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NASSAU COUNTY LEGISLATURE

RICHARD NICOLELLO  
PRESIDING OFFICER

LEGISLATIVE SESSION

County Executive and Legislative Building  
1550 Franklin Avenue  
Mineola, New York

Monday, December 14, 2020  
1:34 P.M.

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2     A P P E A R A N C E S:

3

4     LEGISLATOR RICHARD J. NICOLELLO

5             Presiding Officer

6             9th Legislative District

7

8     LEGISLATOR HOWARD KOPEL

9             Deputy Presiding Officer

10            7th Legislative District

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12    LEGISLATOR DENISE FORD

13            Alternate Presiding Officer

14            4th Legislative District

15

16    LEGISLATOR KEVAN ABRAHAMS

17            Minority Leader

18            1st Legislative District

19

20    LEGISLATOR SIELA BYNOE

21            2nd Legislative District

22

23    LEGISLATOR CARRIE SOLAGES

24            3rd Legislative District

25

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2     LEGISLATOR DEBRA MULE

3             5th Legislative District

4

5     LEGISLATOR C. WILLIAM GAYLOR III

6             6th Legislative District

7

8     LEGISLATOR VINCENT T. MUSCARELLA

9             8th Legislative District

10

11    LEGISLATOR ELLEN BIRNBAUM

12            10th Legislative District

13

14    LEGISLATOR DELIA DERIGGI-WHITTON

15            11th Legislative District

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17    LEGISLATOR JAMES KENNEDY

18            12th Legislative District

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20    LEGISLATOR THOMAS MCKEVITT

21            13th Legislative District

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23    LEGISLATOR LAURA SCHAEFER

24            14th Legislative District

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2     LEGISLATOR JOHN FERRETTI, JR.

3             15th Legislative District

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5     LEGISLATOR ANDREW DRUCKER

6             16th Legislative District

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8     LEGISLATOR ROSE WALKER

9             17th Legislative District

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11     LEGISLATOR JOSHUA LAFAZAN

12             18th Legislative District

13

14     LEGISLATOR STEVEN RHOADS

15             19th Legislative District

16

17     MICHAEL PULITZER

18             Clerk of the Legislature

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2 LEGISLATOR NICOLELLO: I would  
3 like to call this session of the Nassau County  
4 Legislature to order. Legislator Rose Walker  
5 would you lead us in the Pledge of  
6 Allegiance.

7 Mike, would you call the call.

8 MR. PULITZER: Yes. Thank you.  
9 Roll call. Presiding Officer Howard Kopel.

10 LEGISLATOR KOPEL: Here thanks  
11 for the promotion.

12 MR. PULITZER: That's Deputy  
13 Presiding Officer Howard Kopel. Alternate  
14 Deputy Presiding Officer Denise Ford.

15 Legislator Siela Bynoe.

16 LEGISLATOR BYNOE: Here.

17 MR. PULITZER: Legislator Carrie  
18 Solages.

19 LEGISLATOR SOLAGES: Here.

20 MR. PULITZER: Legislator Debra  
21 Mule.

22 LEGISLATOR MULE: Here.

23 MR. PULITZER: Legislator C.  
24 William Gaylor the third.

25 LEGISLATOR GAYLOR: Present.

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2 MR. PULITZER: Legislator Vincent

3 Muscarella.

4 LEGISLATOR MUSCARELLA: Here.

5 MR. PULITZER: Legislator Ellen

6 Birnbaum.

7 LEGISLATOR BIRNBAUM: Here.

8 MR. PULITZER: Legislator Delia

9 DeRiggi-Whitton.

10 LEGISLATOR DERIGGI-WHITTON:

11 Here.

12 MR. PULITZER: Legislator James

13 Kennedy.

14 LEGISLATOR KENNEDY: Here.

15 MR. PULITZER: Legislator Thomas

16 McKevitt.

17 LEGISLATOR MCKEVITT: Here.

18 MR. PULITZER: Legislator Laura

19 Schaefer.

20 LEGISLATOR SCHAEFER: Here.

21 MR. PULITZER: Legislator John

22 Ferretti.

23 LEGISLATOR FERRETTI: Here.

24 MR. PULITZER: Legislator Arnold

25 Drucker.

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2 LEGISLATOR DRUCKER: Here.

