

**CAPE COD REGIONAL GOVERNMENT - ASSEMBLY OF DELEGATES**  
*Pursuant to Governor Charles Baker's Executive Order Suspending Certain Provisions of  
the Open Meeting Law dated March 12, 2020, the Assembly of Delegates held a  
Virtual Meeting @ 4:00 P.M. on June 17, 2020*

**APPROVED Journal of Proceedings – June 17, 2020**

**Call To Order**

Speaker MCAULIFFE: Then it's 4 o'clock. I will call the Cape Cod Regional Government, Assembly of Delegates to order. It is Wednesday, June 17<sup>th</sup>, 2020, at 4 o'clock. This meeting is held through remote participation by the Assembly of Delegates and interested parties, and this will be by order of Massachusetts Governor Charles Baker suspending certain provisions of the Open Meeting Law.

We will start with a moment of silence to honor our troops who have died in service to our country, all those serving our country in the Armed Forces, and those who have lost their lives to COVID and the frontline responders.

(Moment of silence.)

Speaker MCAULIFFE: Thank you.

We'll have the Pledge of Allegiance now.

(Pledge of Allegiance.)

Speaker MCAULIFFE: Will the Clerk please call the roll?

**Roll Call Attendance**

**Present (85.39%):** Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Lilli-Ann Green - (1.27% - Wellfleet), 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 – left meeting @ 5:00 P.M.), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Brian O'Malley (1.36% - Provincetown), Randi Potash (2.84% - Chatham – left meeting @ 5:30 P.M. ), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).  
**VACANT (14.61%):** Falmouth.

Clerk O'CONNELL: And Falmouth is vacant. Madam Speaker, you have a quorum with 85.39 percent of the Delegates present; 14.61 percent are absent.

Speaker MCAULIFFE: Thank you.

**Approval of the Calendar of Business**

Speaker MCAULIFFE: I'll take a motion to approve the Calendar of Business.

Delegate O'MALLEY: So moved.

Delegate GREEN: Second.

Speaker MCAULIFFE: Any changes? Will the Clerk please call the roll for the vote.

**Roll Call Vote on Approval of the Calendar of Business**

**Voting "YES" (85.39%):** Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Lilli-Ann Green - (1.27% - Wellfleet), 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),

**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).  
VACANT (14.61%): Falmouth.**

**Clerk O’CONNELL: Madam Speaker, the Calendar of Business is approved with 85.39 percent of the Delegates voting yes; 14.61 percent are absent.**

Speaker MCAULIFFE: Thank you.

**Approval of the Journal of Proceedings of 6/3/20**

Speaker MCAULIFFE: Is there a motion to approve the Journal of June 3, 2020?

**Delegate O’MALLEY: So moved.**

**Delegate CHAFFEE: Second.**

Speaker MCAULIFFE: Any additions or corrections?

Delegate O’MALLEY: None.

Speaker MCAULIFFE: Okay. Will the Clerk please call the vote?

**Roll Call Vote on Approval of the Journal of Proceedings of 6/3/20**

**Voting “YES” (85.39%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Lilli-Ann Green - (1.27% - Wellfleet), 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), 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).  
VACANT (14.61%): Falmouth.**

**Clerk O’CONNELL: Madam Speaker, the Journal of June 3, 2020, is approved with 85.39 percent of the Delegates voting yes; 14.61 percent are absent.**

Speaker MCAULIFFE: Okay. Thank you.

**Summary of Communications from the Board of Regional Commissioners**

- **County Administrator Jack Yunits provided delegates with an update of board actions from the past two meeting weeks**
- **Work continues with Special Counsel and CVEC developers on a resolution to solar lease language that will be acceptable to all parties**
- **Delegates were forwarded a 24-page briefing paper composed by the Mass. Police Chiefs which forms the basis of training at the academy in Falmouth**
- **Proposed Ordinance 20-16 was submitted to the Assembly for a licensing agreement to create a temporary trail through the five acres of land owned by the county on Route 132**
- **Three new positions were authorized by the Commissioners**
- **Dredge Manager position interviews beginning soon**
- **COVID19 updates provided by Health Director Sean O’Brien**

Speaker MCAULIFFE: We don't have a Commissioner with us, but we do have a County Administrator. And as part of the County Administrator report, perhaps you could give us a brief summary of your phone call today regarding the leases and the outstanding issues because we still don't have agreement on the leases and that's why they were taken off the agenda.

Administrator JACK YUNITS: That's correct.

Speaker MCAULIFFE: Jack.

Administrator JACK YUNITS: I'd be happy to do that. Let me start with that because it is an important issue. First of all, my compliments to the Speaker on your selection of Nick Scobbo. He's an incredible, respected, and competent professional.

We were hung up today on an issue of guarantee. We have a bond, as you know, in the lease for the construction period, and we have a bond in the lease for the decommissioning period. Attorney Scobbo is concerned that when the attorneys prepared these leases, they did nothing to guarantee us performance in the interim between the beginning and the end. So he's asked them to come back with language that would put a little muscle in that mid period to give us the guarantees that we need financially to make sure these projects are successful.

We went back and forth quite a bit today. The conversation was about 90 minutes. There were seven lawyers involved. And we basically suspended while one of the developers agreed to use language he has used before very successfully in situations such as this. So were going to reconvene when that language is done, and we'll have another update for you after that. So we didn't make a lot of progress today but we talked about a very important issue, and I have 100 percent confidence in the attorney going forward and we'll listen to him very closely.

I think as part of the Commissioners' report, the first thing we talked about again today was the coronavirus update, and Sean O'Brien is on the call. I don't know if you want to get into that tonight, Madam Speaker, but Sean can very briefly bring you up to where we are. The news is actually very good. I did send you earlier today Vaira's latest charts which show the County remains in very, very stable and safe position presently, and we show no uptick from Memorial Day weekend. But Sean is here if you want to get into anything more technical.

Speaker MCAULIFFE: Maybe after your report.

Administrator JACK YUNITS: Okay. Sure.

Speaker MCAULIFFE: Thank you.

Administrator JACK YUNITS: We also had -- the second thing we did today is we had a discussion with the police chiefs of Barnstable County put together by Peter Carnes and Wayne Sampson from the Police Academy regarding the civil disobedience and civil rights protests that are occurring presently across America.

Tonight I forwarded to you a tremendous 24-page briefing paper that was composed by the Mass. Police Chiefs which forms the basis of our training at the academy that was prepared by our codirector Wayne Sampson at the request of President Obama back in 2015. And it will help you with dealing with the constituency and it's basically, in the essence, what the chiefs talked about today; community policing, the value of community policing, the fact that the Cape Cod police are a part of the communities they live in. All good stuff from a number of very good police chiefs. Chief Sonnabend pretty much took the lead for the

Police Chiefs Association but everybody was in concurrence with Chief Sonnabend's presentation.

We also ratified a letter of support today from the Board of Regional Commissioners that they executed last week to support a Municipal Vulnerability Preparedness Grant filed by the Clean Water Coalition of Barnstable and the Town of Barnstable. The purpose being to create an innovative technology and alternative treatment system all around the Shubael Pond project in Barnstable. Shubael Pond is a pond that's been closed due to bacteria for the last two summers and it sits in a neighborhood, an older neighborhood of homes that have mostly failing septic systems. The objective is to get funding to help offset the cost of constructing 30 to 50 innovative and alternative treatment systems from the MASSTC, i.e. George Heufelder and Brian Baumgaertel's group out at the Base, to clean that pond up and do it on an experimental basis to see if these systems will really work on a -- in a comprehensive way to help us offset the cost of mainline sewer.

We also passed the Proposed Ordinance to deal with the licensing agreement for use by number which is the New England Mountain Bike Association to create a temporary trail through the five acres of land that we own on Route 132. The license has an out clause, so if we decide to develop that land or sell it, we can cancel the agreement. And that's coming to you today. I think it's been delivered to Janice already and that ordinance will go before you in due haste.

We authorized three new positions. We authorized the creation of a fully funded microbiologist position. It's all grant funded from DEP and that's to study, believe it or not, viruses in septic systems that may or may not be an issue. It's never been done before in Massachusetts, but if we're going to change how we regulate septic systems, DEP wants to know a little bit more about viruses. So the County got the first grant ever. We have a trailer now set up on the site that's being converted presently to a lab and the microbiologist will work that trailer with George and Brian.

