

NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,  
PRESIDING OFFICER

PLANNING, DEVELOPMENT AND  
THE ENVIRONMENT COMMITTEE

MICHAEL VENDITTO,  
CHAIRMAN

1550 Franklin Avenue  
Mineola, New York

March 10, 2014  
2:29 p.m.

REGAL REPORTING SERVICES  
516-747-7353

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

MICHAEL VENDITTO  
Chair

DENNIS DUNNE  
Vice-Chair

RICHARD NICOLELLO

DENISE FORD

JUDY JACOBS  
Ranking

DAVID DENENBERG

KEVAN ABRAHAMS

WILLIAM J. MULLER, III  
Clerk of the Legislature

LIST OF SPEAKERS

GREG MAY . . . . . 5  
DONNA BOYLE. . . . . 6  
ERROLL WILLIAMS. . . . . 12

2 CHAIRMAN VENDITTO: I call the Planning,  
3 Development and Environment Committee to order.  
4 And I'll have the clerk call the roll.

5 CLERK MULLER: Legislator Birnbaum?  
6 She's here.

7 CLERK MULLER: Legislator Denenberg?  
8 (No verbal response.)

9 CLERK MULLER: Ranking Member Jacobs?  
10 LEGISLATOR JACOBS: Here.

11 CLERK MULLER: Legislator Ford?

12 LEGISLATOR FORD: Here.

13 CLERK MULLER: Legislator Nicoletto?

14 LEGISLATOR NICOLELLO: Here.

15 CLERK MULLER: Vice Chairman Dunne?

16 LEGISLATOR DUNNE: Here.

17 CLERK MULLER: Chairman Venditto?

18 CHAIRMAN VENDITTO: Here.

19 CLERK MULLER: We have a quorum.

20 CHAIRMAN VENDITTO: Okay. We do have a  
21 quorum.

22 CLERK MULLER: And Legislator Denenberg  
23 is here.

2 CHAIRMAN VENDITTO: Wonderful.

3 We have one item on the agenda today. It  
4 is Clerk Item Number 56-14. This is a resolution  
5 ratifying the action of the Commissioner of  
6 Public Works in preparing a map showing the real  
7 property and easements to be acquired along West  
8 Shore Road, Mill Neck, Town of Oyster Bay, known  
9 as County Attorney Proceeding Number 1237, and  
10 authorizing the clerk of the Nassau County  
11 Legislature to publish a notice of filing of such  
12 map in the Office of the Department of Public  
13 Works, and have a public hearing to be held  
14 concerning the adoption thereof and to send a  
15 copy of said notice by certified mail, return  
16 receipt requested to each owner affected.

17 May I have a motion, please?

18 LEGISLATOR DUNNE: So moved.

19 LEGISLATOR FORD: Second.

20 CHAIRMAN VENDITTO: Moved by Legislator  
21 Dunne, seconded by Legislator Ford.

22 The item is before us.

23 Anyone here from the administration? Mr.  
24 May.

25 MR. MAY: Yes. We have Ms. Donna Boyle

1 Planning, Development & Environment Committee - 3-10-14 6  
2 from the Department of Public Works, and there is  
3 also Mr. Erroll Williams from the County  
4 Attorney's Office.

5 CHAIRMAN VENDITTO: Good afternoon, Ms.  
6 Boyle and Mr. Williams.

7 MS. BOYLE: Donna Boyle, Nassau County  
8 Department of Public Works, Civil Engineer III.

9 CHAIRMAN VENDITTO: Good afternoon. Can  
10 you tell us about this item?

11 MS. BOYLE: This item is a map where we  
12 are attempting to ratify lands that currently  
13 exist under the existing roadbed of West Shore  
14 Road in the Village of Mill Neck. The official  
15 legal terminology is an action to quiet title.  
16 In addition to that, we need to take working  
17 easements for a few of the parcels at the north  
18 end of the job.

