

Janice O'Connell

From: Janice O'Connell
Sent: Sunday, September 03, 2017 3:21 PM
To: Suzanne McAuliffe; Lilli-Ann Green; Patrick Princi; Linda Zuern; Edward Atwood; Brian O'Malley; John Ohman; Christopher Kanaga; Deborah McCutcheon; Susan Moran; Edward McManus; Ronald Bergstrom; Mary Chaffee; James Killion; Thomas O'Hara
Subject: County Counsel Opinion regarding Proposed Resolution 17-01

Please read opinion of County Counsel in email below regarding PR 17-01 scheduled for discussion at Assembly meeting on 9/6/17.

Janice

Sent from my iPad

Begin forwarded message:

From: Robert Troy <rst@troywallassociates.com>
Date: September 3, 2017 at 2:34:07 PM EDT
To: Janice O'Connell <joconnell@barnstablecounty.org>
Cc: "smcauliffe@barnstablecounty.org" <smcauliffe@barnstablecounty.org>, "Jack Yunits Jr" <jack.yunits@barnstablecounty.org>, 'Leo Cakouones' <lcakounes@barnstablecounty.org>, "mpatflynn@gmail.com" <mpatflynn@gmail.com>, Ron Beaty <ron.beaty@barnstablecounty.org>
Subject: Proposed Resolution 17-01

Janice,

This shall respond to your request for my Opinion about the process applicable to Proposed Resolution 17-01. This Resolution seeks to express approval by the Assembly of Delegates "...to consider a restructuring of the current County Government model ...recommend[ing] ... Executive and Legislative Branch models" as described in the Proposed Resolution. Critical language is found in this paragraph: "This Resolution represent the opinion of the Assembly of Delegates relative to the model and the initial steps that are necessary to implement a restructuring of County Government."

You inquire as to my Opinion as to the correct procedure for the Assembly of Delegates to follow in considering this Proposed Resolution.

A review of the Charter confirms that Article 9 includes provisions to effectuate Charter Changes. Section 9-1 is entitled "Charter Changes" and specifies the required methodology to initiate a change to the Charter that implicates "restructuring" of the Cape Cod Regional Government.

The Proposed Resolution, however, is limited to a recommendation of a particular "model" for a proposed Charter Change and does not seek "...the submission of any proposed amendments to this charter" as referenced in Section 9-1 of the Charter. Instead, the provisions of Section 2-8 (b) of the Charter are pertinent: "The following matters may be provided for by resolution and shall not be deemed to require an ordinance: (viii) Actions specified as resolutions; and (ix) The expression of such policies or opinions as requires no formal action." In my Opinion, Proposed Resolution 17-01 falls within the ambit of Section 2-8 (b) and may be lawfully voted by the Assembly of Delegates as a Resolution.

Bob