

CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES
Barnstable County Complex
Eastwing Conference Center @ 4:00 P.M.
3195 Main Street, Route 6A
Barnstable, MA 02630

APPROVED Journal of Proceedings - October 16, 2019

Call to Order

Speaker MCAULIFFE: Good afternoon. This is the Cape Cod Regional Government, Assembly of Delegates. It's Wednesday, October 16th, 2019, at 4 p.m. in the Eastwing Conference Room at the County Complex.

I would like to start with a moment of silence to honor our troops who died in service to our country and all those serving our country in the Armed Forces.

(Moment of silence.)

Speaker MCAULIFFE: Thank you.

Please rise for the Pledge of Allegiance.

(Pledge of Allegiance.)

Speaker MCAULIFFE: Thank you.

Speaker MCAULIFFE: Will the Clerk please call the roll?

Roll Call Attendance

Present (96.00%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham – Remote Participation), Elizabeth Harder (5.67% - Harwich), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro), Susan Moran (14.61% - Falmouth), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown), Randi Potash (2.84% - Chatham), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Arrived Late (2.73%): Christopher Kanaga (2.73% - Orleans - @ 4:05 P.M.).

Absent (1.27%): Lilli-Ann Green - (1.27% - Wellfleet).

Clerk O'CONNELL: Madam Speaker, you have a quorum with 96.00 percent of the Delegates present; 4.00 percent absent.

Speaker MCAULIFFE: Yes. Thank you. And we have a remote participation, Terence Gallagher, due to distance. Thank you, very much.

Because we have remote participation, our votes will be by roll call as opposed to just voice vote.

Approval of the Calendar of Business

Speaker MCAULIFFE: So, the next item is -- is there a motion to approve the Calendar of Business for today?

Deputy Speaker MORAN: So moved.

Delegate HARDER: Second.

Speaker MCAULIFFE: Is there any discussion or questions? All right. So, we'll have a vote for the Calendar of Business.

Roll Call Approval of the Calendar of Business

Voting “YES” (96.00%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Elizabeth Harder (5.67% - Harwich), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02%-Yarmouth), Deborah McCutcheon (0.93% - Truro), Susan Moran (14.61% - Falmouth), Thomas O’Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% - Provincetown), Randi Potash (2.84% - Chatham), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Absent (4.00%): Christopher Kanaga (2.73% - Orleans), Lilli-Ann Green - (1.27% - Wellfleet).

Clerk O’CONNELL: Madam Speaker, the Calendar of Business passes with 96.00 percent of the Delegates voting yes; 4.00 percent are absent.

Speaker MCAULIFFE: Thank you.

Roll Call Approval of the Journal of Proceedings 10/2/19

Speaker MCAULIFFE: And now the approval for the Journal of October 2nd, 2019. Yes, Delegate O’Malley.

Delegate O’MALLEY: Madam Speaker, I move approval of the Journal of October 2nd, 2019 as distributed.

Delegate O’HARA: Second.

Speaker MCAULIFFE: Any comments or questions?

Okay. Will the Clerk please call the vote?

Roll Call Approval of the Journal of Proceedings 10/2/19

Voting “YES” (98.73%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Elizabeth Harder (5.67% - Harwich), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02%-Yarmouth), Deborah McCutcheon (0.93% - Truro), Susan Moran (14.61% - Falmouth), Thomas O’Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% - Provincetown), Randi Potash (2.84% - Chatham), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Absent (1.27%): Lilli-Ann Green - (1.27% - Wellfleet).

Clerk O’CONNELL: Madam Speaker, the Journal is approved with 98.73 percent of the Delegates voting yes; 1.27 percent are absent.

Speaker MCAULIFFE: Thank you.

Summary of Communications from the Board of Regional Commissioners

- Commissioner Bergstrom updated the delegates on board actions for October 9th and 16th, 2019
- Commissioners approved Ordinance 19-14 adopted by the Assembly on 10/2/19
- Commissioners approved the Barnstable County Capital Improvement Program Guide
- Commissioners approved the 2020 legal holidays and 2019 holiday work schedule for November and December
- Commissioners appointed Bob Lawton as the county’s ex-officio member of the

Barnstable County Retirement Association

- **Commissioners approved an administrative review of County Real Estate by KP Law**
- **Commissioners approved the Barnstable County Procurement Card and Procedures**
- **Commissioners approved the Fiscal Year 2021 Board of Regional Commissioners Budget Message**

Speaker MCAULIFFE: Our next item is communications from the Board of Regional Commissioners. We have the Chair, Mr. Bergstrom, and in the audience, we have Commissioner Flynn.

Commissioner BERGSTROM: Good afternoon.

Speaker MCAULIFFE: Welcome.

