

NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,
ACTING PRESIDING OFFICER

PLANNING, DEVELOPMENT AND
THE ENVIRONMENT COMMITTEE

NORMA GONSALVES,
CHAIRWOMAN

1550 Franklin Avenue
Mineola, New York

November 5, 2012
3:52 p.m.

REGAL REPORTING SERVICES
516-747-7353

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

NORMA GONSALVES
Chair

DENNIS DUNNE
Vice-Chair

RICHARD NICOLELLO

DENISE FORD (Not Present)

JOSEPH BELESI (Sitting in for Denise Ford)

JUDY JACOBS (Not Present)
Ranking

DLIA DERIGGI-WHITTON (Sitting in for Judy Jacobs)

DAVID DENENBERG

KEVAN ABRAHAMS

LIST OF SPEAKERS

GREG MAY 6
MICHAEL KELLY. 6

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2 CHAIRWOMAN GONSALVES: The Planning,
3 Development and Environment Committee comes to
4 order.

5 We need a motion to suspend the rules.

6 LEGISLATOR DUNNE: So moved.

7 LEGISLATOR NICOLELLO: Second.

8 CHAIRWOMAN GONSALVES: Moved by
9 Legislator Dunne, seconded by Legislator
10 Nicolello.

11 All those in favor signify by saying aye.

12 (Aye.)

13 Any opposed?

14 (No verbal response.)

15 CLERK MULLER: I forgot to do a roll
16 call.

17 CHAIRWOMAN GONSALVES: Okay.

18 CLERK MULLER: Legislator Abrahams?

19 LEGISLATOR ABRAHAMS: Here.

20 CLERK MULLER: Legislator Denenberg?

21 LEGISLATOR DENENBERG: Here.

22 CLERK MULLER: Ranking Member Jacobs?

23 CHAIRWOMAN GONSALVES: Sitting in for
24 Jacobs -- go ahead -- is Delia.

25 CLERK MULLER: Legislator DeRiggi-

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2 Whitton, substituting for Ranking Member Jacobs?
3 LEGISLATOR DeRIGGI-WHITTON: Here.
4 CLERK MULLER: Legislator Belesi,
5 substituting for Legislator Ford?
6 LEGISLATOR BELESI: Here.
7 CLERK MULLER: Legislator Nicolello?
8 LEGISLATOR NICOLELLO: Here.
9 CLERK MULLER: Vice Chairman Dunne?
10 LEGISLATOR DUNNE: Here.
11 CLERK MULLER: Chairwoman Gonsalves?
12 CHAIRWOMAN GONSALVES: I'm here.
13 CLERK MULLER: We have a quorum.
14 CHAIRWOMAN GONSALVES: Okay. Again, I'm
15 going to ask for a motion to suspend the rules,
16 since we did not have a roll call.
17 LEGISLATOR DUNNE: So moved.
18 LEGISLATOR NICOLELLO: Second.
19 CHAIRWOMAN GONSALVES: Moved by
20 Legislator Dunne, seconded by Legislator
21 Nicolello.
22 All those in favor of suspending the
23 rules signify by saying aye.
24 (Aye.)
25 Any opposed?

2 (No verbal response.)

3 The motion carries unanimously.

4 There's only one item. Mr. Muller.

5 CLERK MULLER: 656-12, an ordinance
6 supplemental to the annual appropriation
7 ordinance in connection with the Department of
8 Public Works.

9 LEGISLATOR DUNNE: So moved.

10 LEGISLATOR NICOLELLO: Second.

11 CHAIRWOMAN GONSALVES: And who is here,
12 Mr. May, on this item?

13 MR. MAY: We have Mr. Mike Kelly from
14 Real Estate, by way of Public Works.

15 CHAIRWOMAN GONSALVES: Welcome, Mr.
16 Kelly.

17 MR. KELLY: Thank you. Good afternoon.
18 Michael Kelly, Acting Director, Nassau County
19 Office of Real Estate Services, Department of
20 Public Works.

21 656-12 is a supplemental appropriation to
22 appropriate \$63,333 from the five percent open
23 space fund into the department's DE line in order
24 to fund the Nelson & Pope Engineering contract.
25 The purpose of this contract is to do certain

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2 design and survey work, to implement the County's
3 open space plan, to install fencing, signage, and
4 design information kiosks for the open space
5 properties purchased under the 2004 and 2006
6 Environmental Bond Acts.

