

COMMONWEALTH OF MASSACHUSETTS

Minutes

Barnstable, ss.

At the regular meeting of the County Commissioners held in the Superior Courthouse Building on the fourteenth day of October, A.D. 2015.

Board of the Barnstable County Commissioners:

Mary Pat Flynn	Present
Sheila Lyons	Present
Leo Cakounes	Present

Staff Present:

Michael Brillhart	County Administrator
Bob Lawton	Finance Department
Mary McIsaac	Barnstable County Finance Director / Treasurer
Alisa Lucas-McLaughlin	Administrative Assistant
Bob Lawton	Finance Department
Bob Troy	County Counsel
Liz Argo	CVEC Manager
Paul Niedzwiecki	Cape Cod Commission, Executive Director
George Russell	Interim Director, Fire Rescue Training Academy
Tom Cambareri	Cape Cod Commission Water Resources Program Manager
Dan Santos	Town of Barnstable DPW Admin
Gail Coyne	Cape Cod Commission, Fiscal Officer
Felicia Penn	Chair of the Cape Cod Economic Development Council
Joe Berlandi	President Barnstable Village Association

List of Documents:

- Cape Cod Times Obituary for Lou Cataldo. This document is available on Barnstable County Meeting Center Web Page.

- Open Meeting Law Complaint from 9/24/2015 from Mr. Ronald Beaty. This document is available on Barnstable County Meeting Center Web Page.
- Memorandum and Proposed Ordinance 15-__ to Amend County Ordinances 13-03 and 14-01. This document is available on Barnstable County Meeting Center Web Page.
- Memorandum from Barnstable County Finance Department re: How to Proceed with Bond Expenditures in the amount of \$250,000.00. This document is available on Barnstable County Meeting Center Web Page.
- Proposed FY 17 Budget Message and Budget Development Guidelines Draft II. This document is available on Barnstable County Meeting Center Web Page.
- Request for Appropriations from Cape Cod Commissioner on behalf of the Economic Development Council. This document is available on Barnstable County Meeting Center Web Page.
- County Administrator Actions dated September 26, 2015 – October 9, 2015. This document is available on Barnstable County Meeting Center Web Page.

Commissioner Lyons called the meeting to order at 1:05 p.m.

The Commissioners recited the Pledge of Allegiance followed by a Moment of Silence.

Public Comment:

No public Comment.

I. Recognition by Barnstable County on the Passing of Mr. Louis Cataldo.

Commissioner Lyons spoke about Lou Cataldo and his past working with numerous bodies throughout Barnstable County. She highlighted a few of his many contributions to include working with the Native Americans here on the Cape as well as his significance in educating others on Mercy Otis Warren and her many contributions. Commissioner Lyons went on to say that Lou was a champion of woman and that December 22nd is Lou Cataldo day as was decreed in 2010 by the then Barnstable County Commissioners in commemoration of all his efforts in preserving Barnstable County's history. She went on to speak of his non-profit organization, The Barnstable County Cataldo Archives and that per his family's request, donations may be made to his non-profit in continuation of Lou's work.

II. Discussion and Motion to Procure Legal Services Specific to Environmental Matters at the Fire Rescue Training Academy.

Commissioner Lyons briefly detailed the cause for this discussion being the settlement agreement received by the County from the Town of Barnstable. The receipt of the agreement, she continued, catalyzed the need for special counsel with an expertise to review the agreement and advise the Commissioners on their options going forward in negotiations.

Commissioner Flynn stated she is pleased to see this on the agenda as there are environmental issues and since Barnstable County owns the property (Fire Rescue Training Academy) it makes the County responsible and she feels a risk assessment related to these issues must be completed. She went on to say that procuring special counsel with environmentally-focused expertise is the responsible action to take. Furthermore, she felt that the best way to begin the process was to procure special counsel with environmental expertise, as it would benefit the County and address the risk assessment at the same time.

