

NASSAU COUNTY LEGISLATURE

PETER J. SCHMITT,
PRESIDING OFFICER

RULES COMMITTEE

PETER J. SCHMITT,
CHAIRMAN

1550 Franklin Avenue
Mineola, New York

June 4, 2012
1:24 p.m.

REGAL REPORTING SERVICES
516-747-7353

A P P E A R A N C E S:

PETER J. SCHMITT
Chair

HOWARD KOPEL

DENNIS DUNNE (Not Present)

NORMA GONSALVES (Sitting in for Dennis Dunne)

ROSE MARIE WALKER (Not Present)

RICHARD NICOLELLO (Sitting in for Rose Marie Walker)

KEVAN ABRAHAMS
Ranking

JUDY JACOBS

WAYNE WINK

LIST OF SPEAKERS

CHRISTOPHER FIDEL. 6
KENNETH ARNOLD 10
LISA LOCURTO 12
CHRISTOPHER MISTRON. 13
BOB MCMANUS. 14
GREG STEPHANOFF. 16
ROB MARIN. 52
MICHAEL KELLY. 54

INSERTS TO TRANSCRIPT

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Page 83, Line 22 - Page 93, Line 8

2 CHAIRMAN SCHMITT: I'm going to ask the
3 Rules members to take their seats. Please rise
4 for the Pledge of Allegiance, led by Legislator
5 Richard Nicoletto.

6 (Whereupon, the Pledge of Allegiance was
7 recited.)

8 CHAIRMAN SCHMITT: We'll start with the
9 contracts that are on.

10 CLERK MULLER: We have to do a roll
11 call.

12 CHAIRMAN SCHMITT: Yes. We will, then
13 we'll recess, and do the rest of the business
14 after all the other committees have met.

15 I'm substituting in Legislator Gonsalves
16 for Dennis Dunne, and Legislator Nicoletto for
17 Legislator Walker.

18 Would you take the roll, please?

19 CLERK MULLER: Legislator Wink?

20 LEGISLATOR WINK: Here.

21 CLERK MULLER: Legislator Jacobs?

22 LEGISLATOR JACOBS: Here.

23 CLERK MULLER: Ranking Member Legislator
24 Abrahams?

25 LEGISLATOR ABRAHAMS: Here.

2 CLERK MULLER: Legislator Gonsalves,
3 substituting for Legislator Dunne?

4 LEGISLATOR GONSALVES: Present.

5 CLERK MULLER: Legislator Nicoletto,
6 substituting for Legislator Walker?

7 LEGISLATOR NICOLELLO: Here.

8 CLERK MULLER: Vice Chairman Kopel?

9 LEGISLATOR KOPEL: Here.

10 CLERK MULLER: Chairman Schmitt?

11 CHAIRMAN SCHMITT: Here.

12 CLERK MULLER: We have a quorum.

13 CHAIRMAN SCHMITT: Thank you.

14 A-17, authorizing Purchasing to execute a
15 contract between the county and various county
16 agencies and G&K Services Company.

17 May I have a motion, please?

18 LEGISLATOR GONSALVES: So moved.

19 LEGISLATOR NICOLELLO: Second.

20 CHAIRMAN SCHMITT: Moved by Legislator
21 Gonsalves, seconded by Legislator Nicoletto.

22 Any debate -- anybody to speak on this?
23 Tell us about it.

24 MR. FIDEL: Christopher Fidel. I'm with
25 the Department of Public Works.

2 This is just a blanket purchase order for
3 uniform rental and cleaning.

4 CHAIRMAN SCHMITT: Uniform rental and
5 what?

6 MR. FIDEL: Cleaning. Laundering.

7 CHAIRMAN SCHMITT: What will we be
8 renting?

9 MR. FIDEL: Pants. Shirts. Jackets.
10 Smocks for some departments.

11 CHAIRMAN SCHMITT: This is a renewal?

12 MR. FIDEL: It's a replacement of an
13 existing blanket order.

14 CHAIRMAN SCHMITT: Anybody have any
15 questions?

16 (No verbal response.)

17 Any public comment?

18 (No verbal response.)

19 All those in favor please say aye.

20 (Aye.)

21 Next items are A-18, A-19, and A-20,
22 which are all contracts dealing with the
23 Department of Public Works and Enecon Northeast,
24 Department of Public Works and PCS Pump &
25 Process, Department of Public Works Can-USA,

2 Incorporated.

3 May I have a motion, please?

4 LEGISLATOR GONSALVES: So moved.

5 LEGISLATOR NICOLELLO: Second.

6 CHAIRMAN SCHMITT: Moved by Legislator
7 Gonsalves, seconded by Legislator Nicoletto.

8 Who is there? Go ahead, sir.

9 MR. FIDEL: Christopher Fidel,
10 Department of Public Works.

11 The item with Enecon Northeast, that's
12 for metal repair services, to be used for tanks,
13 drive shafts, all kinds of different metal. PCS
14 Pump & Process, that's for the purchase of a pump
15 and replacement parts for sludge pumps down at, I
16 think it was Bay Park -- Cedar Creek, I'm sorry.
17 And Can-USA, that's a blanket order for confined
18 space rescue services, for any time our guys have
19 to go down in a confined space, we can call them
20 in and keep them on standby.

21 CHAIRMAN SCHMITT: This, this confined
22 space operation, is the purpose of this contract
23 to train our personnel or is the purpose --

24 MR. FIDEL: Actually, we have guys that
25 are trained and we do use them normally. This is

2 just if our guys are busy with something else and
3 they're not available to perform confined space
4 rescue, then we call in a contractor.

5 CHAIRMAN SCHMITT: If our guys are not
6 available?

7 MR. FIDEL: You know if we have a lot
8 going on and they're involved in other jobs, then
9 we'll use the contractor.

10 CHAIRMAN SCHMITT: Who decides that?

11 MR. FIDEL: It should be the supervisors
12 down at the plants.

13 CHAIRMAN SCHMITT: Okay. Anybody have
14 any questions?

15 (No verbal response.)

16 Any public comment?

17 (No verbal response.)

18 All those in favor please say aye.

19 (Aye.)

20 Any opposed?

21 (No verbal response.)

22 Items carry unanimously.

23 Next we have B-5 and B-24. B-5 is a
24 contract between the Department of Public Works
25 and Carlo Lizza and Sons Paving. B-24 is a

2 contract with Public Works and AARCO
3 Environmental Services.

4 May I have a motion, please?

5 LEGISLATOR GONSALVES: So moved.

6 LEGISLATOR NICOLELLO: Second.

7 CHAIRMAN SCHMITT: Moved by Legislator
8 Gonsalves, seconded by Legislator Nicolello.

9 Go ahead, sir.

10 MR. ARNOLD: Kenneth Arnold, Public
11 Works.

12 The Carlos Lizza contract is a repaving
13 contract, Phase 22. It's going to cover Bayville
14 Avenue in Bayville, Ludlim Avenue in Bayville,
15 Wover Hollow Road in Upper Brookville, Wheatley
16 Road in Brookville, Glen Avenue, Locust Place,
17 and Prospect Avenue in Sea Cliff, and Shelter
18 Rock Road in North Hills.

19 And then the other contract, AARCO, is
20 our hazardous waste requirements contract. This
21 contract assists the department in the removal of
22 hazardous wastes that are found on job sites or
23 just on any county property.

24 Thank you.

25 CHAIRMAN SCHMITT: Any questions?

2 (No verbal response.)

3 Any public comment?

4 (No verbal response.)

5 All those in favor please say aye.

6 (Aye.)

7 Any opposed?

8 (No verbal response.)

9 The items carry unanimously.

10 E-98 is a contract between the County of
11 Nassau and Rockville Risk Management Associates.

12 Can I have a motion, please?

13 LEGISLATOR GONSALVES: So moved.

14 LEGISLATOR NICOLELLO: Second.

15 CHAIRMAN SCHMITT: Moved by Legislator
16 Gonsalves, seconded by Legislator Nicolello.

17 Who is here to speak on this?

18 MS. LOCURTO: Lisa LoCurto, County
19 Attorney's Office, Deputy County Attorney.

20 This contract is with a company that has
21 experts who can provide us and provide us with
22 estimates for damages to specific types of county
23 properties. They are, in essence, insurance
24 adjusters, which we do not always have the
25 expertise in the county to make an assessment in

2 order to either pay out on claims or to recover
3 from claims. So that is the purpose of this
4 contract.

5 CHAIRMAN SCHMITT: Any questions?

6 LEGISLATOR WINK: Just a quick question.

7 CHAIRMAN SCHMITT: Legislator Wink.

8 LEGISLATOR WINK: Lisa, I was wondering
9 if you could tell me on a typical year how many
10 cases like this do we have that we would utilize
11 these services? Is this a maximum 45,000 or is
12 this a retainer for 45,000?

13 MS. LOCURTO: It's a relatively new
14 program for us. I would think it's a maximum.
15 Hopefully, if we can recover more monies, we may
16 be giving more cases. This is just, I believe, a
17 maximum limit for now.

18 LEGISLATOR WINK: Okay. Do we have any
19 idea of the case volume that we normally deal
20 with?

21 MS. LOCURTO: Normally, there are, I
22 would say, a couple of hundred cases a year that
23 unfortunately we can't recover on because we
24 don't have the expertise to put in what the
25 damage has been to county property. So this will

2 enable us to make better recoveries and quicker
3 recoveries.

4 LEGISLATOR WINK: Okay. Thank you.

5 CHAIRMAN SCHMITT: Any public comment?

6 (No verbal response.)

7 All those in favor please say aye.

8 (Aye.)

9 Any opposed?

10 (No verbal response.)

11 The item carries unanimously.

12 E-125 is a contract, a personal services
13 agreement between the County of Nassau and
14 Dedicated Incorporated.

15 May I have a motion, please?

16 LEGISLATOR GONSALVES: So moved.

17 LEGISLATOR NICOLELLO: Second.

18 CHAIRMAN SCHMITT: Moved by Legislator
19 Gonsalves, seconded by Legislator Nicolello.

20 Yes. Go ahead.

21 MR. MISTRON: Christopher Mistron,
22 Nassau County Traffic Safety, Stop DWI
23 Coordinator.

24 This particular contract is with
25 Dedicated. Marge Lee provides services for

2 victim programs for DWI cases, as well as this
3 particular contract will allow the development of
4 a Spanish-speaking program for DWI.

5 CHAIRMAN SCHMITT: Any questions?

6 (No verbal response.)

7 Any public comment?

8 (No verbal response.)

9 All those in favor please say aye.

10 (Aye.)

11 The item carries unanimously.

12 E-126 and E-127 is district attorney and
13 Family and Children's Association and district
14 attorney's office and ACISS Systems,
15 Incorporated.

16 May I have a motion, please?

17 LEGISLATOR GONSALVES: So moved.

18 LEGISLATOR NICOLELLO: Second.

19 CHAIRMAN SCHMITT: Moved by Legislator
20 Gonsalves, seconded by Legislator Nicolello.

21 MR. MCMANUS: Good afternoon. Bob
22 McManus, District Attorney's Office.

23 The agreement before you with the Family
24 and Children's Association is to utilize federal
25 and state grant funding for a re-entry

2 coordinator to serve individuals recently
3 released from incarceration and to provide
4 internships for the district attorney's Hempstead
5 Community Improvement Project.

