

1.
Meeting Minutes

Documents:

BUDGET REVIEW COMMITTEE, 04-24-18.pdf

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NASSAU COUNTY LEGISLATURE

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RICHARD NICOLELLO

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PRESIDING OFFICER

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BUDGET REVIEW COMMITTEE

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LEGISLATOR VINCENT MUSCARELLA

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CHAIR

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Theodore Roosevelt Building

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1550 Franklin Avenue

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Mineola, New York

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April 24, 2018

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3:22 P.M.

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

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4 LEGISLATOR VINCENT MUSCARELLA

5 Chair

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7 LEGISLATOR RICHARD NICOLELLO

8 Vice Chair

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10 LEGISLATOR HOWARD KOPEL

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12 LEGISLATOR KEVAN ABRAHAMS

13 Ranking member

14

15 LEGISLATOR ELLEN BIRNBAUM

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2 LEGISLATOR MUSCARELLA: We are
3 going to call the meeting of the Budget Review
4 Committee to order. If you would all rise and
5 please join me in the Pledge of Allegiance.

6 (Pledge of Allegiance was recited.)

7 LEGISLATOR MUSCARELLA: The way
8 we are going to do this is we are going to
9 call up a number of individuals and then have
10 some questions from the audience. I'm sorry,
11 questions from the legislators. We are here
12 today to consider or to hear from the
13 administration and the county comptroller's
14 office regarding where Nassau County found
15 itself at the end of fiscal year 2017 and to
16 get greater detail on the county executive's
17 budget modifications for the 2018 fiscal
18 budget year.

19 In past years, under both
20 Republican and Democratic administrations the
21 fiscal year closing figures were always made
22 available to the public after the close of the
23 fiscal year. Usually around the end of
24 February. This year those numbers have been
25 delayed. We haven't received those numbers

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2 yet, nor has any detail been shared as to the
3 budget modification submission to NIFA.

4 We are here basically to get a
5 clear picture on these issues from the
6 presenters and we would first, I guess, start
7 with the administration. And we ask Deputy
8 County Executive Page and budget director
9 Persich to please just address us as you see
10 fit.

11 MR. PAGE: I'm Mark Page, Deputy
12 County Executive for Finance. We thought we
13 would take you through our presentation,
14 hopefully not spending a great deal of time on
15 it, and then look forward to doing our best to
16 answer your questions on what we're talking
17 about.

18 First, I'm going to ask Andy to
19 talk about the 2017 year-end results.

20 MR. PERSICH: 2017 we're showing
21 a deficit of \$50 million. There was some
22 goods and bads for '17. One is sales tax
23 revenue is still continuing to show good
24 strength and will follow through in '18.
25 We've had other expenses decline by about \$7.3

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2 million. Our principal and interest on debt
3 service dropped by four million. We had
4 salary savings of 6.7. Some other various
5 revenue streams grew by 2.9 and state aid was
6 up by about \$1 million. We have additional
7 savings in OTPS of about 3.0. Which gave us a
8 total positive variances in 2017 of about
9 \$33.8 million.

10 Some of the bad news. Departmental
11 revenues dropped by 6.6 percent. PILOTS
12 dropped by 4.7. We also had some adjusting
13 entries for VTLs that will be picked up in '18
14 but will be a negative in '17 of 3.0.
15 Interdepartmental charges dropped by 13.1.
16 And the biggest number negative is the funding
17 source, which was the nonborrowing for tax
18 certs, which brought us down to \$83.9
19 million. Which gave us a deficit of 50.1.

20 Now, the question will become I'm
21 sure how does the fund balance factor into
22 that? Of that \$50 million we will be using
23 some of the fund balance to fund that
24 deficit. That said, because we didn't
25 appropriate it in the budget, we would have

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2 had to have taken out the '00 expense, back
3 out the revenue from the other funding source
4 and reappropriate it. Which would have been
5 mass confusion at the end of the year.

6 What will happen is, the
7 comptroller will talk how the function will
8 work in the accounting world, but they'll just
9 write the check to cover the fund balance at
10 the end of the year.

11 MR. PAGE: Basically the fund
12 balance, they will write a check from fund
13 balance to cover the deficit on a budget basis
14 at the end of the year.

15 MR. PERSICH: I see a lot of
16 glazed looks. I know we're getting into the
17 accounting world.

18 LEGISLATOR MUSCARELLA: Maybe
19 Rich, somebody will jump in with questions I
20 guess.

21 MR. PERSICH: I think it will be
22 easier, just so we don't get lost on the topic
23 because what I think you're going to ask me is
24 how is the fund balance fitting into the \$50
25 million deficit is what I think. We are

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2 covering part of it with that fund balance
3 that we talked about with Restivo.

4 LEGISLATOR MUSCARELLA: You're
5 already showing a negative balance though.

6 MR. PAGE: What we are showing
7 is, if you compare the result of spending and
8 revenue in '17 to the budget as in effect for
9 '17 we've come out \$84 million -- I'm sorry,
10 \$50 million net worse than the budget. The
11 biggest difference between the budget as in
12 effect in 2017 and this result is the budget,
13 as it was put together at the beginning,
14 included a source, other funding sources, of
15 bond proceeds. That was going to be bonding
16 for paying cert claims in 2017. That never
17 happened. So, you're missing that revenue
18 resource in 2017. Which gets you to a
19 negative of about 50.

20 Well, we obviously got through '17
21 and we paid for it somehow, and the fact is
22 that we paid for it by spending fund balance
23 to cover our expenses in 2017. And that's not
24 yet reflected here so you have the negative.
25 But as a practical matter, that 50 is covered

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2 by using fund balance. And when the dust
3 settles with the official result to 2017 it
4 will show that.

5 LEGISLATOR NICOLELLO: At a
6 minimum this is provisional what you're
7 describing for us?

8 MR. PAGE: Yeah. We don't have
9 final numbers for '17 officially and you will
10 hear more from the comptroller on that.

11 LEGISLATOR NICOLELLO: The lion's
12 share of this deficit is caused by the
13 nonborrowing for tax certs?

14 MR. PAGE: Yes. As a practical
15 matter.

16 LEGISLATOR NICOLELLO: I believe
17 the number we're getting from our finance
18 person was at least \$36 million was used from
19 fund balance to make up for that loss of
20 anticipated borrowing in 2017?

21 MR. PAGE: I think that the
22 budget plan in 2017 included an expectation of
23 using that \$36 million of fund balance. I
24 think mechanically it was never actually
25 appropriated in the official budget in 2017.

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2 So, although it was talked about it's not
3 actually in the approved number structure of
4 that budget. So you can think of it as inside
5 this \$50 million. A piece of the \$50 million.

6 LEGISLATOR NICOLELLO: But you're
7 saying that this \$50 million, what's showing
8 currently with this I guess provisional
9 year-end results, this \$50 million will be
10 covered by fund balance?

11 MR. PAGE: Yes. But it's not 50
12 plus 30 it's 50.

13 LEGISLATOR NICOLELLO: 50 total.
14 Thirty six had already been anticipated for
15 the tax certs.

16 MR. PERSICH: 36.4 is what we are
17 projecting to use for tax certs.

18 LEGISLATOR NICOLELLO: So you
19 will be adding an additional 13.6?

20 MR. PERSICH: Yeah. Some
21 accounting issues for treatment of certain
22 things that didn't come in '17 that will pick
23 up in '18 because of the timing. I will let
24 the comptroller discuss the reasons as to why.

25 MR. PAGE: The big piece is we

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2 are out of '17. We didn't run out of money.
3 How did we cover it? At the end of the day
4 you cover it because you have the fund balance
5 to cover it with.

6 LEGISLATOR KOPEL: So, a couple
7 of months ago when we were voting on a bond we
8 were told that we had to pretty much bond a
9 certain expense. You remember what that was,
10 the Restivo thing. We were told that we've
11 already got a negative unassigned fund balance
12 right now, right?

13 MR. PAGE: And you can listen to
14 the comptroller on that and that's probably
15 true.

16 LEGISLATOR KOPEL: The
17 administration told us that as well.

18 MR. PAGE: Yes.

19 LEGISLATOR KOPEL: If you have a
20 negative fund balance, unassigned fund
21 balance, A, where is that money coming from
22 now? How are you going to make it much more
23 negative unassigned balance? And we're going
24 to have to fill that hole at some point.
25 Where is it all coming from?

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2 MR. PAGE: I guess there's
3 probably something to be said -- I'm not going
4 to be able to explain this clearly -- between
5 unassigned and assigned bits of fund balance,
6 because there are actually reserves that have
7 limits on how you use them in addition to the
8 unassigned balance. And if you go back and
9 look at the fund balance number over the last,
10 I don't know, five, six, seven years in the
11 county, in a number of years it was actually
12 considerably negative. And you might
13 reasonably ask how could that possibly be?
14 But the county was functioning.

15 LEGISLATOR KOPEL: You have cash
16 and you use the cash.

17 MR. PAGE: Yeah.

18 LEGISLATOR KOPEL: So it's a
19 difference between cash on the one hand and
20 your accounting for it.

21 MR. PAGE: One of the things that
22 was probably significant in past years and
23 still makes some difference is the extent
24 you've issued cash flow notes and they're
25 outstanding across from one year to the next.

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2 That helps how much cash you actually have in
3 the drawer. Although it probably doesn't help
4 the official score on fund balance.

5 LEGISLATOR KOPEL: You can have
6 lots of cash and still be bankrupt, right?

7 MR. PAGE: Maybe. And the
8 question ultimately is whether you are
9 insolvent. Which means literally you don't
10 have cash in the drawer to meet the check
11 you're writing today.

12 LEGISLATOR KOPEL: Or if your
13 liabilities exceed your assets considerably.

14 MR. PAGE: Yeah. Although,
15 again, when you're doing accrual accounting
16 you can be carrying a liability but it doesn't
17 have the day you're going to have to pay it in
18 it. So, as long as you don't actually have to
19 pay the liability immediately --

20 LEGISLATOR KOPEL: The cash is
21 there and you float it. I understand. But in
22 other words, what we would be doing in essence
23 is invading further the cash available to meet
24 the accrued obligations for which are assigned
25 and B, for which we can't use fund balance.

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2 MR. PAGE: Yes. It means you got
3 less.

4 LEGISLATOR KOPEL: And we were
5 told, I thought, forgive me if I
6 missapprehended what we were told previously,
7 but I thought you can't do that?

8 MR. PAGE: You know, numbers are
9 a way of presenting where you are at any given
10 moment. And there are standards about how you
11 present them, whether you're doing this on a
12 budget basis or GAAP basis, and each one is a
13 picture of where you are and each one is
14 accurate in some way and probably not totally
15 accurate. As they move up and down it
16 certainly gives you a general idea of how much
17 latitude you have to deal with unexpected
18 events. And as you use this fund balance you
19 have less latitude. As it grows you have
20 more. It's a number that credit rating
21 agencies for instance look at and complain
22 about when it's going in the wrong way.

23 We've spent quite a lot of time in
24 the last week or so with the rating agencies,
25 which ultimately confirmed the ratings they

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2 already had on our bonds. Which is nice.

