

**CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES  
CHAMBER OF THE ASSEMBLY OF DELEGATES  
FIRST DISTRICT COURTHOUSE  
ROUTE 6A, BARNSTABLE, MA 02630**

**APPROVED Journal of Proceedings - April 5, 2017**

Speaker MCAULIFFE: It's 4 o'clock. I'm going to convene the meeting of the Chamber of Assembly of Delegates for Cape Cod Regional Government. It's Wednesday, April 5<sup>th</sup>, 4 p.m. The year is 2017.

I'm going to start with a moment of silence to honor our troops who have died in service to our country and all those who are serving our country in the Armed Forces. Thank you.

(Moment of Silence.)

Speaker MCAULIFFE: Please rise for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker MCAULIFFE: Before I have the roll call, is there anyone recording the meeting other than our transcriber?

Mr. ALBRIGHT: (Raised hand.)

Speaker MCAULIFFE: Thank you.

Would the Clerk please call the roll?

**Roll Call (93.40%): Edward Atwood (2.30% - Eastham), Ronald Bergstrom (2.84% - Chatham), Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), Edward Lewis (4.55% - Brewster), E. Suzanne McAuliffe (11.02% - Yarmouth), Susan Moran (14.61% - Falmouth), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).**

**Arrived Late (5.67%): Edward McManus (5.67% - Harwich @ 4:05 p.m.).**

**Absent (0.93%): Deborah McCutcheon (0.93% - Truro).**

**Left Early (14.61%): Susan Moran (14.61% - Falmouth @ 5:35 p.m.).**

Clerk O'CONNELL: Madam Speaker, we have 93.40 percent of the Delegates present; 6.60 percent are absent, and I presume that one of the absentees will return to the room, but for roll call purposes, that person is not here.

Mr. OHMAN: Point of order.

Speaker MCAULIFFE: Yes.

Mr. OHMAN: I think there's only one person really missing. It's less than 1 percent.

Clerk O'CONNELL: Yes. It's going to be like 99-point-some-odd.

Mr. OHMAN: That's correct.

Clerk O'CONNELL: Until Ed comes back in.

Speaker MCAULIFFE: Okay. May I have a motion, please, to approve the Calendar of Business?

Mr. LEWIS: So moved.

Mr. BERGSTROM: Second.

Speaker MCAULIFFE: Any discussion? All those in favor? Aye.

It passes unanimously.

(Motion carried.)

Speaker MCAULIFFE: Is there a motion to approve the Journal of March 15<sup>th</sup>, 2017? Yes, Brian.

Mr. O'MALLEY: Madam Speaker, having reviewed this Journal, I move its approval as distributed.

Ms. GREEN: Second.

Speaker MCAULIFFE: Any discussion? All those in favor? Aye.

Speaker MCAULIFFE: It passes unanimously.

(Motion carried.)

### Communications from the Board of Regional Commissioners

Speaker MCAULIFFE: Our next item is Communications from the Board of Regional Commissioners. We are fortunate to have two of our Commissioners here; Mr. Cakounes and Mr. Beaty. Welcome.

Commissioner CAKOUNES: There have been three meetings that I'm here to report on here today since the last time we met. March 22<sup>nd</sup> we did not have a meeting, so that leaves me with just two to report on.

I'll start on March 29<sup>th</sup>. On March 29<sup>th</sup>, we did our regular business approving minutes. We also discussed and formulated goals and objectives for the Cape Cod -- I mean for the Commissioners, not the Cape Cod Commission but "The Commissioners."

First time, to my knowledge, that this has been done, but I, as Chair, asked to have it done. On the 29<sup>th</sup>, we formulated the first draft, and I'll be reporting later about today's meeting where we actually voted in the goals and objectives for the Commissioners.

We had a proclamation for a Karen Cardeira, who is a -- provided services with the Barnstable County Health and Human Service Advisory Council. And then, basically, under "Commissioners' Actions," we did a number of things; I won't read them all.

Authorization of timesheets. We did give a Grounds Approval to Joan Ellis to place the flags out on the front lawn. Every year throughout the summer, one of these neighbors does that for us. So we gave her and asked her to do it again during different events throughout the summer.

We did a number of different award contracts for not only distribution of fuel but maintenance and the leasing of portable toilets for a number of different towns. Also, the purchase of aggregate, Lawrence-Lynch Corporation; I'm not going to read them all. Road resurfacing, crack filling.

This time of year this is kind of what all the towns are getting ready for, and they use our procurement offices and our procurement service to do that. So we have a number of different contracts and things that we sign through our procurement office.

We also executed an agreement through the Cape Cod -- for the Cape Cod Commission with the University of Massachusetts Donahue Institute to conduct a survey of second homeowners for \$62,000. That's something that the Commission has

been working on for some time.

And also a grant amendment through the Department of Transportation, which is helping the Cape -- it's also involved with the Cape Cod Commission and has to do with modernizing bicycle infrastructure and, hopefully, trying to reduce the cost of those bike infrastructures as we move forward, especially as the Commission moves forward and promotes people to use other terms of transportation other than driving.

That brings us to today's meeting. Oh boy, I'm going to have to go get my -- hold on a second, please, unless you have today's agenda; do you?

Commissioner BEATY: You have it right there. It's right there.

Commissioner CAKOUNES: Is that April 5<sup>th</sup>?

Commissioner BEATY: Yes.

Commissioner CAKOUNES: Oh yes. Thank you. Thanks. Today's April 5 meeting, once again, we approved minutes. We heard a report; one thing that we're doing now is that as we send our department heads out to different functions across the state and sometimes even out of state, we're requiring that once they come back here that they come in front of the Commissioners and they update us at that seminar that they attended.

And this is for both -- not only do we send some of our department heads to go to these seminars and learn things and bring things back, but we're also very fortunate to have a number of department heads that goes to these seminars and actually put on the seminar that other counties are sending people to to learn from us.

So for the Commissioners to try to really get a good handle on this, we have started the practice that every time a department head goes out and attends one of these, we ask them to come back and give us an update.

I have said this previous and I think that the new Speaker might want to consider having some of these come in front of you guys too. Especially when you don't have such a full agenda, it helps you really understand what they're doing when they're asking for these travel expenses in their budget; Number 1.

But, Number 2, it really helps you understand what's going on in the rest of -- especially New England. Today, anyhow, we had an excellent report by Abigail Archer, who went to the American Fisheries Society Southern New England Meeting in Mystic, Connecticut. And, again, you can watch the tape if you want more information on that.

We did vote the Commissioners' Goals and Objectives today. So they will be on the website. And if I think of it and I get back, I will try to or maybe I can ask our Owen to send it to your Clerk so you guys will be able to at least see what we talked about and the list of things that we put on our goals and objectives.

We also began the discussion today for the County Administrator's Goals and Objectives. Those are goals and objectives that we, the Commissioners, are putting together for our Administrator to follow from now until one year because, again, to remind all of you, Jack started with us about a year ago March. So this just coincides with his employment contract.

We're probably, and I hope, we'll be culminating and actually taking a vote on those goals and objectives next week.

I also have for you and I will be turning in a Proposed Ordinance. It's in the amount of \$100,000 to be transferred from the County Reserve Account to a supplemental appropriation for the Fire Training Academy continuing cleanup efforts.

I won't get into the particulars on it this evening because we will be holding a hearing on that, and we'll be able to tell you what's going on. But, basically, we're just replenishing that fund, once again, because not only there's operation and management going on over there and continuing the filtration system that's running, but we're also looking into hiring other engineers, and, again, I won't get into that tonight until we do the public hearing. I think you'll have all that information then.

There's a really long list today of Commissioner's Actions. I'll only go through a number of them. We did a number of appointments to the Human Rights Commission. We also did a number of appointments to the Cape Cod Commission.

We awarded a number of contracts and sometimes you'll see and hear the same names. Or if you do look at our agendas, what has to happen is, first of all, we authorize the approval of a contract or the award process. And then the following week you'll actually see us signing the contract. So some of these things are kind of redundant but it's a two-step process under the 30B procurement law.

There was an authorization of a grant of \$3,000 from the Cape Cod Healthcare to support the Hoarding Intervention Strategies and Community Education Programs of the Department of Health and Environment's Cape Cod Hoarding Task Force.

Why I mention that one, in particular, is because if you remember a while back I came in front of you and gave you a report that the Commissioners did establish a Barnstable County Cape Cod Hoarding Task Force, and it was mentioned by, I believe, at least one member up there asked if we were going to be funding this, and I told you that at that time that when we created it we told the people, "Don't come to us for any money."

The whole idea of them doing this and establishing it as a County entity was so that they could go out and get grants, and here's one good example of what has happened; they've got \$3,000 now to work with. And in accepting the grant, we had to create a fund to put the grant in.

There is an authorization for Cape Vineyard Electric Cooperative that I asked to be postponed. Just to give you a brief update on CVEC; CVEC is now 100 percent divorced from Barnstable County. It has nothing at all to do with Barnstable County, not only its employee, but Barnstable County is not affiliated with them at all as a fiscal management person either or duties.

So the only connection we have with the Cape and Vineyard Electric Co-op is that we do purchase electricity from them and we do have some credits; don't ask me to explain that, but there is exchange of money back and forth just because the County is dealing and purchasing electricity through their Power Purchase Agreement. But we are no longer affiliated with them as far as any financial duties go.

That particular agreement I asked to be postponed today because the finance director had some specific questions on it, and I was unable to answer them, so we decided to put it on for next week.

Again, there are a couple of grants that we accepted, some of them are through the Cape Cod Commission because, again, the Commissioners have to approve all their stuff and accept their grants. And one of them was for \$45,000 to develop a regional approach on financing and capital planning of potential water quality improvements and infrastructure on Lewis Bay for specifically the Town of Barnstable. So the Cape Cod Commission has been asked by the town of Barnstable to work with

them, and there was some grant monies affiliated with that.

There were also two grants that were brought in from the United States Department of Housing and Urban Development; one for \$49,000 and one for 55,000. Both of them are in conjunction with the Continuum of Care expansion project and the Continuum of Care -- I forget what the other -- Planning Project. Thank you. Two different things; two different grants, and then we had established funds for that too.

And the last grant was from the NOAA and the Woods Hole Oceanographic Institute for \$88,000. That went to the Cape Cod Cooperative Extension. That was to support the Sea Grant Program.

Got the authorization from my board to sign off the Septic of Dissolving Septic Betterments Certificates that the Chair signs, and we also discharged a number of HOME mortgages; I'm sorry, just one HOME mortgage.

Other than that, that's what we did. If there are any questions, I'll be happy to take --

Speaker MCAULIFFE: Yes, did you want to report too, Mr. Beaty?

Commissioner BEATY: Just real quick. As of this morning, a new coordinator for the Human Rights Commission has been hired, so they should be back in full operation between that and the new Commissioners that have been appointed to that body. And they'll be meeting on the 10<sup>th</sup> of this month, which is Monday, at 5:30.

And then, also, the town of Barnstable's representative to the Cape Cod Water Protection Collaborative, that seat, unbeknownst to a number of people, except there was notice that they weren't showing up for four or five months, since December. The town of Barnstable has now appointed Paul Hebert to that body. So he should be attending the meetings as well.

That's it.

Speaker MCAULIFFE: And do you have the name for the Human Rights director?

Commissioner CAKOUNES: I have them; do you want them? Oh no, the name of the director, I'm sorry.

Speaker MCAULIFFE: The name --

Commissioner BEATY: I think Jack will bring that up when he -- well, he was -- do you want to mention it to them? The new Human Rights Commission Coordinator.

Speaker MCAULIFFE: I don't have Jack on the agenda so.

Administrator YUNITS: We haven't announced the name yet.

Commissioner BEATY: Oh, okay.

Speaker MCAULIFFE: Okay. So someone has been hired, to be announced.

Commissioner BEATY: Yes.

Speaker MCAULIFFE: Actually, we should probably bring them in to meet the Assembly as well at some point.

Commissioner BEATY: Yes.

Commissioner CAKOUNES: Yes, that's right. I'm sorry; I should have said that too. And I remember now there's a situation where she wants to notify where she's currently working too.

Speaker MCAULIFFE: Okay.

Commissioner CAKOUNES: So we're going to keep that under wraps

for now.

Speaker MCAULIFFE: Discretion.