6 The second agreement is for -- with ASIS
7 systems is to provide an interface for our
8 existing case management system which is fairly
9 outdated. The services provided by ASIS enables
10 us to link that system with existing case
11 management systems in other county agencies.
12 We're in the process of investigating the
13 possibility of a new case management system. But
14 until we're able to do that, we need these
15 services to continue to use the existing system.

16 CHAIRMAN SCHMITT: Any questions?

17 (No verbal response.)

18 Any public comment?

19 (No verbal response.)

20 All those in favor please say aye.

21 (Aye.)

22 Any opposed?

23 (No verbal response.)

24 The item carries unanimously.

25 MR. MCMANUS: Thank you.

2 CHAIRMAN SCHMITT: Thank you.

3 E-128 is a contract between the police
4 department and C&R Automotive Incorporated, d/b/a
5 AAAA-1 Autobody and Towing.

6 May I have a motion, please?

7 LEGISLATOR NICOLELLO: So moved.

8 LEGISLATOR GONSALVES: Second.

9 CHAIRMAN SCHMITT: Moved by Legislator
10 Nicoletto, seconded by Legislator Gonsalves.

11 Any questions on this item?

12 (No verbal response.)

13 SERGEANT STEPHANOFF: Good afternoon.

14 CHAIRMAN SCHMITT: How are you?

15 SERGEANT STEPHANOFF: Sergeant Greg
16 Stephanoff.

17 Quadruple A-1 Towing has won, from a
18 sealed bid, has won seven zones, and they'll be
19 impounding our cars when the police department
20 deems it necessary to impound a car.

21 CHAIRMAN SCHMITT: Any questions?

22 (No verbal response.)

23 Any public comment?

24 (No verbal response.)

25 All those in favor please say aye.

2 (Aye.)

3 Any opposed?

4 (No verbal response.)

5 The item carries unanimously.

6 We have E-131, E-132, and E-133. They're
7 all contracts between the county attorney and
8 Berkman, Henoch, Peterson, Peddy & Fenchel. Each
9 one of these items is a contract with that firm.

10 May I have a motion, please?

11 LEGISLATOR GONSALVES: So moved.

12 LEGISLATOR NICOLELLO: Second.

13 CHAIRMAN SCHMITT: Moved by Legislator
14 Gonsalves, seconded by Legislator Nicolello.

15 Ms. LoCurto, would you tell us what each
16 one of these cases is?

17 MS. LOCURTO: Certainly. E-131 is a
18 contract in the matter of Matthew Prince. That
19 is a violation of civil rights lawsuit claiming
20 wrongful dismissal. It is a complicated case.

21 E-132 is with regard to Dennis Powers,
22 which is a lawsuit filed by an inmate in the jail
23 for wrongful loss of life. It was a suicide
24 within the jail. There are several named parties
25 in that action, naming a myriad of officers in

2 the jail and in the Medical Center.

3 Contract E-133 is *Peter Solomon v. The*
4 *County*, and that is the case where the county
5 attorney's office successfully had the case of
6 Mr. Solomon dismissed. He is now appealing that
7 decision. That was a unanimous verdict for the
8 county and there is no payout. But the plaintiff
9 is still pursuing his appeal. And we are
10 continuing with that law firm because they were
11 instrumental in working with the county
12 attorney's office in the underlying lawsuit which
13 was ultimately dismissed.

14 CHAIRMAN SCHMITT: In each of these
15 cases this firm has expertise that's relevant to
16 that particular case?

17 MS. LOCURTO: Yes. They have the
18 expertise in these types of litigations in
19 federal court that require substantial and
20 lengthy discovery and experience in the
21 courtroom.

22 CHAIRMAN SCHMITT: Any questions? Hold
23 on a second now. We've got a lot of questions
24 here. If, at any point, during this questioning
25 you feel it's necessary to go into executive

2 session, you'll just tell me please and we'll
3 take care of that.

4 MS. LOCURTO: Thank you.

5 CHAIRMAN SCHMITT: Legislator Nicoletto.

6 LEGISLATOR NICOLELLO: Just to be clear.

7 On E-133, was Berkman's firm the firm that tried
8 the case?

9 MS. LOCURTO: Yes. They were with a
10 deputy county attorney. They tried the case.

11 LEGISLATOR NICOLELLO: So you're just
12 keeping them on to do the appeal since they tried
13 the case?

14 MS. LOCURTO: Correct.

15 LEGISLATOR NICOLELLO: Successfully.

16 MS. LOCURTO: Yes.

17 LEGISLATOR NICOLELLO: Thank you.

18 CHAIRMAN SCHMITT: Legislator Abrahams.

19 LEGISLATOR ABRAHAMS: How are you, Ms.
20 Locurto?

21 MS. LOCURTO: Very good, thank you.

22 LEGISLATOR ABRAHAMS: Good. The cases
23 that impact the correctional center --

24 MS. LOCURTO: Yes.

25 LEGISLATOR ABRAHAMS: Have those changes

2 been rectified? Are changing being rectified?

3 MS. LOCURTO: I'm not quite sure what
4 you mean by that question. I think --

5 LEGISLATOR ABRAHAMS: I don't know if we
6 need to go into executive session.

7 MS. LOCURTO: We may need to go into
8 executive session because I don't want to speak
9 too much relative to the merits of the case.

10 LEGISLATOR ABRAHAMS: Of course.

11 MS. LOCURTO: Obviously, we believe the
12 county did not do anything wrong, and we were
13 proper in how the inmates were taken care of in
14 the jail. Unfortunately, this inmate committee
15 suicide. But I don't think I should discuss any
16 further.

17 LEGISLATOR ABRAHAMS: We can talk about
18 the merits in executive session, if need be.

19 MS. LOCURTO: Certainly.

20 LEGISLATOR ABRAHAMS: In each of these
21 cases --

22 CHAIRMAN SCHMITT: Do you wish to go
23 into executive session?

24 LEGISLATOR ABRAHAMS: No. My next line
25 of questioning, I'm not going to go near that

2 stuff until we go into executive session.

3 CHAIRMAN SCHMITT: Do you think we need
4 to go into executive session?

5 MS. LOCURTO: If we're not going to talk
6 about the substance of the merits of the case --

7 LEGISLATOR ABRAHAMS: No, no. I'm not
8 going to --

9 CHAIRMAN SCHMITT: You tell me if you
10 get uncomfortable.

11 MS. LOCURTO: Okay.

12 LEGISLATOR ABRAHAMS: Thank you.

13 CHAIRMAN SCHMITT: Go ahead, Legislator
14 Abrahams.

15 LEGISLATOR ABRAHAMS: Thank you.

16 My next line of questioning is really
17 tied into timeframes, so I can get a better
18 understanding.

19 When it comes to these contracts, they
20 were initiated by the county attorney's office.

21 MS. LOCURTO: Correct.

22 LEGISLATOR ABRAHAMS: And then were
23 passed on to Berkman, Henoch and Peterson at what
24 point? Can you give me a timeframe of each one?
25 How much work was done with each contract or with

2 each case?

3 MS. LOCURTO: Well --

4 LEGISLATOR ABRAHAMS: Before it was
5 passed on.

6 MS. LOCURTO: As Legislator Nicoletto
7 had discussed, the Solomon case was already a
8 case that was tried and the county was successful
9 and the case was dismissed. So the county did
10 not pay out on that case. Due to the county's
11 success, the petitioner filed an appeal. So it
12 was -- once the appeal was filed, we determined
13 that between the resources of in-house and
14 keeping on Berkman Henoch, since they were
15 successful in helping us try the case and be
16 successful, that they would stay on with us
17 through the appeal process. So that takes care
18 of the one.

19 The Powers case is a notice of claim was
20 filed. We are -- we made an assessment based on
21 a notice of claims --

22 LEGISLATOR ABRAHAMS: You say we; the
23 county attorney's office?

24 MS. LOCURTO: The county attorney's
25 office. We looked at the resources we have in-

2 house. We look at the complexity of the case;
3 what are the demands that the case would put on
4 the office? Do we have the expertise in this
5 particular type of litigation to successfully
6 defend the case? In terms of timeline, we then,
7 after the notice of claim, there's an assessment
8 of the merits of the case and what resources we
9 have, and then we made the determination to
10 retain counsel.

11 Similarly, with the other case, we also
12 had the notice of claim come in and we assessed
13 the complexity and the resources that we had, and
14 it was determined it was best to partner with
15 outside counsel because of the length of the
16 discovery, the type of discovery, and the amount
17 of expertise necessary to be successful in the
18 lawsuit.

19 LEGISLATOR ABRAHAMS: If I'm
20 understanding you correctly, Ms. LoCurto, based
21 on the complexity and the intricacies of the case
22 -- because I was under the impression that the
23 county attorney's office, even though I know you
24 do have lower staff numbers, I was always under
25 the impression that you had bureaus that were

2 able to handle this kind of work. Am I under
3 false impression?

4 MS. LOCURTO: I think you are under a
5 false impression to the extent that there are
6 cases that come into the county attorney's office
7 that need to band greater resources than we
8 currently have because we have had, as all county
9 agencies and departments have had, reduction in
10 staff. Unfortunately, the lawsuits are still
11 coming in daily. In fact, they're growing
12 steadily all the time. So as you have reduced
13 staff and an increase in the number of lawsuits,
14 it requires you to be very cognizant and aware of
15 what resources you have and how best to utilize
16 the resources to maximize the defense for the
17 county and make sure that we are successful in
18 defending it.

19 LEGISLATOR ABRAHAMS: But why these
20 cases? I'm sure there's cases that the county
21 attorney's office takes on themselves.

22 MS. LOCURTO: It depends. Particularly
23 in the jail case, there are over 30 defendants
24 named in the lawsuit, including the county as a
25 whole, the county department, health department

2 and the Medical Center -- I'm sorry -- the
3 Medical Center as well as the correctional
4 facility. So due to the number of witnesses, the
5 types of witnesses that would have to be amassed,
6 the number of defendants in the case, it's going
7 to require extensive discovery and litigation
8 that we feel would tax our current resources.

9 LEGISLATOR ABRAHAMS: And what were the
10 -- if you can, speaking to each item, you had
11 mentioned that obviously these cases have been
12 very extensive. What were the hours that were
13 billable in each of the cases?

14 MS. LOCURTO: The work hasn't begun. As
15 this legislature has told us, they do not want
16 work done --

17 LEGISLATOR ABRAHAMS: That's great.
18 That's excellent. So, based off --

19 MS. LOCURTO: prior to us retaining --

20 LEGISLATOR ABRAHAMS: these contract
21 numbers, when do you anticipate -- how many hours
22 would you anticipate for a case like this, based
23 off these numbers in the contracts?

24 MS. LOCURTO: We put in an initiating
25 fee. You'll see we put an initial fee for the

2 contract as a maximum level. We believe that
3 that will carry us through the current -- we're
4 in June -- from now till the end of the year.
5 Hopefully it will cover those expenses from now
6 until the end of June. I can't predict because
7 unfortunately the nature of litigation, it could
8 be accelerated, it could be decelerated over
9 time. It will depend all on our adversary.

