COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

At the regular meeting of the County Commissioners held in the Superior Courthouse Building on the second day of September, 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	Interim Finance Director
Joanne Nelson	County Accountant
Michelle LaCasse	On-Call Finance Assistant
Paul Niedzwiecki	Executive Director of the Cape Cod Commission
Sean O'Brien	Deputy Director – Department of Health and Environment

List of Documents:

- County Administrator Actions August 8, 2015 – August 28, 2015. This document is available on the Barnstable County Meeting Center Web Page.

Commissioner Lyons called the meeting to order at 2:02 P.M.

1. **PLEDGE OF ALLEGIANCE**
2. **MOMENT OF SILENCE**

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

3. **PUBLIC COMMENT**

Chair Lyons asked if there is any public comment, none given.

4. GENERAL BUSINESS

A. Proclamation by the Barnstable County Board of Regional Commissioners Designating September 6th – September 12th as Suicide Prevention Week in Barnstable County, Massachusetts – Cape & Islands Suicide Prevention Coalition.

Chair Lyons presented a proclamation designating September 6th-12th as Suicide Prevention Week in Barnstable County to Ron Holmes from the Cape & Islands Suicide Prevention Coalition. Mr. Holmes thanked the Commissioners noting that this issue is a Cape wide issue given the higher suicide rates on the Cape compared to the state rate. Mr. Holmes explained that suicide can be prevented and welcomed the public to a ribbon ceremony on Sept 10th at 11:15am at the Barnstable County Court House to recognize those who have been lost. Chair Lyons thanked Mr. Holmes and the coalition along with Human Services for all the extensive work they done and for their work as a response team. Mr. Holmes noted that post prevention work is also important to reducing suicide rates. Chair Lyons read suicide statistics and the indicated the rate on the cape is 1.4 times higher on the Cape.

➡ *Motion by Commissioner Cakounes to support and execute the proclamation by Barnstable County Regional Commissioners designating Sept. 6th- Sept.12th as Suicide Prevention Week in Barnstable County, seconded by Vice Chair Flynn, Approved (3-0-0).*

B. Update on the County's Regional Network on Homelessness Specific to Activities in Hyannis - Paula Schnepp, Coordinator for the Regional Network on Homelessness.

Paula Schnepp from the Regional Network on Homelessness was in attendance and presented an update on homelessness efforts pertaining to the Hyannis area.

Chair Lyons explained she asked Paula Schnepp to attend and give an update on the effort over the past 18 months and also the future plans on homelessness in the region, particularly the Hyannis area. She spoke of an increased presence of homelessness in the summer and the effort to look at an alternative setting other than the Noah Shelter that will provide shelter with rehab components and life skill teaching. Chair Lyons explained that Ms. Schnepp has been representing the County.

Vice Chair Flynn spoke of a recent media article creating heightened awareness on the issue.

Ms. Schnepp explained she has been working in a contracted position for the Barnstable County Department of Human Services due to the fact that the state stepped out and the County stepped in on the effort for the past three years. She stated she follows the strategic plan that was developed by the regional network and her most recent time has been spent working on initiatives, in particular the Hyannis area. She indicated that she has been working specifically on the Day Center Committee, since the Noah Center is being reviewed for expansion.

Ms. Schnepp specified that there is funding from last year to expand the hours of the Noah Center for almost 24/7 availability and that this funding has continued from the state. She

pointed out the Noah facility is dated and there is a need to look elsewhere and they are on track to find a location with a new model. She indicated the committee is meeting with the Housing Assistance Board tonight and also with Senator Wolf.

Next, Ms. Schnepp explained the development of a federal "Coordinated Entry System", which is an attempt to deal with housing needs and to find the highest priority based on a vulnerability index, such as the chronically homeless. Given what is going on in Hyannis, she indicated Hyannis has been designated as our pilot community. She specified they will survey those who are homelessness in the area, which has been estimated at 400 by the Chief of Police. She also stated they are working with non-profit and state agencies and the surveys will begin next week with the hope of completing them by the 3rd week of September. The purpose is to find out where homeless are originating from and to gather data to understand the homeless population and where they were before they became homeless.

In addition, Ms. Schnepp pointed out the challenge of an increasingly tight rental market on Cape Cod combined with increasing rents and non-matching vouchers. She further identified this issue as a secondary crisis of not getting people into housing. There was a "Finding Housing" meeting in July, which spurred three follow-up meetings/action groups covering three issues as follows:

- Improving tenancy;
- Enhancing landlord relationships; and
- Creating affordable housing rental units.

The three groups will report to the Policy Board at the end of the month.

Last, Ms. Schnepp referred to the collaborative role taken on by the Dept. of Human Service which the commissioners voted on in June. She stated there is a $1.7M commitment to administer programs, which is a large role.

Commissioner Cakounes asked if this discussion is related to the Day Center opening on Main St. in Hyannis. Paula responded it is not related since it is not designated specifically as a homelessness purpose. She further explained it will help those with recovery assistance for substance abuse & addiction; however, she maintained it could be a compliment and used in a coordinated effort.

