

**CAPE COD REGIONAL GOVERNMENT -ASSEMBLY OF DELEGATES  
CHAMBER OF THE ASSEMBLY OF DELEGATES  
FIRST DISTRICT COURTHOUSE  
ROUTE 6A, BARNSTABLE, MA 02630**

**APPROVED Journal of Proceedings - November 2, 2016**

Speaker BERGSTROM: Good afternoon. It is 4 o'clock and I will call this meeting of the Cape Cod Regional Government, Assembly of Delegates to order. This is Wednesday, November 2<sup>nd</sup>.

Is there anyone recording this meeting besides our normal recording? No.

Okay. In that case, I will begin the meeting with a moment of silence to honor our troops who have died in service to our country and all those serving our country in the Armed Forces.

(Moment of silence.)

Speaker BERGSTROM: Thank you.

We will now stand for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker BERGSTROM: The Clerk will call the roll.

**Roll Call (81.88%): Ronald Bergstrom (2.84% - Chatham), Lilli-Ann Green - (1.27% - Wellfleet), James Killion (9.58% - Sandwich), Edward Lewis (4.55% -Brewster), Suzanne McAuliffe (11.02% - Yarmouth), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61%- Falmouth), Linda Zuern (9.15% - Bourne) .**

**Absent for Roll Call - Arrived Late (5.67%): Edward McManus (5.67% - Harwich).**

**Absent (12.45%): Christopher Kanaga (2.73% - Orleans), Marcia King (6.49% - Mashpee), Teresa Martin (2.30% -Eastham), Deborah McCutcheon (0.93% - Truro).**

Clerk O'CONNELL: Mr. Speaker, we have a quorum with 81.88 percent of the Delegates present; 18.12 percent absent.

Speaker BERGSTROM: Okay. The next order of business is approval of the Calendar of Business.

Ms. MCAULIFFE: Mr. Speaker.

Speaker BERGSTROM: Yes.

Ms. MCAULIFFE: I would like to amend the Calendar of Business to move presentation from County Administrator Jack Yunits in front of or before the Communications from the Board of Regional Commissioners because Mr. Yunits has another obligation today.

Mr. OHMAN: Second.

Speaker BERGSTROM: Moved and seconded. All those in favor? Aye.

Opposed?

(Motion carried.)

Speaker BERGSTROM: Okay. With that, I'll then need a motion to approve the amended Journal.

Ms. MCAULIFFE: So moved.

Mr. LEWIS: Second.

Speaker BERGSTROM: All those in favor? Aye.

(Motion carried.)

Speaker BERGSTROM: Okay. You should have received a copy of the Journal of October 19<sup>th</sup>, 2016. Any additions or corrections?

Mr. O'MALLEY: Mr. Speaker, having read those minutes, I moved approval as distributed.

Mr. LEWIS: Second.

Speaker BERGSTROM: Okay. All those in favor? Aye. Opposed?

(Motion carried.)

### Communications from County Administrator Jack Yunits

Speaker BERGSTROM: Okay. Jack, you're on.

Administrator YUNITS: Yes. Thank you, Mr. Speaker. I brought Steve Tebo with me to deal with questions on the relocation of Department of Environmental Protection and the Fire Training Academy.

Speaker BERGSTROM: Okay.

Administrator YUNITS: And I do have to leave. I'm speaking to Deborah's Board of Selectmen at 5:30. So, thank you for advancing me.

Mr. STEVE TEBO: I'll be quick. Fire Training Academy cleanup, we're just waiting on DEP approval to do the hotspots they have, and then we'll go out to bid. We're hoping to have that done -- originally, I had said we'd have that done by the end of September. I was not aware of the process that was involved with DEP and all the filings we had to do, so I misspoke on that.

We should have that done I'm hoping by Christmas now. We have all -- we've already gotten three quotes. Everything's ready to go. We're just waiting on the signature and we'll go ahead and we'll do that for the hotspot. So that will be done with.

For the DEP, they are physically out of the building with the exception of their furniture. I gave them a grace of 30 days because they have to go through their procedure to get that on the Mass. Surplus Bid, and then they'll just come remove their furniture from there.

So as we stand right now, DEP is out of the building as of the first of this month. And then the cleanup is just quite simple. I didn't realize how big of a process it actually was, so I kind of dropped the ball on that a little bit. We had everything lined up. As soon as we get the proper signatures, we'll be ready to go.

Speaker BERGSTROM: Brian.

Mr. O'MALLEY: Where were they located? Where was DEP located, specifically?

Mr. STEVE TEBO: DEP was located in the basement of the jail.

Mr. O'MALLEY: In the basement -- in the jail.

Mr. STEVE TEBO: Yes.

Mr. O'MALLEY: Okay.

Speaker BERGSTROM: Do you get the impression this was a financial decision on their part? I mean did they decide to leave because the facilities were inadequate? I mean why are they out of here?

Mr. STEVE TEBO: I think a little bit of both. To get into a DCAM lease, that building would need extensive remodeling for a DCAM lease for their qualifications. I believe the new speculations whether a DCAM lease or a new lease, there has to be sprinkled with complete ADA compliance and we don't have to because of historic building.

And I think financially they were supposed to be moved to Lakeville when they started coming here. So I think it was just a financial piece for them too. They didn't want to invest the money into finding another location on Cape.

Speaker BERGSTROM: Well, I asked for this to be put on the agenda because it was my understanding that the reason that they were here was because the local towns that had to interact with them and needed their services, you know, the local ConComs and so on, wanted them to be here. And they felt that they weren't getting the response time from Lakeville.

And I guess now the political pressure is -- nobody really knew they were -- I was going to say they snuck out the back door when no one was looking. But, basically, I'm surprised it hasn't been more of an issue. I think it was kind of lost in the --

Mr. STEVE TEBO: Right. From a County standpoint, obviously, we brought this to Susan Bump's office and the State Auditors. You know, we had these concerns about people being in our buildings without leases.

We're working on the two other current people that are in here to remove them from our premise too. At least for liabilities reasons we can't have someone without a lease in a building.

So I understand the political end of it. It's just the other piece from my standpoint.

Speaker BERGSTROM: Yes, well I'm a county official but I also represent a town.

Mr. STEVE TEBO: Yes.

Speaker BERGSTROM: So does everybody else here.

Mr. STEVE TEBO: Yes.

Speaker BERGSTROM: So I mean we're looking at the bigger picture. But I understand there's nothing you can do about that. That's a state decision.

Mr. STEVE TEBO: Right.

Administrator YUNITS: What we have done is we spoke to Susan Smiley from EOEN who manages the leases for the state, as well as Brian Moakley, and told them that we would make space available to them any time they need to meet with any local official or local boards here in the County pro bono to accommodate the locals. So that's how we left it with them.

Speaker BERGSTROM: Do you have any idea -- have you got a set aside to fill this contract with whoever has chosen to do the cleanup? I mean have you got some kind of a -- have you got any financial set aside to --

Mr. STEVE TEBO: Yes. As part of the money that you folks approved going back six months ago, I believe it was \$100,000 for lawyers and cleanup. So we do have the money set aside for the project.

We got -- we're waiting on the third quote to come in now. And then as soon as we get the proper signatures, we'll award the contract and it will go out.

Speaker BERGSTROM: And you think that will cover it, I mean, in the

short-term? I mean are we talking about the --

Mr. STEVE TEBO: Oh yes. I think it's -- I want to say just ballpark its right around the \$30,000 range for the hotspot cleanup that we were initially trying to do out there.

Speaker BERGSTROM: Okay. Who is it? Brian and then Jim.

Mr. O'MALLEY: Will this available space free up any County functions to move there to clear some space out of the Superior Court?

Mr. STEVE TEBO: It's all kind of the master plan. The next move that we're going to try to do is move Extension Service out of the Registry of Deeds building.

So what it allows us to do -- DEP kind of land locks the basement area for County function, so they did allow us to move some people here and there just so they can do the construction project. One, moving you folks up to one wing or the other in the jail and going from there.

So it just allows us, you know, better access to the demo area that needs to be done. So it allows -- we're going to use it as kind of temporary office for probably the next three or four months, shifting IT around and shifting the other people around so we can get the construction done up there.

Speaker BERGSTROM: Jim, did you have a question?

Mr. KILLION: Yes, thank you, Mr. Speaker. Did I understand you correctly that the hotspot cleanup was going to be completed by the end of the year or undertaken by the end of the year?

Mr. STEVE TEBO: Hopefully completed by the end of the year.

Mr. KILLION: Thank you.

Mr. STEVE TEBO: I don't see any other hurdles. Again, I have to apologize because I did speak to you folks a few months back and I thought it would be done by the end of September. But I just didn't realize all the kind of procedures involved in it. I should have known better, I guess.

Speaker BERGSTROM: By hotspot, you're talking about the stuff that was dumped on the ground? The groundwater --

Mr. STEVE TEBO: There was one area identified by Tom Cambareri that was higher levels than any other spot in the area. So it just made sense to remove it. DEP approved it so now we're just waiting for signatures on it.

