

NASSAU COUNTY LEGISLATURE

NORMAN GONSALVES,
ACTING PRESIDING OFFICER

PUBLIC WORKS & PARKS COMMITTEE

VINCENT MUSCARELLA,
CHAIRMAN

1550 Franklin Avenue
Mineola, New York

March 4, 2013
3:22 p.m.

REGAL REPORTING SERVICES
516-747-7353

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

VINCENT MUSCARELLA
Chair

HOWARD KOPEL
Vice-Chair

FRANCIS BECKER

NORMA GONSALVES

DAVID DENENBERG
Ranking

JOSEPH SCANNELL

CARRIÉ SOLAGES

LIST OF SPEAKERS

GREG MAY.	5
DONNA BOYLE	5
MAURICE CHALMERS.	15

2 CHAIRMAN MUSCARELLA: Public Works and
3 Parks Committee called to order.

4 I am here.

5 Vice Chair Howard Kopel.

6 LEGISLATOR KOPEL: Here.

7 CHAIRMAN MUSCARELLA: Francis Becker?

8 LEGISLATOR BECKER: Present.

9 CHAIRMAN MUSCARELLA: Michael Venditto?

10 I understand he is away from his chair and he
11 will be right back.

12 Ranking Member David Deneberg? He is
13 here.

14 Joseph Scannell is here.

15 Carrie A. Solages?

16 LEGISLATOR SOLAGES: Here.

17 CHAIRMAN MUSCARELLA: He is here.

18 We do have a quorum.

19 We have one item today, that is Clerk
20 Item 109-2013, which is a resolution authorizing
21 the County of Nassau to participate in the
22 Federal Aid Transportation Project providing for
23 the intersection improvement at Merrick Road and
24 Ocean Avenue, Capital Project H61025g, PIN
25 #0760.14, and authorizing the county executive of

2 the County of Nassau to execute the agreement on
3 behalf of the County with the New York State
4 Department of Transportation for the Advancement
5 of said federal aid transportation projects in
6 Nassau County, New York.

7 Motion by --

8 LEGISLATOR BECKER: So moved.

9 LEGISLATOR VENDITTO: Second.

10 CHAIRMAN MUSCARELLA: Motion by Francis
11 Becker, seconded by Michael Venditto.

12 The item is before us.

13 Mr. May, who do we have?

14 MR. MAY: We have Ms. Donna Boyle from
15 the Department of Public Works to answer any
16 questions on the item, probably including the
17 length of the title.

18 CHAIRMAN MUSCARELLA: Ms. Boyle, could
19 you briefly tell us what this is all about?

20 MS. BOYLE: Nassau County has managed
21 to acquire approximately \$3.5 million of federal
22 aid in the category of CMAC, congestion
23 mitigation, in order to rebuild the intersection
24 of Ocean Avenue at Merrick Road; that's near a
25 cemetery, the park, the LIPA land is right there,

2 just so you're familiar with the corner. It's
3 just north of where the rail road tracks cross
4 Ocean Avenue and south of Peninsula Boulevard.
5 That particular section of Ocean Avenue.

6 We're putting in a left turn lane which
7 will speed up the southbound traffic. Coming
8 northbound, people come to work at staggered
9 times, but they all want to go home at the exact
10 same time.

11 CHAIRMAN MUSCARELLA: I know the
12 intersection.

13 Do we have any questions? Mr. Becker.

14 LEGISLATOR BECKER: I'm glad to see that
15 this is finally coming to fruition after so many
16 years. This is one of the things I've worked on
17 since I became a legislator, just about.

18 The \$3.5 million, is that the cost of the
19 project, the total cost of the project?

20 MS. BOYLE: No. It's a reimbursement
21 project so Nassau County can get 80 percent of
22 what we spent to build the intersection, up to
23 \$3.5 million. So if we only spend \$3 million,
24 we're not getting 3.5 million.

