

NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,  
ACTING PRESIDING OFFICER

FINANCE COMMITTEE

RICHARD NICOLELLO,  
CHAIRMAN

1550 Franklin Avenue  
Mineola, New York

November 5, 2012  
4:10 p.m.

REGAL REPORTING SERVICES  
516-747-7353

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

RICHARD NICOLELLO  
Chairman

NORMA GONSALVES  
Vice-Chair

VINCENT MUSCARELLA

ROSE MARIE WALKER (Not Present)

JOSEPH BELESI (Sitting in for Rose Marie Walker)

DAVID DENENBERG  
Ranking

JUDI BOSWORTH

DELIA DeRIGGI-WHITTON

WILLIAM J. MULLER, III, Clerk

LIST OF SPEAKERS

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MARTIN VOLK . . . . . 7  
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LISA LOCURTO. . . . . 47

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2 CHAIRMAN NICOLELLO: I call the Finance  
3 Committee to order.

4 Mr. Muller, would you read the roll,  
5 please?

6 CLERK MULLER: Legislator DeRiggi-  
7 Whitton?

8 LEGISLATOR DeRIGGI-WHITTON: Here.

9 CLERK MULLER: Legislator Bosworth?

10 LEGISLATOR BOSWORTH: Here.

11 CLERK MULLER: Ranking Member Denenberg?

12 LEGISLATOR DENENBERG: Here.

13 CLERK MULLER: Legislator Belesi,  
14 substituting for Legislator Walker?

15 LEGISLATOR BELESI: Here.

16 CLERK MULLER: Legislator Muscarella?

17 LEGISLATOR MUSCARELLA: Here.

18 CLERK MULLER: Vice Chairwoman  
19 Gonsalves?

20 LEGISLATOR GONSALVES: Present.

21 CLERK MULLER: Chairman Nicoletto?

22 CHAIRMAN NICOLELLO: Here.

23 CLERK MULLER: We have a quorum.

24 CHAIRMAN NICOLELLO: Thank you, Mr.  
25 Muller.

2 Items 650, 651, 652-2012 are resolutions  
3 to authorize the county assessor and/or the  
4 county treasurer, and/or the receiver of taxes of  
5 the Town of Hempstead to correct erroneous  
6 assessments and taxes in accordance with the  
7 petitions of the assessor, and to exempt a  
8 partially exempt-specific property situated in  
9 the various school districts.

10 LEGISLATOR MUSCARELLA: So moved.

11 LEGISLATOR BELESI: Second.

12 CHAIRMAN NICOLELLO: Moved by  
13 Legislator Muscarella, seconded by Legislator  
14 Belesi.

15 Mr. May, there's been a request for a  
16 county attorney's opinion pending on this. We've  
17 been in touch with the county attorney's office  
18 and understand that, you know, with what's been  
19 going on that that's not ready today but it will  
20 be ready for the Full Legislature.

21 MR. MAY: Correct.

22 CHAIRMAN NICOLELLO: Okay. Any  
23 questions?

24 LEGISLATOR DENENBERG: Just one, if it's  
25 okay, Mr. Chairman?

2 CHAIRMAN NICOLELLO: Go ahead.

3 LEGISLATOR DENENBERG: This is 650,  
4 right?

5 CHAIRMAN NICOLELLO: Yes.

6 LEGISLATOR DENENBERG: So this is just  
7 one specific property?

8 MR. MAY: Mr. Martin Volk from the  
9 county attorney's office to answer questions on  
10 these items. If you'd like, if we could call all  
11 three at once --

12 CHAIRMAN NICOLELLO: They're all  
13 called.

14 MR. MAY: I missed that?

15 CHAIRMAN NICOLELLO: Yes.

16 MR. MAY: I appreciate it. Thank you.

17 CHAIRMAN NICOLELLO: Sure.

18 MR. MAY: Mr. Volk is here to answer any  
19 questions.

20 LEGISLATOR DENENBERG: On 650, itself,  
21 which is my only question, this is just a  
22 reduction that was per a stipulated settlement?

23 MR. VOLK: I believe so, Legislator.

24 LEGISLATOR DENENBERG: I guess you'll  
25 have the information at the next meeting?

2 MR. VOLK: Well, I was handed these  
3 documents. Just bear with me one sec.

4 LEGISLATOR DENENBERG: I just think it's  
5 court ordered, right?

6 MR. VOLK: Just bear with us one second,  
7 Legislator. Let me find the actual resolution so  
8 I can answer your question. I just want to be  
9 able to answer your question accurately.

10 MR. MAY: Let me take this opportunity  
11 to apologize to the legislators. Mr. Tom  
12 Albanese from the assessor's office was here.  
13 But again, with everything going on with the  
14 storm, he had some personal matters to take care  
15 of. He had to leave at four o'clock. I  
16 apologize.

17 LEGISLATOR DENENBERG: I have no --  
18 let's pass it through. Mr. Volk, if you want to  
19 answer my questions in between, you and I could  
20 reach out to each other.

21 MR. VOLK: Sure, Legislator.

22 LEGISLATOR DENENBERG: I'll say this. I  
23 think all of us have issues in our districts and  
24 such. Really, that's where we should be. That's  
25 my opinion.



2 CHAIRMAN NICOLELLO: Legislator  
3 DeRiggi-Whitton.

4 LEGISLATOR DeRIGGI-WHITTON: Hi. Thank  
5 you. I know we discussed that we might meet on  
6 this as well. Because what I noticed is when you  
7 look at every item, pretty much, at the time that  
8 these properties are sold, it's clear that there  
9 is a religious exemption, correct?

10 MR. VOLK: While it may be clear at the  
11 time of the sale, the Department of Assessment  
12 does not necessarily find out the information as  
13 to how the purchaser is until later.

14 LEGISLATOR DeRIGGI-WHITTON: How we keep  
15 talking about correcting the assessment  
16 situation, I think this would be -- and I know I  
17 stated this last time, but just to reiterate it.  
18 I think it would be the perfect opportunity --  
19 because what's happening is we're collecting  
20 taxes from these 501(3)(c)s which are either  
21 religious or other reasons. Then, not only are  
22 we paying back that money, knowing that we have  
23 to, but we're also paying back money from the  
24 school district. Is that correct? So it's, in  
25 fact, costing the county more funds than having

2 not collected it in the first place.

3 MR. VOLK: I understand your concern,  
4 legislator. But as I said, the assessor does not  
5 necessarily find out who the purchaser is until  
6 weeks, perhaps even months later.

7 LEGISLATOR DeRIGGI-WHITTON: Wouldn't  
8 you agree though that this would be something  
9 that we should really mandate? We could request  
10 that we be notified immediately when a 501(c)(3)  
11 or not-for-profit is purchasing a piece of  
12 property.

13 MR. VOLK: While that may be true, that  
14 might also be perhaps the subject of state  
15 legislation.

16 LEGISLATOR DeRIGGI-WHITTON: Whatever it  
17 is, I think the fact that we know we're not going  
18 to be able to keep the money, so we're going to  
19 have to return it anyway, and then on top of that  
20 we have to return what the schools are  
21 collecting, it's just a loss for the county and I  
22 think it's one that we should really try to  
23 address.

