

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

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

Board of the Barnstable County Commissioners:

Chair Sheila Lyons	Present
Vice Chair Mary Pat Flynn	Present
Commissioner Leo Cakounes	Present

Staff Present:

Michael Brillhart	County Administrator
Michelle LaCasse	Finance Assistant
Bob Lawton	Interim Finance Director
George Heufelder	Director of Health and Environment
Elaine Davis	Chief Procurement Officer
Maggie Downey	Cape Light Compact Administrator
Attorney Bob Troy	County Counsel

Chair Lyons called the meeting to order at 1:30 p.m.

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

Chair Lyons informed the public that Vice Chair Flynn will be participating remotely due to personal illness and the voting will be by roll call.

I. Public Comment

There was no public comment.

II. General Business

A. Proclamation of the Barnstable County Board of Regional Commissioners Acknowledging April 7, 2015 as National Service Recognition Day.

Chair Lyons and Michael Brillhart recognized AmeriCorps & County employees for their service along with other county government in the U.S. She recognized that all volunteers are essential to the completion of our work and also recognized all citizens who help out in towns across the Cape.

Motion by Commissioner Cakounes, seconded by Vice Chair Flynn for the Barnstable County Regional Board of Commissioners to acknowledge April 7th, 2015 as National Service Recognition Day and sign the proclamation. Approved 3-0 by roll call vote:

Lyons Aye, Flynn Aye, Cakounes Aye.

B. Discussion and Action on the Proposals Submitted for the County Administrator Executive Search RFP.

County Administrator Michael Brillhart noted that the 2 firms that submitted RFP's need to be notified within 60 days. Commissioner Cakounes expressed his concern that time has been wasted on this matter, especially given that the temporary administrator is leaving in June. Commissioner Cakounes asked the other commissioners to consider if either firm is a contender or if the County should issue an RFQ. Vice Chair

Flynn said she agreed and that she does not feel we should use either of these 2 firms and could move to support an RFQ.

Chief Procurement Officer Elaine Davis stated an RFQ would cover \$10k-\$24,999 and that the lowest bidder would have to be awarded. County Counsel Bob Troy recommended there is more flexibility with the RFP process.

Vice Chair Flynn questioned if the scope of work can be defined and limited. Elaine Davis added that she heard from vendors that perhaps the scope of services could be revised.

Commissioner Cakounes stated that the same 2 companies that already submitted RFP's could also participate again.

Motion by Commissioner Cakounes seconded by Vice Chair Flynn to reject the 2 County Administrator Executive Search proposals that have been brought forth for reasons that the original scope was not to our liking and to send out a revised scope of services in an RFP. Approved 3-0 by roll call vote:

Lyons Aye, Flynn Aye, Cakounes Aye.

C. Recommended Cost Reduction for the FY16 Capital Improvement Program.

Interim Finance Director Bob Lawton explained two changes in the FY16 Capital Improvement Program. First he indicated the air conditioning project of \$280,000 for the 2nd district building has been removed since the state has agreed to absorb the full cost. Second, he explained that the heating upgrade has been increased to \$269,000 from \$235,000, which will lower the facilities request for bonding to \$1,083,500.

Flynn said she agreed and that she does not feel we should use either of these 2 firms and could move to support an RFQ.

Chief Procurement Officer Elaine Davis stated an RFQ would cover \$10k-\$24,999 and that the lowest bidder would have to be awarded. County Counsel Bob Troy recommended there is more flexibility with the RFP process.

Vice Chair Flynn questioned if the scope of work can be defined and limited. Elaine Davis added that she heard from vendors that perhaps the scope of services could be revised.

Commissioner Cakounes stated that the same 2 companies that already submitted RFP's could also participate again.

Motion by Commissioner Cakounes seconded by Vice Chair Flynn to reject the 2 County Administrator Executive Search proposals that were Submitted as "NOT ADVENTAGEIOUS" have been brought forth for reasons that the original scope was not to our liking and to send out a revised scope of services in an RFP. Approved 3-0 by roll call vote: (RED ADDED NEW) (REMOVE GREEN)

Lyons Aye, Flynn Aye, Cakounes Aye.

C. Recommended Cost Reduction for the FY16 Capital Improvement Program.

Interim Finance Director Bob Lawton explained two changes in the FY16 Capital Improvement Program. First he indicated the air conditioning project of \$280,000 for the 2nd district building has been removed since the state has agreed to absorb the full cost. Second, he explained that the heating upgrade has been

Leave Requests; Capital Budget Amendments; and Other Outstanding Matters.

