

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

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

Chairman Lyons called the meeting to order 10:06 a.m.

Board of the Barnstable County Commissioners:

Mary Pat Flynn	Present
Sheila Lyons	Present
Leo Cakounes	Present

Staff Present:

Michael Brillhart	County Administrator
Justyna Marczak	Administrative Assistant
Bob Lawton	Interim Finance Director

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

Commissioner Lyons made a statement and wanted to apologize to the people of the Barnstable County for the way the last week's Commissioners' meeting was run. She also said that although she might be inaccurate in some statements she is passionate and dedicated to the County. Commissioner Lyons apologized for being out of order, for being emotional and not professional.

I. No Public Comment

II. Review and Approval of a Contract Extension for the Interim Director of Finance.

Michael Brillhart said that Bob Lawton's contract expires on March 27, 2015 and he proposed extending that contract to June 1, 2015 with the option of extending it beyond that date if the need arises.

Motion made by Commissioner Flynn to extend the contract for Bob Lawton as Interim Finance Director until June 1, 2015, 2nd by Commissioner Cakounes, approved 3-0-0.

Commissioner Flynn said that Mr. Lawton has been enormously valuable to the County, the Commissioners and the Department Heads. He brings wonderful municipal experience to this job and the Commissioners appreciate that he agreed to work for the County for the assigned period of time.

Although Commissioner Cakounes did not have the opportunity to get familiar with the contract extension, he supported the motion and agreed that Mr. Lawton has been an asset to the County.

III. Review and Approval of the Establishment of a Human Rights Advisory Subcommittee.

Commissioner Lyons mentioned that along with Mr. Brillhart she had a chance to meet with Human Rights Commission (HRC) and discuss the matter. There is a need to make changes to the original ordinance that created HRC and the creation of committee to overlook those changes. The Human Rights Commission as well as the Human Rights Coordinator would be supervised by Director of the Human Services Department the Coordinator would become the County Employee. Commissioner Lyons also stated that the ordinance would have to

clarify if the Coordinator is supervised by the Director of Human Services or County Administrator. The original proposal to the HRC included creating an ad hoc committee comprised of the County Administrator, Human Services Department, Human Rights Commission and the member of the Assembly of Delegates.

Commissioner Cakounes stated that he supported that idea. He suggested drafting a motion to create the subcommittee, deciding who will be serving on it and what would be the clear responsibilities of the subcommittee. The committee will be submitting the recommendation to the Commissioners on the language of the ordinance but the ultimate ordinance will be submitted by the Commissioners.

Commissioner Flynn agreed that there is a need to create the subcommittee but wasn't sure what was the purpose of it other than reviewing the old ordinance. Will the subcommittee review the entire ordinance or just the part about structuring a position of the Coordinator and how would that fit into the County. Commissioner Flynn suggested limiting the subcommittee to only making decisions regarding the Coordinator position and not the workings of HRC in whole as they are clearly stated in the original ordinance.

Commissioner Lyons said that the language of the original ordinance is old and vague and needs to be updated. The line of reporting and oversight from the County is the most important as well as the involvement of the counsel.

Commissioner Cakounes did not agree with limiting the subcommittee's responsibilities to the HRC Coordinator's position only. He said this might be the opportunity for the parties involved to examine the ordinance and decide if some changes are needed.

Commissioner Flynn stated that the decision needs to be made whether the County wants to focus on the language of the original ordinance first and then the process of hiring a new coordinator or the other way around. The current Coordinator's position expires on June 30, 2015 so the time is of the essence.

Commissioner Cakounes said that the position is already in the budget but we need the ordinance that coincides with that position. The ordinance needs to be reviewed and changed by June 30, 2015 and then the Commissioners can hire the new Coordinator. The subcommittee should be asked to bring the recommendations back to the Commissioners by their second meeting in June.

Commissioner Flynn suggested a motion to appoint Human Rights Commission advisory committee composed of the representatives from the Human Rights Commission, Human Services Director, a representative from the Assembly of Delegates, a representative from the county administration and a member at large. Commissioner Cakounes said that the motion can be made at the next meeting along with suggested names.

John Reed from HRC spoke and asked the Commissioners if the Coordinator's position was being changed from the independent contractor to county employee only at HRC or across the board. The Commissioners said that they are in the process of reviewing each department and make their recommendation regarding all independent contractors. Next Mr. Reed said that he would like to propose two members from HRC on subcommittee, one new and one old member, to have a better perspective on the matter. The Commissioners agreed to that suggestion.

