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NASSAU COUNTY LEGISLATURE

RICHARD NICOLELLO
PRESIDING OFFICER

RULES COMMITTEE

LEGISLATOR RICHARD NICOLELLO
CHAIR

Theodore Roosevelt Building
1550 Franklin Avenue
Mineola, New York

January 22, 2018

2:36 P.M.

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

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4 LEGISLATOR RICHARD NICOLELLO

5 Chair

6

7 LEGISLATOR HOWARD KOPEL

8 Vice Chair

9

10 LEGISLATOR STEVEN RHOADS

11

12 LEGISLATOR LAURA SCHAEFER

13

14 LEGISLATOR KEVAN ABRAHAMS

15 Ranking member

16

17 LEGISLATOR DELIA DERIGGI-WHITTON

18

19 LEGISLATOR SIELA BYNOE

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1 Rules - 1-22-18

2 LEGISLATOR NICOLELLO: Thank you
3 Mr. Kopel. I would like to call the Rules
4 Committee to order and ask Mr. Pulitzer to
5 read the roll.

6 MR. PULITZER: Thank you. Rules
7 Committee. Legislator Siela Bynoe.

8 LEGISLATOR BYNOE: Here.

9 MR. PULITZER: Legislator Delia
10 DeRiggi-Whitton.

11 LEGISLATOR DERIGGI-WHITTON:
12 Here.

13 MR. PULITZER: Ranking member
14 Kevan Abrahams.

15 LEGISLATOR ABRAHAMS: Here.

16 MR. PULITZER: Legislator Laura
17 Schaefer.

18 LEGISLATOR SCHAEFER: Here.

19 MR. PULITZER: Legislator Steven
20 Rhoads.

21 LEGISLATOR RHOADS: Here.

22 MR. PULITZER: Vice Chairman
23 Howard Kopel.

24 LEGISLATOR KOPEL: Here.

25 MR. PULITZER: Chairman Richard

1 Rules - 1-22-18

2 Nicoletello.

3 LEGISLATOR NICOLELLO: Here.

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

6 LEGISLATOR NICOLELLO: Thank
7 you. I'm going to call the same item that's
8 currently before the Finance Committee, 13 of
9 2018. It's an ordinance providing for a
10 capital expenditure to finance the payment of
11 certain judgements or compromised or settled
12 claims against the county authorizing \$45
13 million of bonds of the county of Nassau to
14 finance said expenditure and making certain
15 determinations pursuant the Local Finance Law
16 and the County Government Law.

17 Moved by Legislator Schaefer.

18 Seconded by Legislator Kopel. The item is
19 before the committee. Mr. May.

20 MR. MAY: Thank you. We have
21 Mr. Beaumont Jefferson, county treasurer and
22 Conal Denion Connell from the county
23 attorney's office to answer any questions you
24 may have on this item.

25 MR. DENION: Thank you. This

1 Rules - 1-22-18

2 bond ordinance funds the payment of final
3 judgement in the matter of Restivo et al
4 versus the county including attorneys' fees
5 and costs and bond costs of issuance. As
6 noted, \$45 million is the maximum for the bond
7 that is expected to be right about that
8 level. This is a 2014 jury verdict in favor
9 of the two plaintiffs of \$36 million with the
10 attorneys' fees and cost of issuance and bond
11 cost of issuance brings us up to the \$45
12 million.

13 As many of you know, the cash has
14 been placed in an account pursuant to a
15 stipulated order by the federal court judge
16 and \$45 million pursuant to that stipulation
17 must be paid within 30 days of the denial of
18 cert at the US Supreme Court which occurred on
19 January 8 which brings us to February 7th. It
20 passed through and will be paid by that date.

21 LEGISLATOR NICOLELLO: The
22 obvious question is, why would we bond this if
23 there is money sitting in a reserve fund for
24 this purpose?

25 MR. DENION: You have to separate

1 Rules - 1-22-18

2 the cash, which we would have to pay anyway.
3 Judgements have to be paid notwithstanding a
4 budgetary authorization. So the cash has been
5 set aside. It's federal court. We don't get
6 an automatic stay unlike state court. So the
7 judge had required the money to be put into a
8 special bank account that the treasurer is
9 controlling. And what you still need to think
10 about and still need to plan for is how does
11 this affect the budget?

12 This is an unbudgeted expense.
13 Therefore, some of the options are you can try
14 to figure out how to pay it currently. And
15 the other option the administration has chosen
16 is to spread this extraordinary cost, this
17 extraordinary judgement by any stretch of the
18 imagination, I don't think anyone has seen \$45
19 million judgement in the county, I can't
20 remember one, but in any event you spread it
21 out over a number of years as mentioned as has
22 been done in the past. And that's the course
23 of action that would be prudent under these
24 circumstances so you can spread it out ten or
25 15 years and not have that all be addressed at

1 Rules - 1-22-18

2 one time in a budget.

3 LEGISLATOR NICOLELLO: You used
4 the term unbudgeted amount or account or
5 whatever the term was used. The money was put
6 into a reserve for this purpose. So again,
7 can you explain to us why we would want to
8 borrow the money when money that's been
9 sitting in a reserve fund for this very
10 specific purpose?

11 MR. DENION: It's a fair
12 question. I know it's a little bit confusing
13 but assume that we just pay out of the special
14 account and the money is gone and we don't do
15 a bond ordinance. You still have to, as an
16 accounting matter, figure out how this fits
17 within the county's financial. So, even
18 though the money has been paid out, that's the
19 cash, but it's an unbudgeted expense. And all
20 else being equal you would have a \$45 million
21 deficit that you would have to address one way
22 or another.

23 LEGISLATOR NICOLELLO: If it's in
24 a reserve fund why is it a deficit if you're
25 spending money out of a fund that was

1 Rules - 1-22-18

2 dedicated for that purpose?

3 MR. DENION: It's not a reserve
4 fund. It's a special bank account. It's just
5 cash that is being used to pay the judgement.
6 But like any other expense, the treasurer when
7 he has an authorization to spend money he
8 spends money, it's cash, but he needs an
9 authorization. It's in the budget to spend
10 that. Judgements are a little different. We
11 are required by law to pay those. If we have
12 an appropriation we use the appropriation. If
13 not, the budget office, the comptroller's
14 office would have to say that's an expense and
15 it has to be met somehow in the budget. Has
16 to be addressed in the budget. Both things
17 have to occur, the cash has to be addressed
18 and the budget has to be addressed.

19 LEGISLATOR NICOLELLO: We have
20 fund balance in the county, correct?

21 MR. DENION: Correct.

22 LEGISLATOR NICOLELLO: So why is
23 it a concern of ours if we have fund balance
24 in the county apparently, including this
25 amount, that totals over \$200 million, why

1 Rules - 1-22-18

2 wouldn't we use cash which we set aside to pay
3 a judgement as opposed to then -- it's been
4 set aside 18 months ago for this purpose, why
5 wouldn't we just spend the cash as opposed to
6 borrowing at this time?

7 MR. DENION: We are going to
8 spend the cash, no question about it. The
9 cash will be spent whether it's from the
10 account or bond proceeds. But you still have
11 an expense. Whether we borrow for it or don't
12 borrow for it there will be an expense in the
13 budget. If we have borrowing proceeds you
14 will meet the expense with borrowing revenues
15 and it won't be a hit to the budget. If you
16 don't borrow for it either it would hit fund
17 balance or would have to be addressed
18 otherwise in the budget.

19 LEGISLATOR NICOLELLO: Again,
20 you're saying it's a hit to the budget. We
21 passed the budget for the year 2018 with I
22 guess a NIFA-conformed budget, which has
23 certain expenditures and certain revenues we
24 are taking in. This \$45 million is outside of
25 that, correct?

1 Rules - 1-22-18

2 MR. DENION: That's correct.

3 LEGISLATOR NICOLELLO: What is
4 the hit for the 2018 budget that you are
5 describing?

6 MR. DENION: I don't know. It's
7 \$45 million. I don't know if it's 2018 or
8 2017. I think the comptroller will have to
9 decide that issue. But it's \$45 million all
10 else being equal.

11 LEGISLATOR NICOLELLO: Meaning in
12 terms of creating a structural deficit issue
13 is that what you're saying? Because it won't
14 affect, whether we spend this or not, it
15 doesn't affect the amount of money that we
16 have in our budget for various purposes
17 whether it's the police district the police
18 fund, et cetera, et cetera. That money has
19 been budgeted. Whether we spend this money
20 that's sitting there for this purpose or not
21 it doesn't change with respect on a budgetary
22 basis what we are doing in 2018.

23 MR. DENION: Like any other
24 unbudgeted expense, say overtime is higher
25 than you thought it was, you will have to

1 Rules - 1-22-18

2 figure out a way to pay for overtime. This is
3 the same thing. You have to figure out a way
4 to pay for this. Termination pay, if people
5 leave and you've got termination pay you
6 haven't budgeted for it you have to figure out
7 a way to pay for it. This is the same thing.

8 LEGISLATOR NICOLELLO: I'm
9 assuming what you're talking about when you
10 say unbudgeted amount you must be talking in
11 some sort of technical terms for the budget.
12 For the lay person this money is sitting
13 there. It's outside the budget. So if we
14 spend the money it doesn't affect our revenues
15 or expenses for 2018. It's sitting there for
16 this purpose. So, it is to our minds, if
17 there is ever anything that's a budgeted
18 amount it's this judgement. We put cash aside
19 and it's been sitting there for 18 months
20 waiting for this moment to arrive.