Commissioner BEATY: Yes.

Speaker MCAULIFFE: Questions? Yes, Brian.

Mr. O'MALLEY: Mr. Chair, on the minutes of your March 29<sup>th</sup> meeting, there's a whole series of F through L, in which the County appears to be acting as an aggregator for purchase of materials from Lynch and Sealcoating and MCE Dirtworks and such. I understand the concept here. Do we derive any benefit? Does this cost us? How does this work out for us?

Commissioner CAKOUNES: It doesn't work out for us at all. It's one of the things that we do here at the County which benefits the towns. We provide the towns with a purchasing department and the purchasing agent, and we also coordinate, and that's why we don't do small things, but we do things that are -- that a number of communities can derive from, like road resurfacing, crack repair.

Mr. O'MALLEY: Right. Understood.

Commissioner CAKOUNES: And this makes it -- I guess one would argue that you're going to get a cheaper price if you bring in a number of towns to do crack repair as having them all quoted individually.

Mr. O'MALLEY: I recognize the benefit of that sort of purchase, but somebody's putting a purchase order together and taking orders, how much do you need, who's got the price -- comparing prices? There are some costs in that. Are we reimbursed in any way?

Commissioner CAKOUNES: I don't believe so. I believe that's a function that the County has been --

Mr. O'MALLEY: Should we look into that?

Commissioner CAKOUNES: You could look into it if you want, but I just got told --

Mr. O'MALLEY: We do services for towns.

Commissioner CAKOUNES: I just got told by the town of Harwich that they give over \$500,000 to the County every year, and they don't use any of the services that we provide. So maybe they might take exception with you trying to charge them for this --

Mr. O'MALLEY: But they've got to get paved.

Commissioner CAKOUNES: -- for this service or not. But I will take your comments into discussion, and I will actually ask Elaine. I actually jumped on that and said, and I want to clarify that, I do not believe we get paid for the service, but I will look into it for you though and get back to you.

Mr. O'MALLEY: Okay.

Speaker MCAULIFFE: Yes, Ed.

Mr. LEWIS: Nor should we get paid for the service because it is something that -- if all these towns pay money, we ought to be able to do something without charging them. So I agree with the Commissioner.

One question that I did have was you had this from the Commission, the Cape Cod Commission, this study that they're doing with second homeowners. Do you have any idea what that's all about?

Commissioner CAKOUNES: We talked about it a little bit and, basically, we were assured that there was a question by one of the Commissioners, "Did

it have anything to do with the rental of the second homes and subsequently tied in to the state legislature that is now talking about putting a tax on or collecting room tax, and we're assured that it had nothing to do with that.

Basically, we were told that this was done as a planning tool so they can use that information to look at a number of trips, how much the roadways are being used, how much neighborhoods are being used. Other services that each town provides, whether it's the dump or things like that, and what's the relationship of these true summer homes that are not rented and are only used on a, let's say, a two month basis in the good weather by the homeowner themselves compared to some that may, in fact, rent them. And it's basically a planning tool, and it needed to be updated because do you remember the last year? She expressed to us last year it was done; I want to say it was over eight years ago.

Commissioner BEATY: In 2008.

Commissioner CAKOUNES: Yes, so it was a while ago when it was done.

Mr. LEWIS: It would be a valuable tool for a lot of different organizations if whatever they come up with if that were published accordingly.

Commissioner CAKOUNES: It is published.

Mr. LEWIS: One of the more difficult things for many organizations on Cape Cod to do is to ascertain how to reach second homeowners.

Commissioner CAKOUNES: Right.

Mr. LEWIS: Those people that are second-home, seasonal residents and how to reach them with regard to fundraising development for the various organizations on the Cape. So any kind of information to give them would be well perceived.

Commissioner CAKOUNES: I will go on record and say that the report is going to be published, and their findings will be published, but I doubt very much the actual people's or participant's names or contact information will be published.

Mr. LEWIS: Oh no.

Commissioner CAKOUNES: But one thing I do want to add --

Mr. LEWIS: No, I'm not saying that. I'm just saying the information is so that people can get a feel as to how much is there and what's involved, not the individual.

Commissioner CAKOUNES: One thing, too, I do want to stress on that I thought, I, personally, thought was very interesting, one of the survey questions that they ask is what are your intentions in the next five years? And the ABC is we're going to retire from Fitchburg and move here full-time. We're going to sell this summer home in five years and purchase a larger one. And that kind of information, I think, is very interesting because it really shows what the demographics here on the Cape are going to be in five years just by surveying the people who already have a connection here. And it's also going to have something to do with the housing market.

Mr. LEWIS: That's very --

Commissioner CAKOUNES: Because if these people sell the little cottage that they have and move on to a full-time, year-round house in a different kind of a development, it's going to be an impact.

Mr. LEWIS: It's very important for the whole -- to learn a lot of that information.

Commissioner CAKOUNES: Right.

Mr. LEWIS: So that's good.

Speaker MCAULIFFE: Ron.

Commissioner BEATY: Like you, we had a lot of questions, so Leslie the economic development person on the Commission came -- she did run over. I guess she was watching the meeting.

Mr. LEWIS: Yes.

Commissioner BEATY: And something that was very interesting that she brought up was that Cape Cod has the largest percentage of second homes on the entire state, Barnstable County. So it's an important survey.

Mr. LEWIS: Very important.

Speaker MCAULIFFE: Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker. I have three questions of three separate topics and they're short. So I am personally pleased that you hired a Human Rights director, but I know that it's not in the budget for next fiscal year.

Commissioner CAKOUNES: It is.

Mr. LEWIS: It is.

Mr. BERGSTROM: It is.

Speaker MCAULIFFE: It was just cut.

Mr. LEWIS: It's cut.

Speaker MCAULIFFE: It was cut. So maybe your question is did you hire next year's budget or this year's budget?

Ms. GREEN: Right, right, exactly. I mean what's going to happen?

Speaker MCAULIFFE: It was cut. It was cut. I think --

Clerk O'CONNELL: Yes, they had 20,000-some-odd in the budget going from 19 to 13 hours.

Speaker MCAULIFFE: Right.

Mr. LEWIS: Yes.

Clerk O'CONNELL: And the committee recommended going back to 19 hours and increasing it by 8,000.

Ms. GREEN: That's correct. I was on the subcommittee, Standing Committee that did that, but that hasn't been agreed to by the Commissioners yet; has it?

Mr. O'MALLEY: We haven't passed it yet.

Commissioner BEATY: It's in play.

Speaker MCAULIFFE: Well, wait until there's a negotiation and we have a name.

Ms. GREEN: Okay. Super, great. Then as far as the agreement with CVEC that was postponed, what's the nature of that?

Commissioner CAKOUNES: The agreement with CVEC was only that CVEC's new financial administrator or new accountants and stuff that they're using because, again, they're not using the County as a fiscal agent; their fiscal agent has come up with a -- what they believe is an easier way of reconciling monies that are due from a town to CVEC and, subsequently, monies that are due CVEC to the town.

And just to explain it to you with simple terms, the town of Harwich owes CVEC \$200 every month. CVEC owes the town of Harwich \$300 every month. Well, what has been going on is CVEC would send them a \$300 check; Harwich would send CVEC back a \$200 check.

The new fiscal agent has put into place a system where that reconciliation

is done and then a single check is sent from CVEC to Harwich for the hundred dollars.

Ms. GREEN: Thank you.

Commissioner CAKOUNES: It's strictly an accounting thing.

Ms. GREEN: And who is the fiscal agent?

Commissioner CAKOUNES: Oh God, I'll remember it. I knew you were going to ask that too and I --

Ms. GREEN: Is it a town or --

Commissioner CAKOUNES: No, no, it's a firm.

Ms. GREEN: It's a firm.

Commissioner CAKOUNES: Lavinski -- Glivinski, G, Glivinski.

They're out of South Yarmouth.

Ms. GREEN: And is that a legal -- an attorney or is that an accounting --

Commissioner CAKOUNES: No, it's an accounting firm.

Ms. GREEN: An accounting firm. Okay. Thank you.

Commissioner CAKOUNES: Glivinski & Associates, I think it's called.

Ms. GREEN: Okay. Thank you. And we're a member of the Cape Light Compact as well as serving as fiscal agent, and as a member, I thought it was my understanding anyway that members could ask questions of the Compact administrator, ask questions of the BCK Law; am I correct in that assumption?

Commissioner CAKOUNES: I would argue that anyone can ask a question. I mean I'm their representative from the County to the CVEC board. So if you have something you want me to particularly ask them, write it down. I'll ask it to them.

Ms. GREEN: Well, I wrote a three-page letter dated December 5, 2016, and I understand it was sent to the Compact Administrator. And as of today, the County has received not one answer to any of the questions posed in --

Commissioner CAKOUNES: Well, I, respectfully, ask if you could forward that to me, either electronically, or hand it to me today, I will bring it up as your member to the Cape Cod -- Cape Light Compact and do what I can.

Ms. GREEN: Cape Light Compact. But as a member, we have a right to those questions.

Commissioner CAKOUNES: All I can do is ask the questions. I can't make them -- force them to answer them. I'm a farmer. You can bring a horse to water but you can't make it drink.

Ms. GREEN: Yes. Thank you.

Speaker MCAULIFFE: Linda.

Ms. ZUERN: Thank you, Madam Speaker. I have some questions about the survey of the homeowners.

Commissioner CAKOUNES: Yes.

Ms. ZUERN: Is that survey online or is it available?

Commissioner CAKOUNES: It will be when it's completed.

Ms. ZUERN: Just when it's completed. It won't be available to us before like now so we can see it ahead of time?

Commissioner BEATY: They haven't formulated it.

Commissioner CAKOUNES: I would have to say I'm not prepared to answer that. I would assume that once the survey goes out that not only would it be a paper survey actually sent to these homeowners, but there will be some way for a

homeowner to respond to the survey online. Knowing the Cape Cod Commission as well as I do, the number of surveys that they have performed they've always had electronic access to fill out that survey.

Now the results absolutely will be posted online. But the survey, itself, I think we're going to have to wait to see how the Commission wants to conduct that.

Ms. ZUERN: So the Commission is making up the questions?

Commissioner CAKOUNES: Yes.

Ms. ZUERN: Okay. And my other question is why is it so important to know about the second homes? And I'm only asking that because in some towns they're already sort of suggesting that people of second homes could use their homes in the summertime for the homeless or for other kinds of things. So I didn't know why that was important to know that information?

Commissioner CAKOUNES: I'm going to let Ron answer that.

Ms. ZUERN: Okay.

Commissioner CAKOUNES: He asked most of the questions of the Commission during our meeting.

Commissioner BEATY: We just approved what the -- the Commission just won a contract with UMass Dartmouth?

Commissioner CAKOUNES: Yes, no. UMass.

Commissioner BEATY: A center that they have there. And then they, between the two of them, formulate the questions and the survey. It hasn't been created yet. They've just been hired for X number of dollars. So the whole thing is still being -- hasn't even been implemented. It's being created, so there's a lot of your questions we can't answer because we don't know. There's nothing there yet. We approved the money, the funds, so that they whole thing can be done.

Speaker MCAULIFFE: And the Cape Cod Commission, part of their mission is doing demographic and planning studies. So they have routinely done surveys of everything you can imagine on the population of Cape Cod going forward.

Some of our best data comes from their questionnaires and their reports. So this is another, call it, piece of the puzzle.

But if you have concerns, certainly we can address them through Paul Niedzwiecki to see if there's a, you know, if you have a specific concern about part of what their job is.

Ms. ZUERN: But it's still \$60,000 I think.

Commissioner BEATY: It's 62, yes.

Ms. ZUERN: 62,000.

Commissioner BEATY: Yes.

Ms. ZUERN: And \$62,000 is \$62,000. I would make sure that I saw the survey first before I appropriate any money so.

Commissioner BEATY: Yeah, they're hiring the University of Massachusetts, Donahue Institute.

Speaker MCAULIFFE: Which we've used before.

Commissioner BEATY: Right.

Speaker MCAULIFFE: It's very well known.

Commissioner BEATY: Right.

Ms. ZUERN: So we could be able to see that survey before you would spend funds?

Commissioner CAKOUNES: If you want me to ask for it, I will be more than happy to do that.

Ms. ZUERN: Okay.