3 That happened in the last day actually.

4 But you think their numbers, they
5 should be objectively accurate and represent
6 exactly what's going on. And they're a
7 picture. They're another artwork. They're
8 not 100 percent accurate as to what's
9 happening at any given moment.

10 LEGISLATOR KOPEL: So what you're
11 telling me basically is accounting is a way to
12 make things look however you want almost.
13 Accounting is a wonderful thing.

14 So, what I'm getting out of this,
15 and please correct me if I'm misstating it, I
16 don't want to do that, is that we're looking
17 at it a different way than we looked at it a
18 couple of months ago?

19 MR. PAGE: I don't know. On
20 Restivo?

21 LEGISLATOR KOPEL: Yes.

22 MR. PAGE: We are looking at it
23 differently because, as I will get into, the
24 changes we've made and recognized as having
25 happened in the update to the budget that we

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2 put out on March 15th. Because we actually in
3 that update identified the resources to enable
4 us on a budget basis to pay for Restivo. So,
5 we actually swept together altogether about
6 \$54 million worth of --

7 LEGISLATOR KOPEL: Cash.

8 MR. PAGE: -- better, whether
9 expectation of revenues or expectation of
10 spending less in this year and that gave us
11 the room to, as a budget matter, included
12 paying for Restivo out of our current
13 resources in 2018.

14 LEGISLATOR KOPEL: So, I've
15 deflected you long enough. Would you be so
16 kind perhaps as to send the committee a bit of
17 a written explanation of the differences
18 between the two ways of looking at it? Would
19 that be okay?

20 MR. PERSICH: We can do that.

21 MR. PAGE: Give it a shot. If
22 you are as mystified after you read it as
23 before --

24 LEGISLATOR KOPEL: I won't be
25 surprised because I don't have accounting

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2 training.

3 MR. PAGE: Neither do I but I've
4 dealt with it for a long time.

5 LEGISLATOR MUSCARELLA:
6 Mr. Nicoletto.

7 LEGISLATOR NICOLELLO: You
8 mentioned Restivo. Earlier this year, as
9 obviously you're aware, the administration
10 came to us with a plan to pay Restivo using
11 \$45 million in bonds even though there was
12 money set aside in a segregated account for
13 the purpose of paying Restivo. Ultimately we,
14 after many hearings and many hours of
15 deliberations, gave the administration \$23
16 million in bonding at the request of the
17 administration with the balance to come from
18 this segregated account. Was that plan ever
19 submitted to NIFA?

20 MR. PAGE: NIFA was certainly
21 aware of that plan. Your authorization of
22 that \$23 million exists. It needed to happen
23 before we actually made the payment out from
24 that account or it would not and could not
25 exist.

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2 In the amendment to the budget on
3 March 15th we complied with the NIFA mandate
4 to have a plan that was GAAP balanced in 2018,
5 as we will talk about in a minute. I don't
6 know if we're going to hold on to that through
7 '18. I think it's highly uncertain.

8 But to rely on the bonding for \$23
9 million of Restivo would, on NIFA's GAAP
10 balance definition, put us \$23 million
11 negative. It's useful because it's cash, and
12 by the time we get to the end of this year we
13 may well need it. But as of the update in
14 March and events since we're actually doing
15 fine on that GAAP standard. Ignoring a couple
16 of major issues that I will talk about.

17 LEGISLATOR NICOLELLO: That was a
18 very long answer to a very short question
19 which asked basically, was the plan developed
20 by the administration and put before us after
21 many hours of deliberation, which was approved
22 in terms of \$23 million in bonding, which, by
23 the way, was told to us by administration
24 officials that NIFA was okay with that plan,
25 was that submitted to NIFA as the way to pay

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2 Restivo?

3 MR. PAGE: No, it has not been
4 submitted to NIFA. It was not submitted to
5 NIFA in the update on March 15th. It may well
6 be submitted to NIFA by the time we get to '18
7 to have a viable plan through this year.

8 LEGISLATOR NICOLELLO: That was
9 the plan that the administration put forward
10 that we did our part to authorize in terms of
11 the bonding. What changed? Why wasn't that
12 submitted to NIFA for approval?

13 MR. PAGE: Because we were able
14 to find resources in '18 to pay Restivo out of
15 current resources in '18. Which meant that we
16 could actually, in our budget as updated in
17 March, meet the NIFA mandate that our budget
18 be GAAP balanced.

19 LEGISLATOR NICOLELLO: So, the
20 administration unilaterally decided that it
21 would not proceed with what it had proposed
22 and what we had approved and decided it would
23 go in a different direction? NIFA did not say
24 to the administration you cannot do this. The
25 administration, between February 5th or 6th

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2 when we approved this and the middle of March
3 when you submitted the budget modification,
4 unilaterally decided to go in a different
5 direction?

6 MR. PAGE: By the legislature
7 authorizing that bonding before the payment
8 was made on Restivo the county has the option
9 to bond that \$23 million. If the legislature
10 had not acted before the payment we would not
11 have that option at all. We have a budget as
12 of mid March that doesn't rely on that
13 bonding. By the time we get through '18 I
14 think there's a high chance we will be relying
15 on that bonding to cover our needs.

16 LEGISLATOR NICOLELLO: We
17 approved the bonding to pay for the Restivo
18 judgement. We did not approve it to be a
19 fall-back position for the county to pay for
20 any other expenses that came forward. So,
21 from our perspective if you're not using it
22 now we may consider withdrawing that
23 authorization.

24 But you're saying that you were
25 able to fill on a budgetary basis the gap.

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2 But to do that there are a variety of revenue
3 sources. I want to focus in on one. Fees.
4 You're proposing to fill part of Restivo, the
5 Restivo expense, to increasing fees?

6 MR. PAGE: Yes.

7 LEGISLATOR NICOLELLO: Those fees
8 have not been approved by this legislature and
9 the indications that have been given by a
10 number of us is that there's no appetite to go
11 back to these types of fees. So, you
12 submitted a document to NIFA but you haven't
13 on any sort of basis filled the gap that's
14 created by Restivo.

15 MR. PAGE: I don't think that's
16 exactly true. In the portion of the balanced
17 plan in March that relies on fees subject to
18 approval by the legislature I believe it's
19 about \$9.7 million.

20 MR. PERSICH: That would require
21 your approval on.

22 LEGISLATOR NICOLELLO: Here's the
23 objection we're going to have. There was, as
24 represented by the administration, a plan to
25 pay for Restivo using bonds proceeds that we

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2 authorized in the amount in a segregated
3 account. The administration unilaterally,
4 without even consulting us, despite the fact
5 that we had gone through many hours of
6 deliberation to authorize that bonding,
7 unilaterally decided that they would not go in
8 that direction. They were going into another
9 direction. Part of which relies upon these
10 fees, which the bulk of which certainly are
11 not going to go through the legislature.
12 Here's what concerns me.

13 Restivo is an unusual case. An
14 extreme case. \$45 million bonding. \$45
15 million judgement. I understand you don't
16 want to bond for such payments in general.
17 But this is unusual, it's an emergency, anyone
18 would understand that in certain circumstances
19 if bonding is available and you can use it you
20 use it. You've determined, the administration
21 determined not to go down that path because
22 you think you can achieve it in other ways in
23 the budget.

24 We, speaking for myself, do not
25 believe that is an appropriate path to go in.

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2 Especially when this money has been either in
3 an account and in bonding authorization to
4 come back and now ask us to have the residents
5 of Nassau County pay for more in fees when the
6 money is already there to pay this judgement.

7 MR. PAGE: As will be I think
8 evident in this presentation, we also have
9 something in the neighborhood of \$350 million
10 of claims for tax overpayments that the county
11 owes. In order for us to issue bonds for any
12 purpose, as you are very much aware, we need
13 NIFA's approval. That would include bonds for
14 the \$23 million in Restivo. If at the end of
15 the day the only means we think we have to
16 meet the cost of accumulated claims for
17 overpayments is to bond that too would require
18 NIFA approval.

19 I think that a part of our concern
20 is that we come up with a plan that actually
21 we think meets our needs for this year and
22 going forward to take to NIFA in the hope that
23 we could get their approval of that plan as
24 opposed to starting out in small pieces. We
25 may well end up in small pieces. At least we

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2 would hope to have a plan that the pieces
3 stacked up to make work.

4 LEGISLATOR NICOLELLO: Here's the
5 thing. When we passed that bonding there was
6 money in a segregated account for that
7 purpose. We had many representations from the
8 administration that there would be
9 difficulties with cash flow, there would be
10 potential bond rating decreases if we didn't
11 pass this bonding. We had spent an entire
12 year with people criticizing borrowing for
13 various purposes. The Mangano administration
14 had sought to borrow for the purpose of that
15 Restivo judgement. So, it was with great
16 difficulty that we agreed to even \$23 million
17 for that purpose.

18 Now we learn that unilaterally the
19 administration decided not to submit that to
20 NIFA and decided to go in a different
21 direction. Now, we approved those bonds in
22 good faith, but those actions of the
23 administration to turn around and change the
24 plan without telling us, to make us go through
25 that entire exercise of multiple hearings and

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2 to go through the stress of having to vote for
3 that bond to give this administration the
4 chance to start off.

5 Now for the administration on its
6 own, without telling anybody, to change the
7 entire plan you have unilaterally not only
8 made that budget modification but you have
9 eroded whatever good faith exists. So, not
10 only would we consider withdrawal of the
11 authorization for that bonding, but we will be
12 very skeptical as we go forward for the rest
13 of this year.

14 Our position was come to us as we
15 go through the year. If you need additional
16 borrowing we will consider it. But at this
17 point I don't know why we would do that.
18 Because we may give you authorization to use
19 bonds for various purposes but we have no
20 ability to know if you're actually going to
21 use those. You may come up with another plan
22 down the road.

23 So again, by this action you have
24 eroded the good faith that existed on January
25 1st when we started. You have also eroded the

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2 good faith of the five members on this side of
3 the aisle after much thought and consternation
4 went and gave the authorization to that
5 administration to give the administration a
6 good start to this year.

7 So, I can't say as strongly words
8 as I possibly can. Again, you have eroded the
9 good faith that existed unilaterally without
10 notice to anyone. If you had told me it went
11 to NIFA and NIFA said no, it would have been a
12 different set of questions that arose. But
13 NIFA didn't even have a chance to opine on
14 this.

15 Again, we were told when this was
16 going on that, in fact, NIFA would approve
17 it. So, that's number one.

18 Number two, these fees that you are
19 relying on in part they're not going to
20 happen. Maybe some of these we will
21 consider. There are new fees for services are
22 not being charged. We're not going back and
23 asking people to pay another \$5 for red light
24 cameras. They're already paying \$150 a
25 piece. We're not going back to raising park

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2 fees that were recently raised.

3 So, I don't know where your budget
4 modification plan is but I'm certainly
5 concerned about the way this administration is
6 going about it's business just from the
7 standpoint of transparency.

8 MR. PAGE: It's unfortunate that
9 you see it that way. I think that the action
10 that the administration asked for was
11 extremely time sensitive. We had been here
12 for I guess a month when that discussion took
13 place. The payment was required to be made I
14 believe February 8th, and in order to have the
15 possibility of bonding that expense
16 legislative action had to happen before the
17 payment on February 8th.