21 MR. DENION: It may be outside
22 the budget now but it will be inside the
23 budget as soon as you spend it. The money has
24 not been set aside on a budgetary basis. The
25 accountants will look at this and say you've

1 Rules - 1-22-18

2 got a \$45 million imbalance and if you borrow
3 for it you will have met the imbalance. If
4 you don't borrow for it you will have to meet
5 it in a different way. The cash is one
6 thing. The budget and the accounting for it
7 is a separate issue.

8 LEGISLATOR NICOLELLO: We're
9 going in circles. Maybe somebody else can
10 improve on what I just did. Legislator Kopel
11 why don't you start.

12 LEGISLATOR KOPEL: I'll try. If
13 we borrow the money now, let's not conflate
14 budget treatment and cash flow first of all,
15 because you mentioned the cash flow. If you
16 have this \$45 million hit and you've got a
17 cash issue you spread it out over a number of
18 years. How would it hit the budget? If you
19 borrow it or just spend it from the reserve
20 fund it's going to hit the budget in any case,
21 won't it?

22 MR. DENION: Yes.

23 LEGISLATOR KOPEL: If that's the
24 case then how is borrowing helping the
25 budget? It doesn't from what you've just

1 Rules - 1-22-18

2 said. All it does is perhaps cash flow and we
3 will get to that.

4 MR. DENION: You'll have an
5 expense. As you said, it hits the budget no
6 matter what. If you have borrow you'll have a
7 revenue, loosely defined, to meet it.

8 LEGISLATOR KOPEL: Not on a GAAP
9 basis. That's not going to help the budget on
10 a GAAP basis. You will still have the debts
11 either way.

12 MR. DENION: That's not true. It
13 actually will help on a GAAP basis. It won't
14 help under the NIFA test. But it will help
15 under GAAP. It will help close the gap.

16 LEGISLATOR KOPEL: In other
17 words, what we're doing then is treating that
18 borrowing as income?

19 MR. DENION: It's an another
20 financing source under GAAP.

21 LEGISLATOR KOPEL: So the answer
22 is yes, we are treating it as income?

23 MR. DENION: Income is not a term
24 I would use.

25 LEGISLATOR KOPEL: You are

1 Rules - 1-22-18

2 treating it as revenue? You are treating it
3 as GAAP revenue even though it's borrowing.

4 MR. DENION: It's not GAAP
5 revenue because that's a technical term. It's
6 money that will meet the expense on a
7 budgetary and GAAP basis.

8 LEGISLATOR KOPEL: Now, it will
9 meet the expense but on a GAAP basis you're
10 saying that on a GAAP basis that if we don't
11 borrow it we've got a GAAP deficit basis and
12 if we do borrow it we won't have a GAAP
13 deficit?

14 MR. DENION: That's correct.
15 Just on this item alone. I don't want to
16 speak to the entire budget but on this.

17 LEGISLATOR KOPEL: I'm only
18 asking about this item. Have you polled the
19 NIFA members on this? Will they allow this
20 borrowing? Obviously not you. I meant you
21 being the administration.

22 MR. DENION: I don't know.

23 LEGISLATOR KOPEL: We are kind of
24 doing this on an academic basis if we do it.

25 MR. DENION: I know NIFA's

1 Rules - 1-22-18

2 practice in the past isn't to offer opinions
3 on borrowing unless there is an approval for
4 borrowing. I know that's their general
5 policy.

6 LEGISLATOR KOPEL: Sometime they
7 will do things on an informal basis. They
8 have done that in the past.

9 So, the fund balance now, if I
10 understand it correctly, is \$205 million; is
11 that correct?

12 MR. DENION: I think it was the
13 year-end 2016. I don't know of any more
14 recent estimates. On a budgetary basis. On a
15 GAAP basis the unassigned fund balance is
16 actually about \$46 million.

17 LEGISLATOR KOPEL: Can you
18 explain that please?

19 MR. DENION: I would rather let
20 an accountant do it.

21 LEGISLATOR KOPEL: Apart from my
22 knowledge, none of us up here are accountants.

23 MR. DENION: I've been informed
24 by the comptroller's office that the
25 unassigned fund balance on a GAAP basis is

1 Rules - 1-22-18

2 just over \$46 million.

3 LEGISLATOR KOPEL: Is there
4 someone here who can explain it? You said
5 you'd rather have someone else explain it.

6 MR. DENION: If you want to ask
7 anything beyond that but that's what the
8 number is.

9 LEGISLATOR KOPEL: Is this money
10 assigned or unassigned? In other words, when
11 you say you got \$46 million balance on a GAAP
12 basis?

13 MR. DENION: Correct.

14 LEGISLATOR KOPEL: Including
15 this? Taking this away would do what to that.

16 MR. DENION: It would drop it to
17 approximately \$1 million.

18 LEGISLATOR KOPEL: So the rest of
19 the money is somehow or another spoken for on
20 a GAAP basis?

21 MR. DENION: According to the
22 comptroller, yes.

23 LEGISLATOR KOPEL: Don't you
24 think we need to understand this better? I'm
25 not attacking you on this. Before the full

1 Rules - 1-22-18

2 legislature votes on this next week --

3 MR. DENION: That would be
4 helpful, sure.

5 LEGISLATOR KOPEL: Would you see
6 to it please?

7 MR. DENION: Sure.

8 LEGISLATOR KOPEL: In other
9 words, you're saying the fund balance if we go
10 ahead and paid this money out -- here's where
11 it's breaking down for me a little bit. This
12 money has already been set aside and it's
13 already unavailable. It's already been
14 assigned to a particular use. Then how are
15 you taking it away again from the unassigned
16 balance? Isn't that double counting?

17 MR. DENION: It has not been
18 counted on a GAAP basis yet. It hasn't been
19 spent yet. There's no expense yet.

20 LEGISLATOR KOPEL: I feel like
21 I'm in wonderland here.

22 MR. DENION: There's no expense.
23 It hasn't been included in a calculation
24 because it hasn't happened yet.

25 LEGISLATOR KOPEL: I think I will

1 Rules - 1-22-18

2 yield the floor to whoever else is ready. But
3 I do think that we're all going to need
4 somebody to come up here and explain this, the
5 accounting treatment of all this, GAAP versus
6 stat versus budgetary, in a way that mere
7 lawyers and other professionals can
8 understand.

9 LEGISLATOR NICOLELLO: Before I
10 pass this along, in terms of what the affect
11 will be if we release the money that was in
12 the fund for this purpose. What is the
13 negative affect on the county's budget?

14 MR. DENION: The cash issue is
15 that we will have \$45 million less in cash.
16 So when the treasurer's office does its cash
17 forecasting and cash borrowing they'll have
18 \$45 million less. That's one issue.

19 The other issue is that the
20 comptroller will book this as an expense in
21 either 2017 or 2018 depending on how it comes
22 out. There will be a new expense that hasn't
23 been planned for, just like unbudgeted or
24 unplanned for overtime, that will have to be
25 addressed in the budget in the results. Are

1 Rules - 1-22-18

2 you going to end the year with a deficit
3 because of that or are you going to do
4 adjustments because of that? Are you going to
5 use fund balance? Or are you going to come up
6 with a different solution?

7 LEGISLATOR NICOLELLO: Tell me,
8 for example, we have allocated funds for
9 example the youth board. Insufficient funds.
10 We are trying to identify additional funds for
11 youth board. Whether we release the money
12 that's in this fund for this purpose for this
13 litigation or bond it, is it going to have any
14 effect on whether we can identify additional
15 money for the youth board?

16 MR. DENION: That's not a
17 decision for me. But if you release the
18 money -- if you use the money from the account
19 you still have, as I said, the general issue
20 of \$45 million additional expense that was not
21 planned for that will have to be addressed in
22 one way or the other in the budget for 2017 or
23 2018.

24 LEGISLATOR NICOLELLO: Even if
25 the money stays within the reserve funds, this

1 Rules - 1-22-18

2 \$45 million that's been set aside, that money
3 stays within our reserve funds that money
4 can't be spent for operating expenses,
5 correct?

6 MR. DENION: It's not a reserve
7 fund, it's just a bank account.

8 LEGISLATOR NICOLELLO: We'll call
9 it fund balance. It's within our fund
10 balance. So this money that's sitting within
11 our fund balance we are not permitted to spend
12 fund balance for operating, are we?

13 MR. DENION: No. You can. I
14 mean, fund balance is an accounting concept
15 but that does happen, sure. You draw down.
16 If you have a deficit from one year to the
17 other it draws down your fund balance.

18 LEGISLATOR NICOLELLO: I
19 understand what you're saying. But will NIFA
20 permit us to -- let's say we leave the \$45
21 million in this account that's in the
22 treasurer's office, the bonds, will NIFA allow
23 to us then draw monies from that \$45 million
24 to pay for say the fire academy, which is
25 underfunded? The answer to that is no but can

1 Rules - 1-22-18

2 you --

3 MR. JEFFERSON: Let's just talk
4 about the cash element. So cash is set aside
5 in a bank account and we are referring to it
6 as a fund. It's set aside in a restricted
7 bank account that was set up after we received
8 the judge's order to set this money aside. So
9 it's a restricted account that can only be
10 used for, at this point, the purpose of
11 Restivo.

12 If we have a bond ordinance in
13 place this cash that's sitting in that account
14 could come back to the county and it would
15 help us reduce our cash flow borrowing.
16 That's probably what you're alluding to. But
17 this is not a separate fund that we can
18 transfer this cash from one fund to another
19 fund to satisfy let's say the youth board.
20 This is just cash sitting in a restrictive
21 account that we had to hold back and it
22 actually reduced our cash until we went out to
23 the market to borrow. We borrowed additional
24 money just so we can smooth out our cash flow
25 needs over the course of 2017 into 2018.