3 MR. PULITZER: Legislator Rose  
4 Marie Walker.

5 LEGISLATOR WALKER: Here.

6 MR. PULITZER: Legislator Joshua  
7 Lafazan.

8 MR. LAFAZAN: Here.

9 MR. PULITZER: Legislator Steven  
10 Rhoads.

11 LEGISLATOR RHOADS: Present.

12 MR. PULITZER: Minority Leader  
13 Kevan Abrahams.

14 LEGISLATOR ABRAHAMS: Here.

15 MR. PULITZER: Let me come back  
16 to Alternate Presiding Officer Denise Ford.  
17 Is not present? And Presiding Officer Richard  
18 Nicolello.

19 LEGISLATOR NICOLELLO: Here.

20 MR. PULITZER: We have a quorum  
21 sir.

22 LEGISLATOR NICOLELLO: Thank you  
23 very much. We are going to do the legislative  
24 calendar first today. So those of you from  
25 the administration who are here for the Rules

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2 Committee it's going to be a while. Just to  
3 let you know. If there's something that you  
4 can do in the interim.

5 First order of business is a point  
6 of personal privilege. Turn things over to  
7 Legislator Walker.

8 LEGISLATOR WALKER: Thank you  
9 Presiding Officer. It gives me great pleasure  
10 today to honor one of our staff members here  
11 in the county exec building, Maureen Smyth.  
12 Maureen, if you would stand please. Maureen  
13 has worked for us for 40 years. She  
14 celebrated her 40th anniversary here in the  
15 county.

16 Maureen started here right after  
17 high school. She graduated from Hicksville  
18 High School. She's a lifelong resident of  
19 Hicksville, just like me Maureen, and started  
20 right here after high school. She's worked  
21 over these past 40 years with tremendous  
22 dedication and caring and kindness. And she  
23 actually goes to every one of our offices.  
24 Many of the legislators might not get to see  
25 her that often but certainly their aides do.



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2 She brings mail, brings important information  
3 to us in our offices.

4 Maureen, we can't thank you enough  
5 for that and for your kindness and for always  
6 having a smile. For many times just saying  
7 the right words to us to make us feel good and  
8 have a great day. We just wanted to  
9 commemorate your 40 years by giving you a  
10 citation and it's signed by every one of the  
11 legislators here. I get to do the personal  
12 privilege because you live in my district but  
13 it's really from all of us.

14 We want to say thank you for all  
15 your time and dedication to Nassau County and  
16 to each and every one of us. So, thank you  
17 and congratulations. I don't know if you want  
18 to say anything. You don't have to but if you  
19 would like to you can say something.

20 MS. SMYTH: I just want to say  
21 thank you to everyone. This is very special  
22 and I can't thank people enough for doing this  
23 for me today. I work with a lot of different  
24 bosses but Ratania is my special boss and I  
25 just want to say thank you very much again.

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2 LEGISLATOR WALKER: Maureen has  
3 members of her department who are here to join  
4 her, her supervisor and head of department and  
5 her family. So I thank them for being here  
6 and spending this time with her also.

7 LEGISLATOR NICOLELLO:  
8 Congratulations again. Well deserved.

9 Now we have the public comment  
10 portion of our meeting. I have two slips. If  
11 anyone else from the public would like to say  
12 anything or make remarks we have slips that  
13 should be filled out at the clerk's table  
14 right here. First speaker is Mary Yvonne  
15 Perno.

16 MS. PERNO: Good afternoon. My  
17 name is Mary Yvonne Perno. I'm here today as  
18 a resident and also a member of the board of  
19 directors for the Seasons at Seaford. They're  
20 condominiums located in Seaford, New York.  
21 I'm sure that by now most of you know that the  
22 Seasons is a senior community. Residents are  
23 62 and over. We're paying our full school  
24 taxes while unable to utilize the schools.  
25 We all just got recently slammed

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2 with a school tax bill that saw an increase of  
3 anywhere from \$3,000 to over \$5,100. It's  
4 outrageous. Our community has written  
5 numerous letters to many legislators as well  
6 as our state senator, our governor, county  
7 executive, the receiver of taxes, the  
8 assessment office and many more. We even,  
9 actually I personally emailed Scott Eiler of  
10 Newsday, and the only replies we received were  
11 from State Senator Brooks, Legislator Steve  
12 Rhoads and the receiver of taxes, Jeannine  
13 Driscoll.

14 One member of the community  
15 received an email from Mr. Mills. I believe  
16 he's the deputy assessor. He said that there  
17 was going to be a meeting today and that the  
18 Department of Assessment has submitted  
19 correction of error petitions to correct  
20 errors regarding the condo community. I hope  
21 this is true.