10 LEGISLATOR ABRAHAMS: I guess what I'm
11 driving at -- and I know there are other
12 legislators who want to ask questions. Based off
13 of -- I mean, your assessment and obviously the
14 county attorney's, when you came up with numbers
15 -- I'm reading off the contracts -- for 200,000,
16 120, and 75,000, there had to have been a certain
17 timeframe in your head in terms of how many hours
18 that would translate into. There has to be a
19 certain amount of hours that they're going to --
20 we understand it could go longer, I'll give you
21 that. It could go shorter. But when you gave an
22 amount of \$200,000, that has to produce a certain
23 amount of hours in work. That's what I'm driving
24 at. When you look at each of these items, what
25 was the amount of work in terms of hours that you

2 were expecting from each particular item?

3 MS. LOCURTO: I'm not sure I can give
4 you a definitive answer that would be
5 satisfactory. I think we looked at the number of
6 hours depending on if depositions are going to be
7 scheduled immediately. That would be maybe two,
8 three hours of preparation per litigant. There
9 could be 30 litigants. It could total 200 hours,
10 300 hours. It will depend solely as the case
11 unfolds.

12 LEGISLATOR ABRAHAMS: I understand that.
13 What I'm driving at is how did you get to
14 \$200,000? If you had to backtrack to the
15 \$200,000 number for Item 131, how did you get to
16 that number?

17 MS. LOCURTO: It was a discussion with
18 the outside counsel based on their experience as
19 to how many hours they feel they will need to get
20 up to speed to reading the case, interviewing --

21 LEGISLATOR ABRAHAMS: That was the key
22 phrase you just said, how many hours they would
23 need. What was that number?

24 MS. LOCURTO: I'm sorry?

25 LEGISLATOR ABRAHAMS: You said in your

2 phrasing when I asked you how did they get to
3 this \$200,000, you said this was a discussion
4 with outside counsel in terms of how many hours
5 they would need. What was that number? How many
6 hours would they need?

7 MS. LOCURTO: I didn't specify an hour.

8 LEGISLATOR ABRAHAMS: They didn't
9 specify it to you?

10 MS. LOCURTO: They specified that it may
11 take -- it could take up to 50 hours, it could
12 take 20 hours, but it's based on their
13 experience, what they believe depending on the
14 types of cases and the types of witnesses or
15 defendants that they would have to discuss and --

16 LEGISLATOR ABRAHAMS: I want to make
17 sure I'm not misinterpreting what you just said,
18 Ms. LoCurto. Are you saying that they gave you a
19 number and we're going with that number today?

20 MS. LOCURTO: No. I'm not saying that.

21 LEGISLATOR ABRAHAMS: Who came up with
22 the \$200,000 number?

23 MS. LOCURTO: It was a discussion
24 between us and counsel.

25 LEGISLATOR ABRAHAMS: Counsel meaning?

2 Berkman Henoch and Peterson?

3 MS. LOCURTO: Potential counsel.

4 LEGISLATOR ABRAHAMS: And that number
5 was based off of?

6 MS. LOCURTO: The potential number of
7 hours in other cases that they have worked on.

8 LEGISLATOR ABRAHAMS: Which we can't
9 identify today, the actual amount of hours.

10 MS. LOCURTO: It could be -- I can give
11 you a range of hours that they discussed. It
12 could be as high as 50 hours. It could be as
13 much as 100 hours.

14 LEGISLATOR ABRAHAMS: I'm not trying to
15 give you a hard time, Ms. Locurto. Where I come
16 from, if you make \$20 an hour, you work 40 hours
17 a week, you make \$40,000 a year. If you have
18 \$200,000, there has to be a certain amount of
19 hours you're going to work to get to \$200,000.
20 And I just can't believe we don't have those
21 numbers today.

22 MS. LOCURTO: I don't feel comfortable
23 discussing the number of hours with you in this
24 way. I'm more than happy to go through the -- if
25 you -- is that what you're looking for?

2 LEGISLATOR ABRAHAMS: I'm just trying to
3 find what we're getting for \$200,000. That's all
4 I'm trying to find out, is what are we going to
5 get at the end of the day?

6 MS. LOCURTO: I think what we're going
7 to get at the end of the day is, as I said
8 before, you look at the number of depositions,
9 the number of types of witnesses that you're
10 going to have to interview, you're going to have
11 make an appearance in court, you're going to have
12 to either make applications or motions for
13 judgments --

14 LEGISLATOR ABRAHAMS: So they're going
15 to do all of that?

16 MS. LOCURTO: Well, over the course of
17 the litigation as it unfolds, yes, they will have
18 to do that.

19 LEGISLATOR ABRAHAMS: Without asking for
20 more money?

21 MS. LOCURTO: Well, that's what we're
22 hoping to avoid. We are trying to budget out how
23 much we think is going to take from now, if the
24 legislature approves this contract, from June
25 until the end of the year and possibly, as in all

2 litigations, because you'll see that the contract
3 is to completion. Litigations of this nature,
4 because of the complexity, are not going to be
5 solved in six months. They're going to be
6 resolved over a long period of time. So we're --

7 LEGISLATOR ABRAHAMS: So there's a
8 possibility -- I'm sorry. Go ahead.

9 MS. LOCURTO: So we're budgeting out
10 what we think will take us from now till the end
11 of the year and possibly beyond, given the type
12 of litigation that's before us.

13 LEGISLATOR ABRAHAMS: So, basically,
14 what we're seeing today in these cases is not the
15 end amounts, there could be some add-ons.

16 MS. LOCURTO: It could be. Hopefully,
17 it will be, if we are successful in knocking it
18 out in the preliminary stages, hopefully we will
19 not come back. We can't tell at this point
20 because we are still in the preliminary stages.

21 LEGISLATOR ABRAHAMS: I see. Thank you.

22 CHAIRMAN SCHMITT: Legislator Wink.

23 LEGISLATOR WINK: Ms. LoCurto, hi. I
24 apologize. Very often up here we're being called
25 in different directions, in terms of our hearing,

2 while other people are questioning.

3 Mr. Abrahams had asked you a question
4 with regard to the start dates of the contracts
5 and what not, and you indicated that no work gets
6 done until the Rules Committee approves.

7 MS. LOCURTO: Yes. We are endeavoring
8 to try to make sure that the counsel does not
9 begin work. In certain instances it is difficult
10 to do that just because of the intensity of the
11 litigation, you may need to respond as quickly as
12 possible. For example, in the Solomon case, the
13 appeal has already been filed so we are already
14 working with Berkman Henoch to get everything
15 ready to answer that appeal. So some work may
16 have started, but I think the majority of the
17 work on the other two cases has not begun yet.

18 LEGISLATOR WINK: In fact, in the
19 Solomon case, this agreement commenced December
20 31, 2011, according to the agreement.

21 MS. LOCURTO: Correct. Because that's
22 when the notice of appeal was filed. So we were
23 probably speaking -- and that's why I said on
24 that particular case I know we've been working.
25 You have a certain deadline. When the notice of

2 appeal is filed, you have to put in your
3 responses to meet the deadline. We wanted to
4 make sure we were within the county's time to
5 respond and to be proactive in the appeal.

6 LEGISLATOR WINK: Being proactive would
7 have meant coming here a little bit sooner than
8 six months after the commencement date of this
9 agreement.

10 Additionally, the Prince case also has a
11 commencement date of December 31, 2011, and
12 that's a \$200,000 contract. The newbie of the
13 case would be the Dennis Powers case, which
14 commenced March 1, 2012. In every case, we're
15 talking at least three months ago these
16 agreements were commenced before we see hide nor
17 hair of them here at the legislature.

18 I understand that your goal and your
19 intention and your hopes to get approvals before
20 you get work. But I can't imagine in any of
21 these cases there haven't been appearances
22 already, there may have already been motion
23 practice being done, and yet this is the first
24 we're seeing of them.

25 MS. LOCURTO: And all I can say is to

2 reiterate what I said. The county attorney's
3 office must be proactive in defending the county
4 attorney's office. Often times, we will, as is
5 our policy, we have deputy county attorneys
6 working very closely to reduce the amount of cost
7 to outside counsel. But we view it as a
8 partnership with the outside counsel to maximize
9 the amount of expertise and services that a
10 private firm that can provide that sometimes the
11 county attorney's office cannot do for various
12 reasons.

13 I'm not discounting that we have been
14 actively working with the counsel. But it's also
15 for the goal of making sure the county does not
16 forsake making the best possible defense in
17 court.

18 LEGISLATOR WINK: With all due respect,
19 Ms. Locurto, we're talking about \$400,000 for
20 three cases right here; that could buy a lot of
21 county attorneys. It seems to me that while
22 we're second seating every one of these cases,
23 we're paying for somebody else to first seat
24 them. We have a lot of experienced people on the
25 second floor on West Street, and I know many of

2 them. It just strikes me as peculiar that we've
3 gotten to the point now where -- it's almost the
4 worst of both worlds; some hybrid where we're
5 paying some outside counsel to handle X, Y, and
6 Z, but then we're not only overseeing X, Y, and
7 Z, but we're doing A, B, and C so we don't have
8 to pay them, when the people doing A, B, and C
9 could easily be doing the whole thing, A to Z.

10 MS. LOCURTO: While I respect your
11 statement and your thought behind it, I do think
12 -- I want to commend all our deputy county
13 attorneys who have had increased workloads,
14 taking on very difficult cases in addition. To
15 burden them with additional cases or, in cases
16 such as these, which our office, in consultation
17 with our deputy county attorneys has told us what
18 resources, what expertise they need to assist
19 them in being successful in litigating cases. We
20 believe we are acting in the best interests of
21 the county and of our office to make sure all our
22 deputy county attorneys can handle the incredible
23 amount of workload that has increased over the
24 last couple of years.

25 LEGISLATOR WINK: And I appreciate your

2 comments, Ms. Locurto. But I also think it's a
3 question of priority. We're spending \$400,000 on
4 these cases. We'll be spending far in excess of
5 \$2 million in the short term, I would imagine, on
6 outside counsel cases for 2012. It seems to me
7 that that can be reallocated to having people in-
8 house, not only second seating, but being able to
9 handle the entire case. That's where I think
10 we're all heading in this.

11 Thank you.

12 CHAIRMAN SCHMITT: Legislator Nicoletto.

13 LEGISLATOR NICOLELLO: Thank you, Mr.
14 Chairman.

15 These are civil rights litigation cases.
16 We're talking about Prince and Powers, correct?

17 MS. LOCURTO: Correct. And actually,
18 the third one is also a civil rights case.

19 LEGISLATOR NICOLELLO: I just want to
20 focus on those two for now.

21 That means there are allegations of
22 violation of constitutional rights.

23 MS. LOCURTO: Yes.

24 LEGISLATOR NICOLELLO: So they're more
25 complex than your car A, car B, who runs an

2 intersection or somebody trips on a county
3 sidewalk.

4 MS. LOCURTO: Absolutely. The stakes in
5 these cases are much higher because not only can
6 they get monetary damages, but they can get
7 attorney's fees on top of that as well.

8 LEGISLATOR NICOLELLO: So if the
9 plaintiffs win, we have to pay for their
10 attorneys' fees as well.

11 MS. LOCURTO: Correct.

12 LEGISLATOR NICOLELLO: So there's
13 additional exposure to the county.

14 MS. LOCURTO: Correct. And there can be
15 punitive damages as well that are awarded in
16 these cases. It's not the regular torts, car
17 accident, or personal injury case.

18 LEGISLATOR NICOLELLO: Litigation in
19 federal courts is different than state courts,
20 right? You have to learn a whole new universe,
21 in terms of Federal Rules of Civil Procedure and
22 those types of requirements.