We also created or advertised for the position of emergency health enforcement officers that will be trained to go out to the towns part-time for the summer and help them in code enforcement or safe distancing and whatever else is required by the local boards of health. They'll be trained by us but they'll be working under the local boards of health. And we hope to have five part-time persons hired as quickly as possible and on your streets.

We also hired another grant-funded position. It will be working for the tobacco program and they'll be going out to the towns to instruct kids, in particular, about the dangers of vaping. Again, grant funded by the Commonwealth.

We also picked up three new grants today. The first grant was Department of Justice grant for \$60,000 or fifty-eight five, I believe. That grant is to purchase a mobile testing tent or unit that we can take to the towns in extreme situations like we're having now to run blood tests when needed with the Cape Cod Hospital. We already have the money in for that so this should be a fast process and we could have that tent out this summer.

We also had a grant from HUD for the Homeless Coalition, 152,000 and a grant from CEDS through EDA to the Cape Cod Commission to continue to develop the CEDS program for 140,000.

Foth Engineering, we increased the responsibilities of our consultant. And on this subject, I'll also tell you that we're about to start to interview for the Dredge Manager's position. But Foth is the consultant that we've hired to help us through the process of

reorganizing the dredge program and creating the business plan. And part of the first step was to look at some of the low-lying fruit, and the easiest low-lying fruit was to find a way to better measure the amount of tonnage that we take out when we dredge. We've been using a really antiquated method of doing that and it's almost like a big guess. We feel that using state-of-the-art technology that Foth can offer us that we can get an accurate measure of the pre-dredge and post-dredge surveys and generate more revenue.

There were a number of contracts that were renewed and pretty much that was it for the day.

Delegate O'Malley asked me to mention briefly in my update to you on last Friday I included a series of attachments from -- that were put together by a subcommittee that we created with Extension Services and the Cape Cod Commission, and that that subcommittee has done yeoman's work in addressing the MSW problem here on Cape Cod.

As you know, the prices are starting to run through the roof and there are no alternative solutions created presently to stop that. What we're going to attempt to do through a consultant that will be funded by the County is to find a solution, whether it be expansion of the facility at Bourne, whether it be alternative treatment solutions like gasification. We're also going to measure the cost of transporting it by train as opposed to truck, look at other alternatives, improve our recycling. So the consultant will be hired to do that in partnership with this subcommittee. And my congratulation to the Cape Cod Commission on that great work.

So that pretty much covers it.

Speaker MCAULIFFE: Questions for County administration? Yes, Brian O'Malley.

Delegate O'MALLEY: Jack, please, you referred to a grant from the EPA for the CEDS program, can you -- I don't know the reference.

Administrator JACK YUNITS: Yes, CEDS is a program that the Cape Cod Commission has been running that helps develop downtowns via EDA monies. They use the EDA monies with some of the monies that we get from the Chapter 90 funds or the License Plate Fund. And with these matches, they can do planning and development. Some of the more creative downtown projects that you see across the Cape; the one they're doing in Harwich they did in Dennis Port, Hyannis, some great programs that the Commission has been running over the years. So it's planning and development for the most part, economic development.

Delegate O'MALLEY: Thank you.

Speaker MCAULIFFE: Does anyone else have a -- yes, Jim Killion and then Mary. Jim.

Delegate KILLION: Thank you, Madam Speaker. Good afternoon, Mr. Yunits. Just a couple questions. The first one being you said we got a grant for mobile testing; did you say that was from the DOJ?

Administrator JACK YUNITS: Department of Justice. It's used to support first responders and that's why it's a Department of Justice grant. Principally, this year take, for instance, when the nursing home problems blew up on the Cape, often times it was local police and fire that went in to do the testing. So we'll be there in support of those programs going forward with this system.

Delegate KILLION: Okay. And, secondly, you mentioned the addition of five emergency health enforcement officers; can you go into a little more detail of what their

duties will be --

Administrator JACK YUNITS: Sure.

Delegate KILLION: -- and whose requests those were hired?

Administrator JACK YUNITS: Unlike other years, where restaurants open up at a gradual pace, they start in April and they run through June, they're all going to open up next week probably because we do expect some type of relaxation of the rules regarding spacing on Friday from the Governor's office.

There's not going to be enough inspectors on the streets. So they'll go into the towns that they're requested to serve and work for their boards of health. Just like our summer inspectional officers do presently. This will be a supplemental force that will run out of the County but work for the towns directly. And mostly, Jim, what they'll be doing is they're not going to be issuing citations. That's the Board of Health's work. But they can be issuing guidance to restaurants and other businesses that may need guidance in terms of safe distancing, masks, and so on and so forth so that will be their role as a support -- they will be a support team for the local boards of health.

Delegate KILLION: Okay. So it will be called there as needed by the specific towns?

Administrator JACK YUNITS: That's right. Exactly. And sometimes that might be at night, sometimes it might be during the day. So it will have to be a flexible schedule but it's going to be up to the towns.

Delegate KILLION: Okay.

Speaker MCAULIFFE: Jack, who's -- what's the source of funding for these positions?

Administrator JACK YUNITS: The County. The County. I know I didn't mention it to you today in my opening, but Jack Meade was on the call this morning at the Commissioners' meeting. We've already exceeded our estimates for funding at the Registry despite the huge setback we had in early May. We're about a half a million dollars ahead of our projected 2020 budget.

So that's going to be the source of some of this funding for the towns and that includes the money for the MSW consultant.

Speaker MCAULIFFE: So I'm confused, usually appropriations come before the Assembly; I'm confused on that.

Administrator JACK YUNITS: Yes, but this won't -- right now we have \$250,000 that was already appropriated by the Commissioners in the Emergency Fund to handle the COVID crisis. That's the fund that will be tapped into to fund the health inspectors.

Speaker MCAULIFFE: Okay. Because they're temporary, part-time for the summer?

Administrator JACK YUNITS: Right. The funding for the consultant will have to go back before the Commissioners as well because that will come -- probably have to come out of Unreserved Fund Balance. So that will be the type of transfer that you're referring to right now. But the 250,000 that we appropriated, although it's been beaten up a little bit, there's still 200,000 left in that account presently.

Speaker MCAULIFFE: And was this a request from the towns?

Administrator JACK YUNITS: Yes.

Speaker MCAULIFFE: Thank you. I had recognized Mary Chaffee and then, John, I see your hand. Mary Chaffee.

Delegate CHAFFEE: Thank you, Madam Speaker. I wanted to say that I think that the towns are really going to appreciate having that additional assistance available through the new health inspector positions. Thank you.

And I wanted to just briefly ask you about the other position that you mentioned, the microbiologist, who's going to study the movement of viruses in septic system. That is such an important aspect of septic systems on the Cape, and that's going to add some really important information that will directly influence how we make policy on the Cape.

You mentioned that George was going to be involved; does that mean George Heufelder is going to be involved?

Administrator JACK YUNITS: That's correct. George Heufelder, right.

Delegate CHAFFEE: Right.

Administrator JACK YUNITS: And looking at communities that have the same geographic challenge that we have, we looked at Florida and they've been doing this because their septic systems -- our requirements are about six feet between septic and groundwater. Theirs is three feet. So they're testing all the time for viruses and those are the kind of systems that DEP wants to see us look at.

Delegate CHAFFEE: Thank you.

Speaker MCAULIFFE: John Ohman.

Delegate OHMAN: Thank you, Madam Speaker. Moving on with the Emergency Health Enforcement officers, have you hired the five of them yet?

Administrator JACK YUNITS: No. We just advertised last Friday.

Delegate OHMAN: Advertised. So they'll become available probably in a few weeks?

Administrator JACK YUNITS: Yes, hopefully.

Delegate OHMAN: And how do the towns access that if I want my Town of Dennis or any town on the Cape wants to access it, how do they go about that process? Have they been alerted to that yet?

Administrator JACK YUNITS: Oh yes, it's really easy because Erica runs, Erica Woods runs a Board of Health conference call here every week. So all the towns participate in that call and that's where we got the input that they're going to need help and that's where the direction will come from, from the boards of health and their weekly conference calls.

Speaker MCAULIFFE: Lilli Green.

Delegate GREEN: Thank you, Madam Speaker, and thank you, Mr. Yunits, for the report. I just wanted to clarify the grant for \$60,000 for the mobile testing tent, is that only for emergency first responders in emergencies or is it for the general population?