19 I don't know how many of you are familiar  
20 with that area. But West Shore Road went into  
21 the water a few years ago. We fixed that  
22 portion. If you approve and ratify this map, we  
23 can then fix the portion to the north of it. In  
24 addition to that, we have a project to fix the  
25 southern section of the road, which is not before

2 you today.

3 CHAIRMAN VENDITTO: Okay. Thank you.

4 With that said; any questions from the  
5 committee members. Legislator Denenberg.

6 LEGISLATOR DENENBERG: Yes. Ms. Boyle,  
7 this proceeding, this is for, what you said, to  
8 put title but it's also considered -- I mean,  
9 it's often called a condemnation proceeding.

10 MS. BOYLE: Correct. There are various  
11 types of condemnation proceedings. Sometimes we  
12 acquire land in fee, whereby we pay the owners  
13 for the property. Sometimes we acquire working  
14 easements, again where we rent the property.  
15 However, in this case the roadbed is part of the  
16 travel way. So even though some deeds reflect  
17 otherwise, a resolution passed in 1907 gives the  
18 right-of-way to Nassau County, so we just have to  
19 go through the legal proceedings of that.

20 LEGISLATOR DENENBERG: Until this is  
21 complete the project can't be completed?

22 MS. BOYLE: The only other way to  
23 complete the project without any issues would be  
24 for those homeowners to give us that right.  
25 However, because this is adjacent to the National

2 Fish and Wildlife Refuge, the National Fish and  
3 Wildlife Organization has decided that they won't  
4 give us our permit without us having clear title.

5 LEGISLATOR DENENBERG: In order to get a  
6 permit from -- you're saying from the National  
7 Fish and Wildlife that we need to complete this  
8 job, to get that permit we need title, so we have  
9 to do this condemnation proceeding.

10 MS. BOYLE: Yes, I think that's what I  
11 said. As I understood your question.

12 LEGISLATOR DENENBERG: Now this is from  
13 the U.S. or is it from the DEC, this permit?

14 MS. BOYLE: We already have the DEC  
15 permit. This will give us the permit from the  
16 National Fish and Wildlife.

17 LEGISLATOR DENENBERG: What about the  
18 Army Corps? Do we need any approval?

19 MS. BOYLE: We'll need a permit from  
20 them also. But they don't care whether or not we  
21 own the property that we're going to be working  
22 on. However, the Department of Fish and  
23 Wildlife, Oyster Bay was given to them by the  
24 homeowners along West Shore Road. And when it  
25 was given to them there was a very strong



2 reverter clause written into it. The Fish and  
3 Wildlife is not willing to risk losing that  
4 national refuge, so they're insisting on us  
5 having clear title to the work that we're doing.

6 LEGISLATOR DENENBERG: So let me just  
7 get this clear. The project entails improvement  
8 of the seawall that runs parallel to West Shore  
9 Road, correct?

10 MS. BOYLE: At the north end, yes.

11 LEGISLATOR DENENBERG: West Shore Road,  
12 a few years ago, literally fell into the bay, the  
13 channel, the sea.

14 MS. BOYLE: It fell into Oyster Bay,  
15 yes.

16 LEGISLATOR DENENBERG: Okay.

17 MS. BOYLE: Portions of it, not all of  
18 it.

19 LEGISLATOR DENENBERG: And that was  
20 during Sandy?

21 MS. BOYLE: Correct.

22 LEGISLATOR DENENBERG: And there was a  
23 project, as I well know from being ranking member  
24 or even before that being the chair of Public  
25 Works, to redo West Shore Road, since at least

2 2010 it's been on the capital plans.

3 MS. BOYLE: Been on the capital plan  
4 since 1978.

5 LEGISLATOR DENENBERG: And then it falls  
6 into -- or portions of the road fall into the  
7 sea.

8 MS. BOYLE: Correct.

9 LEGISLATOR DENENBERG: And we did  
10 emergency reparations, correct?

11 MS. BOYLE: We had actually -- we broke  
12 the project up into pieces in order to advance it  
13 by part. This section to the north had  
14 acquisition issues because of the fish and  
15 wildlife, so we couldn't advance that part even  
16 if we wanted to. The middle portion did not have  
17 those same issues so we were able to advance  
18 that. We just had a storm event before we could  
19 get to construction. And now the southern  
20 section also doesn't have these same acquisition  
21 issues, which is why we're able to advance it to  
22 construction this year.