Commissioner BERGSTROM: I have two meetings to report to you about. The first one is October 9th. After we dispensed with the usual routine business including minutes and so on, we received a travel report from Kalliope Chute. She's the Hazardous Materials Environmental Specialist for the Cape Cod Cooperative Extension on the North American Hazardous Materials Management Association's Hazardous Materials Management Conference in Denver, Colorado from September 15 to September 20.

So, what happens there is all your hazardous material people get together in a conference and do so in Denver, and this is a part of the continuing education for county employees and county department heads and so on so that we can keep up with the latest practices.

And she went into extensive discussion about the disposal of hazardous materials and also talked about some of the -- you know we have a program where you can bring your hazardous waste to various landfills and so on at collections during the summer months. So, it's been a successful program. There's been a few glitches, but it's strongly supported by everyone involved so.

Next, we had an ordinance to add to the County's Dredge Operating Budget for Fiscal Year 2020 as enacted and so on and so forth by making supplemental appropriations for fiscal year 2020. I think you might've gotten that.

Anyway, this is part of a continuing appraisal of our dredge program in looking at the equipment deciding what should be replaced, how much we need. So, there's been continuing additions to the appropriations to make sure that we are ready when the time comes, and I think the time is going to come next week when we start moving sand around.

The latest report on the Dredge that I got from Jack was that it should be -- the one dredge that was slightly damaged is now down in Maryland and it will be repaired in about two weeks. It shouldn't put us behind. I don't know if you guys received a schedule? We got the schedule. I don't know if it was given to you. You got the schedule for dredging, so you know that we're committed to completing that schedule, and right now nothing has happened so far that's going to alter that commitment or put us behind.

Okay. So, then we had a lengthy discussion on proposed Barnstable County Procurement Card procedures. And, occasionally, when somebody needs something and I use the example of IT where you want to get some software added to your -- or something added to the computer, you call up and they say, yes, we'll do it; please give me your credit card or please pay for it upfront. And the practice too often has been that the individual employee will

pay for it with their credit card and then be reimbursed by the County, and that, I think, everybody agrees that's not a good practice.

So, this establishes a Procurement Card which will be held by the County on which can be placed the incidental expenses that Barnstable County employees incur over the course of the year. It's highly monitored by our finance director and there was some -- how can I say it, some subdivision among the Commissioners as to whether this is a good idea, so we put it off until today, okay, when we put it on again. So, I'll revisit that when I give today's discussion.

And there was also a guide put forward which I think is a Barnstable County Capital Improvement Program Guide; We changed it. We changed the words. It was actually listed as a procurement, but it actually discusses the guide for capital improvements, and we put that off until today too. So, we put off a lot of stuff.

Speaker MCAULIFFE: On the Procurement Card, does that require preapproval before it's used or if someone is just going to call up, put things on the card, and then get approval after-the-fact?

Commissioner BERGSTROM: I think it requires -- well, I mean, it's monitored. I don't think it requires preapproval, right?

Finance Director ELIZABETH BRACCIA: It will by the department head.

Commissioner BERGSTROM: By the department heads, yes.

Speaker MCAULIFFE: Okay.

Commissioner BERGSTROM: And they're the ones who are going to be doing most of the procurement anyway. I mean I don't think that everybody's going to have -- they wouldn't give me one so, for instance. And I can't say as I blame them. So that's where we are there. Then we authorized the approval of the 2020 legal holidays and the holiday schedule. And that pretty much covers the 9th.

Now we move to today, and today we appointed a temporary County -- well no, temporary -- we appointed a County -- I guess you'd call it member of the Barnstable County retirement Association. For reasons that are too lengthy to go into, our current Treasurer and Financial Director was unable to serve. So, the law allows us to replace any member of the committee -- I'm trying to think of a word now. What's the word?

Finance Director ELIZABETH BRACCIA: Ex officio member.

Commissioner BERGSTROM: Yes, that's it. Sorry, with an appointed member, so we asked Bob Lawton if he would serve and he agreed. And so today we appointed him as a member of the five-member Barnstable County Retirement Association. I'm also a member as County Commissioner so we have good representation. And Bob has done this before, he's experienced, and we needed someone pretty much ASAP. So, we did that after some lengthy legal discussion about the proper procedure and going back and forth. Now it's accomplished. Okay.

Now we also had a discussion on Barnstable County's next steps regarding the recent administrative review of County Real Estate by the Massachusetts Executive Office for Administration and Finance, okay. Division of Capital Asset Management, heretofore known as DCAM, and maintenance pursuant to an Act Transferring County Sheriffs to the Commonwealth, 2009 Mass. Acts so and so 61. The reason we're doing this is because there's been some back-and-forth as to the ownership of some of the properties here including, you know, the communications tower, the OpenCape building.

You know, we had some review done several years ago that indicated that we -- that Barnstable County had invested millions of dollars in these properties and they should have

been -- unless they were specifically delegated to someone else that they were ours.