Administrator JACK YUNITS: That's a great question. We envision -- we envision that system being used for a lot more than just the virus. It will be used probably exclusively for the virus over the next several months for obvious reasons, but it could also be used to do vaccinations in the towns. So we could actually take our nursing staff out to the towns in this unit and provide vaccinations on a periodic basis as requested by the school departments so that we're actually bringing the service to the schools as opposed to having them come here. We do that on a regular basis now. People that travel come to the County. These are the kind of things we could do on the road now.

Delegate GREEN: Thank you.

Speaker MCAULIFFE: Anyone else? Okay. Sean, we have Sean O'Brien. I

think --

Delegate KANAGA: Actually, I raised my hand there if you've got a second.

Speaker MCAULIFFE: Oh, I'm sorry, Chris. I didn't catch it. Okay. Chris Kanaga.

Delegate KANAGA: Thank you, very much. I just wanted to go on the record; it may well be that there are certainly towns who will welcome the additional regulatory assistance, but I do want to be on the record as noting that at least from the feedback I'm getting here having already lost some restaurants permanently for lack of an ability to pay their rents, pay their mortgages, and the regulation of outdoor picnic tables and so forth. There are some towns that may not welcome that. So I just want to emphasize or understand whether this is on request only or if these are going to be sort of at large regulatory enforcement people?

Administrator JACK YUNITS: Yes, that's a great point, and I'm going ask Sean to talk about that when he comes on in just a minute, Chris. But it's something at the reopening conferences that we've that's come up on a number of occasions. I'll tell you, generally speaking, what we're finding in the field is two things.

One, that the restaurateurs and business owners on Cape Cod are just looking for guidance. They want to make it work and they want to do it right. And that's what we're going to, hopefully, provide them with this second force of aides. Like I said, they're not going to be out there ticketing people, that's not going to be their role. Their role is to provide information and guidance to the towns going forward; is that fair to say, Sean?

Director SEAN O'BRIEN: Yes, it is, Jack. So, first, I'm Sean O'Brien; I'm Director of the Department of Health and Environment. So we actually polled the health departments and, yes, they were looking forward to using the system or using these assistants. And so what we've done is we're actually treating it the same way as we do with our summer inspectors. We will be setting up schedules with each town to get that person in their town on specific dates and times. They're basically there working for the local board of health. That's what we do; we go in and we support them, those 15 towns, and that's what these positions are going to do.

So the example would be for Orleans if Bob needed another person to assist with additional inspections because of the increased number of openings at one time, that's what that position would be for.

We're not looking and, unfortunately, we used a term that really was for the advertising purposes. We're looking not as much of enforcement but educators. And folks that can really provide the guidance to those owners but also to work with the boards of health to find out what message that local board wants to get out to the business operations that are out there and that's usually what we serve even with our summer inspectors is that conduit.

Speaker MCAULIFFE: Sean.

Director SEAN O'BRIEN: Yes.

Speaker MCAULIFFE: I think enforcement is an unfortunate term. As you are aware, the Town of Yarmouth and its board of health has been at loggerheads over many issues. I think the general public if they think there are going to be other health enforcements coming in, perhaps emergency health advisors or liaisons or something.

Director SEAN O'BRIEN: Sure.

Speaker MCAULIFFE: But enforcement sounds like they're going to be coming in

and enforcing regulations.

Director SEAN O'BRIEN: Well, if they're doing restaurant inspections though, Madam Speaker, then they are. There are going to be those times where they might be doing a kitchen inspection and it's just a matter of educating that owner and going through and doing an inspection and saying, okay, yeah, you're missing a thermometer in that refrigerator or this refrigerator isn't working. That kind of falls under the enforcement but really to correct it, it all goes back to the local board of health.

So, really, you're right. We should've probably used another term but part of it was we had to get people who were on board that new codes. We couldn't go through another training like we do with our summer staff. We wanted to make sure that people had experience whether it be with building codes, fire codes, or local health codes, housing codes, whatever it may need.

Speaker MCAULIFFE: Thank you. Do you want to give -- I know you don't do the weekly phone calls, and I know Cape Cod Healthcare has stopped its weekly updates or its daily updates and stopped probably almost two weeks ago on COVID. Did you want to just give sort of a final COVID summary of where we are right now?

Director SEAN O'BRIEN: Sure. We're actually in fantastic shape. Yes, we're still seeing cases appear here in Barnstable County, but the numbers are a single-digit increments. So hot off the presses, the numbers that we saw today, we had a three-patient increase from the day before, from yesterday. So we've had 1,497 people test positive for COVID in Barnstable County.

Now the important thing to remember is that is a cumulative number. Probably more than 80 percent of those people have gone through and have recovered from this. So we're seeing those numbers and we're seeing the increase very minor at this point.

We, unfortunately, have had a few more fatalities. That's, unfortunately, the nature of this virus. Our hospitalizations are down here within the County, and it's a fantastic indicator to look at statewide as well. We're under 1,000 patients in hospitals across the Commonwealth of Massachusetts. Just about a month and a half ago, we were at 3,000.

So we're starting to see that, you know, you heard us talk about flattening the curve or coming down from the backside of the curve and we've done that.

And, really, where the shutout needs to go is to the people on the Cape because the folks who live here in Barnstable County did a great job of social distancing, wearing masks, using hand sanitizer, social distancing, everything that's goes along with it and that's allowed this curve to be flattened for our County.

So we're on that backside, and we're going to just keep -- we're just going to keep monitoring over the summer because we do have quite a few people who are going to be coming into the County from out of state, and we do want to make sure -- we do want to make sure that we follow-up and just kind of keep an eye not only for our region but for the state and also for the states that may feed tourists right now, and that's going to be an important business for us to be in all summer.

Speaker MCAULIFFE: Thank you. Anyone have any questions of Sean O'Brien? Okay. Yes, Lilli-Ann Green.

Delegate GREEN: Thank you, Madam Speaker, and thank you, Sean, for all of your hard work and your staff's hard work as well and the report today.

Director SEAN O'BRIEN: Thank you.

Delegate GREEN: I just wanted to get a sense of what's going on in the County as far as testing is concerned?

Director SEAN O'BRIEN: Sure.

Delegate GREEN: Do you still need a doctor's permission? Can you get a test if you don't have symptoms?

Director SEAN O'BRIEN: For a lot of it, yes, the doctor's order is still needed but we are expanding capability. So one of the things that we are doing is we've seen an increase -- we've actually added two additional testing sites or three additional testing sites and one of them there's a little bit of a caveat to it and I'll describe it.

So an additional testing site has been developed at Falmouth Hospital. We still have the site over at Cape Cod Community College that will continue for the foreseeable future, and then Cape Cod Healthcare is going to be entering into agreements with -- we're going to be entering into agreements with the Outer-Cape Health Services and that's who they're going to work with to increase capabilities out there as well.

So with all of that and with increasing the number of tests being available here on the Cape, we should be able to see some additional -- some additional testing come about. And I think even like today, for Wednesday and Thursday, they are doing additional testing for anybody who may have been at any of the rallies or protests, etcetera, over the last couple of weeks. So they are doing that and that's for anybody who was there but also anybody who is -- they could be asymptomatic as well and just to do a quick test.

So we see that this is going to open up, but what we're trying to also do is get out there and really educate people when it comes to testing. Testing is -- when you do the PCR test or the swab test, I think one of the best analogies is it's a Polaroid. It's telling you what you're at right now at that moment where that test was taken and it can change in 48, 24 hours etcetera. You know, so it's trying to find that perfect balance of the right testing.

We've actually asked for additional tests and we want to be able to test folks that are asymptomatic because, quite honestly, we've only tested about 6.6 percent of the people here in Barnstable County between all of the testing locations. We feel that that number should be higher and closer to 20 percent. And so that's one of the things that we have done is we have put some requests in to do that.

One other thing that we're doing -- so, occasionally, we had to respond to long-term care facilities. We're actually going to take that model and make it available for business but also for other neighborhood situations.

So if we had a business, let's say a hotel on the Outer-Cape that had a worker test positive, we would deploy this rapid response team to test that whole -- all of the coworkers who may have had exposure. So if a hundred coworkers had exposure to this person, we could do some rapid testing and that is done by agreement with Cape Cod Healthcare, and they've assured us that they should be able to help us with that testing and we could even potentially have results within five hours.

Delegate GREEN: Impressive. Thank you, very much, and thank you for your hard work to make this happen.

Director SEAN O'BRIEN: Thank you.

Speaker MCAULIFFE: Okay. I think we're all set. Thank you, Sean. Thank you, Jack.