**Commissioner Flynn made the motion to procure legal services as stated on the agenda specific to environmental matters at the Fire Rescue Training Academy, 2nd by Commissioner Lyons for discussion.*

**No vote taken on above motion, as motion is amended later in minutes.*

Commissioner Cakounes, after reading the settlement agreement, made note of the items he did not agree with and discussed these with County Counsel. He continued to say he thought hiring special counsel at this time would be premature as they (the Commissioners) had not had a chance to openly discuss the settlement agreement amongst themselves and he does not know how his fellow commissioners feel about it. He suggested that he, County Counsel, and a Town of Barnstable Representative meet to go through the agreement page by page and attempt to negotiate the settlement agreement without procurement of special counsel and hoped his fellow commissioners might reconsider their current stance. He read the motion he prepared so that his fellow commissioners could understand his thought process. His motion, which was not voted, read as follows: Motion made by Commissioner Cakounes that the Commissioners authorize Commissioner Cakounes and County Council to meet with Representatives of Town Of Barnstable to negotiate the terms and conditions of the settlement contract submitted by the Town of Barnstable in regards to the Fire Training Academy and return the document to the Board of Regional Commissioners for their approval and execution. In the event agreed Terms and Conditions cannot be reached, the Commissioners shall procure Special

Legal Services specific to Environmental Matters at the Fire Training Academy as per the Administrative sec. 2.3 and at the first available scheduled meeting of the County Commissioners a selection of Legal Counsel and determine the strategy in which to proceed. He stated he did not feel it necessary to bring in special counsel unless both the County and the Town were unable to reach an agreement during the requested negotiation timeframe.

Commissioner Flynn appreciated Commissioner Cakounes' thoroughness and thinks that his motion makes sense progressively, but stated procurement of Special Counsel, in her opinion, is the first step in the process of coming to settlement terms with the Town of Barnstable.

Commissioner Cakounes stated that the Commissioners had yet to discuss the agreement with or get the opinion of County Counsel. Commissioner Lyons joined the discussion in which she thought having special counsel review the agreement and advise the Commissioners on the next steps is the most appropriate action to take, as it will help the Commissioners understand current risk assessment as well as possible future risk assessment and obligation(s), which Commissioners Lyons and Flynn feel is a necessity.

The discussion then veered toward the process of procuring special counsel. Commissioner Cakounes asked for clarification on the process. Commissioner Lyons wanted to delegate the procurement of special counsel to County Administrator. Commissioner Cakounes felt this was not appropriate and that the Commissioners should be making the decision. Commissioner Lyons felt confident the County Administrator could determine competent special counsel without the Commissioners involvement. Commissioner Cakounes asked that if that is the determination of his fellow Commissioners then he would like the motion to reflect the update authorizing the County Administrator to procure special counsel. Commissioner Flynn obliged Commissioner Cakounes' request.

Commissioner Cakounes questioned where the money would come from to procure special counsel. The Commissioners discussed with Mary McIsaac and Bob Lawton the fund set up for legal services. It was discussed that the amount of \$50,000.00 sounded correct, but that was for the whole year for the County's legal expenses. Commissioner Cakounes said that is what the County approximately spends on legal services not to include special counsel. Commissioner Flynn stated there is the option to transfer monies between funds if needed. Commissioner Cakounes once again voiced his general concern on the necessity of procuring special counsel.

Commissioner Flynn at the behest of Commissioner Cakounes amended the aforementioned motion to read:

Motion made by Commissioner Flynn to authorize the *Town** Administrator to procure legal services specific to environmental matters at the Fire Rescue Training Academy, 2nd by Commissioner Lyons, approved vote 2-1-0; Commissioner Cakounes opposed.*

**Amended version of motion previously made by Commissioner Flynn, but not voted on.*

Commissioner Flynn read her motion stating the **Town Administrator was being authorized, but meant to state the **County** Administrator.*

The Patriot's E.J. Albright questioned the settlement agreement not being part of the meeting packet to which the Commissioners responded with varying answers and as a result deferred the question to be reviewed by County Counsel on whether or not the settlement agreement in its current form, for its current purpose as a document for legal negotiation, is a public document.

