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NASSAU COUNTY LEGISLATURE

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RICHARD NICOLELLO

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PRESIDING OFFICER

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ECONOMIC AND COMMUNITY DEVELOPMENT,

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LABOR AND TRANSPORTATION COMMITTEE

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LEGISLATOR TOM MCKEVITT

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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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January 22, 2018

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1:41 P.M.

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Regal Reporting Service
516-747-7353

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

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4 LEGISLATOR THOMAS MCKEVITT

5 Chair

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7 LEGISLATOR JOHN FERRETTI

8 Vice Chair

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10 LEGISLATOR STEVEN RHOADS

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12 LEGISLATOR DENISE FORD

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14 LEGISLATOR SIELA BYNOE

15 Ranking member

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17 LEGISLATOR ELLEN BIRNBAUM

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19 LEGISLATOR DEBRA MULE

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2 LEGISLATOR MCKEVITT: Call the
3 Economic and Community Development, Labor and
4 Transportation Committee to order and will
5 clerk call the roll

6 MR. PULITZER: Thank you sir.
7 Economic and Community Development, Labor and
8 Transportation Committee. Legislator Debra
9 Mule.

10 LEGISLATOR MULE: Here.

11 MR. PULITZER: Legislator Ellen
12 Birnbaum.

13 LEGISLATOR BIRNBAUM: Here.

14 MR. PULITZER: Ranking member
15 Siela Bynoe.

16 LEGISLATOR BYNOE: Here.

17 MR. PULITZER: Legislator Denise
18 Ford.

19 LEGISLATOR FORD: Here.

20 MR. PULITZER: Legislator Steven
21 Rhoads.

22 LEGISLATOR RHOADS: Present.

23 MR. PULITZER: Vice chairman John
24 Ferretti.

25 LEGISLATOR FERRETTI: Here.

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2 MR. PULITZER: Chairman Thomas
3 McKevitt.

4 LEGISLATOR MCKEVITT: Here.

5 MR. PULITZER: We have a quorum
6 sir.

7 LEGISLATOR MCKEVITT: We have two
8 items on the agenda. They are 2-18 and 4-18.
9 Item 2-18 is a resolution authorizing the
10 county executive to execute a consulting
11 services funding agreement between the county
12 of Nassau acting on behalf of the Department
13 of Public Works and the Long Island Railroad
14 Company.

15 May I have a motion please. Moved
16 by Legislator Rhoads. Second by Mr.
17 Ferretti. Anyone from the administration
18 please.

19 MR. MAY: Good afternoon Mr.
20 Chairman. It is a pleasure to be working with
21 you at this level.

22 LEGISLATOR MCKEVITT: By the way,
23 12 years of finally chairing a committee.
24 This is a brand new experience for me.

25 MR. MAY: We actually have two

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2 items. There's also the IMA for the Long
3 Beach N-69. They're both public works. I
4 have both people here. You want to call them
5 up at once or do them separately?

6 LEGISLATOR MCKEVITT: I guess we
7 can do them both at once. We have item 4-18
8 resolution authorizing the county to execute
9 an intermunicipal agreement with the city of
10 Long Beach.

11 Can we have a motion on that
12 matter? Moved by Ms. Ford. Second by
13 Ms. Bynoe. We have both items before us.

14 MR. MAY: We have Mr. Sean Salley
15 to speak on the LIRR third track funding
16 agreement.

17 MR. SALLEY: Good afternoon
18 legislators. Sean Salley with the Nassau
19 County Department of Public Works.

20 This is a proposed funding
21 agreement between the County of Nassau and the
22 Long Island Railroad pertaining to the
23 proposed third track project between Floral
24 Park and Hicksville on the main line. The
25 agreement covers a funding reimbursement

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2 essentially for the Department of Public Works
3 for expenses relating to the design review and
4 construction monitoring of infrastructure that
5 is being either improved or additional
6 infrastructure that needs to be constructed to
7 support the proposed third track project.

8 The county owns and maintains sewer
9 infrastructure in the area, roadways, sanitary
10 sewer et cetera. There are substantial
11 changes to county roadways, grade crossing
12 eliminations along the project corridor that
13 will require design review by the department
14 as well as inspection once the construction
15 commences.

16 So this funding agreement, through
17 negotiations between the county Department of
18 Public Works and the Long Island Railroad,
19 will reimburse county staff time as well as
20 professional services that are procured by the
21 county to assist in this operation.