18 Since then we spent considerable
19 amount of time and energy trying to find
20 whether we could come up with a viable plan to
21 actually pay our expenses out of current funds
22 in '18. We had a number of actions reflected
23 in the March 15th proposal that enabled us to
24 identify resources that we had not identified
25 as of the end of January that we think are

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2 available to us in '18.

3 We've covered Restivo. We also
4 covered a number of add backs that we would
5 propose against the cuts that were imposed at
6 the beginning of '18 on the '18 budget. Some
7 of it was fortuitous. The economy is doing
8 well. The sales tax collections are doing
9 well. We've moved up that assumption. We
10 think that's a reasonably conservative
11 action. Collections so far this year are well
12 above the three percent increase annually that
13 we put in. We have had lower social service
14 expenses because the case loads are actually
15 somewhat lower. Which probably relates to job
16 numbers that are doing very well in the
17 county. And a number of other actions that
18 were identified that we thought were doable
19 and made sense to improve what resources are
20 realistically available to us in this year.

21 We've not done that as of the end
22 of January. We did do that between then and
23 the end of March. Much of this is in fact a
24 proposal. Adding back spending for various
25 purposes is subject to appropriation and

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2 approval by this body. That remains in the
3 future in terms of whether and how it's to be
4 done.

5 I keep going back to the timing
6 need for that bonding authorization, and I
7 think it's unfortunate that we didn't
8 understand each other better in terms of
9 whether -- I suppose in 20-20 hindsight that
10 we were going to find other resources
11 available above and beyond increases in fees
12 that would do us good this year.

13 LEGISLATOR NICOLELLO: I've
14 already probably beaten this to death. A
15 couple of points. We went through those
16 hearings and there was not one word or hint
17 that you were looking to do this any other
18 way. It was impressed upon us that this was
19 the only way to do it. That cash flow issues
20 would be tremendous and a potential bond
21 rating decrease. Somehow between February 6th
22 and March 14th we were able to cobble together
23 this plan. But again, in terms of disclosure,
24 transparency not a word was given to us that
25 we are moving away from the original plan and

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2 submitting something different to NIFA.

3 Third, in terms of the money you
4 were able to identified over the last month,
5 you haven't touched the additional spending
6 needs that are in this county. You have to
7 hire more fire marshals. You have to hire
8 more correction officers. You haven't touched
9 those here. While you have identified
10 additional monies to fill the gap because now
11 we're paying Restivo through operating, you
12 still have many others needs that remain
13 untouched.

14 MR. PAGE: We have provided for
15 hiring of new correction officers, and I guess
16 we can get into the details on the rest of
17 it. I would just point out that the
18 difficulty with paying for Restivo or other
19 current expenses with bonds is that although
20 it works at the time it leaves you the
21 obligation to pay back the bond in the
22 future. So that using that mechanism,
23 although it's obviously necessary from time to
24 time, isn't free.

25 LEGISLATOR NICOLELLO: We made

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2 those exact same arguments because we did not
3 want to bond at all. We did not want to spend
4 a dollar in bonding because there was money in
5 this segregated account. We made those exact
6 same arguments over and over again and members
7 of the administration argued over and over
8 again we need this money. Cash flow. Bond
9 rating decrease. Now you're making the same
10 arguments we made and throwing it back in our
11 face.

12 Again, going forward we will be
13 skeptical when we get requests from this
14 administration. Particularly in the area of
15 borrowing because we don't know if after we
16 make the approvals if you may decide to go in
17 a different direction.

18 MR. PAGE: I hear your
19 statement. I'm not sure that skepticism is
20 the worst thing in the world. But I hope that
21 it can be answered in a way that will convince
22 you of the substance of what we are saying
23 from time to time.

24 LEGISLATOR MUSCARELLA: If I
25 might just jump in and we've talked about this

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2 maybe enough. But had the administration
3 maybe come to us and said look, if we're going
4 to do the bonding we need this bonding right
5 away. And if we do the bonding it gives us a
6 great deal more latitude and options in the
7 future to deal with the budgetary problems of
8 the county we may have done it anyway. But it
9 really was presented to us as it's necessary,
10 it has to be done this way. There is no other
11 way. If we don't do it it would be
12 detrimental to the county.

13 Let me ask you a loaded question.
14 Was this the plan all along to get us to bond
15 and then to use that money later on in the
16 future or did the administration happen to
17 come upon this change of plan afterwards
18 through research or reconfiguring?

19 MR. PAGE: I keep going back to
20 this legal problem, which is that you have to
21 have the bond organization in order to be able
22 to do it before you expend the money.

23 LEGISLATOR MUSCARELLA: We
24 understood that there was a deadline to do the
25 bond.

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2 MR. PAGE: In answer to your
3 further question, I think at the time the
4 administration was asking for that bonding
5 authority it really had no idea what could
6 otherwise be done in '18 to address this
7 need. We did a considerable amount of work
8 between the end of January and mid March to
9 try to lay out where we were and what
10 resources we might be able to identify this
11 year. And I think we were fortunate, quite
12 honestly, in several just changes in our
13 circumstances with time. The sales tax being
14 one of them. In that period that quite
15 honestly I don't think we would have
16 necessarily been able to predict at the end of
17 January.

18 LEGISLATOR MUSCARELLA: Okay. I
19 would like to be able to accept that answer.

20 Does the minority have any other
21 questions with respect to these issues?
22 Minority have any questions with respect to
23 these? Before we allow them to go on with the
24 presentation any other questions with respect
25 to Restivo?

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2 LEGISLATOR ABRAHAMS: I was
3 saying my questions are more tied into the tax
4 cert liability and eventually I want to jump
5 into the revenue. I don't have any other
6 questions.

7 LEGISLATOR MUSCARELLA: Can we
8 ask you to proceed with your presentation?

9 MR. PAGE: So, I would say that
10 the major problems that we're facing as a
11 budget matter for '18 and going forward are
12 the tax claims liability backlog. As of the
13 end of 2016 and the audited financials for
14 2016 the estimated value of that was I think
15 about \$340 million owing. As of the end of
16 '17, on the tentative numbers that we have
17 right now, it's something over \$500 million.
18 The increase has to do with LIPA and the
19 estimate of what their claim for tax
20 overpayments is worth.

21 Since the end of the year, which is
22 the time of that estimate, we've had a number
23 of conversations with LIPA. I think that's
24 there's an excellent chance that we will end
25 up with a settlement with them that will

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2 require a step down in their taxable assessed
3 value going forward but will not actually
4 require to us pay the 200 some odd million
5 dollars of back claim if we had ended up in
6 litigation we thought we were very likely to
7 lose on.

8 That gets us back into sort of 300,
9 \$350 million of cert claims. Not all of those
10 are due at this moment. But there's a
11 substantial amount of that and the county
12 attorney's office is here and available for
13 questions. Perhaps after me if I can get
14 through this.

15 But it's unfortunate that we are in
16 a position where basically the cert bar has
17 pretty much control over when the bill comes
18 due as a judgement that the county owes to the
19 scale of, I mean, currently probably well over
20 \$100 million and over time something that goes
21 up toward that 300 number. It's hard to know
22 exactly how much and when that will land.
23 It's an accountant's estimate of ultimately
24 what we will owe on those claims.

25 And we talked a little bit about

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2 the perfect accuracy of numbers that come out
3 of that. But we talked about the use of fund
4 balance in 2017. It's maneuverability going
5 forward. I think it's notable that in '17 the
6 county paid just under \$90 million in terms of
7 tax claims. In '18 we appropriated \$30
8 million for those claims. And '18 is the
9 second year of DAF. And in '17, at the end of
10 '17, that account had \$96 million in it. At
11 the end of '18 we expect it will have had
12 deposits that put it a little over \$200
13 million.

14 And how much can we actually pay
15 out from that fund in addition to the \$30
16 million we've appropriated? Well, the way DAF
17 works, as enacted by New York State, is
18 difficult to access. The fact that it's in
19 separate accounts for each property, and I've
20 probably been through this and try not to bore
21 you forever on it, but there's a separate
22 account for each property with an amount of
23 money in it. When that property comes through
24 with a settled claim amount for the year that
25 that account number corresponds to, you should

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2 be able to match them up. If there's the
3 right number coincidentally in their account
4 that's nice. If the number is too small in
5 the account the county has to add to get up to
6 that year's claim to make it work. If there's
7 too much money in the account for that year
8 the money is actually distributed among the
9 tax jurisdictions in the county. It's not
10 kept available for more claims. It actually
11 goes away. A small portion of it to the
12 county and the rest to the school districts
13 and everybody else. We would hope to get
14 state legislation, which, quite honestly, made
15 it easier to access those funds.

16 At the moment our estimate is
17 probably about \$40 million of claims that
18 we're likely to receive by the end of '18 that
19 we will be able to pay out of the balance in
20 the fund. That would bring our 30 to 70 as
21 compared to last year's 90. It's not on a
22 scale to address tis 350 of back claims that
23 we're talking about. We're looking at, if we
24 were really going to lock in how we're going
25 to pay that back claim it is debt

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2 restructuring. Maybe there's a transaction
3 related to the sewer system. Maybe at the end
4 of the day it's more cert bonds. Particularly
5 the last one. Well, the debt restructuring
6 and certainly the cert bonds and I guess the
7 sewer system as well requires NIFA and
8 requires this body obviously as how best to
9 solve it.

10 I mean, in a perfect world somehow
11 I guess we would find available current
12 resources that we could afford to pay these
13 claims out of as we went along, because then
14 we wouldn't be faced with in the future paying
15 the cost of whatever we've done to defer that
16 payment. How this works I think remains an
17 ongoing question for us.

18 The next one I think we've
19 basically talked about. It's our --

20 LEGISLATOR MUSCARELLA: If I
21 might interrupt you. Mr. Kopel has a specific
22 question with respect to that.

23 LEGISLATOR KOPEL: One thing that
24 you mentioned particularly caught my ear. If
25 indeed what you're saying with LIPA is the

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2 case that's good on a long-term basis of
3 course because we don't have to borrow to pay
4 that back or make any other adjustments. It
5 will in essence result in a lot of taxes going
6 up for everyone else because the tax rate will
7 bump necessarily, won't it? Where is the
8 revenue going to come from to make that up?
9 Will it stay in the same class? This bumps up
10 and then there's a wash?

11 MR. PAGE: To the extent the
12 property -- basically there are two generating
13 plants that LIPA has in Nassau County. To the
14 extent when you revise the assessment they
15 stay in class three. What happens is -- and
16 they go down -- what happens is the rest of
17 class three goes up. That's the utility
18 class. What you're talking about is water,
19 Verizon, things of that kind.

20 LEGISLATOR KOPEL: There's a
21 significant bump in the rate for that class.

22 MR. PAGE: Yes. One sort of
23 ambiguity in this whole enterprise, and the
24 county attorney's office is better able to
25 describe than I am, because of changes in

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2 their facilities some of that property is
3 likely to move from class three to class
4 four. How that plays through is I guess
5 complicated is the best I am able to say about
6 it.