23 MS. LOCURTO: Correct.

24 LEGISLATOR NICOLELLO: And the judges in
25 federal court, they tend to be no nonsense. They

2 send you a discovery schedule and you either meet
3 it or they'll hold you in contempt. Is that
4 right?

5 MS. LOCURTO: Correct. And often times,
6 particularly in these specific litigations where
7 you have over 30 or 40 defendants, they are
8 unwilling to hear why you can't get the
9 discovery, as they've set forth, in the deadline.

10 I will say, to commend our deputy county
11 attorneys, in the last two years, the federal
12 judges have said that they've seen great work
13 from the county attorney's office under great
14 strain and difficulty and are still meeting the
15 docket deadlines. So we want to continue to
16 build that goodwill with our federal judges so
17 that they are more predisposed to hear our cases.

18 LEGISLATOR NICOLELLO: The Berkman firm,
19 part of the practice focuses on federal court
20 litigation?

21 MS. LOCURTO: Yes. They have a very
22 wide base.

23 LEGISLATOR NICOLELLO: So in terms of
24 the universe of law firms out there, you knock
25 out the med mal, the ones that do the bread and

2 butter negligence work, criminal defense law.

3 It's really a smaller universe of firms that do
4 civil litigation in federal courts.

5 MS. LOCURTO: Correct.

6 LEGISLATOR NICOLELLO: And you wanted
7 someone that has that experience.

8 MS. LOCURTO: Yes.

9 LEGISLATOR NICOLELLO: In terms of the
10 hours that are required. You can't forecast how
11 many hours in total would be needed, because what
12 if we win summary judgment at the very outset of
13 this case? Then you were talking about a limited
14 number of hours, correct?

15 MS. LOCURTO: Correct.

16 LEGISLATOR NICOLELLO: However, if the
17 matter goes all the way through trial you're
18 talking about a different number.

19 MS. LOCURTO: Correct.

20 LEGISLATOR NICOLELLO: And if in some of
21 these federal civil rights cases you could have
22 five witnesses for depositions or you could have
23 50. Is that right?

24 MS. LOCURTO: Correct.

25 LEGISLATOR NICOLELLO: So you really are

2 just giving a ballpark at this point because you
3 just don't know what's entailed at this point.

4 MS. LOCURTO: Absolutely.

5 LEGISLATOR NICOLELLO: If you set a low
6 limit based on summary judgment, then you're back
7 here in a couple of months. And then if you set
8 another low limit, you're back here in another
9 couple of months. Basically, this number that
10 you're providing us is the most that they can
11 bill or get paid for billing without coming back.

12 MS. LOCURTO: Correct.

13 LEGISLATOR NICOLELLO: And at this point
14 it's a ballpark, depending on what happen in this
15 litigation.

16 MS. LOCURTO: Correct. Hopefully we are
17 successful, as you mentioned, and you can knock
18 out in summary judgment. If we're not, we're
19 still in the case and we still have to proceed to
20 trial.

21 LEGISLATOR NICOLELLO: And that other
22 case that Berkman won, the third case, by winning
23 not only did we avoid paying any damages, but we
24 also avoided the issue of prevailing party, fees,
25 and that type of thing, right?

2 MS. LOCURTO: Correct.

3 LEGISLATOR NICOLELLO: So there's a
4 savings there to the county when we win these
5 cases.

6 MS. LOCURTO: Correct.

7 LEGISLATOR NICOLELLO: Thank you.

8 CHAIRMAN SCHMITT: Legislator Jacobs.

9 LEGISLATOR JACOBS: Thank you.

10 Lisa, I just wanted to mention something
11 to you. I'm sitting here with a 50 page brief,
12 obviously prepared -- decision, obviously
13 prepared by Erica Haber from One West and by
14 Leora Bensorick (phonetic), and they obviously
15 did an excellent job because we were able to get
16 a number of the claims dismissed and knocked out
17 on a summary judgment. And the case I'm talking
18 about is Prince.

19 I guess what I'm saying is that I realize
20 these are very precise, particular cases, but
21 obviously we had two lawyers who did an excellent
22 job already, and that was in-house. Especially
23 in these times around here, to be spending
24 \$400,000 -- this goes back to originally three
25 years ago, and I said that I was very concerned.

2 I know when I first came here to the county 17
3 years ago, everything was being done out of
4 house, and then we brought it all in-house. I'm
5 very concerned when I see certain things, which
6 obviously have been done very well in-house, now
7 going outside. And I find it hard to understand
8 why we put ourselves in that position of spending
9 monies that we probably have the expertise a few
10 feet away.

11 MS. LOCURTO: Well, Leora Bensorick
12 (phonetic) is a deputy county attorney and senior
13 counsel and works in the county attorney's
14 office. She does an excellent job. All the
15 attorneys, deputy county attorneys in the office
16 should be condemned and you should be very proud
17 of the work that they do for the county.

18 There are, however, certain cases, as you
19 will see, there are repeat cases that come up
20 again and again, and the complexity of the cases
21 sometimes require us to better manage cases by
22 attacking them early and head on with the
23 expertise that we need. If this legislative body
24 would love to give every department -- in
25 particular, I'm going to toot my own department -

2 - more money to hire more attorneys, I would be
3 very grateful for that. But given the
4 circumstances of how our finances are at the
5 time, sometimes, depending on the complexity of
6 the case, outside counsel is the better way to go
7 to defend the case effectively.

8 LEGISLATOR JACOBS: I think there are
9 two ways to look at that. It sounds wonderful
10 when you lower the overall budget down when
11 you're doing a budget and then in between keep
12 having cases come before us that require hundreds
13 of thousands of dollars added on. You have to
14 work that all into the bottom line. How much are
15 we spending for out-of-house counsel on certain
16 issues that could be done in-house and keep that
17 a lower figure to begin with. To keep it a lower
18 figure to begin with and then to come to us with
19 certain things -- I'm not a lawyer, so I'm
20 talking to you as John Q. Public out there, and
21 then come here with cases where the groundwork
22 has already been laid by in-house people, I don't
23 see -- I think it's a wash, as far as what you're
24 saying. Come to us with an actual amount, have
25 the people in-house, have them ready and raring

2 to go to represent us rather than paying
3 continuously for outside counsel. And maybe it's
4 two ways of looking at it.

5 I know Mr. Ciampoli and I went at it for
6 a while. He disagrees. He believes in out-of-
7 house; I believe in in-house wherever possible.
8 That's my concern.

9 MS. LOCURTO: Thank you, Legislator.

10 LEGISLATOR JACOBS: I'm done.

11 CHAIRMAN SCHMITT: Legislator Kopel.

12 LEGISLATOR KOPEL: Thank you. Good
13 afternoon, Ms. Locurto.

14 I'm not sure, but I believe that I'm
15 probably the only one on the legislature who
16 actually runs a business and has occasion to
17 purchase this type of service. It happens in my
18 business. We've got lots of lawyers; it's just
19 the nature of things.

20 How many cases of this type can you
21 expect in the course of a year or is it just
22 very, very irregular?

23 MS. LOCURTO: Cases of the particular
24 nature that are before --

25 LEGISLATOR KOPEL: Civil rights. Let's

2 just say civil rights.

3 MS. LOCURTO: There are a plethora of
4 civil rights cases that are filed against the
5 county. On average, I would say we have 2,000 to
6 3,000 cases per year. So you're talking about a
7 tremendous workload for the deputy county
8 attorneys. And the complexity of this particular
9 case, though, you're asking. I want to give it
10 in context. You have a number of lawsuits that
11 are filed every year, and then you have those
12 lawsuits that are particularly onerous and
13 requiring --

14 LEGISLATOR KOPEL: I get that.

15 MS. LOCURTO: great resources.

16 LEGISLATOR KOPEL: I get that. What I'm
17 getting at is there's constant suggestion from
18 many of the members of this panel that perhaps we
19 ought to invest money and keep lots of
20 specialists, if you will, in the county
21 attorney's office. Now, what I'm asking is do we
22 have enough predictable litigation in the various
23 areas for which we get specialists to warrant
24 hiring these people and keeping them on board?
25 What would that cost?

2 MS. LOCURTO: I think because of the
3 nature and complexity of certain cases, to have
4 on retainer all the time an expert of that
5 quality that you're saying, would not be an
6 efficient use of our resources.

7 LEGISLATOR KOPEL: So it's similar to
8 what I've got. In other words, we might have --
9 we've got lots of lawyers who can do various
10 things. But if we've got a labor case, we don't
11 have a labor lawyer on staff. We don't have a
12 labor lawyer on staff. It doesn't pay. Now,
13 we're going to pay a lot more money, Judy, as
14 we're talking about, for this labor lawyer's
15 time, a lot more money. And during the time that
16 we've got this particular case, it might cost us
17 considerably more than it would have cost us to
18 use a staff lawyer, but we don't have the staff
19 lawyer and it doesn't pay to have the staff
20 lawyer on-call, if you will, all the time just in
21 case this kind of case comes up. Is that a
22 similar theory?

23 MS. LOCURTO: Yes. Yes. I understand
24 your point.

25 LEGISLATOR KOPEL: So it actually might

2 be a little bit less expensive to do it this way
3 sometimes,

4 MS. LOCURTO: Yes.

5 LEGISLATOR KOPEL: even if we're paying
6 higher rates?

7 LEGISLATOR JACOBS: Mr. Chairman, I just
8 want to speak to Mr. Kopel.

9 CHAIRMAN SCHMITT: Mr. Kopel are you
10 finished?

11 LEGISLATOR KOPEL: No, no. I'm having a
12 cross discussion.

13 CHAIRMAN SCHMITT: We're going to have
14 some cross discussion here.

15 LEGISLATOR KOPEL: Yes. I'm happy to
16 have that.

17 CHAIRMAN SCHMITT: Mrs. Jacobs, do you
18 want to serve a volley over to Mr. Kopel?

19 LEGISLATOR JACOBS: My point is this.
20 Obviously the reason I held up the paperwork I
21 did is that I understand exactly what you're
22 saying because I did run a business for many
23 years. So I know you have certain expertise in-
24 house and you do have to go out for other things.
25 Obviously, we had enough expertise in-house to

2 reach a pretty positive ending on the summary
3 judgment. That's my point.

4 I'm not saying that maybe we don't have
5 enough --

6 LEGISLATOR KOPEL: Maybe we don't have
7 enough is probably what it is.

8 LEGISLATOR JACOBS: But I'm saying maybe
9 if we had enough, we could save money in the long
10 run.

11 LEGISLATOR KOPEL: I guess that's the
12 real question; do we have enough? Do we have
13 enough and can we profitably hire more people
14 with specific expertise and know that they're
15 going to be used all the time? Would that be a
16 fair way of asking your question?

17 LEGISLATOR JACOBS: I don't know. My
18 question is -- you're a lawyer.

19 LEGISLATOR KOPEL: I'm a recovering
20 lawyer.

21 LEGISLATOR JACOBS: My question is
22 pretty simple. My statement. I don't even know
23 if it's a question. My observation is that we do
24 have people in-house that can do it. They've
25 done it and they've done a very good job of it.

