

**CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES
HARBORVIEW CONFERENCE CENTER
BARNSTABLE COUNTY COMPLEX
3195 MAIN STREET
ROUTE 6A, BARNSTABLE, MA 02630**

APPROVED Journal of Proceedings - April 4, 2018

Call to Order

Speaker MCAULIFFE: Good afternoon. Welcome to the Cape Cod Regional Government. This is the Assembly of Delegates. It's Wednesday, April 4th, 2018, 4 p.m. We're in the Harborview Room at the County Complex.

I would like to start 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.

Speaker MCAULIFFE: Thank you.
Please rise for the Pledge of Allegiance.

Speaker MCAULIFFE: Thank you. Will the Clerk please call the roll?

Roll Call

Roll Call Attendance (91.10%): Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans) James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), 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), Linda Zuern (9.15% - Bourne).

Absent (8.90%): Edward Atwood (2.30 - Eastham), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich).

Clerk O'CONNELL: Madam Speaker, you have a quorum with 91.10 percent of the Delegates present; 8.90 percent are absent.

Speaker MCAULIFFE: Thank you.

Calendar of Business

Speaker MCAULIFFE: The next item is approval of the Calendar of Business for today. Is there a motion for approval?

Ms. MORAN: So moved.

Speaker MCAULIFFE: Is there a second?

Ms. GREEN: Second.

Speaker MCAULIFFE: Any discussion? All those in favor? Aye.
Speaker MCAULIFFE: It passes unanimously.

Journal of Proceedings of March 7th, 2018

Speaker MCAULIFFE: Approval for the Journal of March 7th, 2018. Is there a motion to approve the Journal of March 7?

Mr. KILLION: So moved.

Speaker MCAULIFFE: Is there a second?

Mr. O'MALLEY: Second.

Speaker MCAULIFFE: Any discussion? All those in favor? Aye.

Speaker MCAULIFFE: Any opposed? It passes unanimously.

Summary of Communications and Report from the Board of Regional Commissioners

- **Commissioner Cakounes reported on the Commissioners meetings of March 24th and 28th and the storms that battered Cape Cod**
- **Commissioner Cakounes reported on the Governor's visit to the MAC on March 14th**
- **Commissioners' are working on a County Reimbursement Policy, County Commissioners' and County Administrator's Goals and Objectives for FY19**
- **Commissioners Cakounes submitted a proposed ordinance (18-06) for an FY18 supplemental appropriation**
- **Commissioners' adopted a county Pregnancy Condition Policy**
- **Commissioners' proclaimed the month of April as Child Abuse Prevention Month**
- **County Commissioners' supportive of House Bill 4000**

Speaker MCAULIFFE: Our next item is communications and report on County issues from the Board of Regional Commissioners. We have the Chairman here, Leo Cakounes. Welcome.

Commissioner CAKOUNES: Thank you. Thank you for having me here. Unfortunately, I'm going to have to go back a little way just to give -- just to kind of go through this to give everybody a little update of what we went through.

You all know that we went through four horrific storms. So the last time I actually reported before you was for the March 7th meeting, believe it or not.

March 14th, the Commissioners -- you didn't have a meeting, but the Commissioners canceled theirs due to the storm. March 21st, the Commissioners had a meeting, but the Assembly canceled. And then March 28th we had a meeting, and then April 4th, which is today, the Commissioners canceled their meeting.

So, today, I'm basically reporting to you for two meetings, March 21st and March 28th, and I think that explains, anyhow, the lag in the meetings.

On March 24th -- on March 14th, though I would like to say that although we canceled our meeting, the Governor came down and toured the MAC, which happened to be running, opened. We had that horrific storm and we had this

room set up for a nice press conference. He got to see your staff work and do what they do during those horrific storms. And, quite frankly, I think he left impressed.

I know I certainly am impressed on the job that they do here. And I want special thanks put out to all the staff. Actually, at a Commissioners' meeting, I am going to have a list of people that we want to thank. And I didn't do it during these meetings because, first of all, we had a storm right afterwards but, more importantly, I just didn't want to leave anyone out. And Sean O'Brien has a long list of people that we're going to be officially thanking for all the help.

With that, I'll go back to March 21st. We approved the minutes from March 7th. We did have a report from the Extension Educator from the Cape Cod Commission, Russell Norton, on his travel to New England Vegetable and Fruit Conference in Manchester, New Hampshire.

We also had a report from Kimberly Condra, who is the Nutrition and Food Specialist for the Cape Cod Cooperative Extension on her travels to the Food Safety Conference in Baltimore, Maryland.

We had an update at that time, you're not going to believe it today, but at that time we had updates from the County staff in regard to the storm activity.

We have had on our agenda for the last two meetings the County Reimbursement Policy. We have structured a policy. We kind of were waiting for staff to tweak it a little bit. The Commissioners felt that instead of having in the County policy a dollar value that if, in case, it has changed, that would mean that you would have to bring back the policy for a revision. So the Commissioners kind of agreed; we didn't take a vote but we took kind of a consensus agreement that we'd rather have the reimbursement policy reflect a standard and we'll probably be using the IRS standards, and that way there as they go up and down with the cost of fuel and things like that then we will not have to revisit the County policy every time. I'm hoping that that will be approved at our next meeting.

We also started with two things. Well, in this particular meeting on the 21st, we started with the County Commissioners' Goals and Objectives for FY19. We had a little celebration for Jack because it was his anniversary. And we also began a discussion on his Goals and Objectives for the coming year.

Under "Commissioners' Actions," we had a number of things, renewal and prequalification for Tradesmen List, which I think I had explained before what that is. We also had additional vendors be put on that Tradesmen List.

We had the authorization/execution of a contract with a paving company to do business with a couple of towns in Barnstable County.

We also did execution of a contract with Rafferty Fine Grading Company for roadwork.

We authorized a Memorandum of an Agreement with the Cape Cod Commission and the Town of Barnstable for \$334,000.00 for a period through the time of execution to June 30, 2019, utilizing some transportation mitigation funds that the Town of Barnstable had in their account and are working with the Cape Cod Commission to use those.

We also did the authorization of execution of certificates for dissolving septic betterments, which is a customary vote that I take.

That brings us to March 28th. Again, this is kind of lengthy. I think for

time purposes, I won't bother reading every single contract that we signed, but I'll kind of give you a synopsis of it.

Once again, we did have a report -- first of all, we voted the minutes of the 21st. We also had a report from the Marine Resource Specialist from the Cape Cod Cooperative Extension, Abigail Archer. She went to the Northeast Regional River Herring Meeting in Hartford, Connecticut.

Madam Speaker, if you get an opportunity, I would ask that you ask Abigail to come in and make either this presentation or at least be here to explain to you the importance of the river herring and how important they are not only here on the Cape but certainly throughout the New England area. And she gave us a very, very nice chart which showed us all the different herring runs here on the Cape and their counts, and are they going up or down or are they staying the same.

And I believe it's something that every member here would probably like to hear and certainly have the opportunity to ask her questions. But we are very, very lucky to have Abigail on our staff. And, again, I can't stress enough the importance of the herring, especially in this area.

We took up, again, the County reimbursement policy. Staff hadn't -- I had just gotten the message that we were looking for that exclusion of numbers in the IRS reference. We did talk in length about the Goals and Objectives for County Commissioner, I mean, the Administrator again. We did not vote anything at that time, but we compiled, and I will probably compile the document and bring it forward next week for a final vote. There wasn't a lot of changes as you can well aware. Jack's been doing a great job, but there's been a few things that we brought up that we think he should focus on as he moves forward into fiscal '19.

Also for the first time brought forward is the County Commissioners' Goals and Objectives. As chair, two years ago or a year ago when I became chair, I made this a priority. I thought that in lack of a consensus on a three-year plan or a five-year strategic plan that the County Commissioners should at least have a Goals and Objectives of their own, and that can kind of compile and build a three-year plan.

So I'm bringing that forward again. We talked about it for the first time on the 28th, and I'm hoping to have that done probably not next week but the week after.

We have -- and I do have for you a Proposed Ordinance 18--to be numbered. It's providing a supplemental budget for fiscal year appropriations of 2018. In other words, it's a fiscal transfer of some funds, a couple accounts that we are coming up short on. These were anticipated. The majority of them were anticipated, the ones certainly with the Fire Academy were. Not to get into it too much today because, again, I'm sure you're going to be holding public hearings and we'll make the presentation then. But just so the public is aware that when we voted the FY18 budget, we had not signed the Settlement Agreement with the Town of Barnstable. So there were anticipated expenditures that we knew were going to come forward and this will reflect one of those expenditures.

The other one is a replacement of a generator at the Second District Court, which is the building in Orleans. The generator has malfunctioned, especially in these last three storms that we've had, and it needs to be replaced, and we did not budget for that in FY18. So we're asking for that and, again, when I leave, I'll make

sure to hand that in to the Clerk.

After that, we did adopt -- review and adopt a Barnstable County Pregnancy and Pregnancy-Related Conditions Policy, also something now that is required by the state for all municipalities to adopt, so we do have that on our books.

And we also had a Proclamation for the month of April as the Child Abuse Prevention Month. So we signed that Proclamation.

The other things under Commissioners' Actions, again, I'll run down them relatively quickly. If there's anything specifically that jumps out at you, I'll be happy to answer any questions, but we authorized Jack's timesheet, which we always do.

We did have a ground use request from Joan Ellis. Joan Ellis puts the flags up on our property for 4th of July, the little small flags along the brick wall. A great lady and a great neighbor, but we make her jump through hoops to even do this. Again, just for liability reasons and for reasons that we don't want anyone just using our property without our knowledge. But, again, Joan's a great lady, and Steve brought that forward, so we voted that unanimously to move forward and allow her to do that again.

We had a Cooperative Agreement with the town of Falmouth for dredging. We had a Cooperative Agreement for the town of Harwich, actually two of them for dredging. We're trying to get the agreement signed and the permits in-hand long before even our anticipated going to do the jobs.

One of the problems that we have faced with the dredge is that the dredge -- some town might have a permit in hand and the window of opportunity is open because of the restrictions from the different agencies that are involved in it. We get there; we start the work, and we find that we don't have a contract with them.

So, in order to really change this process around, we are insisting now that the contracts be done ahead of time and be ready so that when the permit comes, and the opportunity opens up that we will be able to go in and do the dredging. There won't be that three or four-day lag for the Commissioners to execute a contract.

That's why in the contracts you'll notice that the term specifically says, "For an amount not to exceed." And that way there it helps the towns; they feel comfortable signing the contract. It's not a specific number, yet they know in their heads how much they want to spend or up to how much they want to spend, and it's all done through estimates. And the system has worked well, and we hope we're going to continue with that.

Execution with the Cape Cod Commission again for \$74,000.00 to continue the 3C Transportation planning activities for the Federal Transit Administration Section 5303 Grant.

We also had a number of contracts for diesel and authorization of contract for some more Bituminous Products, and also an authorization of a contract for some roadway asphalt and reclaiming in a number of -- a list of different providers, if you will, that do that kind of work.

The Commissioners' Reports, there wasn't too much going on. From what I understand, and I have not heard back, but one of the reasons why we canceled the meeting today is because I had intended on going to the Statehouse. There is a State Bill pending. It's State Bill 4000. It does impact counties and the amount of

excise tax the counties get. And, today, the other counties decided to have a storm-the-statehouse, if you will. They asked that all the County Commissioners or County Executives go so that we can, as one body or one group, kind of go around and talk to the state legislators. Again, I had planned on going and Mr. Beaty had planned on going, so we figured with the two of us not here that it was kind of crazy not to -- to have a meeting. So that's why today's meeting was canceled. I have not heard back from Commissioner Beaty how it went up there or not. I did not attend. Some other issues came up that I actually spent the time here in the office all day today with some other issues I had to attend to and I couldn't get away.

So, other than that, I'm not too sure if there's anything else that I left out. I apologize because of the lengthy timeframe that I am actually reporting on, but it is only two actual meetings but certainly a lot has happened between now and the last time I saw you, especially in regard to the storms. And, again, the visit with the Governor was very nice for us.

Speaker MCAULIFFE: Any questions of Commissioner Cakounes?
Yes, John.

Mr. OHMAN: Thank you, Commissioner Cakounes, for presenting this to us. I'm concerned about the social media policy. Have all three of the County Commissioners signed that yet, and is there any timeline if they have not?

Commissioner CAKOUNES: The social media policy?

Mr. OHMAN: Yes.

Commissioner CAKOUNES: Oh, they absolutely have signed it, yes.

Mr. OHMAN: All three?

Commissioner CAKOUNES: Yes. I'm sorry, let me understand your question. Did they sign it into law or did they exercise and sign it that they have seen it, and they, as an individual, have accepted it?

Mr. OHMAN: That was my question.

Commissioner CAKOUNES: Yes, all three have signed it now. They all have signed receipt of it and, yes, to the other question too. They all did sign it when we voted it too. But all the policies have been executed or acknowledged by the three Commissioners that they have received them.

Mr. OHMAN: Now it's up to them to implement it into their own discretion?

Commissioner CAKOUNES: Well, I would argue that it's up to them to implement it regardless of having acknowledged receipt of it anyhow. Acknowledging receipt of it is just a, as far as I'm concerned, it's just a courtesy to the HR director so she can prove that in case someone argues next year that we didn't realize it existed that she can say, "Well, yes, you did because, here, you said you got it." It's kind of a moot point in our case because the three of us signed it into law anyhow. So, obviously, we know it existed. But its silliness is what it is.

Speaker MCAULIFFE: Yes, Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker, and thank you for the detailed account of the meetings, Commissioner Cakounes. I was just curious about the Bill that's pending that I presume was a hearing for --

Commissioner CAKOUNES: Yes. I think I'm within my Open Meeting Law status to be able to report to you that because although it wasn't on our

agenda, it was something that was certainly discussed by us and it was also something that both Mr. Beaty and myself attended a meeting that was put on by the Plymouth County Commissioners and we went up there and sat and listened to an explanation.

So before anyone thinks I'm violating Open Meeting Law, I don't think I am.

Ms. GREEN: No. I was asking -- I wanted to ask more information about it.

Commissioner CAKOUNES: Well I'm going to give you more.

Ms. GREEN: Is it H or an S; is that a House Bill or a Senate Bill?

Commissioner CAKOUNES: Well if I can give you some background

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Ms. GREEN: And can we support it?

Commissioner CAKOUNES: Yes.

Ms. GREEN: I mean individually would it be helpful for us to write letters to our legislators to support it and how could we support it?

Commissioner CAKOUNES: Let me give you some background if I may Madam Speaker. It's going to be a little long, but I'll try to make it as quick as possible.

There are basically three Bills that were discussed. One was put forth by Barnstable County and Barnstable County alone. It was a while back; I think two years ago when it was originally filed. I don't remember the number. That Bill specifically asked the state to take the obligation of the sheriff's department and take on that obligation for the retirement of the sheriffs when the employees were part of Barnstable County. That's all it asked them to do, and that, for us, would have been -- if they had done that, we would come out a million dollars plus ahead.

The second Bill was one that asked that the authority be given to the local Registry of Deeds to actually raise the local fees especially on copying and internal stuff which would have brought every County a little bit more money but, again, it would have been raising the fees to our general public.

Then there's a third Bill, and the third Bill is House Bill 4000. The House Bill 4000 pretty much just asks the state to go back and look at the distribution of the excise tax that the state collects on every transaction at the Registry of Deeds and give back to the counties -- I believe the figure was 10 percent of that excise tax collected.

Some of the counties get nothing right now. So they would be basically getting a new revenue source of 10 percent. The way the regional government known as Barnstable County was established, we do get a portion of the excise tax. So we were not -- in that Bill, we are not specifically going to be treated the same way the other counties are. Again, I apologize; I don't have the Bill in front of me, but to my recollection we were only going to get 7 percent which would have made us equal to the others because we're presently receiving three. Again, don't hold me to those numbers specifically, but I'm just trying to give you a synopsis of what's going on.

The County Commissioners felt that that was the most logical Bill that would pass the House and the Senate. Why? Because it, first of all, it doesn't raise fees. It doesn't ask the taxpayers to give us more money. It doesn't ask the state to ask taxpayers to give us more money.

Basically, it's just going to the state and saying, "You collect X amount of excise tax on property here in our community; we are providing services to those people in our community, leave us a little bit more. Just leave us a little more."

