

**CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES
HARBORVIEW CONFERENCE CENTER @ 4:00 P.M.
BARNSTABLE COUNTY COMPLEX
3195 MAIN STREET, ROUTE 6A
BARNSTABLE, MA 02630**

UNAPPROVED Journal of Proceedings - March 7, 2018

Call to Order

Speaker MCAULIFFE: I'm calling to order the meeting of the Cape Cod Regional Government, the Assembly of Delegates. Today, we are in the Harborview Conference Center. This is in the Barnstable County complex up on the hill, and we will be here until they need to renovate this space. So, for the future, the Harborview Conference Center, top of the hill, for the Assembly of Delegates.

Before we start our meeting, I'd like to have 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 MCAULIFFE: Thank you.

Please rise for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker MCAULIFFE: Will the Clerk please call the roll.

Roll Call

Roll Call Attendance (88.39%): Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), Lilli-Ann Green - (1.27% - Wellfleet), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich), Susan Moran (14.61% - Falmouth), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown), Patrick Princi (20.92% - Barnstable - remote participation), Linda Zuern (9.15% - Bourne).

Absent (11.61%): Edward Atwood (2.30 - Eastham), Christopher Kanaga (2.73% - Orleans).

Clerk O'CONNELL: Madam Speaker, you have a quorum with 88.39 percent of the Delegates present; 11.61 percent absent.

Speaker MCAULIFFE: Thank you. This is a new set up. I want to thank Janice and IT and the County Complex people for getting this room ready. It was no small feat in terms of the room set up and getting microphones and trying to get everything working. We will be sharing microphones, so just make sure when you're speaking that you look for the nearest microphone and you put it in front of you, so people can hear.

And is there anyone recording? No. Okay. Thank you.

Approval of the Calendar of Business

Speaker MCAULIFFE: The Calendar of Business, is there a motion to approve?

Mr. BERGSTROM: So moved.

Speaker MCAULIFFE: Is there a second?

Mr. O’HARA: Second.

Speaker MCAULIFFE: Okay. This will have to a roll call vote because we have remote participation.

Roll Call on motion to approve the Calendar of Business

Voting “YES” (88.39%): Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), Lilli-Ann Green - (1.27% - Wellfleet), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich), Susan Moran (14.61% - Falmouth), Thomas O’Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% – Provincetown), Patrick Princi (20.92% - Barnstable – remote participation), Linda Zuern (9.15% - Bourne).

Absent (11.61%): Edward Atwood (2.30 – Eastham), Christopher Kanaga (2.73% - Orleans).

Clerk O’CONNELL: Madam Speaker, the Calendar of Business is approved 88.39 percent voting yes; 11.61 percent absent.

Speaker MCAULIFFE: Thank you.

Approval of the Journal of Proceedings

Speaker MCAULIFFE: The next item is the Journal of February 21st, 2018. Yes, Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker. I have a few clerical error corrections and I have written them out, so I can just pass them on to Janice. I mean it’s like the word is “so” not “son” and things of that nature. So, I’ll just pass them along to Janice.

Speaker MCAULIFFE: Okay. Anyone else have any corrections? Yes.

Mr. O’MALLEY: Madam Speaker, I will move approval as distributed with the corrections noted.

Speaker MCAULIFFE: Is there a second?

Mr. BERGSTROM: Second.

Speaker MCAULIFFE: Okay, and a roll call for that.

Roll Call on motion to approve the Journal of Proceedings of 2/21/18

Voting “YES” (88.39%): Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), Lilli-Ann Green - (1.27% - Wellfleet), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich), Susan Moran (14.61% -

Falmouth), Thomas O’Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% – Provincetown), Patrick Princi (20.92% - Barnstable – remote participation), Linda Zuern (9.15% - Bourne).
Absent (11.61%): Edward Atwood (2.30 – Eastham), Christopher Kanaga (2.73% - Orleans).

Clerk O’CONNELL: Madam Speaker, the journal passes with 88.39 percent of the Delegates voting yes; 11.61 percent absent with the corrections noted.

Speaker MCAULIFFE: Thank you.

Summary of Communications from Board of Regional Commissioners

- Storm report
- Grants received by the county
- County appointments to the Hoard Task Force and EDC. Susan Moran from Falmouth will be the Assembly Delegate Representative for EDC
- Personnel related approvals
- Award of contracts
- Mortgage subordination
- Mortgage discharge
- Travel report from Cooperative Extension staff
- Creation of a Coastal Zone Management Committee seeking two Assembly Delegates to participate
- AmeriCorps housing status update

Details

Speaker MCAULIFFE: Next is communications and report on County issues from the Board of Regional Commissioners. We have Commissioner Cakounes with us this afternoon, and we have Commissioner Beaty right in the nick of time.

Commissioner CAKOUNES: Well, thank you for having me. I hope you all fared the storm well. We had a number of reports on our agenda from our County staff and opening up the management center here in this room actually. So, we all fared it well though. A lot of people with power outages as you know, but I think now we’re facing yet again another one tonight.

I will try to go through my report quickly. I have two meetings to report on today; February 28, which was a week ago and then today’s meeting.

On February 28, we had approval of the minutes of February 21st, which is normal course of business. We also had correspondence and kind of an introduction to a \$300,000 grant that came to Barnstable County through the Massachusetts Executive Office of Housing and Economic Development Seaport Economic Council, and it was specifically for a marine simulator fire apparatus that we’re going to be installing at the Fire Academy. And I think I reported a little bit on this two weeks ago, but the grant did come through, so we are now going to be looking at, once again, increasing the availability of training equipment at the Fire Training Academy.

We also had on the agenda the distribution and execution acknowledgment receipt of the Social Media Policy and Vehicle Use Policy. This was put on the agenda because the week prior Commissioner Beaty felt that it was something that should have been agendaed and discussed. So, I did, out of courtesy to him, put it on the agenda. Ironically, last week he wasn't there on the 28th, so we basically skipped over that particular topic.

We had an authorization for appointments to the Economic Development Council. We did now officially vote the members for the new EDC so that is up and running. Thank you, Sue Moran, for putting your name in and being the Assembly's rep to that. A letter will be going out. I tried to compose something quick, and I think it probably will be going out this week to the members and yourself. You have been designated as the chair pro tem, so that way there you can call the first meeting, and the letter we'll certainly thank everybody for their time and efforts.

And the other applicants, by the way, we had a number of applicants and nominees for that. So, we're very happy to say that more than we needed, and I think the County Commissioners will probably be addressing creating a -- not auxiliary but --

Clerk O'CONNELL: A talent bank.

Commissioner CAKOUNES: Pardon me?

Clerk O'CONNELL: A talent bank.

Commissioner CAKOUNES: No, what do they call it when you're --

Commissioner BEATY: Pool.

Speaker MCAULIFFE: Friends of?

Commissioner CAKOUNES: No, stop it. You know, you're either a member or you're an associate.

Commissioner BEATY: Alternate.

Commissioner CAKOUNES: Alternate, thank you. Boy, you guys are all bad, an alternate member.

Mr. MCMANUS: They don't do crosswords.

Commissioner CAKOUNES: Moving on, we authorized the timesheet for Jack Yunits as we always do. Authorized approval of five days without pay for an employee of the Cape Cod Commission. We authorized and appointed some person to the -- a number of people to the Cape Cod Hoarding Task Force because there was some vacancies. We authorized the creation of a new fund for a grant that we received, again to the Cape Cod Commission. We authorized contracts for golf course materials for a number of different towns that participate through Barnstable County's purchasing policies, and there's a whole list of different companies that qualified for that that we awarded contracts to. I will not go through the list.

We authorized the award of a contract for the lease and maintenance of porta-potties for also towns involved in Barnstable County, and that's a short list. It was Matt Frazier from Wellfleet; Nauset Disposal for the towns of Eastham and Harwich.

We also had some authorization of award for Bituminous Products or road surfacing projects that we did, and authorization of contract for road repair items. And, again, it's a list of contractors. It's quite lengthy. I will not bother reading the whole list.

We authorized the subordination of a mortgage held by Barnstable County for a gentleman by the name of Dean Clarke, which owns a certain amount of real estate in East Falmouth.

That brings us to basically today's meeting. Today's meeting was equally as quick. Again, I'll go down the agenda, and I'll open it up for questions.

We also approved the meeting of February 28th, which is the meeting I just reported on. We did have a report which, again, I have been telling you people has been the policy now of the County Commissioners when our department heads or members from our different departments go on different seminars, if you will, on the County dime. We ask them to come back and report to us what they either learned or what they contributed. In this particular case, we had two individuals, Diane Murphy from the Fisheries and Aquaculture Specialist and Joshua Reitsma, who is the Marine Program Specialist with the Cooperative Extension. Both of them attended the Milford Agricultural Seminar in Connecticut. And, ironically, one actually participated in the seminar, in other words, putting on a seminar on one day and the other gentleman Joshua participated in going to seminars.

And today at our meeting, they both described their time and experience there and, quite frankly, I think it was very worthwhile sending them. They learned an awful lot about -- what's that weed that they were talking about?