**Public Hearing on Proposed Ordinance 20-15**

**Speaker MCAULIFFE:** Our next item on the agenda is a Public Hearing on Proposed Ordinance 20-15. And this is a FY20 supplemental appropriation for legal services related to the legal review and analysis of the solar leases. So this was for -- this is for \$25,000. It is an appropriation into the FY20 budget so it's this year's budget because the work was done this year.

Initially, we hired an energy attorney who charged \$550 an hour and the bill came in at under \$11,000. We also thought that there would be some legal work done by Attorney Troy, and we wanted to make sure that the County's legal budget was sufficient.

And then as things evolved, we now have the County working with our attorney -- our original energy attorney even though we're no longer working for the Assembly now working for the County. So the sum that is in this ordinance is \$25,000 to cover most of the energy attorney and some of Troy's legal fees regarding the solar leases.

So that's the general information. This is an ordinance for \$25,000 going into the County Legal budget and Legal line item and it would be for not any specific attorney but for the legal services mostly on the solar leases.

**Any comments or questions on that? All right. I'll close the Public Hearing on that then.**

Any communications from Public Officials? No. Any communications from members of the public? No.

We did have some contact from someone who was going to try and communicate but we haven't heard.

Speaker MCAULIFFE: All right. We will go now into the Assembly meeting. The Assembly will convene.

**Assembly Convenes**

**Proposed Ordinance 20-15**

**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 a supplemental appropriation for legal expenses related to review and analysis of proposed solar leases for the county for the Fiscal Year two-thousand and twenty.**

**Section 1.**

**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 Barnstable County Ordinance 19-04, is hereby appropriated 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 Unreserved Fund Balance.**

<b><u>Budget #</u></b>	<b><u>Sub-Program</u></b>	<b><u>Group</u></b>	<b><u>Amount</u></b>
0019102	5235 - Legal Services	2	\$25,000
	Solar Lease Review and Analysis		
<b>TOTAL SUPPLEMENTAL APPROPRIATION</b>			<b>\$25,000</b>

**Speaker MCAULIFFE: So the Proposed Ordinance 20-15 is the FY20 supplemental appropriation for legal expenses related to the solar lease review. I will move that. Is there a second?**

**Delegate GREEN: Second.**

Speaker MCAULIFFE: Okay. Any comments/questions? Okay. John Ohman?

Delegate OHMAN: Yes, it's a quick question. Where is this \$25,000 coming out of? What Reserve Fund is it coming out of?

Speaker MCAULIFFE: Unreserved.

Delegate OHMAN: It's coming out of Unreserved.

Speaker MCAULIFFE: Yes, the Unreserved Fund Balance, yes.

Delegate OHMAN: Thank you.

Speaker MCAULIFFE: Thank you, roll call please.

**Roll Call Vote on Proposed Ordinance 20-15**

**Voting "YES" (84.46%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Lilli-Ann Green - (1.27% - Wellfleet), Elizabeth Harder (5.67% - Harwich), Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02%-Yarmouth), 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 (0.93%): Deborah McCutcheon (0.93% - Truro).**

**VACANT (14.61%): Falmouth.**

**Clerk O'CONNELL: Madam Speaker, Proposed Ordinance 20-15 passes with 84.46 percent of the Delegates voting yes; 15.54 percent are absent. Now known as Ordinance 20-08.**

**Ordinance 20-08**

**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 a supplemental appropriation for legal expenses related to review and analysis of proposed solar leases for the county for the Fiscal Year two-thousand and twenty.**

**Section 1.**

**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 Barnstable County Ordinance 19-04, is hereby appropriated 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 Unreserved Fund Balance.**

<b><u>Budget #</u></b>	<b><u>Sub-Program</u></b>	<b><u>Group</u></b>	<b><u>Amount</u></b>
0019102	5235 - Legal Services	2	\$25,000
	Solar Lease Review and Analysis		
<b>TOTAL SUPPLEMENTAL APPROPRIATION</b>			<b>\$25,000</b>

Speaker MCAULIFFE: Thank you.

**Proposed Resolution 20-04**

**NOW, THEREFORE,**

***BE IT HEREBY RESOLVED: that the Citizens of Barnstable County have been deprived of property and liberty without the consent either of the legislature or themselves, and without compensation. It is not only our right, but our duty to object and to oppose such actions.***

**We support all of those most adversely affected by loss of their property and livelihood, particularly including those in the restaurant, hotel, resort, retail and service businesses. We appeal to our state legislative representatives to immediately act to reverse the unfettered power being exercised by the executive branch of our state government, and to limit in the future those powers in scope and duration so that such abuse of power cannot reoccur.**

Speaker MCAULIFFE: Our next item is the discussion and vote on Proposed Resolution 20-04, and this was presented by Delegate Christopher Kanaga and Delegate John Ohman. Would you like to present the proposed resolution, Chris Kanaga?

Delegate KANAGA: Thank you. Is it proper to read it at this point or can we dispense with the reading or how does that go?

Speaker MCAULIFFE: In case people are live streaming and I don't think it's that lengthy --

Delegate KANAGA: Okay. Proposed Resolution 20-04.

"Now, therefore, be it hereby resolved that the Citizens of Barnstable County have been deprived of property and liberty without the consent of either the legislature or themselves and without compensation. It is not only our right but our duty to object and to oppose such actions.

We support all of those most adversely affected by the loss of their property and livelihood, particularly those in the restaurant, hotel, resort, retail and service businesses. We appeal to our legislative representatives to immediately act to reverse the unfettered power being exercised by the executive branch of our state government, and to limit those powers in scope and duration, so that such abuse of power cannot reoccur."

And I also wanted to mention although I didn't get it in in time not being fully aware of that that Jim Killion of Sandwich was also hoping to sponsor this. May I make --

Speaker MCAULIFFE: So I'll take a motion to put the resolution on the floor.

**Delegate KILLION: So moved.**

Speaker MCAULIFFE: And is there a second?

**Delegate ZUERN: Second.**

Speaker MCAULIFFE: Okay. Chris, do you want to give, you and the proponents or anyone want to give a bit of background?

Delegate KANAGA: I would like to just say something briefly. Basically, this started because I really can't stand being lied to and treated as if I'm ignorant. I've got a doctorate and a post-doctorate degree and I'm a lot of things but ignorant isn't one of them.

So when a politician stands up in Boston and says, "We're in this together. We

understand what you're going through," it's a moment when I say to myself that's a lie and he must think we're stupid because he's getting his salary and his benefits while many people on the Cape have not had revenue for three months. Many can't pay their mortgages. Many, including one of my favorite restaurants here in Orleans, will never open again for that reason.

So to you in Boston, you are not in it with us, and I don't think you do understand. You're making rules that you have no intention of abiding by or experiencing the consequences yourself.

Further, that the executive orders, I believe, are pretty clearly unconstitutional under Article 10 of the Massachusetts Constitution, which says that directly that without action of the people or their representatives you can't make laws, and, obviously, people in this room don't need a civics lesson but that is still the highest law in Massachusetts.

These actions have resulted in hundreds of millions of dollars and to damages to small businesses and their owners, and I believe there's literally a tidal wave of economic fallout coming from this. It's on its way and it's not fully felt yet but this is particularly true of Cape Cod and other seasonal regions. And those are the very people we represent.

So I believe this resolution to still be extremely important even as some of the restrictions are being slightly loosened. I think it's a terrible precedent for the future which if left unaddressed will boomerang on us again someday. Any future governor can now think that he has a blank check by himself to limit or withdraw any personal liberties, any property rights for an unlimited time, unlimited in geography, most all of these things were statewide, unlimited in scope without consent of the governed or their representatives and without any criteria.

So I think -- I don't think I'm alone here in case some people are thinking this is a radical concept. Many states limit emergency powers to 30 days to give the legislatures a chance to act, and every court who has reviewed this executive orders by the governors, and it was five states at my last count; I'm trying to keep up with it but it's difficult, the executive orders have been overturned as unenforceable.

So that's really it. Power by one man is not democracy. We learned in political science preparing for law school that the technical term for the rule by one is tyranny and shouldn't be allowed in present society.

So I would urge you, please, to vote to urge our state legislature on behalf of our citizens to act, to limit these powers so that this does not reoccur. Thank you.

Speaker MCAULIFFE: Thank you. I just want to go to the presenters, Mary, and then I'll come to you. John Ohman.