The Commissioners asked Mr. Brillhart to draft the motion for next week that includes creation of the subcommittee to look at the ordinance and recommend the changes and to define the relationship and supervision of the HRC Coordinator and Human Services Department.

IV. Discussion on Projected Year End Reserves Options for the County's Adopted FY2015 Budget.

Bob Lawton presented the Commissioners the Barnstable County projected Reserves for FY15.

V. Status report on County Administrator Executive Search Firm RFP.

Commissioner Flynn said that the two firms that responded to RFP (W&C Company and Gov HR US) were out of state and do not have the familiarity of Barnstable County.

Commissioner Cakounes also had concerns regarding the out of state issue. Both of those firms acted as search committee rather than working with the Commissioners appointed search committee.

There are other in-state firms that did not respond to RFP and might be contacted by Mr. Brillhart if Commissioners decide to do so. Mr. Brillhart will prepare the revised scope of services for the County Administrator's position for the Commissioners' review next week. The Commissioners will bring their decision regarding these two firms to their next meeting.

VI. Nomination of Members to Serve on the County Administrator Search Committee.

V. Commissioners' Actions.

Motion made by Commissioner Cakounes to approve the Minutes of March 11th, 2015 with the following amendment, 2nd by Commissioner Lyons, approved 3-0-0:

On page 5 of the minutes the following language will be added:

"Commissioner Cakounes had completed his "evaluation Form" as required in Mass General Law Chapter 30b Sec 6, Commissioner Flynn and Lyons had not completed their review. The Commissioners agreed to bring the review process back at the next meeting, giving time for Commissioner Lyons and Flynn to complete the required forms".

The Commissioners presented their 7 nominations for the County Administrator Search Committee.

The Commissioners recessed at 12:19 p.m. and reconvened at 12:29 p.m.

The Commissioners agreed on the 7 member committee with the numbers assigned to them as 2, 3, 8, 9, 16, 18, 19.

Motion made by Commissioner Flynn to appoint the following 7 members to the County Administrator Search Committee (Eric Turkington of Woods Hole, Roger Putnam of Wellfleet, Julia Taylor of West Falmouth, Mary LeClair of Mashpee, Charles Sumner of Brewster, Donald Howell of Harwich and Mary Lou Petitt of Eastham), 2nd by Commissioner Lyons, approved 3-0-0.

VII. Commissioners' Actions.

Motion made by Commissioner Flynn to approve the Minutes of 18th, 2015, 2nd by Commissioner Cakounes, approved 3-0-0 with the following comments:

The Commissioners did not complete the voting on the motion on page 9 during the February 18, 2015 meeting and completed it today. The Motion stated:

Motion made by Commissioner Cakounes to change the cost for the Superior Courthouse heating upgrade from \$140,000.00 as presented to \$235,000.00, 2nd by Commissioner Flynn - the motion did not have final voting.

The Commissioners finished the voting for this item at today's meeting: approved 3-0-0.

Motion to approve minutes of March 4, 2015, 2nd by Cakounes, approved 3-0-0.

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

- 1) Executed the Grant Agreement between Barnstable County / Cape Cod Commission and MA Emergency Management Agency (FEMA) in the amount of \$50,766.00 for the Regional Planning assistance for Sandwich, Truro and Providence with the execution through September 30, 2016 (Pre-Disaster Mitigation grant received by Cape Cod Commission)
- 2) Executed the Contract between Barnstable County / Cape Cod Water Protection Collaborative and Sycamore Advisors in the amount of \$33,800.00 for the research feasibility of regional capital trust fund for wastewater infrastructure (Town of Sandwich request), with the execution through June 30, 2016.
- 3) Executed the Contract between Cape Light Compact (CLC), in accordance with our responsibility as fiscal agent for CLC, and The Cadmus Group, Inc. in the amount of \$87,373.10 for energy Efficiency Lighting & Products Education & Marketing Services, for the period of January 1 - December 31, 2015.
- 4) Executed the Contract between Cape Light Compact (CLC), in accordance with our responsibility as fiscal agent for CLC, and DirectApps, Inc. dba Direct Technology in the amount of \$1,163,000.00 for Data Management, Tracking and Reporting System, for the period of March 4, 2015 - December 31, 2018.
- 5) Voted to close the bid for qualified contractor to assist the Department of Human Services in coordinating the MA Opioid Abuse Prevention Collaborative as no bids were received.
- 6) Approved the request from Cape Cod Commission to establish a new revenue fund in the amount of \$50,766.00 for the Regional

Planning assistance for Sandwich, Truro and Providence with the execution through September 30, 2016 (Pre-Disaster Mitigation grant received by Cape Cod Commission).