Commissioner Cakounes asked if it is planned to survey the rental needs or just strictly the homeless. Ms. Schnepp responded there is not intent to conduct that type of survey. He asked if there is also a desire to conduct a survey about the housing rental issues. There was discussion on creating jobs and if the homeless population is attracted to the Cape due to the programs & rental programs in place on the Cape, particularly Hyannis. Ms. Schnepp responded the housing issue is a large issue to tackle and is being recognized all over.

The Commissioners spoke of doing more to create jobs in the community.

Chair Lyons congratulated the regional collaboration work done and noted the County takes this issue seriously, as seen through the services offered by the Human Services Department. She

continued that perhaps this effort also needs to be spread out of Hyannis to the Lower Cape Outreach Center and identified the need to begin conversations to spur the effort.

Vice Chair Flynn asked what the targeted response will be as the results come in from the survey to which Ms. Schnepp responded the survey scores will target those with the greatest need. Ms. Schnepp continued and posed the question of how the region will respond; noting housing units can be all over, not just in Hyannis.

Chair Lyons and Vice Chair Flynn spoke of affordable housing needs cape wide and the need to remind everyone that this is a regional issue. They indicated although most services are located in Hyannis, we need to continue to look at where else services are needed.

No action taken on the matter.

C. Approve Recommended Appointment for the Director of Finance/County Treasurer Position

County Administrator Michael Brillhart reviewed the hiring process for the Director of Finance position noting the County advertised the critical position, an essential position as recognized by the state. Mr. Brillhart indicated there were many qualified applicants and that after conducting interviews along with the County Accountant and Interim Finance Director, there is a recommendation to make an appointment.

➡ *Motion by Commissioner Cakounes to appoint Ms. Mary T. McIsaac as Director of Finance and Treasurer of Barnstable County, 2nd by Vice Chair Flynn. Approved (3-0-0).*

Vice Chair Flynn thanked County Accountant Joanne Nelson and Interim Finance Director Bob Lawton for their work during the transition. Mr. Lawton also reviewed the hiring process.

D. Annual Performance Review Presentation by Paul Niedzwiecki, Executive Director of the Cape Cod Commission (CCC)

Mr. Paul Niedzwiecki presented a PowerPoint presentation explaining his FY15 balanced approach to the goals derived from the Executive Board. He displayed the following bullet points titled "A Balanced Approach", as follows:

- Keeping a special place special
- Sustainable agency
- Balance regulatory, planning and technical services
- Executive Director leads agency in delivering its mission
- Executive Committee and County Commissioners set goals with Executive Director.

Next, Mr. Niedzwiecki reviewed the Commission's goals, strategies and measures approach which he listed as follows:

- Financial sustainability
- Technical excellence
- Environmental protection

- Economic growth
- Regional consensus

Further, he reviewed the FY15 Focus of the Commission and listed the following bullet points:

- COORDINATING – Regional planning and policy
- ASSISTING – towns with technical support
- ENGAGING – the broader community

Speaking about community outreach, Mr. Niedzwiecki listed a partial list of the communities he visited and also spoke about a national communication program and he mentioned the Commission's Regional and National Outreach including:

- Narraganset Bay Estuary Program
- 6th Annual Water Symposium of Tuft's University
- 24th Annual Long Island Sound Citizens Summit
- Restore our Estuaries
- One Water Leadership Summit

Speaking about the Commission's FY15 Awards, he indicated for the first time, there is $750k of federal funds earmarked for water quality/nitrogen issues on Cape Cod, through a regional effort between the Cape, Rhode Island & Southeastern MA. He also noted the Commission's recognition as an FY15 "Paul Tsongas Environmental Excellence Award" recipient. Additionally, he acknowledged a Guardian Award for Leadership - Addressing Nitrogen Pollution, given by the Buzzard Bay Coalition.

Next, Mr. Niedzwiecki spoke of maintaining fiscal balance and displayed a chart showing revenue up from $2.2M in FY91 to $4.3M in FY15. He indicated collection efforts remain low, citing an $11.00/year per household bill in 1990 versus the current $18.00/year per household bill, when adjusted for inflation is lower than the original $11.00 bill. Next he spoke of grants and maintaining fiscal discipline in running the Commission, noting that the CCC cannot collect 2.2% new growth as towns can through property taxes. Last, he reviewed fund balance growth in FY15 of $3.2M, noting it is essential given large projects such as Cape Wind. He compared the CCC Tax growth of 64% since 1991 to the 168% growth of town levies and showed the CCC budget stable. He commented on his philosophy toward seeking grants and explained he ensures all grants go toward the core mission of the Commission.

Speaking about the 208 Plan Update, Mr. Niedzwiecki indicated the Final 208 Plan Update was submitted in March 2015 with the certification of the plan by Governor Baker in June 2015. He indicated towns were designated as WMA's in June 2015 and a successful modification to the CCC enabling legislation allowing streamlined permitting. He displayed plan savings estimated at $2.2 - $6 billion, as follows:

- $6-8 billion; Initial Cost
- $4.6-6.2 billion; Cape-wide cost
- $2-3.8 billion; 208 Update cost (which he will have a better number next June & noted this can be spread out longer, up to 40yrs)

He continued speaking about the existing $3.0B wastewater liability on Cape given that 95% or more of households on the Cape have Title 5 systems with an average life of septic system of 20 years and an average replacement cost of $20k. He noted the 208 Plan costs are lower than the existing liability of $3.0B, which would lower costs for homeowners while improving water quality and increasing economic opportunity.