24 I know you're getting a legal opinion.  
25 But maybe I'm requesting again that we get some

2 type of legal opinion regarding that. I just  
3 think it would be a step in the right direction.

4 MR. VOLK: I'll forward your suggestion  
5 to the appropriate personnel.

6 LEGISLATOR DeRIGGI-WHITTON: Thank you.

7 CHAIRMAN NICOLELLO: Any other  
8 questions?

9 (No verbal response.)

10 Any public comment?

11 (No verbal response.)

12 All those in favor signify by saying aye.

13 (Aye.)

14 Those opposed?

15 (No verbal response.)

16 Carries unanimously.

17 Thank you, Mr. Volk.

18 MR. VOLK: Thank you, Legislator.

19 CHAIRMAN NICOLELLO: Motion to suspend  
20 the rules?

21 LEGISLATOR GONSALVES: So moved.

22 LEGISLATOR MUSCARELLA: Second.

23 CHAIRMAN NICOLELLO: Motion by  
24 Legislator Gonsalves, seconded by Legislator  
25 Muscarella.

2 All in favor of suspending the rules?

3 (Aye.)

4 Those opposed?

5 (No verbal response.)

6 Rules are suspended.

7 Items 653 and 654-2012 are resolutions to  
8 authorize the transfer of appropriations  
9 heretofore made within the budget for the year  
10 2012.

11 LEGISLATOR BELESI: So moved.

12 LEGISLATOR MUSCARELLA: Second.

13 CHAIRMAN NICOLELLO: Moved by  
14 Legislator Belesi, seconded by Legislator  
15 Muscarella.

16 Any questions?

17 (No verbal response.)

18 Any public comment?

19 (No verbal response.)

20 All those in favor signify by saying aye.

21 (Aye.)

22 Those opposed?

23 (No verbal response.)

24 Carries unanimously.

25 Items 655, 656, 657, 658, 659, 660, 661,

2 662, and 663 are all ordinances supplemental to  
3 the annual appropriation ordinance in connection  
4 with the Office of the District Attorney, Public  
5 Works Department, Police Department, Office of  
6 Emergency Management, Department of Civil  
7 Service, Fire Commission, and Medical Examiner.

8 LEGISLATOR MUSCARELLA: So moved.

9 LEGISLATOR GONSALVES: Second.

10 CHAIRMAN NICOLELLO: Moved by  
11 Legislator Muscarella, seconded by Legislator  
12 Gonsalves.

13 These items went through committees just  
14 a few moments ago. I just ask that the testimony  
15 in the Public Safety Committee be incorporated by  
16 reference with respect to Item 657 and 661.

17 (Whereupon, the following is the minutes  
18 of the November 5, 2012, Public Safety Committee  
19 transcript with respect to Item Number 657 and  
20 661-12.)

21 The next item is Item 657, an ordinance  
22 supplemental to the annual appropriations  
23 ordinance in connection with the police  
24 department.

25 We have one other police item, so we'll

2 call them both at the same time.

3 658, also, which is an ordinance  
4 supplemental to the annual appropriation  
5 ordinance in connection with the police  
6 department.

7 We have a motion by Joe Belesi, seconded  
8 by?

9 LEGISLATOR GONSALVES: Second.

10 CHAIRMAN DUNNE: Norma Gonsalves.

11 First we'll go over 657. Who do we have?

12 MR. MAY: Sergeant Greg Stephanoff.

13 MR. CONROY: Bob Conroy from OMB. This  
14 supplemental appropriation is just required  
15 because it's part of a board transfer where funds  
16 were transferred -- appropriations were  
17 transferred between funds.

18 CHAIRMAN DUNNE: Okay. And that's?

19 MR. CONROY: The board transfer's 670-  
20 12; it's that number.

21 CHAIRMAN DUNNE: Now, that's on 657.  
22 Are there any questions from any legislators?

23 LEGISLATOR DENENBERG: Yeah.

24 CHAIRMAN DUNNE: Legislator David  
25 Denenberg.

2 LEGISLATOR DENENBERG: You can call me  
3 Dave, that's fine. Anyway.

4 This is not 670-12, sir. This is 657-12.

5 MR. CONROY: Correct.

6 LEGISLATOR DENENBERG: So this is an  
7 \$8.9 million supplemental appropriation to cover  
8 police overtime, fringe benefit, gasoline,  
9 automobile related expenses, radio and  
10 telecommunication, ambulance billing, and lab  
11 testing, correct?

12 MR. CONROY: Correct, yeah.

13 LEGISLATOR DENENBERG: And this is all  
14 before the storm. This is an item that's not  
15 storm related, correct?

16 MR. CONROY: That's correct.

17 LEGISLATOR DENENBERG: Okay. And the --  
18 where's the money coming from? Just so you  
19 understand, you confirmed where it's going, and  
20 most of it's overtime, fringe benefits, and the  
21 rest of it is for lab testing, ambulance billing,  
22 etcetera. I thought ambulance billing actually  
23 might make us money. But most of this is for  
24 police overtime. I just want to know where it's  
25 coming from.

2 SERGEANT STEPHANOFF: With respect to  
3 the ambulance billing, it does make us money, but  
4 the money goes in the revenue side and we have to  
5 pay it on the contractual side.

6 LEGISLATOR DENENBERG: I understand.  
7 But I'm just looking at 8.9 million, and the vast  
8 majority of that's to cover overtime and fringe  
9 benefits.

10 SERGEANT STEPHANOFF: This was going to  
11 be a transfer for -- just to cover year-end. We  
12 had a few shortfalls. It was accelerated because  
13 of the hurricane.

14 LEGISLATOR DENENBERG: Actually, this  
15 was filed before the hurricane the gentleman to  
16 your left -- what was your name again? I'm sorry  
17 if I have it wrong.

18 MR. CONROY: Bob Conroy.

19 LEGISLATOR DENENBERG: Bob Conway?

20 MR. CONROY: Conroy.

21 LEGISLATOR DENENBERG: Okay. I'm sorry,  
22 Mr. Conroy. Mr. Conroy just said and confirmed  
23 that this was before the storm.

24 SERGEANT STEPHANOFF: Yes. It was a  
25 scheduled transfer to cover year-end shortages.



2 LEGISLATOR DENENBERG: But you just said  
3 it had to do with the storm. This was filed --

4 SERGEANT STEPHANOFF: No. It was  
5 accelerated --

6 LEGISLATOR DENENBERG: October 22.

7 SERGEANT STEPHANOFF: We just  
8 accelerated it to cover this leg calendar.

9 LEGISLATOR DENENBERG: Okay. It was  
10 filed on October 22. Do you disagree?

11 SERGEANT STEPHANOFF: No.

12 LEGISLATOR DENENBERG: The storm was  
13 after October 22, was it not?

14 SERGEANT STEPHANOFF: Yes.

15 LEGISLATOR DENENBERG: Okay. So, again,  
16 where is the money coming from?

17 MR. CONROY: Ultimately, from the  
18 general fund.

19 LEGISLATOR GONSALVES: The general fund  
20 debt service charge backs, correct?

21 MR. CONROY: That's correct.

22 LEGISLATOR DENENBERG: The debt service.  
23 That would be from bonding either that didn't  
24 happen or was over budgeted?