7 LEGISLATOR KOPEL: Basically it's
8 not going to result in any impact on other
9 businesses or homeowners? It shouldn't. A
10 good impact actually it should have because we
11 don't have to borrow.

12 MR. PAGE: Yes. The settlement
13 definitely is good because you don't have to
14 borrow for 200 some odd million dollars and
15 then pay it back. That's good.

16 The thing that's not so good in
17 prospect is that, particularly for the school
18 district county wide, I mean, I'm not sure it
19 makes a lot of difference in terms of the
20 revenue you end up with, but for the specific
21 school district where this commercial property
22 existed, what happens is that if you lose a
23 chunk of tax revenue --

24 LEGISLATOR KOPEL: If it's a
25 small district it's a disaster.

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2 MR. PAGE: It shifts the burden
3 to the residents in that district. That's
4 what the phase down does in that district.

5 LEGISLATOR KOPEL: Gives them a
6 time to adjust.

7 MR. PAGE: Yes. But they're
8 probably not happy with the adjustment.

9 LEGISLATOR KOPEL: Clearly. The
10 DAF restructuring that you propose you're
11 going to need a home rule on that?

12 MR. PAGE: I don't even know the
13 answer. Because the restructuring --

14 LEGISLATOR KOPEL: In other
15 words, we would all love to see it before it's
16 submitted to the state so we can better
17 understand it. That would be appreciated.

18 MR. PAGE: I hear you.

19 LEGISLATOR KOPEL: If would be
20 good towards transparency.

21 MR. PAGE: The question of the
22 home rule message is, as you're probably
23 aware, what dictates whether you need a home
24 rule message is basically whether the state
25 legislature decides you need a home rule

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2 message.

3 LEGISLATOR KOPEL: Either way you
4 can undoubtedly let us know and give us chance
5 to look at that and comment on it before it
6 goes. Whether it requires that or not, a home
7 rule message, and we think you should. At
8 least I do.

9 The restructuring that you're
10 talking about, you're talking about a stretch
11 out essentially?

12 MR. PAGE: Yes. In essence.
13 It's a restructuring. It's not a refunding
14 for savings. For present value savings. It
15 would be -- one possibility would be to take
16 the debt payment structure on bonds already
17 outstanding to pay for tax overpayments which
18 have a sort of height now and dwindle down to
19 2043. And to refinance that debt so that it
20 was a flat number every year from now out to
21 2043. And what that does is to give you
22 savings up front and expenses in the back.

23 LEGISLATOR KOPEL: I get that.
24 It's front loaded. Now you want to smooth it.

25 MR. PAGE: That would be one sort

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2 of mechanical way to do it. Another
3 mechanical way to do it would be to simply
4 issue bonds in the amount you needed. Either
5 of these transactions that are going to
6 require NIFA.

7 LEGISLATOR KOPEL: And entail a
8 rate increase almost certainly at this point.

9 MR. PAGE: A rate increase in
10 terms of the interest rate required?

11 LEGISLATOR KOPEL: Yeah. I would
12 imagine.

13 MR. PAGE: Yeah, maybe. I don't
14 think at this moment a tremendously large one,
15 but yes, there's no savings in it per se.

16 LEGISLATOR KOPEL: I get that.

17 MR. PAGE: The water question is,
18 as you are very aware, the operation of the
19 sewer system is now being carried out by Suez
20 in a relationship that's been negotiated with
21 a lot of substance over a period of time.
22 This would be a possible transfer of title to
23 the sewer system for --

24 LEGISLATOR KOPEL: I want to get
25 into that as well. This was brought up by the

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2 previous administration as you undoubtedly
3 know. At that time there were a number of
4 objections. It's very hard to understand how
5 this could be anything but borrowing again.
6 Because essentially the most efficient way for
7 municipal finance is regarded as a municipal
8 borrowing. Now, we would be in essence
9 substituting private borrowing, which is going
10 to be more expensive, A, and B, we're going to
11 add a profit component to that which any
12 private lender, private purchaser will require
13 over and above it's borrowing costs.

14 And C, coming from A and B, it
15 seems inescapable you're going to have a
16 significant rate increase on the sewers
17 because of that. That might all make sense if
18 you take that money and used it to save money
19 elsewhere. It's pretty complex.

20 In other words, if you're going to
21 take that money and overall refinance
22 something else and knock out interest cost
23 somehow, or use it to settle cert debt or
24 whatever it is that may carry a higher rate
25 that might make sense. But if you do go down

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2 this road I think we're going to need and hope
3 to have any success we're going to need a lot
4 of advance notice and explanation.

5 MR. PAGE: I certainly hear that
6 and I share your concern about the cost of
7 money that would be in a transaction of that
8 kind. It is technically the sale of an
9 asset. The proceeds of an asset sale are
10 technically a current revenue. The proceeds
11 of bonds, at least according to NIFA, are not
12 a current revenue. How that all plays through
13 I don't know.

14 LEGISLATOR KOPEL: Once the new
15 owner has it they need to pay their costs to
16 make a profit. What is the current profit for
17 a P3 buyer? What are they looking at? You're
18 probably looking closer to ten or 12 percent
19 or maybe more. I hope you understand how that
20 works.

21 MR. PAGE: Or maybe it's too
22 easy.

23 LEGISLATOR KOPEL: It's a facile
24 type of thing but it's got to make sense at
25 the end of the day.

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2 MR. PAGE: I agree.

3 LEGISLATOR KOPEL: Thanks.

4 MR. PAGE: I think that the
5 screen that's in front of you basically
6 talking about the various sources that we were
7 able to identify, which we think are real,
8 which gave us more resources between a sort of
9 having inherited a budget situation in January
10 and having spent a pretty intense number of
11 weeks talking to agencies and looking at our
12 assumptions between then and mid March. That
13 included a number of revenues. Some of them,
14 as we've discussed, requiring your approval.
15 Some of them not. I don't know if it's worth
16 my taking your time to go through each one. I
17 would be happy to respond to questions now or
18 in whatever form you're interested in.

19 LEGISLATOR MUSCARELLA: I
20 apologize. What I prefer to do from this
21 point forward, even though I haven't lived up
22 to it, is let you continue and finish your
23 presentation and then we will have questions
24 afterwards.

25 MR. PAGE: Finish my presentation

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2 and be quiet for a few minutes. I get it.

3 This one is basically looking at
4 what's actually happened in terms of -- one of
5 the problems when you're doing budget work is
6 that you don't have information that's up to
7 date when you're doing it even. Obviously for
8 March you have better information than you do
9 on the first of January. But information
10 gradually catches up with you as you go
11 along. We now have information through
12 February, which has informed projections as of
13 the end of March for us as a practical
14 matter.

15 What this, in rather small print,
16 is tracing is that our actual experience since
17 the information and assumptions underlying
18 March 15th has actually been a little bit
19 better in terms of the prospect for balance
20 for this year for the county than we were
21 relying on when we did the March update.

22 This talks about the fact that
23 basically the economy in the county is doing
24 pretty well. I think that the proportion of
25 revenues and expenses is kind of interesting

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2 to look at but there's no startling news in
3 it. No really major changes in that.

4 It's worth noting as we go along
5 one of the basic good things going on in the
6 county is that actually the number of jobs has
7 been going up. That, as I think I mentioned
8 earlier, has actually brought down the number
9 of people applying for and getting benefits
10 and needing benefits from the county.

11 Home value is going up. The fact
12 that the stock market is doing all right, not
13 withstanding some wobbling, is helpful to us
14 because it's helpful to I guess the wealth in
15 the county as a practical matter.

16 The ongoing number of building
17 permits for reflecting development in the
18 county has been doing well and continues to be
19 doing so.

20 I guess that's about it on my
21 presentation. Happy to answer questions now
22 or later. However you want to do this.

23 LEGISLATOR MUSCARELLA: Do we
24 have any questions? Mr. Nicoletto.

25 LEGISLATOR NICOLELLO: The

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2 county's financial system shows there's a
3 deficit of \$1.4 million PILOT revenue for
4 2017. Do you know why that is?

5 MR. PERSICH: We had a little bit
6 of an issue when we were doing the PILOTS in
7 '17 and when we were accounting for it in the
8 '17 numbers we realized that we had a
9 shortfall in PILOT revenue. Which is an
10 offset to what the revenue stream would have
11 been. The calculation was initially done,
12 it's a very complex calculation that we have
13 now automated, which we are working with IT to
14 make this not a spreadsheet type of thing
15 which we've experienced in the past here. So
16 we kind of automated the system and I think
17 going forward we will more, better accurate,
18 solid numbers.

19 LEGISLATOR NICOLELLO: Aren't
20 PILOTS a fixed number though?

21 MR. PERSICH: They could vary
22 based on assessments. Some assessment-based
23 PILOTS we're trying to get away from those
24 structures and we've told the IDA to do a
25 fixed contractual now so we don't have these

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2 issues going forward.

3 MR. PAGE: It would be a huge
4 improvement to have a contract with numbers in
5 it as opposed to having variables going back
6 to the taxable value which brings in all the
7 problems we experienced in doing that.

8 LEGISLATOR NICOLELLO: The
9 comptroller indicates that the federal
10 transportation aid was not received in 2017.
11 Is that accurate?

12 MR. PERSICH: That's to do with
13 the Transdev budget. We are anticipating
14 getting the grant money in. It's a question
15 of the timing of it and when we are going to
16 receive it. Still be '17 money but be
17 accounted for in '18. We will pick up the
18 revenue in '18. But for accounting purposes
19 we have to not recognize it in '17.

20 LEGISLATOR NICOLELLO: It gets
21 recognized in '17 eventually?

22 MR. PERSICH: Eventually. But it
23 will be an '18 item.

24 LEGISLATOR NICOLELLO: In terms
25 of the OTB revenues, they've indicating

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2 they're going to be paying the county in the
3 order of \$3 million in May of 2017. Does that
4 get, assuming that comes in and there's a good
5 assumption, is that going to apply to '17 or
6 '18?

7 MR. PERSICH: It will apply to
8 '18. We will take the write-down in '17 but
9 pick it up in '18. I'll let the comptroller's
10 office talk to that. It's about
11 collectability and availability. It's one of
12 those accounting treatments for these things
13 when it becomes collectable and available. We
14 have had extensive discussions on it.

15 LEGISLATOR NICOLELLO: With
16 respect to the property tax collections, I
17 understand there's a little bit of variance
18 this year. My understanding in the past it's
19 met or exceeded expectations. But now there's
20 a negative number.

21 MR. PERSICH: In '17 or '18?

22 LEGISLATOR NICOLELLO: '17.

23 MR. PERSICH: Probably to do with
24 the PILOT issues and abatements too.

25 LEGISLATOR NICOLELLO: That's all

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2 I have for now.

3 LEGISLATOR MUSCARELLA:

4 Mr. Kopel.

5 LEGISLATOR KOPEL: Thank you.

6 Before I ask anything I want to know are you
7 still having fun in the job?

8 MR. PAGE: Are you talking to
9 me? Sometimes.

10 LEGISLATOR KOPEL: Today maybe
11 not so much. I only have a few more. The DSS
12 case load, those things have you taken into
13 account the fact that the reimbursement will
14 fall off as well?