III. Discussion on County Response to OML Complaint Issued on September 24, 2015 - County Counsel.

Paul Niedzwiecki, as the chairman of the County Complex Building Needs Assessment Committee, stated that he feels the Committee did not overreach when asked by Commissioner Lyons if he would like to comment on County Counsel's response.

County Counsel, Bob Troy explained that there was confusion on his part regarding the charge of the Building Needs Assessment Committee and he acknowledged his misunderstanding of the purpose of the Building Needs Assessment Committee due to their being differing charges voted by the Commissioners at two separate meetings, which he explained in his draft response to the OML complaint. He went on to say he did not think the Building Needs Assessment Committee overreached – that his understanding of the committee came from the charge voted in the meeting he attended with no knowledge of the charge given to the committee at a previous meeting.

Commissioner Lyons further explained for clarification that the letter is in response to an OML complaint that is a result of a misunderstanding on the County's part of the OML, and that it was

unintentional and become evident after the OML Workshop that she and Commissioner Cakounes attended in September.

Motion made by Commissioner Cakounes to approve and forward to all necessary parties the prepared response to the Open Meeting Law Complaint dated September 24, 2015 as presented, 2nd by Commissioner Flynn, approved voted 3-0-0.

IV. Review and Approve Proposed Ordinance 15-__ to Amend County Ordinance 13-03 and Ordinance 14-01 Adopting an Extension of Bond Term Limits in Accordance with Massachusetts General Law - Bob Lawton, Finance Department.

Bob Lawton explained that this ordinance concerns limits placed on bonds by the Assembly of Delegates that, per the Massachusetts General Law (MGL), should be determined by Bond Counsel. Mr. Lawton proposed, through the ordinance, that the Assembly of Delegates follow bond term limits adhering to MGL with the County Treasurer determining what the County can financially accommodate.

Motion made by Commissioner Cakounes to approve and forward to the Assembly of Delegates Proposed Ordinance 15-__ (to be numbered) amending Ordinances 13-03 and 14-01 adopting Bond Term limits in accordance with Massachusetts General Law as presented, 2nd by Commissioner Flynn, approved vote 3-0-0.

V. Discussion and Determination on How to Proceed with Bond Expenditures in the Amount of \$250,000 – Specific to Redesign of the County Complex.

Commissioner Cakounes reminded his fellow Commissioners that when the budget was created he requested that \$250,000.00 of the money specific to capital improvements be designated for County Complex Re-design. Ordinance 15-05 states the \$250,000.00 is to be used for County Complex Re-design and Commissioner Cakounes wanted the addition of language allowing the \$250,000.00 be used for both design expenditures and construction expenditures.

Motion made by Commissioner Cakounes to instruct the Interim County Administrator and Finance Director to create an Ordinance that will amend the Original Ordinance Number 15-02 by adding language to reflect construction expenditures in the amount of \$175,000.00 and design expenditures in the amount of \$75,000.00, equaling the original amount of \$250,000.00 for the County Complex Re-design project to be implemented

through the issuance of bonds, in accordance with requirements of Bond Agents, 2nd by Commissioner Flynn for discussion.

Commissioner Flynn asked Commissioner Cakounes if the specificity of the Ordinance's language was necessary to which Commissioner Cakounes replied yes, but not by his choosing – it must be specific for the bonding process.

Commissioner Lyons inquired on Paul Niedzwiecki's for his thoughts on the specific amounts designated for construction and redesign. Mr. Niedzwiecki stated it was the first time he was hearing of this request for additional designation language and that even with the DECAM waiver there was still a process to be adhered to and he did not know how much that process would cost. He further stated that he wanted to ensure no monies would be spent on projects that may conflict or be inconsistent with any of the proposed future plans for the complex and that he was awaiting a list of items needing attention from Facilities.