25 MR. CONROY: Yeah. Over budgeted. The

2 borrowing's less than budgeted and at lower  
3 rates.

4 MR. MAY: Excuse me. Legislator  
5 Denenberg, I just wanted to point out for the  
6 record that the item was filed on October 31, not  
7 on October 22.

8 LEGISLATOR DENENBERG: The date on the  
9 item is October 22. The request -- okay. You're  
10 right. It wasn't filed. The date of the request  
11 is October 22, 2012.

12 MR. MAY: I don't dispute that. I'm  
13 just saying you are stating for the record that  
14 it was filed on October 22. It was filed on  
15 October 31 --

16 LEGISLATOR DENENBERG: No. I think I  
17 said the date of the request was October 22. But  
18 if the record's wrong, I'll say it again. Am I  
19 correct that the date of the request was October  
20 22?

21 MR. MAY: The date of the request would  
22 be October 22.

23 LEGISLATOR DENENBERG: So my concern is,  
24 particularly how much of this goes to overtime,  
25 salary, and benefits of the 8.9, based on the

2 breakout is well above what Mr. Sullivan said at  
3 the last budget review hearing, which was -- I  
4 think it was early August, first week of August.  
5 This is way above what was anticipated less than  
6 three months ago.

7 CHAIRMAN DUNNE: Point made. It's  
8 coming out of the general fund. The point was  
9 made. Any other questions, Mr. Denenberg?  
10 Anything else?

11 LEGISLATOR DENENBERG: I had no other  
12 questions. I --

13 CHAIRMAN DUNNE: Legislator Gonsalves,  
14 do you want to ask something?

15 LEGISLATOR DENENBERG: think Mr. Wink  
16 might.

17 LEGISLATOR GONSALVES: I added what I  
18 had to add. Thank you.

19 CHAIRMAN DUNNE: Okay. Thank you.

20 Any public comment?

21 (No verbal response.)

22 There being none, all in favor indicate  
23 by saying aye.

24 (Aye.)

25 Any against?

2 (No verbal response.)

3 So ruled.

4 Now we have a second --

5 LEGISLATOR DENENBERG: No. You have to  
6 let us vote. You said all in favor? Yes.

7 CHAIRMAN DUNNE: I said all against.

8 LEGISLATOR DENENBERG: We abstain. And  
9 the reason why we're abstaining is we'd like Mr.  
10 Sullivan at Full Leg to explain why we're so far  
11 over what he had said at the budget review  
12 hearing in August. If it's late July, I'll stand  
13 corrected. The last budget review hearing.

14 CHAIRMAN DUNNE: So noted.

15 Your explanation, was that just 657 or is  
16 that 658 also?

17 MR. MAY: 658's a grant that we're  
18 getting money for.

19 CHAIRMAN DUNNE: Now we're going to vote  
20 on the grant.

21 Any questions on the grant?

22 (No verbal response.)

23 Is there any --

24 LEGISLATOR DENENBERG: Dennis, did you  
25 call 658?

2 CHAIRMAN DUNNE: Yes, we called them  
3 both together.

4 LEGISLATOR DENENBERG: Okay. Sorry.

5 CHAIRMAN DUNNE: Any questions on 658,  
6 the grant?

7 (No verbal response.)

8 Any public comment?

9 (No verbal response.)

10 There being none, all in favor indicate  
11 by saying aye.

12 (Aye.)

13 Any against?

14 (No verbal response.)

15 Any abstentions?

16 (No verbal response.)

17 I guess it's unanimous. Okay.

18 We're going to call Item Number 661-12  
19 and 662-12 together. They are both with the  
20 medical examiner. Wait a minute. No, no, no,  
21 no, no. My mistake. My mistake.

22 661 we're going to do now, and that's an  
23 ordinance supplemental to the annual  
24 appropriations ordinance in connection with the  
25 fire commissioner.

2 LEGISLATOR WALKER: So moved.

3 LEGISLATOR GONSALVES: Second.

4 CHAIRMAN DUNNE: Rose Walker made the  
5 motion, seconded by Norma Gonsalves.

6 Who do we have here?

7 MR. MAY: Mr. Chairman, normally we  
8 would have Carey Welt from the Fire Commission  
9 here to speak on these items. However, as you  
10 can imagine, they are stretched rather thin right  
11 now. I'll be happy to try to answer any  
12 questions that I can on this item. If I cannot  
13 answer those questions, I will get the answers to  
14 you prior to the Full Legislature.

15 CHAIRMAN DUNNE: I have no objection, as  
16 long as there are no questions over your head.  
17 Does anybody have any questions on --

18 LEGISLATOR DENENBERG: I had one.

19 CHAIRMAN DUNNE: Yes. Legislator  
20 Denenberg.

21 LEGISLATOR DENENBERG: Thank you,  
22 Chairman.

23 Is it that we have more people in the  
24 fire commission? Why would we be over on the  
25 salary line in the fire commission? Did we hire

2 more commissioners?

3 MR. MAY: I would have to find out the  
4 exact answer to that question, sir.

5 LEGISLATOR DENENBERG: Oh. I guess  
6 that's my question.

7 MR. MAY: And I can certainly get that  
8 to you before the Full Legislature.

9 LEGISLATOR DENENBERG: Thank you.

10 CHAIRMAN DUNNE: Okay. Any other  
11 questions?

12 (No verbal response.)

13 Any public comment?

14 (No verbal response.)

15 There being none, all in favor indicate  
16 by saying aye.

17 (Aye.)

18 Any against?

19 (No verbal response.)

20 Any abstentions?

21 (No verbal response.)

22 Unanimous.

23 (Whereupon, the following is the  
24 continuation of the November 5, 2012 Finance  
25 Committee minutes.)

2 CHAIRMAN NICOLELLO: Do we have any  
3 questions on these items? Legislator DeRiggi-  
4 Whitton.

5 LEGISLATOR DeRIGGI-WHITTON: I don't  
6 know if Mike Kelly is still here, but I just had  
7 a quick question. I know I was on the committee  
8 for 656, but I wasn't expecting to be on that  
9 committee so I didn't have a second to really  
10 think about it.

11 Mike, just in the past, have these funds  
12 been used for such items as this?

13 MR. KELLY: Never for -- sorry. Michael  
14 Kelly, Acting Director, Nassau County Department  
15 of Public Works, Division of Real Estate  
16 Services.

17 Not for things like trail maps and  
18 surveying. However, I would like to state that  
19 the \$232,000 of this money was used to build the  
20 East Meadow Farmhouse, which is certainly an  
21 improvement to open space project, which was  
22 voted on by this legislature -- appropriated for  
23 that purpose by this legislature. So this has  
24 been used for purposes other than the acquisition  
25 of open space property. And I did just look at



2 the local law again, and it does talk about the  
3 maintenance and rehabilitation of open space  
4 properties as well.

5 LEGISLATOR DeRIGGI-WHITTON: So that is  
6 specific in that law that it can be used for type  
7 of funding?

8 MR. KELLY: Yes.

9 LEGISLATOR DeRIGGI-WHITTON: I noticed -  
10 - I used to live nearby and there have been signs  
11 and all in the past. Had that just been coming  
12 from the general fund?

13 MR. KELLY: Those are just the regular  
14 signs that we've been putting up for all of our  
15 open space properties.