1 Rules - 1-22-18

2 LEGISLATOR NICOLELLO: Thank
3 you. That was the point I was getting at.
4 Basically you couldn't use these monies to pay
5 for current operating expenses or to
6 supplement current operating expenses within
7 the county budget.

8 But my question is, you talked
9 about cash flow. This money was taken and put
10 into this account so that it couldn't be used
11 for any other purpose for the last 18 months,
12 correct?

13 MR. JEFFERSON: The funds were
14 held in this account. We established the
15 account in March of 2017. The order was
16 served on my office in March of 2017 and at
17 that point we took the funds and we put the
18 funds into a restricted account which reduced
19 our cash.

20 LEGISLATOR NICOLELLO: Now I'm a
21 little confused because it was July of 2016 in
22 which the county administration came to us and
23 asked us to borrow \$45 million or money would
24 have to be put into an account. That didn't
25 happen until March of 2017?

1 Rules - 1-22-18

2 MR. JEFFERSON: You are correct.

3 In March the order -- the budget office came
4 to me. They told me there was a need out
5 there for the \$45 million. The \$45 million
6 was still sitting in our general fund at that
7 point and it was not until March that I
8 received the actual order that we took the
9 money and we swept it out into a separate
10 account.

11 LEGISLATOR NICOLELLO: So when it
12 was in the general fund was it assigned to a
13 specific purpose?

14 MR. JEFFERSON: At that point the
15 funds were commingled in the general fund. It
16 was at the point we received the order from
17 the judge that I had to sign off on an
18 affidavit that I had this money set aside in a
19 separate bank account.

20 LEGISLATOR NICOLELLO: But the
21 previous administration understood that this
22 \$45 million could not be spent where ever it
23 was sitting.

24 MR. JEFFERSON: That is correct.
25 The funds were sitting but it was commingled

1 Rules - 1-22-18

2 and there was no -- I didn't have an affidavit
3 in my hand telling me that I need to set it
4 aside.

5 LEGISLATOR NICOLELLO: Because
6 the court required that as this matter
7 proceeded through appeals.

8 MR. JEFFERSON: That is correct.

9 LEGISLATOR NICOLELLO: For the
10 last 18 months before January 1st the previous
11 administration was dealing with the issue of
12 budgeting while this \$45 million was not
13 available, correct?

14 MR. JEFFERSON: As far as the
15 budget goes.

16 LEGISLATOR NICOLELLO: Let me be
17 clearer. The previous administration was
18 dealing with the cash flow issues that results
19 in the fact that this \$45 million was not
20 available.

21 MR. JEFFERSON: It was a cash
22 flow issue at that point.

23 LEGISLATOR NICOLELLO: It's still
24 a cash flow issue.

25 MR. JEFFERSON: It's still a cash

1 Rules - 1-22-18

2 flow issue. At point it was strictly cash
3 flow. It wasn't budgetary.

4 LEGISLATOR NICOLELLO: So when
5 we --

6 MR. JEFFERSON: Now it's
7 budgetary and obviously a cash flow issue.

8 LEGISLATOR NICOLELLO: Budgetary
9 we can go around in circles and we probably
10 will again. It concerns me that the cash flow
11 issue is going to somehow affect the county's
12 finances. That's really the concern that was
13 brought to us by the administration. The only
14 point I'm making is, that concern and the cash
15 flow issues as a result of this matter has
16 existed for 18 months because money had to be
17 set aside for this purpose because we refused
18 to bond 18 months ago.

19 MR. JEFFERSON: From last March
20 it was an issue.

21 LEGISLATOR NICOLELLO: Legislator
22 Walker, then Legislator Rhoads and then
23 Legislator Schaefer.

24 LEGISLATOR WALKER: Just very
25 quick. I don't want to go over everything

1 Rules - 1-22-18

2 that's been said. Mr. Jefferson, as you had
3 stated several times and it's been stated
4 several times by both of you, this is
5 something we knew. This is something that we
6 put the money aside for. But, Mr. Denion, you
7 said this is something that we didn't plan
8 on. We did plan on it. That's why we had to
9 put the money. We knew we had to pay this
10 money. That's why it was in this separate
11 where ever.

12 MR. DENION: We planned for it on
13 a cash basis as you said, but on a budget
14 basis it was not included in the budget for
15 '17 or '18. I know it's unusual but it's
16 really two different things. The cash still
17 has to be accounted for by the auditors, by
18 the accountants to figure out how that expense
19 is being recorded in the county's financial
20 statements.

21 LEGISLATOR WALKER: Who
22 determines whether it's 2017 or 2018 budget?

23 MR. DENION: Comptroller's office
24 and the auditors.

25 LEGISLATOR WALKER: How do they

1 Rules - 1-22-18

2 do that?

3 MR. DENION: Under the accounting
4 standards. Under the GAAP standards.

5 LEGISLATOR WALKER: They don't
6 have a clue what they are yet?

7 MR. DENION: I don't know if
8 they've made any decisions on that. I don't
9 believe they have.

10 LEGISLATOR WALKER: But if it's
11 under certain standards don't they have to
12 follow those standards so should know?

13 MR. DENION: They will. I don't
14 know if they've done that yet. They're still
15 closing the books on 2017.

16 LEGISLATOR WALKER: Okay. Thank
17 you.

18 LEGISLATOR NICOLELLO: Legislator
19 Rhoads.

20 LEGISLATOR RHOADS: Thank you
21 Mr. Chairman. Mr. Jefferson, this item came
22 before the legislature in July of 2016,
23 correct?

24 MR. JEFFERSON: That's correct.

25 LEGISLATOR RHOADS: When it came

1 Rules - 1-22-18

2 before the legislature in July of 2016 it came
3 for the purpose of long-term borrowing to pay
4 the \$45 million judgement, correct? Or at
5 least have the funds available to pay the \$45
6 million judgement, correct?

7 MR. JEFFERSON: To have a bond
8 ordinance in place to be able to borrow for
9 the judgement, yes.

10 LEGISLATOR RHOADS: And we could
11 not get the votes to be able to do the
12 long-term borrowing, correct?

13 MR. JEFFERSON: That's my
14 understanding.

15 LEGISLATOR RHOADS: The theory
16 behind that was that we did not think it was
17 prudent. We, substantial enough share that we
18 couldn't get the 13 votes, thought it wasn't
19 prudent to engage in long-term borrowing when
20 we had some cash on hand in the litigation
21 fund and when we had other means to be able to
22 obtain those funds. I don't know if you have
23 personal knowledge of that.

24 The question that I have is, in
25 between July of 2016 and March of 2017 can you

1 Rules - 1-22-18

2 explain when those funds were finally set
3 aside can you explain what TAN borrowing is?

4 MR. JEFFERSON: TAN is Tax
5 Anticipation Note.

6 LEGISLATOR RHOADS: My
7 understanding of the tax anticipation note is
8 that the county in order to aid our cash flow,
9 sometimes in order to meet -- with the
10 knowledge that revenue is coming in, that we
11 will engage in short-term borrowing to make
12 sure we have the cash on hand in order to be
13 able to meet our obligations while we are
14 waiting for that money to come in; is that
15 correct?

16 MR. JEFFERSON: That's correct.

17 LEGISLATOR RHOADS: Is it not the
18 case that the \$45 million that was set aside
19 in March of 2017 that the source of that money
20 was additional TAN borrowing that we engaged
21 in in the 2016 year?

22 MR. JEFFERSON: We did increase
23 our TAN but the TAN borrowing that we just
24 completed in December of 2017.

25 LEGISLATOR RHOADS: So in other

1 Rules - 1-22-18

2 words the \$45 million that now sits in this
3 separate account off of the general fund,
4 understand a layman's knowledge of this --

5 MR. JEFFERSON: Restricted
6 account.

7 LEGISLATOR RHOADS: Restricted
8 account. -- is the result of TAN borrowing?

9 MR. JEFFERSON: We looked at our
10 cash flow and increased our TAN borrowing in
11 the event that we have to pay this out.
12 Regardless of whether there's a bond ordinance
13 in place I would need the cash in place to
14 make this payment.

15 LEGISLATOR RHOADS: But separate
16 and apart from the TAN borrowing that we
17 engage in to meet our cash flow needs we
18 borrowed an extra \$45 million specifically for
19 the purpose of being able to meet this
20 obligation; is that correct?

21 MR. JEFFERSON: We increased our
22 TAN borrowing in anticipation that we may have
23 to pay this out, that is correct.

24 LEGISLATOR RHOADS: By \$45
25 million?

1 Rules - 1-22-18

2 MR. JEFFERSON: By \$45 million.
3 You also have to understand that's short-term
4 borrowing. By September of 2018 that will be
5 repaid.

6 LEGISLATOR RHOADS: That's fine.
7 Correct me if I'm wrong, but it's \$45 million
8 that we didn't have and we wouldn't have had
9 but for the fact that we borrowed an extra \$45
10 million specifically to pay this judgement.

11 MR. JEFFERSON: We borrowed \$45
12 million looking at our cash flow intraday
13 balances and knowing that we possibly had this
14 judgement that may have been -- we may have
15 had to pay in 2018. At that point we didn't
16 know exactly when we would pay it but I didn't
17 want to have a situation where we were short
18 on cash. So we increased our TAN.

19 LEGISLATOR RHOADS: I don't mean
20 to play semantics. However we want to say it
21 was designated, we increase the amount of
22 money that we borrowed, by 45 million, because
23 we knew that we had this \$45 million sword of
24 Damacles hanging over our head.

25 MR. JEFFERSON: I think that's

1 Rules - 1-22-18

2 fair.