Ms. ZUERN: Kelp.

Commissioner CAKOUNES: Kelp, thank you. We learned a lot about kelp.

We discussed today, as you all know, we are going through the different County policies. In fact, I see it's on your agenda; you'll be talking about it later. But another one that's come forward now for cleaning up and a vote is the County Reimbursement Policy. It has come to our attention that the policy does not meet some IRS guidelines and there's a little bit of discrepancy, so it needs to be updated. Staff will be working on that. There was a little bit of input from the County Commissioners but, basically, today we voted to have staff go through it all and make sure that it's up to date and in accordance with the IRS Rules and Regulations, and then we'll be bringing it back for a formal vote and action probably next week if staff gets it done.

We had authorization and approval of the timesheet, again, for Jack Yunits. We have had on our agenda a number of weeks, in fact, I believe I reported to you two weeks ago, the authorization of the new Regional Wide Area Network Agreement with OpenCape. For some reason, there has been some miscommunication back and forth. I had specifically a problem that the contract did not state specifically that it is subject to funding so that each year as you all know we, the executive body, cannot commit next year's executive body to a contract without those -- that term in there. It will be subject to the funding through the normal process which is the budget process.

Also, it has come to our attention that there's a possibility, a very strong possibility and, in fact, I think pretty much our purchasing department has said we really need to go out for a new RFP. This particular contract has been awarded twice already or I should say extended once, awarded once and extended once. And because of the procurement laws under 30B, we have to probably go out for a new RFP.

So that particular item, I hate to bore you again, but you're probably going to hear me reporting on it once again. To just let you know, we took no action on it today.

We also had a discharge of a mortgage today, which is, again, a standard procedure for us. The Commissioners voted that and signed it.

Under the "Commissioners' Reports" today, I want to just bring one thing up, and I know I brought it up before, but because of the storm, we had put off putting together a workshop to help the Commissioners create a new ordinance for the Coastal Zone Management or Coastal Zone Resource Committee. And I'll be looking to, and I think through the Speaker and your Clerk, a couple of volunteers from the Assembly that would like to participate in that. As I mentioned earlier, I think two weeks ago, this is not a lengthy commitment. I don't see this taking more than one meeting and possibly an hour or two of some kicking around some ideas, and then we'll formulate those ideas into an actual ordinance, and then it will go through the ordinance process.

I hope that Owen sends out that suggested dates soon, but we're looking at next week and, again, I'll be looking for at least two from the Assembly or one anyhow to participate.

And I think that pretty much covers what we did and what we talked about.

Speaker MCAULIFFE: Any questions? Yes, Brian.

Mr. O'MALLEY: I have two questions of the Commissioner. First, on the OpenCape, I think I'm not entirely clear; was it resolved? Was the contract signed and it's going to have to come back and --

Commissioner CAKOUNES: No, it was not signed.

Mr. O'MALLEY: Oh.

Commissioner CAKOUNES: It was postponed two weeks ago because I didn't get the contract in time or none of the Commissioners got it in time to review it prior to the meeting.

Mr. O'MALLEY: Okay.

Commissioner CAKOUNES: The second time it was pushed back because after reviewing it, I found that it was missing some language, specifically the appropriation language. Today, that language was not inserted into it, and then we even discovered today that there's a possibility, a very strong one, that this should go out for another RFP due to the procurement laws anyhow. So, I'm kind of glad we did not sign it today; no.

Mr. O'MALLEY: So, if that happens, are there significant other competitors?

Commissioner CAKOUNES: No.

Mr. O'MALLEY: So, it's likely to go forward?

Commissioner CAKOUNES: I won't say that publicly but okay.

Mr. O'MALLEY: Okay. Thank you. Second question, totally unrelated, this concerns the Pocasset, the situation. The paper reported this week that AmeriCorps may be evicted from its home, and yet we've made very strong -- it's been in our public session statements that the existing for-profit entity that operates there, elder housing, is not going to be moved out. Why are we not able to accommodate AmeriCorps?

Commissioner CAKOUNES: I'm sorry; I kind of missed your connection between -- you're talking about the elder housing, the Assisted Living Center?

Mr. O'MALLEY: The assisted living up there.

Commissioner CAKOUNES: Okay. The assisted living piece of property has -- although it's on the same physical piece of property, the arrangements that the County has with the Assisted Living Center has absolutely nothing to do with the AmeriCorps house. They are two entirely different situations, okay.

The AmeriCorps house is carved out, if you will, of that lease to them. It sits on a very, very small piece of property with about 10 feet all the way around it, if you look at the actual map, and it is currently owned by the County. So, we are not -- the County doesn't -- we're using that as a County asset to house AmeriCorps people.

Now why the Commissioners and the staff is concerned with housing, future housing AmeriCorps members there is because we have on the table a large plan for the other pieces of property including the two that are on the front road, which presently are vacant. And this one is going to hopefully become a bargaining chip in settling some of the uncertainty of exactly what's going on over there with the other pieces of property not related directly to the Assisted Living Center.

Mr. O'MALLEY: All right. Thank you. I will accept the fact that there are elements of this that you don't want to be completely open about.

Commissioner CAKOUNES: Thank you.

Mr. O'MALLEY: Where do we stand with making other arrangements for AmeriCorps then? The paper made that sound hopeless.

Commissioner CAKOUNES: We stand -- well, I'm sorry that that came out because it's absolutely not hopeless. I mean we are, first of all, in the budget that you received from us, from the Commissioners, you see that we have supported an application of 24 AmeriCorps residents to come in in August of next year, so we'll be in FY19.

Out of those members, we feel at this point we are very confident that we have housing for the majority of them. I believe the number six is being floated around that we, at this point, do not have housing for six of those members. We have a very strong group of people out looking to help the County put together and find some adequate housing.

And I have to be clear, this cannot just be adequate housing. These young professionals come here and donate their time for very little pay, and they give back to the community through this experience of AmeriCorps, but this is not 1940 anymore. We cannot house them in dwellings that are habitable because they don't leak and because there's heat. These dwellings have to meet today's standards. You know, we are bound by laws, like everyone is, when you are a tenant landlord.

So, is it going to be easy? Probably not but I know Mr. Beaty went out and looked at a place today. I have looked at a number of places. This is not something that I think is undoable. If I did, I wouldn't have supported the budget.

And we do have an opening in the budget so that when this comes forward if it ends up costing the County some extra money for heat in another place or maintenance in another place, then we'll be back before you with an amendment to the

ordinance -- to the budget once the fiscal year '19 starts.

Mr. O'MALLEY: Right.

Commissioner CAKOUNES: But I don't see this personally as a dire situation as the paper made it out to be.

Mr. O'MALLEY: Thank you.

Commissioner CAKOUNES: But they're not going to be in the current house that they're in. That is off the table.

Speaker MCAULIFFE: Commissioner Beaty wanted to weigh in on this too.

Commissioner CAKOUNES: Yes.

Commissioner BEATY: Yes, so, just to elaborate. As a result -- there's a lot of things going on with AmeriCorps even just today. As a result of that same article that you mentioned, AmeriCorps, a number of parties, individuals, and groups have reached out to them within the last couple days, so there's even more possibilities for them.

Today, I went and toured -- I met with the Barnstable Town Councilor Phil Wallace along with Dan Shell, the program coordinator, and Julie Ferguson; we toured a place called the Paine Black House owned by the town of Barnstable on Route 149 that it's a historic building that they've been rehabbing with community preservation funds. There's a good possibility of housing six people there once it's finished, and we're going to make our case to the town of Barnstable about that.

There was also just now, that's where I came from, an informal meeting of AmeriCorps people, alumni and the staff. That's how I got updated to the very minute right now.

And, also, the Town of Barnstable property manager for their surplus properties just called them and wants to revisit some of the possibilities for the town of Barnstable to help them out. So, there's nothing but good things happening.

Mr. O'MALLEY: Okay. Thank you.

Commissioner BEATY: Yes.

Commissioner CAKOUNES: And if I can just finish on that one too?

Speaker MCAULIFFE: Yes.

Commissioner CAKOUNES: I'm also going down to Joint Base Cape Cod tomorrow with staff to talk with the individuals down there. There's a lot going on with the planning and the use of Joint Base Cape Cod and, hopefully, we can at least put on the table the discussion of AmeriCorps and how AmeriCorps may be able to help them and, in turn, also help us with our housing shortage.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: Yes. You know, you discuss the fact that there may be other plans for the property, you're talking here and there, and you also suggest that the decision has been made not to use the house.

Now there's only three of you, so who is having these discussions and who is making the decisions?

Commissioner CAKOUNES: The Commissioners made the decision a while back not to use that house again.

Mr. BERGSTROM: All right. It was on the agenda?

Commissioner CAKOUNES: I believe it was. I'll have to go back and look.

Mr. BERGSTROM: All right. What about the discussions about the future use of the property?