22 The Long Island Railroad has set
23 forth an expedited time frame to complete the
24 third track project. So in order for the
25 county, for the Department of Public Works to

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2 allocate sufficient resources to meet that
3 time line additional resources are required
4 and this funding agreement again will
5 reimburse the county for those services.

6 LEGISLATOR MCKEVITT: Mr. Salley,
7 just to confirm, I can very much imagine the
8 cost of this can go well in excess of
9 \$500,000. So when that occurs the railroad
10 will then go and reimburse that additional
11 amount as well too or are we going to need
12 additional authorization? What's going to be
13 the process before it goes nexus of that half
14 a million?

15 MR. SALLEY: We were able to
16 negotiate with the railroad for the half a
17 million, for the \$500,000 temporary cap to
18 basically get us started. We understand our
19 services will be needed in the next couple of
20 weeks. So to just get enough money to get us
21 moving, and then we fully expect to request
22 additional funds from the railroad. And they
23 have expressed that they will be entertaining
24 those additional requests. The agreement is
25 set up so the county executive can enter into

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2 a funding agreement with the Long Island
3 Railroad to increase that funding cap.

4 Now, as the project becomes or
5 scope becomes more defined, this is a design
6 build project undertaken by the railroad, as
7 the actual project scope becomes more defined
8 that budget that will require will also be
9 more clear and we will seek to refine that
10 agreement so it reflects the actual work that
11 we need to do as well as the cost that it's
12 going to take us to do that work over the four
13 year project life span.

14 LEGISLATOR MCKEVITT: Any other
15 debate or discussion on this matter? Yes
16 Ms. Birnbaum.

17 LEGISLATOR BIRNBAUM: When does
18 the county intend to issue an RFP for the
19 design review and construction monitoring?

20 MR. SALLEY: The construction
21 review request for proposals is on the street
22 now. And proposals are due at the end of the
23 week. The end of this week. So we expect to
24 review and turn around a draft contract as
25 soon as possible. Again, to adhere to the

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2 Long Island Railroad time frame.

3 LEGISLATOR BIRNBAUM: Thank you.

4 LEGISLATOR MCKEVITT:

5 Mr. Rhoads.

6 LEGISLATOR RHOADS: Mr. Salley,

7 how are you? Doing well. Thank you.

8 Question, do we have the capacity to be able
9 to handle this in-house? In other words, for
10 the design build can we do that ourselves or
11 do we have to go out for an RFP?

12 MR. SALLEY: In order to give the
13 time and the resources necessary to this
14 project the scope, just to kind of cover it
15 briefly, but the grade crossing eliminations
16 four of those roads are county roads. Covert,
17 New Hyde Park Road, Willis Avenue and Main
18 Street, which is actually a road closure. But
19 there is substantial work planned in those
20 areas. As well as other areas along the
21 corridor. So it really does take an extension
22 of the department to be able to conduct those
23 reviews in the very fast pace that they will
24 need to be done in order to maintain the Long
25 Island Railroad time frame.

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2 LEGISLATOR RHOADS: Has there
3 been any discussion with the administration to
4 try and reach a more comprehensive agreement?
5 Because my concern obviously is this work is
6 only necessary because the Long Island
7 Railroad and the state have announced their
8 intention to construct a third line. I'm just
9 concerned since we have the first \$500,000
10 cap, we know that the work is going to exceed
11 the \$500,000, especially if we're now going to
12 pay an outside vendor to actually perform that
13 work. Shouldn't we receive some sort of
14 assurance from the state first that they are
15 going to pay whatever those expenses are
16 before we get into the middle of something and
17 perhaps have the rug pulled out from under
18 us?

19 MR. SALLEY: Absolutely. And I
20 completely agree with your concern. While we
21 don't have the sort of agreement in writing to
22 fall back on we have had extensive
23 conversations with the railroad over the past
24 year essentially to get to a comfort level
25 where that additional funding will be

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2 committed.

3 Towards the end of 2017 what we
4 saw -- we expected the project to actually
5 begin in late 2017, we felt that we needed to
6 expedite an agreement quickly because we were
7 going to run out of time and basically be left
8 with a project that was moving forward without
9 the adequate level of resources. Sort of
10 immediately putting us behind the eight ball.
11 So we tried to address that and agreed on this
12 limited amount of funding for the first
13 phase. But we do need to discuss with the
14 railroad sort of a more clearer path to the
15 additional funding.