2 It's not a brand new field that we're not used to
3 having. As Ms. Locurto said, this is something
4 that comes to us annually, quite a few times.
5 I'm saying maybe they have to do a study as to
6 really are we saving anything by doing it this
7 way? Personally, having lived through both ways,
8 I think there was much more money saved when it
9 was being done in-house.

10 LEGISLATOR KOPEL: And my current
11 observation is that they are using, I think, the
12 people in-house to do it when they can, and the
13 proof of it is that particular brief that you
14 held up. They are, in fact, using the in-house
15 expertise. It's just a matter of whether it
16 actually is feasible to hire additional in-house
17 expertise for these cases that we have and the
18 complexity of the cases. I guess that's just a
19 question that we have over here.

20 LEGISLATOR JACOBS: I guess good minds
21 can disagree.

22 LEGISLATOR KOPEL: Sure.

23 LEGISLATOR JACOBS: I've just had the
24 experience of working under two different ways of
25 doing it. And I'll stick with what I think.

2 CHAIRMAN SCHMITT: And that's a wrap.
3 That's exactly right. There's two ways to do
4 this. It's been done in the past by doing it
5 with in-house counsel, and it's being done now
6 going to the outside law firms. And it's a
7 matter of a recommendation of the county
8 attorney. The recommendation of the county
9 attorney when County Executive Suozzi was here
10 was to do it in-house, and that's the way it was
11 done. And then the recommendation of the county
12 executive under County Executive Mangano was to
13 go outside, which is why we have these contracts
14 in front of us.

15 I think it's fair, and it's been well
16 heard, and I think it's time to call the
17 question.

18 All those in favor of these three
19 contracts -- I'm sorry. Any public comment?

20 (No verbal response.)

21 All those in favor of these three
22 contracts please signify by saying aye.

23 (Aye.)

24 Any opposed?

25 (Nay.)

2 The item carries by a vote of four to
3 three.

4 E-134 is a resolution authorizing
5 personal services agreement between Public Works
6 and Debruin Engineering.

7 May I have a motion, please?

8 LEGISLATOR GONSALVES: So moved.

9 LEGISLATOR NICOLELLO: Second.

10 CHAIRMAN SCHMITT: Moved by Legislator
11 Gonsalves, seconded by Legislator Nicolello.

12 Hello.

13 MR. ARNOLD: Kenneth Arnold, Public
14 Works.

15 This is an amendment to an existing on-
16 call contract through our environmental
17 construction unit for Debruin to provide
18 engineering services during construction for the
19 ongoing S building reconstruction, digester gas
20 valve construction, and an upcoming project, East
21 Hills pump station.

22 CHAIRMAN SCHMITT: Any questions?

23 (No verbal response.)

24 Any public comment?

25 (No verbal response.)

All those in favor please say aye.

(Aye.)

Any opposed?

(No verbal response.)

The item carries unanimously.

E-135 is a personal services agreement on behalf of the Office of Community Development and Murtha Construction Incorporated.

Can I have a motion, please?

LEGISLATOR GONSALVES: So moved.

LEGISLATOR NICOLELLO: Second.

CHAIRMAN SCHMITT: Moved by Legislator Gonsalves, seconded by Legislator Nicoletto.

Go ahead.

MR. MARIN: Rob Marin, Chief Counsel, Office of Community Development.

This is a personal services contract for a vendor for the led hazard reduction grant, the one-time grant funding award to Nassau County to make houses led safe. The qualification, other than income, is a child six years and under has to reside in the premises or spend up to 1,000 hours a year there, think grandparents.

This contract works essentially like a

2 line of credit. It guarantees the vendor
3 nothing. It just allows them a seat at the
4 table, so to speak, to submit bids in a
5 competitive bid process based on jobs that we
6 identify that are either referred to us by the
7 Department of Health or that we identified
8 through our other programs. This will enable him
9 to submit a bid. If he is the lowest responsible
10 bidder, he will be awarded the contract to
11 perform the work and then be paid off of this
12 contract. This is similar to several agreements
13 that this body has approved in the past.

14 CHAIRMAN SCHMITT: Very good. Any
15 questions?

16 (No verbal response.)

17 Any public comment?

18 (No verbal response.)

19 All those in favor please say aye.

20 (Aye.)

21 Any opposed?

22 (No verbal response.)

23 The item carries unanimously.

24 E-137 is a personal services agreement
25 between the Office of Real Estate Services and

2 Sidney B. Bowne and Son.

3 May I have a motion, please?

4 LEGISLATOR GONSALVES: So moved.

5 LEGISLATOR NICOLELLO: Second.

6 CHAIRMAN SCHMITT: Moved by Legislator
7 Gonsalves, seconded by Legislator Nicoletto.

8 Go ahead.

9 MR. KELLY: Good afternoon. Michael
10 Kelly, Acting Director, Nassau County Office of
11 Real Estate Services.

12 E-137 is a contract with Sidney B. Bowne
13 and Son, LLP, to perform two easements - one, a
14 boundary line easement, and another -- excuse me,
15 boundary line survey, the other an easement
16 survey. The cost is \$9,525.

17 CHAIRMAN SCHMITT: Any questions?

18 (No verbal response.)

19 Any public comment?

20 (No verbal response.)

21 All those in favor please say aye.

22 (Aye.)

23 Any opposed?

24 (No verbal response.)

25 The item carries unanimously.

2 We're going to stand in recess to allow
3 the other committees to meet and then we'll be
4 back. We're in recess.

5 (Whereupon, the Rules Committee recessed
6 at 2:17 p.m.)

7 (Whereupon, the Rules Committee
8 reconvened at 4:39 p.m.)

9 CHAIRMAN SCHMITT: Rules Committee is
10 going to reconvene.

11 We're going to call first all of the
12 items that there is agreement on the part of the
13 minority and the majority to be called as a bulk
14 item. I'll call them all in bulk, so I'm going
15 to read off those items.

16 187 as amended, 321, 322, 329, 341, 342,
17 343, 344, 345, 346, 347, 348, 351, 356, 357, 358,
18 359, 360, 361, 362, 363.

19 May I have a motion, please?

20 LEGISLATOR GONSALVES: So moved.

21 LEGISLATOR NICOLELLO: Second.

22 CHAIRMAN SCHMITT: Moved by Legislator
23 Gonsalves, seconded by Legislator Nicolello.

24 Any public comment?

25 (No verbal response.)

All those in favor please say aye.

(Aye.)

Any opposed?

(No verbal response.)

The ayes have it. Carries unanimously.

Now, Item Number 339 and Item Number 340 are resolutions appointing a Republican commissioner of elections for the County of Nassau and a Democratic commissioner of elections for the County of Nassau.

May I have a motion, please?

LEGISLATOR GONSALVES: So moved.

CHAIRMAN SCHMITT: Moved by Legislator Gonsalves. Can I have a second?

LEGISLATOR NICOLELLO: Second.

CHAIRMAN SCHMITT: Seconded by Legislator Nicolello.

Any debate or discussion?

(No verbal response.)

Any public comment?

(No verbal response.)

All those in favor please say aye.

(Aye.)

Any opposed?

2 (No verbal response.)

3 The ayes have it. The ayes carry
4 unanimously.

5 We now go to Item Number 350, a
6 resolution to authorize the transfer of
7 appropriations heretofore made within the budget
8 for the year 2011.

9 Can I have a motion, please?

10 LEGISLATOR GONSALVES: So moved.

11 LEGISLATOR NICOLELLO: Second.

12 CHAIRMAN SCHMITT: Moved by Legislator
13 Gonsalves, seconded by Legislator Nicolello.

14 Make any discussion in Finance as part of
15 the record, please.

16 (Whereupon, the following is the minutes
17 of the June 4, 2012, Finance Committee meeting
18 pertaining to Clerk Item 350-2012.)

19 I skipped over 350-12, which I'm going to
20 call right now. A resolution to authorize the
21 transfer of appropriations heretofore made within
22 the budget for the year 2011.

23 LEGISLATOR GONSALVES: So moved.

24 LEGISLATOR MUSCARELLA: Second.

25 CHAIRMAN NICOLELLO: Moved by Legislator

2 Gonsalves, seconded by Legislator Muscarella.

3 The item is now before the committee.

4 This is the year-end budget transfers.

5 We have the chief deputy comptroller here who is
6 prepared to answer any questions if there are any
7 questions on this item.

8 Are there any questions?

9 LEGISLATOR DENENBERG: I have questions,
10 Mr. Chairman.

11 CHAIRMAN NICOLELLO: Mr. Denenberg, go
12 ahead.

13 LEGISLATOR DENENBERG: Thank you.

14 First, the year-end -- Mr. Moroney, these
15 are for the year-end budget transfers?

16 MR. MORONEY: Yes.

17 LEGISLATOR DENENBERG: I'm sorry?

18 MR. MORONEY: Yes.

19 LEGISLATOR DENENBERG: In years past,
20 including the last two years, these were always
21 done in February, if not January. Why are they
22 being done so late this year?

23 MR. MORONEY: I'm relatively certain that
24 they were done in the spring of each year prior
25 to the close of the books, at least as long as

2 I've been here.

3 LEGISLATOR DENENBERG: Yeah. We've
4 always closed our books in February.

5 MR. MORONEY: Well, we're talking about
6 the caffer.

7 LEGISLATOR DENENBERG: I'm sorry?

8 MR. MORONEY: I'm talking about the
9 caffer, the audited statement. We close our
10 books in February, but we have certain things
11 that we needed to do over the course of the post
12 closing of the books, which is a technical term.

13 LEGISLATOR DENENBERG: I don't remember
14 these transfers being this late in the past. So
15 your answer is they have been in June in the
16 past?

17 MR. MORONEY: I have testified in the
18 past two Junes.

19 LEGISLATOR DENENBERG: Housing salary
20 transfers, \$2.6 million to cover salaries in the
21 housing department?

22 MR. MORONEY: Yes. That's part of the
23 reconciliation of the grants that's been going on
24 in the housing department.

25 LEGISLATOR DENENBERG: It just seems

2 like for a relatively small budget \$2.6 million
3 being transferred is a lot of money. How could
4 we be that far off?

5 MR. MORONEY: Well, there have been some
6 changes in the department. As the department has
7 shrunken and grants have come to close, we're
8 doing the reconciliations and trying to move the
9 money where it's supposed to be and making sure
10 that the grants are properly reconciled for
11 auditing purposes.

12 LEGISLATOR DENENBERG: But money's being
13 transferred in not out.

14 MR. MORONEY: That's correct.

15 CHAIRMAN NICOLELLO: Mr. Naughton is in
16 the back of the room. I don't know if he has any
17 information. This isn't Mr. Naughton.

18 MR. GRAFT: Good afternoon. George
19 Graft, Deputy Director for Finance for Office of
20 Housing and Community Development. Regarding
21 your question on the salary transfer --

22 LEGISLATOR DENENBERG: Correct. \$2.6
23 million short in the salary line in a department
24 that Mr. Moroney just said was shrinking. It
25 would seem to be that we would be that we would

2 be transferring money out not transferring into.
3 So I'm not sure why we were so short.

4 MR. GRAFT: Yes, our department is
5 shrinking. As a matter of fact, we've gone from
6 98 employees down to the upper 50's right now.
7 The reason is two-fold; on the community
8 development side we've had reductions from the
9 federal government in CDBG and home grants. What
10 we're talking about specifically here with this
11 \$2 million is actually part of the \$6.2 million
12 debt that the county had to incur dealing with
13 the Section 8 Department.