Delegate OHMAN: Thank you, Madam Speaker. I'm not as broad a thinker as Chris on this matter. I think it's time that the governor turns over back to the local control. I think that we on the Cape have very good citizens. We are very good legislators. We are very good town officials that can handle what we're doing right now in a safe manner. And I think his cast is too broad. He's thinking the same for Boston, Lowell, New Bedford, and Cape Cod.

What Sean's testimony earlier today was how low our numbers are here on the Cape, and there are ways to open up our business and, as Chris said, save our economy here. There are restaurateurs that I know, because I'm in the business, that will never open again because of this. And many may not survive next season because they can't build up enough

reserves to last a whole winter again.

So mine was more of a -- I want this to return to local focus, local administrations and not have it in one person's hand at the state level. Thank you.

Speaker MCAULIFFE: Mary Chaffee.

Delegate CHAFFEE: Thank you, Madam Speaker. Even though we just heard good news about the trends from Sean O'Brien, we know that Massachusetts has been hit really hard by COVID. We have the fifth highest number of cases of any state in the nation. We have had the third highest number of deaths in the nation.

Today, there were over 105,000 cases of COVID totally in Massachusetts, and we've had 7,665 deaths. That's more than the entire population of either Chatham or Orleans.

This resolution asserts that people have been, and this is a quote, "deprived of property and liberty without consent to the legislature," and that is not true.

On March 10, 2020, Governor Baker declared a state of emergency that permitted the Commonwealth to act quickly to respond to the coronavirus pandemic and protect the health and lives of people in Massachusetts. The governor's authority comes from the Civil Defense Act passed by the state legislature in 1950. Governor Baker and his predecessor Governor Deval Patrick have used this law 10 times since the year 2011. The law includes quite a number of specific powers, but it also does provide the governor with broad authority over persons and property from meeting a state of emergency. And, in fact, the seminal United States Supreme Court case, the law of the land about public health and individual rights is the 1905 Massachusetts case *Jacobson v. Massachusetts*. It involved compulsory vaccination and the Court there held that an individual's freedom may be subordinated to the power of the state for the common good, for the common welfare.

There's no treatment for COVID. There's no vaccine. The only thing that we can do is take physical measures to stop the disease transmission. That's what people are counting on. That's what the most vulnerable groups of our population among us are depending on us to do. The governor's lawful orders have used those public health measures to stop the virus's spread. That's why we're hearing about the good trends from Sean O'Brien today.

There are checks in place. First of all, the legislature has taken no action to limit the governor's authority right now, and Governor Baker and some other governors have faced lawsuits. In fact, his order closing gun shops was overturned. And then there's the court of public opinion, and while some people have questioned these orders, the majority of the public in Massachusetts has approved the steps the governor has taken. A poll done by Suffolk University in May showed that 84 percent of respondents approved of Governor Baker's actions in this matter.

The resolution before us also asserts that actions taken by Governor Baker to protect us are an abuse of power. Not so. Abuse of power means malfeasance in office, official misconduct, or the commission of an unlawful act done in an official capacity. The governor has acted within the authority granted to him under state law, so this assertion is wrong.

The bottom line is the governor of the state of Massachusetts has acted within legal authority granted to him by the state legislature 70 years ago. His actions have reduced the spread of disease, loss of life, and harmful impact on the Commonwealth of Massachusetts.

I will vote against this resolution. Thank you.

Speaker MCAULIFFE: Thank you. Brian O'Malley.

Delegate O'MALLEY: Thank you, Madam Speaker, and thanks, very much, to the

Delegate from Brewster for that really excellent synopsis.

I also agree that to call this an abuse of power ignores the public health emergency that we are in. Having served for years as chair of the board of health here in Provincetown, I'm aware of the historic consideration given by the state to the authority of boards of health and is, frankly, largely unimpeded. Any action taken in the furtherance of public health is considered to be legitimate, and it does not necessarily involve the legislature or the public approval. They can shut down a restaurant depriving somebody of their property in the same sense, and that's entirely arbitrary if there's a case of, let's say, hepatitis in a restaurant.

So, I'm not sure that I can buy the case that this is fundamentally different than how we deal with public health issues in our own towns. We say you're constituting a violation; you're constituting a public health threat; you've got to close.

I think that's what we're in here in the COVID, and I would certainly concur that it is that kind of action that's been taken that is the reason why our numbers are trending so really day-by-day. They're going down. They're really looking good.

So, I can't support this and I'm sorry.

Speaker MCAULIFFE: Elizabeth Harder.

Delegate HARDER: Thank you, Madam Speaker. It took me a while to find it. And thank you, Mary, for covering the excellent legal points you made and Doc for covering the medical points.

So I'm just going to speak to the emotional points which are it was absolutely devastating to our local restaurants and businesses to have to shut down the way they did, but it was to save lives. And I happen to believe I'd rather have my constituents alive than dead.

The numbers in the United States compared to any civilized country are beyond incomprehension. They're so bad. And at least Governor Baker had the ability to step up and try to save us and I think that's what he did.

The economic hardship is devastating but that's not because we had to shut down. It's because there was not the proper help given to the companies that had to shut down while we saved lives.

So, I don't think this resolution is the right way to approach this. If you want to make a resolution saying we've got to protect payrolls instead of handing out money to big corporations, I'd be behind that a hundred percent. But if you just -- if you say Charlie Baker was wrong and going against our liberty when he's trying to save our lives, I don't agree with it. Thank you.

Speaker MCAULIFFE: Yes, Linda Zuern and then Lilli-Ann.

Delegate ZUERN: Thank you, Madam Speaker. I don't think Governor Baker tried to save our lives, anyone's lives at all. If he were concerned about that, he would've done something to help the people in the nursing homes and not brought people who are sick back into the nursing homes. More than 60 percent -- I think the percentage is even higher than that now where people who died in nursing homes and similar facilities.

I looked at some of the regulations that have to do with the opening now, and it's just pages and pages of regulations. All our businesses have been affected by it. All our friends have been affected by this. And I saw one comment that said, you know, when an illness or a pandemic occurs, people are quarantined who are sick, and when you start quarantining people who are healthy, that's tyranny, and that's what we're getting from our governor, and I don't trust the legislators to do much better.

But I am so glad that this resolution is before us. Thank you, Chris.

Speaker MCAULIFFE: Patrick, I will get to you. I just recognized Lilli-Ann and then I'll recognize you. Lilli-Ann Green.

Delegate GREEN: Thank you. I as most -- well, as every Delegate is, we're very concerned about the people in our community in Barnstable County who have been adversely impacted by COVID-19 financially, emotionally, and otherwise, which has prompted this resolution.

I could support a resolution to fund a team to look at strategies to help people of all ages who have been adversely impacted. Perhaps we could even put forth a resolution to start by funding for marketing, communications, and social media assistance to support small businesses. This was asked by 45 percent of the 350-plus businesses encompassing all 15 County towns in the recently released Cape Cod Commission report.

We could also include funding for operational assistance, which was asked for by 32 percent of the respondents, and we do have money from the Registry as Jack said earlier in the meeting.

Regarding this resolution, I am continually shocked by the seemingly lack of concern about health and safety of people in our community. It's not just COVID-19 but it seems to be a pervasive attitude that I'm, frankly, baffled about. COVID-19 is a public health issue and I believe Governor Baker has a good plan to open this Commonwealth in a responsible manner. I know he and others and our Cape legislative delegation, our County administration, and employees, and those in our town governments have been working hard to open the Cape safely. I believe most have been doing an extraordinary job under very difficult circumstances and under an inordinate amount of pressure.

I believe we have an obligation as elected officials to do what we can to support good health and safety for Barnstable County citizens and our visitors.

Furthermore, as U.S. citizens, ideologically anyway, we have the rights to life, liberty, and the pursuit of happiness, but you have to have your life in order to have the other two. COVID-19 kills people and makes other people very ill with even lasting health complications. I don't think it's in the best interest of the citizens of Barnstable County to support this resolution, which could put the life and health of people at risk.

And if there is an interest, I look forward to working with other Delegates to draft a different resolution to support strategies to help those adversely impacted. And I do think that there is a lot of hope. When I was at the Barnstable County and Cape and Islands Select Board and Councilors' meeting last Friday, Wendy Northcross was on the meeting too, and she said that, you know, not this past weekend but the weekend before the traffic over the bridge was just 10 percent lower than last year. So, I feel a great deal of hope for this season as far as the businesses in this community. So, thank you for your time.

Speaker MCAULIFFE: Patrick Princi. Yes, Tom, I see you. Thank you.