The Commissioners along with County Counsel Bob Troy had a discussion regarding recent open meeting law complaints, County Administrator Search Committee, Mercy Otis Warren Award, County Sick Leave Policy, and FY16 Budget process.

VIII. Commissioners' Actions.

Motion made by Commissioner Cakounes to approve the Minutes of March 25, 2015 with the following amendment, 2nd by Commissioner Lyons, approved 2-0-0:

On page 3 of the minutes the following language will be added:

Motion made by Commissioner Cakounes to reject the 2 County Administrator Executive Search proposals that were submitted as the original scope of services in the RFP. The original scope of services was not representative of the County's needs and will be revised, 2nd by Commissioner Lyons, approved 2-0-0.

Motion made by Commissioner Cakounes to approve the Minutes of April 1, 2015, 2nd by Commissioner Lyons, approved 2-0-0.

Motion made by Commissioner Cakounes to approve the Minutes of April 1, 2015, Executive Session and not to release it to the public, 2nd by Commissioner Lyons, approved 2-0-0.

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

Motion by Commissioner Cakounes, seconded by Vice Chair Flynn to approve the new capitalization improvement program for FY16 as so presented. Approved 3-0 by roll call vote:

Lyons Aye, Flynn Aye, Cakounes Aye.

D. Discussion and Recommendation Specific to FY15 Continuing Appropriations.

County Administrator Michael Brillhart explained that as part of the ongoing budget reconciliation we have been looking at funds adopted in past budgets that have not been encumbered. At this time, he explained that some of these appropriations should be discontinued to help with the budget process. Mr. Brillhart noted no action has been taken today, however, in the next few months; staff would be ready to suggest amounts that we would no longer continue.

Interim Finance Director Bob Lawton reviewed appropriations available of \$1.8M, which will be reduced to a balance of \$756,000.

Commissioner Cakounes mentioned his concern for a shortfall in 2015 and questioned if we will use some of these expenditures to make up any shortfall. He questioned if this will affect FY16 to which Mr. Lawton responded it will not and noted it has already been accounted for in FY16. Commissioner Cakounes expressed his concern for notifying departments in the event action needs to be taken. Bob Lawton responded that departments have seen preliminary figures.

Vice Chair Flynn said this has concept of continuing appropriations has been past practice and to continue on this way may not be feasible. She suggested budgeting on an annual basis.

E. Discussion and Action on a Motion to Issue an RFQ Requesting a Scope of General Legal Services to be Sent to No Less than Five Qualified Firms and/or Individuals, Including Current County Counsel, for Subsequent Review and Possible Appointment as General County Counsel for a Definite Term".

Motion by Chair Lyons, seconded by Vice Chair Flynn for discussion "To Issue an RFQ Requesting a Scope of General Legal Services to be sent to No Less than Five Qualified Firms and/or Individuals, Including Current County Counsel, for Subsequent Review and Possible Appointment as General County Counsel for a Definite Term". (Vote by roll call below, not approved 1-2)

Lyons aye, Flynn nay, Cakounes nay.

Vice Chair Flynn noted that legal services are shared with the Cape Cod Commission and on certain occasions also with the Assembly of Delegates. She pointed out it is important that we understand our needs and may want to look back and review past special counsel services over the last five years for the types of services, purposes, costs vs. estimates, and what kind of needs we have to hire special counsel. She suggested the next step is to look forward, anticipate the next five years and also find out what the CCC and the Assembly of Delegates expect. Indicating it is too early to make a decision; Vice Chair Flynn expressed the

need to gather more data and the need to gather a group of people to guide us and get a full picture on this matter.

Chair Lyons pointed out her motion is to simply get a fee schedule and formulate 4-5 questions that could be sent out to five firms. She expressed that we have lacked management and real administration recently and that we have lacked reviewing these services, noting that the charter and the administration code calls for it to be reviewed. As a housekeeping item, she explained we could use this RFQ to base future thinking on, while also looking at past services at the same time.

Commissioner Cakounes commented he is not sure we should be taking on this matter now due to the timing given the current issues in staffing and our building needs. He stated he would not support considering changing counsel at this time due to these stated circumstances. He indicated that he would not support an RFQ action now and that perhaps once some of the issues are resolved he would be able to support reviewing the matter.