22 When I woke up this morning and I  
23 saw the spread in Newsday I was actually  
24 shaken to see that Scott Eiler, who did not  
25 even answer our emails, reported information

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2 that was both slanted and inaccurate. He  
3 wrote that people saw increases of up to  
4 \$2,000. That's totally wrong. The people in  
5 our senior citizen development saw increases  
6 of over \$5,100. Something has to be done to  
7 fix this.

8 I felt it necessary to come here  
9 today to ask, to actually beg you to please  
10 pass a resolution that will correct the  
11 taxable value placed on our condominiums that  
12 will alleviate the burden that has been placed  
13 on the senior community.

14 I thank you for your time, and I  
15 look forward to your help in this matter. Our  
16 senior residents can certainly use some  
17 uplifting news regarding this. Thank you.

18 LEGISLATOR NICOLELLO: Thank  
19 you. There is an item on the calendar for  
20 correction of errors. I'm going to have  
21 Legislator Steve Rhoads give you more  
22 information.

23 LEGISLATOR RHOADS: First of all  
24 I want to thank you for coming down. You and  
25 I had the opportunity to speak at the tail end

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2   of last week regarding today's correction of  
3   errors petition. I wanted to thank actually  
4   the receiver of taxes, Jeannine Driscoll, and  
5   also all of the residents of the Seasons in  
6   Seaford.

7                   After attending the press  
8   conference, we discovered that the reason that  
9   you received the bills that you received was  
10   because of yet another error that was made by  
11   the Department of Assessment in considering  
12   the Seasons at Seaford as new construction as  
13   opposed to existing construction. New  
14   construction wound up being taxed at a higher  
15   value, at a higher assessed value than you  
16   were supposed to because you were built prior  
17   to 2018. So, that error was identified and is  
18   being corrected today in the correction of  
19   errors petition that's before us.

20                  So, I want to thank all of the  
21   residents of the Seasons for bringing this to  
22   our attention and I want to thank Jeannine  
23   Driscoll as a partner in making sure that that  
24   condition was remedied.

25                  Quite honestly, this is yet the

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2 latest example and it turns out there's a  
3 second complex up on the north shore that was  
4 actually treated the same way as the Seasons.  
5 We are actually fixing both of those today.

6 But this is another example of, in  
7 my opinion, of just sloppy work that was done  
8 by our Department of Assessment that is having  
9 real financial consequences for individual  
10 residents. And in this case, while we're able  
11 to fix the errors today, the reality is that  
12 those bills were due on Thursday. That  
13 residents that don't have the money and  
14 weren't expecting those huge increases had to  
15 pay those increases and now we're going to  
16 have to wait for some accommodation to be made  
17 for them to get their money back.

18 We'll fix the mistake for the  
19 second half but it's unfortunate that a  
20 mistake was made in the first place. And had  
21 the Department of Assessment simply done a  
22 better job and spent 30 seconds to look at the  
23 property card and see when that was actually  
24 constructed we could have avoided that mistake  
25 in the first place and it's unfortunate.

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2 Again I want to thank you for  
3 bringing that to our attention and it will be  
4 addressed today.

5 MS. PERNO: And I want to thank  
6 you for your support and Jeannine. We really,  
7 really appreciated it. Thank you.

8 LEGISLATOR RHOADS: Not a  
9 problem. Thanks.

10 LEGISLATOR NICOLELLO: Thank  
11 you. I should have mentioned this before,  
12 when speakers come to the microphone we just  
13 ask that they have their masks on because  
14 obviously you have multiple people coming up  
15 and speaking to the mic.

16 Next speaker is John Budnick.

17 MR. BUDNICK: John Joseph  
18 Budnick, 122 Van Huenfeld Street. I'm here to  
19 talk about several issues. One is about  
20 number six on the calendar. The public  
21 hearing about the age of 65. One might also  
22 consider studying number one, whether we need  
23 a better form of government in this county.  
24 Perhaps an elected county assessor. I know it  
25 failed four years ago but it is still a

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2 necessity for the benefit of our taxpayers.  
3 Particularly seniors and people on fixed  
4 income.

5 Another thing I wanted to talk  
6 about is about our various courthouses and  
7 particularly we have one that's hopefully  
8 going to be finished soon and there are other  
9 ones that might be considered for being named  
10 perhaps after the Gulotta family which has  
11 served Nassau County many times in many  
12 different modalities. Also served New York  
13 State.

14 I want to bring you holiday  
15 greetings from us all. Every holiday that  
16 exists. I hope that you folks will consider  
17 making sure that with regard to the police  
18 department's contracts that are coming through  
19 that we don't try to penalize these people for  
20 doing their job. They're out there having  
21 people trying to roll over them, attack them,  
22 assault them. They need our support.