Commissioner CAKOUNES: As I say, a lot of times here jokingly, I'm a farmer, and I have to rely that the Cape Cod Commission knows how to do these kinds of surveys a lot better than I do.

But if you would like to see it, I will certainly ask whether we have -- I do not -- I'm not going to tell you you're going to have input to add a question or take a question out. But I certainly will ask if you can see it. We're paying for it, so we should be able to see it.

Ms. ZUERN: That's how I feel, so thank you.

Commissioner CAKOUNES: Yes.

Speaker MCAULIFFE: Patrick.

Mr. PRINCI: Thank you. Cape Light Compact - so as I gather it was our executive branch that worked out a separation negotiation with CLC and it's all been resolved and it's over; am I right by saying that?

Commissioner CAKOUNES: CVEC or CLC?

Mr. PRINCI: CLC.

Commissioner CAKOUNES: Okay. The negotiations -- the separation agreement with Cape Light Compact was signed by the Commissioners back in January. Actually, I think it was signed in December. That's the one that I voted -- I was on the board; Ron was not. I voted against it; however, I did sign it because my fellow Commissioners signed it at that time.

That agreement had language in it that said that in the event something came up and the Cape Light Compact could not separate from the County on or before June of 2017 that they had the right to ask for an extension.

And we received a letter the other day from the Cape Light Compact because in that agreement it also specified that if they wanted an extension, it had to be asked for prior to April 1. So I think around March 28 we received a letter from the Compact that said they will not be seeking an extension and that they are working towards and feel very confident that they will be able to complete the separation from the County on or before June of 2017.

Mr. PRINCI: Thank you.

Speaker MCAULIFFE: Yes.

Mr. BERGSTROM: Yes, just on the survey for the Cape Cod Commission, you know Chatham went through a wastewater management plan; it was required by the state. And we surveyed how many properties we had in town. And in many case -- in that case and in many other cases, if you have X number of houses in a town, the state will say all of them have the potential to be year-round houses. And, therefore, you have to build your infrastructure for two or three times the amount of people you may actually have in the town over the next 50 years. It becomes quite onerous, and I hope that -- I mean, this is a good starting point to assess how many people you actually have in the town at one time. But it's also important that we, going forward, use this information to explain to the Commonwealth of Massachusetts that we are not a community of a million and a half people. We actually only have 250,000, and we're not going to build our, you know, max out our roads and our infrastructure to support a population that can never be realized. So, I mean I think -- I guess it's a way

of saying its important information.

Commissioner CAKOUNES: Can I just add to that, Madam Speaker?

Speaker MCAULIFFE: Go ahead.

Commissioner CAKOUNES: I think it's extremely important information. And as I said earlier, just the fact alone of finding out whether these current summertime homeowners that are only staying here for two or three weeks what their intentions are in the next five -- and, by the way, I think there was going to be two questions, five and ten years, is a huge planning tool that even Mr. Lewis added to.

You're not going to be able to get that information any other way. And I think a lot of good is going to come out of this. But I just want to make sure everybody understands this has nothing to do with the state's room tax question.

Commissioner BEATY: The Airbnb question.

Commissioner CAKOUNES: The Airbnb question. It has nothing to do with that.

Speaker MCAULIFFE: Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker. So just in looking at the agenda, there's an item on the agenda regarding this letter that came from the Cape Light Compact.

Speaker MCAULIFFE: Right.

Ms. GREEN: At that time, would it be possible to ask the Commissioners to come back or should I ask my question now?

Speaker MCAULIFFE: Well, if it's related to the letter, we have Mr. Troy here to answer --

Ms. GREEN: But I would like to ask something of the Commissioners about the letter. So now is the time I presume to do that?

Speaker MCAULIFFE: Yes.

Ms. GREEN: Okay. Thank you. So my question is the second to last paragraph of the letter received from the Cape Light Compact on -- it was sent on March 28<sup>th</sup>. It asks, and it's from Maggie Downey, Compact Administrator, asks that the Commissioners enter an MOU, a Memorandum of Understanding, regarding the termination relationship. Do you have any intention of doing that?

Commissioner CAKOUNES: The only way I could answer that is by telling you that I, personally, have had a discussion with not only our Administrator but with County Counsel, and we feel that the current Memorandum of Understanding, which was signed in December that I alluded to prior is sufficient to take us to the culmination of the separation in June.

And I, as Chair, am not putting it on the agenda or have not asked our County Counsel to draft any other agreement. We just don't think it's necessary at this point.

But in fairness to my fellow Commissioner, this was not discussed in the public hearing or public meeting. This is something that I've done as chair after receiving that letter spoke directly with our counsel, and we feel confident that the current memorandum will bring us to the culmination in June. So at this time, no.

Ms. GREEN: And Mr. Beaty, do you feel the same way that Mr. Cakounes feels about --

Commissioner BEATY: Based upon a meeting I had last week with Attorney Troy, I would be in agreement with what he just said.

Ms. GREEN: Thank you.

Speaker MCAULIFFE: All right. Seeing that no more -- yes, Doc.

Mr. O'MALLEY: If I could just ask the status of the RFP for the water monitoring -- you put out an RFP for that; where does that stand?

Commissioner CAKOUNES: We did put out an RFP for the water monitoring. We got only one response back, and it's to my understanding, and I discussed this with even Paul today too; I have not had a chance to discuss it with Jack today, but it's my understanding that they're going to be sitting down with that person who put in the -- answered the RFP, and they're going to be trying to hash out a mutually-agreed contract.

Mr. O'MALLEY: Good. Thank you.

Communications from County Counsel Robert Troy

Speaker MCAULIFFE: Thank you, very much. Are there any -- I'll give you a minute. Our next item is the communications from County Counsel Robert Troy. And the three items listed on the agenda he is bringing forward a County Ordinance Index, which we saw a draft of at our last meeting.

Is this the ordinance?

Commissioner CAKOUNES: Yes. Thank you. Sorry about that.

Speaker MCAULIFFE: No, that's okay. It will be also an opportunity for a discussion relating to adoption of the budget. I know that questions have come up in various subcommittees about what the Assembly can and can't do. Will there be an opportunity to ask those questions?

In addition, the Cape Light Compact Termination Agreement Letter in case people have any specific legal questions about the letter or about any of the legal issues going forward.

And I asked -- Attorney Troy offered to make a brief opening statement and, hopefully, that will give us information or we'll have questions after.

I don't think that microphone is working. That's why we've all been shouting.

County Counsel TROY: Okay.

Speaker MCAULIFFE: So you may just need to speak loudly.

County Counsel TROY: That's fine.

I should be able to. I speak in court so I should be able to talk here.

The first thing I want to say is that we have, today, the final version of an idea that the Clerk, Janice O'Connell, had last June, and we worked together on it. It took us a long time.

But this is an index of all of the ordinances that have ever been passed by this body up until last December. And yesterday when I was preparing it, Janice was going to runoff copies, but the County Administrator and the Chair allowed me to embellish it with a folder which you'll be able to supplement each year. At the end of every year, you're going to be able to put this year's ordinances in it.

So if you keep this book, you'll have it forever, and we actually got the permission to get an embossed copy of the County seal, which respects the work that you've done here.

So we have finally accomplished this, and it's indexed. And if any of

you have any questions or concerns, as I said at the last meeting, about it, please let Janice know and I will answer them. But it is comprehensive. We cross-checked it. And one of the things, for instance, we're going to be talking about today is Ordinance 16-03. And if you look under "Internal Affairs," you'll see that that is a handy guide to find the subject that we're going to talk about.

So the Speaker asked me to prepare a brief, written statement that I can read to you. I have one on the budget process, which the Speaker asked me to address, and the other on the Cape Light Compact.

So they're very brief, so if I can read them to you and then afterwards, if you have any questions, I'm happy to answer them. This is probably a better way to make it short.

This is on the issue of the budget process. The question of whether the Assembly of Delegates may amend the budget submitted by the County Commissioners, under the Barnstable County Charter, is somewhat complicated. Analysis of the Charter's provisions establishing the budget process suggests that the Assembly of Delegates has a limited role of review and recommendations regarding the budget submitted by the County Commissioners.

The only power vested in the Assembly under the provisions of the Charter is to take, "Final action" before June 1 of each year preceding the commencement of the fiscal year for which a budget has been submitted by the County Commissioners.

In interpreting whether the Ordinance procedure used by the Assembly of Delegates to create a reconciliation process is within the category of final action, as that term -- the only term that is in the Charter with respect to power of the Assembly. It is necessary to look at other sections of the Charter.

One section is important. The Charter provides that the Assembly of Delegates supplant the previous functions of the Barnstable County Advisory Board on County expenditures. A statutory creation that governed Massachusetts Counties prior to the abolition of most County governments, and legislative approval of Charters for several counties, including Barnstable County.

Ordinance 16-03 was passed by the Assembly of Delegates and was deemed enacted by inaction by the County Commissioners through the provisions of the Charter. This ordinance provides for a reconciliation procedure that permits amendments to the budget submitted by the County Commissioners and, ultimately, permits the Assembly of Delegates to amend a budgetary item submitted as a line item in the Commissioners' budget by a weighted vote equal to or exceeding 66-2/3 percent of the population of Barnstable County.

I, therefore, conclude that the Assembly of Delegates has a mechanism to amend the Commissioners' proposed budget through the reconciliation process established by Ordinance 16-03.

The power to amend the Commissioners' proposed budget has some limitations. First, the Charter requires that the Commissioners' proposed budget reflect line items solely to fund departments and agencies of the County. This limitation is repeatedly asserted in the Charter. It is, therefore, my opinion that the Assembly of Delegates may use the reconciliation process to amend line items in the Commissioners' budget and may not use this process to institute new programs that are not included in the Commissioners' budget.

There is, however, an avenue for the Assembly to create new departments and agencies through a separate ordinance process, but that avenue is distinct from the budget process that's delineated in the Charter.

Indeed, analysis of the language in the Charter makes it clear that the executive branch, the County Commissioners, make policy decisions about what objectives the County is funding through the budget process.

This authority to select how the County shall fund existing departments and agencies of the County is within the executive powers vested in the County Commissioners under the Charter.

As an example, if the Assembly of Delegates elected to transfer a sum of money from the County Commissioners' line item to the Assembly of Delegates line item, this is permitted through the reconciliation process.

On the contrary, if the Assembly of Delegates elected to transfer a sum of money from the County Commissioners line item into a program that was not included in the County Commissioners' Proposed Budget, this action would be ultra vires, or beyond the authority of the Assembly of Delegates. Analysis of Article 5 of the Charter confirms this interpretation.

Finally, both the County Commissioners and the Assembly of Delegates are prohibited by law from appropriating County funds to any entities other than existing departments and agencies of Barnstable County.

That's my statement of the budget process.

Speaker MCAULIFFE: I'm just going to start with one big start question. You said departments or agencies/entities; would that be something like a Water Collaborative which isn't a department?

County Counsel TROY: The Charter is very clear as it has to be, and it says it repeatedly, an agency or a department.

Speaker MCAULIFFE: Okay. So that could be considered an agency.

County Counsel TROY: That would be -- I can't answer that question without analyzing it. That's the generic. I would have to, you know, defer to looking at the ordinance. I'd have to look at this and go through that to answer that question.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: Okay. So yesterday was a rainy day, so I sat down with the Charter in anticipation of your approval here. And I was struck by the language in the Charter when it deals with the submission of the budget. It talks about a proposed budget, and whenever it refers to the budget process from the Commissioners, it says the proposed budget shall do this; the proposed budget shall do that.

When it refers to the Assembly of Delegates, it says the Assembly of Delegates shall approve "a budget." So it's not "the budget," it's "a budget." And I think that makes a difference. If it said "the budget," that would assume there was a preexisting budget that we were approving or disapproving.

When it says that we're approving "a budget," it suggests that we're creative. We're approving the budget that goes to the County is the budget that we approve. And, to me, that seems pretty open-ended that we're approving the budget, and their submission to us is a proposal. I mean that's the only thing I can take out of that language.

County Counsel TROY: Well, in response, I would say without the ordinance, if there were no ordinances ever passed by the Assembly giving it any

authority and surviving the ordinance process; my opinion is that the Charter gives the Assembly very little authority over the budget. And I did the same thing you do, and I have it right in front of me. If you look at Section 5-5.5, it says -- it's entitled, "Action on the Proposed Budget."