14 LEGISLATOR DENENBERG: Wait. This
15 transfer's to cover the Section 8 Department?

16 MR. GRAFT: This transfer is to cover
17 the shortfalls that had developed in Section 8,
18 yes --

19 LEGISLATOR DENENBERG: And those --

20 MR. GRAFT: over the course of --

21 LEGISLATOR DENENBERG: have developed
22 because we got less grant money?

23 MR. GRAFT: No. Section 8 has nothing
24 to do with that. That's an administrative fee
25 that comes in.

2 LEGISLATOR DENENBERG: Why was our
3 Section 8 administrative fee 2.6 or most of the
4 2.6 above budget?

5 MR. GRAFT: I'm sorry. Repeat the
6 question, please.

7 LEGISLATOR DENENBERG: Why was the
8 Section 8 administrative cost so far above
9 budget?

10 MR. GRAFT: This had to do with over --
11 basically, there were some over appropriations in
12 the number of vouchers that we've since corrected
13 and over the course of that.

14 LEGISLATOR DENENBERG: What does that
15 mean over appropriations in vouchers? The
16 vouchers are higher than we thought they would
17 be? I'm not sure what an over appropriation in a
18 voucher is.

19 MR. MORONEY: There are a series of
20 questions that the housing department has --
21 would be willing to discuss with the members, but
22 I think that would be more appropriate for an
23 executive session. It's dealing with a number of
24 prior years coming forward.

25 LEGISLATOR DENENBERG: If you want to

2 answer in executive session that's fine. I'd
3 like to know an answer before I --

4 MR. MORONEY: I'm not prepared to give
5 that answer, and I think that there may be some
6 issues here that are privileged.

7 LEGISLATOR DENENBERG: You just said it
8 was privileged so you want to do it in executive
9 session, but then you just said you're not
10 prepared to do it in executive session. Am I
11 hearing this right?

12 MR. MARIN: There are certain -- I'm
13 sorry. Rob Marin. There are certain things that
14 we cannot discuss at all. There are certain
15 things that we'd be willing to discuss only in
16 executive session, to the extent based on the
17 questions that are asked.

18 LEGISLATOR DENENBERG: I'm sorry.

19 MR. MARIN: Based on the questions that
20 are asked.

21 LEGISLATOR DENENBERG: I just asked my
22 questions. Which part of that can you discuss?
23 Which part can't you? Which part will you?
24 Which part won't you?

25 MR. MARIN: There were transfers that

2 were made in the Section 8 housing that related
3 to salaries. That's precisely what happened.
4 The background of that is something that there
5 are restraints on, what can be said and what
6 can't be said.

7 CHAIRMAN NICOLELLO: Do we want to -

8 LEGISLATOR DENENBERG: There can't be --
9 I'm sorry.

10 CHAIRMAN NICOLELLO: Do we want to go
11 into executive session? Is there a motion to go
12 to executive session?

13 LEGISLATOR MUSCARELLA: I move it.

14 LEGISLATOR GONSALVES: Second.

15 CHAIRMAN NICOLELLO: Moved by Legislator
16 Muscarella, seconded by Legislator Gonsalves.

17 All in favor of going into executive
18 session signify by saying aye.

19 (Aye.)

20 (Whereupon, the Finance Committee
21 recessed at 3:30 p.m.)

22 (Whereupon, the Finance Committee
23 reconvened at 3:48 p.m.)

24 CHAIRMAN NICOLELLO: We're coming out of
25 executive session. Do we have any more

1 questions? Do we have any more questions on Item
2 350-2012?
3

4 LEGISLATOR DENENBERG: Yes, sir.

5 CHAIRMAN NICOLELLO: Legislator
6 Denenberg.

7 LEGISLATOR DENENBERG: Thank you.

8 On the housing salary transfer, without
9 speaking of the nature of the transfer itself,
10 the backup says the majority of funding to cover
11 the shortfall is coming from the miscellaneous
12 contingency budget. What is the miscellaneous
13 contingency budget?

14 MR. NAUGHTON: Eric Naughton, Budget
15 Director. That's money that the county will
16 traditionally budget for emergencies for
17 contingencies.

18 LEGISLATOR DENENBERG: Is that our
19 reserves?

20 MR. NAUGHTON: No, it's not a reserve
21 because it's part of the operating budget. It's
22 an item that we actually include in the budget.

23 LEGISLATOR DENENBERG: So how much was
24 our miscellaneous contingency budget at the
25 beginning of the year?

2 MR. NAUGHTON: For 2011, let me find out
3 for you. I have to get back to you on that
4 number.

5 LEGISLATOR DENENBERG: You don't know
6 what -- is there anything in 12 for the
7 miscellaneous contingency budget?

8 MR. NAUGHTON: Yes, there is.

9 LEGISLATOR DENENBERG: How much is it
10 for 12?

11 MR. NAUGHTON: We have roughly about \$25
12 million in 2012.

13 LEGISLATOR DENENBERG: Twenty-five
14 million in miscellaneous contingency budget in
15 2012?

16 MR. NAUGHTON: Yes.

17 LEGISLATOR DENENBERG: And that's just
18 to cover any shortfalls that might come up?

19 MR. NAUGHTON: Correct.

20 LEGISLATOR DENENBERG: And 11, you don't
21 know if it was 25 or more or how much we've used
22 so far?

23 MR. NAUGHTON: I don't know the exact
24 number in 11.

25 LEGISLATOR DENENBERG: Okay. So what

2 I'd like to know is how much the miscellaneous
3 contingency budget was in 11 and how much of it
4 was used or will be used by the end of June.

5 MR. NAUGHTON: Will do that for you.

6 LEGISLATOR DENENBERG: Okay. Does Mr.
7 Chalmers -- Mr. Chalmers, do you have those
8 numbers?

9 MR. CHALMERS: No, I do not. I can get
10 those for you.

11 LEGISLATOR DENENBERG: You heard what I
12 said, right Mr. Chalmers?

13 MR. CHALMERS: Yes.

14 LEGISLATOR DENENBERG: Okay. I was
15 calling you up only if you knew the answer. I
16 didn't want to put you on the spot.

17 CHAIRMAN NICOLELLO: Mr. Chalmers, any
18 report that you issue to the minority you're
19 going to issue to the majority, correct?

20 MR. CHALMERS: Absolutely.

21 CHAIRMAN NICOLELLO: Mr. Naughton,
22 before Mr. Chalmers steps up, this emergency
23 contingency fund, budgeted funds, this is
24 something that's new.

25 MR. NAUGHTON: No. The county has done

2 this pretty much most of the years that I've
3 worked here prior. The previous administration
4 had monies sitting in contingency, usually around
5 \$10 million. So it's not unusual.

6 CHAIRMAN NICOLELLO: Okay. Thanks.

7 LEGISLATOR DeRIGGI-WHITTON: Can I just
8 ask a question?

9 LEGISLATOR DENENBERG: I didn't finish.
10 If I could.

11 There are two other transfers that I
12 wanted to ask. The correctional center contract,
13 8.7 million is being transferred into contract
14 expenses from our miscellaneous contingency
15 budget for the correctional center, and that's
16 for the inmate health care.

17 MR. NAUGHTON: That is related to
18 expenses that we had for the Nassau Health Care
19 Corporation. Each year there is a true up of the
20 actual expenses. It came out to be more than was
21 actually assumed in the budget. The budget was
22 contemplated on savings from switching to a
23 private health care. That occurred later than
24 the county had originally planned, so we had to
25 stick with NHCC longer than we expected. Due to

2 that, we incurred greater expenses.

3 LEGISLATOR DENENBERG: How much expenses
4 did we budget and how much was the expenses
5 actually? Obviously, it was 8.7 million more
6 than what was budgeted. But I'm trying to look
7 and see what we budgeted for inmate medical care.

8 MR. NAUGHTON: The 2011 budget was
9 roughly 17 million; the actual expenses was 25
10 million.

11 LEGISLATOR DENENBERG: And at what point
12 did we transfer to the new contractor?

13 MR. NAUGHTON: I believe that was in
14 early June 2011.

15 LEGISLATOR DENENBERG: And how much did
16 we pay to the new contractor?

17 MR. NAUGHTON: I don't have that number
18 offhand. My understanding, we are achieving the
19 savings that we anticipated.

20 LEGISLATOR DENENBERG: I'd like to know
21 how much we paid to the new contractor. I think
22 the number you said was 17 point-something-
23 million was budgeted.

24 MR. NAUGHTON: Correct.

25 LEGISLATOR DENENBERG: Correct?

2 MR. NAUGHTON: Correct.

3 LEGISLATOR DENENBERG: So that would
4 have included whatever went to Nassau Health Care
5 and whatever went to the new contractor, correct?

6 MR. NAUGHTON: No. Unfortunately, the
7 way the budget was developed it had assumed that
8 we weren't going to need NHCC for as long as was
9 needed, and because of that that is why we were
10 over budget.

11 LEGISLATOR DENENBERG: So the 17 million
12 that was budgeted was all for the private
13 operator?

14 MR. NAUGHTON: Correct. And other
15 related hospital expenses.

16 LEGISLATOR DENENBERG: So the private
17 operator, we budgeted 17 million, and we only
18 used the private operator from June.

19 MR. NAUGHTON: Correct.

20 LEGISLATOR DENENBERG: I guess certainly
21 for the minority, I'd like to know how much went
22 to the private operator in 2011 and how much went
23 to Nassau Health Care to make up what should be
24 about \$26 million, if I'm doing my math
25 correctly.

2 MR. NAUGHTON: We'll have that
3 information to you --

4 LEGISLATOR DENENBERG: Is my math right?
5 A total of \$26 million --

6 MR. NAUGHTON: Roughly, about 25.

7 LEGISLATOR DENENBERG: as opposed to the
8 \$18 million that was budgeted.

9 MR. NAUGHTON: That is correct.

10 LEGISLATOR DENENBERG: Okay. I'm sorry.
11 Seventeen million budgeted, almost nine million
12 over would be 26 million.

13 MR. NAUGHTON: Eight and change,
14 correct.

15 LEGISLATOR DENENBERG: Okay.

16 Now, the last transfer that I want to ask
17 about, \$1.6 million is being transferred from a
18 surplus in sewer and storm water district to
19 inter-fund charges. Why are we doing that
20 transfer?

21 MR. NAUGHTON: That money is related to
22 the debt service related to the sewer district.
23 The county, when it crafts the budget, sometimes
24 the estimates for how much is necessary for debt
25 service going out is, sometimes it's more,

2 sometimes it's less. In this case there was
3 insufficient funds allocated for debt service.

4 LEGISLATOR DENENBERG: And that's in the
5 sewer district or the sewer authority?

6 MR. NAUGHTON: SSW.

7 LEGISLATOR DENENBERG: That's why I'm
8 confused. It's sewer and storm water -- there's
9 a district and an authority.

10 MR. NAUGHTON: Correct.

11 LEGISLATOR DENENBERG: So which one is
12 it?

13 MR. NAUGHTON: This would be the
14 district.

15 LEGISLATOR DENENBERG: Okay. Thank you.

16 CHAIRMAN NICOLELLO: Any other
17 questions?

18 LEGISLATOR DeRIGGI-WHITTON: Can I just
19 ask one quick question?

20 CHAIRMAN NICOLELLO: Sure. Legislator
21 DeRiggi-Whitton.

22 LEGISLATOR DeRIGGI-WHITTON: Thank you.
23 The part of this that I don't understand
24 is, if I heard you correctly, we don't know how
25 much is in the miscellaneous contingency budget

2 for 11 right now.