7) Approved the appointment of Neva Flaherty as the Orleans representative to HOME Consortium for a three year term ending on June 30, 2017.

8) Awarded a Bid for Roadway Construction Materials on behalf of the Towns in Barnstable County to the following vendors as the responsive, responsible bidders offering the lowest prices:

- Robert Childs,
- Cape Cod Aggregates,
- Aggregate Industries
- PA Landers
- PJ Keating
- Lawrence Lynch

9) Awarded a Bid for Road Reconstruction on behalf of the Towns of Barnstable, Chatham, Harwich, Orleans, Sandwich and Yarmouth to the following vendors as the responsive, responsible bidders offering the lowest prices:

- Lawrence Lynch
- MCE Dirtworks
- PJ Keating

10) Awarded a Bid for Crack Fill Items on behalf of the Towns of Barnstable County to the following vendors as the responsive, responsible bidders offering the lowest prices:

- Cracksealing, Inc.
- Sealcoating, Inc.

11) Awarded a Bid for Miscellaneous Public Road Works on behalf of the Towns of Barnstable County to the following vendors as the responsive, responsible bidders offering the lowest prices:

- RJ Gabriel Construction, Inc.
- Truax Corporation
- Bartlett Consolidated, LLC
- DeLuca Fence Company, Inc.
- Premier Fence, LLC
- Hi Way Safety Systems, Inc.
- Rafferty Fine Grading, Inc.
- Markings Inc.
- Lawrence Lynch, Corp.

12) Awarded a Bid for Supply and Delivery of gasoline and Diesel Fuel for Barnstable County and other Political Subdivisions to Noonan Brothers Petroleum, Inc. and Peterson Oil Service, Inc. as the responsive, responsible bidders offering the lowest prices.

- RJ Gabriel Construction, Inc.
- Truax Corporation
- Bartlett Consolidated, LLC
- DeLuca Fence Company, Inc.
- Premier Fence, LLC
- Hi Way Safety Systems, Inc.
- Rafferty Fine Grading, Inc.
- Markings Inc.
- Lawrence Lynch, Corp.

- 13) Ratified the actions taken by County Administrator, Michael Brillhart on February 26, 2015 for approving the payment in the amount of \$334,037.77 to the Cape Cod Municipal Health Group for health, dental and vision insurance for employees and retirees for the month of March 2015.

In her capacity as Chair Commissioner Lyons:

- 14) Executed Certificate for Dissolving Betterments for Paul C. McGonagle and Elizabeth C. McGonagle.
- 15) Executed Certificate for Dissolving Betterments for Michael E. Sweeny and Kathleen M. Sweeny.
- 16) Executed Certificate for Dissolving Betterments for Christopher V. Davis and Jessica B. Davis a/k/a Jessica M. Davis.
- 17) Executed Certificate for Dissolving Betterments for Thomas G. Nemmers and Susan L. Nemmers.
- 18) Executed Certificate for Dissolving Betterments for Kimberlee M. Crocker.
- 19) Executed Certificate for Dissolving Betterments for Teresa B. White, Trustee, The Teresa B. White Living Trust u/d/t dated December 15, 2009.
- 20) Executed Certificate for Dissolving Betterments for Roberto Barroso.
- 21) Executed Certificate for Dissolving Betterments for Brendan Kiernan.

VIII. Commissioners' Reports.

Commissioner Cakounes read a statement that will be part of the minutes for this meeting.

IX. County Administrator's Report

Michael Brillhart suggested having a workshop for the Commissioners on March 27, 2015 at 1:00 p.m.

Barnstable, ss. at 12:58 p.m. on this eleventh day of March, 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

Leo G. Cakounes
Barnstable County Commissioner
March 11 2015

Re; concerns on conduct of Board of County Commissioners

I , Leo Cakounes, sworn into the Office of County Commissioner on Jan 2 2015 and today completing my 70th day in Office, make this statement on the record of this meeting to set out my concerns about improper conduct on the part of the County Commissioners.

On Jan 7 2015 at a scheduled meeting of the County Commissioners a vote was taken to enter into Executive Session to address a personnel matter.

Attending that Executive Session was an attorney invited by the Chair to advise the Commissioners. Upon inquiry, I learned that the attorney was not hired through the process required under the Administrative Code and consistent with the Charter. Whether the privilege afforded to Executive Session was forfeit due to the presence of this individual is one issue, however, hiring this lawyer, no matter what the compensation, was outside the scope of authority of a single commissioner, even the Chair. (See attached addendum at #1 and #2)

On Jan 14 2015 again at a scheduled Commissioner's Meeting, the Chair invited an attorney who was not properly appointed or hired through the process required under the Administrative Code to advise the Commissioners on matters of the establishment of a search committee to hire a new county Administrator. This attorney was permitted to render advice to the Commissioners on the search process and the hire of County Council.