Commissioner CAKOUNES: That has not been on the agenda and --

Mr. BERGSTROM: Well, it's obviously been discussed if --

Commissioner CAKOUNES: Well, it's been discussed through myself as the chair. Some other people have contacted Jack to talk with Jack about it. There's nothing that's on the table that's going to move forward that the Commissioners need to vote on. There's no interest to purchase at this time. There's no interest to lease at this time. I mean it was in the paper that even the town of Bourne is looking to build a fire department there. But there's -- nothing has moved to the point that we're about to need a vote or action on it by the County Commissioners.

Mr. BERGSTROM: Well, obviously, there's been some communications back and forth.

Commissioner CAKOUNES: Absolutely.

Mr. BERGSTROM: Who is doing the communications?

Commissioner CAKOUNES: Myself, I think Mr. Beaty --

Commissioner BEATY: I usually talk to Jack.

Mr. BERGSTROM: Okay.

Commissioner CAKOUNES: Jack, yes.

Mr. BERGSTROM: And the other point I want to make although is that you have other plans for this property that may come into fruition in the next year or two, and it's just a coincidence that at the same time that you're discussing the use of the property you've discovered that the house is no longer habitable for AmeriCorps. That's just coincidence?

Commissioner CAKOUNES: I wouldn't use the word "coincidence." I mean, personally, I'd rather not go there publicly, but if you want me to, I'll be more than happy to. I feel an obligation for watching out for the liability of the County not to discuss pieces of property that we own and their status as far as being used as a --

Mr. BERGSTROM: I'm not asking you how you discovered this stuff, what it is. I'm just saying that the fact that the status has been determined and the status --

Commissioner CAKOUNES: I think that the County Commissioners, especially myself, spending the last year going through stacks and reams of paperwork involving the Pocasset property in all, all of it, including the relationship of the County and the Assisted Living Center, including the relationship of the County and Gosnold, including the relationship of the County and the old tuberculosis building, the relationship of the County with the AmeriCorps house, and then the elderly service house, which is out near the road, and the small house that's been used as a thrift store. Absolutely, yes, that all this has been discovered because of the efforts of the current Commissioners, number one.

And, number two, a lot of it was brought out because of the audit report from the state auditors advising us to look into our leases and the properties and the assets that we own and making sure that they all comply with state and federal laws. So

yes.

Commissioner BEATY: I've actually been out there several times just to check on it. And I've been to the AmeriCorps house about one issue or another and also to check on some of the other buildings because there's some questionable things in my opinion right from some of the lessees that are there. So, I've been out there myself. And you talked to Steve Tebo, the Acting --

Commissioner CAKOUNES: Facilities Director.

Commissioner BEATY: -- Facilities Director. So that information, that's how you get it, from staff. So, I mean they'll give you the same information. But some of the places, they're in pretty poor shape. They were not taken care of for years.

There's a huge garage, like a ten-car garage out there with smashed windows and stuff. I mean it was let go.

Speaker MCAULIFFE: Okay. Thank you. Any other questions from anyone?

Yes, Tom. Just move the microphone over. We're sharing microphones.

Mr. O'HARA: Yes, certainly. So, you had mentioned the awarding of contracts and different contractors, paving in particular. Where's that list available? Is it on the website or can I get a hand on that? I've mentioned it multiple times to the town manager, and we're interested in possibly taking advantage of some of the --

Commissioner CAKOUNES: Well, the list of approved people that I just -- we just approved the other day, I think that was on the 28th, you can get that list. I'll be happy to give it you right now. It's on our agenda, because when we agenda them, we actually list the names of the people that we're going to make the award to.

However, I would suggest that you have your interested party in your town contact Elaine Davis through the purchasing department because she was the one that has all the approved vendors that towns can use. And not only that if, for instance, your town wanted to go out specifically for porta-potties, for instance, she would be more than happy to handle that RFP request. You can handle it through the County, and then our approved vendors would be able to bid on it. Because there's some things that you can just go to the list and pick one, but there are others that you still have to go through an RFP process even though they're preapproved, if you will.

The procurement laws have changed a little bit. I forget what the name of that Massachusetts General Law that changed last year but it allows for a little bit more leniency in some of these what I would determine preapproved contractors. So, I'm not sure if all of them that you're interested in fall under that.

But Elaine Davis would definitely be the contact to straighten you out on that question.

Mr. O'HARA: Great.

Commissioner CAKOUNES: And I'll be happy to give you this agenda. It's got a whole bunch of, as I mentioned, three different things that we did; golf course materials, the porta-potties, and the Bituminous Road Products.

Mr. O'HARA: Okay. Thank you.

Speaker MCAULIFFE: Yes, maybe Jim next.

Deputy Speaker MCCUTCHEON: Let me grab one of these microphones. Mr. Beaty, you spoke about going out to look at one of these houses and

determining the status as a habitable structure; is that right?

Commissioner BEATY: It's currently being renovated by the town of Barnstable, and they have a target date of finishing it in June I was told by the Town Councilor.

Deputy Speaker MCCUTCHEON: My question was you went out as a Commissioner to look at that property; is that right?

Commissioner BEATY: I went with the AmeriCorps people.

Deputy Speaker MCCUTCHEON: Okay. So --

Commissioner BEATY: And I went -- the reason I went is because I happen to have a very good relationship with this town councilor, and he's the one who had access to the building. We were just looking to see if it was a possibility.

Commissioner CAKOUNES: I think she's talking about the present one, but I don't know.

Deputy Speaker MCCUTCHEON: Yes.

Commissioner BEATY: Oh, which one are you talking about; Bourne or the one I looked at today?

Deputy Speaker MCCUTCHEON: The building you spoke about today. You said you went out to look at it to determine its status as a habitable space; is that right?

Commissioner BEATY: No. Are you talking about Bourne?

Speaker MCAULIFFE: No. The one today -- the historic property.

Commissioner BEATY: The Paine Black House?

Speaker MCAULIFFE: Yes.

Commissioner BEATY: We are -- I'm looking to assist the AmeriCorps people to try to help locate different possibilities, and I mentioned this to them, and they made the appointment. I happened to go with them to help take a look at it, yes.

Deputy Speaker MCCUTCHEON: Yes, I'm way down at the level of stupidity here.

Commissioner BEATY: No, you're not.

Deputy Speaker MCCUTCHEON: My question is why would you go out to look at a building like that instead of --

Commissioner BEATY: Because I --

Deputy Speaker MCCUTCHEON: -- wait a minute.

Commissioner BEATY: Go ahead.

Deputy Speaker MCCUTCHEON: Wait for it. Wait for it. I've got a point -- when there are certified building commissioners, you know, inspectors --

Commissioner CAKOUNES: It's not at that point yet.

Deputy Speaker MCCUTCHEON: -- for the town --

Commissioner BEATY: It's not even remotely to that point yet. This was just checking on a possible opportunity for the AmeriCorps because I'm the one that knows the town councilor, and I was there to make introductions and to take a look at it.

Are you questioning the appropriateness of me being there?

Deputy Speaker MCCUTCHEON: I'm --

Commissioner BEATY: It was perfectly appropriate.

Deputy Speaker MCCUTCHEON: I'm --

Commissioner BEATY: So, what's the point of your question?

Deputy Speaker MCCUTCHEON: I'm trying to find out how the inspection of the property and to determine if habitability was made, that's all.

Commissioner CAKOUNES: Directly to that, we in the office are getting inundated with possibilities of housing AmeriCorps people.

Deputy Speaker MCCUTCHEON: Yes.

Commissioner CAKOUNES: And we have split up amongst ourselves instead of going as three of us together or two of us and violating Open Meeting Law, but if there's one in Barnstable in the Barnstable area, Commissioner Beaty goes out and looks at it. I've gone out and looked at a number of them. Staff has gone out and looked at a number of them.

I'm talking about 15 to 20 sites, some of these just absolutely we appreciate the heads-up on it, but they just -- are just not going to fit the bill at all.

So, this first going out and looking and investigating is what we have to do. Then if a piece of property does look like it's going to work, the next thing we have to do is enter into some kind of an agreement with the owner, whether it be a town or an individual and find out if they're interested because, again, we're not looking to pay rent, so it's going to have to be an exchange of services.

If that comes to fruition and looks like it's going to happen, then an agreement will be drafted, and it will go to town counsel/county counsel first, and then it will come to the board to take an action on.

At that point, then we will have sent staff out and people out to make sure that the building is structurally sound. I'm not signing anything asserting that anything is structurally sound on my say-so. Obviously, we, as the Commissioners, will have someone go out to make sure that it meets the structural standards. But there are hundreds, not hundreds, but there are definitely 25 of these buildings that we've already gone out and looked at. And out of 25 of them, 23 of them we said, "Thank you, very much, but no, not going to work."

Deputy Speaker MCCUTCHEON: Well now I understand the process.

Commissioner CAKOUNES: Very preliminary looksee. That's all it is.

Mr. BERGSTROM: Can I ask a question? Was this a subject of the last two Commissioners meetings?

Speaker MCAULIFFE: Can you use the microphone.

Commissioner CAKOUNES: It's not been on the agenda for the last two Commissioners meetings, no.

Mr. BERGSTROM: Then we're probably gone -- I mean I would respectfully suggest that we've probably gone as far as we can without getting into a subject --

Commissioner BEATY: Yes, probably a good idea.