Commissioner Cakounes removed his motion from the table. He stated he will revisit the subject again at a time when Paul Niedzwiecki, County Complex Infrastructure and Plan Project Manager, has the information necessary to give an informed opinion on the matter.

VI. Continuing Discussion on a Proposed FY2017 Budget Message and Budget Development Guidelines – Commissioner Cakounes.

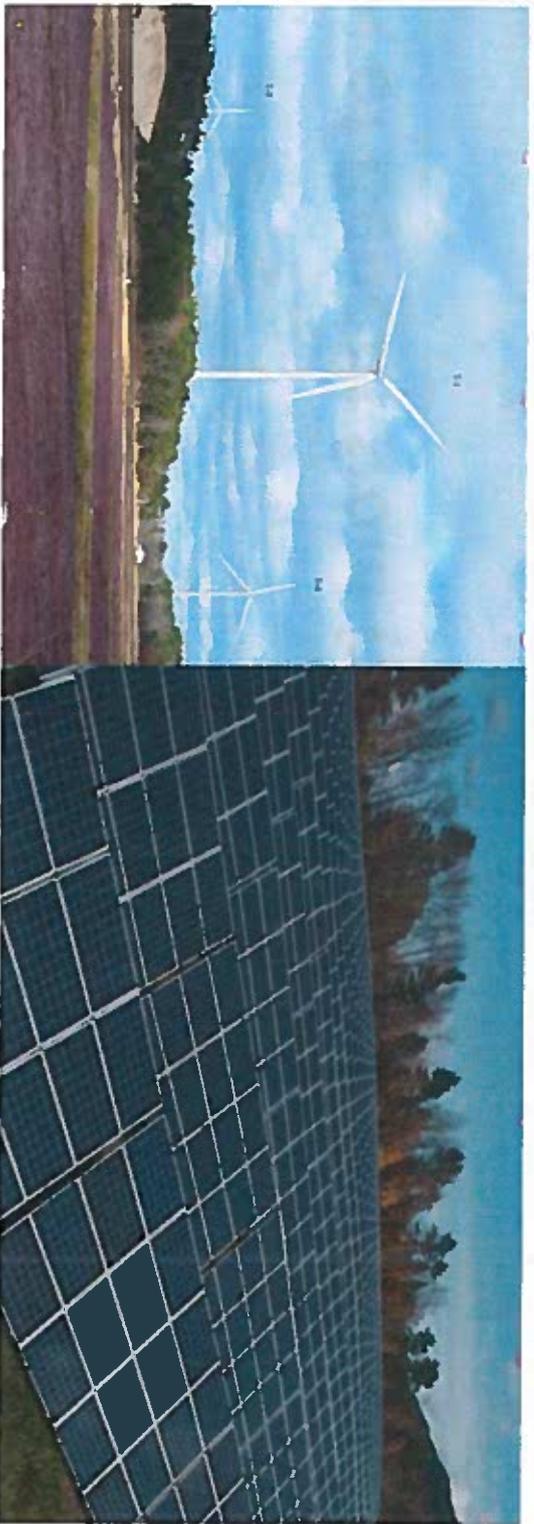
Commissioners had a lengthy discussion with input from Barnstable County Finance Director Mary McIsaac as well as Bob Lawton, Finance Department. It was decided that Commissioners Lyons and Flynn were not ready to sign off on Commissioner Cakounes' Proposed FY2017 Budget Message and Development Guidelines. The Commissioners agreed on the need to have a Budget Message, but could not come to agreeable terms on how that information should be compiled. Commissioner Flynn wanted more financial specificity regarding the information disseminated to the Departments in relation to their approved budgets from previous fiscal year in addition to her voiced opinion on having the new and Interim Finance Directors along with the County Administrator contribute input to the message.