3 LEGISLATOR RHOADS: The question
4 that I have is, why would we increase the
5 county's long-term debt by \$45 million to
6 borrow money to pay \$45 million that we've
7 already borrowed in order to pay that
8 judgement? How does that benefit the
9 taxpayers of the county to add to Nassau
10 County's long-term debt to take \$45 million
11 that we already have in hand? Why can't we
12 simply pay it? Aren't we double borrowing
13 money?

14 MR. JEFFERSON: We are not double
15 borrowing money. In this case we are talking
16 about two different issues. When we were
17 informed there was a judgement pending we
18 borrowed additional cash so that we can meet
19 that need. Now we have this bond ordinance in
20 front of you which has other implications to
21 it, which Conal Denion spoke to, whether it's
22 budgetary issues that we will have and other
23 issues that we would need to discuss further.

24 LEGISLATOR RHOADS: I'm just
25 trying to boil this down to its simplest

1 Rules - 1-22-18
2 component. And I understand there may be
3 budgetary issues, that there may be GAAP
4 issues, separate NIFA GAAP issues, whatever
5 these issues are. We borrowed \$45 million so
6 that we would have the cash on hand in a
7 restricted account to pay this judgement if it
8 came to pass that we lost the appeal.

9 MR. DENION: I want to be clear.
10 We did not borrow the \$45 million. As
11 Beaumont said, what he did was he adjusted his
12 cash flow model, raised it by \$45 million
13 because there would be a \$45 million cash hit
14 that he needed to account for. It's all
15 short-term. It comes due before the end of
16 the year.

17 What we are doing now in the
18 long-term borrowing is spreading this cost out
19 so it doesn't hit one budget year, whether
20 it's 2017 or 2018, we're spreading that cost
21 over hopefully 15 years so that there isn't an
22 impact on the county's budget. A drastic
23 impact on the county's budget.

24 LEGISLATOR RHOADS: I'm sorry
25 Mr. Denion but what Mr. Jefferson said was the

1 Rules - 1-22-18

2 exact opposite of that. What he said was that
3 we increased our TAN borrowing.

4 MR. DENION: I agree with that.

5 LEGISLATOR RHOADS: We had the
6 \$45 million that we have on hand we borrowed,
7 whether short term or long term, correct?

8 MR. DENION: I know it's a
9 technical point but when you borrow for
10 particular purposes under state and federal
11 law you have to say what you're borrowing
12 for. We did not borrow to pay this
13 judgement. We borrowed for cash flow because
14 the county's cash flow goes up and down
15 throughout the year. I want to be clear on
16 that point.

17 LEGISLATOR RHOADS: We borrowed
18 an additional \$45 million --

19 MR. JEFFERSON: Cash flow notes.

20 LEGISLATOR RHOADS: -- so we can
21 have additional cash flow in case we had to --

22 MR. DENION: On a cash basis.

23 LEGISLATOR RHOADS: -- on a cash
24 basis in case we had to satisfy this
25 judgement. We're solid on that point. So

1 Rules - 1-22-18

2 theory, not in theory, in practice we have \$45
3 million in a restricted account. That account
4 was established for the purpose of being able
5 to satisfy this judgement. Now the
6 administration is coming to us after the
7 member of that administration when she was a
8 member of the legislature voted against the
9 bonding that she's now asking for, asking us
10 to engage in long-term borrowing for \$45
11 million that we actually have on hand to be
12 able to satisfy a judgement that we actually
13 got the extra money through TAN borrowing in
14 order to be able to do that. Why is that in
15 the best interest of Nassau County?

16 MR. DENION: Because you lessen
17 the impact to the budget and everything that
18 comes with that. You will either reduce your
19 fund balance or you will have to do budgetary
20 adjustments of \$45 million. You'd have a \$45
21 million hit to fund balance or to budgetary
22 adjustments because all you did on the cash
23 side was borrow short term. It's paid. Now
24 the accountant will take over and say now
25 you've got an expense and that expense has to

1 Rules - 1-22-18

2 be accounted for in the financial statements.

3 The cash itself doesn't solve your problem.

4 It solves your cash problem but it doesn't

5 solve your budget problem.

6 LEGISLATOR RHOADS: Legislator

7 Muscarella actually made an excellent point

8 which I don't know if it was on microphone,

9 which NIFA is going to do that anyway

10 regardless of how we structure this, aren't

11 they?

12 MR. DENION: They'll certainly

13 weigh in on this. But it's a budget issue.

14 NIFA is going to be concerned about the budget

15 issue and certainly want to know how it's

16 going to be addressed.

17 LEGISLATOR RHOADS: It's

18 certainly a budgetary issue but regardless of

19 how that budget issue is rectified the hard

20 thing I'm having trouble getting past is the

21 fact we have \$45 million. We have \$45 million

22 that we borrowed so that we would have the

23 cash on hand. The judgement is now due. This

24 is \$45 million that we've never used, never

25 relied upon that to operate Nassau County. We

1 Rules - 1-22-18

2 never used it for any purpose. We held it to
3 the side specifically so that we would have
4 the cash on hand to be able to pay the
5 judgement. Why would we turn around now and
6 borrow another \$45 million to free up \$45
7 million that we have on hand in the restricted
8 account for that designated purpose?

9 MR. DENION: I think the answer
10 is assuming we the money in the restrictive
11 account, we don't borrow, February 7 comes --

12 LEGISLATOR RHOADS: Correct me if
13 I'm wrong. You can't use the money in the
14 restricted account. What I'm saying is, if
15 you borrow the \$45 million, we engage in
16 long-term borrowing for the 45 million. We
17 float this bond. The \$45 million that we have
18 cash on hand we can't use it for operating
19 expenses. I can't use it to close the gap
20 that NIFA created in youth services. I can't
21 use it to close the gap that NIFA created in
22 terms of funding For training of our or
23 volunteer fire fighters. I can't use it to
24 pay salaries. I can't use it for any of the
25 operating expenses of Nassau County.

1 Rules - 1-22-18

2 So why, when we've been managing
3 for the last 18 months under the prior
4 administration without this \$45 million, why
5 is paying the \$45 million in this restricted
6 account affecting our budget at all?

7 MR. DENION: Again, you don't
8 borrow long term. You just use the money in
9 the account and you write the plaintiffs and
10 lawyers a check and the \$45 million is gone.
11 You're done. When the comptroller's goes to
12 close the books for 2017 or 2018 they'll say I
13 see that you spent that cash. Look at the
14 cash flow model. See that's it's gone down.
15 That's nice. However, I got a separate issue
16 now. I'm the comptroller's office. I say to
17 the county how did you meet that unanticipated
18 expense because it's not in the budget.

19 So, as an accounting matter you
20 have to record that as a \$45 million expense
21 and it's not in the current \$3 billion
22 budget. All else being equal, you'll have a
23 \$45 million deficit on a \$3 billion budget.

24 If you spread the cost out over 15
25 years you won't have any cost in this year

1 Rules - 1-22-18

2 because the local finance law allows us to
3 start paying back within two years. So you
4 can take this cost, spread it out over years,
5 because it's truly extraordinary, no one has
6 seen this level of one judgement for this much
7 money. Not that anyone questions it's an
8 unusually large number. You take it and
9 spread to out over time. That's what the
10 local finance law allows for.

11 LEGISLATOR RHOADS: Am I correct
12 to understand that the reason that the
13 administration wants us to engage in an
14 additional \$45 million of long-term borrowing
15 is so that our numbers look better?

16 MR. DENION: Not that they look
17 better. It's that you have budget that does
18 not have to absorb it all in one year. You
19 can spread it out over 15 years. Maybe ten or
20 15. That's what it is.

21 It's like term pay. When people
22 leave and we borrow term pay in the past
23 that's a big number. So you take that term
24 pay and say well, look, in January of a year
25 you don't want to pay all that term pay out in

1 Rules - 1-22-18

2 one year. So you borrow for term pay, spread
3 the cost over time and therefore it doesn't
4 impact taxpayers all in one year. It's the
5 same idea.

6 LEGISLATOR RHOADS: I'm not happy
7 with the concept but I think I understand the
8 concept. I want to make sure that if we do
9 not engage in this borrowing, and I know there
10 are questions that still have to be answered
11 before this matter moves on, assuming it moves
12 through committee, moves on to the full
13 legislature, that if we do not engage in this
14 borrowing there is no impact on the cash on
15 hand that we have to be able to operate Nassau
16 County.

17 MR. DENION: There is no negative
18 impact. If you borrow the money it will be
19 \$45 million better in cash, but it's still a
20 negative impact of \$45 million on the budget.

21 LEGISLATOR RHOADS: Other than
22 being able to say we have \$205 million in a
23 reserve fund as opposed to \$160 million in a
24 reserve fund it has no practical impact on the
25 operations of Nassau County whatsoever.

1 Rules - 1-22-18

2 MR. DENION: I can't address how
3 the administration or NIFA would ask for the
4 gap to be closed. So I can't say they would
5 allow fund balance to be used. I know they
6 don't like fund balance to be used. I'm not
7 saying they would or wouldn't do it.

8 LEGISLATOR RHOADS: I thought the
9 whole discussion we had with respect to the
10 TAN borrowing.

11 MR. DENION: Apples and oranges.
12 The cash is gone. Now you've --

13 LEGISLATOR RHOADS: How is it
14 gone when it's in a restricted account?

15 MR. DENION: Let's say you pay it
16 on February 7. It's gone, the plaintiffs have
17 it, they go away. You still have a \$45
18 million budget deficit all else being equal
19 because you have to record it in the
20 accounting system as an expense and it hasn't
21 happened yet and it's not in the budget for
22 this year or last year.

