

Nassau County Legislature
Full Legislative Committee
(Reconvened From January, 23, 2017)
Wednesday, February 8, 2017

1.
Meeting Minutes
Documents:

FULL LEGISLATIVE COMMITTEE, 02-08-17.pdf

PUBLIC NOTICE

**PLEASE TAKE NOTICE THAT
THE NASSAU COUNTY LEGISLATURE**

WILL RECONVENE

THE MEETING OF JANUARY 23, 2017

ON

FEBRUARY 8, 2017 AT 4:00 PM

IN

**THE PETER J. SCHMITT MEMORIAL LEGISLATIVE CHAMBER
THEODORE ROOSEVELT EXECUTIVE AND LEGISLATIVE BUILDING
1550 FRANKLIN AVENUE, MINEOLA, NEW YORK 11501**

Michael C. Pulitzer

Clerk of the Legislature
Nassau County, New York

**DATED: February 1, 2017
Mineola, NY**

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NASSAU COUNTY LEGISLATURE

FULL LEGISLATIVE COMMITTEE

NORMA GONSALVES,
Presiding Officer

1550 Franklin Avenue
Mineola, New York

Wednesday, February 8, 2017
(Reconvened from January 23rd, 2017)
4:12 P.M.

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

3 NORMA GONSALVES, Presiding Officer

4 RICHARD NICOLELLO,
5 Deputy Presiding Officer6 HOWARD KOPEL,
7 Alternate Deputy Presiding Officer

8 STEVEN RHOADS

9 DENISE FORD

10 LAURA CURRAN

11 C. WILLIAM GAYLOR III

12 VINCENT MUSCARELLA

13 ELLEN BIRNBAUM

14 LAURA SCHAEFER

15 DONALD MACKENZIE

16 KEVAN ABRAHAMS,
17 Minority Leader

18 ROSE MARIE WALKER

19 DENNIS DUNNE

20 ARNOLD DRUCKER

21 JAMES KENNEDY

22 DELIA DERIGGI-WHITTON

23 CARRIE SOLAGES

24 SIELA BYNOE

25 MICHAEL PULITZER,
 Clerk of the Legislature

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LIST OF SPEAKERS

FRANCIS BECKER 5
JANE HODAK 6
KEN ARNOLD 6
ROBBIN PETRELLA 7
META J. MEREDAY 20

1 Full Legislature/2-8-17

2 CHAIRWOMAN GONSALVES: We will
3 begin with Dennis Dunne, please lead us in
4 the Pledge of Allegiance.

5 (Whereupon, the Pledge of
6 Allegiance was recited.)

7 CHAIRWOMAN GONSALVES: Since this
8 is a reconvening of the January 23rd
9 meeting, the roll was established at that
10 time, so it won't be necessary to call the
11 roll.

12 I'm looking for Legislator Kopel,
13 Dunne and Gaylor. Without calling the roll,
14 we have a Full Legislature contingency.
15 That's a good thing.

16 Now, at the January 23rd meeting,
17 there were three items that were tabled;
18 Item 3, Item 9, and Item 10.

19 So, in order for to us proceed
20 it's important that we move to untable Items
21 3, 9 and 10. A motion to untable.

22 LEGISLATOR DUNNE: So moved.

23 LEGISLATOR NICOLELLO: Second.

24 CHAIRWOMAN GONSALVES: Moved by
25 Legislator Dunne, seconded by Legislator

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2 Nicolello. All those in favor of untabling
3 Items 3, 9 and 10 signify by saying aye.

4 (Aye.)

5 Any opposed?

6 (No verbal response.)

7 The items are now before us.

8 We are going to begin and
9 hopefully, Mr. Becker, we have personnel
10 available to speak on these items?

11 MR. BECKER: We most certainly
12 do, Madam Chair. Who would you like to
13 speak first?

14 CHAIRWOMAN GONSALVES: First I
15 will call the item. I don't know if we want
16 to call all three together.

17 MR. BECKER: I don't see any
18 reason why you can't, Madam Chair. I think
19 it's all one discussion.

20 CHAIRWOMAN GONSALVES: We will
21 then now discuss 3, 9 and 10. And who is
22 here to speak?

23 MR. BECKER: Let me have Mr. Ken
24 Arnold speak first. Then we also have the
25 people from the company here who can also

1 Full Legislature/2-8-17

2 testify.