Motion made by Commissioner Cakounes to execute the Budget Message and Guidelines as presented and Amended, 2nd by Commissioner Flynn, Vote 1-2-0; opposed Commission Flynn and Commissioner Lyons.



Cape & Vineyard Electric Cooperative, Inc.

Municipal Net Metered Sales: Barnstable County



Liz Argo, Manager, Programs & Administration



Cape & Vineyard Electric Cooperative, Inc.

**Municipal Net Metered Sales Opportunities
Through CVEC:**

PV systems' excess NMC

**Excess Net Metered Power from CVEC's PV
is being sent to the 9 CVEC Offtakers**

Annual –

Estimated Offtaker Savings and Earnings to

Barnstable County: **\$34,178**



Cape & Vineyard Electric Cooperative, Inc.

Municipal Net Metered Sales Opportunities

Through CVEC:

nexAMP

**Net Metered Power from Nexamp's PV
project located in Dartmouth, MA**

would be sent to the

CVEC Offtakers



Cape & Vineyard Electric Cooperative, Inc.

CVEC's Municipal Net Metered Sales Benefits



Barnstable County as Offtaker for CVEC PV, FGW & Nexamp

Country requested total kWh as an offtaker	1,637,695
Net Metered Power being provided through CVEC's PV	847,066
Net Metered Power to be provided by FGW	609,973
<i>Net Metered Power to be provided by CVEC from Nexamp</i>	<i>180,656</i>



Cape & Vineyard Electric Cooperative, Inc. **Municipal Net Metered Sales Opportunity**

Next Steps for Nexamp

1. Offtaker authorizing entity (Commissioners) votes to participate in the CVEC Nexamp opportunity for net metering credits.
2. Commissioners deliver executed PSAs by November 10, 2015. (PSA form based on previous PSAs with Offtaker).

VII. Discuss Offer of CVEC to Provide Additional Net Metering Credit (NMC) to Barnstable County as a CVEC Off-taker Through a Power Sales Agreement – Liz Argo, CVEC Manager.

Liz Argo presented to the Commissioners the latest CVEC Net Metering Credit via a deal with NexAmp and their green energy, photovoltaic project in Dartmouth, MA. CVEC will be providing distribution of 864,400 kWh (kilowatt hours) of NMC from NexAmp to CVEC off-takers, with Barnstable County receiving 180,656 kWh at an estimated annual savings of \$7,226.00. Ms. Argo wanted to be clear that this agreement does include an administrative adder for CVEC. This presentation is available on Barnstable County Meeting Center Web Page.

Motion made by Commissioner Cakounes to accept the additional Net Metering Credits as CVEC Off-taker and authorize a Power Sales Agreement be created or amended reflecting the additional Net Metering Credits as presented, 2nd by Commissioner Flynn, approved vote 3-0-0.

VIII. Continue Discussion on the License Plate Funding Request for FY2016 by the Economic Development Council – Felecia Penn, Chair of the Cape Cod Economic Development Council.

Motion made by Commissioner Cakounes to approve the Cape Cod Economic Development Council Revised Budget Format for FY16 as presented, 2nd by Commissioner Flynn, approved 3-0-0.

IX. New Business

- Request for the use of the Stage and County Complex Grounds by Joe Berlandi of the Barnstable Village Association for a Halloween Celebration Event on Friday October 30, 2015.

Mr. Berlandi of the Barnstable Village Association requested the use of the County Grounds and stage to have the First Annual Barnstable Village Halloween Stroll and Concert in lieu of a Halloween Parade that is usually held at the West Barnstable Elementary School.

Motion made by Commissioner Cakounes to approve the request for Barnstable Village Halloween Stroll for use of the stadium on Friday October 30th, subject to receiving all necessary permits and insurance as per County policy, 2nd by Commissioner Flynn, approved vote 3-0-0.