23 LEGISLATOR RHOADS: The concern
24 is that unless we engage in this borrowing we
25 wind up with a \$45 million deficit year end on

1 Rules - 1-22-18

2 the books?

3 MR. DENION: Either '17 or '18
4 depending on how the comptroller books it
5 without any other offsetting actions, correct.

6 LEGISLATOR RHOADS: So there's no
7 negative impact to the county other than the
8 fact we show a \$45 million deficit in '17 or
9 '18?

10 MR. DENION: Depends how you want
11 to required to close that gap.

12 LEGISLATOR RHOADS: Thank you.

13 LEGISLATOR NICOLELLO: Legislator
14 Schaefer.

15 LEGISLATOR SCHAEFER: Hopefully I
16 can remember my question or that it wasn't
17 answered. How much is in the reserve fund
18 now? Do you have that number for us?

19 MR. DENION: The restricted bank
20 account for the payment of the judgement?

21 LEGISLATOR SCHAEFER: No. The
22 fund balance.

23 MR. DENION: Year end 2016 I
24 believe it was the 46 million in unassigned
25 GAAP, which would be the GAAP money that could

1 Rules - 1-22-18

2 be drawn down upon on an accounting basis. I
3 think it was about 177 on a budgetary basis,
4 not including the police district. I think
5 I've got that right. At the end of '16.

6 LEGISLATOR SCHAEFER: So you're
7 saying basically if we take this money out of
8 there it will only have a million dollars
9 left?

10 MR. DENION: These are accounting
11 concepts. Fund balance is what you have left
12 over between one year to the next. So that's
13 the way it works. If you have surplus it adds
14 to the fund balance. If you have a deficit it
15 takes away from fund balance. If you have a
16 \$45 million deficit you'll reduce your fund
17 balance by \$45 million on a budgetary basis
18 and a GAAP basis.

19 LEGISLATOR SCHAEFER: Is the
20 former comptroller's budget that we're dealing
21 with or are we dealing with --

22 MR. DENION: It's always an
23 administration and legislative budget. The
24 comptroller is the office responsible for
25 accounting and they will make the accounting

1 Rules - 1-22-18

2 decisions and it gets audited by the outsider
3 auditor. It's the new comptroller's office.
4 It's the new comptroller's office. The new
5 comptroller would be making these decisions.

6 LEGISLATOR SCHAEFER: I thought
7 there was a lot more in the fund balance than
8 that. My understanding was about \$205
9 million.

10 MR. DENION: I think that's
11 includes police, if I'm not wrong, police
12 district, which we would not able to use.

13 LEGISLATOR SCHAEFER: Is
14 everything accounted for that's in that?

15 MR. DENION: Again that's the end
16 of 2016. But the 2017 number I don't have. I
17 don't know if it's known yet.

18 LEGISLATOR SCHAEFER: Could it be
19 higher possibly?

20 MR. DENION: I can't speak to it.

21 LEGISLATOR SCHAEFER: Who can
22 speak to that? The comptroller?

23 MR. DENION: I don't know if
24 anyone has it. If OMB or comptroller's has a
25 forecast yet I don't know.

1 Rules - 1-22-18

2 LEGISLATOR SCHAEFER: Figuring
3 this all out without knowing that seems a
4 little off to me. Is there a way that we can
5 get an accounting of everything that's
6 going --

7 MR. DENION: We will give you
8 whatever we have that's most recent.

9 LEGISLATOR SCHAEFER: I'd
10 definitely would like to see it. I think my
11 caucus would like to see that. If there's
12 money that's being restricted or it's being
13 set aside for other expenses then we want to
14 know exactly where everything is going.

15 MR. DENION: On a GAAP basis
16 that's an unassigned concept. It's not
17 already spoken for for other purposes. \$46
18 million at the end of 2016.

19 LEGISLATOR SCHAEFER: I'm not
20 going to repeat the question that's been
21 asked. That's it for me.

22 LEGISLATOR NICOLELLO: Just a
23 couple of more before I turn it over. The
24 actor that's not in the room that's factors
25 into this equation is NIFA. My question to

1 Rules - 1-22-18

2 you is, how is NIFA going to treat borrowing
3 \$45 million to pay a judgement when we have
4 money set aside for that purpose?

5 MR. DENION: I don't know how
6 they would treat it, but I do know they look
7 at it also a budgetary matter. As we have
8 been discussing is that the \$45 million goes
9 out the door as cash it's unaddressed in the
10 budget and my guess is they would ask the
11 administration to address it.

12 LEGISLATOR NICOLELLO: What
13 you're telling us then in layman's terms is
14 that with respect to the county government it
15 is better to borrow than to use cash that you
16 put aside for a purpose? So, it is better to
17 borrow for this judgement than it is to use
18 the cash that you set aside for this
19 judgement. Is that what you're telling us?

20 MR. DENION: You need cash in
21 either case and the administration has decided
22 that it makes sense for this extraordinary
23 judgement to spread the cost of spending that
24 cash over time. And if you borrow you get \$45
25 million from bond holders but you don't have

1 Rules - 1-22-18

2 to pay back the \$45 million for number of
3 years. Therefore the impact on taxpayers
4 today is less than it would be as if you said
5 you spent the cash, now we're going to make
6 you pay for it on a budgetary basis. Which
7 would either deplete your fund balance or
8 require budgetary adjustments.

9 LEGISLATOR NICOLELLO: I agree
10 with Legislator Kopel, it's almost as if we
11 are in wonderland here. You're talking about
12 the benefits of borrowing to the county
13 taxpayers as if the county taxpayers don't
14 have to pay back what's being borrowed and
15 they don't have to pay it back with additional
16 monies.

17 MR. DENION: I agree. I'm not
18 trying to understate that. I'm just saying
19 that of the two scenarios that a decision is
20 made that \$45 million all at once would be not
21 as good as \$45 millions over time to spread
22 that cost of an extraordinary judgement.

23 LEGISLATOR NICOLELLO: I'll be
24 honest with you. This did not go the way I
25 thought the administration was going to be

1 Rules - 1-22-18

2 here presenting strong arguments as to why
3 this would affect our cash flow. But what you
4 have been telling me is budgetarily somehow
5 this scenario in which we borrow to pay a
6 judgement we have money set aside for is
7 better. I don't understand that.

8 MR. DENION: It's a decision
9 whether you want to spread cost out over time
10 or absorb it all at once.

11 LEGISLATOR KOPEL: Then also the
12 fact that you haven't really explained well,
13 forgive me for saying this, but the statement
14 that you made a couple of moments ago is that
15 NIFA is going to look at this, regardless of
16 whether we borrow the money, as something
17 that's unaddressed in terms of the gap, not
18 the G-A-A-P but the G-A-P, in the budget and
19 they're going to look at it regardless. It's
20 going to hit the budget regardless. This is
21 not going to help the budget.

22 MR. DENION: Sure it does. The
23 borrowing proceeds meets that expense. That's
24 how it does help the budget. The borrow is
25 what solves the budget issue.

1 Rules - 1-22-18

2 LEGISLATOR KOPEL: Will be the
3 revenue and will solve the budget and that's
4 assuming that NIFA goes ahead and approves the
5 borrowing.

6 MR. DENION: Certainly subject to
7 NIFA approval.

8 LEGISLATOR KOPEL: What's your
9 contingency in the event that NIFA should
10 decline to go along with borrowing?

11 MR. DENION: Could you repeat?
12 I'm sorry.

13 LEGISLATOR KOPEL: Let's assume
14 for a moment that NIFA as has been its
15 practice fairly often in the recent past
16 declines to approve the borrowing what's is
17 your contingency plan to move ahead with the
18 budget?

19 MR. DENION: It would be a
20 decision for the administration to address
21 that.

22 LEGISLATOR KOPEL: Isn't that
23 you?

24 MR. DENION: I don't have an
25 answer for you.

1 Rules - 1-22-18

2 LEGISLATOR KOPEL: Just following
3 up again on something I had said earlier. Not
4 only would we like to have the information for
5 next week, I think we would like to have the
6 information before next week in writing
7 perhaps to all the members of this body to
8 give us time sufficient to understand it and
9 consider it.

10 MR. DENION: I will pass on that
11 request certainly.

12 LEGISLATOR NICOLELLO: Legislator
13 Muscarella and then Legislator
14 DeRiggi-Whitton.

15 LEGISLATOR MUSCARELLA: I will
16 try to be basic and quick on this. What
17 you're telling us now is it makes sense to
18 spread this expense over a period of time
19 rather than take the cash out. That's
20 correct, right?

21 MR. DENION: Rather than have it
22 be a budget hit all in one year. The cash is
23 going to go out no matter what.

24 LEGISLATOR MUSCARELLA: Rather
25 than have it be a budget hit all in one year

1 Rules - 1-22-18

2 and that's a policy decision?

3 MR. DENION: That's correct.

4 LEGISLATOR MUSCARELLA: Without
5 getting political, that policy decision was
6 made a couple of months ago or 18 months ago
7 by this body and that policy decision that was
8 made was made by virtue of not being able to
9 come up with enough votes to bond it at that
10 time; is that correct?

11 MR. DENION: Just to be fair for
12 the record, the vote was 11 to 7, which failed
13 as a bond ordinance. But there was a motion
14 to rehear and it was tabled.

15 LEGISLATOR MUSCARELLA: It
16 failed.

17 MR. DENION: It was tabled. It
18 failed and it was tabled. It was revoted and
19 tabled.

20 LEGISLATOR MUSCARELLA: It failed
21 because the minority didn't put up enough
22 votes for the bonding to be approved, that's
23 fair to say. So that was a decision by this
24 board that the better policy decision would
25 have been to pay it out of cash rather than

1 Rules - 1-22-18

2 long-term borrowing.

