

BARNSTABLE COUNTY

*Ag of D
5-15-13*

In the Year Two Thousand and Thirteen

Proposed Ordinance 13-__ *06*

To transfer appropriations within the County's operating budget for Fiscal Year 2013, as enacted in Ordinance No. 12-04, by making appropriations transfers for the Fiscal Year two-thousand and thirteen.

Section 1.

The sums set forth in section one, for the several purposes set forth therein and subject to the conditions set forth in sections four through twelve of Barnstable County Ordinance 12-04, are hereby transferred, pursuant to section seven of Barnstable County Ordinance 12-04, from the County Appropriated Reserve Fund (Budget 0019307-5730) to the designated budget group as transferred appropriations for Barnstable County for the fiscal year ending June thirtieth, two thousand and thirteen.

*BCC
Acct*

<u>Budget #</u>	<u>Sub-Program</u>	<u>Group</u>	<u>\$ Amount</u>	<u>Total</u>
MISCELLANEOUS & CONTINGENCY				
0019102	Legal Services	2	10,000	\$ 10,000
5235	Special Counsel Charter Review			

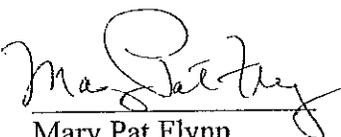
Section 2.

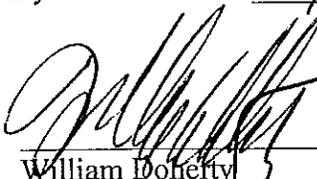
The sums set forth in section two, for the several purposes set forth therein and subject to the conditions set forth in sections four through twelve of Barnstable County Ordinance 12-04, are hereby transferred, pursuant to section seven of Barnstable County Ordinance 12-04, from the County Appropriated Stabilization Fund Reserve (Budget 0019307-5731) to the designated budget group as transferred appropriations for Barnstable County for the fiscal year ending June thirtieth, two thousand and thirteen.

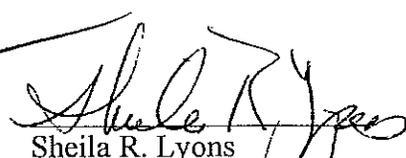
*BCC
Acct*

<u>Budget #</u>	<u>Sub-Program</u>	<u>Group</u>	<u>\$ Amount</u>	<u>Total</u>
MISCELLANEOUS & CONTINGENCY				
0019102	Legal Services	2	10,000	\$ 10,000
5235	Special Counsel Charter Review			
TOTAL TRANSFER				\$ 20,000

Approved by the Board of County Commissioners May 15th 2013 (date), at 3:00 PM (time).


Mary Pat Flynn
Chairman


William Doherty
Vice-Chairman


Sheila R. Lyons
Commissioner

Failed
to Pass
A of D
6-19-13

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES
Report and Minutes of the Standing Committee on Finance
Proposed Ordinance 13-06
June 5, 2013

Dear Mr. Speaker and Assembly Delegates:

This is a report on Proposed Ordinance 13-06. The proposed ordinance was submitted to the Assembly of Delegates by the Board of Regional Commissioners at the Assembly of Delegates regular meeting on May 15, 2013. A public hearing was scheduled and held by the Standing Committee on Finance on Wednesday, June 5, 2013 at 3:30 p.m. The public hearing was duly advertised in the Cape Cod Times on May 29, 2013.

The purpose of the proposed ordinance was to transfer appropriations within the County's operating budget for Fiscal Year 2013, as enacted in Ordinance No. 12-04, by making appropriations transfers for the Fiscal Year two-thousand and thirteen for legal services for Special Counsel for Charter Review.

Committee members present: Chair John Ohman, Christopher Kanaga, James Killion, and Julia Taylor.

Chair John Ohman opened the committee meeting for the purpose of conducting a public hearing on Proposed Ordinance 13-06.

Christopher Kanaga motioned, and it was seconded, to waive the reading of the notice. Motion carried 4-0-0.