Continuing with the 208 Plan Update, Mr. Niedzwiecki indicated the Commission is in the implementation phase with an EPA approval pending this month. He also indicated towns are reaching agreements in shared watersheds and that watershed reports will be prepared for each watershed over the next 12 months. He explained the CCC will provide default watershed reports if not completed by the WMA's and that technical assistance is available. He noted the CCC will prepare implementation reporting documenting actions taken by the WMA's.

Last on the 208 Plan Update, Mr. Niedzwiecki spoke about the stakeholder process continuation in the fall of 2014 and the WMA Designation Stakeholder Process in the spring of 2015. He gave an example of providing technical assistance to Orleans, which has an approved watershed passed that town meeting did not fund. However, this year, he indicated the money has been appropriated using a 208 Plan suggested process. He spoke of refining support tools (Watershed MVP, SAM & Blackbox) for local communities and using technology in community engagement.

Mr. Niedzwiecki gave an update of the five-year Regional Policy Plan and the stakeholder engagement process indicating there were 12 regional meetings with 90 stakeholders with the next rounds of meetings scheduled for next week in Chatham. He listed new planning tools to support the update process as follows:

- Chronology Viewer
- Community Characteristics
- Cape Cod Transect
- Envision Tomorrow

He specified the transition away from parcel specific planning to regional development types, with recent cases of raising thresholds in Falmouth, Sandwich and Bourne, which all provided good economic development. He spoke of wanting to build on this transition and moving forward in that direction. He spoke of Envision Tomorrow, which can be used by the public, who can suggest uses and see the impacts of a use.

Continuing with the Regional Policy Plan update, Mr. Niedzwiecki spoke of the approach to the evaluation of the existing RPP and listed the following items:

- Simplify regulatory process
- Ease local comprehensive planning process
- Create framework for regional capital planning

He spoke of the need to coordinate work with towns and the state to gain significant cost savings and gave an example of timing efforts with utilities. He indicated an internal review of the existing RPP is being drafted and he anticipates a draft to be released by the end of September or early October.

The next topic Mr. Niedzwiecki reviewed is the Regional Transportation Plan and indicated the completion of the following items:

- Cape Cod Unified Planning Working Program (UPWP)
- Transportation Improvement Projects (TIP)
- Regional Transportation Plan (RTP) – draft completed

Speaking about the Strategic Information Office he referred to ePermitting and Regional Planimetrics. He identified ePermitting live towns as Yarmouth, Nantucket, Chatham, Provincetown and Harwich and also noted there is potential implementation in the towns of Sandwich, Falmouth and Orleans. It provides a virtual town hall make it more user friendly for the public. Next he spoke about Regional Planimetrics and the significant cost savings to towns of $370-620k. He explained the use of 2014 regional flyover orthoimagery which will give location of storm water runoff, utilities, etc. that towns will need for capital improvements. He suggested this will lower costs for towns when hiring engineers.

Next Mr. Niedzwiecki gave a report on other projects, specifically the Affordable Housing Plan and several RESET Projects. He spoke of completing the Affordable Housing Consolidate Plan and a successful migration of the HOME Program to the Barnstable County Human Services Dept., which the Commission will continue to be connected with in the future. He maintained the move will allow the Commission to focus on comprehensive housing plans cape wide. He moved on to speak about RESET Projects where the Commission works with towns directly at their direction to build capacity in a short amount of time. He identified current projects in Sandwich, Mashpee, a downtown reorganization in Orleans and future plaza redesign on Route 132 in Hyannis. He also mentioned the renegotiation of the growth incentive zone in Hyannis with the Town of Barnstable. He spoke of an economic development & housing focus in the Hyannis downtown area and providing changes and ensuring local zoning and regional regulatory program is economically feasible providing a framework for private capital investment. He acknowledged a comprehensive housing plan & economic plan and noted that he concurs with Commissioner Cakounes that there is not one answer to these issues.

Next, he reviewed other committees, specifically, the Regional Beach Access Committee and the National Grid Ad-Hoc Advisory Committee (new pipeline). At the request of several selectmen, a Regional Beach Access Committee was formed addressing issues such as shoreline protection, permitting, dredging, endangered species and tourism. He acknowledged that the results of the committee over the past 12 months have been successful and that the Cape is leading in the state with this regional approach. Moving on to NStar issues, Mr. Niedzwiecki indicated he went to NStar regarding its imposed natural gas connections moratorium, which heavily impacted some of the lower cape towns. As a result of working with NStar, he noted an eased moratorium and reduced pipeline completion timeframe resulted.

Continuing with other committees, he spoke of the Barnstable County Building Needs Committee and also the U.S. Office of Economic Adjustment – grant award of $70k each year. He announced the Cape has been designated as an "economic develop district", which was hard fought. He explained the Commission worked tirelessly to provide the U.S. Office of Economic Adjustment more and more information showing the complicated community of the Cape.