Deputy Speaker PRINCI: Thanks, Madam Speaker. I like the resolution. The only thing I wish if I could ask the petitioners if they would consider an amendment to soften it a little bit to get that "abuse of power" words out of it.

I don't feel that the governor's abused his powers, especially when he came up with the order on the 10th of March. However, I do agree with a lot that's in the resolution and the fact that we have -- we have a lot of the capabilities here on the Cape on our own to exercise our own standards and our own guidelines. And at this point, I mean here we are, I mean, the

executive order was in March and it's just extended, extended, extended, and now we're going into Fourth of July weekend and it's just -- the small businesses are just the backbone of our community, and if we're not looking out for the small businesses here and giving them more for their short season, then we're really not looking out for the citizens of the Cape as a whole.

I mean, as far as -- I do understand the severity of this COVID. I mean my family's been quarantined. It's hard with two young boys. There are people with underlying health conditions of which I would advise not to go anywhere. But there are people that are healthy, and we are adults and we know how to practice safe, physical distance procedures. And most of the businesses down here are so eager to open, they'll follow any guidelines necessary.

I do just think here we are approaching Fourth of July and something's got to happen here. We need -- our small businesses need relief.

Would the petitioners consider softening it a little bit by striking "abuse of power"?

Speaker MCAULIFFE: You get a thumbs up on that. So let me go to Tom O'Hara and we can formally amend this in a moment.

Deputy Speaker PRINCI: Thank you.

Speaker MCAULIFFE: Tom O'Hara.

Delegate O'HARA: Thank you, Madam Chair. My thoughts are pretty much in line with Delegate Princi's. I think Mary, Brian, and Lilli-Ann, they did a great job explaining Governor Baker's actions. And at the time, I mean, I think that when he first initiated the lockdown pretty much, the self-quarantining it was just that we didn't know what we were facing, what this virus was about, and at that time it may have been the right thing to do.

But then as after a while our numbers on Cape Cod, and this is where I think it should have been dealt with more of as a regional issue because our numbers were not that bad; we looked pretty good overall. Everybody did what they were doing in protecting the elderly and protecting all of the residents. The self-quarantine seemed to work out.

But like you said, Lilli has said that the numbers for traffic moving onto the Cape recently, we're not that far off. The problem is all these restaurateurs were unable to open. They maybe had some outdoor seating, a couple of tables here and there, but the bulk of the people that came down to visit stayed at home. And these businesses need this time to be up on their feet and running. And I think that we could have been watching them all along making sure that there were no spikes in infection of the virus.

I really think that in agreeing with what Pat had just said, I think we need to be taking care of these businesses. I mean, and even if they open at this point, I don't even know if they'll be able to save enough money to be able to open next year because, you know, a lot of them this is all they have. They have the summer months. You know, they shut down in the winter.

But that's what I have to say, and I will support this ordinance either as written or with slight adjustments. Thank you.

Speaker MCAULIFFE: I see Jim Killion's hand up.

Delegate KILLION: Thank you, Madam Speaker. I think many sides of this issue has already been spoken. I'll try to touch on a few points that haven't.

One of my concerns was the arbitrary nature of some of the restrictions that were put in place. They were really never fully explained. You know, I can go into Target and buy a

pair of shoes, but I couldn't go into the Bass Outlet and buy a pair of shoes. Some things were essential, but lottery tickets became essential.

So, I think it's important to look at beyond, what I see the bigger issue here is the separation of powers between the executive and legislative branch. There's absolutely no reason whatsoever why after a period of time, 30 days, 45 days that the governor would not have been forced to go to the legislature to continue this state of emergency.

As has been pointed out here before, this was a totally different scenario back in March. It was all about decreasing the numbers to ensure that our hospital system wasn't overwhelmed. But that emergency, that point has long since passed, and we've gotten beyond that.

And, again, going back to what I see here are structural changes that should be made because this could happen again at another time or something similar, and I do believe that the governor has to have his powers constantly checked by the legislature, and that's why I was enthusiastic about this resolution because I believe it's incumbent upon us as citizens to force our legislature to act and to make sure that in the future when the governor wants to act unilaterally, he needs the consent of the legislature to do so and, therefore, the consent of the people.

Without that, we do not have a democracy, and I think that is the most important take away from all this. Everyone agrees that we want people to avoid this virus if they can. We also have to agree that we have to maintain our democracy in the process.

So I will wholeheartedly be supporting this resolution. Thank you.

Speaker MCAULIFFE: Brian O'Malley.

Delegate O'MALLEY: Thank you, Madam Speaker. I want to just touch on the point that was made that we, here, on the Cape have the capacity to be doing this and do not need to be dictated to by the state. And I speak as someone who very passionately believes that power really ought to be more local than it is. I'm a great believer in bringing control back to the people, to where it actually is important.

But what we know about our capacity to do this on the Cape has already been commented on by several. Number one, we as a County government have no authority whatsoever over most of the issues about opening. This is up to -- in the hands of each local board of health, and I remind everybody what -- that you already know, by and large, boards of health are citizen -- citizen volunteers who don't have particularly great capacity who normally meet once a month and who have been pressed into in the past two months an extraordinary flurry of meetings, decisions; they're overwhelmed.

We understand that restaurants are likely to open in a week or so. But inspections are going to be -- simple inspections are going to be a real cause for problem. I don't think we have the capability to make the hard decisions about the opening curve on our own. We're going to be driven by the statistics that the state collects and that their group of people, their experts, analyze. I don't think we should be trying to take this on ourselves. I'll leave it with that.

Speaker MCAULIFFE: Chris, did you want to talk about the language -- suggested language change?

Delegate KANAGA: I did. And I just want to make --

Speaker MCAULIFFE: I know you gave a thumbs up, but I guess I wanted to formally --

**Delegate KANAGA:** Yes. What I'm suggesting, first of all, I'm not suggesting I have a problem with what was done originally back in March. I'm just suggesting that statewide after three months that -- and after they've closed the emergency hospital and after 600 people -- healthcare workers have been laid off at Cape Cod Hospital, the emergency is over under any rational basis.

**And so I would say we could eliminate from the resolution the comma after duration we could strike "such abuse of power cannot reoccur," and it would probably be more palatable or I think the word was softened in that sense.** But we can't use examples from local boards of health closing a restaurant because they found bacteria there. We can't compare that to a statewide, a lockdown that goes on for three and a half months without legislative action.

So what I'm urging is that this needs to be limited in time. It needs to be limited in scope and probably geography, and there needs to be some rational basis for it and that's it. That's all I'm saying.

Speaker MCAULIFFE: Elizabeth Harder.

**Delegate HARDER:** I disagree with this just because if you look at the states that if anything had nowhere near the caseload that Massachusetts had and their governors reopened and said, "Go ahead," and their numbers are skyrocketing. And the average age on the Cape is old. We are the oldest demographic County in Massachusetts. And, honestly, I miss going out and seeing my friends, and I'd love to go to a bar but then I would have to go deal with my neighbors who are in their 80s and I'm terrified; I don't care if I die but I'm terrified of killing them.

And if you look anywhere where restrictions have been loosened too soon the numbers are going up, up, up and people are dying. And that's why I support keeping things -- I know financially it's devastating and that's what we can work on is making sure that all of our employees, all of our companies, all of our businesses get the money they need but we can't just open things and pray.

Speaker MCAULIFFE: Lilli-Ann Green.

**Delegate GREEN:** Thank you, Madam Speaker. I had the opportunity to listen to a few minutes of Michael T. Osterholm on Fresh Air today. He's an American infectious disease epidemiologist, a Regents Professor, and director of the Center for Infectious Disease Research and Policy at the University of Minnesota.

He made some points and that there are many, many more months ahead and this will be in waves. We need to have -- this is a public health issue. It's not -- I mean I think it's important to separate that out from the financial aspects of this and the emotional trauma of all of this as well.

We can address the financial aspects and the emotional aspects through other resolutions and funding within our County, and I think that's where we should go with this and not try to limit the powers about a public health emergency really.

The other thing he -- the other points I jotted down were he said that there have been 680 healthcare professionals who have died across this country, two-thirds of which were working with COVID patients, so over 400 died trying to help. If people wanted to go ahead and not be careful about this public health issue, would you be willing to sign a waiver not to seek healthcare if you got sick? I mean that was an interesting way to look at it.