3 MR. NAUGHTON: I don't. But we will
4 have that answer for you either before today's
5 over or before you vote on this in two weeks.

6 LEGISLATOR DeRIGGI-WHITTON: Because
7 you're asking us to transfer, and I did the math
8 real quickly, somewhere around \$15 million from
9 there to these various places. Do we know if we
10 are anywhere close to that?

11 MR. NAUGHTON: Yes. What happens each
12 year is the controller's office does essentially
13 a sweep of where the county has surplus funds and
14 covers the deficit, so they actually verify that
15 these funds exist before this is put together.

16 LEGISLATOR DeRIGGI-WHITTON: Even though
17 we don't know what the balance is right now,
18 you're guaranteeing that we have that much money
19 available to do these transfers?

20 MR. NAUGHTON: That would be accurate.

21 LEGISLATOR DeRIGGI-WHITTON: Okay. I
22 had one other quick question.

23 With these transfers on being -- let's
24 say they were all passed and all done -- where
25 does that leave us with the 11 budget? Is it

2 pretty much -- are we in a deficit, still in the
3 surplus, or where are we with that?

4 MR. NAUGHTON: Depending on what happens
5 with tax cert borrowing, we will either have a
6 small deficit or a deficit of up to about \$50
7 million.

8 LEGISLATOR DeRIGGI-WHITTON: About how
9 many? How much?

10 MR. NAUGHTON: Fifty million.

11 LEGISLATOR DeRIGGI-WHITTON: Fifty
12 million.

13 Other than the tax certs, is there
14 anything else that would account for that
15 deficit?

16 MR. NAUGHTON: I think there's some
17 other small items. I don't know if Mr. Moroney
18 is aware of them. In my conversations with the
19 controller's office, the tax certs, it's roughly
20 43 million and then they feel there could be some
21 other adjustments to go up to about the 50
22 million number.

23 LEGISLATOR DeRIGGI-WHITTON: So another
24 \$7 million that is outstanding or is it money
25 we're expecting to get?

2 MR. NAUGHTON: No, outstanding. Each
3 year, post February, the auditors will go through
4 and they will look at different items and
5 determine different adjustments. From what I've
6 been informed, this year the adjustments could be
7 in the range of about \$7 million.

8 LEGISLATOR DeRIGGI-WHITTON: Seven
9 million. Just, like, going forward, I would
10 really appreciate seeing what is in each balance,
11 what's in each account before you ask us to
12 transfer anything. I feel like we're being
13 irresponsible by transferring money if we don't
14 even know how much money we have in what account.

15 MR. NAUGHTON: I think that's a
16 reasonable request.

17 CHAIRMAN NICOLELLO: Legislator
18 Denenberg.

19 LEGISLATOR DENENBERG: Mr. Chalmers,
20 were you able to get the figure on the
21 miscellaneous contingency budget, how much it was
22 in 11 and how much it's projected in 12?

23 MR. CHALMERS: It was budgeted at \$13.1
24 million. I guess with all those entries -- I'll
25 have to go through all the entries and add them

2 up. I don't have that with me right now.

3 LEGISLATOR DENENBERG: So, Mr. Chalmers,
4 when you say it was budgeted 13.1 million, is
5 that for 2011?

6 MR. CHALMERS: 2011, yes.

7 LEGISLATOR DeRIGGI-WHITTON: This is
8 almost \$17 million.

9 LEGISLATOR DENENBERG: So this is more
10 than what we would have in the miscellaneous
11 contingency budget.

12 MR. CHALMERS: I'd have to go back and
13 add it.

14 CHAIRMAN NICOLELLO: Mr. Chalmers, why
15 don't we let MR. Chalmers take a good look at
16 this and issue a report to the legislators?

17 MR. CHALMERS: I better do that, yes,
18 just to make sure I have it correct.

19 CHAIRMAN NICOLELLO: Any other
20 questions?

21 LEGISLATOR DENENBERG: While Mr.
22 Chalmers was up there. Mr. Chalmers, did you
23 have any other comments on any of these
24 transfers? Our concern is that it's all adding
25 up to more than the miscellaneous contingency

2 budget. For example, with the sewer and storm
3 water, I can't tell if that's the authority or
4 the district.

5 CHAIRMAN NICOLELLO: It was just said
6 about six times, but that's another story. Mr.
7 Chalmers, you can answer the question or you can
8 take the time between the legislative meeting and
9 provide a thorough analysis or you can do both,
10 whatever's your preference.

11 MR. CHALMERS: We have asked -- we're
12 still waiting for information on some of the
13 entries. So we'd rather wait and have a full
14 report by the Full Legislature.

15 LEGISLATOR DENENBERG: Okay.

16 CHAIRMAN NICOLELLO: Okay. Thank you.
17 Any other questions?

18 MR. MORONEY: If I could just add to Mr.
19 Naughton's statement. We identify in the budget
20 where the -- we being the comptroller's office --
21 where the money is located, where there is excess
22 funding. I don't know what the amounts are and
23 I'm not going to represent what the amounts are.
24 But I can indicate to you that he sheets that we
25 sent over to OMB for which they build their

2 requests on are accurately showing that there are
3 funds in the lines that they're being removed
4 from.

5 LEGISLATOR DeRIGGI-WHITTON: There's
6 only one that is coming from another line, the
7 PDH. But most of them are coming from the
8 miscellaneous contingency budget. And if we
9 don't know what the balance is, the last thing we
10 want to do is say we're going to transfer this
11 money and not have the money there and then run
12 into, like, bouncing checks, almost.

13 MR. MORONEY: I understand that. I'm on
14 your side on that one.

15 CHAIRMAN NICOLELLO: Okay. Thank you,
16 Mr. Moroney.

17 Any further questions?

18 (No verbal response.)

19 Any public comment?

20 (No verbal response.)

21 All those in favor of moving this item
22 along to Rules signify by saying aye.

23 (Aye.)

24 Those opposed?

25 (Nay.)

It passes by a vote of four to three.

(Whereupon, the following is the continuation of the June 4, 2012, Rules Committee meeting minutes.)

CHAIRMAN SCHMITT: Any other debate or discussion?

LEGISLATOR ABRAHAMS: Yes. We're actually requesting to go into executive session.

CHAIRMAN SCHMITT: Is this to cover the same areas that were covered in the executive session in Finance?

LEGISLATOR ABRAHAMS: Yes.

CHAIRMAN SCHMITT: I'm going to recommend that we not go into executive session.

LEGISLATOR WINK: Mr. Chairman, were you privy to the executive session that just took place?

CHAIRMAN SCHMITT: No.

LEGISLATOR WINK: And yet you choose not to --

CHAIRMAN SCHMITT: My counsel was. And if it's necessary to go into executive session as the Full Legislature so that the legislators who are not here today can hear what's going on,

2 that's the appropriate time to do it. To sit
3 here and go over the same thing again is just a
4 waste of time.

5 LEGISLATOR WINK: Mr. Chairman, do you
6 normally put your hands over your ears, your
7 eyes, or your mouth when it comes to see no evil,
8 hear no evil.

9 CHAIRMAN SCHMITT: Perhaps around your
10 neck.

11 LEGISLATOR WINK: From what I'm hearing
12 --

13 CHAIRMAN SCHMITT: Any other debate or
14 discussion on this item?

15 (No verbal response.)

16 Is there any other debate or discussion
17 on this item?

18 LEGISLATOR WINK: I make a motion to go
19 into executive session.

20 CHAIRMAN SCHMITT: Motion's been made to
21 go into executive session.

22 LEGISLATOR ABRAHAMS: Second.

23 CHAIRMAN SCHMITT: Motion made to go
24 into executive session has been made and
25 seconded.

2 All those in favor of going into
3 executive sessions please say aye.

4 (Aye.)

5 All opposed?

6 (Nay.)

7 Motion fails.

8 Now, on the question. All those in favor
9 please say aye.

10 (Aye.)

11 Any opposed?

12 (Nay.)

13 Let the item show that -- let the record
14 show that the item --

15 LEGISLATOR ABRAHAMS: Mr. Schmitt, so --

16 CHAIRMAN SCHMITT: Let me finish my
17 sentence before you interrupt.

18 Let the record show that the item carries
19 four to three --

20 LEGISLATOR ABRAHAMS: It's on the item,
21 Mr. Schmitt.

22 CHAIRMAN SCHMITT: four votes of the
23 majority in favor and three votes of the minority
24 against.

25 There is no item. The item has been

2 dispatched.

3 LEGISLATOR ABRAHAMS: No, no, no. Mr.
4 Schmitt, my point of clarification is then that
5 you have no problem with minority counsel
6 counseling those members that were not a part of
7 the executive session?

8 CHAIRMAN SCHMITT: No. What I said to
9 you --

10 LEGISLATOR ABRAHAMS: I'm asking you do
11 you have a problem with that? Because myself,
12 Judy Jacobs, and Wayne Wink were not briefed.
13 Our counsel was briefed. Would you have a
14 problem with our counsel briefing us?

15 CHAIRMAN SCHMITT: I would think that's
16 the counsel's job.

17 LEGISLATOR ABRAHAMS: Technically, he
18 was a part of executive session that I was not a
19 part of.

20 LEGISLATOR WINK: Executive session's a
21 funny thing.

22 LEGISLATOR ABRAHAMS: Executive session
23 is a private matter that you have to be a part of
24 --

25 CHAIRMAN SCHMITT: Since your counsel

2 made all kinds of typewritten notes, I'm sure
3 she'll be in a position to advise you.

4 Okay. Item Number 351 is a resolution --
5 I'm sorry -- 352, 353, and 354 are items,
6 resolutions authorizing the assessor to exempt
7 real property taxation -- this is to fix
8 erroneous assessments, in English.

9 353 is to fix erroneous assessments. 354
10 is to fix erroneous assessments.

11 May I have a motion, please?

12 LEGISLATOR GONSALVES: So moved.

13 LEGISLATOR NICOLELLO: Second.

14 CHAIRMAN SCHMITT: Moved by Legislator
15 Gonsalves, seconded by Legislator Nicolello.

16 Please make the Finance part of this as
17 well.

18 (Whereupon, the following is the minutes
19 of the June 4, 2012, Finance Committee meeting
20 pertaining to Clerk Items 352, 353, and 354-
21 2012.)

22 Items 352, 353, 354-2012. 352 and 353
23 are resolutions to authorize the assessor of
24 Nassau County, the County Treasurer, and/or
25 receiver or taxes of the Towns of Hempstead and

2 Oyster Bay, to partially exempt from real
3 property taxation certain real properties located
4 in various school districts.

5 354 is a resolution to authorize the
6 assessor of Nassau County and/or the county
7 treasurer and/or the receiver of taxes of the
8 City of Glen Cove to grant a partial abatement
9 from real property taxation for school and/or
10 municipal tax purposes certain real properties
11 situated in various school districts assessed to
12 designated owners appearing on the assessment
13 rolls for the specified school and/or county
14 years.