Mr. BERGSTROM: Right.

County Counsel TROY: This is when it goes to the Assembly. And it says it's reviewed in Section (b) by a standing committee, and this is exactly the quotation, "Of the detailed expenditures proposed for each Cape Cod Regional Government department or agency." And then when it goes to the Standing Committee, which is the next step under (c) it says, that "The Standing Committee shall file a report, 'containing recommendations with respect to each item in the proposed budget.'"

And, finally, D, Section (d) of subsection of Section 5-5, and this is the most surprising part of the analysis. It says, "If the Assembly of Delegates has not taken final action with respect to any amount recommended in the proposed budget by June 1, the amount is automatically appropriated without further action by the Assembly."

So out of that, I also found it very interesting in the Charter, and I did some research on interpreting Charters, that the Assembly of Delegates is treatment of the budget, and the entire process does not have to be by ordinance. There's nowhere in the Charter that suggests that the budget has to be submitted as an ordinance. It has been in this particular case.

Mr. BERGSTROM: It's strange that you should say that because in the budget process in the Charter, it does not talk about going back to the -- it does not talk about going back to the Commissioners.

County Counsel TROY: Correct. Absolutely. Exactly.

Mr. BERGSTROM: The only thing it says about going back to the Commissioners is because it was submitted in the form of an ordinance.

County Counsel TROY: Exactly. I'm on the same page. And I have advised the Commissioners that it is not necessary to present the budget as an ordinance, but in this case they have.

Since they have done that or regardless of whether they do it in an ordinance or not, because the Assembly has passed and through the ordinance process it has been approved, there is a reconciliation process that is the law of the County and that process allows the Assembly to make recommendations and that process sends it back. You're correct. Not that the Charter, that 16-03 sends it back to the Commissioners, and then the weighted vote of the Assembly can overrule the Commissioners.

That's a mechanism. I have to say, too, that that mechanism has to be looked in the context of the two words "final action." You have to be able to persuade a court if it were ever litigated that that authority is within the very narrow term of final action. And for now, it's a validly passed ordinance and I accept it as that.

Mr. BERGSTROM: Well, it still has the language in there that the Assembly shall approve a budget, and that ends the process at least as its delineated in that section of the Charter.

County Counsel TROY: Okay.

Mr. BERGSTROM: We're going to disagree on a few things.

Speaker MCAULIFFE: What you're saying is if the Assembly doesn't approve a budget, it automatically goes into effect June 1.

County Counsel TROY: Well, under the Charter if the Assembly didn't

approve it, the Commissioners' budget goes into effect. However, the Ordinance 16-03 is very important. That's really the map that you have to follow because that kind of picks up where the Charter leaves off and that provides a process.

And so in that process, the Assembly definitely in that ordinance has the authority to amend certain things. But there are exceptions to what the amendments can be as I have said. And the most important exception is that it has to be for an existing County department which the -- or agency which the Commissioners have included a line item for.

Speaker MCAULIFFE: Anyone else? What else? Is it Ed? Yes.

Mr. LEWIS: Just a little confusing but that's okay. You're paid to do that.

County Counsel TROY: It's confusing to me too.

Mr. LEWIS: Yes, well, you've made it even more. So that's okay. That's why you went to college and law school.

So what I'm trying to understand is if there is a line item in the budget that the Commissioners have zeroed out, the question is does the Assembly of Delegates, in your opinion, your brief opinion, does the Assembly of Delegates have the right since it's a line item in the budget but has been zeroed out, does the Assembly of Delegates have the ability to put the money back?

County Counsel TROY: Well, I think that issue can be raised in the reconciliation process. But the answer is if you're asking outside of that process can the Assembly choose to fund a program that the Commissioners have ended?

The answer to that is no, because in the budget section of the Charter, it's very clear that the County Commissioners, and I can read you without -- that the County Commissioners make your decisions. The whole budget process, if you look it says, "All the departments send in their requests." The County Commissioners make their decisions as to what they're going to fund. They're the executives. They say what the County is going to do. They send it down to you. If they're funding something and you think one program that they're funding is getting more money than it deserves, you can transfer it back and forth but you cannot make -- you do not have the power of initiatives.

Mr. LEWIS: Just to follow-up. When you say, because it's a little confusing at least to me; if they had said \$1 there, then I can put another hundred dollars in, but as long as they say zero, I can't do anything?

County Counsel TROY: Correct.

Mr. LEWIS: Then I think based on your -- what you're saying here, there is no reason that we should abolish the Assembly because the County Commissioners' budget is exactly -- you stated that the Assembly really can't do a lot.

County Counsel TROY: Well, the Assembly is functioning in the same capacity as the former advisory board for County expenditures.

Mr. LEWIS: It certainly isn't the way the state works because when the governor comes out with a budget and the House Ways and Means Committee says, "That's his; we'll make the budget."

County Counsel TROY: Well, and to follow up, one of the things that I think a question that comes out of this and the confusion that each of us have in articulating what our concerns about this is this is a very likely candidate, an appropriate candidate for the Charter review process to clarify this and to make it clear exactly what

the rules are.

And, unfortunately, this section of the Charter which is very important has not been addressed by Charter review. There's been other things about the composition of the various boards that has kind of dominated the Charter review process. I think this would be a very, very good subject.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: You know we're going to have some disagreements on this, because we talked about the Assembly not being able to amend the budget. But the word "amend" does not occur in the budget process.

County Counsel TROY: Correct.

Mr. BERGSTROM: We're talking about our recommendations, different from their recommendations.

County Counsel TROY: Right.

Mr. BERGSTROM: So it's not a question of them -- we're taking the existing document and saying we're going to change it. We're taking their document and we said, "Okay. Here's our document." That's what the language of the Charter says. I mean, it's clear. It's our recommendation --

County Counsel TROY: Is a recommendation, I agree.

Mr. BERGSTROM: -- as to what the County would spend. It could be totally irrelevant; this is my opinion looking at these words.

Now you speak about the previous, you know, whatever, financial review board. Well that died when this Charter was passed.

County Counsel TROY: Well, except that you are now that board. That's in the Charter.

Mr. BERGSTROM: Okay. Yes, in addition to what we also do.

County Counsel TROY: Right.

Mr. BERGSTROM: But its clear -- the language through, and I just picked up on this within the last 24 hours; the language in the budget process is very clear. It's not talking about taking a document they produce and say, "Here's the budget," and we kind of fool around with it and say, well, we can do this to it; we can do that to it. The language is that the budget for Barnstable County is what we pass. It's what we recommend and what we pass and they have veto power over it.

But to suggest that they create the budget -- the word "the budget" is not in there. It's the "proposed budget." So the idea that somehow that's the budget and we have a certain role to play in it, it's not reflected in the language of the Charter the way I read it.

The language of the Charter, as I read it, is they make a recommendation to us, proposed. It must be -- the word "proposed" is in every reference to the budget before we get it.

County Counsel TROY: Right.

Mr. BERGSTROM: After that, the word "proposal" is no longer in there. After the word is -- it says, clearly, it says, "The Assembly shall adopt a budget portion."

You know, so I mean -- I know you're a lawyer and I'm not. I'm a clam digger, but these are the words that I'm reading in the Charter right now.

Speaker MCAULIFFE: Tom.

Mr. O'HARA: I guess what it comes down to for me is who makes the final decision on what goes in? Is it the recommendation of the Assembly or is the

Commissioners the final say on what the budget will be?

County Counsel TROY: Well, if you look at Ordinance 16-03, there is a reconciliation committee which is set up, has members of the Assembly, and the County Commissioners, and they try to work it out.

And there's a process in that reconciliation that if they don't work it out, a budget is voted by the Assembly. Some budget and it goes back up to -- after that process goes up to the County Commissioners. And at the County Commissioners, they could either sign it or they can send it back. If they send it back and a vote of 66 percent of the population passes -- votes in favor of it, that's the budget. So the Assembly, theoretically, has the last word under that ordinance.

And that's just as important in talking about this question as the Charter because that -- the ordinance gives the Assembly a much more defined role. The Charter, in my view, gives it a very limited role.

Mr. O'HARA: I would agree with that.

Speaker MCAULIFFE: Yes, Linda.

Ms. ZUERN: Thank you, Mr. Troy. We can take an item and make it less, say we're looking at salary increases or something like that; we could say instead of a 1 percent or a 2 percent raise, you know, everybody would get a 1 percent raise. We can do those kinds of things. We can make something less than what is proposed to us.

County Counsel TROY: Right, unless it was a union-type contract.

Ms. ZUERN: Right. And we can take things from one line item and make it less or more?

County Counsel TROY: Correct.

Ms. ZUERN: And then change it to another one?

County Counsel TROY: Correct.

Ms. ZUERN: Okay.

Speaker MCAULIFFE: Chris.

Ms. ZUERN: Thank you.

Mr. KANAGA: Sorry; just as a favor to me, can I ask something a little more precise? There's say two line items in a given budget, which has been handed to us with many columns; what was submitted as a request from the department; what's called a review column; which is -- and then the last column is the Commissioners' budget.

If there's a line item for postage of a hundred dollars and another line item for office supplies that had a number in it in one of the other columns but now says zero in the Commissioners' budget, are you saying we can't take \$50 from postage and put it into office supplies?

County Counsel TROY: I'm saying that if the Commissioners have made an executive decision that they're not going to fund a program that could have been previously funded in other fiscal years that you do not have authority to have any initiative to created programs.

Mr. KANAGA: Excuse me; that's not answering my question. I'm not creating a program. It's simply a line item in the budget that was submitted to us. It's not a program.

County Counsel TROY: It -- okay.

Mr. KANAGA: I'm asking if money can go between line items that are in the piece of paper that was submitted to us?

County Counsel TROY: If they're in the same, the same budget year. In other words, if you have a budget for, let's put it this way; if you have a budget for this year and one line item is office supplies and one item is postage, you may move that as increase or decrease each of the line items as you wish. But you may not fund an initiative, which is -- whether its postage or office supplies, you do not have authority under the Charter.

And I think that section of the Charter is very clear at the beginning of Section 5 that it is the Commissioners' decision after they receive the input from the various departments of what programs/categories/whatever you want that are going to be funded. You can then dispute the amount of funding they're doing and how they are doing what they are doing. But you may not create initiative. You may not assert an executive function and decide to do something in the budget that the Commissioners have decided that they don't want to do.

Mr. KANAGA: I'm still not getting an answer to -- distinguishing between a program and a line item that is on the budget that's submitted to us that may have zero or it may have \$1 in it. Are you saying if it has zero that that is a program and it would be initiative to put \$50 into postage?

County Counsel TROY: Correct.

Mr. KANAGA: Wow.

County Counsel TROY: I'm not calling it a program. You are not allowed to fund line items because those are decisions that the Commissioners have made pursuant to their authority in the Charter as to what, whether you want to call them program, policies, areas of expenditure. They're not doing that. You can't substitute your judgment for theirs. You have the right to control how the County spends the money on the programs of the Commissioners, the categories, whatever you want to call it, have decided to fund.

Speaker MCAULIFFE: Yes, Leo.

Commissioner CAKOUNES: Can I just make a point about the question that Chris asked too? The document that you have in front of you has for informational purposes only the requested amount from the department heads, and I'm sorry, Chris, the other thing was review category?

MR. KANAGA: Yes.

Commissioner CAKOUNES: Which, basically, was the recommendation from staff, but those are for informational purposes only.

The document that came over here as an ordinance, and I don't know if it's going to be an ordinance next year or not, but the Commissioners' budget is really what is your tool that you're working with. And the other things were given strictly as informational purposes only.

So to argue that you could go back and use a requested amount as the budget proposed to you, I would argue that that's not the case because the Commissioners took that proposed amount out. And those other categories are informational only.

Thank you.

Speaker MCAULIFFE: Ron.

Commissioner BEATY: Yes, to follow up with Mr. Kanaga's question. Attorney Troy, the process that he asked from postage to office supplies, can that be worked out through the reconciliation process?

County Counsel TROY: Yes.

Commissioner BEATY: So it could still be transferred through the reconciliation process?