Well, DCAM has come up with a different opinion saying that they all went to the state except for a few others; this building they gave us out of the goodness of their heart and a couple others. So, what we've done now is we've decided that we're not going to object to the current set up. In other words, the sheriff controls the tower and so on, but we are going to have a law firm to look into it and offer an opinion, an independent opinion as to -- because we strongly disagree, the Commissioners and the Administrator strongly disagree, with DCAM's opinion on who owns what. And so, it may come -- and so what we've done since we have KP Law looking into other real estate projects that we have in the works. We're going to extend their contract to give us an opinion on this. So, they're going to come up and see if we can make some sense out of this mess.

But at least know so if something -- right now it doesn't look like anything's coming up that where we would be objecting to anything done, but it's conceivable in the future. So, we want to know where we stand regarding the ownership of county property in which we've invested, as I said, millions of dollars. So, it's important.

Okay. Then we revisited those two articles that we had on the previous agenda, the proposed Barnstable County Capital Improvement Program Guide which is an indication of what we need and how it's going to be done and so on and also the discussion of the proposed Barnstable County Procurement Card and Procedures.

And today the Improvement Program Guide was approved. The procurement card policy was approved 2 to 1 with Mr. Beaty abstaining -- not abstaining but voting no. Okay.

And we also approved the Fiscal Year 2021 Board of Regional Commissioners Budget Message which you should have all gotten a copy of. Did you get a copy of the Budget Message?

Speaker MCAULIFFE: No.

Commissioner BERGSTROM: Oh no. Oh well, we'll make sure you get one by tomorrow morning. But I mean it doesn't make sense that you didn't get it because we hadn't approved it. So now that we approved it, you'll get it. We wouldn't want you to send something that we're saying, wait a minute, that was a mistake; we're going to do something else. So, you'll get that ASAP.

Then we had a discussion about the current status of the OpenCape building quite apart from the ownership of the building. We have contracts with them for space. Cape Light Compact, you know, abandoned some space, moved out so who controls that? There's been back-and-forth over that, and we want to establish proprietary interest in the space that we need going forward. So, we're going to have to move that along too. So that's open to discussion.

And then after that, there was a few housekeeping articles but I'd like to point one out which is, and I'll read it, "The authorizing the execution of an agreement and the creation of new revenue fund for a grant from the Massachusetts Executive Office of Energy and Environmental Affairs to the Cape Cod Commission in the amount of \$145,200 for a period through June 30, 2021, for Planning Assistance for the "Responding to Climate Change: Promoting Resilient Local Action Project." So that's \$145,000 for Barnstable County and the Cape Cod Commission to look into the global warming and what we can do countywide to mitigate that.

So I think outside of buying some more pipe, we spent another \$12,000 to purchase another 500 feet of pipe which is the pipe that would be used to discharge the material from the Dredge which is good news because that indicates that we can move -- we can pump it 500 feet

further which is good for beach nourishment and the ability for us to deliver those contracts.

And then that is pretty much what we've done. So, do you have any questions?

Speaker MCAULIFFE: Excellent. Any questions? Yes, Delegate Killion.

Commissioner BERGSTROM: Thank you, Madam Speaker. Good afternoon, Commissioner Bergstrom. Last week or two weeks ago when we had our meeting, we discussed the damage to the dredge and the idea of hiring an independent engineer to evaluate the repairs was talked about.

Do you know if any progress was made on that or if they made decisions about that?

Commissioner BERGSTROM: The only thing -- I don't know about independent engineer, but I know that Steve Tebo is down there and he has looked -- he has monitored the progress in repairing the dredge and he's given us a positive report and saying that it should be done in two weeks; is that right? Do you want to comment on that? Jack has been in direct contact with Steve so he can give you more information on that.

Administrator JACK YUNITS: It's really best that you hear this from Steve because it's certainly not my purview or expertise. But the plates that were damaged, simple welded plates, and they were in the process of being replaced completely with three separate panels.

Aside from that, there was no structural damage or damage to any movable parts and certainly no damage to the hydraulics. The company has offered to extend the warranty period from one to three years. So, we feel we'll be more than covered. But when he gets back, he'll report to you directly on that.

Delegate KILLION: So, you don't believe there's a need to hire --

Administrator JACK YUNITS: The dredge won't be here for at least another two weeks.

Delegate KILLION: You don't believe there's a need to hire an independent analysis --

Administrator JACK YUNITS: From what the engineer he talked to down there told him --

Delegate KILLION: Which engineer; the engineer for the company that made it?

Administrator JACK YUNITS: No, no. An engineer that we've used in the past that dealt with the Sandshifter and the problems we had with the hydraulics, that the impact, long-term impact is negligible.

Delegate KILLION: So, do you know -- do you see a downside to having an independent professional evaluate the repairs?