15 LEGISLATOR MUSCARELLA: So moved.

16 LEGISLATOR GONSALVES: Second.

17 CHAIRMAN NICOLELLO: Moved by Legislator
18 Muscarella, seconded by Legislator Gonsalves.

19 Any discussion?

20 LEGISLATOR DENENBERG: I have a
21 question. Sorry.

22 CHAIRMAN NICOLELLO: Do we have anyone
23 from the administration to talk about Items 352,
24 353, and 354? Mr. Cestra is making is way up,
25 but I think he has to tie his tie first.

2 LEGISLATOR DENENBERG: We don't care.

3 CHAIRMAN NICOLELLO: We don't care. You
4 can come without the tie.

5 MR. CESTRA: Jeff Cestra, Assessment
6 Unit. Question?

7 LEGISLATOR DENENBERG: Mr. Nicolello,
8 may I ask?

9 CHAIRMAN NICOLELLO: Legislator
10 Denenberg.

11 LEGISLATOR DENENBERG: Most of these are
12 correcting a basic STAR that was erroneously not
13 approved. If the roll has already been finalized
14 and now we're correcting a basic STAR erroneously
15 not approved, where will the money end up coming
16 from?

17 MR. CESTRA: What basically happens is
18 once you approve these petitions, it's going to
19 go to the treasurer's office and the treasurer is
20 going to issue the refund.

21 LEGISLATOR DENENBERG: I know that in my
22 areas, on average, basic STAR might be on average
23 \$1,000 a home. If a basic STAR wasn't approved,
24 the treasurer now is going to issue a refund for
25 something that was state, school tax assessment

2 relief, so the county's going to have to pay for
3 something that otherwise would have been paid for
4 by the state or effectively been paid for by
5 everyone in the district?

6 MR. CESTRA: The school, correct.

7 LEGISLATOR DENENBERG: So why are we
8 paying for a basic STAR erroneously not approved?
9 Isn't it the state that approves the basic STAR
10 to begin with?

11 MR. CESTRA: It's a state-based program,
12 the STAR.

13 LEGISLATOR DENENBERG: Correct.

14 MR. CESTRA: Basically, how it works --

15 LEGISLATOR DENENBERG: It's school tax
16 relief.

17 MR. CESTRA: Basically, how it works is
18 school tax relief, okay. So, therefore, in other
19 words, the state isn't going to necessarily
20 reimburse the county for the refund.

21 CHAIRMAN NICOLELLO: So it has to come
22 out of bonding or operating expenses, right?

23 MR. CESTRA: Correct.

24 LEGISLATOR DENENBERG: No. If STAR
25 comes in, state school tax relief, if it's

2 approved on time --

3 MR. CESTRA: Okay.

4 LEGISLATOR DENENBERG: the state pays
5 the money, the county doesn't.

6 MR. CESTRA: The state will, in other
7 words, give the county money. Okay. But --

8 LEGISLATOR DENENBERG: So now if it's
9 erroneously not approved and we're approving it
10 after the fact, after the assessment roll has
11 been finalized, the county's going to have to pay
12 for this out of its pocket?

13 MR. CESTRA: The state will give the
14 county some money due to the STAR relief,
15 etcetera. Okay. With that, in other words,
16 once, in other words, it's finalized, it's going
17 to go to the treasurer and the treasurer's going
18 to issue the refund. But you have to remember
19 that the state is giving the county X amount of
20 money, okay, because it's a state funded program.

21 LEGISLATOR DENENBERG: So my question,
22 just to go back --

23 MR. CESTRA: If all the basic and
24 enhanced STARS are processed in a timely manner,
25 approved in a timely manner, I am certain, and I

2 have seen it, that the state pays for those
3 programs. They're state school tax relief
4 programs.

5 If, for some reason, a basic STAR
6 application or for people 64 and over with income
7 under about \$80,000 now, get enhanced STAR. If
8 it's not approved on time, does that mean that
9 the county is now going to have to pay the relief
10 instead of the state?

11 MR. CESTRA: Yes.

12 CHAIRMAN NICOLELLO: I think that's
13 correct. If it's done properly and in time, the
14 state reimburses the money. But there is no way
15 to go back if it's incorrectly assessed, to go
16 back then to the state and say we made a mistake,
17 give us additional money. I think then we're on
18 the hook for it.

19 LEGISLATOR DENENBERG: My problem is
20 then how could we -- I'll have to look. Maybe
21 this has been going on for 15 years or not.

22 CHAIRMAN NICOLELLO: I'm sure it has.

23 LEGISLATOR DENENBERG: How could we
24 possibly make a mistake on basic STAR or enhanced
25 STAR? Either you applied for it on time and you

2 qualify -- for basic STAR everyone qualifies as
3 long as you're a homeowner here in Nassau County,
4 and enhanced STAR, really the state is the one
5 who rules whether your income is in there or not.
6 Why are we making a mistake and why are we paying
7 for it? I don't see how it could be made, right?

8 CHAIRMAN NICOLELLO: You're asking a
9 very difficult question. How can a mistake
10 happen? Mistakes happen.

11 LEGISLATOR DENENBERG: But basic STAR,
12 you know, Dave Denenberg, 2340 McCord Avenue,
13 Merrick, you're the homeowner, you're entitled to
14 basic STAR. Enhanced STAR, you know, you have to
15 be older - Vince Muscarella.

16 CHAIRMAN NICOLELLO: We have two
17 individuals at the mic. Ms. Locurto has joined
18 Mr. Cestra. Can you give us an example of a
19 mistake made in the STAR program in which the
20 county then has to --

21 MS. LOCURTO: Recently, in the past year
22 there was basic STAR which everyone in the state
23 was entitled to, enhanced STAR is if you met a
24 certain income threshold. The state just
25 recently passed a new implementation of law which

2 says basic STAR has an income cap, so certain
3 individuals, over 500,000, don't qualify for the
4 basic STAR.

5 It was a relatively new program. It came
6 in the middle of our taxing cycle, unlike the
7 rest of the state because we don't follow the
8 same taxing cycle as the rest of the state. The
9 state then asked us, because we now have to
10 implement an income cap, check the income cap.
11 Some of these cases that might be the reason why.
12 Initially they may have qualified under the old
13 basic STAR, but because of the income cap it was
14 uncertain whether or not they still qualified
15 under the income cap. There were hearings to
16 determine whether or not. If they were
17 successful and we didn't give them the full
18 amount of the cap of the basic because of the
19 income cap, that could be the reason why. You
20 may, in this instance, where in the past you may
21 not have seen these before.

22 CHAIRMAN NICOLELLO: After all is said
23 in done, is there a mechanism in which we can go
24 back to the state?

25 MS. LOCURTO: No, you can't. That's why

we have to make up the difference.

LEGISLATOR DENENBERG: The question is how much is each of these items then? I don't see an amount.

MR. CESTRA: There will be no amount. If you want us to calculate each one and tell us, in other words --

LEGISLATOR DENENBERG: We're passing a resolution. We should know how much it's going to cost us, right?

CHAIRMAN NICOLELLO: We have thousands of these resolutions and all of a sudden --

LEGISLATOR DENENBERG: We never passed a thousand resolutions fixing basic STAR and enhanced STAR.

CHAIRMAN NICOLELLO: We pass resolutions correcting assessments at every meeting.

LEGISLATOR DENENBERG: And we know how much money it is. What are you talking about? You can pass something -- you have the votes. You want to pass something without knowing how much it is that's fine. You're on record passing it without knowing how much it is. But I want to know how much money it is.

2 CHAIRMAN NICOLELLO: Any other
3 questions? He obviously doesn't have that
4 answer. Can you provide that answer to us?

5 LEGISLATOR DENENBERG: Especially when
6 you don't even know if we have the money.

7 MR. CESTRA: I can provide that answer to
8 you, yes.

9 CHAIRMAN NICOLELLO: Can you provide
10 that to us before the legislature, before the
11 Full Legislature in two weeks?

12 MR. CESTRA: Yes. Definitely.

13 CHAIRMAN NICOLELLO: Okay. Any other
14 questions?

15 LEGISLATOR DeRIGGI-WHITTON: I just want
16 to second that. I just think before you ask us
17 to okay something we have to know what the amount
18 is. It's just irresponsible to do it.

19 CHAIRMAN NICOLELLO: Thank you, Mr.
20 Cestra. You're going to provide that information
21 to us within the next two weeks.

22 MR. CESTRA: Yes.

23 CHAIRMAN NICOLELLO: Any other
24 questions?

25 (No verbal response.)

Any public comment?

(No verbal response.)

All those in favor signify by saying aye.

(Aye.)

Those opposed?

(Nay.)

Carries by a vote of four to three.

(Whereupon, the following is the continuation of the minutes of the June 4, 2012, Rules Committee meeting.)

CHAIRMAN SCHMITT: Any other debate or discussion on these items?

(No verbal response.)

Any public comment?

(No verbal response.)

All those in favor please say aye.

(Aye.)

Any opposed?

(No verbal response.)

Let the item show that it carries unanimously.

Now we're going to go to 355. It's a resolution to designate a portion of the county road known as Davis Avenue between Rail Road

2 Avenue and Avenue N as Michael Fischer Way.

3 May I have a motion, please?

4 LEGISLATOR GONSALVES: So moved.

5 LEGISLATOR NICOLELLO: Second.

6 CHAIRMAN SCHMITT: Moved by Legislator
7 Gonsalves, seconded by Legislator Nicoletto.

8 Any debate or discussion?

9 (No verbal response.)

10 Any public comment?

11 (No verbal response.)

12 All those in favor please say aye.

13 (Aye.)

14 Any opposed?

15 (No verbal response.)

16 The item carries unanimously.

17 We now go to the addendum.

18 I'll take a motion to suspend the rules.

19 LEGISLATOR GONSALVES: So moved.

20 LEGISLATOR NICOLELLO: Second.

21 CHAIRMAN SCHMITT: Moved by Legislator
22 Gonsalves, seconded by Legislator Nicoletto.

23 All those in favor of suspending the
24 rules please say aye.

25 (Aye.)

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Opposed?

(No verbal response.)

The rules are suspended.

Now we're going to call Item 368, which is a resolution authorizing the county executive to execute an inter-municipal agreement with the Seaford Fire District in relation to a project to procure 26 Motorola MT-100 portable radios.

May I have a motion, please?

LEGISLATOR GONSALVES: So moved.

LEGISLATOR NICOLELLO: Second.

CHAIRMAN SCHMITT: Moved by Legislator Gonsalves, seconded by Legislator Nicolello.

Any debate or discussion?

(No verbal response.)

Any public comment?

(No verbal response.)

All those in favor please say aye.

(Aye.)

Any opposed?

(No verbal response.)

The item carries unanimously.

I'll take a motion to adjourn.

LEGISLATOR GONSALVES: So moved.

2 LEGISLATOR NICOLELLO: Second.

3 CHAIRMAN SCHMITT: Moved by Legislator
4 Gonsalves, seconded by Legislator Nicoletto.

5 All those in favor of adjourning please
6 say aye.

7 (Aye.)

8 We stand adjourned.

9 (Whereupon, the Rules Committee adjourned
10 at 4:47 p.m.)

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C E R T I F I C A T E

I, FRANK GRAY, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby state:

THAT I attended at the time and place above mentioned and took stenographic record of the proceedings in the above-entitled matter;

THAT the foregoing transcript is a true and accurate transcript of the same and the whole thereof, according to the best of my ability and belief.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of June, 2012.

FRANK GRAY