23 Also, I have a quick question for  
24 everybody and that's merely this. Have all of  
25 you elected officials complied with New York



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2 State executive law designating three  
3 alternates to replace you during emergencies?

4 Also, I understand Legislator  
5 Gaylor's family has been experiencing some  
6 difficulties and I hope we are all praying for  
7 some help to he and his family.

8 Also, a large number of months ago  
9 this body passed a demand that criminal  
10 justice statistics be provided to this body  
11 from the police department. Particularly with  
12 regard to those released in their own custody  
13 and the appearances that they made or didn't  
14 make. I hope that data will be made public  
15 for everyone to know about.

16 Thank you very much for your  
17 putting up with me for all these many years.  
18 God bless you. Let's have a happier and  
19 healthier new year. Thank you.

20 LEGISLATOR NICOLELLO: Thank you  
21 John. You too. Is there any other public  
22 comments? Hearing none, we are going to get  
23 into the calendar. First item we have is a  
24 procedural resolution to establish a calendar  
25 for meetings for the legislature of the county

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2 of Nassau for the calendar year 2021 pursuant  
3 to county government law of Nassau County.

4 Moved by Deputy Presiding Officer  
5 Kopel. Seconded by Minority Leader Abrahams.  
6 Any debate or discussion on this calendar  
7 item? Hearing none, all in favor signify by  
8 saying aye. Those opposed? That carries  
9 unanimously.

10 Here is what we're going to do. We  
11 have a consent calendar. Items that went  
12 through committees. It has been agreed by the  
13 Majority and Minority that these items require  
14 no further debate or discussion. I will be  
15 calling those in a moment. After that I'm  
16 going to be calling a couple of items out of  
17 order. Since Ms. Perno is still here we're  
18 going to call that item next after the consent  
19 calendar so we can have you on your way.

20 This is the consent calendar. Item  
21 18, Ordinance 127. 19, Ordinance 128. 20,  
22 Ordinance 129. 21, Ordinance 130. 22,  
23 Ordinance 131. 23, Ordinance 132. 24,  
24 Ordinance 133. 25, Ordinance 134. 26,  
25 Ordinance 135. 27, Ordinance 136. 28,

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2 Ordinance 137. 29, Ordinance 138. 30,  
3 Ordinance 139. 31, Ordinance 140. 33,  
4 Ordinance 142. 36, Resolution 171. 39,  
5 Resolution 174. 40, Resolution 175. 41,  
6 Resolution 176. 42, Resolution 177. 43,  
7 Resolution 178. 44, Resolution 179. 45,  
8 Resolution 180. 46, Resolution 181. 47,  
9 Resolution 182. 48, Resolution 183. 49,  
10 Resolution 184. 50, Resolution 185. 52,  
11 Resolution 187. 53, Resolution 188. 54,  
12 Resolution 189. 55, Resolution 190. 56,  
13 Resolution 191. 57, Resolution 192. 58,  
14 Resolution 193. 59, Resolution 194.

15 That's it for the consent  
16 calendar. Motion by Legislator Arnie  
17 Drucker. Seconded by Legislator Schaefer.  
18 Any debate or discussion? Hearing none --

19 LEGISLATOR ABRAHAMS: Presiding  
20 Officer, our counsel was unaware of the  
21 consent calendar. Can we just have a couple  
22 of minutes just to make sure all the items are  
23 called we actually consented?

24 LEGISLATOR NICOLELLO: Sure.

25 LEGISLATOR ABRAHAMS: Presiding

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2 Officer, Pete needs about five minutes to  
3 review everything that you had called. Do you  
4 want to wait or do you want to table these  
5 items and then pick them back up as soon as he  
6 reviews them?

7 LEGISLATOR NICOLELLO: We will  
8 table them and bring them back when you're  
9 ready.

10 LEGISLATOR ABRAHAMS: I  
11 appreciate it.

12 LEGISLATOR NICOLELLO: Motion to  
13 table by Minority Leader Abrahams. Seconded  
14 by Legislator DeRiggi-Whitton. All in favor  
15 of tabling signify by saying aye. Those  
16 opposed? Those items are all tabled.

17 LEGISLATOR ABRAHAMS: Thank you.

18 LEGISLATOR NICOLELLO: Sure.

19 Next we're going to jump to calendar items 60  
20 to 64. That's Resolution 195, Resolution 196,  
21 Resolution 197, Resolution 198, Resolution  
22 199. These are all resolutions to authorize  
23 the county assessor and/or the county  
24 treasurer and/or the receivers of taxes of the  
25 Town of Hempstead, North Hempstead, Oyster Bay

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2 to partially exempt certain real properties  
3 situated in certain school districts as well  
4 as to -- that's it. Partially exempt real  
5 property situated in various school districts  
6 assessed to designated owners appearing on the  
7 assessment rolls for the specified school  
8 and/or county years pursuant to this  
9 resolution; pursuant to the Real Property Tax  
10 Law as well as the county government law of  
11 Nassau County.