County Counsel TROY: Right. And I said that earlier. The reconciliation process, which is not part of the Charter, keep that in mind, that's through the ordinance. But it is still an ordinance that is validly passed pursuant to the Charter allows for more flexibility, and allows the Commissioners, for instance, to agree that the postage can be transferred to the office supply or vice versa. That reconciliation process is wide-open.

But if you look at the Charter and you look at the early parts of Section 5 about how the budget is proposed, you'll see it very specifically says that the Commissioners, and this is executive authority, have the sole responsibility to define how they're going to spend the County's money at least at the beginning and what programs they're going to fund.

Commissioner BEATY: So as long as we collaborate with each other --

County Counsel TROY: Right.

Commissioner BEATY: -- everything will be worked out fine.

County Counsel TROY: Correct. The reconciliation process allows and, hopefully, that's the whole idea of it is to facilitate something that everybody can agree upon.

Speaker MCAULIFFE: I'm going to go to Doc and then back to you.

Mr. O'MALLEY: So following up on Commissioner Beaty's question; how does the reconciliation work if we want to add \$50 for postage but that line doesn't exist? How do we say we ought to reconcile this by having some money in this line if we can't put it anywhere? I don't understand.

County Counsel TROY: Well, the reconciliation process, you know, has not been defined outside of the ordinance. So how that's set up is kind of going to be a function of the process itself. So I assume that in carrying out the mandate or the ordinance, the committee would have the flexibility to make its own rules and do as it would.

Because in the end, what they're coming out with the idea is some type of consensus that can be passed so there's not an impasse that prevents the County from operating after July 1.

Speaker MCAULIFFE: Yes, Ed.

Mr. LEWIS: So as I try to get a little bit -- listen to -- and just I read, you know, that section of the Charter; it appears to me that the Commissioners' send over their budget similar to the President sends to the Congress his budget; the Governor to his government their budget.

The Assembly has the right to submit a budget because they propose a budget which can be different than the Commissioners' budget. It can be different. And that budget then goes into the reconciliation process if it's different, that there is no -- I would formally disagree to an extent that the Assembly doesn't have the right to put together what they deem is the right budget for the coming year, and that's what they're going to reconcile those items which are -- which they have disagreements over, rather than the idea that the Assembly can't do anything because I think if I read what the Charter says, and I don't -- I have the Number 16-03 in front of me, but I don't have the ordinance in front of me. You may have it.

Commissioner CAKOUNES: I have it.

Mr. LEWIS: Your pages -- but we don't have it.

Commissioner CAKOUNES: Okay.

Mr. LEWIS: For whatever reason it's just not in front of us. And that would appear to me to be the way I thought the process worked because it doesn't work that way, that the ability of the Assembly to have a voice in creating a budget for the County doesn't really exist.

County Counsel TROY: I have copies for all of you. I'm sorry; I thought you had them too. This is the 16-03. I'm sorry; I thought you guys had that.

Mr. LEWIS: We probably do. We just didn't have it -- it wasn't part of the 30 or 35 documents there.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: Just the Charter says, "The Assembly of Delegates shall adopt 'a' budget for the ensuing fiscal year no later than the 1<sup>st</sup> day of June in the preceding year." In the Charter, there's no other procedure.

County Counsel TROY: Correct.

Mr. BERGSTROM: No other procedure listed. We shall adopt a budget period.

County Counsel TROY: Correct.

Mr. BERGSTROM: Now, we can do things -- I'm amazed that we can do things by ordinance that would, basically, contradict the Charter.

The reason that the ordinance dealing with the timeframe and the reconciliation process is in there is not to negate anything that's in the Charter. It's simply because we would run up against timeframes.

County Counsel TROY: Right.

Mr. BERGSTROM: And, also, it's because the budget is submitted as a form of an ordinance. So, now, after we adopt it, we go into the ordinance process.

County Counsel TROY: Correct.

Mr. BERGSTROM: It's not the budget process. It's the ordinance process.

County Counsel TROY: Correct.

Mr. BERGSTROM: Now you said that it doesn't have to be submitted as an ordinance.

County Counsel TROY: Right.

Mr. BERGSTROM: So I think it's the intention of -- it was the intention of the Charter that the Assembly would take a vote on the budget, and that would be the budget. I mean that's what I get from that sentence.

It says that, "The Assembly of Delegates shall adopt a budget for the ensuing fiscal year no later than the first day of June in the preceding fiscal year" period.

So I mean you're saying that we have a limited role. My take on -- my reading this is that the Commissioners have a limited role. They propose a budget and we pass the budget that we think is adequate.

County Counsel TROY: Well, except I think the problem with that is the final section of the Charter on that says that if the Assembly does not -- what the Charter says very simply, you used the correct term; it said the budget comes down here, you can have your recommendations that disagree with -- and you're to file a report of those. It doesn't answer -- all it says is that if you don't take final action, that's what's not

defined by June 1<sup>st</sup>, the Commissioners' budget becomes the budget.

So the question is what is final action? And that's why I agree with you. The 16-03 is not inconsistent with the Charter. There is one part of it that is, but that can be administratively addressed in terms of the timeframe that Commissioner Beaty is correctly citing.

But there needed to be some mechanism created to resolve the ambiguity in the Charter, and 16-03 was preceded by earlier efforts to do -- I remember when Roland DuPont was on the Assembly. There was a similar process proposed at that time to deal with the issue of what do those words mean, "final action."

So I think something needs to be done, and I think you did it with 16-03. If that isn't going to work, then I think it should go to Charter review because you're right on the line of, you know, --

Mr. BERGSTROM: Well, I mean, if we vote a budget according to the Charter, then that's final action. We voted a budget.

County Counsel TROY: And that's a legal question because when the tire hits the road --

Mr. O'MALLEY: It's an ordinance.

County Counsel TROY: -- is when the Assembly and the Commissioners disagree about what the budget is, and that's the whole idea to avoid that. The reconciliation process has been established to see whether it can be worked out.

Mr. BERGSTROM: But it doesn't speak in the Charter -- in the Charter, it doesn't say what the Commissioners disagree. In the Charter it says we adopt a budget. We take their recommendations, and we adopt a budget. It's the ordinance process that all of a sudden we're going through and asking what they think.

County Counsel TROY: Right.

Mr. BERGSTROM: But in the Charter, it doesn't say that we have to ask them what they think. The Charter says we take their recommendations, their proposed budget; we hold a series of hearings, and the Assembly of Delegates shall adopt a budget for the ensuing fiscal year, no later than the first day of June in the preceding fiscal year. And that tells me since the budget expires at the end of that month that they're not anticipating a long process.

So the process, giving the Commissioners some say over what we adopt, was created when we created this ordinance. Why we did it; I don't know.

County Counsel TROY: Well, I think, with all due respect, I disagree with your conclusion. I believe that the Assembly has very little authority under the Charter, and it has much more authority under the ordinance, and that the ordinance helped give the Assembly some tools to implement -- and those tools are limited to. As you see if you read 16-03, you'll read it carefully, it's what the consensus was out of that was because the words "final action" is so vague in the Charter, it appeared that the mechanism of going back and forth and letting 66.6 percent of the body of -- or the population expressed through this, they let that override the Commissioners. And that's the final for this year; that is how it works.

If there is not an agreement between -- out of the reconciliation committee and there's a standoff between the Commissioners and the Assembly, it comes back here to the Assembly, and if 66 percent of the population backs it that's the budget. That's the rule for this year. We can debate the history. It's complicated; I agree.

Speaker MCAULIFFE: Ron, you wanted to make a comment?

Commissioner BEATY: Ye, I think it's important, also, to note that this ordinance last year came about in a very unusual fashion. It wasn't even addressed by the then Board of County Commissioners. They took no action, didn't discuss it, nothing. And because of the time process for an ordinance to be approved or not, it was automatically approved and came back -- and that was just --.

So, this is a child of the Assembly, and it actually limits, to me, and I expressed this to Attorney Troy, it actually limits the -- further limits the County Commissioners, and it's very well defined and whatnot.

The only thing I did point out was some time limitations in here were not the same as the Charter. So that does need to be corrected. I think the Charter gives 10 days and this gave 7, and you can't go against the Charter.

Speaker MCAULIFFE: It may be a child of the Assembly, but the reason the Commissioners did not act on it is they elected not to act on it.

Commissioner BEATY: No idea why; I wasn't around then.

Speaker MCAULIFFE: Right. I'm just telling you.

Commissioner BEATY: I certainly would have.

Speaker MCAULIFFE: I was here. It went through because there was a choice to not act on it.

Susan and then I'll go down and over there.

Ms. MORAN: Just going off what Commissioner Beaty just said, you know, you look at the Charter and also, you know, Justice Scalia says, "When you want to know what something means, read the words." That's one of his famous quotes.

This is about timing, if you're referring to the Charter Section 5.5.D. When it says the Assembly shall "shall" adopt, that means must, a budget for the ensuing fiscal year no later than the first day of June in the preceding fiscal year; it says it's a must do by a certain time.

Then the second sentence talks about what happens if not. If the Assembly of Delegates has not taken final action with respect to any amount recommended in the proposed budget by said 1<sup>st</sup> day of June; again, the second sentence referring to the first, "Such amount shall without any action by the Assembly," in other words in the case of non-action become a part of the appropriations for the ensuing year.

And if you look at what Ron's saying, it's a fallback to the Commissioners' budget. We didn't have any of this material ahead of time, so I apologize for the --

County Counsel TROY: Right.

Ms. MORAN: -- you know, maybe it's the best thing not thinking about it too much. It's about if you miss a deadline. And, you know, the Charter being the most important document, I think it's really straightforward. It's a fallback.

County Counsel TROY: Well, the only thing I add is I agree with Delegate Bergstrom that if we're talking about words means something, and we're going to use Justice Scalia's guidance here, I think the answer is in that section about the budget.

It nowhere says that this body has any authority to amend the budget. It just talks -- you have recommendations. It is silent. There is not one word in the section that says that you have any authority to amend anything.

So my interpretation is taken as a whole, which is the way you interpreted

reading it in terms of all the other provisions of the Charter that there needed to be some mechanism to resolve that. And that the Ordinance 16-03, whether how -- whoever's child and it doesn't make any difference, it now exists and that is the mechanism that we have to follow until there are further changes either by ordinance or by Charter review.

Speaker MCAULIFFE: I want to go to John and Jim.

Mr. OHMAN: Well, I have several things, actually. I agree with Mr. Bergstrom over there that it very clearly says that they send over a proposed budget. It doesn't say this is "the budget," and we have, by definition, for the past 20 years that I've been on this Assembly had a say in every budget. So by practicum, we have a say as far as I'm concerned.

I would challenge your reading on this, sir. I would say that we need a second opinion. Your opinion is one opinion, and you expressly said that it's vague and you're confused by some of it, and I agree with you.

And I'm confused by it because I'm not a lawyer. I will defer to my much more learned colleagues and say I would prefer to see a second opinion on this and as quickly as possible. And I would hope the Commissioners would approve that expense.

Speaker MCAULIFFE: Jim.

Mr. KILLION: Thank you, Madam Speaker. So I heard you earlier state, I think repeatedly, that these budgets don't typically need to be submitted in the form of an ordinance. That's correct. But, however, if they did not submit it in the form of an ordinance, 16-03 would still apply based on the language?

County Counsel TROY: Correct.

Mr. KILLION: So no matter how the Commissioners choose to submit a budget, the process would be the same?

County Counsel TROY: Correct.

Mr. KILLION: Thank you.

County Counsel TROY: And if I might add to clarify where this stands is very simple. The Charter, we can all agree, I don't think anybody here can disagree with the notion that the Charter is ambiguous. It is not clear. It says -- uses the word "final action." It doesn't define it.

So what happened is the Charter was ambiguous, this body came up with a set of rules, and the County Commissioners missed the deadline apparently. So, if there is a problem with the current mechanism, I suggest that that is a problem that originated here. This is your change to the Charter. That's what 16-03 is. So you passed it and you own it.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: I just want to say two things. First of all, I don't think the words "final action" are vague at all. I mean we have all sorts of options. We could pass it as it's submitted as proposed. We could change it, but in other words, changing the budget is an action. We've raised it; we've lowered it; we've added things; we've subtracted.

So when the Charter says, "final action," I mean that's totally consistent with exactly what we're doing when we pass a budget. We take final action or we don't take it. So if we take final action, then we've taken final action.