Next he directed his presentation to Community Engagement speaking about OneCape Summit and SmarterCape Summit. Out of the OneCape Summit, he indicated a model bylaw regional development accessory housing program was developed. He reviewed decision support tools, such as FRED, which helps to identify where to develop on Cape that makes sense by showing potential impediments.

Chair Lyons asked if FRED could be used for affordable housing developments locations. Mr. Niedzwiecki responded the Envision Tomorrow program is better suited for that use.

Mr. Niedzwiecki suggested FY16 goals, as follows:

- Complete Regional Policy Plan Update – not parcel specific, based development type. Go through the state's 7 point regulatory review for redundancy. Streamlined regulation, and focus on housing & climate adaptation. Spoke of working in conjunction with the Cooperative Extension and insurance companies to make homeowners insurance readily available if towns passes type of zoning. Continue with community outreach and stakeholder process
- 208 Plan Implementation – Report will be due in June 2016 with range of possibilities.
- Strategic Information Office – OpenCape regional area network, performance management, ePermitting, voice over phone services.
- Economic Development – Planimetrics data to get more accurate picture, Blue Economy (a community tied to water resources), Barnstable Area Regional Trends (B.A.R.T.)

He showed an example of using B.A.R.T. and displayed a map showing the large seasonal housing stock on Cape when compared to other counties in Massachusetts. He expected this tool could be used, for example, for helping to determine state funding formulas that are equitable and also in other important policy & infrastructure decisions. He reviewed RESET projects and unified capital planning.

He closed his annual review presentation and noted the incredible staff working at the Commission. He asked if there is possibly a different way to conduct his review and get feedback, such as a public survey.

Commissioner Cakounes cautioned it might be difficult to differentiate his job from the whole CCC in a survey format. Paul noted the state uses this type of feedback and if questions are developed correctly that it could be useful. He explained the difficulty he felt in measuring his performance and determining if he has been an effective leader.

Chair Lyons suggested there may be ways to distinguish the Commission's change of direction and a noted the change over the past 10 years, which has transformed the organization. She suggested perhaps measuring the CCC and then his effectiveness in the role.

Mr. Niedzwiecki suggested looking at the positive change and associating his performance to those results. He shared that he takes pride in the financial management of the CCC along with Gail Coyne and that staff development is most rewarding for him personally. He shared that he has worked over the years to build a staff ready for succession.

Vice Chair Flynn noted a there is difference between who you are and what you do; expanding that what you bring to the CCC is different than what another person would bring. She stated Paul is a part of an alignment of principles and it has been an amazing to watch the change over the years as now the CCC is viewed as a resource, unlike the past. Pat referred to the last mile as an example.

There was discussion of coastal resiliency and coastal adaptation and that resiliency is inherently part of our vocabulary on the Cape.

Commissioner Cakounes asked if there is a set format to complete Mr. Niedzwiecki's performance review and asked Paul if perhaps next year he would consider a review process where his staff would be given an anonymous survey. Paul responded that he already does that and he will share it with the Commissioners. Commissioner Cakounes asked for a copy of Mr. Niedzwiecki's presentation.

There was discussion amongst the Commissioners of writing a narrative rather than using a scoring instrument as a review. Vice Chair Flynn suggested a commentary and also a page of expectations and whether they were met. Commissioner Cakounes expanded that it could review the question, did you meet the set expectations, which can be basic and also sets the goal & objectives. There was mention of revisiting Paul's contract and a final evaluation proposed for September 16th, 2015.

E. Discussion on the Charge of the County Complex Project Manager – Commissioner Cakounes

Commissioner Cakounes presented a draft change to the charge for the County Complex Project Manager to work with the County Facilities Director, as follows

- #3 change "plan" to option, and
- #7 change "and approve" to for review.

Charge to the County Complex Project Manager.
Whereas; the report filed with the County Commissioners by the Building Needs Assessment Committee on Aug 4 2015 (here in referred to as "The Report") did include the following recommendation,

"The Commissioners should appoint one individual with experience in intergovernmental negotiations, public finance, public management and with institutional knowledge of Barnstable County and the Complex to negotiate with appropriate state agencies and officials the current and future space needs of the Trial Court, including the associated space needs of the Cape and Island District Attorney and other Court-related law enforcement activities."
The Charge to the County Complex Project Manager shall include, yet not limit to, the following:

1. Act as the contact a person between Barnstable County and their tenants as pertains to future space needs and development.
2. Work with the County's Facility Director on all issues concerning current and future needs, specifically as pertains to charge #1 herein.

3. Compile a minimum of 3 alternative options which will address the future space needs of County Governments and their tenants. Present said plans to the Commissioners.
4. Work with Barnstable County Staff in preparing a "scope of Services", as referenced in "the Report", in guiding the County in soliciting agencies and/or firms to compile a plan addressing short term and long term space needs. Coordinating and working with any hired firms.
5. Report to the County Commissioners as to progress and review of potential needs action items.
6. This appointment shall be re-visited on or before the third meeting of the County Commissioners in Jan 2016.
7. Any and all lease agreements as pertain to allocation of space shall be presented for review by the Facility Director, County Administrator and County Council prior to the submission to Commissioner for approval and execution.