3 MR. DENION: I don't know if it's
4 fair to characterize it that way because the
5 ordinance was tabled as an item and lapsed at
6 the end of the session.

7 LEGISLATOR MUSCARELLA: You're
8 playing games. The policy decision by this
9 board was that the prior county executive
10 should deal with it on a cash basis rather
11 than borrowing. And the current county
12 executive was part of this legislature at the
13 time when that vote was made. So it seems to
14 me that now the county executive's policy
15 decision is that long-term borrowing for her
16 administration is better than the short-term
17 cash position that she voted for for the prior
18 administration. I have no further questions.

19 LEGISLATOR NICOLELLO: I'm going
20 to follow-up with that and just to clarify,
21 this is Legislator Curran at that hearing. "I
22 just think that this is actually something
23 that the litigation fund is actually for. I
24 know we are asking to use it for this -- use
25 it for that, but this is for litigation

1 Rules - 1-22-18

2 purposes and this is money in that fund it
3 just seems so logical to use that first."

4 She was arguing to spend the
5 available monies as opposed to borrowing.
6 That's what we're talking about. That's the
7 policy decision that was made 18 months ago.

8 MR. DENION: If you bring up the
9 litigation fund we can also find out how much
10 is left in that now.

11 LEGISLATOR NICOLELLO: I believe
12 it's \$20 million in the litigation fund. We
13 can look to that as well.

14 MR. DENION: There's 23 which has
15 to pay for all of the county's ordinary
16 judgements.

17 LEGISLATOR NICOLELLO: We made
18 those arguments Mr. Denion.

19 MR. DENION: I agree. I'm just
20 letting you know there are other judgments
21 that are covered by that.

22 LEGISLATOR NICOLELLO: Legislator
23 DeRiggi-Whitton.

24 LEGISLATOR DERIGGI-WHITTON: I
25 think I understand the whole wonderland just a

1 Rules - 1-22-18

2 tiny bit Rich. The money wasn't set aside.
3 It was borrowed short term and that money has
4 to be paid back this November; is that
5 correct?

6 MR. JEFFERSON: The cash flow
7 notes have to be paid back by September.

8 LEGISLATOR DERIGGI-WHITTON: So
9 this is not money that we got from other lines
10 and put into this account. We borrowed that
11 money that's in that account, the 45 million.
12 Short term borrowing but it's due in October.
13 So we either we pay the \$45 million now in
14 October out of cash or it's spread out with a
15 long-term bonding. So it's not like we had
16 money that we collected. Money was not set
17 aside. Money was borrowed. Now it's a
18 question if we're going to pay it all back in
19 one lump sum or spread it out.

20 LEGISLATOR NICOLELLO: Answer
21 that question. Was money set aside for this
22 \$45 million judgement?

23 MR. JEFFERSON: There's cash set
24 aside in a restricted bank account.

25 LEGISLATOR DERIGGI-WHITTON:

1 Rules - 1-22-18

2 Where did that come from? That came from the
3 short-term borrowing or no?

4 MR. JEFFERSON: When we did the
5 short-term borrowing because we knew we had to
6 set aside this money that was not in the
7 budget we borrowed additional funds for cash
8 flow purposes.

9 LEGISLATOR NICOLELLO: It was set
10 aside first. The cash was put into a fund in
11 your department. Not department but a bank.

12 MR. JEFFERSON: Before we went to
13 the market we had to set aside these funds.
14 So we put the money into a separate -- we took
15 the money out of our general fund and put it
16 into a separate bank account. Because we knew
17 our cash flow would be very low and it was
18 very low throughout the year. When we went to
19 the market in December we increased our cash
20 flow notes so we could meet our cash demands.
21 We weren't looking at look budgetary. I'm
22 simply looking at just the cash needs of the
23 county.

24 LEGISLATOR NICOLELLO: And you
25 did the TAN because of those cash flow

1 Rules - 1-22-18

2 concerns because of the fact that that \$45
3 million was set aside in this account. The
4 decision not to borrow put the \$45 million
5 into a separate account which led to the
6 borrowing?

7 MR. JEFFERSON: Yes.

8 LEGISLATOR NICOLELLO: Minority
9 Leader Abrahams.

10 LEGISLATOR ABRAHAMS: Thank you
11 Presiding Officer Nicolello. I want to thank
12 Mr. Denion and Mr. Jefferson for being here.
13 You tried your best to answer the question as
14 has been presented by the majority. Obviously
15 hearing the questions of the majority there
16 are many questions that still remain. So
17 obviously over the next week I hope we can try
18 to get some better answers.

19 I do have some preliminary
20 questions that I don't know if it was quite
21 explained on the record. The first thing, the
22 comptroller booking the expense, do we have
23 some idea of whether -- Mr. Jefferson I think
24 you had mentioned whether it would be 2017 or
25 2018 but we weren't sure. Has anyone reached

1 Rules - 1-22-18

2 out to the comptroller's office to find out
3 his thoughts on this process and whether or
4 not it will be 2017 or 2018?

5 MR. JEFFERSON: That's
6 preliminary. I haven't reached out. I'm not
7 sure if the budget office has. If OMB has
8 reached out.

9 LEGISLATOR ABRAHAMS: I think
10 that's a fair question for next week that we
11 should get an answer to, to find out exactly
12 what are their thoughts when that expense
13 would actually be booked.

14 I guess more of like a municipal
15 finance 101 type of question. It ties to the
16 fact of whether or not why are you two here
17 today envisioning what would happened in the
18 future if the county basically bonded or the
19 county chose to spend the \$45 million that's
20 in this restricted account, explain to us from
21 a municipal finance standpoint, credit agency
22 standpoint, if the county spent the \$45
23 million out of the restricted account explain
24 to us what that would have, if any at all,
25 ramifications among the credit agencies. If

1 Rules - 1-22-18

2 you can explain it.

3 MR. DENION: I think it would be
4 certainly a factor. They're already aware
5 these judgments are out there. This is part
6 of our disclosure on bonds. So the agencies
7 are well aware of the potential for the
8 payment. So they're always concerned about
9 how the county balances its books and how it
10 goes about balancing its books. Whatever
11 decision is made to address the \$45 million if
12 it comes from borrowing they will have a view
13 on that positive or negative. Maybe some
14 positive some negative. And they'll have a
15 view on if we don't use borrowing maybe
16 positive or negative. But they'll look and
17 see what the solution is to the budgetary
18 impacts, \$45 million impact, they'll look to
19 see what the county plan is to meet that
20 expense.

21 LEGISLATOR ABRAHAMS: In a utopia
22 the best way to plan for this expense is not
23 the way the previous administration has done
24 in regards to increasing the TAN by \$45
25 million to increase your cash flow. The best

1 Rules - 1-22-18

2 way to cover for this expense is by adding to
3 the litigation fund or actually budget it in
4 the operating budget of expenses for the
5 county.

6 MR. DENION: Two different
7 things. How you pay for it in cash is one
8 thing but how you address it in the budget
9 that's a policy decision.

10 LEGISLATOR ABRAHAMS: I'm asking
11 how you address it from the budget.

12 MR. DENION: I can't address
13 that. But it is a policy decision.

14 LEGISLATOR ABRAHAMS: Whether
15 it's a policy issue or not it wasn't addressed
16 in the budget. It's not a seen expense in the
17 budget.

18 MR. DENION: As I think presiding
19 officer said, it's \$23 million in the
20 litigation fund. Obviously that's not enough
21 to pay the regular judgments and this.

22 LEGISLATOR ABRAHAMS: Let's talk
23 about that for a second. What are the other
24 judgements that are potentially out there?

25 MR. DENION: The routine trip and

1 Rules - 1-22-18

2 falls, breach of contract.

3 LEGISLATOR ABRAHAMS: What's the
4 projected estimated total?

5 MR. DENION: I don't know if
6 anyone from budget is here. I assume that's
7 the projection is what is in the budget is the
8 projection. It's kind of early in the year to
9 know what the actuals are projected at. But
10 that was the budgetary projection. It's
11 early.

12 LEGISLATOR ABRAHAMS: It's early
13 but at the same time the number could be a
14 little bit less, a little bit more. But the
15 number, and this is my greater point which I
16 talked about a couple of questions ago, the
17 number does not take into consideration or
18 into account the Restivo judgement that is
19 before us today.

20 MR. DENION: If the Supreme Court
21 would taken the case it would have necessarily
22 ended in 2018. I don't know what their
23 schedule would have been but there was a
24 possibility. Also a possibility for 2017. It
25 came in eight days after the end of the year.

1 Rules - 1-22-18

2 LEGISLATOR ABRAHAMS:

3 Mr. Jefferson, just a question in regards to
4 this restricted account. Are there other
5 restricted accounts that we should be made
6 aware of?

7 MR. JEFFERSON: No. This is the
8 only restricted account that we have set up
9 for judgments.

10 LEGISLATOR ABRAHAMS: One final
11 question. In the event the legislature does
12 not proceed with bonding and you pay the
13 actual judgement out of the cash that you've
14 already borrowed via the TAN that took place,
15 which basically forces the county to repay the
16 judgement rather than over 15 years, it would
17 be paid out in September if I remember that
18 correctly Mr. Jefferson. October.

19 MR. JEFFERSON: The short-term
20 borrowing will be paid back by September.

21 LEGISLATOR ABRAHAMS: So it would
22 force the county to pay back the expense in
23 nine months rather than having what Mr. Denion
24 said being paid out over 15 years?

25 MR. JEFFERSON: Regardless we are

1 Rules - 1-22-18

2 going to repay the TAN borrowing in September.