Speaker MCAULIFFE: Thank you.

Mr. BERGSTROM: -- that we don't --

Speaker MCAULIFFE: Yes, so the status is preliminary looking for housing for the AmeriCorps.

Commissioner BEATY: Right.

Commissioner CAKOUNES: And we only started down this road

because of the newspaper clipping, which is part of my report here today.

Speaker MCAULIFFE: All right. Any other questions? Okay. Thank you, very much.

Commissioner CAKOUNES: Thank you for having us.

Commissioner BEATY: Thank you.

Summary Communications from Acting Cape Cod Commission Executive Director

Kristy Senatori

- **Submission of Proposed Ordinance 18-04: to amend Chapter A of the Enabling Regulations to add a new section**
- **Submission of Proposed Ordinance 18-05: to amend Chapter G of the Growth Incentive Zone Regulation to delete Chapter G and replace with other language**
- **Public hearings expected to be scheduled before the full Assembly on 3/21/18**

Details

Speaker MCAULIFFE: Our next item is from the Cape Cod Commission Acting Executive Director Kristy Senatori, and she has some proposed ordinances that she's submitting for our consideration. Thank you. Welcome.

Acting Exec. Dir. SENATORI: Thank you and thank you for having me here today. The purpose is just to introduce two ordinances that have been submitted to you, and I understand will be noticed for a Public Hearing on March 21st and we appreciate that. So, I just wanted to introduce them briefly and kind of let you know what they contain.

So, the first is changes to our Growth Incentive Zone regulations. So, these appear as Chapter G in the Code of the Commission's Regulations. These Growth Incentive Zone Regulations were initially adopted in 2005. There have been some minor amendments since 2005. So, a Growth Incentive Zone for anyone who may not be completely familiar is an area identified as appropriate and that would benefit for additional growth and development.

So, it's typically commercial development and housing development, sort of mixed-use development, and these Growth Incentive Zones are kind of what people know as Commission-free zones. So, they're really areas that streamline or eliminate Commission regulatory review. And it's really areas where the town is committing public resources/public assets to support the infrastructure in these areas and also to allow for additional private investments.

So, there are three towns that currently have Growth Incentive Zones. Buzzards Bay has one in Bourne; Yarmouth has one, and now Barnstable has one and they're in the process, Hyannis, of updating their Growth Incentive Zone and reauthorizing it currently.

So, the regulations that have been in place for 13 years have worked but we have also learned a lot in 13 years. So, it's time to take a look at those kind of more whole cloth, a little bit broadly, and to see if we're meeting the goals that we have set forth in the Commission Act and kind of guiding growth and development.

And so, we've heard back from some of the towns who have these existing Growth Incentive Zones and then other towns that are interested in Growth Incentive Zones, and we recognize that all 15 towns are different.

And so the regulation changes that you'll see are reflective of that in really giving more authority and flexibility back to the local communities for the local decision-makers to decide what they would like to see for some of these areas, noticing that a Growth Incentive Zone in Sandwich probably doesn't look like the same Growth Incentive Zone that might be applied for in Chatham.

So, it's regulatory streamlining providing additional flexibility at the local level and so that is kind of broadly what those Growth Incentive Zone Regulation changes look like.

It's eliminating a lot of the more prescriptive nature of them, and it's also eliminating the timeframe. Right now, it has an expiration of 10 years on most Growth Incentive Zones, and rather than just putting a 10-year limit on it, it has more regular check-ins and performance measures to see how the town is doing in meeting some of those objectives and goals that they've set forth. So that's the first one on Chapter G.

We also have a regulation change to Chapter A, which is our enabling regulations, and this is really where the DRI thresholds are set forth.

And so, as you're all familiar with our Section 208 Area-Wide Water Quality Management Plan, the recommendation that came from a lot of work with the communities was that local comprehensive wastewater management plant and wastewater plans that deal with nutrient remediation really shouldn't be reviewed like typical DRIs. So, they shouldn't be reviewed pursuant to the Regional Policy Plan in 200 or more Minimum Performance Standards that range from transportation to community character.

So, the suggestion has been to put together a 208 Consistency Review rather than going through a typical DRI review for some of these larger systemic municipal projects. So, the change that you see in this ordinance is reflective of that. This has been a recommendation in the 208 Plan, and the Implementation Plan and has been approved by both the Environmental Protection Agency and the Department of Environmental Protection and is now incorporated as part of DEP's Watershed Permitting Program.

So those are the changes very broadly. I look forward to answering any questions and certainly at the hearing as well. And if anyone has anything specific that they wanted to reach out, I'm available via email or phone anytime between now and then as well.

So, I appreciate the opportunity.

Speaker MCAULIFFE: Any general questions at this point?

Just a comment, having been through the GIZ process in Yarmouth, I'm glad -- it's always great to hear that it's not just a static process and that things are evolving and changing and that's really positive because I was part of one of the earlier GIZs. And it really does help towns get their hands around and think about and change what they look like, and it does get you out from under, you know, the negative impact that Cape Cod Commission reviews might have on businesses. So, it's been good for Yarmouth.

And the other is the 208 DRI reviews. Having experienced a number of those, we can get into the kind of shrubberies and the 10 percent energy efficiency on site on and on and on and on. It really shows the focus to helping the Cape develop its wastewater infrastructure.

And I think these are two examples of the Cape Cod Commission really working to benefit the Cape and the towns as opposed to kind of just staying in their cubicle and following their original plans.

So, I think that these are two really, really good things going forward.

Acting Exec. Dir. SENATORI: Great.

Speaker MCAULIFFE: My two cents having been involved in a number of these at a local level.

Yes, Deb.

Deputy Speaker MCCUTCHEON: Yes, I just want to know, what's a GIZ?

Speaker MCAULIFFE: Growth Incentive Zone.

Deputy Speaker MCCUTCHEON: Okay. Fine.

Speaker MCAULIFFE: Okay. That's it. It's to promote growth in an area so it gets you out from under the regulations.

Okay. Thank you, very much, Kristy.

Acting Exec. Dir. SENATORI: Thank you.

Speaker MCAULIFFE: We look forward to seeing you. So, we will do the hearings at our next meeting, and then this kind of is a time schedule to get them on track to get these things approved so that they can go forward.

Yes, Brian.

Mr. O'MALLEY: If I might just make a request of the Commission since these regs tend to be rather lengthy, if there's any way we could get them more than a couple days ahead of our next meeting, that would be great so we have a chance to review them.

Speaker MCAULIFFE: Yes, if you could send them out this week, that would be great. Thank you.

Oh, yes, Janice is on it.

Mr. O'MALLEY: Okay. Of course.

Speaker MCAULIFFE: Thank you.

Summary Communications from Public Officials

- **Commissioner Cakounes – concerns regarding a Charter recall provision**
- **Commissioner Cakounes – seeking legal opinion to determine if elected officials are considered county employees and therefore subject to county policies**

Details

Speaker MCAULIFFE: Any communications from Public Officials?
Commissioner Cakounes. Two bites at the apple today.

Commissioner CAKOUNES: Thank you. Two bites at the apple today.

Well, you know, the way that the agenda works here, as you all know, I've always found it to have a flaw in it because when you guys convene, then you cannot receive testimony and it's a process to ask for testimony.

So, I rise today because I see there's two things on your agenda; one is the recall provision. I will address that one first. I just want to draw your attention to a couple of things. As a County Commissioner, I have researched the recall provision. I have met with a number of different clerks across the Cape. The recall provision for the County Commissioner position is entirely different and would have to be handled entirely different than the recall position for the Assembly. As you all know, you guys are elected by your towns and you have a two-year seat, two-year term. It doesn't seem to me that having a recall for a two-year term would be smart anyhow. It seems like it's an awful lot of work and money to put the town through.

But if you so decide to look at that, then fine. Those will be run by the town. No. The County Commissioners seat, however, is a state-run election and would require a state-wide -- a state to oversee the election, and it would be a county-wide election.

The clerks across the county have told me that they are not in favor of a recall situation because, again, the only thing I can attribute this recall to would be something similar to what the tech school had to go through when they had to go for a -- I think it was only eight towns that were involved in the Harwich Tech School vote. They held a special election for that and then subsequently some towns decided to have a ballot vote afterwards.

This particular situation would require two elections because it is a partisan seat. Yours is not, but the Commissioners' is. It's a partisan seat so we would require a special primary and then, subsequently, the special election following that. And I have heard through the Clerk's office that we're probably looking at anywhere from 150,000 to over \$200,000 price tag if you so desire to become -- look at doing some kind of recall provision.

I don't know how much you're going to talk about it today. I shared some of my thoughts with Assemblyman Moran on this because I know she was working on some things. I think there's a way maybe we can look at a two-year looksee for recalls that will not cost the towns an excess amount of money. Because, by the way, most of the clerks said that if we institute a recall, then they're going to send the bill to us. So, I'm not sure who's going to fitting the bill for this recall at the end. But it's all things that I think you guys should all know about and certainly discuss. I won't get into my idea because I think maybe Ms. Moran is going to present it later, but it might answer some of those questions.