Speaker BERGSTROM: All right. Now have we still got negotiations involved in the actual groundwater cleanup? Is that on --

Administrator YUNITS: Yes, with the Town of Barnstable, yes. I don't think we have a session scheduled presently, but we are working to get some new numbers together that we can analyze without borrowing people. And everything seems to be going pretty positively with the town of Barnstable in that regard.

Speaker BERGSTROM: Okay.

Administrator YUNITS: There will be a cost. Don't get me wrong. It's not that positive.

Speaker BERGSTROM: Yes, I understand that.

Administrator YUNITS: There will be a significant cost to the County.

Speaker BERGSTROM: Well, why don't we -- why don't you move then on to the Cape Light Compact, Jack, because you're going to take that one and then you have to go.

Administrator YUNITS: Yes, I talked to Lilli this morning. Nothing's really

changed since I last spoke. We still have that one last session scheduled for the 14<sup>th</sup> of November where the lawyers will get together again and try to hash out at least a provisional agreement to get us through the fiscal year.

I have no news about -- that you don't already know about which communities are looking at possibly supplanting us the fiscal agent. I know Provincetown is one and Barnstable is another but you already knew that.

And aside from that, we're still going -- we're working with Siegel to get the actuarial numbers that we need to complete the analysis of what we might be owed on the OPEB and everything else. We have to do that anyway because if CLC does move on, those numbers will follow them. But we want to be sure that we're not being hung up with any potential liability should they move on.

In the meantime, any agreement that we come to will be a temporary agreement anyway and it will come back here. I made that commitment to you and I do mean that. We want everybody to look at this and answer the questions that might be out there. Hopefully, with somebody a lot smarter than I am because there are a lot of complicated legal issues here that I quite -- I can't get my hands around.

Speaker BERGSTROM: You don't have to tell us that because we've been through that.

Administrator YUNITS: Yes.

Speaker BERGSTROM: Yes, Pat.

Mr. PRINCI: So regarding that, is it being looked at seriously where the Cape Light Compact more or less dissolve itself from the County and operate on their own outside --

Administrator YUNITS: I can't answer that question --

Mr. PRINCI: Because, I mean, since I've been on the Assembly, there's been all these issues with the County being an agent with Cape Light Compact and so forth.

And there was a resolution that my colleague from Sandwich brought forward which made sense. However, for me, it makes more sense for the Cape Light Compact to just sort of -- we help them get started and now, to me, it seems to make more sense for them to just fly off on their own and take care of their own finances and be completely separate from the County and work with the municipalities.

Administrator YUNITS: Believe me, that sounds like a reasonable solution and certainly one we suggested in private meetings. I don't know what the barrier would be to do that. I think at this point there's certainly -- they could get their own 04 number if they wanted to but that's not our decision; that's their boards.

Speaker BERGSTROM: Yes, Suzanne.

Ms. MCAULIFFE: I'm not sure they can get their own 04 number. They're not an entity. They are a compact. They're an agreement. They don't have standing to be, you know, a utility or can procure or anything. They are an agreement between the towns. And this leads to --

Administrator YUNITS: You're right. They would have to go to the legislature first.

Ms. MCAULIFFE: Right. And this leads to my second comment which I brought up before and now that we know that the current agreement or arrangement rather is not legal under their County Charter, and that the current functioning of the Cape Light Compact doesn't comport with our responsibilities under the Charter.

I understand you are going forward with negotiations that are almost two weeks away. Whatever solution is hashed out could be back to the legislature, could be back to each town for approval, could be months and months and months and months.

My concern is they are operating as a viable concern every day. What do we, as the Assembly, do to make sure that their operating legally because we are their current fiscal agent?

Administrator YUNITS: You know, I wish I had an answer to that. I think I spoke to you before about the fact that I think there are legal people out there that can give you direct answers to these types of very difficult questions. I've pulled them apart to bits and I can't seem to come up with it myself.

Ms. MCAULIFFE: Okay. Because in my mail, I had an amendment to an agreement. I have a ConEdison Solution letter to Ms. Downey. I mean you don't just amend something and not expect it -- there be approval either by all the towns or some other agency.

And this letter of agreement for pricing looks like a contract. And it's signed by Maggie Downey, but I'm just -- I guess I'm very apprehensive about functioning in their current way and the liability and the responsibility that the County has.

Speaker BERGSTROM: Yes, Ed.

Mr. LEWIS: I'm not sure that they're offering -- to use the term "illegal" I think would be is -- it's not fair. They've been operating for many years now, and I wouldn't claim that it's operating illegal from the standpoint of violation of our Charter. They use Barnstable County as their fiscal agent. And they have the ability, at least in my understanding of legislation, to go to another fiscal agent and leave the County if they felt it was in their best interest to do this.

I think it's kind of dangerous for us without legal counsel because there's legislation that was passed by Beacon Hill creating the Compact.

There are other Compacts in the state, and they have a certain independence that may seem different and may be aggravating at some point. But until both sides have some type of agreement which would relate to -- as it relates with the legal standing of both -- the County as well as another town or what and the Compact -- they've been operating in this way for many years.

And I think we have to be wary of how we present it. They have the right to negotiate contracts with different energy sources, that's what they do. They're an aggregator. They've been approved by all of the towns to be a member of the Compact.

So I think we have to be just wary and let the negotiations move and let the attorney try to figure out how they can get ground that they can both agree on because, otherwise, I think it's a very dangerous road for us to travel without legal advice.

I would hate to have the County lose this because the County would lose a fair amount of revenue. We've given this \$150,000 that they paid to the County in their agreements with rent and other things.

So I think it's in our best interest to move ahead and work with the Compact and not try to present them as some type of an illegal entity so to speak.

Thank you.

Speaker BERGSTROM: Yes, Jack, I guess the reason I put this on the agenda -- some of the Delegates have asked to put it on is simply because -- and I know -- I guess Troy couldn't make it today. I mean I was hoping --

Administrator YUNITS: Yes, he couldn't.

Speaker BERGSTROM: Okay. Is that his letter, famous letter -- there's a lot of letters going around these days, but this one where particularly where he suggested that the current relationship between the County and Cape Light Compact was, to my words, to use my words, unsustainable. In other words, he didn't think going forward it would pass muster.

So the question is that the position that we're taking as a County? I mean do we get any opposition to that or is it understood by all the parties that we cannot --

Administrator YUNITS: I think going back to what Ed Lewis just said --

Speaker BERGSTROM: Yes.

Administrator YUNITS: -- we have to be careful. If there's going to be a divorce, we don't want it to be a contested divorce.

Speaker BERGSTROM: Okay.

Administrator YUNITS: We want to be sure that it's professional because there's a lot at stake. There's a lot at stake for other members of the Compact and their communities, and there's a lot at stake for us financially because we do feel we're owed more money than we're getting.

So that we've really worked in two parallel courses. One, I've been very clear to David down in Provincetown and to Mark over in Barnstable that whatever they need for us -- if they want to look at this, we want to help them have a clear understanding of what the positives and negatives would be assuming this role. So we're working with them.

So that's one course and doing we'd try to do a bridge agreement that will get us to that date to make sure. I want to be sure that the Commissioners are protected, and I want to be sure that the County doesn't have any long-term exposure by short-term mistakes. And that's what brought this whole thing to a head anyway. We met with the auditors and we looked at the agreement in place and we knew we weren't covered.

The second thing is if they don't get a taker, I'm going to strongly urge -- I'll recommend to the Commissioners that we take another legal look and find out what the most appropriate expedient solution would be so that the Commissioners aren't at all threatened legally or -- and we got caught in the middle of something that we don't understand.

Speaker BERGSTROM: Yes, but I mean my failure -- I mean Robert Troy -- is it Robert Troy?

Administrator YUNITS: Yes.

Speaker BERGSTROM: Yes, he's our attorney. I mean he's the one who's put that line in the sand so to speak. So I mean are we going to go beyond him? Are we going to go --

Administrator YUNITS: No. No. I would never do that. I don't think it's necessary. I just think that if this question is out there that Bob and I can't -- we don't feel comfortable answering and, obviously, there's been some back-and-forth on that, not between him -- him and I, but between him and I and the other side that we may need another set of eyes to look at it. Just being as professional as I can. There's a lot at stake here and just to get another set of eyes to look at things might not be the worst option.

Leo and I have had this discussion in the past. We just want to be sure it's done right. There's so much at stake. We're talking about millions and millions of dollars here, and a lot of contracts already in play across the 15 towns.

Speaker BERGSTROM: And my understanding is that the Commissioners still sign some contracts?

Administrator YUNITS: No, we don't.

Speaker BERGSTROM: Don't sign any contracts?

Administrator YUNITS: No.

Speaker BERGSTROM: Okay.

Administrator YUNITS: And by the way, the Administrative Service Agreement that is in place specifically limits, and Bob Troy reinforced this again to me to other day, it specifically limits the County's liability to the role they play as fiscal agent and not anything to do with the contracts.

However, Commissioner Cakounes was a hundred percent right when he said that there's language in those contracts that was nebulous on that issue. And when he puts his name on it, it's him.

Speaker BERGSTROM: The first time that Leo's been a hundred percent right about just about anything.

Lilli, do you have a question?