As far as limiting to recommendations, the Charter speaks about the recommendations of the Finance Committee to the Assembly. Once that's done, the

word “recommendations” doesn’t appear again. They’re recommending what we should approve. They’re recommending to us -- the Finance Committee is recommending what the Assembly should approve as a budget. There’s no word about amendments in there. There’s no word about recommendations. It’s we pass a budget according to our feelings. I mean that’s my contrary opinion. I’m done.

County Counsel TROY: Okay.

Speaker MCAULIFFE: Brian.

Mr. O'MALLEY: Just a follow up with that. I would ask you, sir, this is a legislative body. When we pass an ordinance, is that not a final action? How can we else construe those words “final action”? We passed this budget with an ordinance. That’s legislation. What’s more final?

County Counsel TROY: Well, I am agreeing -- I don’t think there’s very much disagreement here at all. I think we’re actually agreeing. You have taken final action because you have passed an ordinance. That’s a set of rules that you drew up. Those are the rules that we’re going by.

So if there is a problem with what you passed in 16-03, then you should look at that again and either pass another ordinance or you have filled in the gap that’s in the Charter through your own ordinance. The County Commissioners took no action on it, so you have created the rules by which this whole question is resolved, and that’s what you have before you.

Speaker MCAULIFFE: Okay. I’m going to move on to the next subject because I don’t know how much conversation this is going to inject.

The Cape Light Compact Termination Agreement Letter. And did you have a little statement about it?

County Counsel TROY: I have a very brief -- yes.

Speaker MCAULIFFE: I had emailed a question to you previously in your statement.

County Counsel TROY: Yes. And I think this gives some of the background because I have the original documents, or copies of the original documents that kind of looks at the question of -- the Cape Light Compact is being characterized as a County department where it really is an Intergovernmental Agreement. So let me just give you this brief. This is just four paragraphs.

“The Cape Light Compact was organized in June of 1999. It was signed by all of the signatories of the County and towns to what was intended to be an Intergovernmental Agreement organized under Chapter 40, Section 4 of Massachusetts General Law.

Sometime thereafter, the counties and the towns of the Cape Light Compact all signed and entered into an administrative services agreement between the County and the Compact. Neither of these documents were presented to the Assembly of Delegates, and they were executed by the chair of the County Commissioners on behalf of the County. And representatives of other parties presumably authorized to bind their respective governmental organization.

The Administrative Services Agreement remained in place until 2016 when the Compact proposed a revision to the around 2000 -- the year 2000 Administrative Services Agreement. Commissioner Cakounes was concerned about the legality of the proposed revision, and the Commissioners referred it to my office for review.

In my opinion to the County Administrator on September 13, 2016, I concluded that the Cape Light Compact was not in compliance with the provisions of the statute authorizing Intergovernmental Agreements, and that the CLC either needed to comply with the statutes requirements or seek legislative approval to function in the manner that the organization had morphed. I rendered my opinion that the proposed revised Administrative Services Agreement was not in compliance with Massachusetts law.

Shortly thereafter, representatives of the County and the Cape Light Compact met to determine whether the Compact could comply with applicable law. The Compact decided that it wanted to reorganize and to end its relationship with the County.

On December 14<sup>th</sup>, 2016, two of the County Commissioners executed a Termination in Transition Agreement between the parties that provided that the County would discontinue its services of administrative services as of June 30, 2017.

On March 28<sup>th</sup>, 2017, the chair has already informed you that the Cape Light Compact confirmed that the Administrative Services Agreement is terminated as of June 30, 2017, to answer the Speaker's question. The County will provide no services after that date."

The correspondence, which you have, I believe, I heard it referenced, from the Cape Light Compact included a response to questions that were raised, issues by the Assembly. And so it is my opinion as County Counsel that the Administrative Services Agreement terminates on June 30<sup>th</sup>, 2017. But that Barnstable County and the constituent members of the Cape Light Compact continue as members of that organization until it's legally dissolved.

The Compact claims that most of the members of the Cape Light Compact have agreed to reorganize as a Joint Powers entity under the November 16 Joint Power statute.

So you see last November a statute came -- I don't know what the connection was, if any, but just as they decide to go on their own, the legislature came up with this mechanism and that's where they're going.

And each member of the Cape Light Compact that signs up to be a member of the new organization is going to have a voice, and the County's role now is limited to one voice on the Intergovernmental Agreement, which we have the represent -- I believe it's the Chair; is that correct?

Commissioner CAKOUNES: Correct.

County Counsel TROY: Yes, the Chair is our representative. And other than that, we have no connection with them, whatever. And I don't know -- has the County taken any action on the Joint Powers?

Commissioner CAKOUNES: No, we have not.

County Counsel TROY: Oh, so the County --

Commissioner CAKOUNES: We have not been asked to join.

County Counsel TROY: Okay. Apparently we're not on the dance card anymore, so that's done. But until the Cape Light Compact is dissolved, that's the only connection we have as of June 30<sup>th</sup>, 2017.

Speaker MCAULIFFE: So, I think my question has been answered. I don't know if anyone else has a question? I put this on the agenda because I wanted any legal questions that related to this specific issue could be addressed in an open meeting.

Yes, Brian.

Mr. O'MALLEY: Mr. Troy, under the Home Rule Charter, Section 2-8(d)(1), "Acts required to be by an Ordinance" is obviously "Establishment, alter, or abolish any department, office, or agency." We've already agreed that the Cape Light Compact, I'm sorry; the Cape Light Compact was in the sense of an agency of the County. And yet its termination, its separation was agreed to without consent of the Assembly. I see this as a violation of the Charter.

County Counsel TROY: Well, there was an opinion requested, and I answered the question many, many years ago of whether the County could enter an Intergovernmental Agreement by action by the executive body just like towns can, and the answer to that was yes.

So that's how the County entered the agreement, and it did it validly and legally. I disagree with you that it was ever an agency of the County. And I think if you look in your index, you'll find that it was never created.

So I know that at some points in time, the Cape Light Compact appeared to claim that they were an agency of the County. There was a lot of confusion. And I've been here over the years in which I remember one very -- after saying they were part of the County, I was right here and someone over in this end of the room said -- when they came back later and said they weren't part of the County, they said, "Well here's the Charter" and it was right on the Charter. So you're right. It appeared there was confusion.

But whether -- that's different -- what people presented is different than the legal reality. There is nothing linking the Cape Light Compact to the County other than it being one of the members of an Intergovernmental Agreement.

Speaker MCAULIFFE: Pat, did you have anything?

Mr. PRINCI: Yes. So, have you seen the -- have you happened to see the resolution or the -- what was that a resolution the delegate from --

Speaker MCAULIFFE: That's an ordinance.

Mr. PRINCI: -- that she put forward regarding the Cape Light Compact?

County Counsel TROY: Yes.

Mr. PRINCI: In your professional opinion, what does that do to the current status of the dissolving of Cape Light Compact if it didn't really come before us before and the Commissioners and the executive branch took a function to dissolve them from the County being their fiscal agent, is this resolution or the ordinance that we've put forward, is this meaningless then?

County Counsel TROY: Well, my sense is that the ordinance is asking for certain things to be done that should have been done as part of the requirements of an Intergovernmental Agreement. As long as the organization is still duly constituted, I think that that is something that our representatives certainly can convey and ask that some type of audit.

If you look at their response -- in their March 28<sup>th</sup> response, they appeared to indicate that they are going to do an audit, and they're willing to share it, and they're willing to talk.

And you'll also see in there that I believe our Facilities Department or somebody has determined that there's some question of whether or not there really is anything there that belongs to us. But that's the subject of an audit. I'm a lawyer. I don't know what they have and who it belongs to.

But I certainly think that as long as we are members of the organization and we have a member who is privileged to make that request, then that request can be carried on -- carried forward.

Speaker MCAULIFFE: Jim.

Mr. KILLION: Thank you, Madam Speaker. I guess the question I have to you is your familiarity with the agreement that the County has entered into. My concern is just the long-term liability to the County. The numbers I've heard is in the millions of dollars of the OPEB liability that the Cape Light Compact is taking with them for County employees that they've had on their staff for years.

Is the County being sufficiently protected should the Cape Light Compact become insolvent at some point in the future, whether its two years or five years, you know, given the propensity in the past to not always work within their financial means.

County Counsel TROY: Well, I have spoken with the County Administrator and he's received information that because of the statute that the County does not have any liability. I will add that one of my concerns about the request to do another MOU is that I think that we did a very good job protecting the County -- one of the principle things that was added and there was a lot of -- it was -- almost didn't get added was that there was some concern that the Compact wanted to sue the County, and particularly we were told in the sessions that they wanted to sue the Assembly of Delegates. And we put in this provision that, you know, they had to waive that, and it was bad. It almost didn't happen but the Commissioners stood firm and that was put back into the agreement.

So we have a release and we have indemnification provisions in the agreement. So I think that from our point of view, legal point of view, that we're done. We're good here. I don't think there's any other agreement, another, let's say, agreement that contains nuances could lead to additional legal problems, and I think that we don't need to go there, and that's what I advised the Commissioners.

Mr. KILLION: So how is the County protected from liability if, in fact, CLC would become insolvent in two, three, four years to their liabilities that they haven't yet made? Where would that liability fall back onto?

County Counsel TROY: Well, have you read the agreement?

Mr. KILLION: Yes.

County Counsel TROY: You have. Okay. So what section are you referring to? I'm not familiar with what you're --

Mr. KILLION: Well, it's my understanding that one of the issues of contention was the fact that they had a significant OPEB liability that they were taking with them in the millions of dollars? I've heard as much as 5 million. The question is should they become unable to pay that liability in the future, I would expect that as County employees that liability would fall back onto the County.

County Counsel TROY: I don't think they're County employees as of the date then, no.

Mr. KILLION: They won't be but they have been.

County Counsel TROY: Well they have been. That question, I can only point to the language that the Compact has agreed to indemnify the County for all liabilities. That's a broad indemnification. That's really the best we can do. I'd have to refer to the finance director as to the intricacies of a bankruptcy. Yeah, I can't answer that question.

Mr. KILLION: So we have not placed in effect any type of bond to ensure that should they become insolvent and be unable to meet their obligations that the County is protected?

County Counsel TROY: Well, I don't know that the County's liable then. You're assuming something that I don't know. The theory of liability I understand is prohibited or constrained by the statute.

Mr. KILLION: Were these obligations that CLC has, were they not undertaken by County employees while they were employees of the County for the last 10-15 years? So those obligations have accumulated based on that time. So I would think that the County would ultimately be responsible if CLC was not able to meet that obligation. Where else would the liability go?

County Counsel TROY: I'm not familiar with that theory. I'd have to refer that to the finance director who would be able to respond on that. I don't know the answer to that.

All I know is that in a legal agreement, the best you can get is an indemnification. Beyond that, there's really nothing more. And from what we are told by, you know, in the discussions, the Compact takes the position that they are in a much better financial situation than the County, that they are very, let's say assertive about the fact that bankruptcy is extremely remote for them, and that they have no financial problems. As a matter of fact, that's why one of the basis in which they were willing to agree to all this because they feel they have the wherewithal.

But I don't have any information beyond that because my participation really is very limited to this final request for an opinion by the chairman. I rendered the opinion, and then we sat down and we did this, and I think it's the very best that the County could get. I can't think of any other provision that we could get.

Mr. KILLION: Commissioner Cakounes is raising his finger as if he has some information.

Speaker MCAULIFFE: Leo, did you have something?

Commissioner CAKOUNES: Yes. Thank you, Madam Speaker. The only thing I want to add is that when we did work to put together the memorandum that you're all referring to that was signed by my fellow Commissioners in December, and if you have it in front of you, I do know that there is language in there that indemnifies the County as the Cape Light Compact moves forward.

And I want to tell you as a single Commissioner, I'm making it priority one as we do move forward, and the Finance Director and the administration and Attorney Troy have weighed in on this to make sure that when that separation does, in fact, happen, either of the Cape Light Compact will have an OPEB Reserve Fund funded in its entirety or some kind of a bond issue assuring the fact that in the event four or five years they go belly up that the County will not have any liability exposure.