Chair Lyons agreed that we have a lot going on and pointed out that County Counsel Bob Troy has not been on a retainer and there may have been a lack in legal consultation in the past. She expressed her interest and the need for more guidance than what we have had and explained that this is an exercise that needs to be done. Chair Lyons remarked that the citizens of the County deserve the best legal counsel available.

County Counsel Attorney Bob Troy observed that this matter may be more of a theoretical question. He stated that the Commissioners and the administration in the past have all carefully worked with counsel to see how the County should be run and that they made the

right decisions. Attorney Troy responded that he does not agree to a statement that all work in the past has not been done correctly. He pointed out that perhaps this is a fundamental issue related to when we choose our Charter and asked ourselves if we are going to have a system to reflect our values on the Cape or emulate other institutions that use larger firm legal services. Here on Cape Cod, he commented that 64% of towns have opted to have similar services as the County and that these towns also do not use large Boston legal firms. He listed the towns as Barnstable, Bourne, Yarmouth, Brewster, Falmouth, Truro, and Orleans. Next, Attorney Troy named several legal experts who he commended as exceptional lawyers all of which he pointed out are located here on Cape Cod. Attorney Troy suggested that the County does not need an attorney at each Assembly of Delegates meeting or at each Commissioners meeting. He added that there is a need to study the County's needs before sending out an RFP.

Chair Lyons explained that this is a matter of practicality and as times and options change we need to do the best for the citizens of the County. She identified this matter as a housekeeping item that is necessary in order to obtain the best legal representation available.

Attorney Troy stated he has been County Counsel since 1992 and that legal affairs on a systematic basis have been reviewed every year with the administration, with the exception of this year. He pointed out the Assembly has also worked with county counsel and they should be included in this discussion along with the county administration. He suggested there be public discussion over the matter.

There was discussion about whether there should be further review before sending out an RFQ for legal services.

Vice Chair Flynn commented on the timing of this matter and that new county administration should be part of this decision and that she sees no urgency to this matter preferring it be delayed until a new county administrator is hired.

Chair Lyons called for a vote on the above stated motion, not approved 1-2 by roll call vote:

Lyons aye, Flynn nay, Cakounes nay.

F. Discussion Regarding the Hiring of Special Legal Counsel Specific to Employment Law.

It was stated this matter pertains to an employee on medical leave.

County Administrator Michael Brillhart indicated according to the Charter, the Commission and Assembly of Delegates has the ability to hire special legal counsel on certain items. He suggested there may be a need for advice regarding employment law.

There was discussion that this is a human resources issue that needs to be fully understood by meeting with the employee, which will determine if the matter can be resolved. There was discussion if the County Administrator can ask the opinion of legal counsel on this matter, without consent of the Board of Commissioners.

III. Commissioners Actions

MINUTES

1. Approved the minutes of March 18, 2015.

There was discussion about whether there should be further review before sending out an RFQ for legal services.

Vice Chair Flynn commented on the timing of this matter and that new county administration should be part of this decision and that she sees no urgency to this matter preferring it be delayed until a new county administrator is hired.

Chair Lyons called for a vote on the above stated motion, not approved 1-2 by roll call vote:

Lyons aye, Flynn nay, Cakounes nay.

F. Discussion Regarding the Hiring of Special Legal Counsel Specific to Employment Law.

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County Administrator Michael Brillhart indicated according to the Charter, the Commission and Assembly of Delegates has the ability to hire special legal counsel on certain items. He suggested there may be a need for advice regarding employment law.

Commissioner Cakounes commented on the need for "special Council" on this matter, he informed the Board that he had e-mailed the Administrator on this and asked to forward a question to County Council as to their ability to advise the County on this personnel matter.

Commissioner Cakounes expressed that he is very confident that present County Council is more than adequate to advise the Board on this unique situation.

Motion by Commissioner Cakounes, seconded by Chair Lyons to approve minutes of March 18, 2015 with no changes. Approved 2-0-1 by roll call vote:

Lyons aye, Cakounes aye with Flynn abstaining.

Motion by Commissioner Cakounes, seconded by Vice Chair Flynn to move on the items listed in our summary of actions and the actions taken by the County Administrator. Approved 3-0 by roll call vote:

Lyons aye, Flynn aye, Cakounes aye.