16 We know that many of the villages
17 that are along the main line and that are
18 affected by the project are part of a larger
19 agreement for a larger pot of money to
20 mitigate any impacts to those communities.

21 We understand the county would be
22 subject to a separate essentially source of
23 funding to accommodate our resource needs or
24 design review resource needs.

25 So we can commit at this point to

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2 go back to the railroad before we come back to
3 the legislature with a contract for the design
4 services to ensure that we have more
5 specificity and clarity on the additional
6 funding.

7 LEGISLATOR RHOADS: Is there any
8 possibility of having an actual written
9 agreement? Old lawyer talk, if it's not in
10 writing it doesn't exist, right? I'm just
11 concerned that we're going to get ourselves
12 into something that we don't have the money to
13 get out of.

14 MR. SALLEY: I agree. And I
15 think that again before we come back to this
16 legislature with a contract for professional
17 services that we --

18 LEGISLATOR RHOADS: I appreciate
19 it Mr. Salley. Mr. Arnold.

20 MR. ARNOLD: Ken Arnold, Public
21 Works. It's in the best interest of the
22 railroad to support our endeavor. Without
23 their support the project will be delayed
24 because of our resource allocations. It's in
25 their best interests. We have full faith that

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2 they will come to the table with what we need
3 to support their project on their time frame.
4 And we work towards that as Mr. Salley said
5 before we have the consultant agreement here
6 to get that more specific, put in writing for
7 you.

8 LEGISLATOR RHOADS: That
9 absolutely makes sense. Mr. Arnold. Let's
10 try to tighten that up thanks.

11 LEGISLATOR MCKEVITT: Mr.
12 Ferretti.

13 LEGISLATOR FERRETTI: Thanks Mr.
14 Chairman. Mr. Salley, nice to finally meet
15 you after many years working with you over the
16 phone on many subdivision issues in the county
17 clerk's office. Can you tell us what
18 percentage you anticipate of this initial
19 phase can be completed in-house?

20 MR. SALLEY: The majority of the
21 work we would expect to be performed by the
22 consultants that we procure. We expect those
23 to be design professionals and civil engineers
24 et cetera. They will need to be managed by
25 in-house staff and all of the institutional

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2 knowledge and knowing where all the necessary
3 documentation is the county staff has that
4 information. But I would say the majority
5 share of the design review would be performed
6 by the consultant services.

7 LEGISLATOR MCKEVITT: Anything
8 further? Ms. Bynoe.

9 LEGISLATOR BYNOE: Thank you
10 Mr. Chair.

11 When we issue the RFP you mentioned
12 earlier the villages are going to be impacted
13 and I believe one of the towns will be as
14 well. Have we considered shared services in
15 terms of utilizing consultants that could
16 provide the service across all the different
17 municipalities?

18 MR. SALLEY: I think that's an
19 excellent idea and we should pursue that. The
20 way the RFP was written we were specific again
21 to get a cost proposal that we could review
22 apples to apples. But the scope was specific
23 to county infrastructure and county roads. We
24 do understand that there are town roads and
25 village roads that will be impacted and some

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2 village infrastructure and our sewer and
3 related. That's something that we can discuss
4 in the department to see if that's a
5 potential. I'm sure the railroad would
6 appreciate that too.

7 LEGISLATOR BYNOE: Indeed. Thank
8 you very much.

9 LEGISLATOR MCKEVITT: Any further
10 discussion? Any public comment?

11 MS. MEREDAY: Meta J. Mereday,
12 Baldwin resident. I have a number of
13 questions and concerns. I do appreciate the
14 diligent questions that are being asked by our
15 legislators. Particularly Legislator Bynoe
16 and Legislator Birnbaum with regard to the
17 RFP. As many of you know my focus largely is
18 on including veterans and service disabled and
19 veteran-owned businesses and we're looking at
20 funding that comes from dual processes and
21 largely from taxpayers.

22 So my concern has to be with the
23 statement that the proposals are already on
24 the street. I'm curious as to what streets
25 the proposals actually hit? What changes have

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2 been put in place with the procurement and the
3 outreach. Because as most of you know, maybe
4 the newbies need to get that update with
5 regard to how procurement has taken place in
6 the past. So, those of us who are out here
7 kind of working in these trenches and not
8 seeing too much change and having to travel on
9 both town, county and village roads that are
10 deplorable to say the least, we are curious as
11 to where is the diversity? Where is the
12 inclusion? Where is the outreach?