15 MR. PERSICH: We have accounted
16 for that. Offset in state aid.

17 LEGISLATOR KOPEL: As well as the
18 same kind of question when you mentioned the
19 new revenues are those full year numbers or
20 just balance of '18 numbers?

21 MR. PERSICH: Balance of '18
22 numbers. We can get it in quicker the better
23 we account for that.

24 LEGISLATOR KOPEL: '19 will
25 presumably, if those things go through,

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2 they're considerably more?

3 MR. PERSICH: Yes.

4 LEGISLATOR KOPEL: The one-shots
5 that you got there, sales of property and so
6 forth, wasn't the indication that NIFA won't
7 go for that in terms of our budget?

8 MR. PAGE: They haven't said that
9 to us. I mean, their reaction to this
10 proposal in mid March was basically they
11 didn't take explicit action to approve it or
12 any sort of thing of that kind but they also
13 didn't say it was bad. They have not
14 complained to us about the use of property
15 sales. A big piece of that is actually
16 selling title to ground leases on a couple of
17 buildings that --

18 LEGISLATOR KOPEL: You want to
19 sell the ground lease rather than the actual
20 property?

21 MR. PAGE: The property is
22 already owned by a developer and built and
23 occupied.

24 LEGISLATOR KOPEL: We have
25 long-term ground leases that we would sell?

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2 MR. PAGE: Yes.

3 LEGISLATOR KOPEL: I guess it's
4 if not long term you're not going to sell?
5 You can't sell it.

6 MR. PAGE: Yeah. It's got to be
7 long term or you wouldn't have built a
8 building on it otherwise.

9 LEGISLATOR KOPEL: Could have
10 been long term when they built the building.
11 Doesn't mean it's long term now.

12 MR. PAGE: It's still pretty long
13 term. I think what happens is if you build a
14 building and it works out and it's occupied
15 and you're making money, that you're
16 interested in locking in the ground because
17 eventually what happens is that it could be
18 far out but when you're trying to refinance
19 something you begin to knock into the
20 refinancing assurance that you have if you're
21 getting towards the end --

22 LEGISLATOR KOPEL: In other
23 words, these are surplus properties as far as
24 we're concerned?

25 MR. PAGE: The properties aren't

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2 ours.

3 LEGISLATOR KOPEL: No, no. These
4 are ours. We're paying rent on it. We're
5 paying rent on the ground lease.

6 MR. PAGE: We are receiving rent
7 on the ground lease.

8 LEGISLATOR KOPEL: You're also
9 paying rent to the owner of the property?

10 MR. PAGE: We're not using those
11 properties. They're actually private
12 development.

13 LEGISLATOR KOPEL: We don't own
14 the ground?

15 MR. PAGE: We do own the ground
16 but it's a matter of private development on
17 ground we own.

18 LEGISLATOR KOPEL: Now I got it.
19 The value of the ground lease is not going to
20 depreciate. It will appreciate as time goes
21 on, because you're getting closer to selling
22 the fee ownership in essence. Okay. How many
23 properties are there like that?

24 MR. PAGE: I think a couple.

25 LEGISLATOR KOPEL: Thank you.

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2 LEGISLATOR MUSCARELLA:

3 Mr. Abrahams.

4 LEGISLATOR ABRAHAMS: Thank you
5 Chairman. Just to piggyback real quick on
6 Legislator Kopel's questions as it pertains to
7 the ground leases in certain buildings. This
8 number was calculated, this \$5.3 million, was
9 calculated based off of I guess properties
10 that you have identified that you would look
11 to sell ground leases. Do you have a list of
12 these properties?

13 MR. PERSICH: We have a list but
14 we're trying to keep them confidential because
15 there's a negotiated sale right now.

16 MR. PAGE: The list doesn't add
17 up to this number. If a substantial amount of
18 it works you get there. The difficulty with
19 an exact number is that you end up laying out
20 your side of what's an ongoing negotiation
21 which you don't actually want to do if you can
22 help it.

23 LEGISLATOR ABRAHAMS: I get
24 that. I guess I'm not asking for what the
25 county is looking for. I guess I'm asking for

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2 if it could be done in a confidential memo.
3 Because obviously the legislature has to
4 approve the sale of the properties. So,
5 before we get to the point where we are
6 considering properties or ground leases for
7 sale and potentially the legislature accepting
8 or rejecting them, I would think maybe a
9 conversation would take place in terms of
10 furnishing a list. Especially when it
11 pertains to \$5.3 million in revenue.

12 I want to focus a little bit more
13 on establishing a framework for the tax cert
14 liability. I heard earlier that the
15 approximate number, including LIPA, was over
16 \$500 million. The comptroller's fact sheet
17 identifies it as \$560 million. You talked a
18 little bit earlier about there being money set
19 aside. I want to make sure I understand the
20 DAF money that's set aside to pay towards the
21 560 in liability, or is there DAF money set
22 aside to pay for the tax cert?

23 MR. PAGE: The 500 sum is as of
24 the end of '17. The fact is there's a flow of
25 claims coming in all the time. Which is kind

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2 of somewhere between, generally somewhere
3 between 75 and 100. So, you need to deal with
4 a backlog. You also need to deal with the
5 current flow. Generally when we have
6 resources we try to pay the oldest first. But
7 if you were really going to try to -- I guess
8 if you got to clean up the backlog that would
9 be cleaning up the old stuff and then you need
10 to be covering the new as well.

11 DAF is intended to cover the kind
12 of current flow. It didn't start until '17.
13 So it's got one year done. '18 is its second
14 year. The county didn't manage to pay
15 anything out of its balance in '17.

16 On the other hand, claims don't
17 sort of ripen very fast. The biggest source
18 of claims, 80 some percent of the claims,
19 relate to class four. If they're relating to
20 the '17 year, which would be the first year of
21 this, how soon do they get final so that you
22 actually have a fix number to pay? Well, some
23 of them now I imagine and going forward, and
24 as I say, the estimate I managed to get out of
25 this enterprise so far as to what of '17 and

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2 '18 we could pay out of the DAF by the end of
3 '18 is about \$40 million. I would very much
4 hope that we could do better than that. But I
5 haven't got the track to it at the moment.

6 LEGISLATOR ABRAHAMS: That kind
7 of leads me into my second question, the total
8 outstanding tax cert liability that has been
9 reduced to judgement and settlement to date.
10 Obviously we're talking the old versus the
11 new.

12 MR. PAGE: You should get the
13 county attorney's office to answer that
14 question. My understanding is it's something
15 over 100 right now. That's pretty much at the
16 discretion of the cert bar to -- as a
17 judgement owing.

18 LEGISLATOR ABRAHAMS: Counsel
19 just advised me that I guess the county
20 attorney, if that's okay Chairman, the county
21 attorney's office. After we finish with
22 Mr. Page that we can bring the county attorney
23 up to talk about it. I don't know if it's
24 best that I ask the remaining questions in
25 regards to the acceleration of payment of the

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2 outstanding cert judgements. Should I be
3 asking them to the county attorney's office?

4 LEGISLATOR MUSCARELLA: If we
5 could why don't we ask the county attorney to
6 come up and sit now.

7 LEGISLATOR ABRAHAMS: I know
8 Legislator Birnbaum also has question directed
9 to Mr. Page. Can she jump in and I will pick
10 up?

11 LEGISLATOR MUSCARELLA: Sure.

12 LEGISLATOR BIRNBAUM: My
13 questions are about the new revenue sources
14 and a lot of them have to do with fines and
15 increased fees et cetera. Given that it's
16 almost the end of April, when would the
17 legislature start seeing such proposals? And
18 how soon would they be enforced to even get
19 these numbers by the end of 2018?

20 MR. PAGE: I think that the piece
21 of it that requires legislative approval --

22 MR. PERSICH: I think we are
23 planning to get something to you for the May
24 meeting.

25 MR. PAGE: Otherwise a lot of it

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2 has to do with authorized parks fees and some
3 of that is actually just implementing fees
4 that the legislature has already authorized in
5 a kind of multiyear program in 2016.

6 LEGISLATOR BIRNBAUM: Because I
7 see over \$21 million is from increased
8 revenues and over \$9 million you say would be
9 with fees dealing with our approval?

10 MR. PERSICH: That is correct.

11 MR. PAGE: We think that the
12 remaining 12 I guess is okay, notwithstanding
13 that we're obviously part way through the year
14 right now and that process is ongoing right at
15 this moment in terms of adjusting fees.

16 LEGISLATOR MUSCARELLA:
17 Mr. Abrahams.

18 LEGISLATOR ABRAHAMS: Just one
19 question quickly regarding the longevity.
20 There's been a lot of discussion about the
21 longevity back and forth, and I'm not asking
22 you to opine on the litigation that's going
23 on. I just wanted to actually focus on the
24 actual budget for the longevity. There is
25 money that's been appropriated in the budget

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2 for longevity for 2018?

3 MR. PAGE: No.

4 LEGISLATOR ABRAHAMS: There has
5 not been. The previous administration has not
6 budgeted that money?

7 MR. PAGE: Correct.

8 LEGISLATOR ABRAHAMS: I guess you
9 don't want to get into the amounts because all
10 that's going to be in the future. Okay.
11 Thank you.

12 LEGISLATOR MUSCARELLA: Before we
13 get the county attorney I have a couple of
14 quick questions with respect to how we are
15 managing overtime. Do we know the end of year
16 overtime expenses for 2017? I guess with
17 respect to the police department and the
18 correction center.

19 MR. PERSICH: I don't have them
20 at my disposal. We will be coming to you in
21 May with the year-end board transfers, which
22 will cover all this, which is that very long
23 extensive one we do with the comptroller's
24 office. That will have the final numbers on
25 there.

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2 LEGISLATOR MUSCARELLA: If we
3 have the final numbers compared to what the
4 budget projected that's fine.

5 Yearly the police department
6 charges some of its overtime to the grant
7 fund. If you can give us those numbers.

8 MR. PERSICH: Definitely. I met
9 with them this morning. They're going to do
10 them on a quarterly basis, what we're hoping
11 for, so we can do the charge-backs to certain
12 grants, asset forfeiture et cetera. That will
13 be included in that too.

14 LEGISLATOR MUSCARELLA: Thank
15 you. Mr. Nicoletto.

16 LEGISLATOR NICOLELLO: One
17 follow-up in one other area. With respect to
18 your budget modification, my understanding is
19 that NIFA found substantial compliance. That
20 it was in substantial compliance with whatever
21 their dictates in terms of what the
22 administration was required to submit. Is
23 that your understanding?

24 MR. PAGE: Yes. I think so.

25 LEGISLATOR NICOLELLO: Did they

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2 explain what substantial compliance means?
3 I'm a lawyer. That seems like something we
4 would come up with. They've determined there
5 was substantial compliance notwithstanding
6 part of the revenues were from the sale of
7 property, correct?