3 CHAIRWOMAN GONSALVES: We have
4 Mr. Arnold.

5 MR. BECKER: But we have do the
6 people from the company if you want
7 testimony on the report.

8 CHAIRWOMAN GONSALVES: Whoever is
9 here to speak on it to give us as much
10 information as is necessary. And, of
11 course, to address some of the concerns that
12 were raised at the January 23rd meeting.
13 Mr. Arnold.

14 MR. ARNOLD: Well, Item 3 is the
15 capital plan amendment which includes the
16 OEM building and a couple of others items.

17 I will call up our consultant and
18 Jane Hodak to speak on the OEM building
19 specifically. If there are any other items,
20 I'm here for those also.

21 MS. HODAK: Jane Hodak,
22 Department of Public Works. As requested at
23 the last session, the indoor air testing was
24 performed on the unit that the county is
25 seeking to purchase, and Robbin Petrella

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2 from Diverka & Bartilucci is here to explain
3 the testing that was done and the results of
4 that testing.

5 MS. PETRELLA: Good afternoon.

6 I'm Robbin Petrella with D&B Engineers.

7 Based on our last meeting, we
8 determined that we were going to do some
9 indoor air sampling at the 510 Grumman Road
10 West property, the building, condo unit 2.

11 To do that, we collected two
12 ambient air or indoor air samples, excuse
13 me, from within the buildings, one from the
14 OEM space that they occupied and the other
15 from the auditorium, which is a common space
16 that everyone has access to. Those are both
17 on the first floor since there's no basement
18 in the building. We took it of the first
19 floor of the breathing zone.

20 We also collected one sample from
21 outside as a background to determine if our
22 indoor air, regardless of what the numbers
23 were, was it similar to outside or better.

24 Based on the results that we
25 received, both indoor air samples were below

1 Full Legislature/2-8-17
2 background levels. When I say "below
3 background levels," the New York State DOH
4 has a guidance, within the guidance are
5 background levels posted by USEPA. All of
6 the values from within the indoor samples
7 were below those levels. So there was no
8 impacts to indoor air at all. The building
9 is perfectly fine.

10 We also collected an outdoor
11 sample, the ambient sample in there. You
12 notice, there was one compound, ethyl
13 acetate that was detected at 2.5 micrograms
14 per cubic meter which was slightly above the
15 background level of 1.5, but, again, that
16 was an outdoor sample.

17 Ethyl acetate is a common
18 ingredient to many things; perfume, nail
19 polish, cigarettes. They use it to
20 decaffeinate tea. Finding that was not
21 uncommon.

22 Based on our sampling, and the
23 results, the indoor air within the building
24 at the time of the sampling is fine. We
25 didn't find any issues.

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2 CHAIRWOMAN GONSALVES: Legislator
3 Nicolello.

4 LEGISLATOR NICOLELLO: Just so we
5 understand, these levels that have been
6 established by the Department of Health and
7 the EPA, those are really minimal levels
8 that they have established. Anything
9 beneath that is completely safe for a
10 habitable space, is that accurate?

11 MS. PETRELLA: Yes.

12 LEGISLATOR NICOLELLO: And the
13 ethyl acetate on the outside, if in the area
14 that this facility is located outside this
15 building, could you expect to find ethyl
16 acetate? I'm trying to find out how common
17 this stuff is.

18 MS. PETRELLA: Well, like I
19 mentioned, it's in everything. It's in nail
20 polish, in perfume. They use it to make
21 wine. It is in cigarettes.

22 So anything -- it's a common
23 solvent that is very pleasant, as they say.
24 It has a nice smell. They use it in a lot
25 of things. It's not uncommon to find it.

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2 LEGISLATOR NICOLELLO: Is there
3 any dangers to people or workers or visitors
4 going in and out of that building?

5 MS. PETRELLA: No.

6 LEGISLATOR NICOLELLO: Because of
7 the presence of the test that --

8 MS. PETRELLA: Again, there was
9 only one outdoor sample collected. It was
10 collected at the northeast corner of the
11 building as a background sample. Somebody
12 could have been outside smoking a cigarette
13 during the eight hours that we were
14 collecting the sample.