And the County Commissioners felt in a unanimous vote that that would be an easier ask and we'd get all the state reps on board as opposed to having our state reps from Cape Cod advocating for a Bill that would only help us. And, quite frankly, we heard -- when we went to the Plymouth meeting that that Bill has gone through all its readings. I don't want to misstate, but I believe it is either in or just about to come out of Ways and Means, and it can now be put forward on the floor. Hence the reason why Plymouth County and the other counties asked us to go up today to the Statehouse. The whole push today was to ask them, first of all, to support the Bill but, secondly, ask them to move it forward quickly and bring it to the floor because it's already gone through three readings, I believe even four readings, and it really needs to be and can be voted on.

So, again, I apologize. I do not have an answer of what happened up there today.

Speaker MCAULIFFE: This is House Bill 4000?

Commissioner CAKOUNES: House Bill 4000, yes.

Speaker MCAULIFFE: So in terms of the Assembly, if the Assembly wanted to do something, we could put it on an agenda for action -- discussion and action, House Bill 4000?

Commissioner CAKOUNES: I think it would be very prudent to do that.

Speaker MCAULIFFE: Thank you. Did that answer --

Ms. GREEN: Yes.

Commissioner CAKOUNES: I think Jack Meade -- if you want me to come to that meeting and explain the Bills in more depth, I'd be more than happy to. But I would also ask through the Speaker that maybe you invite Jack Meade to join me because Jack Meade will be able to explain the other Bills. He's been working with the other registrars so he's a little bit more up to speed with the other ones.

I know there is a Norfolk County one that has been filed. And I also know, as I mentioned before, there was one that was filed to just raise the copying fees, but I don't think that went anywhere.

Speaker MCAULIFFE: We discussed that one last year too.

Commissioner CAKOUNES: Yes.

Speaker MCAULIFFE: We were hoping to get something from that. Thank you. Any other questions? Thank you, very much.

Commissioner CAKOUNES: Great. All right. Thank you. I appreciate it. I'll pass this in.

Speaker MCAULIFFE: Yes.

Summary on Public Hearing on Proposed Ordinance 18-04

- **Proposed Ordinance to amend Chapter A, would add a new section to the enabling regulations governing the review of Developments of Regional Impact of the Code of the Cape Cod Commission Regulations of General Application**

- **Proposed Ordinance to the Cape Cod Commission enabling Regulations is related to Development of Regional Impact review thresholds.**
- **New approval and review process will allow the Commission to work with communities in a more supportive and collaborative nature than in the past given its regulatory role.**
- **Commission will assist towns in development of the plans and implementation of those plans to address the issues regionally with water quality.**

Speaker MCAULIFFE: Our next item is the first of two public hearings that are scheduled for this afternoon. This Public Hearing is Proposed Ordinance 18–04. It is a proposed County Ordinance to amend Chapter A, which would add a new section to the enabling regulations governing the review of Developments of Regional Impact of the Code of the Cape Cod Commission Regulations of General Application, which is a lot of words.

If you would just introduce yourself and then give us a thumbnail of what it is that this ordinance is requesting.

Ms. ERIN PERRY: Sure. I'm Erin Perry, Special Projects Manager with the Cape Cod Commission. And the amendments that you have before you today are to Chapter A of the Cape Cod Commission enabling Regulations related to our Development of Regional Impact review thresholds. Essentially exempt, municipal comprehensive wastewater management plans, watershed plans, and other municipally developed plans related to nutrient remediation and management.

From our Development of Regional Impact review, in favor of review for consistency with the Cape Cod Area-Wide Water Quality Management Plan or our 208 Plan.

That plan, the 208 Plan, was updated in 2015. It was approved by both EPA and DEP. And a key recommendation of that plan was that municipally developed plans and projects to address nutrient reduction remediation should be reviewed for consistency with the 208 Plan update.

That recommendation was further developed in the 2017 208 Plan Implementation Report. That report was submitted to DEP in 2017. It was accepted and incorporated as part of the 208 Plan update by both DEP and EPA just last month. And that Implementation Report further recommended that the Commission move forward with amending regulations to better accommodate for that 208-consistency review.

And I think we've learned a lot over the history of reviewing Comprehensive Wastewater Management Plans as Developments of Regional Impact. And we learned a lot through the development of our 208 Plan, which was a very much a stakeholder-driven and community-based process.

And I think we recognized that it is maybe not most appropriate or efficient to be reviewing these Systemic Municipal Wastewater and Water Quality Plans in the same way that we review single-parcel development. So that is why we're transitioning to this 208 Consistency Review Process.

The plans that communities are developing to address wastewater and

nutrient management are inherently beneficial. They provide the infrastructure that we need for economic development as well as the infrastructure needed to address some of our most important water resources concerns.

You know, we have a number of towns right now who have been planning over several years and are kind of waiting a Consistency Review from the Commission, and we also have a number of towns who we anticipate submitting a plan for review in the very near future.

The towns that we have currently awaiting Consistency Review include Brewster and Sandwich who have Comprehensive Water Resources Management Plans. Orleans and Mashpee, who both have Comprehensive Wastewater Management Plans that were recently completed.

We also have the communities in the Popponesset Bay Water Shed who have come together collaboratively and developed an Intermunicipal Agreement to work collaboratively in the Popponesset Bay Watershed. We anticipate they'll be pursuing a joint permit through the state in the near future, and that we'll be reviewing that for consistency as well, their plan.

And then we have the communities in the Pleasant Bay Watershed who have also been working collaboratively for some time now and are very close to moving forward with an Intermunicipal Agreement in the near future. We anticipate they'll also be applying for a Joint Watershed-Based Permit from the state and anticipate we may see that watershed plan from those member communities as early as May.

We have a number of towns with existing DRIs for their Comprehensive Wastewater Management Plans that would no longer require a further DRI review but would now be subject to the 208 Consistency Review, and those include Chatham, Orleans, Falmouth, and Harwich.

And the 208 Consistency Review really is a way to support towns as they move forward with implementation of their plans. There are a number of ways this Consistency Review can do that. The state's newly created Watershed Permitting Program requires a 208 Consistency Determination in order to obtain a watershed permit. And that watershed permit provides a lot of flexibility for the communities to utilize nontraditional technologies along with sewerage. It also provides communities with an opportunity to demonstrate that they are taking appropriate actions to move forward with some of the water quality issues that they face in lieu of potential state enforcement action. And so the 208 Consistency Determination is key to that process.

In addition, the 208 Consistency Determination is key to the Clean Water State Revolving Fund Loan Program which now requires that plans and projects be consistent with the 208 Plan in order to access those funds. So this is something that communities will have to move forward with obtaining for the access to those state programs.

We provided guidance in our 2017 208 Plan Implementation Report regarding the criteria for 208 Consistency Review. We've provided that to you in your packet. I won't go through each and every one today, but we essentially distilled the 208 Plan into ten criteria. And those criteria really emphasized the need for working collaboratively in shared watersheds for implementing a true adaptive management plan for, you know, ongoing modifications to the plans as we move forward and for

ongoing review.

And so really what this new approval and review process will do is it will allow the Commission to work with communities in a more supportive and collaborative nature than we have been able to do in the past given our regulatory role.

So that is what we intend to do moving forward and really assist towns in development of the plans and implementation of those plans to address the issues we have regionally with water quality.

Speaker MCAULIFFE: Great. Thank you, very much. I don't know if anyone -- yes, Brian.

Mr. O'MALLEY: I'm entirely supportive of the general concept here. Clearly, this wastewater management issue and maintaining that is one of the biggest challenges that faces us as a region and for all the elements that you've cited that these often times involve multiple municipalities, but these are developments necessarily what we're talking about. In some sense, they're going to be oyster reefs, that kind of a thing.

Ms. ERIN PERRY: Yes.

Mr. O'MALLEY: I think giving priority -- giving preference -- precedence to the 208 Consistency is entirely appropriate and I applaud this.

I do have one criticism, and I'm going to submit a proposed amendment to this thing. And the criticism is related to the language, oh, 5-6 lines up from the bottom, "Shall not require," etcetera, "DRI review and approval, but shall require and be subject to" --

Speaker MCAULIFFE: Excuse me, Brian. Rather than having an official amendment, that would be part of our business when we convene.

Mr. O'MALLEY: I'm sorry. Yes, of course.

Speaker MCAULIFFE: But if you wanted to maybe just ---- or just throw out as a question or a general comment to see if there's a response, or you don't need to do that, you can just do your amendment.

Mr. O'MALLEY: I'll bring it back when we get to the discussion; I'm sorry.

Speaker MCAULIFFE: Okay. Anyone -- no, that's okay.

Mr. BERGSTROM: Madam Chair.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: If we were to amend this in any way, what would be the ramifications of that?

Speaker MCAULIFFE: In terms of process?

Mr. BERGSTROM: In terms of process.

Speaker MCAULIFFE: Yes, would there have to be a second vote?

Mr. BERGSTROM: Do we have to vote -- yes.

Speaker MCAULIFFE: Yes.

Mr. JON IDMAN: May I approach, Madam Speaker?

Speaker MCAULIFFE: Sure. Just introduce yourself and we can get the answer.

Mr. JON IDMAN: Thank you. My name is Jon Idman. I'm the Chief Regulatory Officer at the Cape Cod Commission. The upshot of an amendment is basically remanding this back to the Cape Cod Commission. So the legislative body

doesn't have that inherent authority.

The practicality of doing that, I think as Erin cited, is there are many towns that are waiting for these 208 Consistency statements. It's really holding up their ability to move forward with their plans. So there is a real-world sort of implication to delaying moving forward with this particular regulatory change so.

Speaker MCAULIFFE: So if it got remanded, it would go back to staff, committees; it would have to go through a whole redo of the process? When you say there's a delay, are you talking a few weeks or six weeks? It would be the whole process starting over in a sense?

Mr. JON IDMAN: The Cape Cod -- this would, obviously, have to go back to staff to look at the language. Then it would require another hearing of the Cape Cod Commission at a minimum, and that requires at a minimum a month to notice that as well.

Speaker MCAULIFFE: Okay. So just -- yes, Ron.

Mr. BERGSTROM: Just for future clarification because this has come up before, basically, we can't create or change or do anything. Basically, we either approve or not approve of what the Commission does in a sense because this has come up before, and I know it's been an issue. So, that's all I have.

Speaker MCAULIFFE: Okay. Thank you. Yes, Brian.

Mr. O'MALLEY: Well I'm going to take issue with that. I'm not here to be a rubberstamp. If we're here to approve an ordinance, then I think we have some role --

Speaker MCAULIFFE: We can have this debate --

Mr. O'MALLEY: -- to have some discussion about it.

Speaker MCAULIFFE: Right. We can have this debate under the --

Mr. O'MALLEY: So I don't appreciate being told we can't do it.

Speaker MCAULIFFE: -- under the Assembly business. I don't think there was not a can't do it; it was the process of how -- what happens.

Yes, Jim.

Mr. KILLION: Thank you, Madam Speaker. Just a very simple question; in terms of timeframe, this particular ordinance, how much do you suspect it will speed up the process?

Mr. JON IDMAN: Let me -- this process would also allow pieces of Comprehensive Wastewater Management Plans to come to the Commission, which is incredibly significant because what the Commission would look at before is give us the entire plan, and you would look at a 40-year-plan on day one, and often you would be told, which is reasonable, this is subject to adaptive management. We might not know what a component looks like in 30 years. But what this may encourage is less expensive alternatives coming forward more quickly, and this review process Erin laid out is a staff review process.

So, basically, some of those other statutory concerns you might have about hearing noticing and that sort of thing would be absent and it would just be a matter of how long it takes staff in a particular town to work out those issues to determine that a particular project or a plan is, indeed, consistent with these criterion. So I think it would cut it down by months, if not by a year.

Mr. KILLION: And have you done any subsequent financial analysis

to determine what this could potentially save the ratepayer/taxpayers in reducing this amount of oversight?

Mr. JON IDMAN: We have not. It's an interesting inquiry. We just -- it's not something we typically do a cost benefit analysis like that with our regulations.

Mr. KILLION: Thank you.

Speaker MCAULIFFE: Any other questions? Okay. Thank you, very much. We do not have anyone signed up from the public to comment. Is there anyone who is here to comment on this particular ordinance who did not sign up?

All right. Thank you. Then I will close the Public Hearing for Proposed Ordinance 18-04.

Summary on Public Hearing on Proposed Ordinance 18-05

- **Proposed Ordinance to amend and delete Chapter G, Growth Incentive Zone Regulations and replace with other language**
- **Written correspondence received from several public officials in support of and from a member of the public against Proposed Ordinance 18-02**
- **Amendments meant to be more in tune with planning focus rather than just the pure regulatory focus**
- **The Growth Incentive Zone regulations amendment will allow the Commission to take a greater planning role and have more engagement after a Growth Incentive Zone designation may be rendered. The Commission can step in, not in a regulatory role, but in a planning role, and support the town in measuring the relative success of that Growth Incentive Zone in light of the goals the town has set for itself in that Growth Incentive Zone.**

Speaker MCAULIFFE: And our next item will be the Public Hearing on Proposed Ordinance 18-05, which is the Cape Cod Commission ordinance to amend and delete Chapter G, Growth Incentive Zone Regulations, and replace with other language, which I am not going to read. The language is lengthy, but perhaps with a thumbnail sketch that you're going to give us we can educate ourselves and the public about what the language change would mean.

Thank you. Go ahead, Jon and --

Ms. HEATHER HARPER: Heather Harper.

Speaker MCAULIFFE: -- Heather Harper. Thank you.

Mr. JON IDMAN: Thank you, Madam Speaker, and members of the delegation. I do have a letter the Commission received today from the Yarmouth Director of Community Development. May I approach and give a copy of that letter to the members of the delegation?

Speaker MCAULIFFE: Sure.

Mr. JON IDMAN: Thank you.

Speaker MCAULIFFE: I received a call and I said it's too late to email the packet but thank you.

The Assembly has also received other correspondence from people both

pro and con. I'm sure that you received it electronically. Some of it was before our last meeting but we have had opportunity to review documents prior to this meeting. Typically, I don't like new documents to come in for digestion, but this is a quick one-page scan. So, thank you.

Mr. JON IDMAN: I'm not as familiar with the practices of this board when you asked for a thumbnail sketch.

Speaker MCAULIFFE: Just give a brief description. We don't need to have a full-bore presentation.

Just sort of what the lay of land is now and what the intent or the -- what you hope to do with the changes that you're proposing.

And then how this usually works is we typically ask questions. We typically don't debate at the Public Hearing, and it's more of a time for us to -- for ourselves and for the public to speak.

Mr. JON IDMAN: Okay. We have prepared a PowerPoint. I will not go through it. I'll just advise you --

Speaker MCAULIFFE: Well how long is the PowerPoint?

Mr. JON IDMAN: It's approximately 10 slides.

Speaker MCAULIFFE: That's fine. Go ahead.

Mr. JON IDMAN: Okay. I'll just go through this very quickly.

Basically, this arises from towns having asked for revisions from the Growth Incentive Zone Regulations Chapter G. That was originally approved by the Commission and adopted by the Assembly back in 2005. And that was a great first step back in 2005. It was very novel. It had been something that had never been done before.

Basically, the Commission up to that point had focused more on regulation released in the last decade and kind of beginning with regulations like the Growth Incentive Zone regulations. The Commission has taken more of a focus on planning.

So I think these amendments are certainly meant to be more in tune with that planning focus rather than just the pure regulatory focus the Commission has taken in the past.

Those are also the sort of comments that we have received from, in this case, town planners on this particular set of amendments. I think there are four copies -- four letters in your materials from town planners. And the theme that underlies those letters really is asking for less regulation where there is already sufficient local regulation and more planning support. There's really the necessity to align private and public action and private and public investment in those areas to really see those areas succeed.

So to that end, these bullet points are some of the high-level points that have changed from the existing Growth Incentive Zone regulations to the amendment. It's really intended to be -- to allow towns to come in with an approach, to have the towns describe that planning approach to the Commission, and have the Commission respond to that rather than having the Commission have a number of prescriptive gatekeeping measures in the regulations that look, again, more like a regulatory type of approach. So there has been provided more flexibility in the purpose itself of the Growth Incentive Zone regulations.

There's a greater breadth in the purpose basically to better align with

the Cape Cod Commission Act, and to give the discretion necessary to the Commission to review the wide variety of the types of GIZ designation applications that may be presented to the Commission.

There's also flexibility in how a town may request Development of Regional Impact review relief through the GIZ process. There's a relatively prescriptive process today. Any of the mandatory DRI thresholds of general application, a town can now ask that they be waived, or their applicability be changed with respect to a Growth Incentive Zone. There's a kind of discrete and prescriptive list in the current regulations of what a town may ask for relief from, and what a town may not.