Administrator JACK YUNITS: To me, what you said last week made sense. I think in the interest of time and the fact that Steve was able to rely on an outside engineer to get his opinion on, he felt confident moving forward.

Delegate KILLION: Do you know how much time the engineer spent evaluating the repairs?

Administrator JACK YUNITS: I don't. I don't. I do not.

Commissioner BERGSTROM: I'd just like to add to that is that it depends on what kind of damage you're talking about. I mean if its structural damage, you know, a weld, you know, if a panel was broken, you re-weld it. I mean if it was machinery, you know, and stuff like that or even, God forbid, the electronic communications between various parts of the dredge then it would be out of Steve's and mine and Jack's expertise. But I think, I mean, I've been a fisherman and I know boats hit a lot of things and they get welded and that procedure is pretty much straightforward. You simply repair it to where it was before.

We can have it if it's the wish -- we can always have it looked at after it's done to see --

and have someone approve it, you know, and I think that's what Steve is down there for, but we'll see when it comes back.

But I'm with Jack, I think that we've done due diligence in making sure that those repairs are done. And the fact that we're getting an extension -- and extended warranty -- now you remember the problems we had with the previous dredge. Now we're getting a warranty, a three-year warranty which is something we needed in the first place to make sure if anything goes wrong, they'll cover it.

Delegate KILLION: But this is a piece of equipment that should last 20 years. So, 17 of those years will be outside of the warranty? I just don't see the downside to having the company we're paying over a million dollars for a piece of equipment hire an independent engineer to give an independent evaluation of the repairs.

Administrator JACK YUNITS: I see. I have no idea what Steve's done in the last two days down there. So, you know, I'll get your comments back to him. He's aware of how you feel about it, and he doesn't dispute that seriousness of that issue.

Commissioner BERGSTROM: Jim, you say you want to hire an independent engineer, I mean, exactly what do you mean by that? If you hire him, it seems like you wouldn't be independent. I mean --

Delegate KILLION: No, well, he would. He should be working on behalf of the county who is buying a piece of equipment that has been repaired outside of the factory, and he would insure that the repairs are done in a competent manner. It's done all the time.

Thank you.

Speaker MCAULIFFE: Thank you. Anyone? Yes, Delegate O'Malley.

Delegate O'MALLEY: Mr. Chairman, we've had now a couple references here in this meeting and certainly in the press today to the issue over the accessory building, the white building out there, and it's unclear to me quite where we stand.

Do you anticipate that the Assembly is going to have some role in what is, obviously, kind of a long-term disputed series of issues about the tower, the building, the ownership, DCAM, us? Does that policymaking question come to us at some point?

Commissioner BERGSTROM: Well let me say this, it didn't come to the Assembly originally even though the Charter says that any kind of lease or disposal of property has to come to the Assembly which, you know, Jack has talked to us about this, and the question is whether the original agreement was legal at all if it didn't come through the Assembly. And we've had some opinion that it isn't so it would have to be negotiated.

In other words, the Charter says that a lease of property would have to be approved by the Assembly -- that it has to be approved by the Assembly. And one, I mean, definitely under anything we do, of course, it's going to come to the Assembly because the Charter mandates that it comes.

So, yes, if the terms of that lease are changed or new leases are issued and signed, it has to go before this body before it goes anywhere else.

Speaker MCAULIFFE: And even back to the 2009 when the sheriff left, if you were leasing county property to someone else, it should've been through the Assembly as well.

Commissioner BERGSTROM: Yes, that's right.

Speaker MCAULIFFE: So, there's sort of a double edge to that. And wouldn't it be nice if they would take the pensions if they were going to take the property?

Commissioner BERGSTROM: Well, we're working on that. I can't report on it but we're working on that so.

Speaker MCAULIFFE: Delegate Princi.

Delegate PRINCI: So, we've been getting a lot of rain lately, all last week, and it doesn't really seem like it's going to slow down much as we get into the winter season and so forth. And my concern is the concern of mine that's been long-standing and that's the PFOS in the Fire Training Academy and the spread of that material further down through the wells over time with mother nature taking its course.

And there has been talk and as far as what I gather from officials in Barnstable that everything's been going very good with the executive branch in the town and I thank you for that.

But there has been some talk about capping it but also possibly some other type of use for that area. Is there a temporary sort of cap on the most contaminated area right now like -- and how--

Administrator JACK YUNITS: On the most contaminated area, an area called the hotspot, it has been capped. The major cap still has to go through the regulatory process, i.e. signed off by DEP and then ConComm in Barnstable, but it's our intent to do that this winter.

Delegate PRINCI: How effective is that temporary cap?

Administrator JACK YUNITS: Very effective.

Delegate PRINCI: Okay.

Administrator JACK YUNITS: Very effective. We're not getting any readings in the monitoring wells that are shocking.