And I've said that from day one and I will continue to say that. And I feel that agreement does address that situation. Now it doesn't address the situations to the length of the Delegate McCutcheon's ordinance, but certainly addresses OPEB liability and, obviously, health and retirement situation. Because we're still waiting to find out if the new Joint Powers Agreement/Cape Light Compact is going to even qualify for the health insurance under the Barnstable County Retirement Board. Not health insurance, I'm sorry, retirement. That's a question that still needs to be officially answered. I understand they've made application. Certainly if they do, then those

monies will follow those employees within that system. They'll just become their own member as opposed to being a member through Barnstable County.

Mr. KILLION: Thank you. That's the answer I was looking for.

Commissioner CAKOUNES: Well, I, as one Commissioner, will tell you it's definitely on my radar, and I felt comfortable that the agreement that we signed -- that they signed in January and that Attorney Troy and our Finance Director weighed in on had adequate language covering our liability there.

Speaker MCAULIFFE: Ed.

Mr. LEWIS: Thank you, Madam Speaker. And I understand that based on everything that's been said in the past and has been said today is that there is an agreement today between the Cape Light Compact and the County of Barnstable to disassociate between or divorce, if you will, and that agreement's been signed and stated and everybody's lived up to their agreement so far.

Commissioner CAKOUNES: Yes.

Mr. LEWIS: And also based on my limited knowledge, that's the agreement you've got to go by.

Commissioner CAKOUNES: That's right.

Mr. LEWIS: So according to all the things that if they get their ducks in a row come June 30, they're divorced and you can't renegotiate the contract or anything like that. That's what it is. They signed it; you signed it. So all the rest of this doesn't really matter because whatever you're going to live by is what's already in the contract. It doesn't matter.

Now I know for a fact they put a lot of money of their own already into an OPEB account. They've already started to fund it. And I don't have the exact amount, but it's somewhere around a million bucks that have been put in, maybe more.

So I think discussing a contract that's already there and then asking whether we can do anything else doesn't make sense to me. Because I heard on several occasions many members of this Assembly saying either they're a County department or they leave the County; either way is okay with me. Okay. They're leaving the County. But for some people, "Well that's not okay with me. I didn't want them to leave." Well, they have an agreement and they had -- the County Commissioners had every right to sign the agreement as the executive power over this County, so let's leave it at that.

Speaker MCAULIFFE: Thank you. I'm just going to make one comment. I think we're very happy. All of us have been saying, "Leave." We just don't want to be left holding the bag. And the whole reason I ask the question is Joint Power Agreements can trip and fall and I just wanted to know what our responsibilities were July 1. Because if they aren't on their way, then they are in noncompliance with the agreement because they didn't file their plan to continue.

So this is just a little more complicated than we don't want them to leave. We would like things to be taken care of properly.

Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker. I have a number of questions. So if we're talking about just legal clarification in light of what the Speaker just said, and in regards to the last question that was asked.

First of all, the OPEB and the other liabilities about retirement, I understand that the state gives a percentage to calculate this number.

Speaker MCAULIFFE: Can we please stick to just the letter?

Ms. GREEN: Right.

Speaker MCAULIFFE: This is -- we have a full agenda.

Ms. GREEN: Let me -- well, we're talking about -- okay. I will do that.

Speaker MCAULIFFE: Just the letter.

Ms. GREEN: The letter and the implications of the letter. Well, I just wanted to make sure that the bond or whatever indemnification includes the realistic rate because it's 7.65 and CDs you can only get like 2 percent for five years. So, you know, I just wanted --

Speaker MCAULIFFE: He wouldn't have the answer to that.

Ms. GREEN: He would have it from a legal perspective. Would that include -- be included in that kind of an overview that you were talking about?

County Counsel TROY: I don't know. I had very little involvement and have had very little involvement with the Cape Light Compact. The sole involvement I've had when I was brought in was when I told you in 2016, September.

Suddenly, these questions were asked of me and I requested the doc. I looked at it. I looked at it for the first time. I was never asked because, as you know, the County was solidly behind the Cape Light Compact for many years, and no one was asking any questions.

Then administration changed and so did the County Commissioners. There was a new look at it and I rendered my opinion. I gave -- I looked at all the laws; I said, "This is not right and it needs to be fixed."

We sat down; we were trying to see whether it could be fixed, that was the original intent. They, very frankly, the Cape Light Compact had so much animosity and resentment towards the County and particularly the Assembly that they wanted out, and they said that. And they said, "We're going somewhere else." This is even before they came up with the Joint Powers.

So other than that, I don't have any answers to give you except for that and my involvement with the termination agreement and review of the letter. I don't know anything about the operations of the Cape Light Compact. Nothing.

Ms. GREEN: So given that you brought up another point that I wanted to raise. So as a County official myself, and as the Assembly, and the County itself, you can clarify things from our legal rights.

As you said just now, you said that the Cape Light Compact had a lot of animosity towards the County. So the Cape Light Compact has been going town by town and asking each town if they wanted to sign on to the Joint Powers Agreement.

Speaker MCAULIFFE: This is outside --

Ms. GREEN: So what they're --

Speaker MCAULIFFE: This is outside. Lilli-Ann, you're going to have more opportunity at the next meeting to dive into.

Ms. GREEN: But from a legal perspective what they're communicating in their language in their letters to the Boards of Selectmen and to --

Speaker MCAULIFFE: That's not our issue right now. Our issue right now is a termination letter. And if we have issues --

Ms. GREEN: And how they're --

Speaker MCAULIFFE: -- with the Cape Light Compact, I'm certain we

can bring them up at the hearing.

Ms. GREEN: But if they're being derogatory towards the County and saying negative things that are untrue, I mean, isn't Mr. Troy supposed to advise us or give us a legal opinion about that?

Speaker MCAULIFFE: Well, we asked him to address this letter. That's why it's specifically on --

Ms. GREEN: But it's about the Joint Powers Agreement and the termination, and how they're going about implanting that. And I think that has bearing on us as members and how they're portraying the Assembly to the public.

Speaker MCAULIFFE: Well --

Ms. GREEN: I mean and I think Mr. Troy can clarify to us from a legal standpoint. I mean when you have it in black and white in letters, and you have it at Boards of Selectmen meetings that the CLC representatives are saying such negative things about the County, the Assembly, and members of the County as County officials that three of our Board of Selectmen members told them it was inappropriate, I think we should ask Mr. Troy's opinion about that.

Speaker MCAULIFFE: Well I --

Ms. GREEN: Because that's how they're getting them to sign the joint powers entity.

Speaker MCAULIFFE: -- I'm going to rule because we have this specific item on the table. If we need to have a further discussion about the issues of the Cape Light Compact and what they're telling people, we can have that discussion.

But right now, we have had people here since 1:30 this afternoon.

Ms. GREEN: I understand.

Speaker MCAULIFFE: I have already lost people, and I think this is not the time to go off on this particular sidetrack because we still have an agenda before us.

Ms. GREEN: May I ask something about the Joint Powers Agreement --

Mr. LEWIS: No.

Ms. GREEN: -- in relation to the letter?

Mr. LEWIS: No.

Speaker MCAULIFFE: I think I'm hearing from the group they are done with Cape Light Compact.

Ms. GREEN: What about --

Speaker MCAULIFFE: So we will be having more about the Cape Light Compact next meeting.

Ms. GREEN: But can we have Attorney Troy to answer questions that are of a legal nature?

Speaker MCAULIFFE: He's only here to discuss this letter. Anything else beyond that is not on the agenda.

Ms. GREEN: But if they're -- but if you're saying --

Speaker MCAULIFFE: If you have other questions, why don't you submit them to me, and we can get them to Attorney Troy, because sometimes it requires some research on his part.

County Counsel TROY: And I want to add something. I do not know anything about what happens to the Cape Light Compact from the time we finished the Termination Agreement. I have no authority to act. We have no connection whatsoever with the Cape Light Compact or the Joint Powers. I certainly have none; I don't know

anything about it.

So, I can't answer any legal questions about things that I don't know. You should have their lawyer when they were subject to your investigatory authority, you should have had their lawyer come here and answer those questions.

Ms. GREEN: Okay.

Speaker MCAULIFFE: So I'm going to move on now. Thank you, Mr. Troy.

Any communications from public officials?

Any communications from Members of the Public?

### Assembly Convenes

Speaker MCAULIFFE: Okay. We will convene the Assembly meeting.

### Committee Reports and Minutes

Speaker MCAULIFFE: We have Committee Reports and Minutes to approve. And I understand that there are issues with how we do this. This is the way we've always done this, short of reconvening every single subcommittee and then having them vote their minutes separately, this is the way the Assembly has done it. Every single committee is here. And so that as we approve the minutes, the members of that committee will vote to approve the minutes.

And if you have another -- a different solution, I'm happy to hear it at another time.

Okay. First committee is Natural Resources, February 22 and March 29. We have the minutes. Maybe just hit the high notes quickly because we've all had a chance to read the minutes.

Mr. O'MALLEY: I thought we were just approving these minutes?

Speaker MCAULIFFE: Okay. Maybe do that.

Mr. O'MALLEY: I thought that was the -- isn't that what we're just doing?

Speaker MCAULIFFE: Correct; yes.

Mr. O'MALLEY: All right. Okay. So from February 22<sup>nd</sup>, members present were myself, Delegate Green, Delegate Kanaga, Delegate McManus, and Delegate Zuern, and Mr. Lewis also was present as an alternate. So, we're all here.

So I will put the minutes for February 22<sup>nd</sup> up for a vote. Can I have a motion to approve?

Ms. GREEN: So moved.

Mr. O'MALLEY: Second?

Ms. ZUERN: Second.

Mr. O'MALLEY: Can I see a show of hands? Oh, he's gone, I'm sorry.

Clerk O'CONNELL: That's all right. You have a majority.

Mr. O'MALLEY: He's gone. One, two, three -- we have four.

Ms. GREEN: (Raised hand.)

Mr. MCMANUS: (Raised hand.)

Ms. ZUERN: (Raised hand.)

Mr. LEWIS: (Raised hand.)

(Natural Resources 2/22/17 minutes passed.)

Mr. O'MALLEY: Okay. Thank you.

Then we had a meeting on March 29<sup>th</sup>, and it was myself, Green, Kanaga, McManus, and Zuern, and Mr. Lewis was also present.

Motion to approve for March 29<sup>th</sup>?

Ms. ZUERN: So moved.

Mr. O'MALLEY: We'll take that as a seconded?

Ms. GREEN: Second.

Mr. O'MALLEY: Those in favor?

Mr. LEWIS: I wasn't there on the 29th.

Ms. GREEN: I'll second.

Mr. O'MALLEY: That's right; you were not there. You caught that and I have the wrong -- pre-corrected. Those in favor?

Mr. MCMANUS: Aye.

Mr. O'MALLEY: Aye.

Ms. GREEN: Aye.

Ms. ZUERN: Aye.

Mr. O'MALLEY: Thank you.

(Natural Resources 3/29/17 minutes passed.)

Mr. PRINCI: The Health and Human Service Committee met on March 1<sup>st</sup> to review the budget matters. There was a recommendation to the Assembly that we increase the line item for the Human Rights Coordinator by \$8,000, as well as increasing the 40,000 for the Meals on Wheels.

Do I have a motion to approve these minutes?

Ms. GREEN: So moved.

Mr. O'MALLEY: Moved.

Mr. PRINCI: Is there a second?

Mr. O'MALLEY: Second.

Mr. PRINCI: All those in favor?

COMMITTEE MEMBERS: Aye.

(Health & Human Services 3/1/17 minutes passed.)

Speaker MCAULIFFE: Public Services. John.

Mr. OHMAN: Thank you, Madam Chair. The Public Services Committee met on March 8<sup>th</sup>, and we discussed the Registry of Deeds, Facilities, County Dredge, and the Fire Training Academy. All five members were present: myself, Jim Killion, Sue Moran, Tom O'Hara, and Linda Zuern, and we approved those minutes to forward them to the full Assembly by 5 to 0 on each and every one of those publications.

Mr. OHMAN: I would ask if there's -- I would ask for a vote to approve those minutes as submitted.

Ms. ZUERN: So moved.

Mr. OHMAN: All those in favor?

Mr. BERGSTROM: Aye.

Ms. ZUERN: Aye.

Mr. KILLION: Aye.

Mr. O'HARA: Aye.

Mr. OHMAN: Aye. Any opposed? No. It carries 5-0. Thank you.

(Public Services 3/8/17 minutes passed.)