12 Moved by Legislator Rhoads.

13 Seconded by Legislator Drucker. These are  
14 corrections that we just spoke about relating  
15 specifically to a number of developments  
16 including the Seasons at Seaford. Is there  
17 any debate or discussion on these items?  
18 Legislator Rhoads.

19 LEGISLATOR RHOADS: Is anyone  
20 here from the Department of Assessment?

21 MR. MILES: Robert Miles, deputy  
22 assessor.

23 LEGISLATOR RHOADS: Thanks for  
24 coming Mr. Miles. Item 402 and 403 are  
25 multiresidential properties, one of which is

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2 the Seasons in Seaford. I don't know if you  
3 heard Ms. Perno speak in public comment as a  
4 resident of Seasons in Seaford. Can you  
5 explain for us how exactly this error  
6 happened? My understanding is that they were  
7 assessed as new construction, this complex, as  
8 well as one other up on the north shore in  
9 Port Washington was assessed as new  
10 construction erroneously?

11 MR. MILES: No. The Seasons had  
12 a new construction issue and that is what we  
13 are correcting with that item. The Mill Pond  
14 was a lot number issue, changed lot number,  
15 and that is being corrected in the other  
16 correction of error petition.

17 LEGISLATOR RHOADS: With respect  
18 to the Seasons in Seaford, the reason I'm  
19 asking this question is because I want to  
20 understand how the Department of Assessment  
21 actually goes through this process to avoid  
22 these errors in the future. It took me about  
23 30 seconds online to see when the Seasons in  
24 Seaford was constructed. It was constructed  
25 between 2015 and 2017 which clearly takes it

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2 out of that category. Why was the Department  
3 of Assessment not able to do the same thing?

4 MR. MILES: I believe the Seasons  
5 was done in several phases and there's just an  
6 error I guess in the latest phase and that was  
7 corrected. So, I can't tell you what happened  
8 with the previous phases versus this phase.  
9 The Seasons has been -- the prospectuses have  
10 changed several times over the years. So,  
11 that might have been an issue. But this last  
12 phase it was put on us physical and then it  
13 was corrected. From my understanding, I don't  
14 believe that was the latest phase. There  
15 might have been some additional construction  
16 towards the end of '17 and '18. So that also  
17 is a consideration.

18 But at this point I can't tell you  
19 what the difference was in the analysis of the  
20 different phases but the latest phase caused a  
21 technical issue and it's being corrected on  
22 this legislation.

23 LEGISLATOR RHOADS: What does the  
24 analysis consist of Mr. Miles?

25 MR. MILES: Can you be more

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2 specific as to the question you're asking?

3 LEGISLATOR RHOADS: You're saying  
4 that there's was a mistake in the analysis.  
5 What is the actual analysis by the Department  
6 of Assessment? Are we checking property cards  
7 or is this something simply done by computer?  
8 Why isn't someone checking to make sure this  
9 is accurate before we start charging people  
10 thousands of dollars in tax increases?

11 MR. MILES: When you do large  
12 scale buildings you do a combination of  
13 reviewing prospectuses and trying to review  
14 photos, overhead pictures. So, it's not as  
15 simple and basic as pulling up property record  
16 cards because the developers tend to adjust  
17 their prospectuses several times before the  
18 final prospectus is submitted to the attorney  
19 general and then delivered to the Department  
20 of Assessment. So, there's more complexity to  
21 the condominium units than you would have with  
22 your run of the mill day-to-day residential  
23 home.

24 LEGISLATOR RHOADS: Isn't it the  
25 case that a property record within the



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2 individual township's building department  
3 would have a completion date?

4 MR. MILES: I'm sorry legislator,  
5 there's a some lack of clarity on the vocals.

6 LEGISLATOR RHOADS: Wouldn't the  
7 property card within the individual building  
8 department in that jurisdiction have a  
9 completion date for the construction project?  
10 Why can't we look at that?

11 MR. MILES: The property record  
12 card is based on what we develop internally in  
13 the system and based on what our systems show  
14 and based on what the prospectuses are. For  
15 this situation the prospectuses changed so  
16 often and the review of the physical increases  
17 and changes in the building caused the issue  
18 with the latest phase. The property record  
19 card is developed internally.