7 CHAIRWOMAN GONSALVES: Any questions
8 from the legislators? Legislator Denenberg.

9 LEGISLATOR DENENBERG: So, if I'm not
10 mistaken, the five percent fund, which was
11 established I believe in 02, five percent of all
12 real estate transactions which, to this day,
13 still funds that particular open space fund --

14 MR. KELLY: Correct.

15 LEGISLATOR DENENBERG: We're going to
16 use it for \$63,000 so that we can have fences --
17 so that we can design fences and information
18 kiosks?

19 MR. KELLY: The designing -- well, the
20 fences, there's surveying being done by the
21 contractor in order to do the fencing, because
22 you need to have exact boundary lines in order to
23 put up fences, the design of the signs and the
24 design of the information kiosks and the cost of
25 doing the surveys of what's included here. And

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2 this was bid out between the county's on-call
3 engineering contractors, Nelson and Pope, and
4 also Lockwood, Kessler & Bartlett, and Nelson and
5 Pope was the winner there.

6 LEGISLATOR DENENBERG: Two questions.
7 First, I don't understand why we can't do that
8 design work or survey work in-house.

9 MR. KELLY: We don't have contractors
10 in-house to do that. We don't have surveyors in-
11 house.

12 LEGISLATOR DENENBERG: With all our
13 acquisitions in the past, going back at least to
14 07, if not 06, you know, and our preservation of
15 this open space fund, two issues. We did surveys
16 for major acquisitions of open space under the
17 Environmental Bond Act --

18 MR. KELLY: Not for all of them. There
19 were many of those acquisitions that surveys were
20 not done.

21 LEGISLATOR DENENBERG: Yeah, but we did
22 a lot in-house too.

23 MR. KELLY: It's not surveying.
24 Surveying was always done by outside contractors.

25 LEGISLATOR DENENBERG: Can you tell me

2 one time we ever raided the five percent fund to
3 hire a surveyor?

4 MR. KELLY: This is the first time we're
5 doing it, because this is when we're implementing
6 a comprehensive plan for the properties that were
7 purchased under the 2004 and 2006 Bond Acts.

8 LEGISLATOR DENENBERG: In general, that
9 five percent fund, we've -- I think the only time
10 I could remember using it have been for a couple
11 of open space acquisitions, most recently to
12 supplement money that was no longer -- I mean, to
13 supplement the purchase price of the Brooklyn
14 Water Works property.

15 MR. KELLY: It was used to supplement
16 the purchase of the Brooklyn Water Works property
17 and for the construction of the farmhouse and/or
18 barn at the East Meadow Farm.

19 LEGISLATOR DENENBERG: Right. And now
20 we're going to use it for a surveyor.

21 MR. KELLY: And that was almost \$2
22 million. This is \$63,000.

23 LEGISLATOR DENENBERG: How much is left
24 in it?

25 MR. KELLY: After this, I believe

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2 approximately \$610,000.

3 LEGISLATOR DENENBERG: I just don't
4 understand why, A. we can't do this in-house, I
5 just don't, and, number two, why we're using a
6 five percent fund for open space acquisitions,
7 which is defined broadly, I would agree. But if
8 we're starting to use outside contractors, such
9 as surveyors, then we're going to use this fund
10 for anything.

11 MR. KELLY: Well, the five percent fund
12 is not only limited to open space acquisitions,
13 it also can be used for maintenance and
14 improvement of the open space properties that we
15 purchased.

16 The reason we're using --

17 LEGISLATOR DENENBERG: Having written
18 the law, Mr. Kelly, it can be used for open space
19 purposes. Open space purposes does include park
20 improvement, it does include water resource
21 protection, and it does include open space
22 acquisitions.

23 MR. KELLY: Correct.

24 LEGISLATOR DENENBERG: It specifically
25 doesn't include any maintenance. It's arguable

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2 if it includes surveying. But I don't even want
3 to get into that. I would implore the rest of
4 the legislators that we shouldn't be using the
5 five percent for outside contractors for
6 surveying.

7 MR. KELLY: Legislator Denenberg, I'd
8 like to add that in all of the acquisitions that
9 we did under the 2004 and 2006 Bond Acts, we used
10 the -- we used the actual environmental bond act
11 to fund things like surveys, do to engineering
12 reports, to do environmental reports on all of
13 these purchases. The fact that we use the
14 environmental bond act, which were bonds we had
15 to pay debt services on, versus using the five
16 percent fund, which we don't have to pay debt
17 service on, is really the same thing.

18 LEGISLATOR DENENBERG: It's not the same
19 thing. The five percent law was created first
20 and it was created under a different act, period.
21 It was. You know, it's a fund that takes a lot
22 longer to build up. And we're using this for
23 acquisitions that had nothing to do with this
24 fund. We're using this for acquisitions that had
25 to do with the environmental bond act fund, not

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2 this open space fund. To me, that's a big
3 difference.