So, again, and the idea of not knowing what circumstances might present themselves, there is more flexibility for a town to come in now, describe its plan, and have that discussion with the Commission and propose certain procedures that may make sense in that particular Growth Incentive Zone designation.

Again, in the nature of more planning support, this Growth Incentive Zone regulations amendment will allow the Commission to take a greater planning role and have more engagement after a Growth Incentive Zone designation may be rendered. The Commission can step in, not in a regulatory role, but in a planning role, and support the town in measuring the relative success of that Growth Incentive Zone in light of the goals the town has set for itself in that Growth Incentive Zone.

There's also more of a flexibility in the Growth Incentive Zone process itself, both in the application and in the administration of a Growth Incentive Zone if it is approved. Just by way of example, one of those things that's more flexible is the Commission back in 2005 suggested that these Growth Incentive Zone applications should have to come through both the Planning Board and the Board of Selectmen, or in the case of Barnstable, the Town Council.

In order to not foreclose the ability for a town to decide how that application will come to the Commission but not prescribe it, this set of regulations looks to the Board of Selectmen or the Town Council to submit an application. But it doesn't go further than that because the Commission was really looking to have the town have a higher level of control over that process than it has in the existing regulations.

For instance, why should it just be the Planning Board? A town might be interested in having its Conservation Commission or Historic Commission or even Finance Committee look at some of these Growth Incentive Zone applications before they come to the Commission.

So a theme you'll hear me go over is there's more flexibility and local control. Those are better/greater possibilities in this amendment. The Commission is not looking to foreclose the town's ability to come in with certain proposals. It doesn't necessarily mean the Commission will approve everything but, again, those arguments shouldn't be taken out of the town's hands. Because we have heard as much from towns that wanted Growth Incentive Zones, from towns that actually have Growth Incentive Zones. There are some great places -- you saw a letter from Dan Fortier, whose Dennis's town planner. He has done great planning work in Dennisport. He's done award-winning planning work, but even that work couldn't overcome some of the gatekeeping measures in the Growth Incentive Zone regulations to even practically

allow the town to apply for a Growth Incentive Zone.

So we certainly want to take those barriers out of the way and allow towns to at least come into the Commission and make those arguments, you know, how is the town -- what are the goals, and how is the town proposing to, you know, go forward with those goals under a Growth Incentive Zone?

These are just some of the letters you received. I described, you know, really the theme that runs through them is more of an emphasis on planning than regulation.

The approach in the Growth Incentive Zone regulations amendment is to really look more at a systems-based approach for an area. We recognize that Growth Incentive Zones have to be longer in term. Under the existing regulations, they are 10 years. So you can't reasonably expect that you'll see public and private action, investments, change in regulations, infrastructure improvements all happen in a 10-year period. It's really an iterative process and requires feedback between public and private action and investment.

For Growth Incentive Zone designations that are approved, the rules going forward will largely be kind of a goals, strategies, and measures-based paradigm. So within the Growth Incentive Zone decision the Commission may render, there will be particular goals for the Growth Incentive Zone. There will be strategies identified to forward those particular goals.

And on the back end, the Commission will help a town develop tools and measures to assist the town in determining whether it's actually meeting its goals for the Growth Incentive Zone. And rather than having -- rather than having these 10-year expiration periods, the Commission will, according to the amendment, review Growth Incentive Zone designations that have been approved at intervals no longer than five years and that will allow the town -- allow the Commission to have greater engagement with the towns, and also support the towns to allow -- to assist the towns in determining, you know, where -- if I'm not achieving some goal, what might I do to better achieve that goal. So I think the Commission has the planning capability to do that and really support towns with these efforts.

Just to point out, Growth Incentive Zone regulations are just one tool among the many either tools or regulations or plans the Commission have to either protect resources on Cape Cod, to further economic development, housing, or employment goals, or to further infrastructure to support those other goals. So this is just a list of some of the Growth Incentive -- some of the other plans and tools that the Growth Incentive Zone regulations would work in tandem with. And, of course, all these things point directly back to the Cape Cod Commission Act, and that was one of the goals with this regulations' amendment to try to more directly track the broad language in Section 1 of the Cape Cod Commission Act, the balanced language that deals with everything from the provision of infrastructure to development and economic development and then resource protection.

This is a map of the existing Growth Incentive Zones on Cape Cod. As you'll see, there aren't many. I mean I think this has been a little surprising over the years. When this set of regulations was originally adopted by the Commission, I think there was an idea that many towns would be interested in these. And then 13 years later, there are really only three parts of Cape Cod that have these. It's one of the

things that got staff thinking and talking with towns, you know, why haven't more towns done Growth Incentive Zones? And really what we heard is well the existing regulations in some ways are very prohibitive.

I would suggest that the purpose as proposed in these amendments are consistent with the purpose of the existing Growth Incentive Zone regulations but broader to better track the Commission Act. The fundamental difference is in some of the processes that I have gone over that are set out in the amendment relative to the existing regulations. And, again, that's to make the process less prescriptive, to have towns be able to come in at the very least and discuss a Growth Incentive Zone with the Commission rather than having kind of prescriptive gatekeeping measures that even in the first instance even prevents that discussion from occurring.

I'll ask Heather just briefly to walk through this. This is an example of the five-year review process that would take place under the proposed regulations amendment if a GIZ were to be approved by the Commission.

Ms. HEATHER HARPER: So, thank you, members of the Assembly. We wanted to give you an idea of practically how the process is anticipated to work with the new regulations and recall that under the current regulations an applicant, a local applicant, will have done a lot of work in their community to come to consensus that there's a geographic location that they desire added growth and relief from Commission regulations from, and they will have built community consensus around that. There would have been an application. And then a series of thresholds in terms of development thresholds established and a duration of 10 years, and the town would walk away, have the relief available, and there would be very little engagement either with the community or with the Cape Cod Commission on how well they're doing towards achieving their goals or whether they have the appropriate tools and strategies in place to promote the type of growth that they desire.

So the process that we propose will improve engagement in the community with the local community that has proposed the Growth Incentive Zone and more engagement with the Commission over a longer period of time. So that would include the development of -- the purpose for the Growth Incentive Zone, a stakeholder engagement process prior to any hearing that would outline issues or concerns for that area in that community, a full analysis of the infrastructure and amenities of that area, an analysis of existing zoning and regulation, and then back into a more-focused stakeholder process to develop specific goals of that community for that geographic area. So you'd result in a series of goals.

And then along with that, a Capital Improvement Plan and Investment Strategy to support the goals that are envisioned, and a strategic plan built out over a five-year period in which the town would lay out for itself what steps it would take to meet the goals that it has laid out for itself.

And then the Commission would help them develop performance indicators that they could use over a period of years to measure how well they're meeting their own goals and progress. And I want to just give you an idea of what we mean by that. And then that process would circle back every five years. They'd come back in, reflect on their goals, take a look at the engagement process, reengage with the community, determine how well they're meeting their goals, update their capital plan just like any good business practice in the community, and update their strategic

plan for the next five years.

So a much more engaged process, a more fundamental planning process to help communities meet their goals.

And so an indicator might look like, and this happens to be one for pedestrian accommodations, and this is just one sample of a multiple variant indicator, and this happens to be looking at safe traffic signals, curb cuts for walkability. The map that you see on the right is a walkability index that was developed by our own very talented GIS staff. This happens to be for the town of Barnstable demonstrating that there's a hotspot for walkability in the downtown Hyannis area, but there's definitely room for improvement, and that's where the indicators on the left get in where we look at the Growth Incentive Zone and within one mile of the Growth Incentive Zone because we know that the benefits of desired growth aren't just for the geographic area. They're for the greater community and a broader general benefit.

So think about a community that's planning to put a major sidewalk in a specific geographic area. They might reflect back over time and find that in that geographic area that they see more curb cuts in the area they're proposing to put a new sidewalk in, which the sidewalk provides obvious pedestrian benefits, but the curb cuts create more interaction between pedestrians and vehicles. So they may say we want to take a look at our design guidelines and some of our regulatory structure and maybe amend those to reduce the number of curb cuts allowed before they start a major investment in a sidewalk. And that's a simplistic example, but it's the type of thing that these types of measures that are multiple variables will allow communities to measure the bigger goals of community health, wealth, and resiliency that really these Growth Incentive Zones are intended to promote.

And then, lastly, and this is just one example, just so that you're all aware that there still remains the potential in all the Growth Incentive Zones that if a proposal comes in that the town believes has regional significance, they can still make a discretionary referral to the Cape Cod Commission and see a full DRI review under the full act.

Thank you.

Speaker MCAULIFFE: Thank you, very much. Are there any questions? Yes, Ron.

Mr. BERGSTROM: Let me say first I've been a big supporter of the Commission. I think I was more of a supporter when you were a regulatory body. Now that you seem to be more accommodating, the only issue I see in your description of how this works is that in giving more discretion to the towns and having them interact with the Commission in order to accomplish their goals, you're making more work for the Commission. In other words, if I say you can't do something, you can't do it. But if I said, well, you can do it if you come to us and we'll look at this and we'll look at that and we'll look at that. I mean now you're creating an enormous task for yourselves and an enormous amount of discretion.

And the word is really discretion because local planning -- I'm familiar with the local planning process, and what happens is is that planning boards come and go, boards of selectmen come and go, and some towns will become more accommodating in time and some become less, and that happens over -- very quickly; whereas, the Cape Cod Commission has been a constant for years. So you have a sort

of -- you've always had sort of a level playing field in how you deal with development.

If a planning board or the board of selectmen comes into a town at the behest of developers or a real estate interest and said, hey, for as long as we're here, you can do what you want. And then the political winds change that everybody's stuck with what they have.

So I'm just concerned that, to be honest with you, that a lot of this coming and going and discussions and interaction basically is way out of proportion to what's actually being proposed. What is happening in these Growth Incentive Zones that this whole regulatory structure is really going to make a difference?

I live in Chatham so I'm kind of off in never never land, but I mean the projects seem to come and go. They seem to be approved by the local planning boards, local selectmen. They're more or less beat to death there on the local level. I just hope that all of this activity is going to be in proportion to what is actually being proposed.

Now you don't know of anything specific that's being proposed that would be affected by this? It's not being driven by any proposal right now in any Growth Incentive Zone?

Mr. JON IDMAN: Well, there is a proposal to redesignate the Hyannis Growth Incentive Zone. So certainly one of the things, you know, there was the town of Yarmouth and the town of Hyannis that their Growth Incentive Zones were expiring. And they asked for extensions, and the town of Barnstable in Hyannis asked for a redesignation. And the more Commission staff spoke with the town planners or others in those towns, we realized that what really needs to be done here is to take a look at the regulations because the goals and what the towns intended to happen in those areas couldn't be done under the existing regulations.

Mr. BERGSTROM: When you say what the towns intended to do there, the towns don't do anything; its individual investors and developers that are doing the stuff. And my feeling is, this is just an editorial comment, that the effect of the Cape Cod Commission's restrictions are grossly exaggerated. Everybody who comes down the pike says, well, I'd invest here but if it wasn't for the Cape Cod Commission, which is total nonsense because I've seen places that have been exempted from Cape Cod Commission review and they're still not doing anything.

So, anyway, that's enough. I've said enough.

Speaker MCAULIFFE: Thank you. Susan.

Ms. MORAN: Thank you, Madam Chair. Just a question first on the discretionary referral; so I'm curious if there is a presumption involved looking at the slide? If the town believes the project is one of regional significance, does then the review go forward or is there a determination based on criteria about whether or not that occurs?

Mr. JON IDMAN: Yes, this is the same possibility that exists whether or not something is in a Growth Incentive Zone or not. We just wanted to make clear that that isn't being taken away. But with the risk of sounding pedantic, I know everybody doesn't know about the Commission here, so I'll describe what a discretionary referral is. It's something that doesn't otherwise trigger a mandatory DRI referral such as 10,000 square feet of new development, but a town feels that it

has impact in more than one community.

So there's a provision, Section 12(b)(6) of the Cape Cod Commission Act, which sets out a number of criteria why a town can think that a project might create impacts in more than one community. At that point, a town can refer that project to the Cape Cod Commission. The Commission can vote to accept that project as a Development of Regional Impact. So that same process exists irrespective of approving any Growth Incentive Zone.

Ms. MORAN: Okay. But it's still a hurdle to go through. It's not simply, you know, as set forth in the slide, that if the town believes the project is one of regional significance, then it essentially serves the developer's wishes.

Mr. JON IDMAN: No, it is a process just like the process set out in the Act. It is a process. It requires both a referral by the town and an acceptance by the Cape Cod Commission.

Ms. MORAN: And just to make that clear and, just quickly, one other thing. With respect to, you know, for example, areas -- I know there are some concerns in the correspondence that focus on areas of sensitive resource or historical areas. What would essentially happen is that those reviews would still be conducted locally.

Mr. JON IDMAN: Yes.

Ms. MORAN: Thank you.

Speaker MCAULIFFE: Yes, Linda and then Brian.

Ms. ZUERN: Thank you, Madam Speaker. I have a few questions and comments. First of all, the five-year review, I didn't see anything that said that that review finally ends. Is that permanent once you have a Growth Incentive Zone? Is it a permanent control?

Mr. JON IDMAN: It is intended to be. A Growth Incentive Zone under the amendment is intended to be a permanent unless revoked or rescinded. So that would also mean those five-year reviews are permanent as well.

MS. LINDA ZUERN: So even when the town feels as if it's completed its goals in that area, it's still under the Cape Cod review after that, after they've met the goals?

Mr. JON IDMAN: It's an interesting kind of thought experiment, but I guess one way you could go with that if a town has felt that its met all those goals, fully fulfilled them, maybe it doesn't want the Growth Incentive Zone anymore.

MS. LINDA ZUERN: Revokes.

Mr. JON IDMAN: Yes.

MS. LINDA ZUERN: So after it's developed, you say they can revoke it? Is that the process?

Mr. JON IDMAN: As under the existing regulations, there is a provision for revocation or rescission, and certainly if a town wants to basically give up the Growth Incentive Zone designation and the corresponding DRI threshold revisions that go with it, the town could certainly do that.

MS. LINDA ZUERN: Okay. And I have -- some of the terms that you're using, to me, this is just another regulation replacing a regulation, and I know it's a little less regulatory, and I've always been a critic of the Cape Cod Commission because it is regulatory. So, I'm glad that it's moving in the other direction.

But some of the wording like “systems-based approach” or in here it's talking about “system of existing or plan synergistic uses.” To the common person or even to me, I would have to say what do you mean by that? I would just like it easier to understand. That's just a comment; you don't have to, you know, say anything, comment back.

But I just have to say the regulations in the past have hurt the town of Bourne. I'm from Bourne, as you probably know, and many businesses have not come into Bourne because of the Cape Cod Commission. So it has hurt in our town.

The Growth Incentive Zone in Bourne is in a 100-year floodplain, and I've always thought that that Growth Incentive Zone should have been someplace else, probably at the rotary where Len Cubellis wanted to put his development, but it is where it is.

So under these new regulations, you're saying that you would do planning. How would you help the town of Bourne in planning? What kind of process would -- because it is in a flood-plain; does that make it a little easier for you to come in with suggestions or say, you know, you shouldn't really build this here because it's closer to the water or?

Mr. JON IDMAN: Yes, that has to be a consideration. So what the Commission would expect in any Growth Incentive Zone application, certainly under this amendment, is a survey of the existing conditions. What are the resources? What are the assets? What are the regulations that are in place? And that sets the premise to begin. And then there really has to be a balance between the type of infrastructure that exists and the other man-made and natural resources that exist in the district as well.

So one thing, interestingly, this set of regulations does, it doesn't categorically exempt doing a Growth Incentive Zone where you might have a floodplain. But you have to have regulations or infrastructure in place to deal with that.

MS. LINDA ZUERN: Yes.

Mr. JON IDMAN: So I mean that's one example of the planning, and it really is a balance of these different interests that a town has to deal with and the Commission has to deal with in Growth Incentive Zone applications.

MS. LINDA ZUERN: So if in Bourne, for example, they were talking about putting up a three or four-story building that is in that floodplain, you would help them by giving recommendations or saying maybe that should be moved someplace else, or you have to put something on stilts or whatever it is; you would do that? Is that part of the process?

Ms. HEATHER HARPER: I think we would respond to a request from the town of Bourne for technical assistance if they asked for it within their Growth Incentive Zone. And I think our expectation of the way we would provide that planning support will be based on the goals that the town itself identifies. So if the town identifies a specific goal for planning for site design in a flood-prone environment, then we would work with them on say design guidelines that might support that. So it's going to depend on what the town determines its goals are.