Ms. GREEN: I do. Thank you. I have actually two lines of -- two areas that I would like some clarification for if not today in the future. Again, it was me who put those handouts in the folders through Janice. There are two contracts that Maggie Downey has signed as Cape Light Compact or CLC Administrator and they're on their website as mandated by the Attorney General.

And I'll remind the Assembly that the Assembly did write this report, and before this report was written, those kinds of things were not listed on the website at CLC but the Attorney General did demand that CLC post those contracts on their website. And there are two contracts that are signed by Maggie Downey.

First of all, I would be interested to know if the Commissioners know about it or you knew about her signing contracts? And, if so, why did she sign them? Why didn't the Commissioners sign them? If the Commissioners didn't know, why did she sign them? And as an employee of the County, which she is, does that put the County in a precarious position?

Administrator YUNITS: According to Bob Troy -- according to Attorney Troy, because we limit ourselves a lot to the fiscal agency status, the fact that she signs as director under the direction of the board does not hold us accountable.

So that's -- and we did know about it. I insisted on it at our last negotiation session that the Commissioners will no longer be compelled to sign these contracts and that the board votes to change it.

Because in looking at the statutes, we could find no governing legal mandate that required the Commissioners to sign. It turned out it was nothing more than a past practice. So we ended it right there. And I did inform the Commissioners of that, so we knew we weren't going to be signing contracts anymore.

And again, I'm just repeating what -- when I asked Attorney Troy to look at this that was his response so.

Ms. GREEN: So that does not put the County into any situation of liability if Maggie Downey, as the County employee, is signing?

Administrator YUNITS: We made them get their own insurance this year. MIA has assured us that the County is not exposed so.

Ms. GREEN: I ask this question because I'm told that these contracts -- that one of them anyway is worth about \$70 million a year, so, you know, it is quite a large number and could be a quite serious situation.

The other line -- questions that I was curious about is I understand you're going to be negotiating again another session on November 14<sup>th</sup>. After the last negotiation, which -- and no fault of your own, you said to us that you were going to be locking yourself in a room and wouldn't come out until there was some kind of a resolution.

But I understand from that last meeting, according to my Cape Light Compact representative, that CLC decided to fire the County.

Then we received an email from you stating that CLC is looking at different options. So I'm curious has CLC, therefore, terminated the services agreement by deciding to fire the County; I'm curious about that. I mean did they decide to terminate the services agreement when they decided to fire the County or --

Administrator YUNITS: Well, I won't comment on that, but I will say that any severance agreement would have to be -- it would have to be a good transitional document. It can't happen overnight. There's too much --

Ms. GREEN: And can I ask you -- yeah, well, that's fair enough. I know that you'll be back in the room on the 14<sup>th</sup>. On the 15<sup>th</sup>, would you write just a -- is it possible for you to write us just a brief two-line email if there was any resolution whatsoever during that?

Administrator YUNITS: Yes.

Ms. GREEN: Or if there's any date that you're going to be negotiating again?

Administrator YUNITS: Well, assuming I ask Attorney Troy to do so.

Ms. GREEN: That would be great. And if there's no agreement or if there's nothing -- can be resolved, are you looking at a termination date with the services agreement because of the liabilities that Attorney Troy has written? And if so, would it be something at the end of the year where we could extend it if CLC is working in good faith? I mean are you considering something like that instead of -- so that we are comports with the County?

Administrator YUNITS: Yes, I can't say what Attorney Troy has on his agenda for the next meeting because we haven't talked about it yet. But I can tell you that up to this point in time CLC's been very cooperative with us, done everything we've asked them to do; the insurance, the severance of the obligation of the Commissioners to sign and a few other things along the way, small things, perhaps, but they've been very responsive so.

Ms. GREEN: And I would like to state again in looking at everything -- I know Attorney Troy has talked about two different branches, two different options of becoming totally independent and becoming a County department. To me, I still think it would be a lot of work on behalf of the County. But, to me, that would be -- I think in the long run the best solution.

So I do appreciate your update and coming before us and all of your hard work.

Administrator YUNITS: Thanks a lot.

Ms. GREEN: Thank you.

Speaker BERGSTROM: Jim.

Mr. KILLION: Thank you, Mr. Speaker. Just a quick clarification; it was mentioned that CLC is somehow a legal organization. I don't think that's ever been the express view of the Assembly.

This relationship that we have with CLC, as our County Attorney has pointed out, falls us out of the requirements of Chapter 40. You mentioned earlier about another set of legal eyeballs on this; are you planning on hiring another attorney to review this?

Administrator YUNITS: No. That wouldn't be my call.

Mr. KILLION: So what is it; are you just going to review it again with Mr. Troy?

Administrator YUNITS: No. My call would be to see what the Commissioners wanted to do with it if we get to a stalemate and we need somebody else to take a look at this.

Mr. KILLION: Okay. Thank you.

Speaker BERGSTROM: Brian.

Mr. O'MALLEY: Mr. Yunits, it's my understanding as a certain body -- a CLC rep that it requires only the vote of their board and not approval of their individual towns at any higher level to transition to a different fiscal agent. Is that consistent? Is that accepted by all parties that assertion?

Administrator YUNITS: I think that responsibility to make that determination would fall back to their board. I don't know what their bylaws say with the Compact. I haven't looked at the Compact bylaws because that wouldn't really be my concern that would be theirs.

Mr. O'MALLEY: Right.

Speaker BERGSTROM: Okay. Well, you're free to go.

Administrator YUNITS: I'm glad Deborah doesn't need a ride. Thank you.

#### Communications from the Board of Regional Commissioners

Speaker BERGSTROM: Okay. Now we move to our Commissioners. I see at least one. Didn't I see Mary Pat here a minute ago?

Ms. MCAULIFFE: She was.

Speaker BERGSTROM: All right. Well we've got Leo here so.

Commissioner CAKOUNES: Thank you. On behalf of our Chairman, she was here earlier but also had commitments I believe in the town of Orleans and to be there by a certain time so she had to run out. So I express her apologies for not being here.

I have two meetings to report on. One is the October 26<sup>th</sup> meeting. Not too much has really happened/going on. We did have a presentation from our finance director and Jack Yunits on some internal reorganization. I think you're going to see some more of this happen as the FY18 budget starts to become formulated.

As many of you know, we have an Assistant Administrator that answers our phone and does our kind of bookkeeping, if you will, in assisting not only Jack but us in putting our meetings together, and that job descriptions is going to be tweaked and changed a little bit.

And Jack is looking to do some other tweaking and adjusting on a number of different positions starting -- in our office and certainly expanding out as we move forward. And I think you're going to see a lot of that happen as we move forward with the FY18 budget.

There was a discussion on the Annual Report. The County Administrator asked the Commissioners their position on the Annual Report, and I think a little bit of confusion -- I don't want to speak for Jack, but I think some confusion may have come out of the fact that in the budget message we asked that a lot of the narrative, if you will, be not printed, and be made available by either email or if a member, whether it be an elected official or anyone in the public asks for it, make it available. But to try to cut down on costs

and printing those big huge budgets.

Somehow I think that transitioned to how about our Annual Report. And as you all remember, the Annual Report is the nice little book that we publish every year and send out to different libraries so that any resident actually can pick it up and find out about it.

It basically was -- it was on for discussion and I think the consensus of the Commissioners was to keep the report as filled with as much information as possible. Because I think we all kind of agreed that that's an important document, and that I certainly had reported that more and more people are asking to see it and look into it. And I do think it has a lot of good background information.

So it wasn't an actual vote taken but, again, it was basically a consensus of the board.

We had an ongoing discussion back on October 26<sup>th</sup>, once again, about the budget message. It just got tabled once again. I'll jump forward to our next meeting to bring you up-to-date on some more of that.

Basically, there were some reappointments. Some of the authorities of the Commissioners are to appoint people to certain boards, and these people come recommended to us by the town, for instance, the town of Provincetown asked us to appoint a member to the Barnstable County Coastal Resource Committee. Barnstable County Health and Human Services, we had to appoint someone to that. So there were a number of appointments.

There were some discharges of the home mortgages, pretty much just some basically contractual things that we do week to week.

Back on the 26<sup>th</sup> again though, just to end that meeting, we did go into executive session. That executive session was for purposes to discuss strategy on the Fire Academy or I should say *Barnstable County v. the Town of Barnstable* litigation.

We met with our lawyers and can't really say too much about what happened in that session other than we are moving forward. And as Jack reported to you earlier, we're hoping for a positive outcome.

I'll fast-forward to November 2<sup>nd</sup>, which is today. Really, really, really happy to announce that the two Commissioners voted a budget message today. And if that deserves applause, I don't think nothing does. We actually agree finally on a budget message, and I think it's very, very important that we move forward on it.

We also voted evaluations for the Cape Cod Commission's Executive Director's position for his performance in FY16, which by the way should've been completed by the first week of June 1<sup>st</sup> and here we are the first week in November. But, wheels of government turn slow, but we did vote it today.

We voted a number of different contract amendments and some extension of dates, if you will, for some contracts with the Cape Cod Commission. We voted to ratify action taken for a vista volunteer which required our action.