Next, on Feb 4 2015, again at a scheduled meeting of the County Commissioners the Chair began a discussion of an agenda topic "Special Council". The Chair sought authority to publish a RFQ for Legal Counsel.

I objected to that proposal and asked that the matter be tabled until all three Commissioners were present. The Chair agreed that the matter would be tabled until it could be discussed at a future meeting. (see attached addendum #3(a))

During the Meeting of Feb 4 2015 County Counsel was present and gave his opinion that "One Commissioner cannot invite a law firm without the mutual vote from the Commissioner's Board". (See attached addendum #3 (b))

The Chair acknowledged that her action had been taken in violation of her authority, and claimed not to understand the specific sections of the Charter or Administrative code. Further stating "I plead ignorance and stand corrected for the future."

At this time I thought the matter was resolved.

However later during the Feb 4 2015 meeting the Chair invited yet another attorney to advise the Commissioners on a matter pertaining to the Fire Academy.

I did object to this action along with the request to enter executive session. After a brief recess and discussion between County Counsel and the other firm the meeting did resume in open session without the attendance of the invited firm.

For the second time I thought the matter was resolved.

But at a scheduled meeting of the County Commissioners on March 4 2015, during "a discussion on Specialized Legal Services" it became apparent that the Chair had instructed the County Procurement Office to send out RFQ for legal services, after my objections and after the matter had been tabled at the Feb 4 2015 meeting. (see attached addendum #3 (a))

The Chair's made a motion to seek new counsel for the County and it did not receive a second.

Commissioner Flynn moved to have the discussion properly described on an agenda and to discuss the firms that had responded to the unauthorized RFQ. The motion passed, 2-1, over my strenuous objection.

It is my opinion that it is fundamentally unfair to give an advantage to firms that responded to an unlawful RFQ or offered legal services authorized as these were, by a single Commissioner acting alone.

As elected County officials we are obligated to conduct ourselves and the affairs of the County in compliance with the County Charter, the County Administrative Code, and Mass General Laws.

I request that the County Commissioners acknowledge their responsibility and act accordingly to protect the integrity of our decisions on behalf of the residents of Barnstable County whom we are bound to serve.

Respectfully submitted; Leo G. Cakounes County Commissioner

Addendum #1 Charter 3-1 (d)

(d) Exercise of Powers – The board of regional commissioners shall conduct all of their official business with at least two members of the board present, provided proper notice has been given to the absent member. A vote of two members of the board of regional commissioners shall be sufficient to exercise any power residing in the board of regional commissioners.

Addendum #2 Administrative Code

SECTION 2.3 Office of Legal Services 8

(a) Legal Services Generally

The Board of County Commissioners shall coordinate and administer legal services for all County departments, offices and agencies and may appoint a General Counsel for the County for a definite term of office to be established by the Board of County Commissioners. Retention of General or Special Counsel by a department head or employee is prohibited unless authorized by the Board of County Commissioners or County Administrator.

The County Counsel shall perform such duties as may be required and directed by the Board of County Commissioners to meet the general legal service need of the County including the prosecution, defense or compromise of claims, actions and proceeding to which the County is a party. The General Counsel shall prosecute actions and proceedings by direction of the Board of County Commissioners and shall generally advise County officers and agencies. The General Counsel shall have such other powers, duties and responsibilities as may be provided by County Ordinance or this Administrative Code.

(c) Special Counsel, Coordination of Legal Services

It is understood that County departments, offices and agencies may have different and unique needs for legal services and, thus, appropriations for special legal services or special counsel are expected. Nothing in this section shall limit the authority of the Board of County Commissioners to employ special counsel. In special circumstances, the Board of County Commissioners may also authorize department heads to employ special counsel. Department heads shall provide the Board of County Commissioners with estimated costs for legal services and with detailed summaries on a quarterly basis of the use and costs of legal services.

Addendum #3

Taken from minutes of Fe4 2015 page 5 &6

(a) Commissioner Lyons proposed issuing the RFQ for the County Counsel. Commissioner Cakounes did not support this proposal and the Commissioners decided to table it until Commissioner Flynn is present.

(b) Commissioners' Board. (b) Mr. Troy stated that the Board of County Commissioners needs to vote to appoint any special attorney. One Commissioner cannot invite a law firm without the mutual vote from the