16 As you know, the legislature has made it  
17 a point to say that the 2004 and 2006 Bond Act  
18 properties have been acquired, and there didn't  
19 seem to be much in the way of public knowledge or  
20 public access to these properties. So we're  
21 looking to do something a little greater, to  
22 actually demarcate these properties, sign them  
23 properly, put information on the property so that  
24 people know what they're all about, and to do  
25 this the right way. So this \$63,000 is starting

that process to get this moving along.

LEGISLATOR DeRIGGI-WHITTON: I respect that idea. But I think what David Denenberg's point was, part of his point is this money is so precious because for us to be able to acquire new land, we'd honestly rather see it go for that and then have other money available to do this. But if you feel that it falls within the spectrum.

MR. KELLY: I feel that it does.

LEGISLATOR DENENBERG: One thing --

CHAIRMAN NICOLELLO: Legislator Denenberg.

LEGISLATOR DENENBERG: Sorry, Legislator Nicolello. But thank you.

Let me make it clear. Getting out the information so that we know about open space is always very important. The two issues I have is, number one, using the five percent fund in order to put up kiosks or signs, I think we should use the general fund. Number two, this is the first -- you know, to hire an outside contractor to tell us where the kiosks could go or how to survey something that should have already been surveyed when we purchased it, I highly question

2 whether we need an outside contractor, \$63,000 to  
3 do it. But if we do, I question why we would use  
4 the five percent fund for property that was  
5 purchased under the open space bonds. I do  
6 disagree with you as to whether open space  
7 funding, whether through the five percent or the  
8 bond act, could ever be used for maintenance. It  
9 was a point of late Legislator Peter Schmitt that  
10 none of those funds should ever be used for  
11 ongoing maintenance.

12 CHAIRMAN NICOLELLO: Any other  
13 questions?

14 (No verbal response.)

15 Thank you, Mr. Kelly.

16 MR. KELLY: Thank you.

17 CHAIRMAN NICOLELLO: Any public  
18 comment?

19 (No verbal response.)

20 I'm going to call Items 656 and 657  
21 separately, and then I'll call the rest, in terms  
22 of for a vote.

23 Item 656-2012, all those in signify by  
24 saying aye.

25 (Aye.)

2 Any opposed?

3 (Nay.)

4 It passes by a vote of four to three.

5 Item 657. All those in favor of Item 657  
6 signify by saying aye.

7 (Aye.)

8 Those opposed?

9 (No verbal response.)

10 Those abstaining?

11 LEGISLATOR DENENBERG: I think

12 Legislator DeRiggi-Whitton had a question on 657;  
13 I'm not sure.

14 LEGISLATOR DeRIGGI-WHITTON: You've  
15 asked for questions on 657?

16 CHAIRMAN NICOLELLO: All of them.

17 LEGISLATOR DeRIGGI-WHITTON: The way  
18 you're calling it is sort of a little confusing.

19 CHAIRMAN NICOLELLO: I called all of  
20 them, and then I asked if there were any  
21 additional questions. But, anyway, it doesn't  
22 matter.

23 Do you have a question on 657?

24 LEGISLATOR DeRIGGI-WHITTON: Basically,  
25 I understand that the transfer is coming from the

2 surplus and debt services. Is there anyone here  
3 to discuss this?

4 CHAIRMAN NICOLELLO: Mr. Sullivan.

5 LEGISLATOR DeRIGGI-WHITTON: Hi. I  
6 appreciate it.

7 I guess -- you know, when we have these  
8 transfers, I would just like to see exactly where  
9 they're coming from. If we're taking this from a  
10 projected surplus or is it an actual surplus?  
11 Where is the transfer coming from?

12 MR. SULLIVAN: It's coming from our debt  
13 service chargebacks, that's the debt service  
14 fund. We've borrowed less this year, and,  
15 therefore, we're not incurring the debt service  
16 expenses anticipated. So that's where the funds  
17 are coming from.

18 LEGISLATOR DeRIGGI-WHITTON: Alright.  
19 So, basically, this is the savings that would  
20 normally -- what would we normally do with these  
21 savings? Is it usually used for this type of  
22 transfer or could this be going back to the  
23 general fund for other use?

24 MR. SULLIVAN: Well, we knew at the  
25 beginning of the year that the police overtime

2 was underfunded, I think that was pointed out.  
3 Now, compounding that with the storm, we have  
4 police officers working around the clock, so we  
5 know our overtime is going through the roof. We  
6 don't want to cause peril problems for these  
7 officers.

8 LEGISLATOR DeRIGGI-WHITTON: So you're  
9 confident that the surplus will actually indeed  
10 be there?

11 MR. SULLIVAN: Oh, yes. Most  
12 definitely.

13 LEGISLATOR DeRIGGI-WHITTON: Thank you.

14 CHAIRMAN NICOLELLO: Mr. Sullivan?

15 MR. SULLIVAN: Yes.

16 CHAIRMAN NICOLELLO: Just in terms of  
17 the -- how much of this item is for the police  
18 overtime?

19 MR. SULLIVAN: I think 3.9 million. 8.9  
20 million is the transfer to police headquarters.  
21 8.937.

22 CHAIRMAN NICOLELLO: What part of that  
23 is the police overtime?

24 MR. SULLIVAN: Pretty much all of it.

25 CHAIRMAN NICOLELLO: All of it.

2 MR. SULLIVAN: Yeah.

3 CHAIRMAN NICOLELLO: Okay. In terms of  
4 where we are right now in the year, what the  
5 projection is as to where we're going to end up  
6 with police overtime and how does it compare to  
7 last year?

8 MR. SULLIVAN: We were forecasting \$48  
9 million prior to Hurricane Sandy. At this point,  
10 we anticipate it's going to be higher. But that  
11 should be offset by FEMA reimbursement for the  
12 expenses. It's just from a cash position, we're  
13 going to be out the money until we receive the  
14 federal reimbursement.

15 CHAIRMAN NICOLELLO: How long does it  
16 take to get the FEMA reimbursement?

17 MR. SULLIVAN: Last year it probably  
18 took about ten, eleven months. It takes a while.

19 CHAIRMAN NICOLELLO: Alright. How does  
20 -- aside from the Hurricane Sandy related  
21 overtime, how are we shaping up compared to last  
22 year's overtime?

23 MR. SULLIVAN: It was very comparable.  
24 We were pretty much forecasting 48 last year, we  
25 incurred 48. It's been fairly constant.

2 CHAIRMAN NICOLELLO: Okay. Any other  
3 questions?

4 LEGISLATOR DeRIGGI-WHITTON: One follow  
5 up, if that's okay.

6 CHAIRMAN NICOLELLO: Sure.

7 LEGISLATOR DeRIGGI-WHITTON: I see you  
8 have a projected surplus of 25 million, that's  
9 the total, correct?

10 MR. SULLIVAN: I'm sorry? Where are you  
11 looking?

12 LEGISLATOR DeRIGGI-WHITTON: There's  
13 supposedly going to be a \$25 million surplus in  
14 the debt service budget because we are not  
15 borrowing as much.