Julia Taylor explained that she is a member of the Charter Review Committee. Based on the work undertaken by the committee, there may not be a need to spend all of funds. Legal services are needed if there are going to be changes made to the Charter. Special Counsel will be attending the Charter Review Committee meetings. A copy of the scope of services, the agreement and memo executed by the Board of County Commissioners was made available to the committee and will be attached to these minutes and available in the Clerk's Office.

The committee had several questions related to how and at what intervals Special Counsel would be compensated. The scope of services was based on an estimate of the work load. The committee did not have a signed agreement and therefore were not sure what was agreed to in the final signed agreement. Further clarification was requested by committee members.

Committee members agreed that Special Counsel was needed for this task. It was also acknowledged that the contract was in place and it was within the Commissioners authority to execute this type of document. Several members of the committee were not sure that the entire amount of this transfer would be spent for a Charter Review if one was not recommended by the Charter Review Committee. Julia Taylor indicated if it were necessary to spend this money for a Charter Review at least it would available if this proposed ordinance passes. John Ohman agreed that Special Counsel is needed but would also like to know at what intervals the contract would be disbursed to Special Counsel.

Christopher Kanaga motioned, and it was seconded, to recess the public hearing and the committee meeting, at 3:50 p.m., until the Assembly of Delegates meeting adjourns. Motion carried. 4-0-0.

Chair John Ohman re-opened the public hearing and the committee meeting at 4:20 p.m.

John Ohman told the committee that the Clerk had obtained some additional information from Commissioner Flynn (via telephone during the recess) regarding the structure of the agreement with Special Counsel. The Clerk stated that the arrangement is based on a flat fee for the scope of services and predicated on an estimated amount of meetings and other work involved with making suggested Charter changes. If Charter changes are not going to be recommended by the Charter Review Committee then the agreement will be re-negotiated with Special Counsel based on the reduction of work as compared to what was originally estimated in the scope of services. John Ohman stated that this proposed ordinance would fund the agreement (contract) that would be used to compensate Special Counsel. James Killion said there was no provision in the agreement to re-negotiate. Julia Taylor felt it could be re-negotiated if necessary. John Ohman was not comfortable with the fact that the committee is only now viewing the agreement. Christopher Kanaga said the committee is only approving the transfer for the intended purpose and has no authority over the structure of the agreement.

Suzanne McAuliffe asked who would have control over what Special Counsel would be doing. If the Charter Review Committee has a finding that does not agree with the Commissioners want, can the Charter Review Committee direct Special Counsel versus being directed to do otherwise by the Commissioners. Julia Taylor indicated that the Commissioners do the hiring and contracting. She does not feel that the Commissioners would instruct Special Counsel to do anything other than what the Charter Review Committee wanted done or not done.

There were no other comments and the public hearing was closed at 4:25 p.m.

John Ohman motioned, and it was seconded, to recommend approval of Proposed Ordinance 13-06 in the amount of \$20,000 to the full Assembly. Motion carried. 3-1-0. John Ohman voted no.

The meeting adjourned at 4:30 p.m.

Respectfully submitted:

John Ohman, Chair
Christopher Kanaga
James Killion
Julia Taylor

company a new contract that was worth more than \$150 million at the time.

It appears that CLC officials based on my reading of the auditor's report may even provided Sullivan & Rogers with misleading and incomplete information.

Second, the fragmented confusing and sometimes contradictory public record that is out there demonstrates that one or more Barnstable County officials has committed inappropriate actions, likely not for direct personal gain but certainly to the benefit of private sector entities and to the massive detriment of ratepayer interests.

And third, on behalf of the people of Barnstable County, the voters in each community, the Assembly should demand accountability from the County administration and from the County Commissioners by calling for an immediate state investigation not of CLC and CVEC but of Barnstable County itself as the fiscal administrator of those two entities.

By taking this step, the Assembly can once again protect the County's honor and also eliminate what are likely to be some barriers to a fulsome discussion through the Charter Review Committee.