20 LEGISLATOR RHOADS: So we don't  
21 look at the building department's records from  
22 the individual townships?

23 MR. MILES: The department looks  
24 at all different types of information. Like I  
25 said, the condominium units are significantly

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2 more complex due to the apportionment of the  
3 single property into several properties.

4 Because you cannot build a single building, so  
5 you would separate it out and apportion the  
6 property into several parcels or many severals  
7 of parcels.

8 At the same time you're in the  
9 middle of trying to deal with prospectuses  
10 that continue to change and you try to keep up  
11 with the physical changes as best as you could  
12 with physical inspections and with overhead  
13 photos. That's the difference between trying  
14 to place value on a roll for a condominium  
15 unit versus a single family home. It's more  
16 difficult to track because of the constant  
17 changes and adjustments in the tax lots and  
18 the adjustments in the physical value of the  
19 condominium units. So, the latest phase had  
20 an issue with it and that's why we're here to  
21 make the adjustments necessary.

22 LEGISLATOR RHOADS: To correct  
23 the error, right?

24 MR. MILES: It's a correction of  
25 error resolution, that's in the title.

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2 LEGISLATOR RHOADS: This error by  
3 the way, since these bills have already been  
4 paid presumably by the residents since the tax  
5 deadline was on December 10th this falls under  
6 the county guarantee, does it not?

7 MR. MILES: Yes.

8 LEGISLATOR RHOADS: These  
9 residents would only be made whole as a result  
10 of Nassau County and Nassau County taxpayers  
11 having to pay for this mistake, correct?

12 MR. MILES: The county will be  
13 paying for the refund.

14 LEGISLATOR RHOADS: Right. So  
15 the money that these residents had to overpay  
16 is money that ultimately county taxpayers are  
17 going to foot the bill for?

18 MR. MILES: The method of payment  
19 is what I -- my job duty is making sure that  
20 the treasurer is aware of the resolution and  
21 performs the tasks of making a refund.

22 LEGISLATOR RHOADS: You do  
23 understand when there is a refund that refund  
24 has to be paid out of county dollars,  
25 correct?

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2 MR. MILES: That is the county  
3 guarantee.

4 LEGISLATOR RHOADS: Our  
5 recognition of this error is going to cost  
6 county taxpayers between Port Washington and  
7 Seaford approximately \$2 million.

8 MR. MILES: The county will be  
9 covering the cost of the increase in value and  
10 then the implementation of the exemption.

11 LEGISLATOR RHOADS: Which is  
12 going to cost county taxpayers about \$2  
13 million because you couldn't get it right the  
14 first time, right?

15 MR. MILES: The number of the  
16 refund liability is on the legislation, and I  
17 believe it's separated out between the five  
18 different correction of error resolutions.  
19 There is a sum of money that has to be paid  
20 and the Department of Assessment is committed  
21 to making sure that the taxpayers get  
22 corrected second half bills and the refunds  
23 that they deserve.

24 LEGISLATOR RHOADS: How quickly  
25 is the Department of Assessment going to issue

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2 to the receiver of taxes the information that  
3 they can use to produce those corrected  
4 bills?

5 MR. MILES: This week.

6 LEGISLATOR RHOADS: When can our  
7 residents expect to get the money back that  
8 we've overcharged them?

9 MR. MILES: I'm not sure. It's  
10 up to the treasurer's office but I'm sure the  
11 treasurer is also committed to sending out  
12 refunds as soon as they can.

13 LEGISLATOR RHOADS: Do you know  
14 if this is going to be a refund or are we  
15 going to simply reduce the seconded half bill  
16 that's due and owing and play that game?

17 MR. MILES: It's dependent upon  
18 the town receiver but more likely a refund.  
19 But it's up to the receiver of taxes. I'm  
20 pretty sure it will be a refund liability.

21 LEGISLATOR RHOADS: The receiver  
22 of taxes doesn't issue the refund, right? the  
23 treasurer issues the refund. So it's not town  
24 issue it's a county issue.

25 MR. MILES: I believe you can

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2 create a credit for the second half but I'm  
3 not sure if all of the town receivers are able  
4 to do that. So, more likely than not it would  
5 be a refund and then corrected second half.

6 LEGISLATOR RHOADS: I'm sure the  
7 residents would prefer to have the money in  
8 their pocket rather than wait for a credit on  
9 the second half tax bill. So we want to make  
10 sure that that takes place. Do you have any  
11 idea if in fact it is a refund when the county  
12 anticipates mailing out those refunds?