8 MR. PAGE: Yes. I think I may
9 find myself slapped down, but I think they're
10 okay with the volume of sale of property that
11 we're talking about. We have tried not to be
12 identifying property that's substantial and
13 there would be controversy about what the
14 county should otherwise be using the property
15 for. It's more a question of I spoke about
16 the ground leases but otherwise -- obviously
17 the county's workforce is substantially less
18 than it's been in the past. There are a
19 number of buildings that are not fully
20 occupied and they tend not to be in decent
21 shape or that they actually be empty. They
22 cost us a lot of money in terms of protecting
23 them, heating them, repairs that we don't
24 manage to do. So it's not just that you get a
25 one shot proceeds of sale. It's that you

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2 ought to actually get an ongoing savings in
3 more efficiently housing your workforce and
4 fully occupying the buildings that you keep so
5 that those are the only ones you have to
6 maintain.

7 LEGISLATOR NICOLELLO: Did they
8 indicate that the sale of property was at
9 risk?

10 MR. PERSICH: They risk a lot of
11 things just so you know. I don't have a
12 specific risk from them as far as the sale of
13 property. Every year we put a number in the
14 budget. Every year they risk it because it's
15 ongoing. We do have property sales that make
16 sense some times. Like slivers of property
17 and everything that would make sense that we
18 do currently negotiate and get rid of. They
19 didn't specifically give me the risk.
20 Sometimes they risk a lot of it.

21 LEGISLATOR NICOLELLO: That was
22 the point I was getting at which was last year
23 if we attempted to put into the budget sales
24 of property they would risk it. They also in
25 terms of fees they found substantial

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2 compliance notwithstanding these supposed fee
3 increases were not even submitted to the
4 legislature yet.

5 MR. PAGE: I hesitate to bring
6 this up but I think we bought ourselves --
7 they noted to our credit that we managed to
8 pay for Restivo. Which I think actually, I
9 guess this is speculation on my part, I think
10 it bought some tolerance for other pieces of
11 this budget plan for whatever that's worth.

12 LEGISLATOR MUSCARELLA: We call
13 that good will.

14 LEGISLATOR NICOLELLO: They seem
15 to have more tolerance than they've had in the
16 past. Whereas, they would not even credit
17 proposed fee increases until such time as the
18 legislature actually approved them. They're
19 now finding substantial compliance with
20 proposed fee increases. While in the past
21 they wouldn't credit fee increases unless they
22 were fully approved. I think you are dealing
23 with a kinder, gentler NIFA than we did.

24 MR. PAGE: I hope that's true.
25 But I suspect it has more to do with the fact

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2 things have actually been going well over time
3 so that the assumptions are less stressed now
4 than they were when we put March 15th together
5 in terms of the sales tax is coming in and
6 other things are going okay.

7 LEGISLATOR NICOLELLO: I think
8 our experience was different because as the
9 structural deficit dropped every year they
10 actually became stricter and more less
11 flexible for us. Again, it seems like they've
12 changed.

13 MR. PAGE: For whatever reason.

14 LEGISLATOR NICOLELLO: Thank
15 you.

16 LEGISLATOR MUSCARELLA:
17 Mr. Abrahams. I understand Mr. Abrahams had
18 questions of the county attorney.

19 Is there anything else that you
20 would like to say in summing up or anything?
21 It's not necessary. I'm just asking if
22 there's something you would like to add?

23 MR. PAGE: I think we've said
24 what we have to say. I think, again, I
25 appreciate the opportunity to at least attempt

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2 to answer your questions and look forward to
3 the same going forward. Thank you.

4 LEGISLATOR MUSCARELLA: Thank
5 you. We're going to deviate for a short
6 period of time from the agenda and ask the
7 county attorney's office to come up.
8 Mr. Abrahams had some questions.
9 Mr. Abrahams.

10 LEGISLATOR ABRAHAMS: Thank you
11 Chairman. I guess my questions started out
12 and just to recap my first one to make sure
13 we're getting the most accurate numbers for
14 the record. I was asking earlier --

15 LEGISLATOR MUSCARELLA: If I may,
16 could you just identify yourselves.

17 MR. DENION: Conal Denion, county
18 attorney's office.

19 MS. BARRIGA: Ann Margaret
20 Barriga, county attorney's office.

21 LEGISLATOR ABRAHAMS: Thank you.
22 We were talking a little bit in regards to the
23 total amount of the owing tax cert liabilities
24 that have been reduced to a judgement or
25 settlement to date. I think Mr. Page had

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2 mentioned it's still over 100 but if you have
3 more exact numbers that would be helpful.

4 MR. DENION: The way I would
5 describe it is that in the last year the tax
6 cert lawyers, the commercial tax cert lawyers,
7 have started bringing money judgement actions
8 or enforcement actions to enforce the terms of
9 judgments or settlements that are reached
10 through the Assessment Review Commission for
11 the county attorney's office. And the reason
12 that's necessary is that these reductions are
13 usually just to reduce your assessed value.
14 And typically that's handled administratively
15 how much money that costs.

16 In their view they feel as if they
17 haven't been paid quickly enough. So they
18 have brought these money judgement actions to
19 have a court convert the assessed value
20 reductions into the dollars.

21 So in the last year they've brought
22 a number of these actions. In 2017 we paid
23 out a number of those so they became moot.
24 But they did file a number of them late in
25 2017 and into 2018 and we've put an estimated

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2 liability number on that if they were to be
3 successful and that number is right now about
4 \$134.5 million if they were successful in
5 their money judgement actions.

6 We're still litigating those and
7 Ann Margaret can speak to where we are on
8 appeal or not on appeal and how much sets of
9 cases have been filed. But that's the gross
10 number \$134.5 million if they were successful
11 in their money judgement actions.

12 LEGISLATOR ABRAHAMS: You hit on
13 something, Conal, that you mentioned. You
14 said that the tax cert bar is I guess seeking
15 or more aggressively going after this
16 accelerated payments more than they have in
17 the past?

18 MR. DENION: That's correct.

19 LEGISLATOR ABRAHAMS: It sounds
20 like they're also taking some legal steps to
21 enforce the judgments?

22 MR. DENION: It's unusual for
23 them to file money judgement actions compared
24 to what they did in the past. Sort of in the
25 past they were patient to make sure that

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2 whatever the county's plan for paying tax cert
3 was being followed through, whether it was
4 borrowing or whatever, they generally would
5 kind of wait and see what money was available
6 to pay.

7 Last year when there was this
8 switch from a planned borrowing of the \$60
9 million to using fund balance of \$60 million
10 by the prior administration for 2017 that and
11 a number of other factors resulted in payments
12 being delayed in 2017. And in their view they
13 felt that there was a gap in sort of payments
14 and they started -- a number of the firms
15 started bringing these actions. So they have
16 stepped up their enforcement to say county, if
17 you've got a settlement you've got a
18 judgement, you have to pay it. We're not
19 going to wait.

20 LEGISLATOR ABRAHAMS: I guess
21 this would be more of a question for finance
22 but this accelerated process what's the impact
23 restraint it puts on the budget?

24 MR. DENION: If they were
25 successful.

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2 LEGISLATOR ABRAHAMS: Assuming
3 they were successful.

4 MR. DENION: 134 and a half
5 million dollars. That I would defer to Mark
6 or Andrew Margaret on that. Certainly it
7 would put a strain on the county's ability to
8 pay under the current budget.

9 LEGISLATOR ABRAHAMS: Mark could
10 you answer the question in regards to this
11 potential accelerated process assuming it's
12 successful has been factored into your
13 budgets?

14 MR. PAGE: No. That's the 350
15 give or take I'm talking about that -- I mean,
16 if we get hit by this or a substantial chunk
17 of it we don't have this covered right now.
18 And that's, you know, I don't know, water debt
19 restructuring, deficit bond, something.
20 Unless, I don't know what positive could break
21 that would give us an incremental resource of
22 that size, I think we have a major problem to
23 come up with this scale of payment for the
24 retroactive claims out of current resources.
25 I'm not a big proponent of

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2 borrowing to pay now and then having to pay
3 the borrowing. But under certain
4 circumstances I don't think you have a whole
5 lot of choice and I'm not sure we have a whole
6 lot of choice here.

7 LEGISLATOR ABRAHAMS: So I want
8 to make sure I get this and put it in
9 perspective. The 134.5, assuming they are
10 successful, could be anticipated expense for
11 tax certiorari liability in 2018?

12 MR. DENION: Let me address
13 that. That probably is not 2018 because -- it
14 depends. It could be but the way litigation
15 works, and Ann Margaret can talk about we're
16 going to be filing notices of appeal or have
17 filed notices of appeal. We will be
18 continuing to defend ourselves as hard as we
19 can against these actions. We have a number
20 of defenses that we are asserting. But that
21 number, whether it's 2018 or 2019, is out
22 there. As Mark said, it's part of the 350
23 anyway. It's going to come due if not now it
24 will come due probably in 2019.

25 LEGISLATOR ABRAHAMS: Conal, this

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2 134 as it moves through the different
3 processes it's judgements though?

4 MR. DENION: That's one of the
5 issues in the litigation whether these are
6 settlements or they're enforceable judgments.
7 Whether the ARC settlements are enforceable as
8 ARC determinations. Those are things we are
9 litigating.

10 MR. PAGE: Even when you get to a
11 judgement, when you listen on the side to this
12 process, it takes time before the county is
13 actually faced with the obligation then to pay
14 the money. This process that just eats
15 months, it's a little unclear how many months,
16 but maybe it takes you into the first half of
17 '19 instead of '18. Sort of unclear.

18 LEGISLATOR ABRAHAMS: But I guess
19 based on what I'm hearing today also that the
20 acceleration of the process is allowing these
21 actual judgments when they get to that point
22 to come faster than has been anticipated in
23 the past. Is that a safe assessment that I'm
24 making?

25 MR. DENION: I think that's

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2 right. I think they're being much more
3 proactive in trying to get paid. What we've
4 sort of had a much more managed process I
5 think they are forcing the issue much more.
6 Maybe Ann Margaret can talk about the number
7 of cases they're bringing, putting on what's
8 called the trial calendar if they're not
9 satisfied that a settlement is forthcoming
10 that they're really forcing the trial on a tax
11 cert case. I think that's been an increase as
12 well.

13 MS. BARRIGA: Yes. In February
14 the tax cert bar put 250 cases on the
15 appraisal exchange calendar. What that
16 essentially means is you have to be ready to
17 file your trial appraisals on that day. Which
18 are a cost to the county as far as experts and
19 preparation of the appraisals.

20 LEGISLATOR ABRAHAMS: How is that
21 different from years past?

22 MS. BARRIGA: 250 cases from one
23 calendar that were put over to an appraisal
24 exchange date I don't think has ever happened
25 before. You might generally have a handful of

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2 cases put on the appraisal exchange calendar
3 in a given month. But 250 from one calendar
4 is an exorbitant amount.

5 For instance, this morning in court
6 there were about 50 cases put over to the
7 appraisal exchange calendar. Much less than
8 the 250 from February's calendar but certainly
9 much more than there has been in the past.
10 Once they accelerate their case to that final
11 status of an appraisal exchange, it
12 essentially means parties have to either come
13 in, negotiate, settle on the appraisals or go
14 forward to trial if there are real issues in
15 the appraisals. That accelerates their
16 payment because then there is a signed order
17 that much quicker as opposed to going through
18 the steps and processes that could potentially
19 take six months to eight months for signing of
20 a judgement. A judge would sign it almost
21 immediately.