MS. LINDA ZUERN: Okay. That would have to be a request from them first then?

Ms. HEATHER HARPER: Well, the planning process itself to get to

renew the designation will evaluate those systems, and we would work with the town in developing that application, and that would lead to a strategic plan which would have action items that may include the Commission in some of those, and it may include the town in others.

Ms. ZUERN: Okay. Thank you.

Speaker MCAULIFFE: Brian, you had your --

Mr. O'MALLEY: I don't quite know where to start with this, but I think you started by saying this is more planning than regulatory. And the feel of what I'm reading is that what's happened is -- I mean I look at -- what's happened is that you've taken and put in the backseat the protection of the resources that were at the heart of the role of the Cape Cod Commission. The Cape Cod Commission Act defines what its purposes are.

And the overwhelming sense of that paragraph is protection of resources, conservation and protection of naturally developed areas, preservation of coastal resources, the achievement of -- development of adequate municipal housing, preservation of historical/cultural, etcetera, etcetera, that it was intended to be, in fact, its first line talks about the unique and natural resources of the Cape.

The role of the Cape Cod Commission in its genesis was protection of what we have. And it feels to me that what's going on here is a shift towards favoring development. That's growth rather than regulatory. And in that regard, I'm very moved by the number of places within this Section G, Chapter G that have been changed to eliminate the references to historic, cultural, environmentally sensitive resources.

Now, I'm a little bit torn. As someone who comes from the outer-Cape, from a small town, and who wants to further the ability of towns to control their own future, I'm a strong believer in maintaining that, that town autonomy, shall we say.

At the same time, I also recognize coming from a town that for every town promotion of growth it attracts -- attracting investment is fiscally something that they kind of want to do and need to do. And I'm uncomfortable here that what we're doing is shifting our focus to one of promotion of development and growth and eliminating the offsets, eliminating the references to protection of specifically-defined resources and moving completely in a direction of how we make this more functional, more easy for development to happen.

I'll leave it with that. It's just a discomfort.

Speaker MCAULIFFE: Are there any other questions from -- yes, Chris.

Mr. KANAGA: Thank you. I just wanted to make a real quick comment about that. I would disagree to an extent. I think if we go all the way back to the beginnings of the Cape Cod Commission, I think as applied in the early days, protecting resources meant preventing development.

And I think in recent years, it has come to be realized that planned correctly sustainable development can be done while protecting resources. So I'm just recasting that argument and saying it's not a complete change of direction. It's just a realization that, hey, if done well and it helped with the research and planning resources that the Commission provides, that these things can live together.

Speaker MCAULIFFE: Are there any questions for the Commission?

Yes, Jim.

Mr. KILLION: Would you characterize these proposed changes as a result of what you've learned and listened to over the last couple of decades?

Mr. JON IDMAN: I think I was in college the last couple decades so. (

Speaker MCAULIFFE: I was just thinking about how young the Commission has gotten.

Mr. JON IDMAN: I think from what I've heard from other people in my own tenure at the Commission, yes, it is certainly in response to what we've heard. Not just from -- I mean I'm sensitive to your comment, Mr. O'Malley. This is not just shilling for development. And I agree with Mr. Kanaga and that's a correct characterization.

If we want to prevent sprawl on Cape Cod, if we want to prevent development popping up anywhere, it has to be directed to certain places. There have to be incentives for it to go to certain places. And what we have with the existing regulations is as much with this concept of offsets. There's no nexus between the offsets that are required under the existing regulations and the development that might occur within the Growth Incentive Zone. It's just a pure quid pro quo. You want to go into the Growth Incentive Zone, town, you better find land, not, town, find ways to invest in your wastewater treatment system, but, town, go find land outside of GIZ.

So you may be taking away land that's important to your industrial interests or something like that and go find that land and acquire before someone can properly be located in a Growth Incentive Zone.

So, yes, this does respond to things we've not only heard from communities but from individuals, but also, I think this is more of the cutting edge on planning now, and it's certainly an evolution of where the Commission was in 2003, let's say.

Speaker MCAULIFFE: And I would just give a comment from Yarmouth having been on the Board of Selectmen when we did our GIZ and we became very knowledgeable about GIZs, I think Yarmouth's perspective is this isn't flexible enough. And when you're in a redevelopment and not new development, redevelopment and you have to go through all the hoops that you have to go through to develop, you know, unused land, it's artificial.

So I think this I'm reading is an attempt to respond to what wasn't working with the GIZs and also, you know, some of the original comments -- I know Yarmouth was very challenged by the Commission and was very, I guess, present for a lot of your hearings to actually listen to towns.

And from a municipal perspective, the fact that the Commission is growing and changing and adapting into what the Cape needs I think, to me, a positive. We always used to call ourselves the squeaky wheel so that we could get the planning that we needed. But now it's being built in because it's not just, okay, here's your GIZ and they'll disappear. It's okay, let's really let it happen; let's not just do it and file it away.

Ron.

Mr. BERGSTROM: Yes, you just made a comment; you talked about land, having to get land somewhere else to facilitate someone developing undeveloped land that the map you had in front of -- behind me, the Hyannis and Yarmouth Growth

Incentive Zone, there's no land. That's all developed it seemed to me.

Speaker MCAULIFFE: Right.

Mr. BERGSTROM: I mean it's all redeveloped. So I mean that's not a fair question of having to, you know; the only problem would come is if the towns asked for a Growth Incentive Zone in an area that's not developed, which I guess is a possibility.

Mr. JON IDMAN: Well, may I make this clear? It goes further than that. The regulations say today, "Irrespective of redevelopment." If you want DRI threshold relief, you have to go restrict land outside a Growth Incentive Zone, and there is no nexus between that.

I think, Mr. Bergstrom, what you're referring to is accurately how we look at DRI reviews today that if you're just redeveloping land, say that there's no open-space component but a Growth Incentive Zone is different. In one sense, under the existing regulations, the Commission takes greater jurisdiction than it does under DRI review because you require offset mitigation from square foot one up of things that may never be developed. Let's say you do a development takeoff, a building analysis of potential within a zone, that's what your offset would be based on.

And what we have seen in Growth Incentive Zones, and I think this may be consistent with what Mr. Bergstrom says, is this is a -- I think it's a valuable marketing feature, but what we have largely seen is there's not a lot of new development in these types of areas. But it is important to the towns to have this ability to market and say there's one less set of regulation.

And from where the Commission stands, the more you can direct development into these places that by their nature can absorb development so they're unlikely to have the same regional impacts of even developing a much smaller development along an undeveloped area of Cape Cod where there's no infrastructure and where there's green field, etcetera.

Mr. BERGSTROM: Yes, I'd just like to say that I had this discussion with the previous director of the Cape Cod Commission is that within the next 10 years you're going to see a massive change in commercial and especially retail development on Cape Cod. There are malls that are just being completely vacated, and that's true all over the country, but it's true here because we have even, what, 132 and so on. I imagine there's going to be applications to the towns for these Growth Incentive Zones but, unfortunately, the -- I'm going to say they're going to be asking for developers. They're going to be looking for people who want to invest in this stuff. And I don't know how far down the road we want to go to accommodate that kind of -- I mean, a lot of it is going to be residential. Everybody's going to want to build condos. But I don't know how far we want to go down the pike in trying to fill empty spaces that, you know, with all sense of relief.

Anyway, that's my take.

Speaker MCAULIFFE: Any further questions? Is it a question?

Mr. O'MALLEY: Question.

Speaker MCAULIFFE: Yes.

Mr. O'MALLEY: Yes. The Chapter G was adopted by the Commission by a vote of 7 to 5; am I right? Is that right?

Mr. JON IDMAN: The amendment was forwarded to the Assembly by

a vote of 7 to 5.

Mr. O'MALLEY: By a vote of 7 to 5. So there was a fairly split vote here. Can you characterize the five -- the minority report?

Mr. JON IDMAN: Yes, I can. Because this is occurring in tandem with the Hyannis Growth Incentive Zone, I think some of our Commissioners misunderstood because some of the comments from the public were not about the Growth Incentive Zone regulations but about the downtown Hyannis Growth Incentive Zone Redesignation Process. I think some of our Commissioners conflated those issues.

And then to be fair, there were a few Commissioners who were just concerned with allowing additional development. Again, I agree to disagree with that because I'm not sure it's additional development in these contexts but that's roughly the characterization.

I'll also say our body is now 18, so we were missing about six members who, in a subsequent meeting, spoke to -- they were -- they would have been in favor of the Growth Incentive Zone regulations amendment.

Mr. O'MALLEY: Thank you.

Mr. JON IDMAN: You're welcome.

Speaker MCAULIFFE: Thank you. I think I'm going to go to the public. I have -- Heather, you're on the sign-up sheet. We're you --

Ms. HEATHER HARPER: Yes, no.

Speaker MCAULIFFE: Okay. It wasn't a separate thing. So then number one is Patty Daley is signed up.

Ms. PATTY DALEY: All set.

Speaker MCAULIFFE: Okay. Patty, you're all set. And then I have Elizabeth Jenkins. Yes. Okay. Why don't you come on up. Welcome.

Ms. ELIZABETH JENKINS: Hi. Good evening. Thank you. I'm Elizabeth Jenkins. I'm the Planning and Development Director for the town of Barnstable. And on behalf of the town, I'm here to speak in favor of the proposed amendments to Chapter G.

The town of Barnstable has had a designated downtown Hyannis Growth Incentive Zone since 2006, so we're in a unique position to speak to the experience under the existing regulations. And this, our downtown Hyannis Growth Incentive Zone, has played a key role in the ongoing revitalization of downtown and progress towards our community goals of creating a year-round livable and walkable community in the heart of Cape Cod.

The proposed regulations to Chapter G reflect that revitalization and community development are, in fact, long-term additive and incremental processes that require sustained commitment from community and its leaders. Certainly, incentives and permit streamlining are important in terms of directing growth and development to an area. But having a comprehensive and strategic plan that looks -- of course that land use and infrastructure but beyond that as well, at the spaces in between, things like our civic spaces and our institutions and the role that they play in our community. Public safety and creating an intergenerational community, we have to focus on those things as well if we're truly going to achieve our goals of creating a sustainable, healthy, and resilient community in downtown Hyannis.

The proposed regulations do shift the focus from parcel-specific development impacts to the impacts of sustained place-based planning and investment in infrastructure, processes, and community.

The proposed elimination of the offset requirements is a key change in support of municipalities and Growth Incentive Zones. In our experience, there has been a significant disparity in the offset that we were asked to provide in the subsequent regulatory relief that was provided under the downtown Hyannis Growth Incentive Zone.

The proposed revisions to Chapter G also supporting a meaningful new approach to measuring progress within Growth Incentive Zones. In our existing decision, progress is very focused on meeting these upper-limit development thresholds, 585,000 square feet of commercial space and 600 housing units. We haven't come anywhere close to meeting those, but that's what we track. That's what we spend our efforts: tracking progress, how much square footage have we had, and how many units have we added, but we're not measuring progress towards our goal by tracking square footage or housing units. Under this new Chapter G regulation, we would refocus our efforts in terms of tracking progress towards things like creating walkability, supporting our economy, providing a diverse range of housing types. Those are the things that will make the Growth Incentive Zone successful, and those are the sort of things that we should be tracking.

In terms of speaking to the process to reauthorize the downtown Growth Incentive Zone, it's been a multiyear and community-based process that, you know, really has been focused on the community as a whole, you know, taking, you know, taking the focus off any specific project and really looking at the system as it works together. So we feel like it's been a very comprehensive and community-supported process.

And, finally, you know, streamlining. It's not necessarily about -- a Growth Incentive Zone isn't necessarily about enabling development. It's about streamlining growth and development in a manner and a form that's sustainable here on Cape Cod. We're going to have to grow and change and develop as a community if we are going to become sustainable if we're going to support young professionals in our community and a new generation of leaders here on Cape Cod.

The Growth Incentive Zone is a key piece of the town of Barnstable's larger smart-grow strategy to direct growth and development into a key place in downtown that has the resources that can support that growth; the transportation infrastructure, the sewer infrastructure, a place that's adequately designed to support growth and development in a compact form that reflects our historical development patterns.

And, again, the Growth Incentive Zone and the permit streamlining it provides really is key to protecting our natural and historic resources town-wide.

I'm happy to answer any questions you might have about our experience with our existing Growth Incentive Zone, and I ask for your support for the proposed amendments to Chapter G to help Barnstable and other Cape Cod communities support our local economies.

Thank you.

Speaker MCAULIFFE: Thank you, very much. Okay. I will close

the Public Hearing on Proposed Ordinance 18-05.

Speaker MCAULIFFE: And we will -- we have other business to conduct, and then when we convene, we will take our vote.

Summary Communication from County Counsel Robert Troy

- **Public elected officials have a certain degree of autonomy recognized by law and are ultimately answerable to their constituents.**
- **Delegates may be notified of county policies but are under no obligation to sign for receipt**
- **The position of Assembly Clerk is created and recognized by the Charter. The Charter provides that the duties of that position are duties that are related to the functions of the Assembly and the Assembly directs the activities of the Clerk.**
- **The Charter does not state that elected officials of the Assembly of Delegates are actually employees. There is no law that says that the elected members of the Assembly are employees of Barnstable County**
- **Charter recall provision would require a petition by a majority vote of the Assembly, then to the Commissioners for approval, and finally on to the legislature.**
- **State Elections Division attorney raised questions regarding the substance of the proposed ordinance. She had some objections and suggestions regarding Proposed Ordinance 17-16 for a charter recall provision**
- **Suggested that composers of P.O. 17-16 consider new information brought forward and decided what they want to do going forward**

Speaker MCAULIFFE: So our next item is communications from County Counsel Robert Troy regarding some specific questions related to County Home Rule Charter and also the recall provision in Proposed 17-16.

So the first item is as Mr. Troy comes up, thank you, very much, for coming, is there have been -- annually there are questions about how much independence and authority does the Assembly have; how much independence and authority the Commissioners have, and there seems to be sort of this little bit of tension.

One of the things that came up a while ago which we have seen a review on is one of the questions I directed to Mr. Troy was do we have -- are we governed by the policies, let's say, that are promulgated by the County Commissioners, whether it's the social media policy or this policy or that policy as elected officials. Certainly County employees are, and we are Barnstable County employees, but we are also special employees. So that was one of the questions I had posed to Mr. Troy, and I'll let him go forward with that.

County Counsel TROY: Thank you, Madam Speaker. I think the short answer is that there is a certain degree of autonomy that the members of the Assembly of Delegates as the legislative branch have that is distinct from the authority of the

County Commissioners as the executives of the County to promulgate policies that affect circumstances that involve the workplace.

So I think a good example of that would be that the County Commissioners would have the authority to promulgate policies that regulate social media by employees while they are working. They would have the authority to regulate social media policies with respect to the utilization of County equipment if the equipment was owned by the County or provided by the County. But they would not have the authority to regulate the use of computer-generated or other types of electronic communication by elected public officials on their own time and exercising their own constitutional rights. In that instance, there would be a degree of autonomy which would be recognized by the law on individual public elected officials who are ultimately answerable to their constituents.

Speaker MCAULIFFE: And one of the follow-up questions I had was we have received request to acknowledge receipt of policies as their being developed, and a lot of us had not had an issue signing those requests. For instance, did you receive the sexual harassment policy, you know, you need to sign that and get that in. Is that something that the Assembly is required to do? Is it something we do of our own volition?

County Counsel TROY: I don't think that the County Commissioners have any legal authority to require the Assembly to sign. For receipt, I think what their obligation is is when they promulgate regulations that they think that are applicable to constituents in the County government including the Assembly to the extent that they are applicable, I think they are required to notify the members of the Assembly, but I don't think there's any requirement that the Assembly -- there certainly isn't in the Charter, and I don't know of any law that would require that.

I think that the Assembly, once again, as individual elected officials are ultimately responsible to their own constituents. They're not responsible to the County Commissioners.

Speaker MCAULIFFE: One of the other questions I asked was does the Speaker and Delegates have final say over the activities assigned to the Assembly Clerk? And I think that's been sort of resolved since we -- since I asked that question because I have developed a, with the help of other people in HR and Jack, a job description for the Assembly Clerk. So this will, in fact, I guess dictate the activities of the Assembly Clerk from the Assembly through the Speaker.

So is there any -- in terms of -- would that be the appropriate assumption that it's pretty much the Assembly and the Speaker then that would assign the duties to the Assembly Clerk?

County Counsel TROY: In terms of the position of Clerk of the Assembly, that is a position that is created and recognized by the Charter. The Charter provides that the duties of that position are duties that are related to the functions of the Assembly.