16 MR. SULLIVAN: Yes. Correct.

17 LEGISLATOR DeRIGGI-WHITTON: So that's  
18 25 million. And if I understand this correctly,  
19 this transfer of \$8.9 million, that's one of the  
20 transfers coming from there. Is there any other  
21 transfer that you know of that's coming from that  
22 surplus?

23 MR. SULLIVAN: If you look at -- we're  
24 talking about Item 670-12.

25 LEGISLATOR DeRIGGI-WHITTON: Right.



2 MR. SULLIVAN: Anything that would say  
3 debt service charge backs, it's the 9.5 million  
4 that is being charged back. That's where we're  
5 drawing down to debt service.

6 LEGISLATOR DeRIGGI-WHITTON: From what I  
7 can see, we're talking maybe about 10 million  
8 that we're doing to be transferring.

9 MR. SULLIVAN: A little less, yes.

10 LEGISLATOR DeRIGGI-WHITTON: A little  
11 less.

12 MR. SULLIVAN: Right.

13 LEGISLATOR DeRIGGI-WHITTON: Am I  
14 correct in assuming that we decided this money is  
15 pretty much guarantee coming in, there's a 15  
16 million in surplus that's found right here.

17 MR. SULLIVAN: Yeah. When I've  
18 testified about the overall budget, I think we  
19 said we're going to be -- prior to Hurricane  
20 Sandy, and we'll have to see the impacts of that.  
21 But we thought we were pretty -- in our monthly  
22 report, we were pretty close to zero. In terms  
23 of that, surpluses from debt services and sales  
24 tax were offsetting some other deficiencies, and  
25 were projecting a slight surplus. The last

2 monthly report we had, I think an \$8 million  
3 projection of a surplus.

4 LEGISLATOR DeRIGGI-WHITTON: Can I ask  
5 how it's determined which categories are  
6 considered for the transfers? Like, for  
7 instance, this is not like a capital budget.

8 MR. SULLIVAN: Correct. Operating.

9 LEGISLATOR DeRIGGI-WHITTON: Operating  
10 budget.

11 Getting back to my issue. How is it  
12 determined that something like this, which  
13 obviously is important, can be used? However,  
14 can something like the youth services qualify for  
15 this type of transfer?

16 MR. SULLIVAN: No. We look where --  
17 there wasn't that much funding in youth services  
18 to begin with. We look where there are surpluses  
19 and where we can cover our expenses. So we  
20 forecast out on each object code for each  
21 department and then we do a monthly forecast. We  
22 realize that the police overtime was going to be  
23 extenuated by this hurricane and we looked where  
24 we could cover it from.

25 LEGISLATOR DeRIGGI-WHITTON: That I

2 understand. And I wouldn't want to use all of  
3 the money. But we have approximately 10 million  
4 coming out of this 25 million that we're going to  
5 be allotting to police.

6 MR. SULLIVAN: Yeah.

7 LEGISLATOR DeRIGGI-WHITTON: So that's  
8 allowing about \$15 million that is not allocated  
9 at this point.

10 MR. SULLIVAN: Hum, hmm.

11 LEGISLATOR DeRIGGI-WHITTON: This is  
12 just my last point. Again, in my opinion, this  
13 money is available for transfer where it's  
14 absolutely needed. I'm going a little --  
15 digressing, I realize that. It does not make any  
16 sense to me at all as to why we're not using this  
17 for youth services. I don't think that we have  
18 any right not to use it.

19 MR. SULLIVAN: We have to pay our police  
20 officers. I think we're mandated by contract to  
21 pay them.

22 LEGISLATOR DeRIGGI-WHITTON: Absolutely.  
23 But we also have other obligations to our other  
24 contracts that are involved. I cannot see how  
25 this is disseminated.

2 CHAIRMAN NICOLELLO: Mr. Sullivan, we  
3 have other obligations, such as tax certs that we  
4 have to pay, correct?

5 MR. SULLIVAN: That is correct.

6 CHAIRMAN NICOLELLO: If we didn't have  
7 to pay those tax certs out of operating, there  
8 might be more other options that we could use --

9 MR. SULLIVAN: That's correct.

10 LEGISLATOR DeRIGGI-WHITTON: Like you  
11 just said, it's not allocated. It's \$15 million.  
12 I think we should really sit down and figure out  
13 how this money is going to be used. Honestly, as  
14 a finance -- as a person on the finance  
15 commission, I really think we should have a role  
16 in how this money's distributed. I think our  
17 obligations to our youth and our contracts that  
18 are out there are very important. If there's  
19 another 15 million here -- I feel like we keep  
20 finding money and it's not really explained as to  
21 why we're not using it for this important reason.

22 CHAIRMAN NICOLELLO: Legislator  
23 Denenberg.

24 LEGISLATOR DENENBERG: I had asked  
25 questions before -- I don't know if that's why --

2 in Public Safety. I don't know if that's why you  
3 came down, but if it is, Mr. Sullivan, thank you.

4 My concern and my questions at Public  
5 Safety was I felt that the majority, if not  
6 almost all of this 8.9 was for overtime and  
7 benefits. I think you confirmed that with  
8 Legislator Nicoletto.

9 MR. SULLIVAN: Yes.

10 LEGISLATOR DENENBERG: Okay. Thank you.

11 If I'm not mistaken then -- and this  
12 item, in and of itself, this request is dated  
13 October 22, so it's before Sandy. Correct?

14 MR. SULLIVAN: Yes, sir.

15 LEGISLATOR DENENBERG: So before Sandy,  
16 this item is appropriating funds from the general  
17 fund debt service chargeback to police  
18 headquarters, mostly for salary and fringe  
19 benefits, prior to October 22, right?

20 MR. SULLIVAN: As we discussed, we had  
21 police overtime this year, if you recall, was  
22 budgeted inadequately. We had monies set aside,  
23 and we're drawing on those funds now. We've been  
24 saying that 48 million is our projection for the  
25 last four to five months. It's really funding

2 that.

3 LEGISLATOR DENENBERG: If it's 48  
4 million, that's 48 million in overtime when we  
5 budgeted how much?

6 MR. SULLIVAN: I believe it was 23  
7 million, but we have another 20 in contingency.  
8 I'd have to go back and check the numbers. We  
9 had some monies. We had budgeted contingencies,  
10 sir.

11 LEGISLATOR DENENBERG: So 48's the total  
12 overtime or --

13 MR. SULLIVAN: It's a projection.

14 LEGISLATOR DENENBERG: is 48 what's over  
15 budget?

16 MR. SULLIVAN: No. Total.

17 LEGISLATOR DENENBERG: Okay. And you're  
18 saying we budgeted 23 million for police  
19 overtime?

20 MR. SULLIVAN: I believe so. I could  
21 check that. But I believe so.

22 LEGISLATOR DENENBERG: I would ask you  
23 to do check that.

24 At the last budget review --

25 MR. SULLIVAN: We'll check that number,

2 sir. I'll call you on that.

3 LEGISLATOR DENENBERG: I don't want to  
4 throw out a number. I recall going through this  
5 with you, both in last year's budget cycle and  
6 then at the last budget review committee meeting,  
7 where I think we were only budgeting on the order  
8 of 10 million, whether it was 9 or 12 I'm not  
9 sure.

10 MR. SULLIVAN: We -- if you recall, I  
11 think in our proposed budget this year -- 22  
12 million, Roseanne was just saying was the budget  
13 for 2012.