4 CHAIRWOMAN GONSALVES: Okay. Legislator
5 Nicoletto.

6 LEGISLATOR NICOLELLO: Mr. Kelly, tell
7 me again what the use is here.

8 MR. KELLY: We are using \$63,333 to
9 perform boundary surveys of two properties,
10 prepare fencing plans for four properties, do
11 engineering designs and specifications for kiosks
12 and decorative signage and for procurement of
13 trail maps for five locations.

14 LEGISLATOR NICOLELLO: In part, what
15 you're doing here is you're going to be
16 identifying and then demarking the parts of the
17 properties that the county owns.

18 MR. KELLY: Correct.

19 LEGISLATOR NICOLELLO: In part what
20 we're going to be doing is creating kiosks and
21 other features that will make it easier and more
22 accessible for the public.

23 MR. KELLY: That is correct.

24 LEGISLATOR NICOLELLO: And these are
25 open space properties that we have previous

1 Planning, Development & Environment Committee - 11-5-12 13
2 purchased?

3 MR. KELLY: Correct.

4 LEGISLATOR NICOLELLO: Now, I've been
5 here for a number of years and I, for one, and a
6 number of my colleagues have been very concerned
7 over the fact that these properties were bought
8 and they really haven't been made available for
9 use of our public. So this, in my mind, is
10 exactly what we should be spending this money on.
11 It's going to make these properties more usable.
12 It's going to protect the county taxpayers by
13 identifying and marking the borders of these
14 properties. So this is 100 percent exactly what
15 these types of funds should be spent for.

16 CHAIRWOMAN GONSALVES: Yes. Mr.
17 Denenberg.

18 LEGISLATOR DENENBERG: How could we put
19 a kiosk on open space?

20 MR. KELLY: I see no reason why we can't
21 put a kiosk on open space when it describes
22 what's on the open space.

23 LEGISLATOR DENENBERG: If we bought
24 something that was designated as open space, it
25 has to be preserved in its condition.

2 MR. KELLY: It was not preserved under
3 the preservation law.

4 LEGISLATOR DENENBERG: First of all, I
5 don't know why we need an outside contractor to
6 tell us the best place for a kiosk.

7 CHAIRWOMAN GONSALVES: Mr. Denenberg --

8 LEGISLATOR DENENBERG: And I appreciate
9 that MR. Nicoletto thinks this \$63,000 is going
10 to make all the open space accessible; if it is,
11 let's spend the \$63,000 in any one of the number
12 of planning or public works outside contractors
13 or any one of the approved outside contracts that
14 we found money in the general for for our county
15 attorneys.

16 The point is, if we really need this, I
17 don't think we should raise the five percent open
18 space fund when that's really there for open
19 space purposes and not for outside contractors.

20 LEGISLATOR DUNNE: Through the Chair.

21 LEGISLATOR DENENBERG: And I would
22 implore that -- we all know that we couldn't put
23 a new structure or a kiosk on anything that we
24 designated as open space under our own Open Space
25 Protection Law.

2 CHAIRWOMAN GONSALVES: I'm sorry. I
3 have to disagree with you, Mr. Denenberg. We
4 have put on kiosks on preserves in Nassau County.

5 LEGISLATOR DENENBERG: On the right-of-
6 way, not on the park.

7 CHAIRWOMAN GONSALVES: I'm sorry. But
8 one in particular should not have been there to
9 begin with, but I'm not going there.

10 I think your concerns have been addressed
11 and answered by Mr. Kelly, so let's move on.

12 Any other legislators who wish to
13 comment?

14 (No verbal response.)

15 Any public comment?

16 (No verbal response.)

17 All those in favor of this item please
18 signify by saying aye.

19 (Aye.)

20 Any opposed?

21 (Nay.)

22 Four to three. The item carries by four
23 to three.

24 Thank you, Mr. Kelly.

25 There being no other items for the

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2 Planning Committee, a motion to adjourn, please?
3 LEGISLATOR BELESI: So moved.
4 LEGISLATOR DUNNE: Second.
5 CHAIRWOMAN GONSALVES: Moved by
6 Legislator Belesi, seconded by Legislator Dunne.
7 All those in favor signify by saying aye.
8 (Aye.)
9 Any opposed?
10 (No verbal response.)
11 Okay. The Planning Committee is
12 adjourned.
13 (Whereupon, the Planning, Development and
14 the Environment Committee is adjourned at 4:02
15 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 19th day of November, 2012.

FRANK GRAY