So to the extent that we're dealing with that position, I think it's pretty clear that the Assembly directs the activities of the Clerk.

However, I think the position of Clerk that is in the Charter may not be identical to the position of the Clerk that is part of the personnel classification system of the County, which under the Charter, that under Section 4.2(b)(4), there is a

requirement for a personnel system and Section 3(12)(e) places the responsibility for implementation of that with the County Administrator.

So I think that the answer is it's kind of a mixed answer that the Assembly does direct the work and activities of the Clerk, but to the extent that that position is part of the classification, the job description, which you've just referred to, would ultimately control, and I congratulate you and everybody who worked and the County Administrator on apparently coming up with a description for the position that satisfies everybody.

Speaker MCAULIFFE: But it was a negotiation, as all things are, and this is the question to you; the Assembly Clerk is in a unique position because it is -- the Assembly doesn't have employees even though we direct the job of the Clerk. So by virtue of the fact that they're a County employee, they're also under certain County provisions, whether it's, you know, benefits or policies or things like that. Where the rub is or was was in the classification because it doesn't -- the Assembly Clerk position doesn't fit into the classification system because it has a wide variety of descriptors that could be everything from a low-level job to a high-level job. So it turned out to be a negotiation which, as you said, was successfully resolved. I was very fortunate to work with the HR director and that this was, for me, a very key part to the Assembly, you know, the Clerk of the Assembly is the face of the Assembly. So it worked out to be a very big effort, but there was also a lot of communication with Mr. Troy on it's not black-and-white. It's not clear. It's not, you know, it had to be a negotiation in a sense because fish nor fowl, it was a very -- and that's why I think we struggled with a lot.

I'm bringing this forward at this point because it will have budget implications in our budget discussions. And I just wanted to set the table for people to know where my position and my position on the Assembly, as Speaker of the Assembly, coming forward, so I wanted to have this at our last meeting, but it will have an implication. This isn't just out of the blue.

And then this final question; I don't know if there's an answer to this, but how do we operate as the Assembly of Delegates under the Charter and still maintain a County employee status because we are designated County employees. And I think you had talked about the fact that the Assembly is a separate legislative body is part of the answer. But we also seem to crossover because we're paid by the County. We get benefits from the County, so how does that work?

County Counsel TROY: Well, I think that one of the things it seems to me that the Charter distinguishes between the position of Clerk of the Assembly and the Assembly members themselves in terms of them being an actual employee. The Charter in Section 2.2 specifically says that the Clerk of the Assembly shall be deemed to be a Cape Cod Regional Government employee.

It also says that the Clerk is elected by the Assembly but, essentially, is an employee of the County. You don't see that language with respect to the members of the Assembly. So I think that while there may be certain categories in which you would be considered an employee, so, for instance, if you are a person who's receiving compensation by the governmental entity or you are receiving benefits, for that categorization, you are deemed to be an employee.

But I'm not sure under the broader ambit of the Charter that we would

say that the elected officials of the Assembly of Delegates are actually employees. So I think that's how you would distinguish it.

Under the Charter, strictly speaking under the Charter, I would say that the -- that there's a difference. The elected officials are elected officials and the Charter could have said that they're deemed to be employees, but it doesn't.

So I think that for some regulations because, as we all know, there's a myriad of regulations involving all people in public life. You could be considered an employee. It's been brought to the attention, for instance, that under the conflict of interest law you are deemed to be employees under Chapter 268A. But that's under that law. There is no law that says that the elected members of the Assembly are employees of Barnstable County.

And so that, I think, impacts too the way you interpret the policies that are -- have been promulgated by the Commissioners. They pretty much, and I looked at them again while I was waiting, they apply to employees. I believe that my interpretation is those policies imply -- apply to the Clerk because the Clerk is an employee of the County, but I don't think they necessarily apply to the members of the Assembly except to the extent as I indicated if there's an overlap so if you're using -- if you're here in Barnstable County and you are a member of the Assembly and you're interacting with people who work here, the sexual harassment policy applies.

But that's only because of the circumstances that there's some type of nexus or connection between the public official and puts them in a situation in which the policy applies. Generally, I believe that the policies are intended to govern the employees and the conduct in the workplace.

Speaker MCAULIFFE: Okay. And I wanted to just kind of get my questions out and answered because these are perennial questions, and I think also for new people trying to figure out how things actually fit.

I don't want Mr. Troy to be under the gun for answering questions that he hasn't had a chance to research or prepare for, and I told him that I would make him available if people had any further questions. If you want to give them to him, send them to him in writing or have them answered directly, or if you think it's appropriate for the Assembly to have the answers and just copy everyone.

But I hesitate to ask him to go answer things off-the-cuff that he hasn't had a chance to prepare for, but I just did want to cover these specific questions.

But he's also here to discuss the recall. So you had some information back from the state that you had requested. And so did you want to address that recall ordinance?

County Counsel TROY: Yes. First of all, there's two parts of this issue that I would address the Assembly. One is the mechanism; what is the mechanism by which the Assembly can adopt a recall provision and incorporate in the Charter? And I did that in my memo of December 12 of 2017 about Proposed Ordinance 17-16.

I think the Charter is very clear. I think that if you find the Charter difficult to read or understand, it's also on page 15 in the Manual of Governance, the exact same provision, and that simply says that if the County wants to adopt a provision in the Charter relating to recall, it implicates Section 9.1 of the Charter.

Now Section 9.1 and we've done memos over the years as we all, in the

past, when we went through Charter review, we had many pages of memos about this and admittedly it's difficult to read.

And the first part of it says that if you want to affect any type of regulation or rule regarding the composition, mode of election, or term of office of the legislative body or to the executive branch, it has to be approved by the legislature. And the exact language in the Charter says, "Of a special law approving a petition," and that's the only time the word "petition" is used in the Charter.

By using that in my view, it, in effect, prohibits the utilization of the ordinance process. It has to be a petition filed by the Assembly of Delegates and approved by the Board of Regional Commissioners, and this is in Section 9-1, Paragraph 3.

Now this paragraph does not include the quantum of vote that is required by the Assembly, although the previous or the alternative authority for changing other parts of the Charter, which is not germane to this issue, does require a two-thirds vote.

Originally, when I looked at the issue some years ago, I felt that since the first process involved a two-thirds vote that that inherently suggested that the process of changing things regarding the composition mode of election of elected officials in the County, I felt that that suggested that it should be dealt with the same way.

However, at the time that we were working, the Assembly had special counsel that was working with the Charter and he disagreed, and he disagreed in very emphatic terms, as was his style, and I respected him, and I talked to him about it. And as I thought about it when I looked at it the second time, I came to agree with his analysis that there should be a strict interpretation of the Charter. And since the two-thirds provision did not -- was not specifically set forth in the Charter that it should default to a majority vote. And so when I wrote this memo in December, I incorporated by reference his interpretation.

And so I think the answer is this. If you want to do it, the Assembly has to pass the petition by a majority vote. It goes to the Commissioners, and then it goes to the legislature because, obviously, the legislature created this whole form of government that we have here in the County, and they want to have a say if there's going to be a significant change about those very, very key issues about the elected officials and their status.

When you're talking about a recall provision, you're talking about the term of office of somebody who has been elected. You're effectively starting a process which is going to compress the extent of the elected official's term if the recall provision is successful. So in that context, I think it's pretty clear that you have to follow that process.

I think the other part of it is that by following the process what was -- it was intended was to avoid the ordinance process, which is a much more convoluted process because it goes up to the Commissioners and comes back, you know, it is more complicated. So what they're basically saying is they want to see -- the legislature wants to see that a majority of the Assembly and a majority of the County Commissioners think this is a good idea to amend the Charter. It doesn't refer to any specific individuals; it's just a theoretical point of view.

Speaker MCAULIFFE: And then you had contacted someone at the --
County Counsel TROY: Yes. I had sent in December the Proposed Resolution 17-16 to Michelle Tassinari. She is the Chief Counsel of the Elections Division; she's also the head of the Elections Division.

She's been there for many, many years. She's excellent. She's a very brilliant lawyer, and she, in turn, responded with a number of concerns from her point of view about the -- which are different than she wasn't really dealing with the issue that I was dealing with about how it's done, but with the substance of the proposed ordinance, and I believe that her response was forwarded to the Assembly members.

Speaker MCAULIFFE: Yes.

County Counsel TROY: So, however, if you need any assistance or the members that want to work in this needing assistance and trying to meet her objections or suggestions, whatever you want to call it, I'm happy to do that.

Speaker MCAULIFFE: Great. Thank you. Any questions?

Mr. BERGSTROM: Yes.

Speaker MCAULIFFE: Yes, Ron.

Mr. BERGSTROM: You know, this issue has come up before. The Charter says that in talking about the powers of the Assembly, it says, "The Assembly shall act through ordinances or" -- what do you call it?

Speaker MCAULIFFE: Resolutions.

Mr. BERGSTROM: Resolutions. It doesn't talk about petitions. So I mean how does that come into play? It restricts how we act and yet then later on you said the language comes in in the petition, which is the only -- and if there's no further explanation as to how petitions are handled, and you referred to it because you say that an ordinance could be passed by a two-thirds majority of the Assembly over the wishes of the Commissioners. But here it seems to say that the Commissioners have to approve the petition, which means that if the Commissioners have to approve the petition, why would we even bother to put the petition forward since it's going to be their -- it's going to be their decision ultimately anyway?

County Counsel TROY: Well, they wouldn't have a decision to make unless the majority of the Assembly approved the petition it wouldn't go there. So, I think that the answer is is that the Charter envisions that the regular business of the County would be done through the ordinance process. And I fully support any of the issues that might -- which there might be disagreements between the Assembly and the Commissioners. The way to resolve that is through the ordinance process. And I have suggested that if that is used, it's going to diffuse some of these long-standing I'm not going to say tensions but maybe disagreements about different issues.

But the fact that there is a separate part of the Charter which is entitled, "Charter Change," and deals with it in two aspects. One, the first part says, well, it's no big deal if, you know, if the Charter change is something that is not central to the organization of the elected members of the County, then we're going to use the first paragraph in Section 9.1.

But if it's something to do with the mode of election of the various entities, the composition, which would mean, for instance, the composition I interpret that as meaning to be the number of people who are on the Assembly or the number of people who are County Commissioners. I interpret mode of election, that means how

you're elected; you're elected town by town, but there's been proposals for regionalization, that would come within that. The term of office is, once again, you know, the terms that you're elected but also the term of office certainly if you have a County Commissioner, which I think by law is he or she would be elected for four years. If you have a recall of that and you're truncating that four-year period, I think that implicates that.

And the reason why I am interpreting this way is not to make the process more difficult, but it is to make the process if its undertaken actually work and make it effective rather than go down the path in which you're trying to do something but you're not doing it the right way.

So to do that, the safest way, I think, is to take the very words of the Charter and mimic them and do exactly what those words say. I certainly recognize -- I've made that same point that you just made, but I think if you want to immunize yourself from legal challenge, which is what is probably going to happen if you try to recall somebody and it's successful. Then you should follow the specifics in the Charter.

So I think it's a petition; it gets a majority of votes. It actually goes to the legislature. So in the end, it's not the County Commissioners or the Assembly that actually make the decision. The legislature can do whatever it wants. They can get up in the morning and decide that they're going to eliminate any governmental body. And if they do and the Governor signs it, it's gone.

Speaker MCAULIFFE: Anyone else? Great. Thank you, very much.

County Counsel ROBERT TROY: Thank you.

Speaker MCAULIFFE: I think in terms of recall, we will send it back to the composers with the new information and also, they can consider some of the discussion that occurred before and see what they want to do going forward. But we certainly have information that we need to rework things.

Speaker MCAULIFFE: Our next item would be communications from Public Officials? _Communications from members of the Public?

Assembly Convenes

Speaker MCAULIFFE: Okay. We will now convene the Assembly. And our first topic is a vote on Proposed Ordinance 18-04, Cape Cod Commission to amend Chapter A of the enabling regulations governing review of Development of Regional Impact.

So this was our first hearing, and we can, at this point, entertain debate and discussions, and, Brian, you had an amendment -- Patrick, you look like you're -- oh yes, is there a motion to put the ordinance --

Proposed Ordinance 18-04

To amend Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact, of the Code of Cape Cod Commission Regulations of General Application.

BARNSTABLE COUNTY, hereby ordains:

That the following language be inserted as a new section 2(d)(iii) of Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended:

In order to expedite permitting for, and to support Barnstable County Municipalities with, the development and implementation of water quality improvement plans and projects for nutrient remediation pursuant to Section 13(l) of the Cape Cod Commission Act, and under the powers and authority conferred to the Cape Cod Commission under, without limitation, Section 4(a)(27) of the Cape Cod Commission Act, any water quality improvement plan or project with a primary purpose of nutrient remediation proposed by a Municipality, or political subdivision thereof, including without limitation a comprehensive, integrated or targeted water resources, watershed or wastewater management plan or project, shall not require or be subject to the Development of Regional Impact review and approval process, notwithstanding anything contained to the contrary in these regulations, but shall require and be subject to review and a determination by the Commission through its Executive Director, or designee, that said plan or project is consistent with any approved regional water quality management plan for Barnstable County prepared by the Commission, which review and determination shall occur prior to and as a condition to implementation of said plan or project. Without limiting the foregoing, this paragraph shall also apply to proposed modification of such a plan or project that has previously been reviewed and approved by the Commission as a Development of Regional Impact.

Mr. PRINCI: Yes, I move the Ordinance 18-04.

Speaker MCAULIFFE: Okay. So the ordinance is on the floor. Is there a second?

Mr. BERGSTROM: Second.

Speaker MCAULIFFE: Second, okay. I will open discussion. Any comments?

Mr. O'MALLEY: Madam Speaker, I have a --

Speaker MCAULIFFE: Sorry; I know it's a lot of paperwork.

Mr. O'MALLEY: I have an amendment. It's here somewhere; I'm sorry. The gist of it, and I'm going to say this once so that it doesn't come around twice. Oh, here it is. Both of these ordinances suffer from a single fault that I would point to and that is the language that allows the Executive Director of the Cape Cod Commission to assign responsibility for certifying compliance to a designee, and I'm uncomfortable with that -- as I started to say earlier, I'll stay with 18-04.

Speaker MCAULIFFE: Okay.

Mr. O'MALLEY: Subject to review and determination by the Commission through its Executive Director or --

Speaker MCAULIFFE: So is this an amendment?

Mr. O'MALLEY: I'm placing an amendment on the floor, and I'm simply -- the amendment would simply delete the words, "Or designee," meaning that this decision to exempt a DRI process for an area that's undergoing a 208 process is made by the Executive Director and not a designee period. It's a simple thing. This is not something that's -- there are only 15 towns. There are not even that many watersheds.

So we're talking about a relatively limited number of instances where this could possibly come up, and I simply think this should fall on the shoulders of the Executive Director. The responsibility should come back to that office; the buck stops here kind of thing rather than an undefined designee.

Speaker MCAULIFFE: Okay. Is there a second to the amendment to remove the --

Mr. OHMAN: I'll second it.

Speaker MCAULIFFE: Okay. Discussion on the amendment?

Speaker MCAULIFFE: This is on -- Lilli-Ann.

Ms. GREEN: Thank you, Madam Speaker. May we ask the members of the Commission?

Speaker MCAULIFFE: We have to suspend the rules.

Ms. GREEN: Suspend the rules to ask them what the reason for having this language in there is? There may be a very good reason for it.

Speaker MCAULIFFE: Well, I need a -- I have a motion on the floor. Does the motion to suspend the rules supersede that?

Clerk O'CONNELL: Well, somebody's got to second it.

Speaker MCAULIFFE: Okay. Are you making a motion to suspend the rules?

Ms. GREEN: Yes.

Speaker MCAULIFFE: Typically, we don't have public input during the Assembly meetings. And I will say, in general, the only times I've seen the rules suspended it to speak to staff, to ask questions, get more information in the deliberation. So are you making a motion to --

Ms. GREEN: I will make the motion. I will make a motion to suspend.

Speaker MCAULIFFE: Is there a second?

MS. LINDA ZUERN: Second.

Speaker MCAULIFFE: Is it a roll call?

Clerk O'CONNELL: No.

Speaker MCAULIFFE: No. Those who would like to suspend the rules say "Aye." Any opposed?

Mr. OHMAN: No.

Speaker MCAULIFFE: And any abstaining? So it passes with one nay.

Speaker MCAULIFFE: So, Lilli-Ann, you had a question you wanted to ask Jon maybe?

Ms. GREEN: Is that --

Speaker MCAULIFFE: Yes, about why that language was placed in there.