23 LEGISLATOR DENENBERG: I think you're  
24 being nice or a little nice. In April 2012,  
25 maybe not you but certainly Public Works came

2 before the legislature to advance the project at  
3 that time and the presiding officer, the late  
4 Presiding Officer Peter Schmitt made a motion to  
5 table it, and it was a tabled motion at the time  
6 that the storm hit.

7 But my question right now is why, when it  
8 would seem like -- I mean it's obvious that  
9 whether it's the center, the north or the south  
10 portion of West Shore Road, we can't get this  
11 project complete, in total for what we've put in  
12 the capital project unless all portions of the  
13 project are done. Now it's March 2014 and we're  
14 first beginning the condemnation proceeding.  
15 What took so long?

16 MS. BOYLE: Mr. Denenberg, this  
17 resolution was put before the board last year and  
18 it got tabled and we are reactivating it at the  
19 beginning of this legislative session.

20 LEGISLATOR DENENBERG: I would just  
21 implore everyone, let's get this moving already  
22 because we're really spending good money after  
23 bad unless we get the project done, sitting with  
24 only portions of this project done. And the  
25 record is this body has held up this project

1 Planning, Development & Environment Committee - 3-10-14 12  
2 right before Sandy, six months before Sandy, and  
3 look what happened during Sandy. We need to get  
4 this project -- we need to get this project done.

5 How long after we've passed the  
6 ratification -- after we stop -- I'm sorry. How  
7 long after we pass this resolution will it take  
8 for the condemnation proceeding?

9 MR. WILLIAMS: Erroll Williams, County  
10 Attorney's Office.

11 The next step after the resolution --  
12 adoption of this resolution, ratification of this  
13 resolution, the next step thereafter is the  
14 adoption resolution, which includes a public  
15 hearing. Thereafter, it is a fairly short  
16 process in order for title to be vested in the  
17 county. Perhaps six months.

18 LEGISLATOR DENENBERG: So you're  
19 thinking that from this point till we put title  
20 in the county will be about six months?

21 MR. WILLIAMS: No. The next step after  
22 this part is the adoption resolution which comes  
23 with a public hearing. After that, I would say  
24 about six months.

25 LEGISLATOR DENENBERG: How long for the

2 -- okay. So six months after the next step. But  
3 how long until the next step, that public  
4 hearing?

5 MR. WILLIAMS: Once we have this  
6 resolution out for bid, the adoption resolution  
7 and as quickly as we can get it on the calendar.

8 LEGISLATOR DENENBERG: But there could  
9 be opposition, correct?

10 MR. WILLIAMS: Yes, there could be.

11 LEGISLATOR DENENBERG: I do know from  
12 Legislator Delia DeRiggi-Whitton that certainly  
13 the homeowners were not favorable of the idea of  
14 giving up some of their property, so this is a  
15 better solution, I would guess, correct?

16 MR. WILLIAMS: Yes. But there's an  
17 interesting shift in that some of their deeds  
18 show that the property they actually own extends  
19 into the roadway. Obviously it's a public  
20 roadway, so they cannot own a public roadway.

21 LEGISLATOR DENENBERG: Are we going to  
22 do anything about that at this point?

23 MR. WILLIAMS: The thing to do about that  
24 is the condemnation, which if a court finds that  
25 they do not in fact own the public roadway, the

1 Planning, Development & Environment Committee - 3-10-14 14  
2 county would be liable to pay the property owners  
3 for that property since it would already be  
4 county property.

5 LEGISLATOR DENENBERG: Obviously, I'm  
6 thinking you're just the messengers. But this is  
7 clearly something that I wish and I think should  
8 have been done at least two years ago.