Speaker MCAULIFFE: Finance Committee. Ron.

Mr. BERGSTROM: Yes, the Finance Committee met on March 15<sup>th</sup>. The members were present. We took a series of recommendations from various departments, Resource Development Office, County Commissioners, the Assembly, and we made several recommendations.

One was to remove \$98,253 from the Commissioner's budget. We also added, I think, we took \$15,750 to the Assembly budget. And I think that's pretty much -- I don't want to go into the details. You should have it in front of you. But that is pretty much what we did. And the rest of the recommendations were pretty much as proposed.

I need a motion to accept the minutes.

Mr. LEWIS: So moved. So moved the March 15<sup>th</sup> Standing Committee on Finance Committee Minutes.

Mr. BERGSTROM: Did I miss something? Do I have a second?

Clerk O'CONNELL: Who seconded?

Speaker MCAULIFFE: John Ohman seconded.

Mr. OHMAN: I'm here. I'm still thinking about the Cape Light Compact marriage.

Mr. BERGSTROM: Come on now, guys. We've got a motion and a second; all those in favor?

COMMITTEE MEMBERS: Aye.

Mr. BERGSTROM: Okay.

(Finance Committee 3/15/17 minutes passed.)

Speaker MCAULIFFE: Thank you. Economic Affairs, Ed McManus.

Mr. MCMANUS: Economic Affairs Committee met on March 22<sup>nd</sup> at 1:30. The three Eds and John Ohman were present with Susan Moran participating remotely. And we met and made recommendations.

Mr. LEWIS: I move the minutes of the Standing Committee on Economic Affairs.

Mr. ATWOOD: Second.

Mr. MCMANUS: All those in favor?

Mr. ATWOOD: Aye.

Mr. LEWIS: Aye.

Mr. MCMANUS: Opposed? I'll abstain.

(Economic Affairs dated 3/22/17 minutes passed.)

Speaker MCAULIFFE: Thank you. Telecommunications and Energy, Jim Killion.

Mr. KILLION: The Telecommunications Committee met on March 22<sup>nd</sup>, and the members present were myself, Mr. Bergstrom, Lilli-Ann Green. Also, we had alternate members participating; Sue Moran remotely and Edward Atwood.

At the meeting, we discussed a couple proposals put forth by IT. One of them, the most important is they are undertaking a plan to review their cost structure for their contract services to the towns, and they also have done some cost reductions from fiscal '17 to '18 in the Salary Department.

So I will accept a motion to accept these Minutes.

Mr. ATWOOD: So moved.

Mr. KILLION: All in favor? All in favor?

Mr. BERGSTROM: Aye.  
Mr. ATWOOD: Aye.  
Ms. GREEN: Aye.  
Mr. KILLION: Thank you.  
(Telecommunications and Energy 3/22/17 minutes passed.)

Report from the Clerk

Speaker MCAULIFFE: Thank you, very much. Report from the Clerk.  
Clerk O'CONNELL: Quickly, I just want to remind everyone that your mileage logs are in the folders, so if you'd please retrieve those, review them, sign them, and turn them in before you leave the hall tonight.

Item 2, Conflict of Interest Training; online Conflict of Interest Training. I still have some individuals who need to complete this. It needs to be completed by April 7<sup>th</sup> that would be Ron, Ed Lewis, Ed McManus, Jim Killion, Suzanne McAuliffe, Pat Princi, and Tom O'Hara. If you have any questions --

Mr. BERGSTROM: It's a list of shame.

Speaker MCAULIFFE: The walk of shame.

Mr. BERGSTROM: The walk of shame.

Mr. KANAGA: That's a quorum.

Clerk O'CONNELL: That's what I have to do. If you have any questions of me after the meeting, please ask.

And the last item is next Wednesday at 2 o'clock there will be a Public Hearing here on the Proposed Budget Ordinance and the Proposed Capital Ordinance that has been submitted by the Commissioners. So that's next Wednesday by Finance at 2 o'clock. That's it.

Other Business

Speaker MCAULIFFE: Thank you. Under other business, this is not for an in-depth discussion. I just wanted to get people up-to-date. This is discussion regarding the Cape Cod Water Protection Collaborative. I see Paul Niedzwiecki is here, which is very nice. I hadn't even given him a head's up. He must read our agendas.

I just wanted to update you because a lot of things have gone on. It's been on our agendas for the past few weeks. At the last Natural Resources meeting, there was a discussion -- I guess a very wide-ranging discussion I heard today about the Water Protection Collaborative. And I think that at that time the Cape Cod Commission director had stepped up and said that the Water Collaborative could function well at the Cape Cod Commission because they had made some changes, and some of the things that they operated, number 1, being doing municipal grants that I think the Cape Cod Commission director felt it would be a conflict for the Commission to oversee.

So the Water Protection Collaborative Board had decided going forward they weren't going to do municipal grants. And I think the Cape Cod Commission feels that they can administer the Water Protection Collaborative which also triggered the lack of necessity of a separate executive director, which we talked about, which pulls some money out of the health budget, which we can deal with under the budget process.

But the executive director position, I had had communications with Sims

McGrath; I have not with Paul Niedzwiecki, but I have heard that Mr. McGrath is very confident that the Cape Cod Commission will be able to manage the Water Protection Collaborative needs, even with their desire for an executive director. He feels that it will be handled very well within the Cape Cod Commission.

So going forward, that's where we stand right now. It is sort of a budget item. It is zeroed out in the budget, and it is something that I know the Water Collaborative really wanted to work with the Cape Cod Commission. And once some things got changed around from how the current Collaborative operates to the going forward Collaborative with 208 and being under the Commission, it was sort of a metamorphosis that kind of solved a little bit of the budget issue.

The other budget issue is going to be the -- everybody calls it everything else. We're going to call it the Special Projects Fund for the Grants Fund, but that's where the earmarked funds for water testing -- water quality testing will go into next year. And it will give us the year then to decide, you know, how we're going to do this. It gives us control over that fund because it will be by ordinance.

So that's just sort of an update right now. I know the Water Protection Collaborative is going to be meeting. I just wanted to let everyone know that, you know, there has been a -- I consider a significant change in that the Cape Cod Commission is willing to assume responsibility, not responsibility -- responsibility or assume oversight over the Water Protection Collaborative.

Yes, Brian.

Mr. O'MALLEY: And if I just might amplify, you did reference that the lines for this was zeroed out but, in fact, we have identified the fact that there is sufficient funding available in the Collaborative's existing budget to do -- to complete the water monitoring for this next three months and for fiscal year 2018.

The only question is how we move it from where it is now to going forward but its there. So the monitoring is expected to continue.

Speaker MCAULIFFE: You were going to have to change the ordinance to begin because of the 208 additional responsibilities. We'll have to change also because it does specifically address an executive director. So we will have to come up with a new ordinance or an amendment to the original ordinance to change its job description and its composition.

Yes, Linda.

Ms. ZUERN: Thank you, Madam Speaker. You said that the position was zeroed out; did you mean the director's position?

Speaker MCAULIFFE: The \$70,000, I believe, is recommended right now to not be funded in the Health Department because that was -- that's the recommendation. So going forward in the budget process will be how that gets -- how that falls out.

Ms. ZUERN: But we can still debate that?

Speaker MCAULIFFE: Yes, absolutely. This is just an update.

Ms. ZUERN: Okay.

Mr. BERGSTROM: Madam Speaker.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: Just a quick -- I mean I know you used the word to provide "oversight" of the Water Collaborative. But, technically, the original executive director was a staff employee.

Speaker MCAULIFFE: Right.

Mr. BERGSTROM: He didn't provide oversight. As a staff member, he provided backup for that recommendation. So that's an important point because how the Collaborative relates to the rest of County government, whether it's through the Commission or through the County Commissioners is whether the lines of authority and how the decisions are going to be made and those decisions are going to be -- go up through the process is really at the crux of this financial question. It's not just a financial question.

Speaker MCAULIFFE: You're right. It's true; it's true. Yes, Ed.

Mr. MCMANUS: This is on another topic, if that's okay?

Speaker MCAULIFFE: Just a second. I want to just see if there's any questions on -- yes, Lilli-Ann.

Ms. GREEN: Thank you. But I did want to clarify, yet again; I know Delegate Zuern just made that comment, but the committee did recommend that the \$70,000 in the Health Department be not approved. So that was the recommendation of that committee.

Speaker MCAULIFFE: Right. And all recommendations are brought to the full Assembly and need full Assembly support to exist.

Yes, Ed.

Mr. MCMANUS: Yes, over the last couple weeks, I've had some conversations with Representative Peake, specifically around the issue of the Sheriff's pension liability that the County's paying for, and she expressed interest that it would be nice if the legislation that was requested last year be re-requested to be entered into the legislature this year. It would provide her a number of tools legislatively to work with.

And with that, I've prepared a resolution which I'll submit to you for consideration at our next meeting.

Speaker MCAULIFFE: Great. Thank you. Is there any other -- yes, Lilli-Ann.

Ms. GREEN: And I would request in a future meeting to bring back Attorney Troy to answer some legal questions regarding the Cape Light Compact and its implications for the County in a more general way.

Speaker MCAULIFFE: Okay. But you can also submit questions to me in writing, and then you can get answers as well.

Mr. PRINCI: Could I just make a quick comment?

Speaker MCAULIFFE: Yes, Pat.

Mr. PRINCI: We went over some of the legal fee structures and so forth as part of our Finance Committee meeting. So, as you know, it's very expensive.

Speaker MCAULIFFE: I know. I knew that last time when I kept asking for -- to see Troy under a different Speaker, and I was told about the budget. I understand.

John and then Linda.

Mr. OHMAN: Thank you, Madam Speaker. First of all, I'd like to applaud Ed McManus for wanting to reword that and resubmit it because it's a 1.4 million budget relief for us. I mean that's an amazing amount of money, and we really have to get behind this and as quickly as possible.

I have a statement or request I would like to read so I can stay calm. "It's sobering to be told after voting on 21 consecutive budgets that we, the Assembly, have

very limited powers to change the County budget. Thankfully, this is the opinion of one lawyer who admitted that he was confused by the language in the Charter.

I respectfully request that we quickly obtain a second opinion on the budgetary powers and limitations of the Assembly regarding passage procedure of the County budgets -- the government budgets.”

Thank you.

Speaker MCAULIFFE: Okay. Yes, I was going to say that needs to come forward for discussion purposes.

Mr. OHMAN: Madam Speaker, it's a matter of time for this budget.

Speaker MCAULIFFE: I know.

Mr. OHMAN: I just -- I'm very disturbed that we've been told after 21 consecutive years that we have no authority to change the budget.

Speaker MCAULIFFE: Linda.

Ms. ZUERN: I just wanted to make a comment about having our now County Counsel come back again. He's already stated that he doesn't know anything about the agreement. And if there are any questions, we should get in touch with the CLC lawyer instead. So I think that would just be a waste of money and time for him to come back.

Speaker MCAULIFFE: Thank you. Anything else? Yes, Ed.

Mr. LEWIS: It may not happen that often, but I'd like to say that I agree completely with Delegate Zuern. I'd like to bring this whole thing to rest at some point. We're spending a lot of money on legal expenses just so one or two people can clarify some issues.

Speaker MCAULIFFE: Okay. Thank you. I'll take a motion to adjourn.

Mr. LEWIS: So moved.

Speaker MCAULIFFE: We're adjourned.

**Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates at 6:05 p.m.**

**Submitted by:**

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

List of materials used and submitted at the meeting:

- Business Calendar of 4/5/17
- Unapproved Journal of Proceedings of 3/15/17
- Proposed Ordinance 17-07 submitted by County Commissioners for Fire Training Academy Contracted Services FY17
- Barnstable County Home Rule Charter
- Barnstable County Ordinance 16-03
- Letter from Cape Light Compact dated 3/28/17 to Jack Yunits County Administrator

- Natural Resources committee minutes dated 2/22/17 and 3/29/17
- Health and Human Resources committee minutes dated 3/1/17
- Public Services committee minutes dated 3/8/17
- Finance committee minutes dated 3/15/17
- Economic Affairs committee minutes dated 3/22/17
- Telecommunications and Energy committee minutes dated 3/22/17
- Proposed Resolution 17-05 submitted by Delegate Edward McManus - Petition to General Court