22 LEGISLATOR ABRAHAMS: It sounds
23 like obviously as you elaborate a little more
24 on the trend and whether or not the county has
25 the resources, it sounds, based on Mr. Page's

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2 testimony we do not, I'm curious to hear when
3 the administration would be able to report
4 back when you have more concrete numbers as we
5 go through the year when will they be able to
6 report back, Mr. Page, in regards to how they
7 will meet these challenges based off of the
8 trend we are enduring now and could
9 conceivably be going through for the next few
10 months. Sorry to keep bringing you back and
11 forth.

12 MR. PAGE: The county's obligated
13 to update its financial plan by the end of
14 June. And that picks up '19, at least on a
15 preliminary basis, and actually I guess the
16 three years after that. I would hope we had
17 something more definitive to say about what
18 sort of a reasonably serviceable financing
19 plan would look like for that update. We will
20 certainly be spending time as we did coming up
21 to March trying to figure out whether there's
22 any way of more efficiently providing services
23 and stretching whatever resources we've got to
24 see to what degree we might be able to cover
25 some part of this number. I don't know.

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2 The other thing that I've not
3 mentioned up to now is, as you know, we have
4 all of these open collective bargaining
5 contracts. It's another piece of this
6 picture.

7 LEGISLATOR ABRAHAMS: And there's
8 no budget? No money appropriated?

9 MR. PAGE: Not at this moment,
10 no.

11 LEGISLATOR ABRAHAMS: Conal,
12 being that obviously these judgments are very
13 well being accelerated, and I remember in
14 years past there has been discussion regarding
15 concern whether or not the county's assets
16 could be held and be used to force payment to
17 be able to get this done. Is that a potential
18 negative outcome that could happen?

19 MR. DENION: I think it's
20 premature to talk about it. But I think if
21 they did have enforceable money judgements and
22 we run out of our appeals they would certainly
23 probably look to try to enforce in the normal
24 way that a private party would enforce against
25 another private party, attaching bank

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2 accounts. They can't attach against county
3 property. We would raise defenses to their
4 ability to try to attach against our bank
5 accounts. But that is certainly something
6 that would be litigated.

7 LEGISLATOR MUSCARELLA: Okay.
8 Thank you very much. Next up is the county
9 comptroller's office. If you would like you
10 can sit at the table. If you'd like to stand
11 that's fine too.

12 MS. JAMES: Shari James, chief
13 deputy comptroller.

14 Today I'm here to discuss the
15 fiscal year 2017 preliminary unaudited GAAP
16 results. The numbers presented are as of
17 April 15th and do not include various
18 management and external auditor adjustments
19 that will impact these numbers at the end.

20 In addition, it is important to
21 note that pencils are not completely down at
22 this point. There are still outstanding items
23 that are being processed related to fiscal
24 year '17. Final audited results are expected
25 to be released by mid 2018 and our office

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2 looks forward to speaking with you then.

3 As provided on the fact sheet that
4 was distributed, the preliminary unaudited
5 GAAP results for the five primary operating
6 funds indicate a \$48.9 million deficit for
7 fiscal year '17. This is primarily attributed
8 to lower than expected revenues. Even given
9 the sales tax increase of \$8.9 million.

10 As you see here, the key primary
11 drivers were the county did not borrow as
12 budgeted to fund the tax cert liabilities,
13 which resulted in a \$60 million reduction in
14 other financing resources.

15 As discussed, the Federal Transit
16 Authority's monies and the OTB revenues were
17 not received as well in fiscal year '17.

18 Looking at the financial condition,
19 preliminary operating results show a negative
20 unassigned fund balance at fiscal year end
21 '17, the tax cert liabilities have increased
22 to about \$560 million at fiscal year '17. And
23 the deferred pension liability, which is the
24 amount that's owed to the New York State
25 Retirement System, is about \$235 million.

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2 That's pretty much the preliminary
3 results that we have as of April 15th.

4 LEGISLATOR MUSCARELLA:

5 Mr. Kopel, I understand you have some
6 questions.

7 LEGISLATOR KOPEL: Good afternoon
8 Ms. James. That was a terrific speech. Fast,
9 precise. Just a couple of questions please.
10 First of all, that 560 cert liability, does
11 that include LIPA?

12 MS. JAMES: It does.

13 LEGISLATOR KOPEL: That explains
14 the differential between the administration
15 figures and yours.

16 Trans, you started out saying that
17 it's a lower than expected revenues. Do you
18 expect that as a trend that will continue?

19 MS. JAMES: We will be able to
20 look at the budget at the six month mark and
21 will be able to provide our opinion on that.

22 LEGISLATOR KOPEL: Okay. Assess
23 those?

24 MS. JAMES: Yes.

25 LEGISLATOR KOPEL: The OTB and

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2 those things they're not received from '17 but
3 what do you see going forward?

4 MS. JAMES: As per the
5 administration, it will be received in fiscal
6 year '18. We haven't received it due to
7 what's called the available -- the period of
8 availability for this year.

9 LEGISLATOR KOPEL: The same with
10 the departmental revenues. What do you
11 foresee as the trend?

12 MS. JAMES: That we will give our
13 opinion on the six month mark as well.

14 LEGISLATOR KOPEL: You were here
15 before, right?

16 MS. JAMES: I was.

17 LEGISLATOR KOPEL: Both the
18 comptroller's office and the administration
19 going back a couple of months made a very
20 forceful presentation case as to why we
21 absolutely must authorize borrowing in respect
22 to the Restivo judgement. You probably recall
23 that.

24 MS. JAMES: We didn't make a case
25 for borrowing.

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2 LEGISLATOR KOPEL: You are quite
3 right. The administration offered an
4 explanation, and forgive me but at this point
5 I'm hopeful that we're going to get more
6 clarity, I just did not understand it, of the
7 use of the ability to not borrow. There's an
8 unassigned fund balance which is negative.
9 That's what you've told us.

10 MS. JAMES: The preliminary
11 results show that it's going --

12 LEGISLATOR KOPEL: That's what
13 you said back then and that was the reason, if
14 I recall, that we could not borrow. We
15 couldn't use fund balance or any --

16 MS. JAMES: At that point we had
17 fiscal year-end '16 numbers and the unassigned
18 was not negative.

19 LEGISLATOR KOPEL: But we were
20 told when we had that debate as of that time
21 you were not able to use any fund balance
22 because you anticipated that it was negative
23 at that point and certainly not considerably
24 positive as it might have been at the end of
25 '16.

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2 MS. JAMES: At the end of '16 it
3 was 46.8.

4 LEGISLATOR KOPEL: Correct. But
5 we were told that was no longer available. At
6 the time of the debate we were told that that
7 money is no longer available --

8 MS. JAMES: But the
9 administration didn't borrow for the tax cert
10 liability. So it has to be funded from a
11 place.

12 LEGISLATOR KOPEL: That was not
13 my question. We were told that that place,
14 where the fund balance was, was no longer
15 available to be used for that purpose.

16 MS. JAMES: Going back to what
17 was presented that's not the way it was
18 presented. It was presented as we have the
19 numbers at fiscal year end '16. Those were
20 the most recent audited numbers we had
21 available. It showed a fund balance,
22 unassigned fund balance of \$46.8 million and
23 the Restivo judgement I believe was a little
24 less than that.

25 LEGISLATOR KOPEL: Was a little

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2 bit less than that, okay. So then in your
3 view was there at that point proper
4 representation of the need to borrow?

5 MS. JAMES: I don't have an
6 opinion on that. We presented where we were
7 at the end of fiscal year '16.

8 LEGISLATOR KOPEL: But I think
9 that the explanation that we heard a little
10 bit earlier was that there was different ways
11 of looking at it. Forgive me. I don't mean
12 to mischaracterize anything. But there were
13 different ways of looking at it. One way of
14 looking at it so that we did not have to
15 borrow. But we would have, nonetheless, we
16 would have to fill up that hole somewhat later
17 by the way because the differentiation again
18 between cash and accrued balances. Am I
19 misstating that?

20 MS. JAMES: I'm unclear about
21 what you're asking.

22 LEGISLATOR KOPEL: I don't blame
23 you. I'm unclear too. Why I'm unclear is, is
24 there's a way of looking at this fund balance
25 as we look at it today that would allow us to

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2 go ahead and use it to fund various
3 obligations since there is a negative
4 unassigned balance? Can we use the cash in
5 that at this point?

6 MS. JAMES: I think you are
7 referring to two different things. So, the
8 unassigned fund balance if it goes negative
9 then you can't appropriate that or use it to
10 fund operations.

11 LEGISLATOR KOPEL: Right.
12 Nonetheless, are we now using it to fund
13 operations nonetheless on the theory that we
14 will fill the hole later?

15 MS. JAMES: Again, the way the
16 results are shown right now there's negative
17 unassigned fund balance so you want to be able
18 to use that to fund operations.

19 LEGISLATOR KOPEL: So the answer
20 is yes to my question. If we're using it
21 we're not supposed to use it. We're using in
22 nonetheless?

23 MS. JAMES: It's negative. So
24 you can't use a negative.

25 LEGISLATOR KOPEL: I'll take that

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2 as a yes. Again, I don't want to put words in
3 your mouth. If I'm saying something wrong let
4 me know.

5 I certainly would appreciate an
6 explanation of how things are being done in
7 terms of use of monies. Where did that money
8 come from to pay the Restivo judgement and so
9 forth? Is it simply a cash flow issue and it
10 was taken from operating funds and things were
11 kind of moved around? I'm having some
12 difficulty understanding what exactly happened
13 there. And why the need that was originally
14 perceived to go ahead and borrow is no longer
15 necessarily a need.

16 MS. JAMES: I would leave that to
17 the administration to discuss that with you.

18 LEGISLATOR KOPEL: Hopefully they
19 will provide that and that's a fair enough
20 answer. Thank you.

21 LEGISLATOR MUSCARELLA:
22 Mr. Nicolello.

23 LEGISLATOR NICOLELLO: Just a few
24 questions. Just to get back to the whole
25 issue of the projected deficit. Last year you

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2 had an expense related to tax cert liability.
3 It was anticipated or budgeted that that would
4 be filled at least in part by borrowings.
5 When those borrowings didn't happen it was
6 substituted at least in part by expenditures
7 our of fund balance?

8 MS. JAMES: Correct.

9 LEGISLATOR NICOLELLO: As a
10 result of that apparently there may have to be
11 additional expenditures out of fund balance to
12 fill the gap completely. Is that true or has
13 it already been paid?

14 MS. JAMES: These tax cert
15 liabilities have been paid.

16 LEGISLATOR NICOLELLO: So the
17 difference is and the reason is that gap is
18 that instead of using, as budgeted, the
19 borrowed monies they used fund balance?

20 MS. JAMES: Yes. The borrowed
21 monies didn't come through as budgeted so the
22 fund balance would be the draw.

23 LEGISLATOR NICOLELLO: I want to
24 make clear that that is the primary reason
25 there is this large deficit at this point.

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2 MS. JAMES: At this point.