14 LEGISLATOR DENENBERG: So the budget for  
15 2012 is 22 and we're going to be 26 over budget?

16 MR. SULLIVAN: Yeah. I would not  
17 quantify it was such. Again, we had budgeted  
18 money in contingency. We knew it's consistent.  
19 As Legislator Nicoletto just testified, it's  
20 consistent with our expenditure last year. There  
21 was never a thought that we would actually  
22 control police overtime to 22.

23 LEGISLATOR DENENBERG: But that was what  
24 what in the budget.

25 MR. SULLIVAN: There was 20 million

2 extra in contingency, sir.

3 LEGISLATOR DENENBERG: Okay. At the  
4 last budget review committee meeting, you know, I  
5 guess I heard you wrong. I'm trying to get it  
6 on. I thought at that point you said -- I said  
7 that it looks like we'll be around 50 million and  
8 you said that we're hoping to get it less than  
9 40.

10 MR. SULLIVAN: No. I would never say  
11 that. No. Forty-eight.

12 LEGISLATOR DENENBERG: You said I was  
13 going to be wrong about 50. I guess 48 is two  
14 million less than 50.

15 MR. SULLIVAN: Forty-eight was our  
16 projection. We're standing by that.

17 LEGISLATOR DENENBERG: Oh. Obviously,  
18 we're going to say that Sandy's going to take us  
19 over --

20 MR. SULLIVAN: Correct. But there will  
21 be reimbursement.

22 LEGISLATOR DENENBERG: but hopefully  
23 with FEMA will reimburse that.

24 MR. SULLIVAN: I think we more than hope.  
25 I think they would be obligated to reimburse



2 that, at least 75 percent, and then 12 1/2  
3 percent from the state. At minimum, 87 1/2  
4 percent would be funded.

5 LEGISLATOR DENENBERG: Where did the  
6 reimbursement from Irene go to?

7 MR. SULLIVAN: Where did it go to?

8 LEGISLATOR DENENBERG: Well, when we get  
9 the reimbursement, do we put it in the general  
10 fund or do we put it in police headquarter?

11 MR. SULLIVAN: It would be where the  
12 expenses were accrued.

13 LEGISLATOR DENENBERG: Which would be?

14 MR. SULLIVAN: If it's for police, it  
15 would be in police headquarters and/or police  
16 district, depending on which fund.

17 LEGISLATOR DENENBERG: So couldn't we  
18 use the money that we got back from Irene,  
19 because we had to use -- we had to use an  
20 appropriation at the end of 11 to cover for  
21 Irene, waiting for FEMA to come back.

22 MR. SULLIVAN: You're talking cash  
23 versus budget. Obviously, the cash was laid out  
24 at that time. But from a budgetary appropriation  
25 standard, that money was booked against the

2 accrual that was set up for that overtime.

3 LEGISLATOR DENENBERG: So you're saying  
4 that when Irene came in, we booked it back to the  
5 --

6 MR. SULLIVAN: Right. To the accrual.

7 LEGISLATOR DENENBERG: So that would  
8 have covered the transfer at that time?

9 MR. SULLIVAN: On a budgetary basis,  
10 yes.

11 LEGISLATOR DENENBERG: So when you come  
12 to us later this year to cover Sandy, we're going  
13 to take money out of something or we're going to  
14 do a transfer based on a federal reimbursement  
15 that hasn't come in yet?

16 MR. SULLIVAN: We'll probably have to do  
17 a supplemental appropriation based on an accrual  
18 for a receivable that will be coming in for  
19 Sandy.

20 LEGISLATOR DENENBERG: Okay. I don't  
21 remember what we did to cover Irene overtime.  
22 You're saying that we did --

23 MR. SULLIVAN: I think the scope's going  
24 to be different his year, sir. I think it's  
25 going to be a much greater expense this year than

2 last year.

3 LEGISLATOR DENENBERG: But last year,  
4 what did we do? Did we just base it on a federal  
5 reimbursement that hadn't come in yet?

6 MR. SULLIVAN: An accrual would be set  
7 up and the receivable would be booked in the  
8 system as the FEMA reimbursement.

9 LEGISLATOR DENENBERG: So we're not  
10 going to have to find the money within the 2012  
11 budget. We're going to have a transfer of money  
12 in anticipation of the federal reimbursement that  
13 probably will come in sometime in 13?

14 MR. SULLIVAN: Yes.

15 LEGISLATOR DENENBERG: Okay. I still  
16 think that overtime is alarmingly above the  
17 budget. I really do.

18 Thanks.

19 CHAIRMAN NICOLELLO: Alrighty. Any  
20 other questions?

21 (No verbal response.)

22 Thank you, Mr. Sullivan

23 MR. SULLIVAN: Thank you, sir.

24 CHAIRMAN NICOLELLO: Any public  
25 comment?

2 (No verbal response.)

3 LEGISLATOR DENENBERG: Mr. Nicolello?

4 CHAIRMAN NICOLELLO: Yes.

5 LEGISLATOR DENENBERG: Before you call  
6 the vote, the vote from the minority in Public  
7 Safety was abstention because we didn't have the  
8 answers from Mr. Sullivan. So I just want to say  
9 on the record before the vote, that Mr. Sullivan  
10 did come down, thank you, to explain. We're not  
11 happy about overtime being high, but we now  
12 understand the nature of this transfer. So,  
13 thank you.

14 CHAIRMAN NICOLELLO: Alrighty.

15 Item 657-2012, all in favor signify by  
16 saying aye.

17 (Aye.)

18 Those opposed?

19 (No verbal response.)

20 Those abstaining?

21 (No verbal response.)

22 Carries unanimously.

23 This is the balance of the items that we  
24 will call together.

25 655, 658, 659, 660, 661, 662, and 663,

2 all in favor signify by saying aye.

3 (Aye.)

4 Those opposed?

5 (No verbal response.)

6 Those items carry unanimously.

7 Next three items are 666, 667, 668-2012.

8 These were called in Public Works. We're going  
9 to waive the reading, if it's alright with the  
10 Minority.

11 LEGISLATOR MUSCARELLA: Moved.

12 LEGISLATOR BELESI: Second.

13 CHAIRMAN NICOLELLO: Moved by  
14 Legislator Muscarella, seconded by Legislator  
15 Belesi.

16 Any questions on these three items?

17 (No verbal response.)

18 They were heard before in the Public  
19 Works Committee.

20 Any public comment?

21 (No verbal response.)

22 All those in favor signify by saying aye.

23 (Aye.)

24 Those opposed?

25 (No verbal response.)

2 Those three items carry unanimously.

3 Item 670-2012 is a resolution to  
4 authorize the transfer of appropriations  
5 heretofore made within the budget for the year  
6 2012.

7 LEGISLATOR GONSALVES: So moved.

8 LEGISLATOR MUSCARELLA: Second.

9 CHAIRMAN NICOLELLO: Moved by  
10 Legislator Gonsalves, seconded by Legislator  
11 Muscarella.

12 Any questions? Discussion?

13 (No verbal response.)

14 Any public comment?

15 (No verbal response.)

16 All those in favor signify by saying aye.

17 (Aye.)

18 Those opposed?

19 (No verbal response.)