15 LEGISLATOR NICOLELLO: But with
16 respect to the interior, your determination
17 is that it's safe?

18 MS. PETRELLA: The samples that
19 we collected are well below the background
20 levels and it's fine.

21 CHAIRWOMAN GONSALVES: Legislator
22 Schaefer.

23 LEGISLATOR SCHAEFER: So I
24 understand, it's not dangerous. I guess I'm
25 just curious. You said it's not uncommon to

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2 find the ethyl acetate. Is that outside
3 anywhere? Is it more common in an
4 industrial area? Is it just random?

5 MS. PETRELLA: It's random.

6 LEGISLATOR SCHAEFER: It's random
7 where you might find it?

8 MS. PETRELLA: Again, it's in
9 every -- it's in your nail polish, probably
10 walk in to get your manicure or whatever,
11 it's prevalent there. It's anywhere. So
12 it's not prevalent for like that area, if
13 you want to say, that was a former
14 industrial area. It has nothing do with
15 that.

16 LEGISLATOR SCHAEFER: So it could
17 just as easily be found outside of a deli?

18 MS. PETRELLA: Yes. Right
19 outside this building.

20 LEGISLATOR SCHAEFER: Okay.

21 CHAIRWOMAN GONSALVES: Minority
22 Leader.

23 LEGISLATOR ABRAHAMS: Thank you,
24 Madam Presiding Officer. So, I think it's
25 been pretty much demonstrated that the

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2 indoor air samplings that were taken are not
3 going to be I guess dangerous to the people
4 that are working there, if I understand this
5 correctly?

6 MS. PETRELLA: Yes.

7 LEGISLATOR ABRAHAMS: I do want
8 to continue, again, to substantiate for the
9 record, I think we brought it up before at
10 the last meeting, the mindset or the logic
11 of not testing the soil. Though we believe
12 it sounds from your report that the air
13 samplings are not going to be dangerous to
14 those that are working there, what about the
15 drinking water?

16 MS. PETRELLA: The drinking water
17 is not the groundwater from there. It comes
18 from Bethpage Water District testing which I
19 don't know what their set schedule on
20 testing is. But that's public water. So
21 you're not getting water from there.

22 LEGISLATOR ABRAHAMS: Good.
23 Good. So the soil testing, I noticed in
24 your report, as I'm reading the conclusions,
25 it indicates that based on the results of

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2 the indoor air sampling, D&B concludes that
3 no further action is necessary at this time.
4 Does that include the soil as well?

5 MS. PETRELLA: This report is
6 based only on air sampling. This was an
7 indoor air quality survey.

8 LEGISLATOR ABRAHAMS: So it's
9 your assessment that the soil does not need
10 to be looked at?

11 MS. PETRELLA: That was based on
12 the Phase One report that we reviewed prior,
13 I guess last session, and in there there are
14 two letters of no further action from the
15 DEC stating that as long as the cap is kept,
16 so if there is no ground disturbance, that
17 the building is okay to be occupied as is.

18 LEGISLATOR ABRAHAMS: And, just
19 for the record, the letters were written
20 when again?

21 MS. PETRELLA: I believe it was
22 2004. I don't recall. I can get you the
23 dates on those.

24 LEGISLATOR ABRAHAMS: In your
25 practice, working as an engineer, is it safe

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2 to say that a letter that was dated in 2004
3 would substantiate the need to not test
4 again in 2017?

5 MS. PETRELLA: There's been
6 nothing done at the property. So,
7 typically, the way the DEC would follow-up
8 is that as long as all of the controls are
9 left in place, or they haven't done anything
10 else to the property and left as commercial
11 property, that you're okay. Because they
12 have done extensive work out there prior
13 because it was years ago.

14 But, based on the information
15 that we have on the Phase One that we
16 prepared, that we discussed last session, as
17 long as you keep the property the way it is
18 as a commercial use property, and you do not
19 disturb the soils, you're okay.

20 LEGISLATOR ABRAHAMS: And, just
21 for clarification before I go back to that
22 point, you've had a chance to review the
23 report? You reviewed the findings and you
24 stand by the report and the findings today,
25 not personally, I know you stand by as D&B,

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2 but I just noticed that it's signed by a
3 Steven Fengman.

