Okay. Discussion, all those in favor?

(Minutes passed.)

Mr. PRINCI: And one other thing if I could just maybe --

Speaker BERGSTROM: Sure.

Mr. PRINCI: One interesting part brought up as we talked earlier about letting the public know of the good work that the County does, Cheryl had actually mentioned during that meeting regarding the County Dredge about some -- having like a WebCam or "Where's the Dredge today?" I don't know; people like that stuff.

Speaker BERGSTROM: There's a Dredge out in front of Stage Harbor. Maybe that's the one.

Mr. PRINCI: Yes. But it is a --

Speaker BERGSTROM: And we're not going to let you have it.

Mr. PRINCI: But it is a service that I think is very important that the County residents do appreciate, especially the towns.

Report from the Clerk

Speaker BERGSTROM: Okay. Next is a Report from the Clerk.

Clerk O'CONNELL: Thank you, Mr. Speaker. Just a few items. A reminder that the Finance Committee will be holding a Public Hearing on the proposed budget Wednesday, April 16. That will be at 2 o'clock.

And also a reminder that we've gotten a request to have everyone complete their Conflict of Interest training during the month of April, so that puts everybody on the same page.

And it's April. I sent you that reminder in March and asked you not to do it until April, so it's here and it could be completed.

Next, again, another reminder that it's open enrollment time for health benefit plans. And I think the County is having what I refer to as a "Health Fair" on the 16<sup>th</sup> if there's anyone that you need to speak to with regards to the plan or want some clarification, that's the day to do it.

And I bring these things up because I know your email boxes are inundated. So those things that I see that I kind of want to make sure you hear about if you don't have a chance to read about them, that's why I bring them up.

And, last but not least, the next time that you receive your packet for the Assembly meeting on the 16th, you will get them on Monday the 14<sup>th</sup> because I will not be in the office next week.

So when I come back, I'll do it on Monday. It will be lower than the 48-hour requirement to get those to you. And that's when it will go on the Web. And I tried to put the notice for the Public Hearing up now so that there's a little more notice for the public with regards to attending that very important meeting.

And that's it. That's all I have.

#### Other Business

Speaker BERGSTROM: Okay. As I mentioned to the Finance Committee, I asked Mark, the Treasurer, to come in on our next scheduled meeting to answer any questions you have on the budget.

In the past, what would happen is we would have a hearing, a Public Hearing, and the Finance Committee would give its recommendation, and then the budget be presented to the Assembly.

But I thought it would be better, and I know that it would be better because we've had this discussion in the past that we would have the County officials in here, the people who created the budget to explain and answer any questions. And then we will take, hopefully, a vote on the budget at the first meeting in May.

And included in that request was specifically a request that IT come in and explain their increase because they have a substantial increase. So we probably won't understand what they're saying, but we'll certainly understand the financial ramifications of it rather than the technical ramifications.

So that's where we are. I'm also tentatively planning a schedule of the -- scheduling a Charter Review Committee not at the same -- after -- the week -- the Wednesday after our next scheduled meeting we'll have a Charter Review Committee meeting. We will probably have one more after that, and then we'll get back to the Assembly with the recommendations that we have at that point. And I have Ned's recommendations in my head and I will make sure they're followed up on.

Okay. Other than that, does anybody else have anything?

Deputy Speaker MARTIN: Motion to Adjourn.

Ms. KING: Second.

Speaker BERGSTROM: Okay. All those in favor

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

Respectfully submitted by:

Janice O'Connell, Clerk  
Assembly of Delegates