In addition, this will represent an important first step in restructuring CLC and CVEC consistent with the principles of consumer empowerment, transparency and accountability that underlay the original aggregation plan, the Compact's governing document, as well as with ambitious goals relating to energy-efficiency, renewable energy, and climate change.

Thank you.

Assembly Convenes

Speaker BERGSTROM: All right. Well, thank you very much. The Assembly will now convene, and we will begin with the Committee Report on Finance Committee Report dated 6/5/13 for Proposed Ordinance 13-06.

John, do you want to take the lead on this?

Report of Committees

Mr. OHMAN: Sure. Certainly, Mr. Speaker.

This is the report on the Proposed Ordinance 13-06. We met on June 5, 2013. There were four members of the Finance Committee discussing making appropriations transfers for the fiscal year 2013 for Legal Services with Special Counsel on Charter Review, which is when (Inaudible) meeting start.

After discussion, the committee, the majority approved making those funds available for the 2013. There was one person that did not and that was me.

Speaker BERGSTROM: Okay. Well, that in case do you --

Mr. OHMAN: Right. Indifference to --

Speaker BERGSTROM: Somebody has to put it on the floor.

Mr. OHMAN: Indifference to my committee, I will ask that the Assembly approve Ordinance 13-06 as presented.

Speaker BERGSTROM: Okay. Do I have a second?

Ms. KING: Second.

Speaker BERGSTROM: Okay. It's moved and seconded. Oh, you have to approve the Minutes?

Clerk O'CONNELL: It's a report and minutes.

P.O. 13-06

Failed to
Pass AofD
6-19-13



* Proposed Ordinance 13-06: To transfer appropriations within the County's operating budget for Fiscal Year 2013, as enacted in ordinance No. 12-04, by making appropriations transfers for the Fiscal Year two-thousand and thirteen.

↓ Speaker BERGSTROM: It's a report so I thought. Okay. So any discussion? Do you understand what this is? I talked to Mark Zielinski. He talked to the attorney for the committee, and they both felt that this was an appropriate expense and well within the ballpark, and maybe even be a bargain for Barnstable County. I can't say that because I know nothing about legal expenses. That's what I've been told. The parties involved Mr. Curran and Mr. Zielinski.

So, do we have any comment on this?

Ms. ANDREWS: Just a question.

Speaker BERGSTROM: Yeah, Cheryl.

Ms. ANDREWS: Was there a translation into hours or work or no?

Mr. OHMAN: As I recall it, it's a flat rate.

Speaker BERGSTROM: It's a flat rate.

Mr. OHMAN: With a maximum number of hours and an opt-out should the committee not need that much. There was an opt-out within that structure.

But there was no one there to present it from the people at the administration that wanted that. And that's why I, essentially, voted against it. We had no information, no person presenting the details of the question you asked.

So I just wanted to put it off for that reason.

Ms. ANDREWS: Thank you to the Chairman of the Finance Committee. I guess my question then would be given that the Finance Committee had to make a decision without receiving apparently some questions answered, was there any thought towards approving half of this and then having them come back for a secondary transfer if it was needed?

Speaker BERGSTROM: No. We're dealing with the Ordinance that's in front of us. Leo.

Mr. CAKOUNES: Thank you. I apologize to the rest of the members of the Assembly. I am on the Finance Committee, but I was unable to make the meeting in which this was discussed, so I do have some questions.

First of all, this is a transfer into the lawyer, or what do they call it, Town Counsel Reserve Fund, for fiscal year 2013. So this is going to be expended I presume between now and July 1?

Speaker BERGSTROM: No.

Clerk O'CONNELL: It would be encumbered if you -- If it's approved, then it allows you to book that expense from your FY '13 funds and will be expended into after July 1.

Mr. CAKOUNES: Right. May I, Mr. Speaker? Did anybody ask what the current fund balance is in the Legal Services currently? I mean I know back in January we had probably \$30,000.00 in there.