4 MS. PETRELLA: He is the
5 Executive Vice President of the firm.

6 LEGISLATOR ABRAHAMS: Yes. But
7 you had a chance to review the report just
8 as well.

9 MS. PETRELLA: I prepared the
10 report.

11 LEGISLATOR ABRAHAMS: You
12 prepared it. Hold on one second.

13 In your initial report, it
14 mentions that the uncovered portions of the
15 building slab were observed to be generally
16 in good condition. Do we know anything in
17 regard to the covered portions?

18 MS. PETRELLA: No.

19 LEGISLATOR ABRAHAMS: Do you
20 think that's necessary for us to
21 investigate?

22 MS. PETRELLA: I believe that's
23 why we did the indoor air samples, to
24 determine if there is an impact to the
25 indoor air and, based on our results, there

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2 is no impact at this time.

3 LEGISLATOR ABRAHAMS: So the
4 covered portions do not represent any danger
5 to --

6 MS. PETRELLA: Not based on our
7 results, no.

8 LEGISLATOR ABRAHAMS: For this
9 legislature getting ready to take action, we
10 want to make sure we're taking action that,
11 one, we do not do anything that's going to
12 jeopardize the health of those that work
13 there but, also, two, that we are not going
14 to basically take on anything that would
15 require any type of remediation going
16 forward.

17 In light of the fact that you
18 have not done any type of soil testing, is
19 it your best assessment that this
20 Legislature can move forward?

21 MS. PETRELLA: If you leave the
22 building as a commercial property and meet
23 the requirements of the no further action
24 letters, yes.

25 LEGISLATOR ABRAHAMS: Thank you

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2 very much.

3 CHAIRWOMAN GONSALVES: Any other
4 comments from the legislators? Legislator
5 DeRiggi-Whitton.

6 LEGISLATOR DERIGGI-WHITTON: I
7 appreciate your insight to this. Would you
8 feel that it would have been better off if
9 we completed the full Phase Two prior to us
10 purchasing this property?

11 MS. PETRELLA: We didn't
12 recommend a Phase Two.

13 LEGISLATOR DERIGGI-WHITTON: So
14 you don't feel that -- see, I don't know
15 what questions you might have in your mind.
16 Do you feel confident in telling us to go
17 ahead and purchase this property without the
18 full Phase Two?

19 MS. PETRELLA: We didn't
20 recommend a full Phase Two to begin with.
21 We identified the potential for soil vapor
22 intrusion because you have impacted
23 groundwater in the area, and then, based on
24 that, we recommended and, with the county,
25 we determined that we were going to do an

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2 indoor air quality survey which we did.
3 Based on that, the indoor air quality at
4 that building is fine.

5 LEGISLATOR DERIGGI-WHITTON: What
6 would have been included in a Phase Two that
7 we didn't do other than the soil?

8 MS. PETRELLA: There was no need
9 to do a Phase Two.

10 LEGISLATOR DERIGGI-WHITTON: But
11 if we were to do a Phase Two, what tests
12 would that have included a full Phase Two?

13 MS. PETRELLA: It depends on the
14 property. I can't tell you that. Did
15 indoor air, and you have no further action
16 letter, so based on the DEC's letter, why
17 would you want to do anything else? The DEC
18 is already telling you you don't have to.

19 LEGISLATOR DERIGGI-WHITTON: So,
20 again, just to kind of reiterate what my
21 colleague said, in your opinion, we've done
22 all the testing that you feel, that you deem
23 necessary at this time to feel comfortable
24 purchasing this property?

25 MS. PETRELLA: As part of a Phase

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2 One and indoor air, yes.

3 LEGISLATOR DERIGGI-WHITTON: In
4 general?

5 MS. PETRELLA: Yes.

6 LEGISLATOR DERIGGI-WHITTON:
7 Thank you.

8 CHAIRWOMAN GONSALVES: Legislator
9 Walker.

10 LEGISLATOR WALKER: Just to add
11 to what was said before too, as far as the
12 water goes in that area, in that community,
13 it's probably the most tested water of any
14 place in Nassau County.