Furthermore;
It's is the understanding of the County Commissioners that once the new County Administrator is hired, and has time to become acquainted with the County Complex immediate and long term needs, the County Complex Project Manager shall work with the County Administrator to bring him/her up to grade on all outstanding negotiations and review of all proposed future plans.

The County Complex Project Manager, being the Executive Director of the Cape Cod Commission, shall remain an integral party in the future of the Barnstable County Complex.

The County Administrator may assume the responsibilities of the "main contact person" as pertains to future negotiations with the tenants of the County Complex.

Mr. Niedzwiecki suggested removing the word "approved" from the suggested rewording of #7 "shall be presented and approved". He shared that he understands the concern over this type of structure, although he is confident it will not be a concern.

Chair Lyons noted it is a team charge.

Vice Chair Flynn suggested having three alternative plans and leaving it up to the process to determine.

Mr. Niedzwiecki suggested a change to three approaches, not a design plan.

Commissioner Cakounes explained his intent and reasoning for putting in three scenarios. First, he mentioned the scenario of the County footing the bill with full bonding. Second, he referred to the scenario of the state taking over and no longer being a tenant and the last scenario he suggested is cooperation between the County and State. Overall, he suggested three basic avenues and plans.

Mr. Niedzwiecki mentioned this idea gives you a range of options and some analysis for your consideration.

Vice Chair Flynn questioned #4 and what it means, which Commissioner Cakounes explained we decided to appoint a manager to make sure he is working with CA and the procurement office, while also having Mr. Niedzwiecki, Director of the CCC and DECAM available.

Vice Chair Flynn asked for clarity on which report to which Commissioner Cakounes responded the report refers to the Building Needs Assessment Committee on Aug 4, 2015.

➡ *Motion by Commissioner Cakounes to move the approval of the attached DRAFT charge for the County Facility / Complex manager as presented with following amendments; #3 change "plan" to option, and #7 change "and approve" to for review, 2nd by Vice Chair Flynn, approved (3-0-0).*

F. Approve Grant with the Massachusetts Association of Health Boards (MAHB) as Sponsor for the Region 5 Public Health Emergency Preparedness Coalition of Cape Cod and the Islands in the amount of $139,987.00 – Department of Health and Environment.

Department of Health and Environment Deputy Director Sean O'Brien indicated that the County normally receives a grant from the MA Dept. of Health; however, that has changed to using the Health Boards as fiduciary. He indicated the grant will be used to fund 23 communities and general public health emergency planning, which goes right out to communities, including Dukes County and Nantucket.

➡ *Motion by Commissioner Cakounes to approve the grant with the Massachusetts Association of Health Boards as a Sponsor for the Region 5 Public Health Emergency Preparedness Coalition of Cape Cod and the Islands in the amount of $139,987.00, 2nd by vice Chair Flynn and approved (3-0-0).*

G. Approval of FY2016 Town Assessments for the County Tax and Environmental Protection Fund Tax Schedules – Finance Department

County Accountant Joanne Nelson presented two memos dated September 2, 2015 requesting approval of the FY16 County Tax Schedule and the FY16 Environmental Protection Fund Tax Schedule.

Commissioner Cakounes noted each town will have a document.

➡ *Motion by Commissioner Cakounes to assess the towns within the County under the provisions of Barnstable County Home Rule Charter in the amount of $3,046,865.00, as the County Tax, for the period of July 1 2015 through June 30 2016, with allocations as presented, 2nd by Vice Chair Flynn and approved (3-0-0).*

➡ *Motion by Commissioner Cakounes to assess the towns within the County under the provisions of Barnstable County Home Rule Charter in the amount of $3,266,655.00, as the*

Environmental Protection Fund Tax, for the period of July 1 2015 through June 30 2016 with allocations as presented, 2nd by Vice Chair Flynn and approved (3-0-0).

It was noted there is a breakdown by town and was approved in the budget.

H. Approval of the FY2015 Fund Balance Reserve and Review of FY2015 Treasurers Report – Finance Department

County Accountant Joanne Nelson referenced her memo dated August 26, 2015 requesting approval of the Fund Balance Reserves per the attached FY15 Department of Revenue Report. She indicated these reserves are for the General Fund ($6,542,733.14) and the Cape Cod Commission ($3,174,603.78).

There was discussion if the Commissioners can move reserves at any time throughout the year to which Ms. Nelson responded the past practice of the Commissioners has been to look at what we have and to make changes if necessary.

Commissioner Cakounes asked if there is agreement that this is what the current reserves are and questioned if early retirement went over, then it is possible to take from another line item.

Commissioner Flynn pointed out the stabilization fund that was established and set aside.

➡ *Motion by Commissioner Cakounes to approve the Fund Balance Reserves as presented, General Fund total of $6,542,733.14 and CCC Funds totals of $ 3,174,603.78 as so described in memo dated Aug 26 2015, with attached statements of receipts and payments, 2nd by Vice Chair Flynn, approved (3-0-0).*

I. Review of the Previously Adopted Charge of the Fire Rescue Training Academy Building Needs Assessment Committee.

There was discussion of County Counsel Bob Troy's letter discussing whether a titled "committee" or a "working group" is subject to Open Meeting Law.