13 The mitigating circumstances as
14 many residents find out they really don't find
15 out until that road has been closed. Until
16 that access has been denied. Not everyone in
17 Nassau County has a car and many of them have
18 to travel by bus. So when you're also talking
19 about this mitigation and the funding where
20 does that funding go? Who administers that?
21 And again, in the basic levels how are
22 residents' interest being protected?

23 So those are just some issues that
24 pertain to that. But largely again the
25 vetting process. Has nothing changed? I know

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2 on paper it looks good that the outgoing
3 majority group, which is still in the
4 majority, but the previous group passed a lot
5 of things like Christmas presents. Including
6 an inspector general but without having it
7 funded, staffed and actually operational we
8 are concerned that much of the same will be in
9 place.

10 Even though I'm trying to be very
11 positive and optimistic as I continue to watch
12 our veterans who are leaving in droves and
13 those who are trying remain here are not
14 getting any support services. And again, on
15 paper, according to the US census there are
16 over 11,000 veteran-owned businesses in Nassau
17 County. We have no directory. We have to
18 support service. We have no outreach system.
19 Questions, questions, questions. But more
20 importantly, concerns. You all are
21 responsible. You are the stewards of our
22 funding and our resources. Thank you.

23 LEGISLATOR MCKEVITT: Any
24 additional public comment? If not, we will
25 move it for a vote. All those in favor say

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2 aye. All those against? Motion passes.

3 We will go on to item 4-18 which is
4 an intermunicipality agreement between Nassau
5 County and the city of Long Beach regarding
6 busing service. Anyone on behalf of the
7 administration? Mr. Arnold.

8 MR. ARNOLD: Item 4-18 is a
9 funding agreement between Long Beach and the
10 county for the bus service that the city
11 provides within the barrier island. This is
12 retroactive contract to catch up on past
13 payments. The issue with the past payment was
14 that A, the city did not reach out to us on an
15 expired contract and then it took quite a bit
16 of time to get all the disclosures and all
17 their paperwork in order to get this to the
18 finish line.

19 LEGISLATOR MCKEVITT: Any
20 questions or discussion? Ms. Bynoe.

21 LEGISLATOR BYNOE: Good afternoon
22 Mr. Arnold. So, you state here that the city
23 didn't reach out to us. We don't have these
24 things, these contracts, especially those that
25 are tied to revenue in a tickler let's say or

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2 something that would address -- would bubble
3 up and let us know that it was?

4 MR. ARNOLD: We did reach out to
5 them at one point. They never got back to
6 us. Our people did not follow-up and then it
7 was an expired contract. We are changing our
8 protocols to get better at following up on
9 contracts before they expire. But in this
10 case one our planners did reach out to the
11 city, had no response, the city people changed
12 and when we reached out a second time the
13 contracts were already expired.

14 LEGISLATOR BYNOE: Did they pay
15 annually?

16 MR. ARNOLD: Actually we have to
17 pay them in this case.

18 LEGISLATOR BYNOE: We're paying
19 them?

20 MR. ARNOLD: Yes.

21 LEGISLATOR BYNOE: It's their
22 revenue. Forget it. I'm only kidding.

23 MR. ARNOLD: I understand your
24 concern. We are trying to get more focus on
25 that but the department runs hundreds of

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2 contracts. Sometimes these things get slipped
3 past us.

4 LEGISLATOR BYNOE: I think we
5 have a new IT commissioner or something.
6 Maybe they can create a program.

7 LEGISLATOR MCKEVITT: Any further
8 questions or discussion? Ms. Ford.

9 LEGISLATOR FORD: Thank you
10 Legislator Bynoe because we do have to watch
11 out for the money. But as a resident of Long
12 Beach I'm a little dismayed that the city
13 would allow two or three years to go by
14 without filling out the paperwork and the
15 vouchers so they can get reimbursed for the
16 money that they paid for this bus system
17 that's very critical to the residents.

18 What steps are we going to take to
19 try to get them so that they move a little bit
20 faster because this is taxpayer money.

21 MR. ARNOLD: During this process
22 I think they understand now what the county
23 requirements are to get this through. It was
24 a big learning curve. We started this
25 probably nine months ago to get this

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2 straightened out and took all of '17 to get to
3 this point.