15 And I can tell that you both
16 Laura and I, because we both represent
17 Bethpage, are in constant contact with the
18 water district there and they are constantly
19 testing because obviously the health and
20 safety of their residents in Bethpage is of
21 utmost important to them. And we certainly
22 will continue to stay on top of that.

23 CHAIRWOMAN GONSALVES: Are there
24 any others who would like to address the
25 issues in these three items; Items 3, 9 or

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2 10?

3 (No verbal response.)

4 Any public comment?

5 MS. MEREDAY: Yes.

6 CHAIRWOMAN GONSALVES: Let's go,
7 Ms. Mereday.

8 MS. MEREDAY: Good afternoon.

9 Meta J. Mereday, Baldwin resident.

10 I'm concerned and I appreciate
11 the Minority Leader asking those specific
12 questions.

13 As one who was a 9-11 first
14 responder who believed what the EPA said
15 about the clean air with the blue sky after
16 the planes went into the World Trade Center,
17 and now that I'm getting advanced COPD and
18 related ailments, I would be concerned.

19 You all sitting there in
20 representing our interests should also
21 continue to be concerned in terms of asking
22 the questions specific to the sampling
23 models themselves; was it a passive sampling
24 or an active sampling? Where is the data
25 that defines which ones were the best

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2 possible for this? Are we talking about
3 mold spores as well?

4 And, granted, you still have to
5 consider the impact that the Bethpage plume
6 is having on that community and the fact
7 that we can sit here and say that you don't
8 anticipate something happening to that
9 building.

10 This is an election year. Who's
11 to say next year who is going to be sitting
12 in those seats that you occupy now and the
13 decisions they are going to make in terms of
14 any type of redevelopment or contract
15 opportunity for someone else to come in
16 there?

17 And, again, information that does
18 not get shared or transferred to the next
19 group that is representing our interests or
20 for the many taxpayers who are leaving by
21 the number of zombie houses that we have in
22 Nassau. Those that feel their interests are
23 being misrepresented.

24 So, I'm asking you again, but for
25 the most part you are going to do what you

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2 want to do, it's going to be split by party.
3 That's a given.

4 I'm not going to rehash 2016
5 because this is a new year. And, again, as
6 I said, this is an election year, so I'm
7 encouraging you all to ask the specific
8 questions. If you do not tie water and soil
9 into the air in this particular discussion
10 then you are doing the residents of this
11 county a very costly and dangerous
12 disservice. Thank you.

13 CHAIRWOMAN GONSALVES: Thank you,
14 Ms. Mereday.

15 Any other comments?

16 (No verbal response.)

17 Since we've untabled each of the
18 items and there are no other speakers to
19 address the other items that were untabled,
20 since everything fell together in the
21 beginning of the session, I'm going to ask
22 at this point for a motion to move the three
23 items, Item 3 -- hold on.

24 My understanding is that since
25 they were untabled in the beginning, that

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2 motion that was used to untable 3, 9 and 10
3 stands for the ability for this body now to
4 take a vote on each of these items; that's
5 3, 9 and 10.

6 All those in favor of 3, 9 and 10
7 signify by saying aye.

8 (Aye.)

9 Any opposed?

10 (No verbal response.)

11 Any abstentions?

12 (No verbal response.)

13 Am I to say the vote is
14 unanimous? I think so. Thank you very
15 much. The vote was unanimous.

16 A motion to adjourn.

17 LEGISLATOR DUNNE: So moved.

18 LEGISLATOR NICOLELLO: Second.

19 CHAIRWOMAN GONSALVES: Moved by
20 Legislator Dunne, seconded by Legislator
21 Nicolello. All those in favor of adjourning
22 signify by saying aye.

23 (Aye.)

24 Any opposed?

25 (No verbal response.)

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2 Good job, and thank you everyone.

3 Please stay safe.

4 (Whereupon, the Full Legislative

5 Committee adjourned at 4:33 p.m.)

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C E R T I F I C A T E

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

THAT I attended at the time and place
above mentioned and took stenographic record
of the proceedings in the above-entitled
matter;

THAT the foregoing transcript is a true
and accurate transcript of the same and the
whole thereof, according to the best of my
ability and belief.

IN WITNESS WHEREOF, I have hereunto set
my hand this 15th day of February, 2017.

FRANK GRAY