9 When will we get the Army Corps of  
10 Engineers approval?

11 MS. BOYLE: Once we have the acquisition  
12 complete then the National Fish and Wildlife  
13 should give us their approval. Between them and  
14 the Army Corps of Engineers, they're both U.S.  
15 government agencies, they both come together  
16 fairly quickly. So I anticipate within about a  
17 month of having the Fish and Wildlife, I'll have  
18 the Army Corps.

19 LEGISLATOR DENENBERG: So if I can  
20 summarize then. To get the Fish and Wildlife  
21 permit, which is a permit we need to do this part  
22 of the project, we need to have title. To get  
23 title, we need to do this condemnation  
24 proceeding.

25 MS. BOYLE: Correct.

2 LEGISLATOR DENENBERG: We knew this a  
3 while ago, but resolutions had been tabled,  
4 according to you, correct?

5 MS. BOYLE: Correct.

6 LEGISLATOR DENENBERG: Now once we get  
7 the Fish and Wildlife permit it's your belief, on  
8 behalf of Public Works, that we'll get the Army  
9 Corps approval?

10 MS. BOYLE: Probably within a month.

11 LEGISLATOR DENENBERG: Okay. And  
12 that's not a month from now that's a month from  
13 getting the Fish and Wildlife permit.

14 MS. BOYLE: Correct.

15 LEGISLATOR DENENBERG: Okay. One  
16 second.

17 So, obviously something that would be  
18 critical to the public -- has the work that's  
19 been done now, even though the project's not  
20 complete and can't be complete without the  
21 seawall improvement that runs parallel to West  
22 Shore Road. But the work that's been done now,  
23 is the road stable? Is it safe?

24 MS. BOYLE: The road is as stable and  
25 safe as we can make it on county property.

2 However, that is not to say that another nor-  
3 Easter hits it and we don't lose a section of the  
4 road. The entire two mile length was in bad  
5 condition. We have stabilized the worst. We've  
6 got a project out to do the next section to the  
7 south. It's over 100 years old. It's going to  
8 fail probably during the next storm even similar  
9 to Sandy.

10 LEGISLATOR DENENBERG: So the road right  
11 now is -- so let me say it this way, because I  
12 asked if it's stable or safe. Your answer is  
13 it's not stable and safe in the next nor'easter  
14 so we need to get this portion done.

15 MS. BOYLE: Not in the next nor'easter,  
16 in the next nor'easter in the magnitude of Sandy.  
17 We could have small nor'easters. We had a few  
18 this year. It will last through them. It will  
19 not last through another storm of the magnitude  
20 of Sandy.

21 LEGISLATOR DENENBERG: So you wouldn't  
22 be comfortable that the road is stable and safe  
23 until this portion of the project is complete.

24 MS. BOYLE: If we do it within the next  
25 four to five years, yes.



2 LEGISLATOR DENENBERG: It's really  
3 imperative this moves as quickly as possible,  
4 correct?

5 MS. BOYLE: Correct.

6 LEGISLATOR DENENBERG: Thank you.

7 CHAIRMAN VENDITTO: Okay. Thank you.  
8 Let's get it going.

9 Any other debate or discussion?

10 (No verbal response.)

11 Seeing none, any public comment on this  
12 item?

13 (No verbal response.)

14 Ms. Boyle and Mr. Williams, job well  
15 done. Thank you very much.

16 We'll take the vote.

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

19 (Aye.)

20 Any opposed?

21 (No verbal response.)

22 The item passes unanimously.

23 There is no other business before this  
24 committee, so may I have a motion to adjourn?

25 LEGISLATOR FORD: So moved.

2 LEGISLATOR DUNNE: Second.

3 CHAIRMAN VENDITTO: I have it from  
4 Legislator Ford, seconded by Legislator Dunne.

5 All those in favor?

6 (Aye.)

7 None opposed.

8 The motion passes unanimously.

9 The committee is now adjourned.

10 (Whereupon, the Planning, Development and  
11 the Environment Committee is adjourned at 2:43  
12 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

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 20th day of March, 2014.

-----  
FRANK GRAY