I'll just tell you at this point that I, personally, am not a big fan of going down this road. And when you do look at it, there's one other thing I do want to add though. I think you need to tie it to the actual election that you're recalling, and I will use my fellow Commissioners as a perfect example.

One of my -- two of my fellow Commissioners ran together on the same ballot. One got 61,000 votes or 60,000-plus votes, the other got 30,000 votes. To have a system in place which recalls one of those two without looking at how many actual votes put them there to me seems kind of ludicrous because, quite frankly, if you're

going to recall the one that got 60,000 people on Cape Cod to vote for them, I would say you should be at least be looking for a third of those people to sign some kind of a recall petition. That number would be almost close to what voted for the second person.

So, when you look at this, please take the time to look at the year in which this person that you're thinking of recalling was elected and maybe somehow tie the percentages of signatures that you need to that specific year. That's the first way of doing it. Again, thank you for allowing me the time to talk about the recall.

The County policies is the second thing that you have on your agenda. I do know that -- I'm not sure whether the Speaker did it or if it came from the Clerk, but I do know that County Counsel was asked to weigh in on the legality of asking you as an elected official to sign in receipt of it, and because he was unable to find any state law or General Laws that say you would be. His determination is that we cannot force you to sign receipt of it, and that's where his opinion stops.

I have asked today for a legal opinion to find out if elected officials are considered employees. You act as employees in every other way. You put in for reimbursement on your vehicles just like employees do. Some of you receive health insurance payments just like our employees do. So, I would argue at this point that you should be considered as employees of the County, and that you should be subject to those policies.

And I will wait to hear the decision from County Counsel on that question. I asked him as late as today to get it, and then when I do get the response, I'll make sure to forward it to the Speaker, so you guys will have it also.

I do caution you though and I really -- this one's a crow in my side; I'm not going to admit that it's not, it is. When the executive branch and body goes through a lengthy process to put together policies and procedures which we are granted in the Charter to do so, and we put out policies and procedures, I would hope that all elected officials would step up to the plate and follow them if we're going to mandate our employees to follow them and show what you're here to do and that's leadership.

And these policies are not unreasonable; they're not crazy; they're taken right out of General Law, and we hear as elected officials should do the first and foremost thing, and that is be leaders, and leaders by saying these are good policies and, yes, we're going to follow them along with our employees at an equal level because, basically, I think you are.

Thank you, again, for allowing me the time.

Speaker MCAULIFFE: Thank you.

Mr. O'HARA: Thank you, Leo.

Speaker MCAULIFFE: Any communications from Members of the Public? No. All right.

Assembly Convenes

Speaker MCAULIFFE: The Assembly will convene.

Speaker MCAULIFFE: Committee Reports are up first. None yet, all right. We do have committees meeting on -- subcommittees meeting on budget on a

weekly basis. So, we will be having committee reports coming in in the not-too-distant future.

Summary Report from the Clerk

- **Public Services Committee meeting will be scheduled for 3/21/18**
- **Public hearing on Proposed ordinances 18-04 & 18-05 submitted by the Cape Cod Commission will be scheduled before the full Assembly on 3/21/18**

Speaker MCAULIFFE: Report from the Clerk.

Clerk O'CONNELL: Thank you, Madam Speaker, just a few items. As you heard Kristy Senatori mention, we have two proposed ordinances that have come in. They will be scheduled for a public hearing during the Assembly meeting on the 21st of March.

Prior to the Assembly meeting, there will also be a committee meeting of public services. To the best of my recollection, I think that's the last committee to meet before you all get together with finance and the chairs of those committees to discuss the findings or reports of individual committees, and that starts to get into April.

I want to thank Delegate Green for the detail that she gave me on the things that need to be corrected in the minutes. I do appreciate that. Thank you.

And, Tom O'Hara, I did just send you an email with a link to the County's purchasing division webpage that might be helpful for you and your manager to look at the list of vendors that are already approved for the County and all the details associated with that.

Mr. O'HARA: That's awesome. Thank you.

Clerk O'CONNELL: And I also want to thank the IT Department and Facilities and the Assistant County Administrator for, as the Speaker mentioned earlier, helping us really pull this together. It was a group effort, shall we say, to get that accomplished.

And right now, that's all that I have. Thank you.

Speaker MCAULIFFE: Thank you, Janice.

Summary of Other Business

- **Discussion on Proposed Ordinance 17-16: Charter Recall Provision, County Counsel's opinion and anticipation of comments from the Secretary of the Commonwealth's Office – Election Division**
- **Will seek legal opinion from County Counsel regarding the County Charter, structure of county government and the role of the Assembly**

Details

Speaker MCAULIFFE: Our next item is a discussion regarding the Charter recall provision and this was -- with Proposed Ordinance 17-16. This is not a hearing. This is a general discussion on the idea/concept. We have input from one of

our County Commissioners.

We also have input from County Counsel that talks about an appropriate vehicle for having such a recall provision, and it would be through petition.

So, therefore, to agenda this was to have a general discussion to kind of get the feel for the Assembly to see if we, indeed, want to go forward with the appropriate mechanism or if we are going to put it on the list of things that's going to go into a Charter review process.

There are a lot of options, but this is not a Public Hearing. This is just for the Assembly to kind of have a brief discussion on an ordinance that has been submitted to decide where we want to go from here.

And I'll open it up to -- I know there are a number of people who were -- did you want to -- I don't know who wanted to address the ordinance. This is for the recall.

Ms. MORAN: Me.

Speaker MCAULIFFE: Okay, Susan. Sue Moran will start. Thank you.

Ms. MORAN: Thank you, Madam Chair. So, this ordinance was introduced with a number of Assembly members, including Mr. McManus of Harwich, Mr. Ohman of Dennis, Mr. Bergstrom of Chatham, Mr. O'Malley of Provincetown, and since then I understand Mr. Princi, who's on the line, has also expressed interest, and Ms. Chaffee.

And the genesis of it was really from my perspective a constituent request. We all do represent our communities, and there was a feeling in the Falmouth community that this was something that was missing in terms of voters having a tool for ongoing participation in the County government.

So, this is really, you know, as the chair has really happily put just a start of what I think is a very important discussion.

I want to also recognize Commissioner Cakounes's very timely and thoughtful review of the process, the extent of research, really doing a very nice critique in terms of options. I'm very, as a business lawyer, very conscious of cost and a lot of those considerations I think are important a lot of people and should be considered.

One of the things in terms of discussion for here today was, you know, should it be both, whatever the mechanism is, should it be considered both for the County Commissioners and the Assembly folks? And there are a couple of different schools of thought on that that initially, you know, just in terms of parity that was a thought, but due to the expense and the shortness of the term of the Assembly, you know, it seemed there might be -- you might be less desirable on the part of a number of folks for those particular reasons.

You know with respect to the partisanship, if you focus on the County Commissioners and the point that Commissioner Cakounes brought up today, the percentages of vote, for example, if there's a 60 percent or a 60,000 number for one Commissioner and 30,000 on another, how does that work out? You know, that's something I'm less concerned about personally because I think that once you are elected as a County Commissioner that that's really your job. You're representing the County. And so, I think that that's also something that can be worked out. But that was just one thing I thought that deserves more discussion as well.

And then finally, you know, what should be the process? This is, you know, the Charter review before my time took a lot of Assembly folks' time here. Should this be part of that Charter review? I think at a minimum it should be, but I would favor having, you know, and I don't see why we couldn't have kind of a parallel approach where there is a Charter review of whether it's the entire Charter or certain, you know, particularly important pieces of the Charter being reviewed alongside with this very important recall potential ordinance or petition, actually.

So that's my thought. I want to really turn it over to the rest of the folks here, but thank you for the time, Madam Chair.

Speaker MCAULIFFE: Thank you. Yes, Ed.

Mr. MCMANUS: Yes. Reading the commentary from Attorney Troy, you know, he provides some interesting commentary in looking at putting this together, having us to draft it on behalf of a group of interested folks. Somehow in my simple way, passing an ordinance requesting that the -- that this be sent to the legislature seemed to me to be a form of petition but apparently it doesn't meet his -- there's obviously some redrafting simply on that ground will be taken.

Also, he indicated that he was submitting this to Ms. Tassinari at the Secretary of State's Office for some commentary on some of the issues. And I'm wondering if we could ask Mr. Troy when that's going to be completed. You know, this is a letter that he sent to the Speaker on December 12th. It's been over two months now.

And, you know, before moving ahead in my thoughts, I would like to see that and take a shot at potentially incorporating all of those comments into a new document that would be probably a better basis on which to have a discussion.

Speaker MCAULIFFE: Well, I think the point of me putting this on the agenda for today was twofold. The ordinance has been in the works for several months and people have been asking about it; number one. And, number two, to kind of perhaps get a general feel for whether people want to go forward with the effort, time, and energy to continue.

So, the fact that two more people have signed onto the ordinance kind of gives you a little bit of a feel for the consensus of the Assembly, but I also didn't want efforts made that perhaps weren't going to be successful once you got to the end of a lot of work.