Mr. OHMAN: Mr. Speaker, I can answer that. There was no one there to ask.

Mr. CAKOUNES: So no one asked, so no.

Mr. OHMAN: There was no one there to ask the question to. No one from the administration came forth to defend this particular Ordinance.

As a matter of fact, we used some last minute information through Janice's persistence that some written stuff that nobody had a chance to digest. I just thought it was really poorly presented.

Speaker BERGSTROM: Yeah, go ahead. Janice.

Clerk O'CONNELL: On the contract, if I recall correctly, was 27,000-27,500. This Ordinance is for 20. So in my mind, I'm thinking that 20 is coming from some place to be booked as a reserve or encumbrance to go forward.

But if the contract was 27,500, there must be other money someplace else that exists that can be accessed now.

Whether that's the only amount left in that fund or that's all that's coming, I don't know that.

Mr. CAKOUNES: Okay. Again, I know it's important and I certainly don't -- I'm not going to take the stand and I'm not going to vote for this because I don't want to see the County expend these funds in this manner because I certainly do. I want to see the Charter Review Committee move forward. And we did vote and discuss that they should have legal counsel.

My concerns are, as I just said, I know there is an account balance in there. If it's 7,000 and we're appropriating 20 and that's going to be a sufficient amount fine.

My other questions would have been July 1 is coming around the corner and our new budget's going to come into place, and we just voted a budget which had \$50,000 in the Legal Reserve Fund, and we could have spent that after July 1 and waited until sometime in January when that fund was either depleted or down to replenish it at that time.

But, once again, I blame myself for not being there. Sorry.

Speaker BERGSTROM: Yes, Deborah.

Ms. McCUTCHEON: I'd just like to point out that I think it's in the Assembly's best interest to have legal counsel for this committee.

There's going to be a work product coming out of here that I think we're going to be held responsible for.

And I don't think that some of the other groups that are affected here are really interested in that project, and, therefore, I think that's why nobody appears.

So I think we should approve this.

Speaker BERGSTROM: Well, yeah, I tend to agree with Deborah. I mean one of the things that we're going to consider if we get to it is the question of the governance of Barnstable County.

There seems to be some sentiment out there that the Assembly of Delegates is unnecessary or ineffective or dysfunctional, and I don't want to give them any more ammunition to push that point.

Okay? So, if we turn down the Legal Fund -- here's what's going to happen. If you turn down the Legal Fund today, we may not have another meeting on July 3. And the next meeting there's not going to be people there.

So, I mean, you can argue whether or not the fund -- whether somebody showed up at the meeting or whether or not they showed -- put the hours in there to show how diligent you are in looking at these things, but the fact is that if you pass this, we're going to have an attorney and he's going to get paid. If you don't, we won't. That's what you're voting on right now.

Mr. ANDERSON: But Mr. Speaker --

Speaker BERGSTROM: Yes.

Mr. ANDERSON: July 1 is just a couple/three meetings/two meetings away. If you guys can't work for two meetings without an attorney, then I think we're not doing our job. And for them to show the arrogance of not coming over to the Finance Committee and telling them what they're going to spend it on, how they're going to spend it, where it's coming from, I'm voting no.

Ms. KING: Mr. Speaker.

Speaker BERGSTROM: Yes.

Ms. KING: Thank you, Mr. Speaker. I support what Richard just said. I mean normally I would vote for this, but they haven't even got the nerve to show up and explain what it's for. And yet they sit there and they voted for an Ordinance to get rid of us anyways. The contempt is unbelievable.

No. I will vote against this. They can bring it forward and I'd vote for it happily if someone showed up for a meeting.

Speaker BERGSTROM: Well, the question is --

Ms. KING: Because I think -- the reasoning of why we should vote for it is incorrect. We shouldn't vote for it just because they need a legal counsel. I agree with that, but Mark Zielinski should have shown up for it, and they should have explained what it's for.

Thank you.

Speaker BERGSTROM: Yes, Pat.