20 That carries unanimously.

21 We have a second addendum to the Finance  
22 Committee.

23 Item 674-2012, a resolution to authorize  
24 the transfer of appropriations heretofore made  
25 within the budget for the year 2012.

2 LEGISLATOR BELESI: So moved.

3 LEGISLATOR GONSALVES: Second.

4 CHAIRMAN NICOLELLO: Moved by  
5 Legislator Belesi, seconded by Legislator  
6 Gonsalves.

7 Do we have any questions on Item 674?

8 LEGISLATOR DENENBERG: Yes, we do.

9 CHAIRMAN NICOLELLO: Alright. Mr. May.

10 MR. MAY: We have Ms. Lisa LoCurto from  
11 the County Attorney's Office to answer any  
12 questions.

13 MS. LOCURTO: Lisa LoCurto, County  
14 Attorney's Office.

15 CHAIRMAN NICOLELLO: What's this  
16 transfer?

17 MS. LOCURTO: This is a transfer, a  
18 board transfer to the county attorney DE line.  
19 It is monies that will be used to aid us in the  
20 defense of the Kogart (phonetic) trial, which is  
21 a trial with potential liability of \$190 million.  
22 It is currently being tried in the federal court  
23 before Judge Siebert.

24 The trial was momentarily interrupted by  
25 the hurricane, but it is still going full speed

2 ahead and proceeding. This money is necessary  
3 for the county to obtain the expert witnesses  
4 necessary to testify, to house the witnesses, and  
5 to allocate whatever resources are necessary in  
6 the defense of the litigation.

7 CHAIRMAN NICOLELLO: Which law firm is  
8 defending the county in that case?

9 MS. LOCURTO: Lewis & Fiore, which is  
10 the top criminal defense firm in the state. Even  
11 thought this is a civil trial, basically it is a  
12 retrial of the criminal case where three men were  
13 incarcerated --

14 CHAIRMAN NICOLELLO: We know the  
15 facts.

16 MS. LOCURTO: and it was overturned.  
17 That's the case.

18 CHAIRMAN NICOLELLO: On the other side  
19 of this case, the plaintiff's attorneys, is that  
20 from the Innocence Project, I understand.

21 MS. LOCURTO: Yes, they are. Barry  
22 Schecht is leading the team from the Innocence  
23 Project.

24 CHAIRMAN NICOLELLO: You're dealing  
25 with, you know, legal heavyweights.



2 MS. LOCURTO: Yes. Absolutely.

3 CHAIRMAN NICOLELLO: Okay.

4 Any other questions? Legislator  
5 Denenberg.

6 LEGISLATOR DENENBERG: This \$750,000 is  
7 only for expert witnesses or is it for the law  
8 firm as well?

9 MS. LOCURTO: It's for the law firm as  
10 well.

11 LEGISLATOR DENENBERG: Okay. How much  
12 is for the law firm? How much for the expert  
13 witnesses? Or you don't have that at your  
14 disposal.

15 MS. LOCURTO: I don't have it at my  
16 disposal.

17 LEGISLATOR DENENBERG: Okay. How much  
18 have we already spent on this firm?

19 MS. LOCURTO: I can get the specific  
20 number for you. I would say it's well over  
21 700,000.

22 LEGISLATOR DENENBERG: I guess my first  
23 concern is we know it's going to trial --

24 MS. LOCURTO: It's in trial right now.

25 LEGISLATOR DENENBERG: and we know how

2 much they bill -- I'm sorry?

3 MS. LOCURTO: We are on trial right now.  
4 The plaintiffs have finished their case, and we  
5 are now putting on our defense.

6 LEGISLATOR DENENBERG: And when did we  
7 know it was going to trial?

8 MS. LOCURTO: We were short circuited by  
9 Judge Seibert. We were ordered to go to trial  
10 September 17 of this year.

11 LEGISLATOR DENENBERG: And at that point  
12 -- it just seems to me at that point we knew that  
13 we -- that the amount going to this firm was  
14 going to be higher than what was already  
15 dispensed. It sounds like we're now approving  
16 money that, at least in part, had to have been  
17 spent already. Right? We had to have had our  
18 expert witnesses there to hear the plaintiff's  
19 case or to advise us on cross examination, I  
20 would think, right?

21 MS. LOCURTO: There are many factors  
22 that entered into why we need additional monies.  
23 First, this case had been lingering in the county  
24 attorney's office for over five years. We  
25 received rulings from -- I'm sorry. I'm sorry. I

lost my train of thought.

The court has ruled. We had anticipated a much lengthier discovery period. The court unfortunately shortened our discovery period to a four month period. We were forced to compress the timeframe to develop, get the experts, and put on an effective trial case to defend a \$190 million lawsuit. I think the money is well spent because the potential liability to the county is extreme and we feel it would be detrimental to the county not to put on a fair and accurate defense.

LEGISLATOR DENENBERG: I'm sorry. I guess you're not understanding my question, and that's not why we're spending or why we're hiring an outside contractor, or whether we're getting a good deal from this outside firm, or even whether we need the outside firm. I'm questioning why you're coming to the legislature now for another 750,000, which we have no choice but to spend, it sounds like, when we knew that it was being rushed to trial as early as September. Overall, by the way, I practice trial work for a lot of federal cases. My entire practice is almost all

2 federal cases. When it's rushed to a trial, you  
3 almost always spend less in legal fees than if  
4 you had a long protracted discovery process. So  
5 I think ultimately this may cost us less not  
6 more. My issues is in September you know it's  
7 going to trial, and now in a committee on  
8 November 5, we're getting a request for 750,000,  
9 most of which it sounds like we spent already. I  
10 don't know why you couldn't come to us in October  
11 or September.

12 CHAIRMAN NICOLELLO: She's answered  
13 that question already. Do we have any other  
14 questions?

15 LEGISLATOR DENENBERG: Please tell me  
16 what the answer was, because I didn't hear it.

17 CHAIRMAN NICOLELLO: She's told you  
18 twice that --

19 LEGISLATOR DENENBERG: And thanks for  
20 coaching the witness. That's good.

21 CHAIRMAN NICOLELLO: She's told you  
22 twice that because of the judge rushing this to  
23 trial it expedited the schedule.

24 LEGISLATOR DENENBERG: She said in  
25 September.

2 CHAIRMAN NICOLELLO: Would you let me  
3 finish?

4 LEGISLATOR DENENBERG: You're not  
5 supposed to be answering anyway. That's really  
6 the point.

7 CHAIRMAN NICOLELLO: As the committee  
8 chairman --

9 LEGISLATOR DENENBERG: She knew it in  
10 September.

11 CHAIRMAN NICOLELLO: I can cut off  
12 debate when it gets repetitive, redundant, and  
13 abusive, and I'll do it at some point. What I'm  
14 trying to do is facilitate this.

15 LEGISLATOR DENENBERG: There wasn't any.  
16 There wasn't any. Come on, Mr. Nicoletto.

17 CHAIRMAN NICOLELLO: When you ask the  
18 same question three times, you get the answers  
19 and then you ask it a fourth time, it gets  
20 repetitive and abusive. She answered the  
21 question. The answer that the county attorney  
22 has given you is that because the judge had  
23 ordered this to an immediate trial there were  
24 more expenses incurred in a shorter time period.  
25 Whether it's actually cheaper in the long run or

2 not. But it's a shorter period and the county  
3 attorney has to adjust, in terms of paying for  
4 their expert witnesses, in terms of putting on a  
5 defense. She said that. Everyone here  
6 understood that. So stop asking the same  
7 question. Ask something else.