Also he said if you drive home drunk from a bar, let's say, or an event and you crash

your car, if you harm yourself that's one thing, but if you harm somebody else, that something else. And that's what we're talking about is we're talking about responsibly opening and not just now for the summer but we're talking about the long haul with this COVID-19 and other situations. And I just think this is a wrong way to approach it. I think there's two separate issues and we should be talking about how do we help people financially get back on their feet, emotionally deal with this crisis and the impacts of COVID-19, and then, you know, and the public health issues are just a whole different ball of wax. There's a whole different strategy. So, I just think this resolution is misguided. Thank you.

Speaker MCAULIFFE: I haven't weighed in yet. I really liked what Jim Killion said. I think that my concern is not that there was an appropriate response for a healthcare emergency in March, my concern is that the emergency hasn't ended. My concern is that whatever the parameters that the legislature is permitting the governor to continue to dictate how things are going to happen have not been shared with the public. The governor has been given authority to move ahead and determine things well beyond what the healthcare emergency was. And I believe the act that's being used does not mention pandemics. It is for emergencies but not disasters and not pandemics.

The legislation that was formed later on for pandemics and health emergencies died in committee. So I'm afraid that the use of an unknown, very frightening disease is perhaps causing people to look the other way when the government isn't operating properly. And I believe that it's the pandemic now and my fear, as people have stated, is in the future what would be the next excuse because we allowed something to go on this time, why would we not let it happen for the next issue?

And I'm not in any way trying to diminish people's thoughts or fears or worries about the future. I think that's one of the reasons why we're all just going along. But I also think that if you want to step back and you want to be a good government person, you need to look at the structure of government and that's where I stand.

And if there's no one else, Terry, you didn't weigh in, and I didn't know if you wanted to say anything, and I wanted to see if Deborah wanted to say anything.

Delegate GALLAGHER: I didn't -- it's better to remain silent and to be thought a fool than open your mouth and remove all doubt.

I will not be supporting this resolution. I think that the governor has been acting in the best interest of the people of Massachusetts. I think the process has been very transparent. He's been holding daily briefings throughout. He's made it clear that his priority is on protecting lives rather than livelihoods. I think that no property has been taken from anyone. I think the resolution focuses much too much on the restaurant sector, which is very important here on Cape Cod, but there are lots and lots of small businesses. I run one myself. I've not been affected by this. I mean I'm staying home but, basically, my business goes on. I think that's true for a lot of people. I agree that places that have reopened too soon are showing resurgence of cases.

I'm reminded of the flu epidemic of 1918 that it started off slow and the second wave was many, many times more devastating. I think we're not out of the first wave of this epidemic. Businesses can recover from failure but people cannot come back from the dead, and I think the governor is acting prudently. I can't support this resolution.

Speaker MCAULIFFE: Thank you. Deborah, did you want to say something? Deborah. Deborah, did you want to say something on the resolution? I don't have her

muted, and I don't hear anything. And I don't see Randi Potash; I don't see her on anymore either.

All right. So, I would say that we're ready for a vote on the resolution -- oh yes, Mary Chafee.

Delegate CHAFFEE: Thank you, Madam Speaker. I also wanted to add this emergency is not over. It is quite likely we will have another wave in the fall. We've studied past pandemics, and there's a good possibility we will have a third wave in the spring before we have a chance to get a safe vaccine available.

This resolution, I've talked about the legal aspects of why I think the Governor's actions have been completely constitutional and completely lawful and have protected the population of Massachusetts.

But I want to point out something else that makes me very uncomfortable with the language that has been crafted in this proposed, very hostile sounding resolution. The language in it says quote, "We support all of those adversely affected, particularly those in the restaurant, hotel, resort, retail, and service businesses." We know businesses are hurting and there's a lot of work underway to address that pain and to safely reopen the economy.

But the folks who crafted this resolution failed to mention a lot of the other people in the state who are hurting just as much if not more. Residents of long-term care, inmates in jails and prisons, people of color, the elderly, some of Massachusetts poorest towns have the highest COVID rate, and I'm uncomfortable that the message that's apparently going to come out of Barnstable County is the only thing we care about is business. Yes, we care about business, but we care about the public; we care about the public health; we care about the common good. And I think that if you vote yes on this, you are saying the only important thing that's important is business.

Speaker MCAULIFFE: Mary Chafee, you certainly are entitled to your opinion, but I, personally, don't like to be categorized as someone who believes in something if I vote a particular way. I think everyone has a right to their opinions and to express themselves and, you know, doesn't have to be shamed.

My feelings come very strongly from the healthcare professions and the school children, which I think is -- they're not specifically addressed in this but they are addressed in the fact that the governor does respond to lobbyists. If you want to play golf, you send a lobbyist.

So I believe that there are many, many issues specific and personal and emotional, but the biggest issue to me is the governmental overreach and that's where my opinion and I don't think we should be necessarily calling people out if they don't agree.

John Ohman.

Delegate OHMAN: Thank you, Madam Speaker. This resolution doesn't ask us -- ask us to open up Cape Cod willy-nilly and in any other manner. It, really, it asks us to let our local officials guide us instead of a broad-based government of the Governor Baker. He has a broadside process where every town of 351 cities and towns in the Commonwealth, we're worried about Cape Cod. And I think that all this does is ask us to return the authority to local government.

And I would like to make the point that Mr. Kanaga offered an amendment, but it was not seconded, and I don't know where you'd like to go with that.

Speaker MCAULIFFE: Good point. Let's go to the amendment.

Deputy Speaker PRINCI: I'll second the amendment.

Speaker MCAULIFFE: Okay. And we'll need to vote on the amendment which is to delete --

Delegate KANAGA: Can I just articulate it?

Speaker MCAULIFFE: -- "so that such abuse of power cannot reoccur."

Clerk O'CONNELL: Madam Speaker.

Speaker MCAULIFFE: Yes.

Clerk O'CONNELL: The crafters are the originator of the proposed resolution -- they can change it if they'd like without necessarily voting on it as amended.

**Speaker MCAULIFFE: Okay. So John Ohman and Chris Kanaga approve of deletion of that language; yes?**

Delegate KANAGA: Yes.

Delegate OHMAN: Yes.

Speaker MCAULIFFE: Okay.

Delegate KANAGA: And may I make one other possible suggestion?

Speaker MCAULIFFE: Change?

**Delegate KANAGA: Change the word "particularly" to including -- the word "including."**

Clerk O'CONNELL: Well, it's your resolution so that's what you're doing, right?

Delegate KANAGA: That's what I would like to do if we could get a second. I mean if John is --

Speaker MCAULIFFE: If John Ohman agrees?

Delegate O'HARA: I'll second that if that's what you want.

**Delegate OHMAN: I agree to that -- to those amendments.**

Speaker MCAULIFFE: Well it would be --

Delegate OHMAN: How about change of language?

Speaker MCAULIFFE: A change to the resolution coming in.

Clerk O'CONNELL: So the two originators have changed some language; they're good with it, so that's what's before you now.

Do you want to call for a vote?

Speaker MCAULIFFE: I see a hand. Jim Killion.

Delegate KILLION: Can you just clarify what actually got changed? Did you just strike the phrase "abuse of power"?

Speaker MCAULIFFE: Yes.

Delegate KILLION: I mean what -- so that was.....

**Clerk O'CONNELL: My understanding, Jim, is the last -- in the second paragraph, the last sentence, you need to put a period after the word "duration" and everything after that would be struck.**

**The second sentence of that paragraph, first word, remove the word "particularly" and replace it with "including"; am I correct?**

**Delegate KANAGA: Correct.**

Clerk O'CONNELL: Okay.

Delegate KILLION: I would just suggest that we can certainly strike the "abuse of power," but I would like the sentiment that we don't want this type of action to occur again. Because I think that was kind of important about going forward to correct this problem and

enforce the legislature to enact something to reign these powers in in the future.

So we can certainly get rid of "abuse of power," but I would like some sentiment there that says we would like these actions curtailed in the future. Instead of maybe -- get rid of the word "abuse" and just put "use."

Delegate KANAGA: Okay. John, do you want to weigh in on that?

Delegate OHMAN: I'm going to defer to my favorite lawyer from Orleans. I have no problem with it. I think it reads very well with the period after duration to get this moving along.

Speaker MCAULIFFE: Chris, it's up to you. Elizabeth, let me just get the language straightened out.

Delegate KANAGA: Okay. Let's -- I believe that the sentiment was that that was overly aggressive to accuse it of abuse of power. It might be misinterpreted as the power that was exercised in March as opposed to the continuing power that is going on now essentially by one man. So, I think we leave that period after duration, change the word "particular" to the word "including," and we can explain the whys as this goes forward.