4 LEGISLATOR FORD: How many years
5 have we been reimbursing them for the N-69?

6 MR. ARNOLD: It predates my
7 involvement in Public Works.

8 LEGISLATOR FORD: So there is no
9 learning curve. I mean, come on.

10 MR. ARNOLD: Their current people
11 that are in charge of this area now understand
12 what we need to do.

13 LEGISLATOR FORD: Perfect. Thank
14 you.

15 LEGISLATOR MCKEVITT: Mr.
16 Ferretti.

17 LEGISLATOR FERRETTI: Mr. Arnold,
18 thank you. You mentioned in your response to
19 Legislator Bynoe that there was a change in
20 staff over in the city. Is that the case or
21 what are you referring to?

22 MR. ARNOLD: When we first
23 brought this up to the city then they had a
24 change of staff. I think it got lost over
25 there at that point. And then by that time

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2 the contract had expired the next time we
3 followed up with them. And then we had to
4 work with new people to get to where we are
5 today.

6 LEGISLATOR FERRETTI: When did
7 you first bring it to their attention?

8 MR. ARNOLD: I would have to go
9 back to my notes. But probably early in '17.

10 LEGISLATOR FERRETTI: You brought
11 it up a second time? An additional time you
12 said?

13 MR. ARNOLD: I assume my people
14 did but I would have to go back and talk to
15 them.

16 LEGISLATOR FERRETTI: Thank you.

17 LEGISLATOR MCKEVITT: Any
18 further? Ms. Birnbaum.

19 LEGISLATOR BIRNBAUM: Is this the
20 usual that we have one year contract, two
21 year? What is the agreement, the IMA with the
22 city of Long Beach?

23 MR. ARNOLD: This current IMA
24 expired at the end of '17 I want to go back to
25 my transit folks and talk about setting up a

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2 longer term contract so we don't have to keep
3 doing amendments. There will be discussion in
4 this year as we work towards '18.

5 LEGISLATOR BIRNBAUM: What is the
6 typical length of time for an IMA such as
7 this?

8 MR. ARNOLD: This type of IMA
9 should be a multiyear IMA because it's a
10 recurring obligation in both directions. Some
11 IMAs would not be. With this one there should
12 be something within three to five years so we
13 don't have to keep revisiting it. We would be
14 encumbering money each time this has to be
15 modified.

16 LEGISLATOR BIRNBAUM: Thank you.

17 LEGISLATOR MCKEVITT: Ms. Mule.

18 LEGISLATOR MULE: Are there any
19 financial ramifications for the fact that the
20 payment is going to be late?

21 MR. ARNOLD: We already did work
22 with the comptroller's office setting up
23 accruals for this so our books are set up for
24 these late payments. I'm not sure on the
25 city's part if they have any issues. But our

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2 financial people have worked with the
3 comptroller's office to show these are
4 properly year-end accruals that this is being
5 taken care of.

6 LEGISLATOR MCKEVITT: Mr. Roads.

7 LEGISLATOR RHOADS: Mr. Arnold,
8 just out of curiosity, for how many years has
9 the city of Long Beach been providing these
10 services to Nassau County?

11 MR. ARNOLD: At least over eight
12 that I have been involved with the bus
13 system. They run their own bus on the barrier
14 island. They don't use the NICE bus system.
15 I think they want more control of it. The
16 county back many years ago decided to
17 reimburse them for that service.

18 LEGISLATOR RHOADS: Okay.

19 LEGISLATOR FORD: I know it has
20 to be at least 14 since I have been in
21 office. I think it's probably over 20.

22 LEGISLATOR RHOADS: Would you
23 mind just for the -- obviously this is going
24 to pass on to the full leg -- would you mind
25 just doing a little research on that point?

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2 MR. ARNOLD: Yes.

3 LEGISLATOR RHOADS: I appreciate
4 it.

5 LEGISLATOR MCKEVITT: Any further
6 discussion? Any public comment? If not, we
7 will move it. All in favor please say aye.
8 Any opposed nay? Motion passes and this
9 committee is now adjourned. A vote to
10 adjourn. All in favor of adjourning. Moved
11 by Mr. Rhoads. Second by Mr. Ferretti.
12 Second by Ms. Birnbaum. All in favor? All
13 opposed? The committee is now adjourned.

14 (TIME NOTED: 2:03 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 25th day of
January 2018

FRANK GRAY