Mr. JON IDMAN: Yes, thank you. This is a term that appears in many other of the Commission's regulations where there's been a carve-out for a designation through the Executive Director/other people. The specific reason here is don't know in the future the Executive Director may want a more public face on this sort of determination, may want to designate a Standing Committee of the Commission to make this determination in a more public setting.

But, again, until we know the specifics of that to determine whether or not that warrants a more public -- more public viewing or not; we have this language as it appears in other Commission regulations of Executive Director/Designee.

This is also consistent with the Commission's Administrative Regulations where there's a specific path of delegation from the Executive Director to specific either Commission members or Commission staff people for specific things of responsibility within the Commission's regulations.

Ms. GREEN: Thank you.

Speaker MCAULIFFE: Yes, Brian.

Mr. O'MALLEY: And I would speak to that same question. I did confer in the past couple days with the Executive Director of the Commission, and I got much the same response is that there are processes where certain decisions are made by committees.

And my response to that was given the very limited number of instances where this would occur, and I think the significance of this determination, this is one that really ought to go to the Executive Director and that person should be responsible, rather than totally undefined others/designees, that's perspective.

So I agree with your perspective. It squares with what I heard, and I'm simply not convinced that that's an appropriate process.

Speaker MCAULIFFE: Are there any other comments on the amendment to the amendment?

Mr. BERGSTROM: Yes, just I understand where Brian's coming from, but in the real world, the determination as to whether or not these towns are in compliance with the 208 Plan is going to be made by the technical people. In other words, it's going to be made by staff, people who are particularly focused on that issue.

So the approval by the Executive Director or the designee in some ways is going to almost be perfunctory. I mean, if he's not going to hire a staff and have them work on it for months and have him say -- come back and say it's complied, and then say, well, I don't agree with you because I just came back from lunch and it didn't seem like a good idea.

It's going to have to be a staff -- it's got to be staff driven. I mean we have to accept that from a practical standpoint. And the explanation that the Executive Director may want to make a more public process out of it is a good one. I mean if it's a controversial decision, you know, I understand that.

So, you know, I respect Brian's objections, but I think considering we've come this far in the process. I don't think it really makes a -- all that much a practical difference that it's a designee instead of the --

Speaker MCAULIFFE: Susan, on the amendment to the amendment.

Ms. MORAN: Right. To me, this is a simple thing that can be

resolved. There can be a committee review, and the question can simply be should the committee recommend that the Executive Director sign. So that seems to be the goal, best of both worlds. It could be a public process if that's the reason, and the process, you know, can go forward and recommend that the Executive Director actually sign. So that I think solves Brian's hesitation.

Speaker MCAULIFFE: So, I will take a vote on the amendment, and this is to strike the language "Or designee," I believe is the amendment.

Clerk O'CONNELL: Yes.

Speaker MCAULIFFE: So we're taking a vote on --

Mr. O'MALLEY: Madam Speaker?

Speaker MCAULIFFE: Yes.

Mr. O'MALLEY: May I be permitted to withdraw the proposed amendment?

Speaker MCAULIFFE: Will the second withdraw?

Mr. OHMAN: Second; I will withdraw.

Speaker MCAULIFFE: Withdraw, all right. So that takes us back to the original ordinance which is the Cape Cod Commission to amend Chapter A of the enabling regulations.

Any further discussion or comment? Okay. We'll have a vote because it's an ordinance. There will be a roll call.

Roll Call Vote on Proposed Ordinance 18-04

Voting "YES"(91.10%): Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans) James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), 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), Linda Zuern (9.15% - Bourne).

Absent (8.90%): Edward Atwood (2.30 - Eastham), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich).

Clerk O'CONNELL: Madam Speaker, Proposed Ordinance 18-04 passes with 91.10 percent of the Delegates voting yes; 8.90 percent are absent, now known as Ordinance 18-01.

Ordinance 18-01

To amend Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact, of the Code of Cape Cod Commission Regulations of General Application.

BARNSTABLE COUNTY, hereby ordains:

That the following language be inserted as a new section 2(d)(iii) of Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended:

In order to expedite permitting for, and to support Barnstable County Municipalities with, the development and implementation of water quality improvement plans and projects for nutrient remediation pursuant to Section 13(l) of the Cape Cod Commission Act, and under the powers and authority conferred to the Cape Cod Commission under, without limitation, Section 4(a)(27) of the Cape Cod Commission Act, any water quality improvement plan or project with a primary purpose of nutrient remediation proposed by a Municipality, or political subdivision thereof, including without limitation a comprehensive, integrated or targeted water resources, watershed or wastewater management plan or project, shall not require or be subject to the Development of Regional Impact review and approval process, notwithstanding anything contained to the contrary in these regulations, but shall require and be subject to review and a determination by the Commission through its Executive Director, or designee, that said plan or project is consistent with any approved regional water quality management plan for Barnstable County prepared by the Commission, which review and determination shall occur prior to and as a condition to implementation of said plan or project. Without limiting the foregoing, this paragraph shall also apply to proposed modification of such a plan or project that has previously been reviewed and approved by the Commission as a Development of Regional Impact.

Speaker MCAULIFFE: Okay. Thank you.

Speaker MCAULIFFE: Thank you. And our next item is Proposed Ordinance 18-05. This will be for a vote. The Cape Cod Commission would like to amend -- not would like to -- the Cape Cod Commission will amend and delete Chapter G, Growth Incentive Zone Regulations, and replace with the new language.

So we had an in-depth presentation and partial discussion. Are there any more comments or questions? Would someone put the ordinance on the floor?

Proposed Ordinance 18-05

To amend Chapter G, Growth Incentive Zone Regulations of the Code of Cape Cod Commission Regulations of General Application.

BARNSTABLE COUNTY, hereby ordains:

That Chapter G of the Code of Cape Cod Commission Regulations of General Application be deleted in its entirety and replaced with the following:

Section 1. General Provisions

A. Source of Authority

These regulations are established pursuant to Section 6 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended (the Act),

B. Purposes

Pursuant to the powers and authority conferred to the Cape Cod Commission under, without limitation, Sections 4 and 12 of the Act, these regulations set out a process whereby the Cape Cod Commission and Cape Cod Municipalities may coordinate their efforts to identify and designate Growth Incentive Zones (GIZs), areas particularly desirable and appropriate for concentrated growth and development, and establish corresponding Development of Regional Impact review thresholds unique to and in support of such designated areas. Such a designation furthers values and interests set out in Section 1 of the Act: to maintain and enhance sustainable and balanced year-round economies; to provide opportunities for economic development and growth; to maintain and enhance a variety of housing types and opportunities; to maintain and enhance the availability of desired goods, services and amenities; and to direct and incentivize development to locate into areas with a system of existing or planned synergistic uses, capital facilities, amenities, infrastructure and compact development and away from areas less appropriate or undesirable for this type of development.

C. Effective Date

These regulations shall be effective following their adoption and approval as an ordinance and upon recording of the ordinance with the Barnstable County Registry of Deeds. Provided the ordinance is recorded, the effective date of these regulations is the date on which they have been adopted as an ordinance.

D. Definitions

Terms used but not defined herein shall have the same meanings as those terms are used and defined in other Chapters of the Code of Cape Cod Commission Regulations of General Application, and in the Act.

E. Index and Mapping of Approved GIZ Designations

The Commission will maintain a collective public index and map of the GIZ designations it has approved and that are in effect, which will include reference to revised Development of Regional Impact Thresholds corresponding to respective GIZ designations.

Section 2. GIZ Designation- Application, Review and Decision-making Process

A. A Municipality, through its Board of Selectmen or Town Council, and as otherwise authorized and provided for under the respective Municipality's laws, charter, rules and regulations, may request, upon application to the Commission, that the Commission designate a defined area within such Municipality's jurisdictional limits as a Growth Incentive Zone (GIZ), for purposes consistent with those set out in Section 1 of these regulations.

1. A GIZ shall be a contiguous geographic area with clearly delineated boundaries, which area may be located within one or more Municipalities. A request for a GIZ designation proposed in more than one Municipality shall be coordinated under a single GIZ application by the respective Boards of Selectmen or Town Council of such Municipalities in which the GIZ designation is proposed.

B. Prior to submitting an application to the Commission for a proposed GIZ designation, a Municipality shall schedule a pre-application meeting with

Commission staff, and shall conduct at least one advertised public hearing on it in the Municipality in which a GIZ designation is proposed.

C. Following a pre-application meeting with Commission staff and the public hearing referenced in subsection B. above, a Municipality may propose a GIZ by submitting a signed GIZ Application Form and supporting information referenced therein to the Clerk of the Cape Cod Commission, both in hard copy and electronic format.

D. The Cape Cod Commission shall conduct a public hearing to review and vote on a proposed GIZ designation, which hearing shall be held and noticed by publication in accordance with Section 5 of the Act. In its decision-making, the Commission shall consider the review and approval criteria contained in Section 3 herein. The Commission shall adopt a written decision after review of a proposed GIZ designation, which decision reflects its vote and reasons therefor.

1. The Commission's Committee on Planning and Regulation may meet to review and make a recommendation to the Commission regarding a proposed GIZ designation.
 2. The Commission shall not schedule, notice or commence the public hearing process on a proposed GIZ designation until the Commission's Executive Director, or designee, determines that a GIZ application is complete. A complete GIZ application shall:
 - a. Include evidence of the filing of a copy of the GIZ application with the Town Clerk of any Municipality abutting a Municipality in which the GIZ designation is proposed;
 - b. Include evidence that prior to submitting a GIZ application at least one advertised public hearing has been held by and in the Municipality on the proposed GIZ designation;
 - c. Include supporting information specified in the GIZ Application Form, including without limitation a map defining the proposed GIZ, as well as submission of other materials identified by Commission staff during the pre-application meeting. Staff will determine whether such submissions are sufficiently detailed and comprehensive to allow for review of the proposed GIZ designation under the criteria set out in Section 3 of these regulations.
- E. Should the Commission vote to approve a proposed GIZ designation, the Commission shall record a copy of the GIZ designation decision with the Barnstable County Registry of Deeds.
- F. The GIZ designation, and any revised DRI Thresholds approved under the GIZ designation decision, shall take effect upon recording the decision in the Barnstable County Registry of Deeds, unless some later effective date is set out in the decision. The decision may include conditions, the performance and satisfaction of which are required to maintain the continued validity of the GIZ designation.

Section 3. GIZ Designation- Review and Approval Criteria

The Municipality shall demonstrate to the Commission in its GIZ application consistency with or satisfaction of the following criteria:

- A. A Municipality shall have, either existing or proposed, within the GIZ: Development By-laws; design guidelines and standards, and capital facilities and infrastructure and a corresponding capital facilities and infrastructure plan sufficient to fulfill the purposes of the GIZ designation and to protect or promote those values, purposes and interests set out in Section 1 of the Act and in the Goals of the Cape Cod Regional Policy Plan.**
- 1. The Municipality shall provide a map of the proposed GIZ designation boundaries, which map shall be appended to and incorporated into any decision approving the proposed GIZ designation.**
 - 2. The Municipality shall provide a general inventory of the existing types and forms of development, public assets, amenities, capital facilities and infrastructure, historic and cultural resources, and sensitive natural resource areas in the proposed GIZ.**
 - 3. The Municipality shall present funding and investment strategies to maintain, or provide additional, capital facilities, amenities, and infrastructure necessary to support growth and development in the GIZ.**
 - 4. Capital Facilities and infrastructure shall be adequately provided and timed to meet the anticipated demand created by new development and redevelopment, including:**
 - a. Demonstrated capacity to provide public water supply for maximum day demand periods;**
 - b. Infrastructure consistent with the goals and recommendations set forth under the Cape Cod Area Wide Water Quality Management Plan (the 208 Plan) adopted under Section 208 of the Federal Water Pollution Control Act, for: collection, treatment, or collection and treatment of wastewater and effluent disposal; and management or management and treatment of stormwater runoff;**
 - c. Transportation infrastructure, including transit, bicycle, and pedestrian provisions to reduce the number of automobile trips made within the designated GIZ, as well as roadway, parking and circulation improvements, to accommodate expected traffic flow;**
 - d. Marine/maritime infrastructure, where applicable, to ensure the continuance of traditional maritime industries.**
 - 5. Anticipated or planned development in a GIZ shall consist of uses and forms that support the purposes of the GIZ.**
 - 6. The Municipality shall provide a survey of existing development by-laws, ordinances or regulations in the proposed GIZ, and any new proposed, or planned or anticipated changes to such, by-laws, ordinance or regulations necessary and desirable to address anticipated growth and development in, and meet the purposes of, the proposed GIZ.**
 - a. If the GIZ designation is approved, the Commission shall require in its decision that the Municipality submit to the Commission any proposed amendments to Development By-laws in the designated GIZ for review and comment, and if ultimately adopted, amendments to Development By-laws in the designated GIZ.**

Amendments to Development By-laws in a designated GIZ shall be consistent with the purpose of the respective GIZ designation and the terms and conditions of respective GIZ designation decision.

- B. The Municipality shall provide a statement of purpose and goals for the proposed GIZ designation, which shall be consistent with the purposes set out in these regulations.**
- C. A proposed GIZ shall be located primarily in or adjacent to areas of extensive, existing development served by existing infrastructure, providing opportunities for redevelopment, infill development, and intensification of uses.**
- D. The Commission will consider a proposed GIZ designation’s relationship to and consistency with the applicable area-wide plans in its review and decision-making on a proposed GIZ, including the following:
 - The Municipality’s Commission-certified Local Comprehensive Plan (LCP);**
 - The goals of the Cape Cod Regional Policy Plan;**
 - The Regional Transportation Plan;**
 - The Cape Cod Ocean Management Plan;**
 - The Cape Cod Area Wide Water Quality Management Plan (the 208 Plan) adopted under Section 208 of the Federal Water Pollution Control Act.****
- E. A Municipality shall propose performance measures to track progress in fulfilling the purposes and goals of the designated GIZ as well as meeting other criteria contained in this Section 3, which performance measures shall be incorporated into any decision approving a GIZ designation.
 - 1. Decisions approving a GIZ designation shall include a review procedure where the Commission’s Executive Director or designee shall review Municipal consistency with GIZ performance measures at intervals of not more than five-years.**
 - 2. The GIZ Designation decision may require that the Municipality request and obtain Certificates from the Commission, in order to maintain the validity of the GIZ designation decision, at said intervals and upon the Executive Director or designee’s review concerning Municipal consistency with performance measures.****
- F. The GIZ application shall include a schedule of specific activities the Municipality intends to pursue to promote public and private investment, provide infrastructure, services and amenities, support natural, built and economic systems in a GIZ, and guide the form of development and uses consistent with GIZ purposes and goals, which schedule shall be incorporated into any decision approving a GIZ designation. This schedule of activities may be expressed through a GIZ strategic plan, detailing planned land use controls, capital planning and other municipal actions.
 - 1. The schedule of activities shall include a proposed schedule of adoption for regulations, a schedule of anticipated receipt of proposed funding and details about the source of proposed funding, and proposed timing for the completion of capital projects, infrastructure and public amenities.****

Section 4. GIZ Designation- Revised DRI Thresholds

A. Sections 2 and 3 of Chapter A of the Code of Cape Cod Commission Regulations of General Application, the *Enabling Regulations Governing Review of Developments of Regional Impact*, (“Enabling Regulations”) set forth a number of thresholds (“DRI Thresholds”) that establish the types of development presumed to be Developments of Regional Impact (DRIs) and over which the Commission has mandatory jurisdiction to review. In its GIZ application, a Municipality may request revision to one or more of the DRI Thresholds to establish the applicability and extent of such thresholds, and DRI review under such DRI Thresholds, that will relate to proposed development within a designated GIZ, or portions thereof.

Without limiting the foregoing, a Municipality may request that:

- 1. any particular DRI Threshold that would otherwise apply to and require DRI review for proposed development within the designated GIZ, shall not apply to and shall not require DRI review for development within the designated GIZ, or a defined portion thereof;**
- 2. building development and re-development that would otherwise require mandatory DRI Review under relevant DRI Thresholds may proceed in a designated GIZ without the requirement for mandatory DRI review, unless and until total new building development in a designated GIZ meets or exceeds a cumulative building floor area and housing unit threshold established under a GIZ designation decision. If such a cumulative DRI Threshold revision is requested and approved under a GIZ designation decision, the Municipality shall monitor and report to the Commission all building development by type that has occurred within the designated GIZ in accordance with the terms and conditions of an GIZ designation decision and in conjunction with the regular performance review meetings set forth in Section 3, and certify to the Commission annually whether such cumulative threshold has been met.**

B. The Commission may approve a request for DRI Threshold revision in a GIZ designation decision where it determines that such revision will assist in furthering the stated purposes and goals of the proposed GIZ designation, the revised DRI Threshold is less restrictive than the particular DRI Threshold proposed to be revised, and that the Municipality has or has planned development review standards, land use controls and mitigation measures, including appropriate infrastructure, to adequately protect and preserve the values, interests and resources referenced in Section 1 of the Act and in the Goals of the Cape Cod Regional Policy Plan.