So that's sort of, today, take the temperature and then if the decision is from the people who are proposing the ordinance to go forward and then with Troy's input then we could certainly go forward with that.

I saw Deb and then I'll go back.

Deputy Speaker MCCUTCHEON: I'm in basic agreement with Mr. Cakounes on his approach to the issue of recall. But I think that you can't -- what happens over and over again when the Assembly looks at recall is it ends up doing a piecemeal approach which fundamentally doesn't work.

I also think that based on what we've heard about what the Commissioners do, I come back to the question of whether we really need the Commissioners and, particularly, whether we really need them to be members of political parties because I think that -- the partisan nature of the election creates a position that doesn't really -- isn't truly representative of the voting public.

I mean if you look at how the votes were -- who voted Republican and who voted Democrat and how many there were, there's a huge difference, and that's a difference that doesn't get reflected in the people who are actually nominated to run for the position. So, I think that's a problem.

I think that it ought not to be that, you know, what 20,000 Republicans can elect a position that 20,000 Democrats can put on the ballot too. And I think that that sort of means that we need to look at it differently.

I think that if you look at it carefully at the last three or four Charter reform efforts and, again, it's mandated in the Charter that it happen every five years, you see that same fumbling of mixing issues that it's a negotiated result rather than a cleaner product that gives you a better system, a better way to run the County.

I think a lot of the work that's done by the Commissioners, and I know that Leo's been working like a -- what did he say? He said he had a crawl in his something. I think he's been working like a dog to put it literally since he became Commissioner. I think he didn't realize how bad it was until he got here.

But I think that a lot of the work that is done by the Commissioners could well be done by staff who answer to an Administrator who answers to a town-by-town body. And if you look at that structure, you see that it's simpler in all the ways that it needs to be simplified.

So, I'm just urging that there be an opening of the minds and sometimes we don't get outside the box before we've already sealed the carton and sent it off to wherever it goes. So that's my position.

Mr. PRINCI: Madam Speaker.

Speaker MCAULIFFE: Patrick, did you want to speak?

Mr. PRINCI: Am I clear? Certainly, I think that we should definitely go forward with the recall petition. I applaud the member from Falmouth for putting such forward. However, after reading it, I do feel that we need to increase -- have the threshold be a little bit stronger in order to trigger a recall.

If you look at the history of recalls on the Cape over the years, generally, recalls come into play when there's conduct unbecoming of an elected official. It should be a difficult process as far as the signature drive goes to bring forward a recall measure. It certainly would be an increase to any clerk's offices or other offices, so that's why we should make it not easy with only a thousand signatures.

There should definitely be a mechanism in place for all elected officials including ourselves as well as the County Commissioners because that's just the right thing for the citizens of the region to have that opportunity and option available to them.

Thank you.

Speaker MCAULIFFE: Thank you.

Mr. PRINCI: Oh, and lastly, I would just like to see it happen sooner than later as a numerous amount of constituents of mine have been prompting me to work with the Assembly to move this matter forward and not have it be delayed through a full Charter review.

Thanks.

Speaker MCAULIFFE: Thank you. Yes, Linda.

Ms. ZUERN: Thank you, Madam Speaker. I don't know how many of

you have gone through recalls yourselves as Selectman or other board members, but I have, and it is the most horrendous experience to ever go through when you're sitting on a board.

The policy that we have in Bourne is that you give the person a chance to have that position so the first year and the last year of the term that no one could ask for a recall during that time. So, you'd have to wait at least a year until somebody get acclimated to the job and maybe settled in and then towards the end so that you're not taking up another election so close to the term that they're ending, nobody would be able to form or ask for a recall during that time.

What actually happens though is when somebody is recalled, it doesn't even have to be yourself; it can be somebody else on your board. And once -- and it doesn't even have to be anything horrendous that anyone has done. If people don't like you, don't like the way you voted on issues or is a political kind of thing and that's what I've seen. It's more political where people are not liking somebody. It's not so much how they voted, but there's just that antagonism there.

It makes it very difficult for anyone else on the board because let's say my fellow Assembly person is being recalled. If I vote the same way that that person does, people watch that on TV and now they'll say, "Oh, Linda votes the same way. We should recall her too" or "That person down at the other end of the table it looks like they're all sticking together. Let's just recall them all and replace, you know, everyone on the board."

So, it just gets to be a very antagonistic kind of process. It's very tense. It tears the town apart. I'm sure it would tear the County apart. So, I'm totally against this. I don't really see a reason for it.

And like our Commissioner said, it is very costly. It was costly for our town as well. But the most important thing was that it just caused so much grief and stress within the town that it just tore the town in two.

So, I think we should really think about what happens when you ask for a recall. And if it's unbecoming -- if there's something unbecoming, you know, that's a very subjective, I guess, way of looking at something. What someone might say is unbecoming I might think is just normal or its okay. It's, you know, freedom of speech or whatever. It may not bother me. I may not think it's unbecoming. If it's that serious, then the person should be arrested and not just recalled.

So, I would say forget the recall and, you know, let things just settled.

Speaker MCAULIFFE: Thank you.

Ms. ZUERN: Thank you.

Speaker MCAULIFFE: Ron.

Mr. BERGSTROM: Yes, of course I'm one of the people who submitted this along with several others. But I very much agree with what Patrick said and somewhat with what Linda said. The only way I would support a recall is if it's specific, there's specific language in there limiting it to something, high crimes and misdemeanors, you know, it's unfortunately not specific enough in the federal level.

But I mean the commission of a felony while the person is in office, for instance, a ruling by the State Ethics Commission, I mean not just a \$50 fine but something substantial, \$5,000 because you had your hand in the till or you, you know,

there had to be some criteria because as Linda says, you know, you could get elected County Commissioner with 51 percent of the vote and all of a sudden you antagonize 2 percent and they want to get rid of you. So, it's an issue there.

I appreciate Commissioner Cakounes looking into this. I'm going to send Attorney Troy over and have him advise the Commissioner on animal husbandry and good agricultural processes and stuff like that because they seem to have things in common.

I think that Troy's opinion is the one we should think -- I mean I appreciate what Leo did but --

Commissioner CAKOUNES: Have you seen it?

Mr. BERGSTROM: I've seen Troy's opinion; I haven't seen yours. I think that was passed around to us; wasn't it?

Speaker MCAULIFFE: Yes, the December 12th opinion from Troy on the Proposed Ordinance 17-16

Commissioner CAKOUNES: My idea.

Speaker MCAULIFFE: Oh no.

Commissioner CAKOUNES: I'm sorry.

Mr. BERGSTROM: Well, anyways --

Commissioner CAKOUNES: Thank you.

Mr. BERGSTROM: -- as far as the expense goes, I mean that's something, you know, this idea originally came from Commissioner Beaty. This was before he was Commissioner. He petitioned -- I'm saying petition, but he suggested to the County Commissioners and to the Assembly that we have a recall petition. It was met -- it fell on deaf ears then.

You have to ask if somebody does something bad, if they get convicted of domestic assault or if they commit their crime, we have no way of putting them out of office. It has to be done by the voters. So, it's a balance there.

I mean if we could come up -- I think that the determining factor would be the language in the recall petition whether we could make that specific enough so it wouldn't be abused but yet it would give us an opportunity to get -- to unseat somebody who would prove themselves to be a detriment to the County and to the whole Democratic system.

Speaker MCAULIFFE: Jim and then I'll go down this side.

Mr. KILLION: Thank you, Madam Speaker. Certainly, hearing both sides of the argument and there are valid points to both; my question is, is this a solution in search of a problem? We've been around for a few years here at the County and has there been a time in the past when we had a real problem with an elected official which was causing the County not to function properly and we needed to do something about it?

The language here though, obviously, it needs to be reworked, I think is far too ambiguous because I think as has been conveyed there are any one of a number of reasons that you could now push to recall someone. And the other one being, okay, sure maybe they committed a crime while they're in office, but what if they committed it beforehand and nobody knew about it; would that be grounds to recall someone?

I would be more interested in allowing recall for the specific purpose of

removing someone who was directly affecting the way the County was doing business, if it was causing the Board of Commissioners or the Assembly to be unable to perform their functions, that would be the only grounds I could see to remove someone.

Beyond that, it's strictly up to the voters. They put them in office. They should have to live with their decisions. They should be more diligent with their choices but, beyond that, we should stay out of it and let the County function. If it can't, then we would take action.

Thank you.

Speaker MCAULIFFE: Thank you. Yes, Brian.

Mr. O'MALLEY: Thank you. This is complicated, and I really appreciate the fact that you've scheduled this as a discussion without a vote hanging over our heads right now.

I think I would start from the standpoint that we are elected by the voters and it seems to me that leaving no mechanism, no recourse for the voters to change, to come to an understanding about how one of us elected officials is behaving and take it back is a real absence. It's a glaring absence in our policy. And I think somehow or other it needs to be corrected. We need to have some mechanism. There are going to be instances where there are serious violations where there are crimes committed, convictions, etcetera.