And, basically, we also voted today to create acting as the Cape Light Compact's fiscal agent to instruct our finance director or authorize our finance director to create and establish a new fund account. And this new fund account is, what we're being told, is so that the Cape Light Compact will be able to funnel, if you will, or move some of their funds into it for the purposes of unfunded pension retirement liability and Other Post-Employment Benefits.

And from the way I understand it, and I had a discussion with our finance director, presently the Cape Light Compact has in their budget an amount, a dollar amount

that they are, if you will for sake of argument, setting aside in their own little budgetary system. They want to strengthen that a little bit by actually moving it now into a Reserve Fund.

Unfortunately, there was no policies and procedures gives to us on this particular creation of this Reserve Fund, nor was there any explanation on what the dollar values would be, the limits and how monies would come in and out of these funds.

And although I did vote to support to allow our finance director again to create these accounts, I did stress that we will be looking for the policies and procedures later on. And in the future I said I will not support creating the funds until we get the policies and procedures first, but felt pretty confident after talking to our finance director that it was a safe move for the County.

Basically, that's it in a nutshell.

Speaker BERGSTROM: John.

Mr. OHMAN: Thank you, Mr. Speaker. Leo, you said that you, even though it was late, you did a full evaluation on the performance evaluation on Paul Niedzwiecki?

Commissioner CAKOUNES: Yes, correct.

Mr. OHMAN: Does that have any effect on his salary basis?

Commissioner CAKOUNES: No, it does not. Under the director of the Cape Cod Commission's new contract, which was signed I believe it was last September, a year ago September, his new contract that he's operating under now does not have in it -- I'm sorry, lack of a better word, "bonus payment" which the old contract had in it.

The new contract that he's operating under now does not have that language. So this performance evaluation did not come with any percent bonus increase for salary as had in the past. You may be thinking of the past.

Mr. OHMAN: I wasn't much thinking about the bonus side of it, just about his annual salary. Is it just hard-baked into his contract what he's going to make?

Commissioner CAKOUNES: It is.

Mr. OHMAN: And the Commissioners have no say either way, based on whatever evaluation he gets?

Commissioner CAKOUNES: There is language in the contract that if he's negligent in his duties, obviously, we have areas built in the contract that we can call him on the carpet, if you will. But as far as anything in there that says we can, you know, cut him by ten grand because he didn't do a good job; it's not that kind of a contract. His salary's pretty well set.

Certainly if he doesn't -- and I don't want to make this personal because the contracts are pretty much bulletproof contracts for these kinds of positions; if the person in that position was to not show up for work for four or five days a week and only come once a week and not do their job, there is bulletproof language in the -- boilerplate language, I should say, in the contract that allows us to act on that and either remove the person or subsequently come back with some kind of negotiations. Why aren't you showing up? Why aren't you doing your job? That kind of thing.

But the old contract was based on a performance evaluation bonus so that the person was actually rated and then that rate was somehow calculated into a dollar-value bonus but that is gone. That is no longer in the contract.

Mr. OHMAN: Fascinating.

Speaker BERGSTROM: Yes, Ed.

Mr. LEWIS: Good evening, good afternoon, whichever one you want. The budget message, was that going to be communicated to the Assembly as well?

Commissioner CAKOUNES: I believe it's been voted. It was in draft form and it was certainly out there. It had been attached to our packets, if you will, for the last -- well, I wrote mine back in late July so it's been floating around for some time.

The actual one that we voted today is public record and it will be going out, I imagine, in the regular course of mail, not only to our department heads, Jack and Mary, but certainly to all the department heads. And I don't see why that the Assembly would not receive it also.

Mr. LEWIS: So since we didn't have one last year, we couldn't get one.

Commissioner CAKOUNES: Tell me about it.

Mr. LEWIS: But since you do have one, I commend you for that.

Commissioner CAKOUNES: We didn't vote one last year.

Mr. LEWIS: I appreciate that you didn't. That was my statement. I assume we've got a copy of that so we're aware of what you --

Commissioner CAKOUNES: I don't think we should assume anything. I will tell you that you will get a copy of that.

Mr. LEWIS: Thank you.

Commissioner CAKOUNES: How's that?

Mr. LEWIS: That's as good as --

Commissioner CAKOUNES: I promise you you will get a copy of it through Janice. We'll send it to the Clerk first and then she can distribute it out.

Mr. LEWIS: Thank you. I also want to congratulate you. I understand from the Brewster rep that you are now the President of CVEC.

Commissioner CAKOUNES: That is correct.

Mr. LEWIS: Congratulations.

Commissioner CAKOUNES: Thank you, very much. Once again, I take the helm of the Titanic. I did it at Farm Bureau and now I'm going to do it for CVEC just at least --

Mr. LEWIS: Stay in the bow.

Commissioner CAKOUNES: Hopefully we'll keep her afloat.

Speaker BERGSTROM: Anyway -- yes, Jim.

Mr. KILLION: Thank you, Mr. Speaker. Good afternoon, Commissioner. We received a document today which details the revenues from CLC from Fiscal '16. Can you clarify, is this the first time we've actually collected revenues? I've heard different stories or versions of this. I think there was numbers put in budgets in previous years but never collected. So is this actually the first time we've collected four years of revenue?

Commissioner CAKOUNES: Yes. What had happened is, and some of you were on the Assembly for a while and remember that when the Assembly first took a look at the relationship between the County and Cape Light Compact, there were some even reimbursements that were not being made. They were allocated but the monies weren't really moved around.

We actually started out with an employee that was a portion of this employee's actual salary was allocated to the County, and the other portion was the Cape Light Compact.

We have come a long way since those days and each year more and more gets clarified and gets added to the list, if you will, of the things that now we are not only being

reimbursed for, which is an entirely different kind of conceptual idea. But we're also now charging for services and we're also charging for physical use of space; rent, if you will.

So I'll go out on a limb and safely say that, yes, this is the first year that you'll see that complete number and every year it keeps growing because we keep finding more and more things that we should be reimbursed for or should be charging for.

Mr. KILLION: Was there any talk about trying to go back some time and collect --

Commissioner CAKOUNES: There's always talk about going backwards. I think the argument is pretty clear that -- and a lot of municipalities going back is just sometimes not -- I don't want to, again, I'm trying to not use the term "legal" because I don't want to get Mr. Lewis upset at me, but sometimes it's just as easy as you think because when budget years close to go back to try to recoup money that we've lost in a certain budget year that we've already closed that budget year out.

The only way I could answer that question is saying that, yes, people are talking about it, but I personally wouldn't be holding your breath too long waiting for anything to -- retroactive kind of payments.

Mr. KILLION: Because doesn't it have to do with, you know, collecting the OPEB funds that are due the County?

Commissioner CAKOUNES: The Other Post-Employment Benefits funds are a different situation now because that is something that we'd certainly be allocating directly to those employees and that we can go back and get. Yes, I'm sorry. I misunderstood your question. I thought you were meaning more towards rental space or things like that.

But the OPEB liability obligations travel directly with the employee/employer. So that's something that we can track and go back to make sure that they are whole and completely funded, yes.

Mr. KILLION: Thank you, Commissioner.

Speaker BERGSTROM: Okay. Leo, did the -- oh, yes.

Mr. PRINCI: Go ahead.

Speaker BERGSTROM: I just want to say that the budget message that's sent out to us and everyone else and I assume the department heads, did that include a cap on expenditures? In other words, any kind of a blanket statement about revenue expenditures and whether or not you're going -- level funding of the departments and anything like that?

Commissioner CAKOUNES: Yes, it did. It's a twofold kind of a budget message, and I'm trying to see if I have my bullet point one here in front of me. But the first part of it is a narrative, which basically kind of lays out the current fiscal situation, if you will, and where we hope to go from here.

And then the second part of that is an actual proposed -- it's kind of a guideline, almost a bullet point, if you will, of things that we, the Commissioners, have voted as being important and want to make sure that the department heads follow.

I won't go through every one of them and, again, I'm sorry, what was one of the ones that you specifically asked about?

Speaker BERGSTROM: I was just wondering if level-funding the departments, no additional requests, anything like that. It always seems to come up at budget time from either us or you or; do you know what I'm saying?

Commissioner CAKOUNES: Basically, Number 10 says the FY18 budget shall be balanced with projected revenues without the use of transfer of any reserve funds or

any new tax increase. So that says we want to balance the budget with projected revenues.

There is some things in here about new hires; no new hires. And then we left the door open that, in fact, if someone did need a new hire that we would want to make sure that that department is going to be projecting a revenue increase directly related to that new hire so that it kind of -- we understand why they want it. And I'll remind you we did this last year with the health lab. We hired someone at \$80,000 and that particular position brought in over a hundred. So we wanted to make sure we left the door open for things like that.

We also asked that the department heads start looking and allocating in their budgets kind of on a separate sheet the total cost of what it takes to run that department. Not only just the stuff that we've not really seen in budget but we're kind of asking them to go out and tell us their electrical needs, their janitorial needs, their space needs. And I think that information is going to be an estimate and that's kind of what we asked for anyhow. And it's basically to help us move forward as we do in the new space allocations. And to truly see how a department is doing with their projected revenues and tracking their revenues against what it costs us to actually run the department.