Commissioner Cakounes read the following:

In so far that the County Commissioners are exploring the practice of Sub-Committee's or appointed Boards, Committee's or Working Groups are somehow exempt from the MGL Open Meeting Laws and procedures, I respectfully submit the following argument.

On Feb. 25, 2015, County Commissioners asked County Council to determine if the newly created County Complex Building Needs Committee would be required to meet the standards of MGL Open Meeting Law. Contained in Attorney Troy response was the following paragraph.

(Taken from the MGL S. 39) "Bodies appointed by a public official solely for the purpose of advising on a decision that the individual could make himself or herself are not public bodies subject to the Open Meeting Law."

Attorney Troy went on further to express since the Building Needs Committee was making determination of facts that the County Commissioners could do on their own, that the Committee would not be required to meet the MGL Open Meeting Law requirements. Attorney Troy was further informed that the proposed committee would only be compiling existing information and passing it on to the Commissioners in a report. However this would not be the case, the committee deliberated on many subjects and did their own evaluation on current and future condition of the facility. Please refer to the committees report filed with the Commissioners dated August 5, 2015.

As I read the section quoted above certain words and there meaning stand out.
Specifically… *"appointed by A public official"*.... Furthermore… *"advising on a decision that the **individual** could make himself or herself"*.... this leads me to believe that the intent of this section is to provide an Administrator, Department Head, City Manager the tool of compiling a group of individuals to aide with a decision that that individual could make on his/her own.
In keeping with the language and format throughout the MGL as pertains to Open Meeting Laws, I believe if the intent were to include bodies appointed by "Governmental Bodies" and not just individuals then the this section would have so specified.

Subsequently on July 16, 2015, the Commissioners received an opinion from Attorney Troy on the matter of the Fire Training Academy Building Needs Assessment Committee and their requirement to follow the MGL Open Meeting Laws. In that opinion Attorney Troy states the following,
"The open meeting Law Guide, most recently revised by Attorney General Maura Healey on March 18, 2015, advises that any committee or subcommittee established by a governmental body, including a County, is subject to the Open Meeting Law if the body was established to serve a public purpose."

Attorney Troy goes on to state the Open Meeting Law is applicable to any multi-member body created to advise or make recommendations to any public body, thus requiring the Fire Training Academy Building Needs Assessment Committee to follow the Open Meeting Law.

Furthermore;
During my research on this matter I have discovered the following findings of law.
The Superior Court "Appeals Court" Judge J. Grant ruled the following,
a."….. Subcommittee members must comply with applicable requirements of open meeting law whenever subcommittee engages in making findings of fact which are to be reported to full commission or in formulating recommendations to the commission."

b. 381K26 …. MGL Open Meeting Law definition of "Governmental Body" includes every board, commission, committee, or subcommittee of any Town, or City …. Elected, appointed or otherwise constituted …. MGL 39 23a

c. 381K22…. MGL Open Meeting Law definition of "deliberation" "decision" and "meeting" … a committee when it makes reports of facts to the full commission after conducting an

investigation and when it formulates recommendations to the commission, and thus, when doing so the subcommittee members must comply with applicable requirements of open meeting law. MGL c39 S 23a, 23b. and c40 s8c c66 s 5a, 17c.

Full text of this ruling can be found Mass appeals Court #433 appeals court Norfolk VS Town of Canton.

It is because of all of the previous listed ruling of Justice Grant, and Attorney Troy's opinion on July 16, 2015, that I cannot, and will not support the idea that a committee, subcommittee, working group, or any other name given to a grope of appointed individuals tasked with factual investigation, reporting its findings, and making recommendations to the County Commissioners to be exempt from MGL Open Meeting Law requirements.

There was discussion amongst the Commissioners of the purpose of a committee versus a working group and whether there will be a decision made at the outcome.

Chair Lyons referenced an Open Meeting Law Conference on September 9th, 2015, the Commissioners will be attending, which she stated would be a good time to gather more information on the conditions of Open Meeting Law as it pertains to committees.

County Administrator Michael Brillhart specified that the Fire Rescue Training Academy Building Needs Assessment Committee posts an agenda, records minutes and follows Open Meeting Law.

Commissioner Cakounes pointed out the difference in Bob Troy's opinion versus his views.

Tabled to September 9th, 2015, no action taken.

5. COMMISSIONERS ACTIONS

A. Vote to approve minutes of August 12th, 2015 Regular Session.

➡ *Motion made by Vice Chair Flynn to Approve the Minutes of August 12th, 2015 Regular Session, 2nd by Commissioner Cakounes, approved (3-0-0).*

B. 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).

Commissioner Cakounes asked for clarification on the items below:

- Items #7 and #21, which Mr. Brillhart clarified are two different items.
- Open Cape and how we are dividing the space (rent & utilities). Mr. Brillhart clarified that we will pay Eversource and get reimbursed from Open Cape.

- Items #16 & 17 and if there are two different contracts, MUNIS software vs. Tyler.