Mr. PRINCI: Just very quickly. It's not as if the legal counsel won't represent them. Lawyers generally follow through with their commitment that they've made. They understand that we've made a commitment on the record to fund it. It's just a question of no answers to questions. And I'm certain that the lawyer can just send over a bill. And after July 1, we'll look into next year's budget and we'll work it all out.

I don't think it would hold back the Charter Review from moving forward. I would not support this.

Ms. KING: Call for a vote.

Speaker BERGSTROM: Okay. If that's how you feel about it, but I'm telling you right now that we may very well not have a meeting on July 3. I'm checking now to see if we have a quorum, who's going to be there, and whether the building is open.

So, and whether or not we have a quorum on the next meeting after that is an issue also.

So, anyway, we'll call for a vote on this.

Roll Call Vote on Proposed Ordinance 13-06: To transfer appropriations within the County's operating budget for Fiscal Year 2013, as enacted in ordinance No. 12-04, by making appropriations transfers for the Fiscal Year two-thousand and thirteen.

Voting YES (24.37%): Ronald Bergstrom (2.84% - Chatham), James Killion (9.58% - Sandwich), Suzanne McAuliffe (11.02% - Yarmouth), Deborah McCutcheon (0.93% - Truro).

Voting NO (53.74%): Richard Anderson (9.15% - Bourne), Cheryl Andrews (1.36% - Provincetown), Leo Cakounes (5.67% - Harwich), Ned Hitchcock (1.27% - Wellfleet), Marcia King (6.49% - Mashpee), Teresa Martin (2.30% - Eastham), John Ohman

(6.58% - Dennis), Patrick Princi (20.92% -Barnstable).
Absent (21.89%): Christopher Kanaga (2.73% -Orleans), Anthony Scalese (4.55% -
Brewster), Julia Taylor (14.61% - Falmouth).

Clerk O'CONNELL: Mr. Speaker, Proposed Ordinance 13-06 fails to pass with 53.74 percent of the Delegates voting no; 24.37 percent voting yes; and 21.89 percent absent.
Proposed Ordinance 13-06 fails to pass.

Report from the Clerk

Speaker BERGSTROM: Now we have a Report from the Clerk.
Clerk O'CONNELL: Nothing to report today.

Other Business

Speaker BERGSTROM: Okay. Any other business to be brought before the Assembly? Yes, Suzanne.

Ms. MCAULIFFE: In 30 seconds. The Charter Review Committee met two weeks ago. We had a Public Hearing. There were six people who spoke, three people supported the recommendations that the Special Committee that was formed, and three people who wanted to keep the Assembly or an Assembly-like representation in place.

There is some sort of activity input to involve Boards of Selectmen, and I know we're all aware of that. So I anticipate we will be hearing from Boards of Selectmen about their opinions on County government, and I welcome that. I think that's great.

But I just wanted to let you know its split right down the middle at this point.

Mr. CAKOUNES: We've got some more down here.

Speaker BERGSTROM: What's that? Yeah.

Mr. OHMAN: And in conjunction with what Suzanne said, I encourage all the Assembly members to go to their Boards of Selectmen and get an opinion from them because I think it will be surprising to this committee how much support there will be for keeping town-sponsored votes in County government.

Speaker BERGSTROM: Okay.

Mr. KILLION: One more, Ron.

Speaker BERGSTROM: Yeah, one more.

Mr. KILLION: I just want to invite everybody to Sandwich on June 29 for a Sandwich Fest, which is an outdoor fair and a sandwich-eating contest.

Mr. ANDERSON: Sandwich eating?

Speaker BERGSTROM: Okay. Leo.

Mr. CAKOUNES: I've got an invite too. I apologize I didn't bring your invitations, but our Annual Farm Open House Potluck is June 29. It's 11 o'clock in the morning till 11 o'clock at night. We are roasting a pig this year, so please attend. And your families are welcome to come too.

If you need directions, call me. I will email you directions anyhow. Thanks.