Speaker BERGSTROM: Well, I think just personally, I think it's a good thing you did not put any blanket statements about the level funding and stuff because what happens is inevitably something comes up where you have increased costs that you can't control. And once you cross that line, then you lose your credibility saying well, we're not going to fund, you know, we're not going to do this, and we're not going to do that.

So the fact that we're going to balance the budget is a good thing; the fact that we haven't put specifics in there that we, ultimately, might have to step back from.

Commissioner CAKOUNES: The only other thing that came out might have been a recommendation you might want to talk about it. It does say that projected revenues shall reflect along with other projection tools or practices a three-year average of actual revenues collected.

You know, there's been kind of a lackadaisical way of us trying to project our revenues. So we thought by adding this in the budget message, it kind of gets people thinking and looking back to see what actuals really were so that maybe they can do a little bit projection on what their departments' needs are.

And, once again, this is a budget message and a budget development guideline document. So it leaves us a little waiver room even if there's something in there that, you know, it's like a department head proposes, we can say, well, you know, they can say we looked at your guidelines but we can't meet that particular one because of this reason and that reason. And that's when we vote the budget. We vote it up or down at that time.

So I think giving a budget message and a budget development guideline is a big plus.

Speaker BERGSTROM: Pat.

Mr. PRINCI: Thank you, Mr. Speaker. I just have a couple questions regarding the message as it relates to the surplus that we had seen in FY16.

Commissioner CAKOUNES: Yes.

Mr. PRINCI: And, you know, as you know, Commissioner Cakounes, I do appreciate you really pushing this budget message in years past. I think it's very important. I'm glad that the Commissioners have come forward with one.

However, when you were speaking about your message, did you take into consideration the possible future surpluses that we might have with the Registry of Deeds tax

increase? Because it seems to me just in the history of when I've been over looking at the budget in past years when revenues were good, it seemed as if the County sort of expanded and created new services and so forth.

And then when budgeting years weren't as good, we were looking back at our reserve funds to help fund those programs.

Now it seems that we're in a spot whereby we've got some more or less conservative-like thinking whereby we want to maintain the programs that are providing the best possible services to the residents that we serve. And we could potentially have in next year's budget some serious surpluses that could be put towards reserve-type accounts based on the increase in the Registry of Deeds and what we've seen this past year.

Have you looked into any type of specialty accounts to address the major issues here on the Cape regarding water quality that perhaps some of those surpluses could go towards?

Commissioner CAKOUNES: I think we're looking at two different budgets or we're looking at them with two different eyes; okay. We don't have a huge surplus. You have to remember that we ended FY16 and we ended FY16 with a seemingly large amount of money, but why did we end FY16 with that large amount of money? The majority of it was unspent capital projects, capital projects which still need to be done but we decided not to go out for bond at the time to do them, and we decided not to use special reserve accounts or cash in special reserve accounts to pay for them. We, basically, decided to hold off a little bit.

We did end up in the plus side but only by about \$400,000. I mean not an exorbitant amount of money. And you are correct; we are going to be getting an extra -- it is presumed million dollars because of the excise -- I mean the deeds tax, which was appropriated.

I just don't want anybody to think that we're all of the sudden doing great and we should start looking for places to either hide this money, put this money, transfer this money, or fund other things. Because please don't forget the fact that we have \$8 million kind of sort of Damocles hanging over our head.

We still have not gotten a really good bond rating yet, and we haven't really gone out and bonded something. We have short-term bonds and stuff and we have long-term bonded things, and we are going to have to set up, if I have any input in it, set up a reserve account so that we make sure that we can afford to bond these things in perpetuity.

Because, you know, just because you buy a car and it costs you \$50 a month, you may not be able to afford \$50 a month either. Because we're doing all this work and some of it is going to be in the millions, you know, we're going to be looking at a debt service of maybe \$250,000 to \$500,000 a year and a reoccurring debt service.

So that's the kind of things that I'm looking at. I'm certainly not looking at -- and this is me personally, not the Commissioners, but the Commissioners have talked about it a little bit. We've taken no position. But this is the kind of thing that I'm concerned about and I'm going to be looking forward to.

I did meet with the finance director today. We did talk about policies and procedures for our reserve accounts. And I think you're going to be seeing -- I'm hoping -- no, you are going to be seeing a policy and procedure handbook coming forward probably the first week of December, which is going to be really outlining how we are going to move forward with not only creating these reserve accounts but putting in policies for each one of

them.

Why do we have it? How much money should be in it? How does that money go into it? And how does that money come out of it or why does that money come out of it?

And believe it or not, that doesn't exist today and we've got a few reserve accounts. So these are the kind of things that I'm going to be looking forward to as we move forward in FY18. Certainly not the undertaking of any more debt or any more services to be provided at this time. I just don't think we're doing that good yet.

Speaker BERGSTROM: Okay. Ed, did you want to follow-up on that?

Mr. LEWIS: This may come as a surprise to you, Commissioner, but I agree with everything you just said.

Commissioner CAKOUNES: Well, you're getting smart in your old age.

Mr. LEWIS: I am. I am. I'm a lot older than I look, I assume. I would hope that one of the policies and procedures that goes in there that when a reserve fund is created and that the Commissioners have the authority and not anyone else to create a reserve fund so that they're aware of any reserve funds, and also as contributions are made into that reserve fund, those are approved by the Commissioners and that that's part of the policy. Because I think that's very important because I don't think that's been done in the past.

Thank you.

Commissioner CAKOUNES: Could the Clerk please right this down; November 2, 2016. You are right, Mr. Lewis. That is exactly where I was headed with it this morning in my discussions with our finance director; 100 percent right. That is what I want to see in the policies and procedure.

Mr. LEWIS: See, you're getting smart in your old age too.

Commissioner CAKOUNES: I knew it. I'm trying.

Speaker BERGSTROM: Okay. Suzanne.

Ms. MCAULIFFE: I know it's very clear in municipal funding that you have to have approval from the -- maybe just based on policy but you have to have town meeting approval; you have to have selectmen approval for creation and appropriation into accounts. Does the Charter not address this?

Commissioner CAKOUNES: It does but what has been the practice, and I'm looking through my things here to see if I have one, is, basically, the finance director, previous finance director anyhow, would do all these different things and then during a meeting put a sheet in front of the Commissioners and the Commissioners would sign it. That has been the practice.

I think to Mr. Lewis's point and I believe where you're headed with this thing too is that, no, it really has not been the policy to have an open discussion of, you know, we have X amount of money, this is what I suggest you do with it, but I have to wait here now for the Commissioners to vote and tell me to do that or not.

Are we getting to the same place? We are but instead of taking a bus, I'm kind of -- I'm walking directly there. And I think Ed really hit the nail on the head when -- this is what I'm hoping to see in the new policies and procedures anyhow.

Speaker BERGSTROM: You know, Leo, having sat on this body, you know that whenever there's a transfer between accounts, it usually comes in the form of an ordinance that's approved by both the Commissioners and the Assembly. That can be a good thing and it could also be awkward. I mean are you looking at some kind of a streamlined

procedure?

Commissioner CAKOUNES: No, not at all. I think all that stuff has to remain in progress, and I think that one would also argue that by virtue of this body voting the budget, you, in fact, are voting the dollar values in the reserve accounts because each budget does include those dollar values in them.

So, it's your due diligence at that time to question and to bring up and to ask about moving back-and-forth.

Speaker BERGSTROM: That's a good point because, as Suzanne mentioned, municipal finance in towns, the town meeting reauthorizes just about everything in the budget.

Commissioner CAKOUNES: Yes.

Speaker BERGSTROM: And whereas the County, you know, the practice had been, well, we set this aside a few years ago and so it's there. Although, of course, it was included in the budget, so I guess in that sense we did approve it.

Commissioner CAKOUNES: That's exactly right. And that's what I want to not change but I would like to make the process a little bit clearer so that there's a deliberation beforehand so that we know where the allocation to these accounts is going.

And I can't stress enough through the policies and procedures are also going to include why is this Reserve Fund made? Why did we make it? How much money should be in it? And how does that money go in and out of it? And those are the things that don't exist today and that's what the policy and procedure really needs to also include.

Speaker BERGSTROM: Okay. Thank you. I think you've been on the spot long enough, but Suzanne has another question then I'll let you go.

Ms. MCAULIFFE: Just a little comment. My concern is even if the budget is presented to the Reserve Account with the money in it, my concern is, and this was triggered by Delegate Lewis's statements last meeting, is when you have additional cash that you haven't spent for whatever reason, we don't have Free Cash, so you have to find a suitable place for it, then it does get dispersed by the finance director of put into accounts by the finance director. This is after the budgeting's done.

So I'm hopeful that with the policies the Commissioners will be the ones who will be aware of, you know, what funds, where the money's going, and that they'll be a very open and more governmental process to the reserve accounts.

The reason I think this is critical is one of the reasons we got into trouble in the past was because we had a county administrator who was also the finance director who did a lot of the budget funding out of reserve accounts. And now we have an \$8 million tab that we owe ourselves.

So we have to be vigilant and crystal clear about making sure that, as you said, we know what each one is for. We know how the money goes in. We know what it's going to be used for. So I think it is incumbent upon everybody to kind of clean up our house.