There was discussion on Item #7-Ratified the actions taken by County Administrator, Michael Brillhart on March 16, 2015 for approving the 2014 energy efficiency fund (0027) balance transfer of \$1,621,122.78 to be transferred to the 2015 calendar year energy efficiency budget.

Commissioner Cakounes asked for clarification of why this action needs to be done by the County Administrator. Maggie Downey, Cape Light Compact (CLC) Administrator, explained that there is a three-year contract and that each calendar year has a budget and any funds remaining are rolled forward consistent with the three-year plan to the next fund year. She indicated that CLC is complying with County procedures. Commissioner Cakounes asked if this transfer was approved by the CLC Board to which Ms. Downey replied yes, that the Board approved the three-year budget.

CONTRACTS

2. Executed the Contract between Cape Light Compact (CLC), in accordance with our responsibility as fiscal agent for CLC, and Kelliher Samets Volk in the amount of \$210,640.00 for Cape Light Compact share (5.08%) of Energy Efficiency Statewide Marketing

Services for 2015. Org/Orb 026125-5293, 026124-5293, 026126-5293. Approved by CLC Treasurer on 03/18/15.

3. Executed the Contract between Barnstable County (Human Services Dept.) and Bailit Health Purchasing in the amount of \$34,966.00 to conduct 15 focus groups and assist the department in development of Regional substance Abuse Plan. MOAPC Grant through DPH, approved by Beth Albert, Director of Human Services on 03/19/15.
4. Executed the Contract between Barnstable County (I.T. Department) and ePlus in the amount of \$39,500.40 to amend current Statement of Work (SOW) to reflect the FY15 phone system update (the original SOW was \$37,703.64. Org/Obj 0011052-5276.
5. Executed the Contract between Barnstable County (Health Department) and the Town of Provincetown in the amount of \$16,000 for the professional inspectional services to the Provincetown Board of Health, with the execution through July 2015, with the possibility of continuation if mutually desirable. (Account not established yet - two fiscal years.)

APPOINTMENTS:

6. Approved the appointment of Charleen Greenhalgh as Member at Large at the HOME Consortium Advisory Council for the term through January 31, 2016.

OTHER ITEMS

7. Ratified the actions taken by County Administrator, Michael Brillhart on March 16, 2015 for approving the 2014 energy efficiency fund (0027) balance transfer of \$1,621,122.78 to be transferred to the 2015 calendar year energy efficiency budget.

Commissioners Reports:

Building Needs Committee

Commissioner Cakounes reported on the Building Needs Committee and explained that the committee is working on a report that will be split into two sections. The first section will list priorities and any items that need to be addressed immediately. The second section, he explained, will have suggestions for expansion and a 5-15 year plan. He estimated the report will be ready in one month and asked the Commissioners if they agree he should meet with Judge Nickerson to hear the needs of the court system.

It was suggested that it may be better that all three Commissioners meet with Judge Nickerson.

Commissioner Cakounes thanked Facilities Director Steven Tebo for an excellent job and suggested that the report will have good information.

HOME Consortium

Chair Lyons reported on the Transfer of the Home Consortium from the Cape Cod Commission (CCC) to the Human Services Department.

Regional Network Board on Homelessness

Chair Lyons reported the Board is reviewing their governance bylaws and there was a suggestion of bringing on town management and police representation.

NSTAR spraying

Commissioner Cakounes brought up the subject of the Town of Provincetown's issue with NSTAR spraying. He indicated there is a prior vote to establish a committee to continue research on NSTAR

spraying and requested this item be put on a future agenda for discussion.

Chair Lyons indicated there was talk in the past about researching this matter with the Department of Agriculture, and that NSTAR offered funds for research, which were not accepted. She pointed out subsequently the County did not have the funds available to go forward with the research.

Vice Chair Flynn expanded that there is now more interest on this subject from towns and that many towns may be ready to take serious steps. She suggested we need to figure out how the County can help the towns form a Cape Cod plan of how to deal with this matter in the future.

Motion by Commissioner Cakounes, seconded by Vice Chair Flynn to adjourn at 2:45p.m. Approved 3-0 by roll call vote:

Lyons aye, Flynn aye, Cakounes aye.

Respectfully submitted,
Michelle LaCasse, Finance Assistant

Attest:


County Clerk

The foregoing records have been read and approved.


Sheila R. Lyons
Chair

Mary Pat Flynn
Vice Chair


Leo Cakounes
Commissioner