C. The approval of a revised DRI Threshold within a designated GIZ shall not limit the authority of a Municipal Agency or others entitled thereto to request a Discretionary Referral of a proposed development in a designated GIZ, as provided for in Section 12(e) of the Act and Section 2 of the Enabling Regulations.

Section 5. Modification to GIZ Designation Decisions

- A. **Should a Municipality in which a designated GIZ is located desire to modify the subject GIZ designation decision, the respective Board of Selectmen or Town Council shall submit a written request for such modification, with supporting materials, to the Commission’s Executive Director.**
 - 1. **In a designated GIZ located in more than one Municipality, the Board of Selectmen or Town Council in each Municipality in which the designated GIZ is located must either consent to or join in the modification request.**
- B. **Without limitation, a modification may be requested to authorize changes to the geographic boundary and extent of an approved GIZ designation, the conditions in a GIZ designation decision, or DRI thresholds revised under a GIZ designation decision.**
- C. **The Executive Director shall determine whether the proposed modification constitutes a Minor Modification or a Major Modification, and upon such determination forward the request to either the Committee on Planning and Regulation or the Commission for review as provided for below.**
 - 1. **In making its determination, the Executive Director shall consider the extent of the proposed modification relative to the GIZ designation decision, the significance of the proposed modification relative to the values, interests and resources set out in Section 1 of the Act and in the Goals of the Cape Cod Regional Policy Plan, and the relation of the proposed modification to the stated purposes of the GIZ designation.**
- D. **Modifications requests shall be reviewed pursuant to Section 3 herein, “GIZ Designation- Review and Approval Criteria.”**
- E. **Modification Categories.**

Minor Modification: The Commission’s Committee on Planning and Regulation shall consider and may approve a Minor Modification without the requirement for a public hearing. The Committee on Planning and Regulation may refer the proposed modification to the Commission for review if it determines during its review that such modification constitutes a Major Modification.

Major Modification: The Commission shall consider and may approve a Major Modification at a public hearing noticed by publication in accordance with Section 5 of the Act.
- F. **As set out above, either the Commission or Committee on Planning and Regulation shall adopt a written decision following review of a Modification request. The decision shall reflect the vote of the respective body, and reasons therefor. The decision may include conditions, the performance and satisfaction of which are required to maintain the continued validity of the GIZ designation, as modified.**
- G. **Should the body vote to approve a Modification, including one revising or further revising a DRI Threshold, the Commission shall record such Modification decision. Such Modification shall be effective when the decision is recorded in the Barnstable County Registry of Deeds, unless some later effective date is established in the Modification decision.**

Section 6. GIZ Designation- Duration

A. Unless specified otherwise in a GIZ designation decision, a GIZ designation, including any DRI Thresholds revised therein, shall remain valid and in effect without expiration, unless and until revoked or rescinded pursuant to Section 7.
B. A Municipality with a GIZ designation approved prior to the effective date of these regulations may request modification to its GIZ designation decision to accept the applicability of the terms and provisions in these regulations, including this Section 6. Such a request shall be deemed a Minor Modification hereunder.
Section 7. GIZ Designation- Revocation and Rescission

- A. In the event the Executive Director determines that development is proceeding in a designated GIZ substantially inconsistent with the GIZ goals, performance measures and purposes set out in the subject GIZ designation decision, or that a Municipality has repeatedly failed to satisfy conditions or other obligations set out in said decision, the Executive Director shall submit such written determination, along with a recommendation concerning revocation or rescission, to the Commission and to the Board of Selectmen or Town Council in each Municipality in which the GIZ designation is located.**
- B. Upon submission of such determination and recommendation, and after notice has been provided by publication and to the Board of Selectmen or Town Council in each Municipality in which the GIZ designation is located in accordance with Section 5 of the Act, the Commission shall consider and vote whether to revoke or rescind the GIZ designation at a public hearing.**
- C. The Commission may vote to rescind or revoke the GIZ designation in whole or part, including by revoking, rescinding or reforming any DRI Thresholds revised under a GIZ designation decision, or by contracting and changing the geographic boundaries of a designated GIZ.**
- D. If the Commission votes to rescind or revoke a GIZ designation, it shall adopt and record with the Barnstable Registry of Deeds a written decision memorializing such vote and reasons therefor.**
- E. Revocation or rescission of the GIZ designation, including revocation, rescission or reformation of any revised DRI Thresholds previously approved in the GIZ designation decision, shall be effective upon issuance of the written GIZ revocation or rescission decision.**
- F. If the Commission votes to rescind or revoke a GIZ designation in part and adopts a written decision for the same, the respective GIZ designation decision shall be modified thereby by the terms and conditions set out in such GIZ Revocation or Rescission decision.**

Mr. KILLION: I move Proposed Ordinance 18-05.

Mr. PRINCI: Second.

Speaker MCAULIFFE: And there's a second. Any comments or questions? Yes, Brian.

Mr. O'MALLEY: I won't go through my prior comments. I understand -- I support the notion of the Growth Incentive Zones. I am not persuaded by what I've heard that the elimination of the natural resource and historic protections that are explicitly referenced in the Cape Cod Commission Act have been given adequate -- have been given adequate expression and voice, and I am going to vote no

to these regulations for that reason.

Recognizing that they serve perhaps an important purpose, but I think it's one that tips far too heavily in favor of facilitating development in the GIZs and at the expense of some of the resources that the Commission is very explicitly tasked with protecting over long term.

Speaker MCAULIFFE: Susan.

Ms. MORAN: I grappled with those changes as well. And that's why I asked the question, you know, that, obviously, there would be a deference to local control with respect to historical issues in Falmouth. We have the Historic Commission. With respect to other local regulations and that those, obviously, will continue to be in full effect.

The other flipside of that is I think, you know, kind of crisis that the Cape is in with respect to survival in terms of sustainability economically. We've had so many challenges this year just with the storms and all of the burden of, you know, coming out of that and that continues into our coastal sustainability and, you know, things going forward in terms of our quality of life.

And the expense involved in maintaining our infrastructure, all of those things really rely upon our chief, you know, our chief financial industry of tourism.

So there's such a give-and-take with our incredible, you know, beautiful ecology and our surrounding with maintaining the population to work on all of those issues when, in fact, the tide is towards, you know, more senior population. So there's a flux that we're juggling here.

I think that the -- that as long as those particular issues can be protected locally that there is a big benefit to the Cape Cod Commission kind of making a splash by saying we're really turning things completely to the other side so that we stop stunting development so much that there's a deleterious effect on the Cape.

And I have grave concerns over the pendulum swinging too far, as you very eloquently put, Brian, you know, that the beginning and the start of the Cape Cod Commission really had to do with protecting the most precious assets of Cape Cod. And I think that was done well for many years but, you know, that has an effect of, you know, putting us into a little bit of a bind with the economic development that we have to move forward with to sustain ourselves but that we really, most importantly, have to do extremely carefully so that we don't over burden our resources, you know, so we don't have so many folks on the roads that they can't get to work. I mean there's such a -- there's a constant balance that we have to keep in mind.

I think that development is necessary, but I think that it has to be smart and slow and planned, and that you have to give these, you know, the effect some time to actually come to visibility and that takes a little bit of time.

So I, you know, I've had similar concerns, but I am going to support this ordinance.

Speaker MCAULIFFE: Any other -- yes, Ron.

Mr. BERGSTROM: Yes, I had very similar concerns, you know, and I've said this before that any system that relies on exponential growth in a finite world is ultimately doomed to failure.

So growth -- you say, well, we need growth; of course, growth brings more people. More people needs more growth to sustain it, and ultimately you wind

up like some gone-bye tourist town that developed itself out of existence.

But the other thing is this is a grab bag of stuff. It's not just one thing. It's a lot of things. So some are good, and some are bad like any other grab bag.

So being kind of torn by that, I'm going to fallback on my usual fallback position, which is that I'm going to defer to the expertise, experience, and education of the people who are charged with making these decisions and putting in place this policy because I'm an amateur at it. And as much as I'd like to vote against it, I'm not going to vote against it. I'm going to vote for it.

Speaker MCAULIFFE: John.

Mr. OHMAN: Thank you, Madam Speaker. Yes, I am too. I'm in support of this. I've watched the GIZ work in Hyannis. I've watched the GIZ work in Yarmouth, although I'd like to see it more in Yarmouth but that will come with time. But I think that they have made it more friendly to the towns to enact their own regulations. That's what this is all about is letting the Cape Cod Commission give us some power to the towns, and the towns should know best what to do with their assets.

And this also gives the town the opportunity for more feedback with the Cape Cod Commission. I think it's a very well thought out process, and I will highly endorse it.

Thank you.

Speaker MCAULIFFE: Patrick.

Mr. PRINCI: I, too, will be supporting this. Prior to becoming a Delegate, I served on the Planning Board in Barnstable, and we learned we were one of the first communities on the Cape to implement a Growth Incentive Zone.

And, unfortunately, right after we implemented it, the economy kind of tanked a little bit, and a lot of these great projects that we had put together to really help out the village of Hyannis didn't go through.

But as many of you go to Hyannis and you've probably seen the changes over the years, I mean we've had buildings that were basically just empty, completely empty. And part of the fears for many developers has always been the Cape Cod Commission.

But when we implemented that Growth Incentive Zone, it was no longer a fear. It was an open process for the developers would come and work with the staff. The staff in Barnstable would include members of the planning board. And, in turn, we'd have a phenomenal support system right behind us with the Cape Cod Commission. And I was surprised that, you know, with the successes that we had in Barnstable that many other communities didn't get on board as quickly to help out themselves.

So I can't speak highly enough about this. I hope that all communities support it. And if you don't want to support it, at least look into it for communities like mine that can desperately need some of these updated changes to it.

So, that's all. Thanks very much.

Speaker MCAULIFFE: I'm just going to make a comment that I really appreciate the presentations from the Cape Cod Commission. I thought that they were very well thought out and very clear. I know this is a lot of foreign language and foreign talk for a lot of us, but I thought you really did a good job presenting this to us.

And I was particularly swayed by the compelling testimony of Ms.

Jenkins. I thought that was a very in-the-trenches kind of description of what this impacts.

And I've also had a conversation with my town community developer who has -- was there for the initial Growth Incentive Zone and who's been through a lot of things in Yarmouth.

So I think that this is one of the most important things that the Assembly does in terms of overseeing and voting on changes to the Cape Cod Commission Act, and I think that we did a good job in terms of our deliberation and our consideration. I really appreciate all the documents and the discussion ahead of time so that we could come prepared.

And I think now we're ready for a vote. Roll call, please.

Roll Call Vote on Proposed Ordinance 18-05

Voting "YES"(89.74%): Ronald Bergstrom (2.84% - Chatham), Mary Chaffee (4.55% - Brewster), Lilli-Ann Green - (1.27% - Wellfleet), Christopher Kanaga (2.73% - Orleans) James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Susan Moran (14.61% - Falmouth), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Voting "NO" (1.36%): Brian O'Malley (1.36% – Provincetown).

Absent (8.90%): Edward Atwood (2.30 – Eastham), Deborah McCutcheon (0.93% - Truro), Edward McManus (5.67% - Harwich).

Clerk O'CONNELL: Madam Speaker, Proposed Ordinance 18-05 passes with 89.74 percent of the Delegates voting yes; 1.36 percent voting no; 8.90 percent absent. Now known as Ordinance 18-02.

Ordinance 18-02

To amend Chapter G, Growth Incentive Zone Regulations of the Code of Cape Cod Commission Regulations of General Application.

BARNSTABLE COUNTY, hereby ordains:

That Chapter G of the Code of Cape Cod Commission Regulations of General Application be deleted in its entirety and replaced with the following:

Section 1. General Provisions

A. Source of Authority

These regulations are established pursuant to Section 6 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended (the Act),

B. Purposes

Pursuant to the powers and authority conferred to the Cape Cod Commission under, without limitation, Sections 4 and 12 of the Act, these regulations set out a process whereby the Cape Cod Commission and Cape Cod Municipalities may coordinate their efforts to identify and designate Growth Incentive Zones (GIZs),

areas particularly desirable and appropriate for concentrated growth and development, and establish corresponding Development of Regional Impact review thresholds unique to and in support of such designated areas. Such a designation furthers values and interests set out in Section 1 of the Act: to maintain and enhance sustainable and balanced year-round economies; to provide opportunities for economic development and growth; to maintain and enhance a variety of housing types and opportunities; to maintain and enhance the availability of desired goods, services and amenities; and to direct and incentivize development to locate into areas with a system of existing or planned synergistic uses, capital facilities, amenities, infrastructure and compact development and away from areas less appropriate or undesirable for this type of development.

C. Effective Date

These regulations shall be effective following their adoption and approval as an ordinance and upon recording of the ordinance with the Barnstable County Registry of Deeds. Provided the ordinance is recorded, the effective date of these regulations is the date on which they have been adopted as an ordinance.

D. Definitions

Terms used but not defined herein shall have the same meanings as those terms are used and defined in other Chapters of the Code of Cape Cod Commission Regulations of General Application, and in the Act.

E. Index and Mapping of Approved GIZ Designations

The Commission will maintain a collective public index and map of the GIZ designations it has approved and that are in effect, which will include reference to revised Development of Regional Impact Thresholds corresponding to respective GIZ designations.

Section 2. GIZ Designation- Application, Review and Decision-making Process

A. A Municipality, through its Board of Selectmen or Town Council, and as otherwise authorized and provided for under the respective Municipality's laws, charter, rules and regulations, may request, upon application to the Commission, that the Commission designate a defined area within such Municipality's jurisdictional limits as a Growth Incentive Zone (GIZ), for purposes consistent with those set out in Section 1 of these regulations.

2. A GIZ shall be a contiguous geographic area with clearly delineated boundaries, which area may be located within one or more Municipalities. A request for a GIZ designation proposed in more than one Municipality shall be coordinated under a single GIZ application by the respective Boards of Selectmen or Town Council of such Municipalities in which the GIZ designation is proposed.

B. Prior to submitting an application to the Commission for a proposed GIZ designation, a Municipality shall schedule a pre-application meeting with Commission staff, and shall conduct at least one advertised public hearing on it in the Municipality in which a GIZ designation is proposed.

C. Following a pre-application meeting with Commission staff and the public hearing referenced in subsection B. above, a Municipality may propose a GIZ by submitting a signed GIZ Application Form and supporting information

referenced therein to the Clerk of the Cape Cod Commission, both in hard copy and electronic format.

D. The Cape Cod Commission shall conduct a public hearing to review and vote on a proposed GIZ designation, which hearing shall be held and noticed by publication in accordance with Section 5 of the Act. In its decision-making, the Commission shall consider the review and approval criteria contained in Section 3 herein. The Commission shall adopt a written decision after review of a proposed GIZ designation, which decision reflects its vote and reasons therefor.

- 3. The Commission’s Committee on Planning and Regulation may meet to review and make a recommendation to the Commission regarding a proposed GIZ designation.**
- 4. The Commission shall not schedule, notice or commence the public hearing process on a proposed GIZ designation until the Commission’s Executive Director, or designee, determines that a GIZ application is complete. A complete GIZ application shall:**
 - a. Include evidence of the filing of a copy of the GIZ application with the Town Clerk of any Municipality abutting a Municipality in which the GIZ designation is proposed;**
 - b. Include evidence that prior to submitting a GIZ application at least one advertised public hearing has been held by and in the Municipality on the proposed GIZ designation;**
 - c. Include supporting information specified in the GIZ Application Form, including without limitation a map defining the proposed GIZ, as well as submission of other materials identified by Commission staff during the pre-application meeting. Staff will determine whether such submissions are sufficiently detailed and comprehensive to allow for review of the proposed GIZ designation under the criteria set out in Section 3 of these regulations.**

G. Should the Commission vote to approve a proposed GIZ designation, the Commission shall record a copy of the GIZ designation decision with the Barnstable County Registry of Deeds.

H. The GIZ designation, and any revised DRI Thresholds approved under the GIZ designation decision, shall take effect upon recording the decision in the Barnstable County Registry of Deeds, unless some later effective date is set out in the decision. The decision may include conditions, the performance and satisfaction of which are required to maintain the continued validity of the GIZ designation.