Commissioner CAKOUNES: Yes, the only thing I'll say to that is I, personally as one Commissioner, I'm a hundred percent and hear you clearly. I was a little taken back, if you will, by our finance director's actions two weeks ago when they made the presentation to us first and then here, and that I had wished that they has just come to us and said, "Listen, we have this much money. Here's what we suggest you to do with it" and then the Commissioners actually voted it. And that's just not what happened.

And I hope -- it's my hopes that the new policy will include that kind of action.

Yes, we voted eventually, but I think we should have voted it, and I would like to see the Commissioners vote it ahead of time. Because as I said today a couple of times, the buck stops at the Commissioner's desks. And we really need to know what's going on and we need to be the ones voting on how things are happening.

And it may just be reaffirming, it may be taking their suggestion, which is fine, because, obviously, they know more than we but we still need to have that discussion.

Speaker BERGSTROM: All right, Leo.

Commissioner CAKOUNES: Could I just add one other thing?

Speaker BERGSTROM: Go right ahead.

Commissioner CAKOUNES: The Cape Light Compact situation; it's been expressed here that the attorneys and this and that and things about contractual agreements, I tried to find an email that I sent when I found out as one Commissioner that I found out that Cape Light Compact was now signing their own contracts and not requiring the Commissioners to sign the contracts anymore.

I have an issue with that, and I have expressed that issue to not only Jack but to our counsel; okay. First of all, it's in direct violation of our Charter, and it's also in violation of the Administrative Code. All right. Nobody can and should be signing contracts for the County.

Now one could argue that the Cape Cod Commission -- I mean Cape Light Compact is not the County, but you cannot lose track of the fact that they do not have an 04 number. And I don't care what attorneys tell me and I don't care how many insurance companies are going to tell me that we're protected, all right, when you have somebody signing a contract that your 04 number is attached to, it concerns me.

So I'm just letting you know that you may have heard earlier that everything seems like its okay, I am still not on board with this.

And I also believe county counsel is not on board with it. I have not heard anything of the different from county counsel. He's very -- I forget the term that you used, Mr. Speaker, but very uncomfortable with the situation and it needs to be rectified.

Just by allowing someone to go ahead and sign contracts is certainly, I think, is actually worse than asking us to sign them because now we don't even know what someone's signing using our 04 number.

Speaker BERGSTROM: Okay. I don't want to re-energize that conversation.

Ms. MCAULIFFE: We won't say anything. We won't say anything.

Speaker BERGSTROM: Yes, we can talk about that among ourselves later on. But I appreciate you, Leo, coming forward and representing your group.

Commissioner CAKOUNES: Thank you.

Speaker BERGSTROM: And, hopefully, is Commissioner Lyons under the weather? Is she recovering from that operation or we don't know?

Commissioner CAKOUNES: I'm not going to report on that one. Thank you.

Speaker BERGSTROM: Okay.

Commissioner CAKOUNES: You better find someone else to do that. The HIPAA laws; I'm not going there.

Speaker BERGSTROM: Fine. I was just going to wish her well. That's all.

Okay. Now communications from Public Officials. Hearing none.

Communications from Members of the Public

Speaker BERGSTROM: Communications from members of the public. Do I have members of the public who would like to address us? Okay. I see a hand in the back. Step up to the mic, identify yourself. The mic is on when that green light is on.

Mr. JIM GARB: Thank you. I'm Jim Garb; I'm from Yarmouthport, and I want to speak in favor of the Assembly sending the letter you're going to be discussing shortly to Governor Baker asking him to add his voice to the voice of many other concerned citizens and organizations to ask the Nuclear Regulatory Commission to close Pilgrim as soon as possible.

I want to just give you a few reasons briefly why I think we should do that. I think it's important to protect the health and safety of everybody that lives on Cape Cod.

First of all, the Pilgrim plant is an inherently flawed design. That's widely recognized. It's the same design as the reactors at Fukushima. In fact, after the Fukushima disaster, the NRC required all similar plants to install certain safety upgrades; Entergy has not done that, and it appears to have no interest in doing that.

Secondly, Pilgrim's an old plant. It's 40-year-old technology. How much 40 technology do we have in our houses that we rely on for our safety? And this is manifest by its closure every couple of months. It's closing for some malfunction. Fortunately, none of those have led to a disaster, but it's certainly conceivable that one of them could.

Thirdly, Pilgrim was poorly sited to begin with. If you look at all the nuclear power plants in the country, and there are about 100, for 95 percent of them there are lots of egress routes that people could use to evacuate in case there were a nuclear -- a release of radiation.

For Pilgrim, as you all know, we would have to shelter in place here on the Cape. There's no realistic evacuation plan. In fact, the bridges will be closed to let people from Plymouth and surrounding communities get away. So there's no feasible evacuation plan if there were a disaster there.

Fourth, Pilgrim's in violation of the Clean Water Act for 20 years, and the EPA doesn't seem to be in a hurry to do anything about that either. Every day it draws in 500 million gallons of water from Cape Cod Bay. It heats it 30 degrees above the temperature that draws it in and dumps it back into the bay. It's killing shellfish. It's destroying fish and fish larvae and fish roe. And it's contributing to warming the oceans by doing what it does.

And, finally, we don't need the power from Pilgrim. People say, oh, it represents whatever percent for power for Massachusetts, power generated in Massachusetts. That's not how it works. The power from Pilgrim goes into the New England power grid and it represents a fairly small amount of power for the New England power grid. And when Pilgrim goes down, no one's lights go off.

We have -- there's an excess capacity in the New England power grid. So on the hottest day in August when we're all running our air conditioners, there's still plenty of excess power in the grid so we wouldn't miss Pilgrim if it went down. I think to let it keep on functioning is really taking a chance with our lives, our way of life, our safety, our homes on Cape Cod.

Thank you.

Speaker BERGSTROM: Okay. Next? Would anyone else like to speak?

Yeah.

Mr. TED THOMAS: Thanks Assembly of Delegates for giving me this opportunity. My name is Ted Thomas. I'm a former alternate advisor to the Cape Cod National Seashore. I, at present, sit on the steering committee of the Down Cape Downwinders.

I would like to say to you that all the studies are in. All the information is here. We have it right now. They're all factual. We have an economic study. There's an environmental study. There's a safety study. There's a scientific study. All the facts are in. They're all readily available for anyone who wants to check them.

So what I'm saying to you is if you're denying the facts, you're denying the truth.

So I urge you to endorse this movement going to the governor. The author of that letter is well-informed. And I'd like to say this and that is we all would like to remain Cape Codders and not refugees from Cape Cod.

Thank you.

Speaker BERGSTROM: Next.

Ms. DIANE TURCO: Hi. Thank you. I'm Diane Turco, the Director of Cape Downwinders.

Speaker BERGSTROM: Ah-ha. You're the one sending me all those emails.

Ms. DIANE TURCO: Yes. I want to thank Lilli-Ann Green for submitting this petition to the Delegates. It's so important.

As you know, Pilgrim is undergoing its third special inspection beginning in November because it is one-step from a federally mandated shutdown. In 2013, it was the ninth worst operating reactor in the country. In 2014, it was the fifth worst operating reactor in the country with increased NRC oversight. In 2015, it's one of the worsts now.

Increased NRC oversight has not removed this reactor. So it's a very dangerous situation for all of us. Even with increased oversight, there's still violations, violations, and we all know that there's no escape from the Cape.

This is a serious situation for all of us. Senator Markey and Senator Warren wrote a letter to the Massachusetts Emergency Management Agency and Entergy in 2013 saying that the emergency plans will not protect the people around Pilgrim and on Cape Cod.

In 2013 you know that all of Cape Cod has voted for Governor Patrick to write to the Nuclear Regulatory Commission to call on them to revoke the operating license of Pilgrim because of public safety.

You know, whether you're for or against nuclear power, public safety is the primary goal here.

So in Vermont, Governor Shumlin worked with the citizens to get Vermont Yankee closed; in New York State Governor Cuomo has called for the closing of Indian Point, 35 miles north of New York City because that can't evacuate.

So this is really very, very important that our governor is our safety -- chief safety officer, steps up for us and communicates to the NRC that the public safety is his priority and that it cannot be done here with the plans in place and danger situation of Pilgrim.

And you've all have your KI pills?

Everyone got your KI pills? Yes. You know, all -- everybody on Cape Cod

can have KI pills that protect our thyroid. But, actually, this is socialized medicine. It's actually allowing Entergy to operate Pilgrim because our thyroids are going to be protected. But this is so unacceptable.

And the Barnstable County Emergency Planning Committee, also you've seen all this brochure -- on what to do in the event of an accident. And there is no plan for Cape Cod. There is no plan. They're closing the bridges. We will be exposed. We will be relocated.

And MEMA Director Kurt Schwartz actually said, "Just like at Fukushima, you won't be able to return home for a long time." That is totally unacceptable.

What we need to do is get that reactor shut down immediately and move the spent fuel into hard and dry cask on site.

So thank you, Lilli-Ann, for bringing this to the Delegates, and I look for your positive vote for the safety of the citizens of Cape Cod.

And thank you for your service.