13 MR. MILES: Like I said, I'm not  
14 an employee of the treasurer but I believe the  
15 treasurer is committed to working as quickly  
16 as they can to send out these refunds.

17 LEGISLATOR RHOADS: As a result  
18 of these mistakes has there been any review  
19 within the Department of Assessment of your  
20 procedures and systems to insure that this  
21 doesn't occur again?

22 MR. MILES: We continue to try to  
23 work on the condominium units. It's a complex  
24 valuation process. For many, many years prior  
25 to this administration and prior to the

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2 administration before that, it's difficult to  
3 try to evaluate parcels when the prospectuses  
4 continue to change. But we continue to try to  
5 have a good relationship with the developers  
6 in the area and try to continue to communicate  
7 with them as the phases are completed, as the  
8 prospectuses are adjusted, amended and sent  
9 into the Department of Assessment.

10 So, I think this is just something  
11 that's just a long term goal for the  
12 department is just to continue to have good  
13 relations with our developers and try to make  
14 sure that they send us prospectuses in a  
15 timely fashion and send us adjustments as soon  
16 as they can.

17 LEGISLATOR RHOADS: We're putting  
18 the onus on the developers?

19 MR. MILES: No. I'm not putting  
20 the onus on anyone. I'm just telling you what  
21 the process is. That's my job here today, to  
22 tell you how the system works and it's been a  
23 problem in previous administrations and  
24 administrations before that. And we just want  
25 to continue to work on building the department

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2 and continue to improve processes that were  
3 issues in the past.

4 LEGISLATOR RHOADS: I just wanted  
5 to know if some review is taking place within  
6 the Department of Assessment to try and fix  
7 whatever broke down in this particular  
8 situation?

9 MR. MILES: We're reviewing the  
10 condominiums. We have been and we will  
11 continue and we try to hone in on that  
12 process.

13 LEGISLATOR RHOADS: Do we know  
14 whether these five correction of error  
15 petitions are going to be the last mistakes  
16 that we have to fix or do we know that there  
17 are more coming down the pipeline?

18 MR. MILES: These are the  
19 corrections we have right now. I don't  
20 foresee more. Although there's always the  
21 one-off corrections. A fire damaged parcel, a  
22 change in a lot. There's always these one-off  
23 petitions. We did that for the 1920 roll.  
24 There's a record of that. There's these  
25 one-offs. Especially fire damage. We want to



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2 make sure the individual, although we don't  
3 get evidence of fire damaged parcels or their  
4 permits prior to the tax status date, when  
5 they give us that information we try to  
6 correct them and try to make sure they get the  
7 values that they deserve before the tax bills  
8 goes out. This is just a normal process  
9 correction of errors. I don't see a large  
10 number of petitions like you see in front of  
11 you today. But there's always one-offs just  
12 due to information coming in in real time.

13 LEGISLATOR RHOADS: I just wanted  
14 to make sure the Department of Assessment  
15 understands that the errors that are being  
16 corrected today have affected hundreds of  
17 families who are being charged real dollars  
18 more than what they owe, more than they  
19 deserve to pay and that the errors that the  
20 Department of Assessment makes cost real  
21 people money, time and aggravation and that  
22 everything needs to be put into fixing the  
23 process so that it works better. You would  
24 agree with that right Mr. Miles?

25 MR. MILES: We have been

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2 committed to improving the Department of  
3 Assessment since the new administration came  
4 in. You guys heard me before. I testified in  
5 the past how it was a department that had a  
6 frozen roll and --

7 LEGISLATOR RHOADS: Mr. Miles I  
8 don't want to get into a debate.

9 MR. MILES: -- and a smaller staff  
10 and we continue to try.

11 LEGISLATOR RHOADS: Mr. Miles,  
12 all I want to know is that there's a  
13 recognition on behalf of the Department of  
14 Assessment that we need to do better. You  
15 would agree with that, right?

16 MR. MILES: I'm here to tell you  
17 what the process is on the correction of error  
18 resolutions and that is what I've given you  
19 today.

20 LEGISLATOR RHOADS: Thanks  
21 Mr. Miles.

22 LEGISLATOR NICOLELLO: Note for  
23 the record that Legislator Ford has joined us  
24 remotely and is participating in this  
25 meeting. I have Legislator Walker and

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2 Legislator Ferretti.

3 LEGISLATOR WALKER: Thank you  
4 Presiding Officer. Mr. Miles, I know this is  
5 addressing these two condo units, one up in  
6 Glen Cove and one here in Seaford. This does  
7 not address residential streets that half of  
8 the street had major problems with that you  
9 are well aware of.