Section 3. GIZ Designation- Review and Approval Criteria

The Municipality shall demonstrate to the Commission in its GIZ application consistency with or satisfaction of the following criteria:

- G. A Municipality shall have, either existing or proposed, within the GIZ: Development By-laws; design guidelines and standards, and capital facilities and infrastructure and a corresponding capital facilities and infrastructure plan sufficient to fulfill the purposes of the GIZ designation and to protect or**

- promote those values, purposes and interests set out in Section 1 of the Act and in the Goals of the Cape Cod Regional Policy Plan.
7. The Municipality shall provide a map of the proposed GIZ designation boundaries, which map shall be appended to and incorporated into any decision approving the proposed GIZ designation.
 8. The Municipality shall provide a general inventory of the existing types and forms of development, public assets, amenities, capital facilities and infrastructure, historic and cultural resources, and sensitive natural resource areas in the proposed GIZ.
 9. The Municipality shall present funding and investment strategies to maintain, or provide additional, capital facilities, amenities, and infrastructure necessary to support growth and development in the GIZ.
 10. Capital Facilities and infrastructure shall be adequately provided and timed to meet the anticipated demand created by new development and redevelopment, including:
 - a. Demonstrated capacity to provide public water supply for maximum day demand periods;
 - b. Infrastructure consistent with the goals and recommendations set forth under the Cape Cod Area Wide Water Quality Management Plan (the 208 Plan) adopted under Section 208 of the Federal Water Pollution Control Act, for: collection, treatment, or collection and treatment of wastewater and effluent disposal; and management or management and treatment of stormwater runoff;
 - c. Transportation infrastructure, including transit, bicycle, and pedestrian provisions to reduce the number of automobile trips made within the designated GIZ, as well as roadway, parking and circulation improvements, to accommodate expected traffic flow;
 - d. Marine/maritime infrastructure, where applicable, to ensure the continuance of traditional maritime industries.
 11. Anticipated or planned development in a GIZ shall consist of uses and forms that support the purposes of the GIZ.
 12. The Municipality shall provide a survey of existing development by-laws, ordinances or regulations in the proposed GIZ, and any new proposed, or planned or anticipated changes to such, by-laws, ordinance or regulations necessary and desirable to address anticipated growth and development in, and meet the purposes of, the proposed GIZ.
 - a. If the GIZ designation is approved, the Commission shall require in its decision that the Municipality submit to the Commission any proposed amendments to Development By-laws in the designated GIZ for review and comment, and if ultimately adopted, amendments to Development By-laws in the designated GIZ. Amendments to Development By-laws in a designated GIZ shall be consistent with the purpose of the respective GIZ designation and the terms and conditions of respective GIZ designation decision.

- H. The Municipality shall provide a statement of purpose and goals for the proposed GIZ designation, which shall be consistent with the purposes set out in these regulations.
- I. A proposed GIZ shall be located primarily in or adjacent to areas of extensive, existing development served by existing infrastructure, providing opportunities for redevelopment, infill development, and intensification of uses.
- J. The Commission will consider a proposed GIZ designation's relationship to and consistency with the applicable area-wide plans in its review and decision-making on a proposed GIZ, including the following:
 - The Municipality's Commission-certified Local Comprehensive Plan (LCP);
 - The goals of the Cape Cod Regional Policy Plan;
 - The Regional Transportation Plan;
 - The Cape Cod Ocean Management Plan;
 - The Cape Cod Area Wide Water Quality Management Plan (the 208 Plan) adopted under Section 208 of the Federal Water Pollution Control Act.
- K. A Municipality shall propose performance measures to track progress in fulfilling the purposes and goals of the designated GIZ as well as meeting other criteria contained in this Section 3, which performance measures shall be incorporated into any decision approving a GIZ designation.
- 3. Decisions approving a GIZ designation shall include a review procedure where the Commission's Executive Director or designee shall review Municipal consistency with GIZ performance measures at intervals of not more than five-years.
- 4. The GIZ Designation decision may require that the Municipality request and obtain Certificates from the Commission, in order to maintain the validity of the GIZ designation decision, at said intervals and upon the Executive Director or designee's review concerning Municipal consistency with performance measures.
- L. The GIZ application shall include a schedule of specific activities the Municipality intends to pursue to promote public and private investment, provide infrastructure, services and amenities, support natural, built and economic systems in a GIZ, and guide the form of development and uses consistent with GIZ purposes and goals, which schedule shall be incorporated into any decision approving a GIZ designation. This schedule of activities may be expressed through a GIZ strategic plan, detailing planned land use controls, capital planning and other municipal actions.
- 2. The schedule of activities shall include a proposed schedule of adoption for regulations, a schedule of anticipated receipt of proposed funding and details about the source of proposed funding, and proposed timing for the completion of capital projects, infrastructure and public amenities.

Section 4. GIZ Designation- Revised DRI Thresholds

A. Sections 2 and 3 of Chapter A of the Code of Cape Cod Commission Regulations of General Application, the *Enabling Regulations Governing Review*

of Developments of Regional Impact, (“Enabling Regulations”) set forth a number of thresholds (“DRI Thresholds”) that establish the types of development presumed to be Developments of Regional Impact (DRIs) and over which the Commission has mandatory jurisdiction to review. In its GIZ application, a Municipality may request revision to one or more of the DRI Thresholds to establish the applicability and extent of such thresholds, and DRI review under such DRI Thresholds, that will relate to proposed development within a designated GIZ, or portions thereof.

Without limiting the foregoing, a Municipality may request that:

3. any particular DRI Threshold that would otherwise apply to and require DRI review for proposed development within the designated GIZ, shall not apply to and shall not require DRI review for development within the designated GIZ, or a defined portion thereof;
4. building development and re-development that would otherwise require mandatory DRI Review under relevant DRI Thresholds may proceed in a designated GIZ without the requirement for mandatory DRI review, unless and until total new building development in a designated GIZ meets or exceeds a cumulative building floor area and housing unit threshold established under a GIZ designation decision. If such a cumulative DRI Threshold revision is requested and approved under a GIZ designation decision, the Municipality shall monitor and report to the Commission all building development by type that has occurred within the designated GIZ in accordance with the terms and conditions of an GIZ designation decision and in conjunction with the regular performance review meetings set forth in Section 3, and certify to the Commission annually whether such cumulative threshold has been met.

B. The Commission may approve a request for DRI Threshold revision in a GIZ designation decision where it determines that such revision will assist in furthering the stated purposes and goals of the proposed GIZ designation, the revised DRI Threshold is less restrictive than the particular DRI Threshold proposed to be revised, and that the Municipality has or has planned development review standards, land use controls and mitigation measures, including appropriate infrastructure, to adequately protect and preserve the values, interests and resources referenced in Section 1 of the Act and in the Goals of the Cape Cod Regional Policy Plan.

C. The approval of a revised DRI Threshold within a designated GIZ shall not limit the authority of a Municipal Agency or others entitled thereto to request a Discretionary Referral of a proposed development in a designated GIZ, as provided for in Section 12(e) of the Act and Section 2 of the Enabling Regulations.

Section 5. Modification to GIZ Designation Decisions

H. Should a Municipality in which a designated GIZ is located desire to modify the subject GIZ designation decision, the respective Board of Selectmen or Town Council shall submit a written request for such modification, with supporting materials, to the Commission’s Executive Director.

2. In a designated GIZ located in more than one Municipality, the Board of Selectmen or Town Council in each Municipality in which the designated GIZ is located must either consent to or join in the modification request.
- I. Without limitation, a modification may be requested to authorize changes to the geographic boundary and extent of an approved GIZ designation, the conditions in a GIZ designation decision, or DRI thresholds revised under a GIZ designation decision.
- J. The Executive Director shall determine whether the proposed modification constitutes a Minor Modification or a Major Modification, and upon such determination forward the request to either the Committee on Planning and Regulation or the Commission for review as provided for below.
2. In making its determination, the Executive Director shall consider the extent of the proposed modification relative to the GIZ designation decision, the significance of the proposed modification relative to the values, interests and resources set out in Section 1 of the Act and in the Goals of the Cape Cod Regional Policy Plan, and the relation of the proposed modification to the stated purposes of the GIZ designation.
- K. Modifications requests shall be reviewed pursuant to Section 3 herein, “GIZ Designation- Review and Approval Criteria.”
- L. Modification Categories.

Minor Modification: The Commission’s Committee on Planning and Regulation shall consider and may approve a Minor Modification without the requirement for a public hearing. The Committee on Planning and Regulation may refer the proposed modification to the Commission for review if it determines during its review that such modification constitutes a Major Modification.

Major Modification: The Commission shall consider and may approve a Major Modification at a public hearing noticed by publication in accordance with Section 5 of the Act.

- M. As set out above, either the Commission or Committee on Planning and Regulation shall adopt a written decision following review of a Modification request. The decision shall reflect the vote of the respective body, and reasons therefor. The decision may include conditions, the performance and satisfaction of which are required to maintain the continued validity of the GIZ designation, as modified.
- N. Should the body vote to approve a Modification, including one revising or further revising a DRI Threshold, the Commission shall record such Modification decision. Such Modification shall be effective when the decision is recorded in the Barnstable County Registry of Deeds, unless some later effective date is established in the Modification decision.

Section 6. GIZ Designation- Duration

- A. Unless specified otherwise in a GIZ designation decision, a GIZ designation, including any DRI Thresholds revised therein, shall remain valid and in effect without expiration, unless and until revoked or rescinded pursuant to Section 7.
- B. A Municipality with a GIZ designation approved prior to the effective date of these regulations may request modification to its GIZ designation decision to

accept the applicability of the terms and provisions in these regulations, including this Section 6. Such a request shall be deemed a Minor Modification hereunder.

Section 7. GIZ Designation- Revocation and Rescission

- G. In the event the Executive Director determines that development is proceeding in a designated GIZ substantially inconsistent with the GIZ goals, performance measures and purposes set out in the subject GIZ designation decision, or that a Municipality has repeatedly failed to satisfy conditions or other obligations set out in said decision, the Executive Director shall submit such written determination, along with a recommendation concerning revocation or rescission, to the Commission and to the Board of Selectmen or Town Council in each Municipality in which the GIZ designation is located.**
- H. Upon submission of such determination and recommendation, and after notice has been provided by publication and to the Board of Selectmen or Town Council in each Municipality in which the GIZ designation is located in accordance with Section 5 of the Act, the Commission shall consider and vote whether to revoke or rescind the GIZ designation at a public hearing.**
- I. The Commission may vote to rescind or revoke the GIZ designation in whole or part, including by revoking, rescinding or reforming any DRI Thresholds revised under a GIZ designation decision, or by contracting and changing the geographic boundaries of a designated GIZ.**
- J. If the Commission votes to rescind or revoke a GIZ designation, it shall adopt and record with the Barnstable Registry of Deeds a written decision memorializing such vote and reasons therefor.**
- K. Revocation or rescission of the GIZ designation, including revocation, rescission or reformation of any revised DRI Thresholds previously approved in the GIZ designation decision, shall be effective upon issuance of the written GIZ revocation or rescission decision.**
- L. If the Commission votes to rescind or revoke a GIZ designation in part and adopts a written decision for the same, the respective GIZ designation decision shall be modified thereby by the terms and conditions set out in such GIZ Revocation or Rescission decision.**

Speaker MCAULIFFE: Okay. Thank you, very much.

Speaker MCAULIFFE: Our next item are committee reports; do we have -- we don't have committee reports. Report from the Clerk.

Mr. O'MALLEY: We do. We do have committee reports.

Clerk O'CONNELL: Well, they're not on the agenda --

Speaker MCAULIFFE: So they'll be agendaed for the next meeting.

Mr. KANAGA: You have them, but we don't have them.

Mr. O'MALLEY: Okay.

Speaker MCAULIFFE: Yes.

Mr. O'MALLEY: They're old.

Speaker MCAULIFFE: Yes, we just got the minutes so.

Clerk O'CONNELL: Yes, I know.

Mr. O'MALLEY: Okay.

Speaker MCAULIFFE: They just were not agendaed. One of the reasons I wanted it agendaed -- I did not -- we didn't have a meeting. I was afraid this was going to be a double meeting; I was not going to prolong it. And I can see I am losing people.

So -- and some of us have been here since two this afternoon.

Next.

Summary Report from the Clerk

- **Reminder to delegates regarding changes to payroll and invoices**
- **Mileage logs and policy materials in folders that require signature**
- **Public hearings will be scheduled on 4/18 for P.O. 18-01, 18-02, 18-03 and 18-06 at 2 PM**

Clerk O'CONNELL: I'll go quickly. I just want to remind the Delegates if you want to make any changes to whatever setup you have with -- in terms of payroll or deductions, you're going to need to go directly to payroll and AP to do that. So if you have any questions regarding that, let me know.

Also, there are documents in your folders that need signatures, and I have not gotten them back from everyone this evening. So if you would please check that and drop that off to me before you leave tonight, that would be great.

Next time you meet on the 18th of April, there will be a Public Hearing with Finance on Ordinances 18-01, 2, 3, and now 18-06, the one that the Commissioners brought in today. So I think it's probably going to start at about 2 o'clock and --

Speaker MCAULIFFE: Are the signatures the receipt of the policies?

Clerk O'CONNELL: There's that and there's also mileage logs.

Speaker MCAULIFFE: Mileage, okay. The receipt of the policies is at your discretion, not required, totally an individual preference.

Mr. KANAGA: There goes half of them.

Summary of Other Business

- **Assembly Clerk job description to be distributed**
- **Proposed Resolution (18-01) submitted by Delegate Bergstrom related to funding towards the sheriff's liability and retirement obligation**

Speaker MCAULIFFE: Thank you. Under other business, I do have, literally this morning, last negotiation on the Clerk's job description. So I will be distributing that, and it will become a public document then.

But I do want to thank -- I think I had five conversations with Justyna, the head of HR, several with Jack Yunits. I want to thank the Clerk for all her editing help and also giving me the list of what the job was, and Sue Moran for also letting us run everything by her as well.

So it was probably the biggest project I've done since I've been on the Assembly. Done.

Okay. Any other business?

Mr. BERGSTROM: Yes.

Speaker MCAULIFFE: Yes.

Mr. BERGSTROM: Yes, I'm submitting a proposed resolution. This proposed resolution parallels a resolution that was submitted by Ed McManus about two years ago. It speaks to the Bill that is before the House that Mr. Cakounes referred to, the original Bill to take over some of the sheriff's retirement obligation. And it will make an interesting discussion when it's brought up along with the various other options. So, here it is for the Clerk.

Speaker MCAULIFFE: And we'll try to get Jack Meade in to get a --

Mr. BERGSTROM: And it's time sensitive because the legislature is cruising along.

Speaker MCAULIFFE: Right. It would be -- yes, unless it's already filed it would be a late file.

Mr. O'MALLEY: It is filed.

Mr. BERGSTROM: It is filed.

Speaker MCAULIFFE: It is filed. So it would be moving to support it. And is there any other other business?

All right. I'll take a motion.

Ms. Ms. ZUERN: So moved.

Speaker MCAULIFFE: Adjourned.

Whereupon, it was moved and seconded to adjourn the Assembly of Delegates at 6:15 p.m.

Submitted by:

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

List of materials used and submitted at the meeting:

- **Business Calendar of 4/4/18**
- **Unapproved Journal of Proceedings of 3/7/18**
- **Proposed Ordinance 18-06 submitted by Board of Commissioners**
- **Public Hearing Notice Proposed Ordinance 18-04**
- **Proposed Ordinance 18-04**
- **CCC draft guidance on Section 208 Plan**
- **Public Hearing Notice Proposed Ordinance 18-05**
- **Proposed Ordinance 18-05**
- **CCC memo on Chapter G proposed amendments**
- **Comment from F. Penn to delegates regarding P.O. 18-05**
- **CCC staff responses to F. Penn regarding P.O. 18-05**

- **Comment responses from F. Penn to CCC responses regarding P.O. 18-05**
- **CCC GIZ map**
- **CCC GIZ PowerPoint presentation**
- **Letters in support of P.O. 18-05 from Towns of Barnstable, Bourne, Dennis, and Yarmouth**
- **Proposed Ordinance 17-16**
- **Legal opinion from County Counsel dated 12-12-17 regarding P.O. 17-16**
- **Legal suggestions from state elections attorney dated 3-16-18 regarding P.O. 17-16**
- **Recall provision thoughts from Commissioner Cakounes**
- **Proposed Resolution 18-01 submitted by Delegate Bergstrom**