Speaker BERGSTROM: Thank you. Okay. We're done?

### Assembly Convenes

Speaker BERGSTROM: Well, in that case, the Assembly will now convene. And we will begin with that very Resolution 16-09, Pilgrim Power Plant closure submitted by Wellfleet Delegate Lilli-Ann Green.

#### **Proposed Resolution 16-09:**

**Whereas, the Cape Cod National Seashore Advisory Commission representing the towns of Orleans, Chatham, Eastham, Wellfleet, Truro and Provincetown, in Barnstable County, and appointed by the Secretary of the Interior of the United States has repeatedly expressed grave concerns about the degraded Pilgrim Nuclear Power Plant and has written numerous letters requesting a closure of the power plant.**

**Whereas, the Cape Cod National Seashore Advisory Commission has written a recent letter to Governor Baker asking that he communicate with the Nuclear Regulatory Commission in order to close Pilgrim now to protect the citizens of Cape Cod.**

**NOW, THEREFORE,**

**BE IT HEREBY RESOLVED that the Barnstable County Assembly of Delegates**

**Resolves: to call upon Governor Charles Baker, by delivering a copy of this resolution and a letter authorized by the Barnstable County Assembly of Delegates and signed by the Assembly Speaker, via mail and email, to ask that in his role as chief safety officer of the Commonwealth of Massachusetts he communicate with the Nuclear Regulatory Commission that it is imperative that the Pilgrim Nuclear Power Plant closes now to protect the citizens of Cape Cod.**

**A copy of this resolution and letter to Governor Baker shall also be delivered to the Massachusetts Lt. Governor, both State Senators and all State Representatives for Barnstable County, as well as both US Senators and the US Representative representing Barnstable County.**

Revised Letter to Governor:

November 2, 2016

Governor Charles Baker

Massachusetts State House

Office of the Governor, Room 280

Boston, Massachusetts 02133

Dear Governor Baker,

We, the members of the Barnstable County Assembly of Delegates, representing the 15 towns of Barnstable County write to you to express our grave concerns about the degraded Pilgrim Nuclear Power Plant in Plymouth. We ask that in your role as chief safety officer of the Commonwealth you communicate with the Nuclear Regulatory Commission (NRC) the importance of closing Pilgrim as soon as possible to protect the citizens of Cape Cod.

In 2015, the NRC downgraded Pilgrim's performance to one of the three worst nuclear power plants in the country, declaring it one step away from a shutdown. We are aware that Entergy will be decommissioning Pilgrim in 2019, but, despite a lengthy list of violations and unplanned shut downs, it continues to operate. Over the past several months our concern about a potential radiological disaster at the plant has risen as we regularly learn of its myriad malfunctions.

Citizens of Cape Cod seem especially vulnerable to a radiological plume from Pilgrim because there is no evacuation plan for us, instead, according to the Massachusetts Emergency Management Agency, we would be told to shelter in place and await "relocation."

In addition to the public health and safety threat the degraded Pilgrim plant poses, there is the threat of a major economic disaster for the Commonwealth of Massachusetts. On Cape Cod, tourism and real estate are the major economic engines. Both could be severely impacted for years, and house values would plummet should there be a radiological event at Pilgrim. Indeed Cape Cod towns could become uninhabitable and the economic losses would be incalculable.<sup>1</sup>

Recently we learned that the Massachusetts congressional delegation sent a letter to the NRC asking it to deny Entergy's request for an extension for critical safety upgrades to Pilgrim. These safety upgrades were recommended by a panel of Energy's own engineers after the March 2011 disaster at Fukushima Daichi in Japan. Pilgrim is the same design as the reactors in Fukushima and subject to the same vulnerabilities. Signing the letter were Senators Edward J. Markey and Elizabeth Warren, and Reps. Michael E. Capuano, William R. Keating, Joseph P. Kennedy, III, Stephen F. Lynch, James P. McGovern, Seth Moulton, Richard Neal and Niki Tsongas. We hope these elected officials will continue to advocate for an early closing of Pilgrim.

We need your leadership in seeing that the Pilgrim nuclear reactor is shut down as soon as possible rather than continue to operate in an unsafe manner. We also ask that a true disaster plan for Cape Cod is developed that puts the health and safety of the people first.

We thank you, Governor, for considering this serious matter and for communicating with us as to your results.

Ronald Bergstrom, Speaker

Barnstable County Assembly of Delegates

<sup>1</sup> <https://www.nps.gov/caco/learn/management/upload/PilgrimreportimpactfinalV7.pdf>

**Ms. GREEN:** Thank you, Mr. Speaker. I would like to make a motion that the Proposed Resolution 16-09 is adopted with the revised letter that you all received as amended to the revised letter that you all received prior to this meeting.

**Mr. MCMANUS:** Second.

Speaker BERGSTROM: Moved and seconded. Okay. We discussed this last time. I mean do we have any more comments on it than we had last time? Yes, Pat.

Mr. PRINCI: Just a quick comment. I'll support it based on the letter that was drafted. I think it's much better than the prior one. It doesn't call the governor out. It asks the governor to work with us in solving this problem.

Thanks.

Speaker BERGSTROM: Well, I'd like to make one comment and I made it the last time. It didn't help me because I'm going to vote for this also, but, you know, it's very common practice to question the integrity of the regulatory boards that govern our lives without knowing who they are.

I mean does anybody here know any of the members of the Nuclear Regulatory -- come on, name one. You guys do, I know, but they don't.

All right. So I looked it up on the Internet and they're all people of academia and stuff, and, of course, they worked at times in private industry because there's so few of them that, of course, they're going to be back and forth.

But I believe the idea of closing this plant as soon as possible is a good one. And I just hope that people don't get a sense that if you live next to a nuclear power plant you've got to get your suitcases packed because you don't.

I mean there are safe plants and some unsafe plants. But nuclear power, in my personal opinion, has to be part of the mix for as long as we have centrally produced power because it's green energy.

I know you're going to argue. It doesn't pollute the atmosphere. Anyway,  
Linda.

Ms. ZUERN: The Proposed Resolution does not say as soon as possible, however, to close Pilgrim now to protect the citizens of Cape Cod. So I still cannot support this. I didn't support it last time. I still can't support it now because I don't know what the consequences are if we close it now.

And I brought up a lot of those issues last time. Where is the extra energy going to come from? Who's going to do the cleanup? If the plant is closed now, what happens to the nuclear waste that is there?

I have a lot of concerns about that, so I cannot support this still. Thank you.

Speaker BERGSTROM: Okay. I don't know if now means 5:30 or -- Brian. You can't talk to us.

Mr. O'MALLEY: Very simply, I would respond to the Delegate from Bourne to point out that these are very legitimate issues. What's going to happen with the spent fuel that's there? How is the site going to be decommissioned? Is there enough money to do it?

Those are issues whether it's closed next spring or two or three years from now. No matter what we do, we face those things. But the longer it stays open the more fuel

they load in there, the longer we are exposed. The sooner the better.

Speaker BERGSTROM: Let's take a vote.

**Roll Call vote on Proposed Resolution 16-09:**

**Voting “YES” (78.40%):** Ronald Bergstrom (2.84% - Chatham), Lilli-Ann Green - (1.27% - Wellfleet), James Killion (9.58% - Sandwich), Edward Lewis (4.55% - Brewster), Suzanne McAuliffe (11.02% - Yarmouth), Edward McManus (5.67% - Harwich), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% – Provincetown), Patrick Princi (20.92% - Barnstable), Julia Taylor (14.61%- Falmouth).

**Voting “NO” (9.15%):** Linda Zuern (9.15% - Bourne).

**Absent (12.45%):** Christopher Kanaga (2.73% - Orleans), Marcia King (6.49% - Mashpee), Teresa Martin (2.30% -Eastham), Deborah McCutcheon (0.93% - Truro).

Clerk O’CONNELL: Mr. Speaker, Proposed Resolution 16–09 passes with 78.40 percent voting yes; 9.15 percent voting no, and 12.45 percent absent.

(Proposed Resolution 16-09 passed and now known as Resolution 16-08).

**Resolution 16-08:**

**Whereas, the Cape Cod National Seashore Advisory Commission representing the towns of Orleans, Chatham, Eastham, Wellfleet, Truro and Provincetown, in Barnstable County, and appointed by the Secretary of the Interior of the United States has repeatedly expressed grave concerns about the degraded Pilgrim Nuclear Power Plant and has written numerous letters requesting a closure of the power plant.**

**Whereas, the Cape Cod National Seashore Advisory Commission has written a recent letter to Governor Baker asking that he communicate with the Nuclear Regulatory Commission in order to close Pilgrim now to protect the citizens of Cape Cod.**

**NOW, THEREFORE,**

**BE IT HEREBY RESOLVED that the Barnstable County Assembly of Delegates**

**Resolves: to call upon Governor Charles Baker, by delivering a copy of this resolution and a letter authorized by the Barnstable County Assembly of Delegates and signed by the Assembly Speaker, via mail and email, to ask that in his role as chief safety officer of the Commonwealth of Massachusetts he communicate with the Nuclear Regulatory Commission that it is imperative that the Pilgrim Nuclear Power Plant closes now to protect the citizens of Cape Cod.**

**A copy of this resolution and letter to Governor Baker shall also be delivered to the Massachusetts Lt. Governor, both State Senators and all State Representatives for Barnstable County, as well as both US Senators and the US Representative representing Barnstable County.**

**Revised Letter to Governor:**

**November 2, 2016**

**Governor Charles Baker**

**Massachusetts State House**

**Office of the Governor, Room 280**

**Boston, Massachusetts 02133**

**Dear Governor Baker,**

We, the members of the Barnstable County Assembly of Delegates, representing the 15 towns of Barnstable County write to you to express our grave concerns about the degraded Pilgrim Nuclear Power Plant in Plymouth. We ask that in your role as chief safety officer of the Commonwealth you communicate with the Nuclear Regulatory Commission (NRC) the importance of closing Pilgrim as soon as possible to protect the citizens of Cape Cod.