Let's not get lost in the, well, really marginal things that we might not like, or we might not like their policies; I think there needs to be -- we need to have at least built into our Charter some mechanism where a person can be recalled and we can go from there to talk about what the conditions are.

Going from there, I would say the real jury in that case is going to be the voters. It's not our decision whether these violations rise to a certain level. It's going to be ultimately the voters. It's going to take a fair amount of effort, and I don't disagree with Delegate Princi's suggestion that the threshold be raised. You want to make this a little bit difficult, but you want to have a process somehow. Ultimately, for minor violations, you're not going to collect the 1,000 or 2,000 or however number we said.

I think the third point would be, and I agree with Commissioner Cakounes to this extent that for the Assembly, we're elected every other year. It feels kind of futile to think about trying to cut short a two-year term.

On the other hand, I would be very uncomfortable with a policy that let us completely off the hook for recall so that, you know, even if it's only a two-year term, again, let's just say one of us commits and is convicted of a serious offense, even if we only have another year left or another eight months left. I don't know that the timing's going to work, but it seems to me there should be some process.

So, I guess I would say and I would encourage us to go forward -- oh, I shouldn't fail to weigh in on the question that was raised. Do we actually need the Board of Regional Commissioners? We've talked about this before. Should this fall into the context of a full-scale Charter reform -- Charter review, and I think the answer to that is probably, yes, it should. While we're thinking about how we structure County government, clearly this would be an element in not only how we're elected but how we're unelected.

I'll leave it with that.

Speaker MCAULIFFE: Ed, you had -- I'm sorry; I want to give everybody one turn first. Tom, you wanted to speak?

Mr. O'HARA: Yes, I do. Thank you. So, and I'll start with Ron because you were the first, you raised the point and it's is it legal, a matter of legal, a serious crime, and I was thinking about that. If someone commits a serious crime, they're going into the legal system and that in itself takes a long time to just get through it.

So here we are asking for a recall in something will probably take two to three years just to get through the legal system. And to that matter, Brian comes up with -- you were on the same point and you said that the -- well, we deserve a process in which the voters can decide whether there's a problem. Well, I don't think it's fair to have the voters come in and decide whether someone's guilty or innocent before they've finished their legal trial process. And that's what you were suggesting that they would have an option to come in and vote on someone whether they are guilty or not. I think it's a little premature when they're still in the middle of the legal --

Mr. O'MALLEY: I did say -- Tom, I did use the word "convicted."

Speaker MCAULIFFE: Okay.

Mr. O'HARA: Well, that's what I'm saying, if convicted, but normally it takes a lot longer than just a year. It's at least a two year -- for a serious crime, serious crime.

And that's how I see it. And I don't think it's up to the voters to decide, I mean, to the voters to decide who's guilty or not.

And Jim brings up a point and he said if it's an ethics issue, and if it is an ethics, we have a state Ethics Commission that will come in and step in and impose fines on rules and regulations.

And I don't know that anything's going to get done any faster with the lengthiest term being the three-year term as a Commissioner, or as a Delegate I can't see anything happening in two years. I mean I don't know -- I don't know that it makes any sense, I really don't -- or four years, I'm sorry.

Speaker MCAULIFFE: Thank you. Anyone else first time?

Yes. Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker. As others have said, this is a complicated issue, and I do see the valid points on either side. I know in my town there have been a number, a good number of people who have asked about, "Do we have a recall process?" And I've been trying to follow up with that.

And I, at the same time too, I did see an issue in our town a number of years ago where a good number of the voters didn't like a policy that the Board of Selectmen were promoting and did try to recall Board of Selectmen members. And that was a very contentious and divisive situation. So, I do see both sides.

I do think it's wrong for us to not have a recall process, and I think there are issues that we need to work out with this ordinance, but I think we need something of this nature in the County Charter.

Thank you.

Speaker MCAULIFFE: Thank you. Mary.

Ms. CHAFFEE: Thank you, Madam Speaker. I asked to sign on as a

cosponsor of this for the same reason that the Delegate from Wellfleet did. I'm getting a lot of questions about this, questions about why this tool does not exist, and I don't have an answer.

I agree that like many policies, this will be complex to craft so that it works but that's what we do. We're policymakers. We address problems and we try to find fair solutions to address those problems.

I think that the Delegate from Chatham raised the issue -- he didn't say the word "grounds," but the grounds for launching a recall if it were to proceed would have to be very carefully defined so that the process would be fair so that everyone who had a role to play would know what would potentially trigger the process.

But I agree that it's important that we take a look at this and also listen to our constituents as we move forward on this and see what others have to say.

Thank you.

Speaker MCAULIFFE: Ed?

Mr. MCMANUS: Yes, just a couple of comments. You know, the issue of having and including criteria in a recall provision, it's an interesting one. I think Mr. O'Hara's comments about, you know, it's only for charged offenses and potentially that would happen in front of a trial is probably problematic.

But there are a lot of things that an elected official can do that are not -- that don't rise to a chargeable offense but significantly impact on their ability to represent and conduct business as an elected official representing a jurisdiction.

The issue of whether, you know, you should be allowed to be recalled for a policy position you take. Well, you know, in many other jurisdictions voters when they have a disagreement with a policy that an elected body has taken, they have the ability to file a referendum to overturn. We don't provide that either in this state.

So, the only way in jurisdictions that don't have a referendum to overturn that policy in a reasonable period of time is to go a matter of recall and that happens around the country, you know.

So as one of the people who sort of put this together, I'll take into consideration a lot of the comments as I get also the comments from the Secretary of State's office. I will note there's been a number of references that it should take more than a thousand votes to initiate a recall in this case for the recall to be formally put to a vote. It would require a petition signed by 15 percent of all registered voters in the County which, off my memory off the top of my head, would be about 20,000 signatures. You'd have to gather -- you're not going to gather 20,000 signatures on a minor issue.

Mr. O'MALLEY: Minor, yes.

Mr. MCMANUS: You're going to have to have -- it's going to have to be a major issue that has come up regarding the official to be recalled.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: Just quickly, I agree with Ed, and I think that we could look and, also with the Delegate from Brewster, we could look at specific language trying to limit it to certain, you know, whether its crimes or so on. By the way, some people do plead guilty, and it's a lot shorter of a process.

But to make -- to simply -- the simplest way I think in listening to this is

to simply make it a high bar. Fifteen thousand signatures to get 15 percent of the voters to get it on there. But then you'd also need a minimum number of voters because I've seen towns where somebody gets mad because there's an affordable housing project in their neighborhood and they want to have a recall petition. Of course, nobody goes who's not affected, only the people who are affected go.

So, you can't just say, well, fifty, you know, you need a majority of the people who show up. You should actually have a supermajority, I think. I would go even with a two-thirds majority to -- because I'm looking at a high bar, a two-thirds majority to recall someone at a minimum amount of percentage of the voters going to the polls.

So, if someone wanted to recall -- in other words, it would have to rise to the level of something that the people of Cape Cod would know about, you know, somebody did something that made the press, not to mention anything.

But, you know, so that would release us from the problem of having to make the language specific and worrying about this, that, and the other thing. Just give it a high bar and that way we can do it so.

Mr. MCMANUS: First maybe you want a high bar for getting elected.

Mr. BERGSTROM: I'd never be able to --

Speaker MCAULIFFE: Yes, Jim.

Mr. KILLION: I just want to clarify any remarks from -- against the comment from the Delegate from Mashpee. I wasn't speaking ethical behavior or unethical behavior at all. I was speaking specifically actions that had a direct negative impact on the County's ability to conduct its business period, no matter what that included.

And just to the Delegate from Provincetown's comments about a serious crime; what's a serious crime? Is tax evasion serious? Is profession malpractice malfeasance serious? Is drunk driving serious? You know, we could go on and on about how we define it. That's very, very difficult.

As you may recall, we've had a Commissioner in the past who had issues with a drunk driving arrest, and I didn't see people clamoring for a recall. So, I think we have to be very, very careful on how we approach this. We have to be very, very specific about it and address the ways that we avoid again becoming a political -- this becoming a political matter because that's invariably what happens.

So, again, it would be, in my opinion, strictly for the purposes of making sure the County can conduct business and not worry about personalities and politics.

Speaker MCAULIFFE: Three more people and then I'm going to wrap this up, okay? I'll start with Sue and then Linda and then Ed.

Ms. MORAN: Okay. Just sort of a process question, Madam Speaker. So, one of the things I started with is that it seemed to me that the recall petition should go at least along a parallel with whatever -- however extensive the Charter review is done. So, I just wanted to know what your thought is having heard from the body on that.

And then I wanted to just mention that Commissioner Cakounes had sent me some research, and I don't know if it's proper through Janice I might share that at some point?

Commissioner CAKOUNES: Oh, please do.

Speaker MCAULIFFE: Sure.

Ms. MORAN: And I'll --

Commissioner CAKOUNES: Share it with the Assembly member from Chatham too.

Ms. MORAN: Yes, everyone.

Speaker MCAULIFFE: Everyone will get it. Thank you.

Commissioner CAKOUNES: Put it where the sun doesn't shine.

Speaker MCAULIFFE: Linda.