Delegate PRINCI: Okay.

Administrator JACK YUNITS: We still get some levels but it's below reportable levels.

Delegate PRINCI: Okay. Thank you.

Speaker MCAULIFFE: Delegate Moran. Thank you.

Deputy Speaker MORAN: Thank you. Two issues; one is that I'm a little bit concerned after the issue of the independent structural examination of the Dredge came up pretty with a lot of popularity with the Assembly last week that we don't have an answer right now. So, I really want to make sure that we follow through with that.

The second question is if you could just walk us through how the ownership of county buildings came to the attention of DCAM; how the opinion was solicited?

Administrator JACK YUNITS: Back in 2016 as part of the audit, we recognized that there was an issue with the approval of the lease not coming to the Assembly, for one thing, for the tower, OpenCape building, and we weren't sure of the status of the BCI building. So, we hired Attorney Mark Gildea, now Judge Gildea, to represent the county. He did a huge amount of background studies and he came to the conclusion that the county owned the tower; the county owned the OpenCape building. BCI was owned by the Commonwealth of Massachusetts based on the statute, the transition statutes that were adopted in 2010 by the legislature.

That was forwarded to DCAM and DCAM took our side in that argument in 2016. We never made an issue of it because, honestly, we understood the BCI building serves a great functional purpose for the sheriff and was part of public safety across Cape Cod. And the money from the tower was going to the 9-1-1 system that the sheriff was running so, basically, agree to disagree on the status of the buildings and kept the status quo in place.

Then during the summer, Mr. Beaty made an inquiry of DCAM on his own. It was not an issue with us; it was not an issue with the sheriffs, but DCAM followed up and came down

with a different ruling that has caused us some concern.

Let me say this about OpenCape, and there are four lawyers here on the Assembly so.

Administrator JACK YUNITS: There's a policy in real estate called unjust enrichment. If a landlord acquiesces to the renovation of a building, he can't later say, well, we never put any in writing so you're out. OpenCape, I think, with especially a law firm like Nutter that doesn't have to look over their shoulders and worry that we own it, or the state owns it, they're going to be thrown out tomorrow.

It was a \$38 million public investment in that and OpenCape serves a very critical purpose for Cape Cod. If we're going to have our young people stay here, we have to give them the best access to dark fiber that we can possibly do and OpenCape is trying to do that right now. They serve a very legitimate purpose on the Cape, and we work with them, not against them on that.

So, we just have to do it right. We can't just let it sit and that's why the Commissioners took the action today to say let's take a look at this with another set of eyes, somebody who's outside the county, a legal firm that's outside the county that will look at the whole ball of wax and give us an opinion.

So, ultimately, to go back to what Doc suggested, is we're going to have to come back before the Assembly at some point one way or the other and approve some type of document between OpenCape and the county, I think, because I don't think the state has any bearing whatsoever on this and get that fixed once and for all.

Speaker MCAULIFFE: Okay.

Deputy Speaker MORAN: One quick follow-up.

Speaker MCAULIFFE: Yes.

Deputy Speaker MORAN: So, am I to understand that there never was a vote by the Commissioners to ask DCAM or to ask the Administrator to ask DCAM about the situation?

Administrator JACK YUNITS: No.

Speaker MCAULIFFE: Okay.

Commissioner BERGSTROM: You know, I have to say this about that and some other things. You'll notice as we've gone through these meetings that a lot of what we've been doing is basically trying to cover old problems that were neglected for many years. I mean the lack of a capital plan is something that you guys all know about that. The lack of maintenance on the dredge, you know, without no depreciation on some of the equipment.

Elizabeth has done a tremendous job looking at some of the financial -- and Mary McIsaac before her are straightening out the budget process and so on. So, there's still going to be things like this that come up time to time in reviewing the past practice of the county. I mean, it's too late to place blame or wonder why we did things. You know, I'm just becoming aware of it as some of you are. And we made great strides in doing that, so we're in a much better position now than we were, let's say, 6, 8, 9 months ago in trying to deal with these issues.

So, the time is going to come up and you're going to say, hey, like for instance, the Sheriff Retirement Fund; what were they thinking then, you know? We don't know but we have to deal with what the situation is now and try to clean it up. Same thing with the Fire Training Academy, no one was aware of the effects of the PFOS.

So, all we can do now is not wonder why it was done a certain way. We can go forward and say, okay, what are we going to do to straighten this out so we can go forward without any issues. So, this is why these things come up, you know, and --

Speaker MCAULIFFE: Still cleaning house.

Commissioner BERGSTROM: Cleaning house. If I'm in this position for a while, I'll be able to put that all aside and actually go forward and think about what we're going to do.

So, anyway, that is my report if anyone has anything else.

Speaker MCAULIFFE: Thank you.

Delegate POTASH: I do.