In 2015, the NRC downgraded Pilgrim’s performance to one of the three worst nuclear power plants in the country, declaring it one step away from a shutdown. We are aware that Entergy will be decommissioning Pilgrim in 2019, but, despite a lengthy list of violations and unplanned shut downs, it continues to operate. Over the past several months our concern about a potential radiological disaster at the plant has risen as we regularly learn of its myriad malfunctions.

Citizens of Cape Cod seem especially vulnerable to a radiological plume from Pilgrim because there is no evacuation plan for us, instead, according to the Massachusetts Emergency Management Agency, we would be told to shelter in place and await “relocation.”

In addition to the public health and safety threat the degraded Pilgrim plant poses, there is the threat of a major economic disaster for the Commonwealth of Massachusetts. On Cape Cod, tourism and real estate are the major economic engines. Both could be severely impacted for years, and house values would plummet should there be a radiological event at Pilgrim. Indeed Cape Cod towns could become uninhabitable and the economic losses would be incalculable.<sup>1</sup>

Recently we learned that the Massachusetts congressional delegation sent a letter to the NRC asking it to deny Entergy’s request for an extension for critical safety upgrades to Pilgrim. These safety upgrades were recommended by a panel of Energy’s own engineers after the March 2011 disaster at Fukushima Daichi in Japan. Pilgrim is the same design as the reactors in Fukushima and subject to the same vulnerabilities. Signing the letter were Senators Edward J. Markey and Elizabeth Warren, and Reps. Michael E. Capuano, William R. Keating, Joseph P. Kennedy, III, Stephen F. Lynch, James P. McGovern, Seth Moulton, Richard Neal and Niki Tsongas. We hope these elected officials will continue to advocate for an early closing of Pilgrim.

We need your leadership in seeing that the Pilgrim nuclear reactor is shut down as soon as possible rather than continue to operate in an unsafe manner. We also ask that a true disaster plan for Cape Cod is developed that puts the health and safety of the people first.

We thank you, Governor, for considering this serious matter and for communicating with us as to your results.

Ronald Bergstrom, Speaker  
Barnstable County Assembly of Delegates

<sup>1</sup> <https://www.nps.gov/caco/learn/management/upload/PilgrimreportimpactfinalV7.pdf>

Speaker BERGSTROM: Okay. In that case, the Clerk will produce a letter according to that -- to go along with that resolution, and I will sign it on behalf of the Assembly and send it to -- oh, there it is. I didn’t even have to wait.

Done. Okay. We have now report from the Clerk.

Report from the Clerk

Clerk O'CONNELL: Yes, just briefly. I believe today the workshops for the MMA 2017 conference were put up online because I've been watching for that. Some of the Delegates commented that they'd like to see what the workshop offerings were this year before they made any commitment.

So what I'm asking you to do if you're interested or you think you might be in attending the conference, after the election I will be taking registrations and making accommodations.

So maybe in the meantime you want to take a look at the workshops that are offered. It's right on the MMA page under "Events." And if you think that it's going to be something that you're interested in attending at the next meeting, you can let me know and I'll get that in the works.

And that's it.

Other Business

Speaker BERGSTROM: Okay. The next item I put on there because I knew that Jack Yunits had to leave early, and I didn't know if anybody, you know, if he had to get up and leave before everybody was satisfied with the report.

So I guess it's just open that if you have anything else to say about his comments. I'll start with Ed.

Mr. LEWIS: This has nothing -- this is just for Janice. I wonder if she could check on something. One of the things that were in our email packet, not in our packet but on the website was from Beth Albert. She's running this program on, I forget which Sunday it is, involving parents and their being able to see -- look at their children or whatever as it relates to drugs and stuff like that.

And maybe you could check to find out because I think this would be a good thing. Nauset Regional School District has a subcommittee -- I don't happen to be on it -- with regard to drugs, and it would be good if some of those subcommittees could also go to that and see that program and bring it back to the school district.

So would you just ask Beth if it's possible if I can bring that to them so that they can -- because I think, more importantly, school districts have more parents involved. And since this is for parents to get a feel for what kids are doing and how they look and see if there's drugs involved.

So if you would check with Beth that would be great. Thank you.

Speaker BERGSTROM: Okay. Suzanne, did you have something to say?

Ms. MCAULIFFE: Yes. I had requested that Attorney Troy be here today because of the questions about CLC functioning and also about the funding of Reserve Accounts.

I guess given that there's one more negotiation session November 14<sup>th</sup>, perhaps pending the outcome of that maybe wait and not have Troy coming in until we see what the next negotiation session is. I don't know if you were going to try and bring him in for our next meeting.

Speaker BERGSTROM: Well, I tried to bring him in today but he wasn't available.

Ms. MCAULIFFE: I know. No, I know. I'm not -- I'm just saying that I thought it would have been helpful to get some direct answers.

Speaker BERGSTROM: He's a lawyer, don't hold your breath.

Ms. MCAULIFFE: Well, he's the one -- he's the one who -- who was it that said, "Drew the line in the sand." He's the one who said, "We're not operating in accordance with the Charter." And I apologize for using the word "illegal." That was too strong. It was not in accordance with the --

Speaker BERGSTROM: It's inconsistent, I think.

Ms. MCAULIFFE: Inconsistent with the Charter.

Speaker BERGSTROM: Okay.

Ms. MCAULIFFE: Whatever. I guess I would like to hold off then until the final negotiation on the 14<sup>th</sup>, and then maybe we'll have something perhaps the meeting after that he could come and help us address because Mr. Yunits did indicate that he would be bringing any plan to us before it was set. So I can live with that.

Speaker BERGSTROM: Yes, Doc.

Mr. O'MALLEY: Just to bring to this body a little perspective on where things are with respect to the Provincetown taking over the role of fiscal agent.

I had conversation last night with Selectman Tom Donegan, who is the former chair there, and he is Provincetown's rep to the CLC board. And they approved -- they have met twice with CLC people, Maggie Downey, and they approved a Resolution which authorized -- they approved unanimously a Resolution which approved further discussions with CLC on this subject.

That was actually amended to read, from the original language, which were negotiations to discussions instead. So it's ongoing. It's soft as far as I could hear. That's all.

Speaker BERGSTROM: Okay. Jim, did you have something?

Mr. KILLION: Yes, Mr. Speaker. Just to continue what the Delegate from Yarmouth was saying. That meeting is scheduled for the 14<sup>th</sup> and we have a meeting I think on the 16<sup>th</sup>.

Ms. MCAULIFFE: Oh we do? Okay. Yes.

Mr. KILLION: So if we wait early in December.

Ms. MCAULIFFE: Right.

Mr. KILLION: So I would say -- I would recommend that we bring Mr. Troy in here for that meeting to tell us -- advise us of the results of that meeting.

Ms. MCAULIFFE: Yes, I thought it would be after. No, that's a good point.

Speaker BERGSTROM: Yes, Lilli.

Ms. GREEN: Thank you. And to that end, I would also ask that Jack be on the agenda as well.

Speaker BERGSTROM: Oh, we'll put that on the agenda.

Ms. GREEN: Thank you.

Speaker BERGSTROM: Yes, report from Jack.

Ms. GREEN: Thanks. I won't make that mistake again.

Speaker BERGSTROM: Do we have a motion to do anything else?

Ms. MCAULIFFE: Yes --

Commissioner CAKOUNES: Holiday party.

Ms. MCAULIFFE: She already did that the other day. Move to adjourn.

Speaker BERGSTROM: Nobody agrees with you?

Mr. MCMANUS: Second.

Speaker BERGSTROM: Okay.

Speaker BERGSTROM: All those in favor? Aye.

**Whereupon, it was moved, seconded, and voted to adjourn the Assembly of Delegates at 5:20 p.m.**

**Submitted by:**

**Janice O’Connell, Clerk  
Assembly of Delegates**

List of materials used and submitted at the meeting:

- Business Calendar of 11/2/16
- Unapproved Journal of Proceedings of 10/19/16
- Revenue reference sheet for CLC FY16
- Delegate Green handout regarding CLC: letter dated 12/31/15 ConEdison Solutions and Amendment to Competitive Electric Supply Agreement dated 1/11/16
- Proposed Resolution 16-09 submitted by Wellfleet Delegate Lilli-Ann Green and amended letter to Governor Baker