25 LEGISLATOR BECKER: Okay. Understood.

2 But we do we estimate -- do we have an estimate
3 of what the project is going to cost?

4 MS. BOYLE: Right now the estimate is
5 coming in at about \$3.8 million.

6 LEGISLATOR BECKER: Wow. Okay.

7 Also, there was the need to purchase some
8 property. Is everything else in place at this
9 particular point to move forward with the
10 project?

11 MS. BOYLE: There are two things
12 missing, one is this agreement with New York
13 State in order for us to go forward, and the
14 other thing will then be the agreement to bid the
15 job and have that come before the Leg once a
16 contractor is selected.

17 LEGISLATOR BECKER: But everything else
18 in place. In other words, at some point we had
19 to condemn some property or purchase some
20 property for the right, you know --

21 MS. BOYLE: Correct. That's all been
22 done. Nassau County actually vested title to
23 that property last month.

24 LEGISLATOR BECKER: Great. We're almost
25 there, I suppose, barring something incredible

2 happening.

3 Ms. BOYLE: It's my hope.

4 LEGISLATOR BECKER: Okay. The best case
5 scenario, when do you think we would break ground
6 on the property?

7 MS. BOYLE: Hoping that everything goes
8 correctly in the agreement between Nassau County
9 and the contractor, makes it through the Leg with
10 no problems and all of that good stuff, I'm
11 anticipating that we break ground for this
12 construction season.

13 LEGISLATOR BECKER: Which would be when?

14 MS. BOYLE: Figure April/May.

15 LEGISLATOR BECKER: April/May?

16 MS. BOYLE: Right.

17 LEGISLATOR BECKER: That's great to
18 know, believe me. It's music to my ears after
19 all these years. Thank you so much for all your
20 efforts, and extend my gratitude to the
21 commissioner as well because your idea or her
22 idea to try to get this money so the county
23 didn't necessarily have to pay for it, that will
24 be a home run in every respect once it moves
25 forward.

2 Thank you very much.

3 CHAIRMAN MUSCARELLA: I have a question.
4 Do we need to expend this money and then get
5 reimbursed for it?

6 MS. BOYLE: Correct. We will have to
7 expend the money, following all of the federal
8 rules, apply for reimbursement, and then the
9 state will send us a check, which will have come
10 through the federal government. It's a long
11 process.

12 CHAIRMAN MUSCARELLA: And this will be
13 money that's bonded, you anticipate?

14 MS. BOYLE: In what way do you mean
15 bonded? Do you mean the county will bond the
16 construction money?

17 CHAIRMAN MUSCARELLA: Correct.

18 MS. BOYLE: To my knowledge, it's
19 already -- they've already received approval to
20 bond it. It's one of the requirements of the
21 agreement, is that Nassau County has to have the
22 money available. So when you sign this
23 agreement, you say that you've already done that.

24 CHAIRMAN MUSCARELLA: And that is passed
25 through NIFA, to your knowledge.

2 MS. BOYLE: Yes. It's a one penny
3 agreement between Nassau County and New York
4 State - I shouldn't say that. I'm not a NIFA
5 expert.

6 CHAIRMAN MUSCARELLA: Did we bond that
7 penny?

8 MS. BOYLE: You know, I offered to pay
9 that penny myself and they said I couldn't.

10 The agreement -- in the past, the other
11 agreements of this type did go through NIFA. I'm
12 assuming this one will have to too.

13 LEGISLATOR BECKER: This has been on the
14 capital budget, in our capital budget for ages.

15 MS. BOYLE: At least ten years.

16 LEGISLATOR BECKER: More than a decade
17 this has been in our capital budget.

18 CHAIRMAN MUSCARELLA: Mr. Denenberg, do
19 you have a question?

20 LEGISLATOR DENENBERG: Yes. Along the
21 lines of what Mr. Becker just said.

22 This has been in our capital budgets for
23 ten years. How much money is in our capital
24 budget for this project?

25 MS. BOYLE: For the construction cost,

2 you mean? Right now about \$3.8 million.