3 LEGISLATOR ABRAHAMS: But you
4 have no mechanism to replenish the cash flow
5 without the revenue from the bonding.

6 MR. JEFFERSON: We will treat the
7 cash as an advance and we go out to the market
8 yearly. So we would then size the next
9 borrowing accordingly. The next cash flow
10 borrowing.

11 LEGISLATOR ABRAHAMS: I'm sorry.
12 I'm trying to understanding. The next cash
13 flow borrowing would be adjusted down to
14 reflect not having the \$45 million?

15 MR. JEFFERSON: No. I want to
16 make sure I have the question right. Are you
17 saying that we bonded for it?

18 LEGISLATOR ABRAHAMS: No. Let me
19 start over. Basically what I'm saying is the
20 TAN that was taken out that addresses cash
21 flow took into consideration the \$45 million
22 judgment for the potential judgement for the
23 Restivo case. That being said, that \$45
24 million, that TAN comes due in September of
25 this year to be paid back, correct?

1 Rules - 1-22-18

2 MR. JEFFERSON: Yes.

3 LEGISLATOR ABRAHAMS: The
4 preferred, if I'm understanding this correctly
5 from the administration, the preferred route
6 of the process that you would like to see was
7 that obviously that TAN would be repaid
8 because it's required to be repaid in
9 September, but you want to replenish it with
10 the bond proceeds from the \$45 million bond
11 that you are asking this legislature to take
12 into consideration?

13 MR. JEFFERSON: The cash will be
14 replenished if we had the bond ordinance.
15 When we go out to market to do a capital bond
16 we would then replenish that cash.

17 LEGISLATOR ABRAHAMS: I guess the
18 ultimate question would be obviously if the
19 cash is not -- if the cash is used, because
20 you're going to have to pay that out
21 regardless, the question is it quickly becomes
22 a cash flow issue to a budgetary issue because
23 you have to take something from your budgetary
24 operating expense or you talk about budgetary
25 operating revenue something has to be used to

1 Rules - 1-22-18

2 fill that gap?

3 MR. DENION: Correct.

4 LEGISLATOR ABRAHAMS: That's all
5 I needed to know. Thank you again.

6 LEGISLATOR NICOLELLO: Legislator
7 Birnbaum.

8 LEGISLATOR BIRNBAUM: So
9 following that line, if there is no bonding
10 and the money has to be repaid in September
11 and we have to use the other money to pay the
12 judgement what is the contingency plan?

13 MR. DENION: Again, that would
14 have to be addressed. I don't have that
15 plan. I don't have that for you today.

16 LEGISLATOR BIRNBAUM: Next, I
17 think we all need to hear from the comptroller
18 to see how this will affect the 2018 budget.

19 MR. DENION: Or '17 depending on
20 his analysis.

21 LEGISLATOR NICOLELLO:
22 Legislature McKeVitt.

23 LEGISLATOR MCKEVITT: Just a
24 couple of quick questions. As you stated
25 beforehand, when the county's been doing its

1 Rules - 1-22-18

2 offering statements for its bonds the last
3 couple of years we've already been including
4 this amount in there. So from the rating
5 agencies' perspective this is no surprise in
6 any regard whether it's to past rating or
7 future rating, should it?

8 MR. DENION: It's not a surprise
9 but how we are going to address that expense
10 they'll certainly want to know because it
11 hasn't been determined yet.

12 LEGISLATOR MCKEVITT: Just
13 curious. If we are going to be looking to
14 bond this over whether it's ten or 15 years,
15 do we have any estimate as to what the end
16 cost is going to be for the taxpayers for the
17 \$45 million? 46, 48? Can we get any idea of
18 that by next week?

19 MR. DENION: We could give you a
20 pro forma on that.

21 LEGISLATOR MCKEVITT: I would
22 like before next week to see that, yes.

23 LEGISLATOR NICOLELLO: I'm going
24 to ask Maurice to come up for a moment because
25 this whole issue of the fund balance is

1 Rules - 1-22-18

2 bewildering because other some people are
3 saying now that's there's \$1 million in the
4 fund balance and other analysis we've heard,
5 including this amount, total of \$205 million.

6 MR. CHALMERS: Maurice Chalmers,
7 Office of Legislative Budget Review.

8 LEGISLATOR NICOLELLO: Again, the
9 issue is, in your analysis how much is in fund
10 balance for the county?

11 MR. CHALMERS: That number at the
12 end of 2016 was \$177.8 million unrestricted on
13 a budgetary basis. \$177.8 million.

14 LEGISLATOR NICOLELLO: On a
15 budgetary basis did you say?

16 MR. CHALMERS: Correct.

17 LEGISLATOR NICOLELLO: Did that
18 include this \$45 million?

19 MR. CHALMERS: No. The 45 is in
20 a separate account. In a restricted account.
21 That is totally separate from the \$45 million
22 that is in the restricted account.

23 LEGISLATOR NICOLELLO: So in
24 terms of where we are now, I know it's too
25 soon because the year just ended, but do you

1 Rules - 1-22-18

2 have an idea as to where we are as of the end
3 of 2017?

4 MR. CHALMERS: We had projected
5 to use part of the fund balance for the tax
6 certs which was approximately \$36 million that
7 we thought we were going to use but we are
8 right in the middle of the year end close.
9 That number could deviate. It could change.
10 So we don't have a final number yet.

11 LEGISLATOR NICOLELLO: The 178 in
12 fund balance at the end of '16 was that
13 restricted, unrestricted, a combination?

14 MR. CHALMERS: In the
15 undesignated fund balance.

16 LEGISLATOR NICOLELLO: I'm going
17 to give Legislator Kopel the last word, but on
18 a week from Monday, because we are going to
19 pass this through the committees today, please
20 don't take our votes to be a sign that we are
21 assenting to this or agreeing to this, but we
22 are passing it on to the full legislature.
23 But we want to see the comptroller as well as
24 the financial people. Mr. Denion,
25 Mr. Jefferson have done a terrific job but we

1 Rules - 1-22-18

2 want to see the administration's financial
3 people here.

4 MR. CHALMERS: I think that's
5 fair enough because they will have to make the
6 final decision on what the 2017 numbers are.

7 LEGISLATOR KOPEL: Maurice, just
8 real quick. Do you understand Mr. Denion's
9 point a little earlier of saying that the only
10 amount that is available is \$46 million,
11 because there seems to be wide discrepancy
12 with the numbers that you've just quoted to
13 us.

14 MR. CHALMERS: He just told me
15 that was a GAAP basis and he got those numbers
16 from the comptroller's office. We have not
17 seen those numbers. We would have to go back,
18 take a look at it and let you know.

19 LEGISLATOR KOPEL: That's what
20 we're hoping you will do that, right?

21 MR. CHALMERS: I will. I will
22 ask that we are copied on any information that
23 they give you.

24 LEGISLATOR KOPEL: That's
25 obviously very critical. I think I understand

1 Rules - 1-22-18

2 the whole problem now, the shoe is on the
3 other foot.

4 LEGISLATOR ABRAHAMS: Thanks
5 Rich. Before I make my comments -- Maurice,
6 come back a second. You had said that the
7 \$177 million fund balance at the end of 2016
8 was undesignated or you said restricted?

9 MR. CHALMERS: Undesignated fund
10 balance.

11 LEGISLATOR ABRAHAMS: So we don't
12 know whether or not it's restricted or
13 unrestricted?

14 MR. CHALMERS: That's why we are
15 waiting on the comptroller to show us the
16 reconciliation from the 177 to the 46 that I'm
17 hearing right now.

18 LEGISLATOR ABRAHAMS: So it's
19 vital that we hear from the comptroller
20 sometime in the next week so that he can give
21 us some specificity on whether or not this
22 money is restricted or unrestricted?

23 MR. CHALMERS: Yeah.

24 LEGISLATOR ABRAHAMS: The second
25 question I guess I had it's probably for

1 Rules - 1-22-18

2 Mr. Denion. I don't think it's been
3 established on the record on why this is
4 actually before us today. When do we need to
5 make this payment to -- I know it's February
6 7th. But to establish a record from the
7 administration. When do we actually need to
8 make this payment by?

9 MR. DENION: By February 7th.
10 And under the local finance law if you want to
11 bond for it you need to pass the bond
12 ordinance before then.

13 LEGISLATOR ABRAHAMS: So just
14 make sure we have established the record and
15 I'm done making my comments. If the
16 administration or the county wants to bond for
17 it they have to bond for it before February
18 7th?

19 MR. DENION: Just have the bond
20 ordinance approved before February 7th. Not
21 the actual bonding. As Beaumont said, we get
22 the bond ordinance first. We would advance
23 the money and then we would borrow later and
24 repay ourselves from that advance. Because we
25 wouldn't borrow just for this. Our next

1 Rules - 1-22-18

2 capital borrowing whenever that would be.
3 Sometime in the spring. We would then borrow
4 and pay ourselves back under the local finance
5 law.

6 LEGISLATOR ABRAHAMS: I want to
7 concur with the comments that the presiding
8 officer made. Obviously our side has asked
9 many questions. Some questions have been
10 asked on the floor, some have been asked
11 internally. We are looking forward to
12 answers. Obviously we heard in regards to the
13 comptroller and some of the OMB questions.
14 Obviously the \$177 million that was booked at
15 the end of the year 2016. So there are many
16 questions that we have. Please do not
17 interpret our vote, even though we are voting
18 to push this forward, please do not interpret
19 that to mean that there is solidarity in terms
20 of supporting this particular item.