Speaker MCAULIFFE: Yes, quickly. Sorry, yes.

Delegate POTASH: Okay. I expressed my confidence in Steve Tebo last time, and I actually praised him for his diligence and his expertise on the dredge but, you know, being from Chatham I know that's probably essentially one of the only things that people care about.

And I agree with James Killion and Susan Moran about the fact that we talked about that and now it's like it went to deaf ears; I feel like that. And so that's going to come back to bite him or to bite the county if, you know, you just rely on people and don't at least take into consideration that maybe some person who has no interest in this dredge should come take a look and see whether or not it's fit. And we shouldn't have to find out when it comes back here. I mean, is he going to be comfortable in his own skin? Is anybody going to be comfortable in their own skin if it doesn't end up, you know, meeting standards when it comes back here, and we have to do this all again.

Commissioner BERGSTROM: I understand. To be honest with you, this is the first I've heard of this concern. It wasn't brought to me.

Delegate POTASH: Okay.

Commissioner BERGSTROM: Okay. And it's not too late because we haven't accepted -- we haven't accepted receipt of the dredge. So, certainly, what you do is you wait until they fix it and then you bring someone in to inspect it and say, okay, it's done properly.

So, I'm going to say if you want somebody to do that, I don't know, I guess it could be arranged. But, I mean, we --

Delegate POTASH: I'm just not sure who has the final say on that. And, you know, I just think it should be -- and I'm confident that everybody's doing it right, but it just seems like we should just at least know about how it's working and --

Commissioner BERGSTROM: Well, I mean I could put an item on the agenda that we accept delivery of the dredge. We're not going to accept delivery of a dredge that's anyway not functional and simply then we'll get the report and maybe we'll get whatever reports from both Steve and the report that the dredge contracted by the builder and maybe we can get an independent assessment.

Delegate POTASH: I mean because what good is --

Administrator JACK YUNITS: I think it was still Steve's intention not to leave Maryland until he had an engineer sign off.

Delegate POTASH: Okay.

Administrator JACK YUNITS: But the engineer is not a supervisor. It's really just welding; cutting and welding, that's what's going on.

So, Steve is actually -- has certificates in both of those fields so.

Commissioner BERGSTROM: And weld, I know for a fact that welding is something that has to be inspected. If you weld a building, for instance, they go, and they check the welds and make sure that they're done properly. I'm presuming that that will be done. If it isn't done, we'll make sure that it's inspected before we accept delivery.

Administrator JACK YUNITS: Yes, but we should be able to provide you with a

detailed report including photographs that have been taken along the way.

Delegate POTASH: Thanks.

Speaker MCAULIFFE: Thank you. I think the frustration is, with all due respect, your judgment and Steve Tebo's judgments are not an engineering judgment. And in terms of electronics, you don't know what a three-foot drop might have done.

It's just what we were saying last week and, I don't know, maybe going forward it's my job if the Assembly has an opinion to make it an official opinion so that it gets communicated and carried out.

So, it was probably a little too casual to just have suggestions. If we want an action carried out, we will make it an action. So, we take responsibility as well so.

Okay. This is still the Assembly meeting, so I don't want people to be confused. So, thank you. When it says communications from members of the public, this is just general communications.

We do have a Public Hearing on an ordinance for legal funds and this is not the Charter Review part of the meeting. We're just going to go through the rest of the Assembly meeting in the next few minutes and then get into the Charter Review for the comment period that people are here for.

So, I don't want people to get confused that this public comment is just general overall not really to do with the Charter kind of comments.

Yes.

Administrator JACK YUNITS: Just one quick update. On your detail officer --

Speaker MCAULIFFE: We know. Thank you.

Administrator JACK YUNITS: Okay. All right.

Speaker MCAULIFFE: The next item is are there any communications from members of the public other than those waiting to comment? All right.

Public Hearing on Proposed Ordinance 19-16

Speaker MCAULIFFE: So, our final portion of the public part of the meeting is there's a Public Hearing on Proposed Ordinance 19-16. This is an FY20 supplemental budget; it's \$25,000 for Legal Services for the Charter Review. This is the official kind of budget for the Charter Review and its being put forward into the public for a Public Hearing because it's an ordinance.

Is anyone here to -- oh, okay. So, for the \$25,000 for the Legal Services? Yes, Joe Glynn. This is on the ordinance; yes?

MR. JOE GLYNN: Yes.

Speaker MCAULIFFE: Okay.

MR. JOE GLYNN: Yes, real quickly.

Just a couple quick questions about it. What specifically is the money going to be used for and is it open to adding to that? Are you going to -- is it public information going to be used? Is it strictly for setting up for maybe attorneys to look over or what are the prospects of any Charter changes? What is the money going to be used for?