3 LEGISLATOR DENENBERG: So just about all
4 of it, if not all of it is coming back from the
5 federal government?

6 MS. BOYLE: The construction, right.
7 The intention is that we will get reimbursed for
8 at least 80 percent of the construction cost.

9 LEGISLATOR DENENBERG: But the approval
10 at least, if I'm looking at 2012 capital budget
11 which was just approved and 2011 before that,
12 that 3.8 was approved. Are we saying we didn't
13 bond any of that yet and now we don't have to
14 bond? What are we going to do to adjust the
15 capital budget?

16 MS. BOYLE: I don't run the capital
17 budget. I can tell you how this construction
18 project's going to work.

19 As far as the bonding goes, I think we --
20 correct me if I'm wrong here, you guys know this
21 better than I do. We get bonding authority by
22 project and then when we're ready to go to
23 construction they actually assign that line of
24 money to that construction project. We had
25 approval to go forward, and until we actually

2 need it they don't -- it's kind of like a savings
3 account, they don't tap it until you need it.

4 LEGISLATOR DENENBERG: They never bonded
5 it. Even though it was in the capital budget,
6 because we didn't need it as of yet, it wasn't
7 bonded?

8 MS. BOYLE: I don't want to use the word
9 that it wasn't bonded. I know that it wasn't
10 tapped for this project. It's not sitting in
11 some separate account somewhere, but I think we
12 have the authority to use the money at some
13 point. I know that there's no cash available,
14 and I'm not sure how that relates to the bonding
15 authority. That's really a question for the
16 financial side of the house. I can tell you what
17 percent the road is built at and how thick a
18 pavement section we have.

19 LEGISLATOR DENENBERG: I'd be interested
20 to know the answer. Obviously this is going to
21 go through and I've got no problem with that.
22 But I do from a public works and a bonding
23 accounting standpoint want to know how we're
24 going to adjust -- maybe at Full or before then
25 someone from Public Works or the administration

2 can let me know how we're going to adjust the
3 capital plan or our bonding authorization to show
4 something that we don't have to bond for.

5 MS. BOYLE: I will have someone from
6 that department --

7 LEGISLATOR DENENBERG: Over all these
8 years, I don't know if we bonded for it already
9 or not. I've seen this project so many times.

10 CHAIRMAN MUSCARELLA: If I might just
11 put on the record, the other question I don't
12 know the answer to, and maybe I should, once the
13 money is reimbursed by the federal government,
14 what does that allocation go towards? Does that
15 immediately retire the bonds for that particular
16 project?

17 LEGISLATOR DENENBERG: Exactly.

18 MS. BOYLE: As I understand it -- again,
19 I'm not an accountant, I'm an engineer. As I
20 understand it, when the federal money comes back
21 it goes back into that capital project. If there
22 is no further outlay of money required for that
23 capital project, then it's used to retire debt.
24 I don't even know what that terminology means,
25 but that's what I'm told.

2 LEGISLATOR DENENBERG: Actually,
3 Legislator Muscarella, that's exactly what
4 probably we're both thinking now. Do we borrow
5 the money so we can lay out the 3.8 and then pay
6 ourselves back by retiring the debt that we
7 borrowed or does the 3.8 somehow go into some
8 other account? To me it seems like to lay out
9 the --

10 MS. BOYLE: As I understand, it's got to
11 be retired debt.

12 LEGISLATOR DENENBERG: 3.8, unless we
13 have an account there to lay out money, we're
14 going to have to borrow. It would only seem
15 right then to use the money that comes back from
16 the federal government to retire it.

17 I see Maurice Chalmers there from our
18 Independent Budget Review Office. Do you have
19 any idea or is this something you can look at? I
20 want to know from an accounting standpoint, do we
21 have to borrow what we've already approved, get
22 the project going, because this is a
23 reimbursement after we spent the money, that's
24 what we were told, right?

25 MS. BOYLE: Right. It is a

2 reimbursement.