Ms. ZUERN: Thank you, Madam Speaker. I would just like to ask Delegate Killion what criteria would that include if you're concerned about affecting County government? Would that mean somebody not showing up? But even if they didn't show up for meetings, County government would still be going on. Or if they were contentious during a meeting but things still got voted on, County government was still going on.

So, to those specific ideas of, you know, where -- when County government would be affected.

Mr. KILLION: Again, it could be behavior during the meeting, if they were aggressive in any manner that allowed the meetings not to be conducted so that business wasn't conducted, so the contracts couldn't be signed, something along those lines.

Ms. ZUERN: Okay. Thank you.

Speaker MCAULIFFE: Ed.

Mr. MCMANUS: Two things. One, you know, and I'm not exactly sure what the Delegate from Sandwich's point was but when he said, "We don't want this to become political"; these are elected positions. Everything we do about us is political. I mean, you know, quite honestly.

And then the other issue, you know, should this be done in occurrence with an old Charter revision? Well, you know, I would, in my wildest dreams, I would hope that would happen. But given that looking at the last sort of Charter review processes that have gone on that have resulted in sort of nothing; moving forward, maybe taking items piece by piece is what has to be done.

Speaker MCAULIFFE: Thank you. I just have two quick comments. One was the benefit of Julia Taylor as one of the original historians on the formation of the County; the equity for recall is important between the Assembly and the County Commissioners. But she made the point that the reason the Assembly had two-year positions was so there would be no need for recall. It was a two-year position knowing that most recall require a year on either end and that it would be a quick turnover. That's just the history of the thinking for the County.

The second thing is in terms of the Charter review, I'm going to get down to business with my Deputy Speaker who has the ideas about kick-starting this. We are in our budget process now, but I would like to try and get some thinking and some things going so that when we do finish up with the budget in early May that we can then go forward with exactly what we want to do in terms of a -- and perhaps maybe a targeted task-oriented Charter review, okay?

These are the subjects of people want addressed and we get a group together to look at those specific things as opposed to the amorphous, you know, let's take this whole big body of work and try to work on it. So that's my thinking on those two things. So, all set on that.

The next item is the County policies and applicability to elected officials.

And I'm going to preface this subject by saying the Assembly is very much a part of the County and very much wants to work in conjunction with the County, wants to be cooperative, wants to do everything it can to make the County run smoothly.

But there is a belief that the bicameral nature of the government and the Charter puts a lot of the Assembly functioning at the discretion of the Assembly. And I'm not saying that we shouldn't be following rules and regulations and trying to be the best leaders that we can be, but I'm saying that we have a little bit more say over how we operate and our functioning than just a regular County department.

So, my intent is to ask Attorney Troy to come in to have a discussion with us about how we fit as County employees. You have the -- there were some issues about this - did people want to sign receipt of County policies? I personally don't necessarily have an issue with that. Everyone signed the Sexual Harassment Policy, which I think is appropriate; the Vehicle Use Policy may or may not be. But it's not the specific issue of the policies itself, it is the idea that we are quasi-County officials, and I would need to get that clarified and discussed before this Assembly because this is going to impact the budget.

We have issues of County Clerk versus Assembly Clerk and job descriptions which I'm working on. We have issues now on our travel funds. I was approached by the Cape Cod Times today that there's suddenly a controversy, and I'm talking about what controversy? Well, the travel funds for the MMA. Well, I said, "We didn't exceed our travel budget and there were some -- there's just some discretion."

So, in the future, we will have a discussion about the travel funds because I've never discussed it, and we will discuss how this body wants to manage whether we want a per diem, whether we want it to specifically state specific things for the travel budget. I don't think a policy hurts at all.

But I guess what I am starting to feel that we need to kind of keep our backbone is that we are subject to the employee policies where we are expected to come and report back and do certain things that employees do. I think by virtue in nature of an elected official and a bicameral government that by Charter determines how it operates. We have a little bit of a distinct difference than a routine County department.

And I can't emphasize enough how much we want to work with the County and how much we want to help streamline, help save money. We will do anything we can to do that, but I also want to make sure that we maintain the integrity of this body.

So, in terms of signing the policy, at this point, it could be a personal, you know, receipt of policies, it can be a personal choice until we hear from -- we do have an opinion of Troy that says we don't have to, but if people don't have an issue with it, that's fine. But I don't want things -- I don't want a -----, well, now we're going to tell you this, now we're going to tell you that; then you're going to this, then you're going to do that.

As Speaker, I'm trying to maintain the silo of the Assembly but I want to make sure that we are in conjunction and working as closely as we can with the Commissioners.

Now, Commissioner Cakounes and I don't agree, but we still get along and we still work together. So, this is just my opinion and where I'm taking this. We will have opportunity to discuss this, and it is on the agenda today for questions and comments.

But I did want to make sure that you know that going into this budget there are some budget implications for how we do our job that I wanted to kind of set the table before we made decisions on the actual functioning of who's going to be a full-time job and what's going to happen with certain monies.

So, Susan first.

Ms. MORAN: I think that makes a lot of sense and this is the right time for that clarification. With the following caveat and I was kind of holding my reaction to Commissioner Cakounes's position which initially I thought was directed at, perhaps, some of the members of the Assembly resisting signing the Social Media Policy. And I kind of couldn't imagine really that a member of the Assembly would not want to endorse, you know, sort of a good public service behavior policy.

And I want to -- I think it's important that the Assembly for the public distinguish between, you know, what is good fiscal governance and that being the subject of the opinion that's being requested of Mr. Troy versus, you know, do the Assembly members want to sign the social media policy. I think that should be distinguished for the public.

Speaker MCAULIFFE: Okay. Ron, I saw your hand up.

Mr. BERGSTROM: Yes, just, you know, I agree with the Speaker's analysis of the relationship between the Assembly and the Commissioners. I mean for the Commissioners to have any leverage over us, I'm not talking about votes, but I'm talking about leverage other than policy leverage and votes, it basically violates the separation of powers. You can't have leverage over us in any way to say if you don't vote this way, guess what? We're going to do this. You know, I mean not that they would do that; I'm not saying anybody would do that.

Another thing is I don't see that anybody here is not going to sign on to this or agrees with it. A better way to handle it, which doesn't seem to be the path we've been taking lately, would have been to have someone submit that same policy in the form of an ordinance and we would have all then voted it and signed it. And if we didn't sign it, somebody would pop up and say, hey, that chowderhead Bergstrom refused to sign an ethics -- but, you know, and I would have to answer for that.

So, I think this could've been finessed a lot better than it was. And, once again, we have to ask ourselves how much -- is this much to do about nothing because I have every intention and I'm sure most of us do of agreeing with some, you know, policy, you know, that requires certain conduct and so on.

So, I mean just -- but I understand the Speaker's concern is that it shouldn't come down from Mount Olympus; it should be something that we decide on and agree on.

Speaker MCAULIFFE: Deb.

Deputy Speaker MCCUTCHEON: I'd like to suggest that this is a little bit of a tempest in a teapot because one of the things that you can do in this situation is to let people have the option of signing, you know, yes, I sign this policy or, B., I'm signing my name here to show that I saw it but not that I agree with it, and you can sign your little name right there.

And that's because I, as a political person in Truro, the Chairman of the Conservation Commission and of the CPC, I'm tired of people coming in and saying, gee, I didn't know I was subject to the Wetlands Regulations; gee, I didn't know I was supposed to turn in receipts about the money I spend for the CPC.

I think we've all seen a lot of television about, you know, how many little girls were abused when in somebody's tighty-whities. I mean I don't really care about that. But I think that people ought to have to acknowledge that I saw this prohibition and I may not agree with it, but I did see it because there's an awful lot of "I didn't see it. I didn't know about it. I can't be guilty because I didn't know it. I didn't know the gun was loaded." I think that was Andy Williams wife shot him six times; "I didn't know the gun was loaded so I shot him six times."

Speaker MCAULIFFE: And from my perspective, it may be a tempest in a teapot, but I am trying to not give up inches that become a foot or two feet.

Deputy Speaker MCCUTCHEON: I applaud that.

Speaker MCAULIFFE: And, believe me, I have every intention of signing that I saw these and I encourage everyone too. But I do want to maintain that, you know, we are by Charter masters of our own operations in how we operate, and I want to just keep that clearly within the realm of the Assembly. So that's my focus for this budget season.

Any other business? All right. I'll take --

Deputy Speaker MCCUTCHEON: Move to adjourn.

Mr. MCMANUS: Second.

Speaker MCAULIFFE: We are adjourned.

Speaker MCAULIFFE: Thank you.

Whereupon, it was moved and seconded to adjourn the Assembly of Delegates at 5:40 p.m.

Submitted by:

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

List of materials used and submitted at the meeting:

- **Business Calendar of 3/7/18**
- **Unapproved Journal of Proceedings of 2/21/18**

- **Proposed Ordinance 17-16**
- **Legal opinion dated 12-12-17 regarding Proposed Ordinance 17-06**
- **Legal opinion dated 2-28-18 regarding county policies and applicability to elected officials**