Speaker MCAULIFFE: When the Charter Review Committee meets, the last one and this one, we've had the services of a lawyer sitting in during the meetings and also doing research and answering questions and working with subcommittees. So, there are extra legal fees outside the traditional Assembly or County legal fees.

Last time it was \$22,500 that the year-long legal fees were. So, we thought if we budgeted \$25,000 that would cover another Charter Review. If it's insufficient and there needs to be additional legal fees, there would have to be another Proposed Ordinance brought back with another Public Hearing and more discussion and a vote by the Assembly. So, this is --

MR. JOE GLYNN: So, it's strictly for the legal --

Speaker MCAULIFFE: This is just for the Charter Review.

MR. JOE GLYNN: But specifically for legal? You wouldn't --

Speaker MCAULIFFE: Yes.

MR. JOE GLYNN: -- you wouldn't do anything -- could you add or could it be used for other public information --

Speaker MCAULIFFE: No.

MR. JOE GLYNN: -- or anything else?

Speaker MCAULIFFE: No.

MR. JOE GLYNN: And beyond today -- beyond your vote today, you won't -- there won't be any increase in that?

Speaker MCAULIFFE: As of today, the 25,000 is what we think we need simply for attorneys' bills.

MR. JOE GLYNN: Just for the legal bills.

Speaker MCAULIFFE: Yes, for the legal fees. It's not to be spent on anything other than the billed hours from the attorney.

MR. JOE GLYNN: Right. But can we add anything in the future is what I'm asking?

Speaker MCAULIFFE: Yes, if -- oh, you mean in terms of services out of that -- out of this?

MR. JOE GLYNN: No. In other words, so I understand that the legal fees is what this \$25,000 is for. Could you at a later date create another ordinance --

Speaker MCAULIFFE: Yes.

MR. JOE GLYNN: -- to say we want to do public information?

Speaker MCAULIFFE: Yes.

MR. JOE GLYNN: Okay. And I'm sorry I didn't introduce myself.

Speaker MCAULIFFE: No.

MR. JOE GLYNN: Joe Glynn from Yarmouth.

Speaker MCAULIFFE: Yes. Thank you. Any other comments on the ordinance for the \$25,000? Okay.

Seeing that, we will close the Public Hearing.

Assembly Convenes

Speaker MCAULIFFE: And I will convene the Assembly part of the meeting.

Summary of Committee Reports

- **Delegate O'Malley provided a brief report on the Human Rights Advisory Commission meeting of 10/7/19**

Speaker MCAULIFFE: Committee Reports, I don't believe we have -- oh, yes, Delegate O'Malley.

Delegate O'MALLEY: I could give a short report on the Human Rights Advisory

Commission which met last -- 10/7. At that meeting, there were the full complement of six commissioners, the process is -- the ads have gone out. They've had 10 applications of which they're interviewing seven, the total will be nine.

I think I've already indicated that what's going on is they're planning for the "No Place for Hate" October 20th at 4Cs. They're planning for the Human Rights Day on December 10 at the Hyannis Golf Club -- the Hyannis Golf Course. And then this spring will be the -- no, the Human Rights Academy is actually October 30th. That comes in between there.

So, essentially, the Human Rights Advisory Commission is going to be holding its interviews, will be up to full complement within the next two weeks or so, and has at least three major events coming along in the next couple months.

Speaker MCAULIFFE: Great.

Delegate O'MALLEY: That's it. The Human Rights Day breakfast is open to anyone. They're asking for a \$10 donation. It's December 10 in the morning.

Speaker MCAULIFFE: Excellent. All right.

Vote on Proposed Ordinance 19-16:

**The Cape Cod Regional Government, known as Barnstable County, hereby ordains:
To add to the County's operating budget for Fiscal Year 2020, as enacted in Ordinance No. 19-04, by making an initial supplemental appropriation for legal expenses related to a Charter Review for the Fiscal Year two-thousand and twenty.**

Section 1.

Based on a revised estimate of income of Barnstable County for the current fiscal year, made as of August 1, 2019, the sum set forth in section one, for the purpose set forth therein and subject to the conditions set forth in sections five through twelve of the Barnstable County Ordinance 19-04, is hereby appropriated from the Statutory Reserve amounts for FY2020 as a supplemental appropriation for Barnstable County for the fiscal year ending June thirtieth, two thousand and twenty. Said funds shall be derived from the Legal Reserve Fund.

<u>Budget #</u>	<u>Sub-Program</u>	<u>Group</u>	<u>\$ Amount</u>
0011302	5235 - Legal Services	2	\$25,000
<u>Charter Review Counsel</u>			
<u>TOTAL SUPPLEMENTAL APPROPRIATION</u>			<u>\$25,000</u>

Speaker MCAULIFFE: Now for the vote on Proposed Ordinance 19-16, and if someone would like to move the proposed \$25,000 supplemental appropriation for Charter Review Legal Services.