- The County of Plymouth contacted Barnstable County regarding a request by the town of Marshfield to use Barnstable County Dredge and its capabilities during the month of November. The request was submitted to Barnstable County Dredge Advisory Committee who reviewed the request, discussed with Barnstable County Dredge staff as to their capabilities, timeframe, budget, etc. Barnstable County Dredge Superintendent has prepared a draft agreement and is in discussion with the harbormaster of Marshfield and hoped to have an agreement for the October 28, 2015 Commissioners Meeting to gain their approval, allowing for project commencement during the first week of November.
- Commissioners Lyons alerted her fellow commissioners to conversations she has had with others regarding the need for a spot to construct a new Learning Center to help combat the homeless issue on the Cape and as a result of the conversations she asked of the County Administrator to research the County owned land and lease agreements.

X. Commissioners' Actions

- **Vote to Approve Minutes of September 30, 2015 Regular Session.**

Motion made by Commissioner Cakounes to Approve the Minutes of September 30, 2015 Regular Session, 2nd by Commissioner Flynn, approved vote 3-0-0

- **Vote to Approve Revised Minutes of May 6, 2015 Regular Session.**

Commissioner Cakounes explained to his fellow Commissioners that the revisions of the May 6th, 2015 Minutes were due to a typo and did not change any part of the minutes, only altered the incorrectly typed information.

Motion made by Commissioner Cakounes to Approve the Revised Minutes of May 6, 2015, 2nd by Commissioner Flynn, approved vote 3-0-0.

- **Vote to Approve the Summary of Actions over \$25,000.00 (including prepayment and transfer requests, bid awards, contract and contract amendments, new fund establishments).**

Motion made by Commissioner Cakounes to approve the following Summary of Actions, 2nd by Commissioner Flynn, approved vote 3-0-0.

- 1) Executed Grant Amendment between Barnstable County (Department of Health & Environment) and the Commonwealth of Massachusetts, Department of Environmental Protection for an additional amount of \$50,000.00 for Alternative Septic System Test Center, execution through June 30, 2017.
- 2) Executed Amended Managed Services Contract between Barnstable County (IT Department) and e-Plus in the amount of \$32,915.52 (a decrease per month of \$548.74) for 24/7 Management and Monitoring of Barnstable County Phone System, execution from September 1, 2015 – February 28, 2018.
- 3) Executed Contract between Barnstable County (Cape Cod Commission) and US Department of Commerce, Economic Development Administration (EDA) in the amount of \$70,000.00 for the Financial Assistance Award for Comprehensive Economic Development Strategy (CEDS) Regional Priority Project and Action Plan and other related activities, execution from July 1, 2015 – June 30, 2016.
- 4) Approved the Written Agreement from Barnstable County (Department of Human Services Home Program) for a HOME Down-payment and Closing Cost loan in the amount of \$6,500.00 for Michael Crowley.
- 5) Executed Employment Agreement between Barnstable County and Cape Cod Commission Executive Director, Paul Niedzwiecki.
- 6) Approved the request from Barnstable County (Department of Human Services) to appoint Raymond Tamasi as a Co-chair of the Barnstable County Regional Substance Abuse Council.
- 7) Executed the Request from Barnstable County (Cape Cod Commission) to establish a New Fund in the amount of \$70,000.00 for the Fund Assistance Award from the EDA for CEDS activities, execution July 1, 2015 – June 30, 2016.
- 8) Executed the Request from Barnstable County (Resource Development Office) to establish a New Fund in the amount of \$66,468.00 for Environmental Protection Agency (EPA) award to the Cape Cod Extension for Healthy Communities Grant Proposal: Storm-water Treatment Systems, Are They Effective in Reducing Nutrient Loads in Coastal Waters,” execution October 1, 2015 – September 30, 2017.
- 9) Approved the Out-of-State Travel request from Barnstable County (Department of Human Services) for Beth Albert to Represent Barnstable County at the Age Friendly Communities Conference in the amount of \$390.00 to attend and Present at the World Health Organization Age-Friendly Community Conference in Shanghai, China from December 2, 2015 – December 12, 2015.