3 LEGISLATOR DENENBERG: That's what
4 Legislator Becker had made out.

5 MR. CHALMERS: If you would like us to
6 take a look at it, we absolutely could take a
7 look at it and report back before it goes to the
8 Full Leg.

9 LEGISLATOR DENENBERG: Thank you.

10 CHAIRMAN MUSCARELLA: Yeah. I think it
11 comes back to diffuse the debt of the county,
12 because you can't use it for anything else.

13 MR. CHALMERS: I believe so. But we'll
14 confirm that and report back to you.

15 CHAIRMAN MUSCARELLA: Okay. Thank you.

16 LEGISLATOR DENENBERG: I just want to
17 make sure. Thank you.

18 MR. CHALMERS: You're welcome.

19 CHAIRMAN MUSCARELLA: Any other
20 questions?

21 (No verbal response.)

22 Hearing none, all those in favor of
23 moving this item please signify by saying -- Mr.
24 Becker, if you'd like to adjourn before we move
25 the item -- signify by saying aye.

2 (Aye.)

3 Any opposed?

4 (No verbal response.)

5 That item passes --

6 LEGISLATOR DENENBERG: Point of order,
7 to the Chair.

8 CHAIRMAN MUSCARELLA: Yes.

9 LEGISLATOR DENENBERG: The item just
10 passes unanimously.

11 Before you adjourn, on behalf of
12 Legislators Scannell and Solages, we would ask
13 the Chair -- and I want to do this as ranking
14 member -- but we should inquire of the
15 administration why a 30 year use and occupancy
16 permit or lease for parks, for use of parks
17 doesn't go to the Public Works and Parks
18 Committee. That's 30 years of -- that's not for
19 you, Donna.

20 MS. BOYLE: That's not me.

21 LEGISLATOR DENENBERG: Don't worry.
22 You're free on this.

23 I do believe that this committee -- and I
24 would ask the Chair, and I would love it coming
25 from everyone on the committee but certainly from

2 the chair to the administration or to the
3 presiding officer, why an item that affects for
4 30 years one of our parks, by giving exclusive
5 use for certain times, wouldn't go to this
6 committee; it's the Parks Committee.

7 CHAIRMAN MUSCARELLA: It's my
8 understanding that as with the tennis bubbles,
9 which is a 30 year agreement that didn't come
10 before this committee under a prior
11 administration, it's within the purview of the
12 Charter for a use and occupancy agreement to go
13 to Rules only. But we'll try and find out the
14 answer to that.

15 LEGISLATOR DENENBERG: I actually don't
16 understand any reference to tennis bubbles
17 controlling a 30 year lease now. I don't think
18 that it's applicable at all. And under the
19 Charter, the Charter for a lease requires ten
20 votes. The Public Works and Parks Committee was
21 created -- I thought that it took some of what
22 the general service -- the Government Services
23 Committee used to do. I don't remember parks --
24 or use and occupancy permits for parks that were
25 Rules only.

2 The point is, we have a Parks Committee,
3 it should go to the Parks Committee. If it's a
4 good financial deal, it should go to the Finance
5 Committee too. But this is the Parks Committee
6 and that's why I'm raising it.

7 CHAIRMAN MUSCARELLA: It is a license
8 agreement not a lease. Okay. Taken under
9 advisement. We'll try and find the answer to
10 that.

11 LEGISLATOR DENENBERG: I disagree. If a
12 letter doesn't come from the committee chair, it
13 will come from the minority saying that this
14 committee should not be avoided.

15 CHAIRMAN MUSCARELLA: You're free to ask
16 by letter.

17 Any other business before us?

18 (No verbal response.)

19 Hearing none, Mr. Becker makes a motion
20 to adjourn, seconded by Mr. Kopel.

21 All those in favor signify by saying aye.

22 (Aye.)

23 Any opposed?

24 (No verbal response.)

25 We are adjourned.

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(Whereupon, the Public Works Committee
adjourned at 3:36 p.m.)

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 _____ day of _____, 2013.

FRANK GRAY