21 We look forward to hearing some
22 answers to those questions. But at the same
23 time, understanding the restriction that this
24 has to be done or something has to be done we
25 would not want to stop it in committee without

1 Rules - 1-22-18

2 having an opportunity to hear more questions
3 in the full legislature.

4 So we plan to move this forward but
5 at the same time it's no indication on how we
6 will vote next Monday. But thank you again
7 Mr. Denion and Mr. Jefferson for being here
8 today.

9 LEGISLATOR KOPEL: So then I'm
10 going to -- what we will do now is take the
11 vote in the Finance Committee. Then we will
12 adjourn Finance and Rules will continue. And
13 what the presiding officer and minority leader
14 said concerning the vote in the Rules
15 Committee goes for Finance as well. We're
16 just going to be moving it forward and we all
17 look forward to hearing more.

18 LEGISLATOR NICOLELLO: We will
19 vote for the same items in Rules, Item 13 of
20 2018. All those in favor signify by saying
21 aye. Those opposed? The item passes
22 unanimously and gets moved to full
23 legislature.

24 We are going to proceed with the
25 Rules calendar for the members of who are

1 Rules - 1-22-18

2 Rules here. We will do the contracts first,
3 two contracts, and then we will figure out
4 what of the other items we can consent to do
5 in a block.

6 I'm going to call contract A5 of
7 2018, a resolution authorizing the director of
8 the Nassau County Office of Purchasing to
9 request oversight of a contract between the
10 County of Nassau acting on behalf of the
11 county Department of Parks and Eagle Control
12 Corp.

13 Moved by Legislator Kopel.
14 Seconded by Legislator Schaefer. The item is
15 before the committee.

16 MR. MAY: Good afternoon Mr.
17 Chairman. For this item we will have Mr. Ken
18 Arnold from DPW to answer any questions.

19 MR. ARNOLD: Good afternoon. Ken
20 Arnold from Public Works. A5 is a blanket
21 order with Eagle Controls. They supply labor
22 and parts to fix our county pool system. We
23 have six pools in the county. This contract
24 was originally put out to bid in 2016. This
25 comes to you today to extend the purchasing

1 Rules - 1-22-18

2 power of the contract to \$100,000.

3 LEGISLATOR NICOLELLO: Do we have
4 any questions on this item? On this
5 contract? Hearing none, is there any public
6 comment? Any public comment on this
7 contract? Hearing none, all in favor signify
8 by saying aye. Those opposed? Carries
9 unanimously.

10 E1 of 2018 is a resolution
11 authorizing the county executive to execute an
12 amendment to a personal services agreement
13 between the County of Nassau acting on behalf
14 of the Department of IT and Tyler
15 Technologies.

16 Moved by Legislator Bynoe.
17 Seconded by Legislator DeRiggi-Whitton. The
18 item is before the committee.

19 MR. MAY: Mr. Anthony Paganini
20 from IT as well as Mr. Steven Corte from the
21 assessor's office. Calling an audible. It's
22 going to be Nancy Stanton from IT.

23 MS. STANTON: Good afternoon.
24 Nancy Stanton, acting IT commissioner. We're
25 looking to add \$270,000 for services,

1 Rules - 1-22-18

2 enhancements and training to the Tyler Adapt
3 Project.

4 LEGISLATOR NICOLELLO: The Tyler
5 Adapt Progress is what?

6 MS. STANTON: Is used by
7 assessment, ARC and the treasurer's office.

8 LEGISLATOR NICOLELLO: It's a
9 vital service, correct?

10 MS. STANTON: Any questions on
11 this item? Legislator DeRiggi-Whitton.

12 LEGISLATOR DERIGGI-WHITTON: Can
13 you elaborate a bit on what the assessment
14 department is going to be using this
15 contract?

16 MR. CORTE: Steven Corte, deputy
17 assessor. The purpose of our portion of this
18 contract is to update these particular
19 valuations model. There are three approaches
20 to value. This is the cost approach. It's
21 one of the three major functions that we need
22 to create values. It has not been updated in
23 quite some time. The purpose is to do that is
24 to bring it up to current market. We've done
25 the rest with the other two approaches. We

1 Rules - 1-22-18

2 need to finish this. This has to be done
3 outside the Department of Assessment. We
4 don't have the expertise in-house to do that.

5 LEGISLATOR DERIGGI-WHITTON: Are
6 you talking about putting in new values of
7 properties?

8 MR. CORTE: No. I'm talking
9 about putting in new cost modules. When we go
10 to value a property those cost modules are up
11 to date. Up to current speed.

12 LEGISLATOR DERIGGI-WHITTON: What
13 would be an example of a cost module?

14 MR. CORTE: We use the cost
15 approach typically for special use
16 properties. Properties where there's an
17 insufficient amount of income or sales
18 material. So it's kind of a fall back if you
19 would. Special use properties. Say like a
20 self storage building or even usually most of
21 the time you will find that happening with
22 churches or ornate properties. High
23 residential properties the same way where we
24 have to have cost factors included with sales.

25 LEGISLATOR DERIGGI-WHITTON: You

1 Rules - 1-22-18

2 don't feel that we can do this in-house?

3 MR. CORTE: It's not possible,
4 no.

5 LEGISLATOR NICOLELLO: Legislator
6 Bynoe.

7 LEGISLATOR BYNOE: Thank you.
8 Good afternoon. On this contract we were able
9 to isolate the cost for assessment
10 specifically?

11 MR. CORTE: There's a cap of
12 \$25,000.

13 LEGISLATOR BYNOE: 25,000.

14 MR. CORTE: That's the cap for my
15 portion, yes.

16 LEGISLATOR BYNOE: This contract
17 is increased by 270,000. So can we speak to
18 why there's other additional costs in this
19 year?

20 MR. PAGANINI: Anthony Paganini,
21 Nassau County IT. We have a bunch of other
22 enhancements that we need to do as well as
23 training. We lost a bunch of people to --
24 unfortunately one passed away and we also had
25 some people retire that were the experts. So

1 Rules - 1-22-18

2 we have training dollars that are added on to
3 that, as well as some other enhancements by
4 other departments that are being used by other
5 departments as well as IT, Assessment and ARC.

6 LEGISLATOR BYNOE: These other
7 assessments or initiatives and also the
8 training these costs would then be isolated to
9 this particular year, so we would only see the
10 increase in this year?

11 MR. PAGANINI: This is one time,
12 yes.

13 LEGISLATOR BYNOE: Thank you.

14 LEGISLATOR NICOLELLO: Any other
15 questions. Thank you all. Any public
16 comment? All in favor signify by saying aye.

17 LEGISLATOR BYNOE: There was one
18 other question. Is this going to be an
19 assistance with implementing DAF.

20 MR. PAGANINI: Part of this is
21 for DAF, yes.

22 LEGISLATOR BYNOE: How will that
23 manifest? How will they be assisted?

24 MR. JEFFERSON: There are four
25 phases in DAF and this is to complete the last

1 Rules - 1-22-18

2 phase which is phase four. So there are
3 different calculations and models that were
4 put into DAF that we have Tyler update in the
5 system to allow us to refund and also do all
6 the calculations.

7 There are two phrases that are
8 already in place. The third phase will be
9 completed shortly and then we have phase four
10 which is our ability to complete our refund
11 process back to the municipalities and also
12 the property owners.

13 LEGISLATOR BYNOE: So this is
14 going to wrap up in 2018 as well, phase four?

15 MR. JEFFERSON: Phase four will
16 be done in 2018. Has to be. And we will be
17 better able to refund the taxes.

18 LEGISLATOR BYNOE: Thank you.

19 LEGISLATOR NICOLELLO: Any other
20 question from the legislators? Any public
21 comment? All in favor signify by saying aye.
22 Those opposed? Item carries unanimously.

23 We have a consent calendar which
24 covers all of the items as well as the item on
25 the addendum. I'm going to first ask for a

1 Rules - 1-22-18

2 motion to suspend the rules. Moved by
3 Legislator Rhoads. Second by Legislator
4 Schaefer. All those in favor of suspending
5 the rules signify by saying aye. Those
6 opposed?

7 With respect to the addendum
8 there's one item. I'm going to now call all
9 the items we have consented to call in block.

10 Items one, two, three, four, five,
11 six, seven, eight, nine, ten, 11, 12, 16, 17,
12 34, 35, 37, 38 and 40 and the addendum item
13 41. Motion to waive the rules or with the
14 consent of the minority can we waive the
15 reading of all of these items? All those item
16 are before us. Motion by Legislator
17 DeRiggi-Whitton. Seconded by our minority
18 leader. Those items are before us. All in
19 favor signify by saying aye.

20 LEGISLATOR ABRAHAMS: We want to
21 mention that this consent calendar includes
22 some of the appointments for today. Obviously
23 we haven't had an opportunity to meet with any
24 of them yet. Some of them we do know from
25 obviously their past history with the county.

1 Rules - 1-22-18

2 But we look forward to meeting with them
3 before the next full legislative meeting.

4 LEGISLATOR NICOLELLO: I would
5 also ask that the administration have the
6 appointees present for the next meeting
7 because obviously there may be questions on
8 the record for some of them.

9 MR. MAY: Absolutely. And we can
10 have them available before the meeting if
11 anyone wants to meet them in person prior.

12 LEGISLATOR NICOLELLO: The items
13 are before the committee. All those in favor
14 signify by saying aye. Those opposed?
15 Carries unanimously.

16 Legislator Kopel makes a motion to
17 adjourn. Seconded by Legislator Schaefer.
18 All in favor of adjourning signify by saying
19 aye. Those opposed? Rules Committee is
20 adjourned. Thank you.

21 (TIME NOTED: 3:51 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 24th day of
January 2018

FRANK GRAY