- 10) Approved request from Barnstable County (Finance Department) to Reject the bid from Grouper Design submitted in response to the RFP for Marketing Service for Children's Cove, the RFP will be reissued.
- 11) Approved the request from Barnstable County (Department of Human Services Home Program) for the Subordination of HOME DPCC Mortgage in the amount of \$5,267.00 for Theresa A. Bartibogue and Joseph B. Bartibogue with the new mortgage amount of \$143,000.00.
- 12) Approved the request from Barnstable County (Department of Human Services Home Program) for the Subordination of HOME DPCC Mortgage in the amount of \$4,826.00 for Jennifer J. Boggs with the new mortgage amount of \$175,000.00.
- 13) Approve the request from Barnstable County (Department of Human Services Home Program) for the Subordination of HOME DPCC Mortgage in the amount of \$6,400.00 for Troye Sylvia with the new mortgage amount of \$121,000.00.

CHAIR ONLY

- 14) Executed Certificate for Dissolving Betterments for Stephen Hall.
- 15) Executed Certificate for Dissolving Betterments for Nikki Lou Smoller a/k/a Nikki Lue Smoller.
- 16) Executed Certificate for Dissolving Betterments for David A. McCrossin.
- 17) Executed Certificate for Dissolving Betterments for Robert S. Lonkart and Georgia F. Lonkart.
- 18) Executed Certificate for Dissolving Betterments for Joseph M. Fabbio.
- 19) Executed Certificate for Dissolving Betterments for Mark A. Rotunno and Kimberly A. Rotunno.
- 20) Executed Certificate for Dissolving Betterments for Paul F. Curley and Judith M. Curley.
- 21) Executed Certificate for Dissolving Betterments for Richard H. Amriott and Joyce A. Amriott.
- 22) Executed Certificate for Dissolving Betterments for Theresa F. Curran.
- 23) Executed Certificate for Dissolving Betterments for Edwina J. Johnson and Marlon Graham.

- **Review of County Administrator Actions under \$25,000.00 (including personnel actions, out-of-state travel, prepayment and transfer requests).**

No review needed, as there were no inquiries for explanation on the County Administrator Actions.

XI. Commissioners Reports

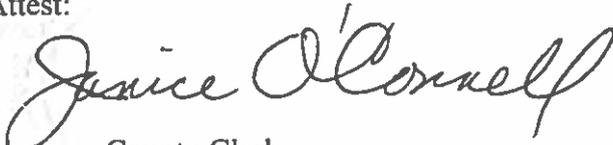
- Commissioner Flynn attended an event where Homeless not Hopeless, Inc. gave a presentation that lead to a great discussion.
- Commissioner Cakounes requested that the Commissioners schedule a meeting so that they are in concurrence on how to proceed with the finalists for the County Administrator position and that there is a process in place. This item will be placed on the next meeting agenda.

IX. County Administrator Reports

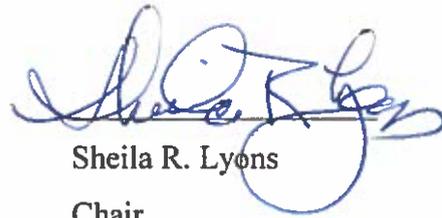
- No Administrators Report

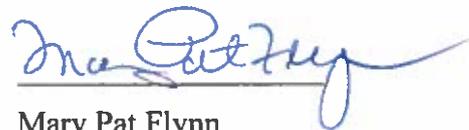
Barnstable, ss. At 2:54 p.m. on this fourteenth day of October, A.D. 2015, Commissioner Flynn made a motion to adjourn, 2nd by Commissioner Cakounes, approved 3-0-0.

Attest:


County Clerk

The foregoing records have been read and approved.


Sheila R. Lyons
Chair


Mary Pat Flynn
Vice-Chair


Leo Cakounes
Commissioner