Speaker MCAULIFFE: Okay.

Delegate KANAGA: And not use the word abuse, yes.

Speaker MCAULIFFE: Okay. Yeah. Elizabeth Harder.

**Delegate HARDER: I think if what Jim wants, if you put the word "future" before "limit" and do "future limit those powers in scope and duration."**

Delegate KILLION: Yes, that makes sense.

Speaker MCAULIFFE: Are you okay with that, Chris Kanaga?

Delegate KANAGA: Yes, I am.

Speaker MCAULIFFE: Okay. The changes are --

Clerk O'CONNELL: Okay. The Clerk needs you to tell me exactly what you're inserting and where.

Delegate KANAGA: Okay. First sentence, second paragraph, "We support all of those most adversely affected by their loss of property and livelihood, including those in the restaurant, hotel, resort, retail, and service businesses."

Second sentence, "We appeal to our state legislative representatives to immediately act to reverse the unfettered power being exercised by the executive branch of our state government" and to -- and to -- I forget what --

Delegate HARDER: And to future limit those powers in scope and duration. Then you have immediately and future, so you've covered both of your requests.

**Clerk O'CONNELL: How about "and to limit in the future"?**

**Delegate KANAGA: Okay. "Limit in the future those powers in scope and duration" period.**

Clerk O'CONNELL: Okay. I got it.

Speaker MCAULIFFE: I don't know -- yes, Lilli-Ann.

Delegate GREEN: I just would like to make a couple of points. You know, there's nobody I think that agrees with local control on this Assembly more than I do, but it's different when it's a public health situation.

And if you look at the people who are on the Outer and Lower-Cape who are not in favor of this, I mean it's the majority. I mean and the other Delegates in many other issues have listened to us, and we're the small towns that where local control is probably -- more

extremely important than in the larger towns. And I just find it odd, I guess, ironic maybe that this is the abuse of power that we're going to call out given the last few years that we've lived through? It's astounding to me. This is about -- this situation is about public health, and I just think that this is wrong, I mean just wrong. Thank you.

Speaker MCAULIFFE: Okay. Anyone else? Elizabeth, you disappeared. Okay. I see no other hand -- oh, yes, Mary Chaffee.

Delegate CHAFFEE: Thank you. To the crafters of the language, the first sentence I think is problematic because it's not factual, the assertion that citizens have been deprived of property and liberty without the consent of the legislature when the legislature gave the governor the authority to take the actions that he did. That statement is not accurate.

Clerk O'CONNELL: Madam Speaker, I see two -- I see number two with two hands raised; I don't know if you see that? I don't know if there's somebody who wanted to speak? Looks like their hand is raised on my -- do you see that?

Speaker MCAULIFFE: No.

Clerk O'CONNELL: Okay.

Speaker MCAULIFFE: I don't see any hands up.

Clerk O'CONNELL: Okay. So, I've got those language changes, and I think everyone understands and heard what they were.

Speaker MCAULIFFE: I think we're ready for the vote.

Clerk O'CONNELL: Okay. All right. Mary Chaffee.

Delegate CHAFFEE: Present.

Clerk O'CONNELL: Terence Gallagher.

Delegate GALLAGHER: No.

Clerk O'CONNELL: Lilli-Ann Green.

Delegate GREEN: We're voting on the amendment; is that correct?

Speaker MCAULIFFE: No.

**Clerk O'CONNELL: You're voting on the Proposed Resolution with the changes agreed to and changed by the proponents of the resolution. So, it includes those language changes.**

Delegate GREEN: I don't think we were as clear as we needed to be when we started the vote.

Speaker MCAULIFFE: Okay. Yes, is that your concern, Mary?

Delegate CHAFFEE: Yes.

Speaker MCAULIFFE: Okay. So this vote we will start over on the vote. This vote is for the proposed resolution as changed by the presenter.

Clerk O'CONNELL: Understood now? Yes.

Delegate CHAFFEE: Yes.

#### **Roll Call Vote on Proposed Resolution 20-04**

**Voting "YES" (66.47 %): Christopher Kanaga (2.73% - Orleans), James Killion (9.58% - Sandwich), E. Suzanne McAuliffe (11.02%-Yarmouth), Thomas O'Hara (6.49% - Mashpee), John Ohman (6.58% - Dennis), Patrick Princi (20.92% - Barnstable), Linda Zuern (9.15% - Bourne).**

**Voting "NO" (15.15%): Mary Chaffee (4.55% - Brewster), J. Terence Gallagher (2.30% - Eastham), Lilli-Ann Green - (1.27% - Wellfleet), Elizabeth Harder (5.67% -**

Harwich), Brian O'Malley (1.36% - Provincetown).

**ABSENT (3.77%):** Deborah McCutcheon (0.93% - Truro), Randi Potash (2.84% - Chatham).

**VACANT (14.61%):** Falmouth.

Clerk O'CONNELL: Madam Speaker, Proposed Resolution 20-04 inclusive of the language changes made by Delegates Kanaga and Ohman passes with 66.47 percent of the Delegates voting yes; 15.15 percent voting no; 18.38 percent are absent. Now known as Resolution 20-04.

**Resolution 20-04**

**NOW, THEREFORE,**

***BE IT HEREBY RESOLVED:*** that the Citizens of Barnstable County have been deprived of property and liberty without the consent either of the legislature or themselves, and without compensation. It is not only our right, but our duty to object and to oppose such actions.

We support all of those most adversely affected by loss of their property and livelihood, including those in the restaurant, hotel, resort, retail and service businesses. We appeal to our state legislative representatives to immediately act to reverse the unfettered power being exercised by the executive branch of our state government, and to limit in the future those powers in scope and duration.

Speaker MCAULIFFE: Thank you.

Speaker MCAULIFFE: I'm going to get my agenda here. All right.

Our next item, are there any committee reports? I don't believe there are any.

A report from the Clerk.

**Summary Report from the Clerk**

- **Nomination forms for Assembly delegate due to Town Clerks by 7/21/20**
- **Anticipate Falmouth will appoint a delegate by 7/1/20**

Clerk O'CONNELL: Yes, thank you, Madam Speaker. Briefly, I just want to remind anyone who is planning on, and this goes for the general public as well, anyone who is planning on submitting nomination forms, the deadline to submit them to town clerks for certification of signatures is July 21, and then the date after that to get them to me is August 18.

But important to note that I do not have copies of Statements of Financial Interest, the receipt for filing those for all Delegates. So when you submit your nomination form if you've already provided me with a copy of your receipt, you're good to go. If not, that needs to accompany the nomination form when it's submitted to me, not to the Town Clerk but to me.

And I also want to unofficially let you know that the Board of Selectmen in Falmouth on Monday night did discuss the appointment of a Delegate to the Assembly of Delegates. I have not received the official notification yet, but I have it on good authority that it is a

member of the Board of Selectmen, a gentleman by the name of Doug Brown, and as soon as I get the official notification, I will get him sworn in and get all the appropriate paperwork taken care of and, hopefully, he will be on board at the next meeting for July 1.

And, also, I want to let you know that I will be out of the office for several days between now and the end of June coming in for exceptions to deal with the leases and the agenda and the new Delegate. But if you send me an email, I can respond. It's not a problem.

And that's it. That's all I have to report.

### **Summary of Other Business**

- **Delegate from Yarmouth and Speaker of the Assembly, E. Suzanne McAuliffe, announced she will not be seeking reelection**

Speaker MCAULIFFE: Thank you. Anyone have any other business? All right.

I have one item and that is after 33 years and 16 elections I will not be running for reelection this November. And I wanted to make that announcement to you before I announce it to the Yarmouth Board of Selectmen because this gives an opportunity for candidates to get nomination papers. It gives them a month and I know it's only 20 signatures but it's still a tough time to get signatures.

I have spoken to a few people who are interested and, hopefully, we will have a good replacement from Yarmouth in January. I want to thank you for all your support, and we have six more months together.

And I'll take a motion to adjourn.

**Delegate O'MALLEY: So moved.**

**Speaker MCAULIFFE: We are adjourned.** Thank you.

**Whereupon, it was moved to adjourn the Assembly of Delegates at 5:35 p.m.**

**Submitted by:**

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

### **List of materials used at the meeting:**

- **Business Calendar of 6/17/20**
- **Unapproved Journal of Proceedings of 6/3/20**
- **Public Hearing Notice for Proposed Ordinances 20-15**
- **Proposed Ordinances 20-15**
- **Proposed Resolution 20-04**