➡ *Motion made by Commissioner Cakounes to approve the following Summary of Actions as presented, 2nd by Vice Chair Flynn and approved (3-0-0).*

CONTRACTS

1) Execute Contract Continuation between Barnstable County and the Commonwealth of Massachusetts – Department of Children and Families for a grant in the amount of $140,000.00 for the Children's Cove Child Advocacy Center, execution from July 1, 2015 – June 30, 2016.
2) Execute 2nd Amendment to the HOME Master Subordination agreement for the Simpkins School Rental Development in Yarmouth.
3) Execute Contract Continuation between Barnstable County (Resource Development Office) and the Commonwealth of Massachusetts – Department of Fish and Game, Division of Marine Fisheries for a grant in the amount of $58,334.00 for Cape Cod Cooperative Extension to support Shellfish Propagation Efforts on Cape Cod, execution through June 30, 2016.
4) Execute 3rd Amendment between Barnstable County (Cape Light Compact) and Blackhawk Engagement Solutions (f/k/a Parago Services) in an amount expected to exceed $25,000.00 for Energy Efficiency Rebate Processing for Lighting, Products and Cool Smart Program to Section 3, execution from January 1, 2016 – March 31, 2016.
5) Execute Contract between Barnstable County (Dredge) and the Town of Harwich in the amount not to exceed $90,000.00 to perform all Dredge related work for Allen Harbor Channel, execution through project completion.
6) Execute Contract between Barnstable County (Finance Department) and Clifton Larson Allen LLP in the amount of $42,750.00 for Services Performed to conduct the FY15 Audit.
7) Execute Contract between Barnstable County (Resource Development Office) and Harvard Medical School / President and Fellows of Harvard College in the amount of $196,978.09 for a Prevention Wellness Trust Fund (PWTF) grant mandated evaluation, execution from June 1, 2015 – no later than June 30, 2017.
8) Execute Contract between Barnstable County (Finance Department) and E. Mark Zielinski in the amount of up to $12,000.00 for Professional Assistance to Finance Department, execution from September 1, 2015 – November 30, 2015.

APPOINTMENTS

9) Approve the request from Barnstable County (Finance Department) to appoint Nancy Cushing to the Cape Cod Municipal Health Group as a County Representative.

NEW FUND ESTABLISHMENT

10) Execute the Request from Barnstable County (Research Development Office) to establish a New Fund in the amount of $58,334 for Cape Cod Cooperative Extension for an FY16 grant received from the Massachusetts Department of Fish and Game, Division of Marine Fisheries for Shellfish Propagation.

11) Execute the Request from Barnstable County (Finance Department) to Establish a New Fund (Fund 8098) for a Special Revenue Account for the County to Pay Utility Bills for Open Cape Innovation Room Building.

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

12) Ratify the action taken by County Administrator, Michael Brillhart on August 13, 2015 for authorizing the execution of the Intermunicipal Agreement between Barnstable County (IT Department) and the Town of Falmouth in the amount of $401.90 per day/$45.00 per hour for On-Site Tech Support and $225.00 per day/$30.00 per hour for Remote Tech Support, execution from July 22, 2015 – July 1, 2016.
13) Ratify the action taken by County Administrator, Michael Brillhart on August 13, 2015 for authorizing the execution of the Intermunicipal Agreement between Barnstable County (IT Department) and the Town of Chatham in the amount of $47,880.00 for Information Technology Implementation and Migration Services, execution from July 21, 2015 – January 1, 2016.
14) Ratify the action taken by County Administrator, Michael Brillhart on August 14, 2015 for authorizing the Execution of the Memorandum of Agreement between Barnstable County (Cape Cod Commission) and Three Bays Preservation in the amount of $35,000.00 for a Water Quality Demonstration Project to Develop Plans for three non-traditional technologies pilot projects in the Three Bays Watershed, execution from August 7, 2015 – March 31, 2016.
15) Ratify the action taken by County Administrator, Michael Brillhart on August 14, 2015 for authorizing the Establishment of a New Fund in the amount of $35,000.00 for Cape Cod Commission for the Demonstration Project to develop plans for three Non-traditional Technologies Pilot Projects in the Three Bays Watershed.
16) Ratify the action taken by County Administrator, Michael Brillhart on August 18, 2015 for authorizing the Prepayment Request from the Barnstable County (Finance Department) to Tyler Technologies in the amount of $28,558.79 for the Annual Support Agreement and License Agreement for Munis Software, execution from September 8, 2015 – September 7, 2016.
17) Ratify the action taken by County Administrator, Michael Brillhart on August 18, 2015 for authorizing the Contract Execution between the Barnstable County (Finance Department) and Tyler Technologies in the amount of $30,208.79 for the Annual Support Agreement and License Agreement for Munis Software, execution from September 8, 2015 – September 7, 2016.
18) Ratify the action taken by County Administrator, Michael Brillhart on August 20, 2015 for authorizing the Contract Execution between Barnstable County (Commissioners Office) and Direct Energy Business, LLC to Supply Natural Gas to the County Complex and Lock in a four year rate of $7.41/Dth, execution from November 1, 2015 – October 31, 2019.
19) Ratify the action taken by County Administrator, Michael Brillhart on August 26, 2015 for authorizing the Transfer Request from Barnstable County (Finance Department) in the amount of $359,814.53 to Cape Cod Municipal Health Group for County Health Insurance for September 2015.