Deputy Speaker MORAN: So moved.

Delegate CHAFFEE: Second.

Speaker MCAULIFFE: Is there any discussion? Okay. I believe we have to have a roll call. Terence, are you still there?

Delegate GALLAGHER: Yes, I'm here.

Speaker MCAULIFFE: Okay.

Delegate GALLAGHER: I'm just on mute.

Speaker MCAULIFFE: No, that's all right. We're going to do a roll call vote on the ordinance for legal services.

Delegate GALLAGHER: Okay.

Roll Call Vote on Proposed Ordinance 19-16:

Voting “YES” (98.73%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Elizabeth Harder (5.67% - Harwich), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02%-Yarmouth), Deborah McCutcheon (0.93% - Truro), Susan Moran (14.61% - Falmouth), Thomas O’Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O’Malley (1.36% - Provincetown), Randi Potash (2.84% - Chatham), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).

Absent (1.27%): Lilli-Ann Green - (1.27% - Wellfleet).

Clerk O’CONNELL: Madam Speaker, Proposed Ordinance 19-16 passes with 98.73 percent of the Delegates voting yes; 1.27 percent are absent, now known as Ordinance 19-15.

Ordinance 19-15:

The Cape Cod Regional Government, known as Barnstable County, hereby ordains: To add to the County’s operating budget for Fiscal Year 2020, as enacted in Ordinance No. 19-04, by making an initial supplemental appropriation for legal expenses related to a Charter Review for the Fiscal Year two-thousand and twenty.

Section 1.

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0011302	5235 - Legal Services	2	\$25,000
<u>Charter Review Counsel</u>			
<u>TOTAL SUPPLEMENTAL APPROPRIATION</u>			<u>\$25,000</u>

Speaker MCAULIFFE: Thank you.

Summary Report from the Clerk

- Next meeting will report on upcoming MMA January conference and holiday schedule for the Assembly

Speaker MCAULIFFE: Report from the Clerk.

Clerk O’CONNELL: Thank you, Madam Speaker. I don't have anything to report at this time but at the next meeting I will. I'll be bringing you some information regarding the holiday schedule for the Assembly in December and also the MMA conference in January. So start thinking about that.

And that's it for today.

Summary of Other Business

• **Letters were sent to NRC and Holtec International**

Speaker MCAULIFFE: Thank you. I wanted to just say under "Other Business" because the Clerk -- this is also part of the Clerk's report. There were two letters that were sent out that were requested at the last meeting; one went to the Nuclear Regulatory Commission and one went to Holtec on behalf of the Assembly. And I believe everyone got copies of those letters?

So, I just wanted to let you know that we did follow up on that. We'll see where it goes. I see today in the paper there's legislation now to add two citizens from Barnstable County to the Citizens Advisory Board for Nuclear Regulatory Commission. So that is still a bill and not anything that has happened. So, there's interest at the legislative level, I guess.

So, we'll let you know when we get responses. We'll let you know what's going on, but we wanted to just make sure that, you know, thanks to the work of the Clerk in terms of really scouting out how to do the letters, what goes in the letters, and who they go to. It was a couple days' worth of work but it happened.

Clerk O'CONNELL: May I?

Speaker MCAULIFFE: Yes.

Clerk O'CONNELL: Just one item. I'm meeting tomorrow with someone from the County's Communications' Team, Sonja; I've worked with her in the past, and we're going to try to put together a little info blast, if you will, that will go on the County's webpage letting the public know that the Assembly is being proactive in taking action and interest in what's going on with the decommissioning process.

So, I think that's good. I think it's a win-win that the residents know that you've got their back; you're looking out for them, and you're seeking answers to a lot of questions.

Speaker MCAULIFFE: Is there any other "Other Business"? Yes, Delegate Harder.

Delegate HARDER: Just I guess it's a question for Janice or a point to make. The first Wednesday in January is the 1st.

Speaker MCAULIFFE: Yes.

Delegate HARDER: And I didn't know whether that means we only have one meeting in January, whether we do second or fourth?

Clerk O'CONNELL: According to your laws, you have one meeting unless the Speaker or someone, for some compelling reason, wants to request a special meeting of the Assembly but there's an ordinance to address that.

And when a holiday, a legal holiday falls on an Assembly meeting, there's no meeting. There's no meeting rescheduled for it.

Speaker MCAULIFFE: All right. I'll take a motion to adjourn.

Deputy Speaker MORAN: So moved.

Delegate O'HARA: Second.

Whereupon, it was moved and seconded to adjourn the Assembly of Delegates at 4:45 p.m.

Submitted by:

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

List of materials used at the meeting:

- **Business Calendar 10/16/19**
- **Unapproved Journal of Proceedings 10/2/19**
- **Public Hearing Notice for Proposed Ordinance 19-16**
- **Proposed Ordinance 19-16**