8 LEGISLATOR DENENBERG: Everyone  
9 understood we knew that in September. Why did we  
10 wait from September until November to request the  
11 money from us? The judge's order was in  
12 September, correct?

13 MS. LOCURTO: Unfortunately, because of  
14 the process in getting appropriations, we  
15 probably did not -- not probably -- we did not  
16 meet the deadlines in time to file this to get it  
17 to you in September. Obviously, October of this  
18 year was a very difficult and trying year --  
19 trying month, coupled with the hurricane coming  
20 in, it has added exponentially, expenses and  
21 costs that were not anticipated. Moving expert  
22 witnesses who are clear across the country for  
23 DNA analysis, hair analysis, fingerprint  
24 analysis, who are all over the country. It is  
25 not inexpensive and easy to move people in the

2 middle of a hurricane. I apologize that we  
3 couldn't get this to you as immediately as  
4 possible. But as humanly possible, it was  
5 presented before this legislature for your  
6 consideration.

7 LEGISLATOR DENENBERG: When was the  
8 judge's ruling?

9 MS. LOCURTO: The judge's ruling -- I  
10 will get an exact date of the ruling for you.

11 LEGISLATOR DENENBERG: Sometime in  
12 September?

13 MS. LOCURTO: Yes.

14 LEGISLATOR DENENBERG: Okay. Now, we're  
15 taking this money from fringe benefits?

16 MS. LOCURTO: Yes. It appears -- yes.

17 LEGISLATOR DENENBERG: How is it that  
18 the fringe benefit state retirement system of the  
19 general fund -- maybe Mr. Sullivan's the right  
20 one to answer. But how it is that we have that  
21 money?

22 MR. SULLIVAN: As you're aware, we  
23 reduced the headcount. We're down to 7409 now.  
24 So we're probably 1,000 heads than we were not  
25 too long ago. When we do the budget --

2 LEGISLATOR DENENBERG: I thought we did  
3 budget --

4 CHAIRMAN NICOLELLO: Please let the  
5 witness continue answering.

6 LEGISLATOR DENENBERG: I'm sorry you're  
7 not happy.

8 CHAIRMAN NICOLELLO: It's not being  
9 happy. I want to hear from him. I don't want to  
10 hear from you.

11 LEGISLATOR DENENBERG: I'm not happy  
12 that we're here today, to begin with. I think we  
13 should be in our districts.

14 CHAIRMAN NICOLELLO: There's nothing  
15 keeping you here.

16 Mr. Sullivan.

17 MR. SULLIVAN: We're below budget in our  
18 fringe benefits. Also, last year the state came  
19 out with a rate that was lower. A lot of times,  
20 as we're doing now with our budget, we predict a  
21 rate as best we can, based on information from  
22 New York State regarding health insurance. Last  
23 year health insurance came out substantially  
24 lower than was predicted.

25 LEGISLATOR DENENBERG: Health insurance,



2 as far as our reimbursement or, like,  
3 Medicare/Medicaid?

4 MR. SULLIVAN: The cost. Not Medicare  
5 and Medicaid. The cost for the NYSHIP.

6 LEGISLATOR DENENBERG: Okay. Okay.  
7 Thank you.

8 MR. SULLIVAN: Thank you, sir.

9 LEGISLATOR DeRIGGI-WHITTON: Can I just  
10 ask a quick question?

11 CHAIRMAN NICOLELLO: Legislator  
12 DeRiggi-Whitton.

13 LEGISLATOR DeRIGGI-WHITTON: It's sort  
14 of a general question. Is there any type of  
15 scheduled fee for outside counsel? For instance,  
16 like trial prep and things like that. Is there a  
17 scheduled fee?

18 MS. LOCURTO: The county attorney's  
19 office has a prequalified panel for attorneys,  
20 and we do set panel rates. However, given the  
21 nature of certain types of cases, the rate for  
22 compensation may vary slightly.

23 I will tell you that the municipal rates  
24 that we demand of our attorneys on the panel are  
25 the lowest municipal rates in the entire State of

2 New York. So the county is getting a good value  
3 for the money that it's charged by our counsel.

4 LEGISLATOR DeRIGGI-WHITTON: Did I  
5 understand you correctly that we're moving  
6 witnesses now for testimony?

7 MS. LOCURTO: Yes, we are. The county  
8 attorney's case was supposed to begin -- the  
9 trial began September 17. The plaintiff rested  
10 their case October 24, and the county was  
11 supposed to begin its case on October 29, right  
12 when the hurricane was beginning. So now we have  
13 to rearrange hotels, rearrange the experts'  
14 availability. That's what's going on now.

15 LEGISLATOR DeRIGGI-WHITTON: The courts  
16 are still closed, correct?

17 MS. LOCURTO: No, not in federal court.  
18 They are not.

19 LEGISLATOR DeRIGGI-WHITTON: So you have  
20 a new date for that.

21 The thing that just concerns me is as  
22 long as we have some type of control -- I  
23 understand the use of certain attorneys for  
24 certain cases and all. I understand that. But I  
25 just am concerned about how the bills come in.

2 If there is no set scheduled fee, if it's just  
3 kind of determined by a panel, we have no say as  
4 to what the bill is when it comes in.

5 MS. LOCURTO: I would disagree with your  
6 statement. What I said is there is a set fee  
7 that the county attorney's office sets for --

8 LEGISLATOR DeRIGGI-WHITTON: Could I --

9 MS. LOCURTO: all the attorneys on the  
10 panel.

11 LEGISLATOR DeRIGGI-WHITTON: I would  
12 like to just see a copy of that, if that's  
13 possible. If you could just send that to me.

14 MS. LOCURTO: Certainly.

15 LEGISLATOR DeRIGGI-WHITTON: I'm just --

16 MS. LOCURTO: I will get that  
17 information to you.

18 LEGISLATOR DeRIGGI-WHITTON: It 750,000  
19 is customary for what trial prep and everything  
20 else would be, then that's fine.

21 When we approve these funds, it would  
22 just help us to have a frame of reference as to  
23 if it is in line with what our standards are.

24 Thank you.

25 CHAIRMAN NICOLELLO: Any other

2 legislators have questions?

3 (No verbal response.)

4 I'm going to call the question.

5 Any public comment?

6 (No verbal response.)

7 All those in favor of this item signify  
8 by saying aye.

9 (Aye.)

10 Those opposed?

11 (Nay.)

12 Passes by a vote of four to three.

13 Motion to adjourn the hearing?

14 LEGISLATOR GONSALVES: So moved.

15 LEGISLATOR MUSCARELLA: Second.

16 CHAIRMAN NICOLELLO: Moved by

17 Legislator Gonsalves, seconded by Legislator  
18 Muscarella.

19 All in favor?

20 (Aye.)

21 The hearing is closed. I mean the  
22 meeting is closed.

23 (Whereupon, the Finance Committee  
24 adjourned at 4:50 p.m.)

25

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.

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FRANK GRAY