20) Authorize request from Harbor to the Bay to use the County Courthouse Parking Lot Saturday, September 19, 2015 in conjunction with the 13th Annual Harbor to the Bay Aids Benefit Bike Ride.
21) Execute thirteen Memorandums of Understanding between Barnstable County (Resource Development Office) and the Massachusetts Department of Health, the President and Fellows of Harvard College/Harvard Medical School and the Prevention Wellness Trust Fund (PWFT) individual Grantees in the amount of $196,978.09 for the PWFT grant mandated evaluation.

CHAIR ONLY

- Execute Certificate for Dissolving Betterments for Barry S. Sadoff and Debra J. Sadoff.
- Execute Certificate for Dissolving Betterments for Dennis E. Harington.
- Execute Certificate for Dissolving Betterments for Catherine A. Shaw.
- Execute Certificate for Dissolving Betterments for Christopher Karabatsas and Clio Karabatsas a/k/a Cleo Karabatsas.
- Execute Certificate for Dissolving Betterments for Richard D. Pereira.
- Execute Certificate for Dissolving Betterments for Michael C. Whitman.
- Execute Certificate for Dissolving Betterments for Henry Lombard and Gisela B. Lombard.
- Execute Certificate for Dissolving Betterments for Ronald J. Hanney and Lori A. Hanney.
- Execute Certificate for Dissolving Betterments for Susan M. Morse.
- Execute Certificate for Dissolving Betterments for Kevin N. O'Connor.

6. COMMISSIONERS REPORTS

A. Commissioner Cakounes asked if the County is contracting **IT services** with towns to which County Administrator Michael Brillhart answered existing service can be covered by existing staff and that we need to look at additional services that will be required. There was discussion of the town of Falmouth's IT needs being addressed.

B. Chair Lyons mentioned the 15th annual **Children's Cove - Champions of Children Conference** to be held on October 22nd – 23rd, 2015 in Hyannis.

C. Chair Lyons inquired if all Commissioners received the **Scallop Festival invitation**.

D. Chair Lyons indicated she is on the Board for **Cape Light Compact** and reviewed the summary of activity for June and complimented the thorough job done with businesses and residents in the program. She indicated there has been $2.4M in incentive programs resulting in large kilowatt hours being saved. Chair Lyons asked if copies of the summary can go in the other Commissioners folders.

E. Chair Lyons mentioned a notification regarding the **Wampanoag Tribe** proclaiming acreage in both Bristol and Barnstable Counties as Wampanoag Reservation.

F. Vice Chair Flynn indicated she attended a **technology meeting** in Woods Hole where there were two experts in the field of developing communities present. There was discussion at the meeting of how to go about making connections, such as connecting police & libraries, etc. Vice Chair Flynn continued there was further discussion of how to bring the public on board and whether towns could make funds available to the public for help. She stated there was a lot of discussion on the matter and that Dan Gallagher & Chris Johnson, the new Director of Open Cape were present. Last, she shared there was a recommendation for a fiber optic survey of residents in towns to have the "last mile" completed and correspondingly how towns address the survey results and ultimately the question of how do you pay for it.

G. Commissioner Cakounes indicated there is a **Cape Vineyard Electric Cooperative, Inc. (CVEC) annual meeting** regarding the Executive Board on September 17th, 2015.

H. Commissioner Cakounes acknowledged he is the board representative to the **Arts Foundation** and that he has been unable to attend many meeting due to the timing of the meetings and that he has been in contact with the new executive. He invited Chair Lyons or Vice Chair Flynn to attend any of the meetings, if possible.

I. Commissioner Lyons read a letter dated August 10th, 2015 that Paul Rumul is stepping down from the **Cape Cod Economic Development Council (CCEDC)**. She specified that Mr. Rumul has been the sole person taking care of license plate funds and that he has been a driving force on the Council. Chair Lyons suggested that the Commissioners give appreciation to Mr. Rumul with a proclamation for his outstanding work on the CCEDC.

7. COUNTY ADMINISTRATOR REPORT

County Administrator Michael Brillhart recommended an upcoming work schedule for the Commissioners meetings, including September 16th & 30th with no meeting scheduled for next week. Further, he recommended Oct 7th & 21st for meetings consistent with the Assembly of Delegates schedule. Commissioner Cakounes responded there may be a need to meet weekly given the agenda; however, he is in favor as long as the agenda is not too lengthy. Commissioner Cakounes added that he prefers scheduling meetings for morning hours.

Interim Finance Director Bob Lawton returned from the Assembly of Delegates Meeting and informed the Commissioners there was discussion about bonding and that perhaps there may be an ordinance to reduce bonding. Mr. Lawton also informed the Commissioners there was discussion of costs associated with moving the area where the Fire Academy handles propane functions.

➡ *Barnstable, ss. At 4:58 P.M. on this second day of September A.D. 2015, Commissioner Cakounes made a motion to adjourn, 2nd by Vice Chair Flynn, approved 3-0-0.*

Respectfully submitted,
Michelle LaCasse, On-Call Finance Assistant

Attest:

Janice O'Connell

County Clerk

The foregoing records have been read and approved.

Sheila R. Lyons
Chair

Mary Pat Flynn
Vice-Chair

Leo Cakounes
Commissioner