3 LEGISLATOR NICOLELLO: It's not
4 as if the administration went out and, putting
5 aside tax cert liabilities, overspent its
6 budget by \$50 million on various items. It
7 simply had this expense was not allowed to use
8 borrowing and wound up using fund balance.

9 MS. JAMES: There are other
10 factors that were included in the deficit
11 number but this was the primary driver and
12 wanted to give very high level overview at
13 this point in time as the numbers are not
14 final. Once they are final we are going to
15 discuss those with you and the different
16 moving factors that are included.

17 LEGISLATOR NICOLELLO: I don't
18 know if you can answer this question.
19 Assuming that, as it was the case, that they
20 weren't permitted to do the borrowing, could
21 you identify anywhere else in the budget that
22 they could have possibly located tens of
23 millions of dollars to pay the tax certs?

24 MS. JAMES: At this point in time
25 I don't have the answer to that.

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2 LEGISLATOR MUSCARELLA: Ms.
3 Birnbaum.

4 LEGISLATOR BIRNBAUM: One of the
5 key primary drivers that you outlined was
6 departmental revenues. They were lower. I
7 know you said you're going to have a more
8 thorough report after the six month mark. But
9 was it one department or a combination of many
10 departments that resulted in that 6.6 million
11 lower than budgeted?

12 MS. JAMES: It was a combination
13 of many different departments.

14 LEGISLATOR BIRNBAUM: You'll have
15 a report soon?

16 MS. JAMES: When the numbers are
17 final we will issue a report and have all that
18 information available.

19 LEGISLATOR BIRNBAUM: The Off
20 Track Betting money I know that we said we
21 didn't get in 2017. Do you have a reason why
22 the county was unable to collect it?

23 MS. JAMES: I don't know. The
24 comptroller's office doesn't collect that
25 revenue.

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2 LEGISLATOR BIRNBAUM: I just
3 wondered. We keep saying it will be put in in
4 2018. How do we know for sure we're getting
5 it this year?

6 MS. JAMES: That I don't. I'm
7 sorry.

8 LEGISLATOR MUSCARELLA:
9 Mr. Abrahams.

10 LEGISLATOR ABRAHAMS: Quick
11 question. During the end of Mr. Page's
12 testimony he had indicated that there's no
13 funding in the budget for the future CBAs as
14 well as the longevity pay. And obviously
15 Mr. Denion also indicated in regards to the
16 accelerated tax cert liability and what's
17 going on with some of the tax cert bar that's
18 also the case.

19 I wanted to ask you whether or not
20 you concurred with their assessments in
21 regards to those unfunded liabilities or
22 concerns? And then also ask you in regards to
23 the pension cost, has that been properly
24 funded as well?

25 MS. JAMES: In regards to the

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2 budget, we will have a full review at the six
3 month mark. But it's my understanding at this
4 point the budget that was adopted did not
5 include what you just stated.

6 LEGISLATOR ABRAHAMS: None of the
7 four things have been?

8 MS. JAMES: The pension liability
9 is budgeted for.

10 LEGISLATOR ABRAHAMS: But the tax
11 cert liability as per Mr. Denion's testimony
12 as well as the collective bargaining and
13 longevity is not budgeted?

14 MS. JAMES: Those additions I did
15 not see in the budget.

16 LEGISLATOR ABRAHAMS: Has the
17 comptroller's office, when you come up with
18 that six-month report, you will actually put
19 estimates of what you believe these things
20 will cost?

21 MS. JAMES: Correct. We will
22 give a full assessment of our opinion on where
23 we are at the six month mark and where it's
24 projected to go for the rest of the year.

25 LEGISLATOR ABRAHAMS: How would

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2 you do that for the CBAs?

3 MS. JAMES: We would have to look
4 at that.

5 LEGISLATOR ABRAHAMS: And the
6 longevity pay, have you examined what the
7 longevity would have cost?

8 MS. JAMES: Not at this point.

9 LEGISLATOR ABRAHAMS: Nothing
10 further.

11 LEGISLATOR MUSCARELLA: Do we
12 have any other questions? Thank you very
13 much. At this point I'm going to ask
14 Mr. Chalmers to come up please. Good
15 afternoon.

16 MR. CHALMERS: Good afternoon.
17 Maurice Chalmers, Budget Review.

18 LEGISLATOR MUSCARELLA: I just
19 have basically one question. You've been
20 sitting here throughout the entire hearing and
21 my question for you is, is there anything you
22 would like to add or say or tell us as an
23 explanation or give us any information
24 concerning what you heard here today?

25 MR. CHALMERS: We basically

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2 concur with the 2017 numbers, 2017 estimate,
3 as far as we looked at them in the financial
4 system as approximately \$50.1 million deficit
5 as of right now. I think the comptroller's
6 office and the administration gave different
7 explanations on the aspects or the key drivers
8 of some of the indices, and we are basically
9 in agreement with them.

10 The 2018 numbers, we are in the
11 process of doing some projections for 2018.
12 We don't have a solid number for 2018 as of
13 yet.

14 One of the areas that we will have
15 to really consider is tax certs. We will
16 probably go back on 2018 and have
17 conversations with the county attorney, put a
18 number on exposure and add that to our risk.

19 LEGISLATOR MUSCARELLA: Do we
20 have any specific questions? Ms. Birnbaum.

21 LEGISLATOR BIRNBAUM: Thank you.
22 I've read your report. It's very thorough.
23 You mentioned funding for inmate health care
24 which has not been restored in the budget.
25 Would you elaborate on this and say about how

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2 much that was?

3 MR. CHALMERS: That funding was
4 not restored as part of the administration
5 changes. We have some concerns. We will
6 incur the cost but there is no funding in the
7 amendments to cover the extra expense.

8 LEGISLATOR BIRNBAUM: Could you
9 say how much that expense is?

10 MR. CHALMERS: I could go back
11 and double check but I believe it was about
12 \$1.4 million.

13 LEGISLATOR BIRNBAUM: Mr. Page,
14 would you be able to add anything to that? It
15 does concern me. This could be problematic.

16 MR. PAGE: We discussed the cost
17 of health care with the correction staff when
18 we were putting March together. They thought
19 that they had some potential to put somebody
20 in charge of watching that cost and how care
21 was provided that I think could give us an
22 expense outcome that's better than what was
23 just mentioned. We are aware that we have a
24 risk there. I think we have means of covering
25 it if we need to as a matter of fact. And

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2 we'll see how it goes.

3 LEGISLATOR BIRNBAUM: Thank you.

4 LEGISLATOR MUSCARELLA:

5 Mr. Abrahams.

6 LEGISLATOR ABRAHAMS: Maurice, I
7 know you had heard earlier in regards to some
8 of the things that are in the budget that the
9 county can very will be obligated to pay in
10 2018. We talked about longevity, the
11 collective bargaining agreement, the tax cert,
12 the pension cost. I know you had said you are
13 still diving into the numbers. I just wanted
14 to ask you as pertains to the tax cert
15 liability, how much of a risk would you assess
16 to the tax cert liability, hearing what Mr.
17 Denion had indicated as well? To me that's
18 seems like the largest, biggest number that
19 gives me a little concern.

20 MR. CHALMERS: There's
21 approximately \$30 million in tax cert funding
22 in the budget.

23 LEGISLATOR ABRAHAMS: Which is
24 inadequate. Sorry to cut you off.

25 MR. CHALMERS: So, our original

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2 assessment was another \$45 million worth of
3 risk. Which would bring it to historical
4 spendings. But as was just mentioned by
5 Mr. Denion, that exposure could go up to \$134
6 million. We need to go back to him and see
7 how much of the tax certs could become
8 judgement and therefore due and that would be
9 the risk that we would recognize in the 2018
10 budget.

11 LEGISLATOR ABRAHAMS: My concern
12 also is we should probably monitor this more
13 closely than we have in the past considering
14 what Mr. Denion indicated in regards to the
15 accelerated pace. I just don't want the
16 county to be handed a bill towards the fourth
17 quarter of this year and us not know about it
18 and have an opportunity to prepare for it.

19 MR. CHALMERS: Agreed. I believe
20 NIFA in their original assessment had a risk
21 of \$40 million. We thought it was a little
22 bit more than our original assessment. We had
23 45. But again, we will reach out to the
24 county attorney and try to get a number as far
25 as how much risk we could have in addition to

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2 the \$30 million that is currently funded in
3 the 2018 budget.

4 LEGISLATOR ABRAHAMS: Got it. I
5 have nothing further.

6 LEGISLATOR MUSCARELLA:
7 Mr. Kopel.

8 LEGISLATOR KOPEL: Good afternoon
9 Maurice. I want to keep on beating a
10 particular horse. Can you offer any
11 enlightenment on my question that you've heard
12 me refer to a number of times on the use of
13 the fund balance? Was it used? Was money
14 taken from a fund which had cash but an
15 unassigned negative balance and so forth?

16 MR. CHALMERS: There was a
17 balance in the undesignated fund balance of
18 177 million.

19 LEGISLATOR KOPEL: Cash.

20 MR. CHALMERS: We had enough cash
21 to back that up. So we had 177 million in the
22 undesignated fund balance.

23 LEGISLATOR KOPEL: As of?

24 MR. CHALMERS: As of the end of
25 2016. What the comptroller was talking about

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2 was the unrestricted portion of it which was
3 the 46.7 million I believe was their number.
4 I guess what was presented to this body was
5 the need to bond for Restivo in order not to
6 spend the entire unrestricted amount.

7 LEGISLATOR KOPEL: Was that
8 indeed spent and then some?

9 MR. CHALMERS: I don't know. I'm
10 not 100 percent sure of the answer. I believe
11 the Restivo case was settled. I am not 100
12 percent sure of where the funds came from.

13 LEGISLATOR KOPEL: They probably
14 came from just cash.

15 MR. CHALMERS: Probably just came
16 from cash but I don't know for sure. I would
17 have to double-check that.

18 LEGISLATOR KOPEL: Could you?

19 MR. CHALMERS: Yes.

20 LEGISLATOR MUSCARELLA:
21 Mr. Nicolello.

22 LEGISLATOR NICOLELLO: Just
23 several quick questions. The administration
24 made a determination actually not to pay for
25 Restivo through the bonding and fund balance

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2 but has identified revenues et cetera which
3 largely are going to pay for the Restivo
4 judgement. Since they have identified these
5 revenues and other initiatives and now have
6 connected those to Restivo, and in fact if
7 they are spent for Restivo, if the
8 administration needs additional monies later
9 on this year in terms of settling contracts
10 those monies are gone, correct?

11 MR. CHALMERS: Correct. By
12 paying for Restivo and not accounting for any
13 borrowing you've essentially removed any
14 flexibility that you could have had in the
15 budget.

16 LEGISLATOR NICOLELLO: Thank
17 you.

18 LEGISLATOR MUSCARELLA: If there
19 are no further questions I think our job here
20 is done. Thank you Mr. Chalmers.

21 (TIME NOTED: 5:30 P.M.)

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CERTIFICATION

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

THAT the foregoing is a true and
accurate transcript of my stenographic
notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 26th day of
April 2018

FRANK GRAY