10 MR. MILES: Coronation Drive is  
11 one of the five resolutions.

12 LEGISLATOR WALKER: Coronation is  
13 on here?

14 MR. MILES: Yes.

15 LEGISLATOR WALKER: The same goes  
16 for them. They obviously had to pay the money  
17 outright and somehow they will be reimbursed  
18 for that and it will be corrected by the next  
19 time the taxes are due?

20 MR. MILES: Yes. Correct  
21 legislator.

22 LEGISLATOR WALKER: Thank you.

23 MR. MILES: Thank you.

24 LEGISLATOR NICOLELLO: Legislator  
25 Ferretti.

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2 LEGISLATOR FERRETTI: Thank you  
3 Presiding Officer. This is an outrageous  
4 scenario that we are dealing with here. The  
5 failed reassessment it's failed on multiple  
6 levels. If you read Newsday you've seen one  
7 level. But just the nonchalant attitude Mr.  
8 Miles that you seem to have about an issue  
9 like this it's really, really concerning to  
10 me.

11 I spoke to Ms. Perno just a few  
12 minutes ago. She has dozens of outstanding  
13 phone calls to the Department of Assessment,  
14 dozen of outstanding phone calls to the county  
15 executive's office. All unanswered. Every  
16 single one of them. For a community of  
17 seniors to have go to elected lawmakers to  
18 resolve this problem, not the Department of  
19 Assessment who didn't bother to return their  
20 phone call, it's just an extrapolation of the  
21 attitude you're showing today. Which is a  
22 lack of caring of the pain that these  
23 residents are going through.

24 This is the holiday season. These  
25 are seniors who over the course of their lives

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2 have spent hundreds of thousands of dollars  
3 towards Nassau County property taxes. This is  
4 the way they're being treated? This is  
5 outrageous. You should -- Mr. Moog is not  
6 here, I understand that, but he should be  
7 calling these people back, each one of them,  
8 and apologizing for this disaster. These  
9 people have to lay all this money during the  
10 holiday season, most likely have to sacrifice  
11 spending during the holidays as a result of  
12 that on their families and nobody even had the  
13 respect enough to call them back and explain  
14 to them what's going on. They needed to go to  
15 elected lawmakers to resolve this? That's a  
16 disgrace. If there was ever an example of why  
17 we need an elected assessor this is it because  
18 no elected official would treat their  
19 constituents like this. Thank you.

20 LEGISLATOR NICOLELLO: Does  
21 anyone else want to be heard on this? If not,  
22 all in favor signify by saying aye. Those  
23 opposed? Carries unanimously.

24 We're going to untable all of the  
25 items that are on the consent calendar. Those

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2 are calendar numbers 18 through 33, 36, 39  
3 through 50. 50 to 59. Motion to untable by  
4 Minority Leader Abrahams. Seconded by  
5 Legislator Drucker. All in favor of untabling  
6 signify by saying aye. Those opposed? The  
7 matters are untabled.

8 Again, any debate or discussion  
9 among the legislators? Hearing none, all in  
10 favor signify by saying aye. Those opposed?  
11 Carries unanimously.

12 I'm going to jump to calendar item  
13 number 38 which involves the MOU between the  
14 college and the federation of teachers. Let  
15 me find that and I'll call it. 38, Resolution  
16 173 is a resolution ratifying the memorandum  
17 of agreement making certain amendments to the  
18 collective bargaining agreement between the  
19 county of Nassau and Nassau Community College  
20 as joint employers and the Nassau Community  
21 College Federation of Teachers.

22 Moved by Legislator McKeivitt.  
23 Seconded by Legislator Kennedy. So that is  
24 before us and we have somebody from the  
25 college to present? I believe we do.

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2 MR. GROSS: John Gross. I'm  
3 outside counsel to the Nassau Community  
4 College and I will be addressing the proposed  
5 settlement that's before you. I believe also  
6 here is president of the NCCFT, Donna Hope,  
7 and our vice president for finance Julio  
8 Corsic.

9 The negotiations began some time  
10 ago and unfortunately during the course of the  
11 negotiations it became quite apparent to the  
12 college that anticipated tuition revenue was  
13 not going to meet what had been anticipated.  
14 I'm sure, as the legislature knows, there are  
15 three revenue streams, county contribution,  
16 state contribution and the third of course is  
17 tuition.

18 Because of the COVID crisis and  
19 also some history of a decline in enrollment  
20 it became quite apparent during our  
21 negotiations that a typical increase, which  
22 has been running certainly in educational  
23 circles of two percent plus increment, in that  
24 neighborhood, an increment in this instance  
25 cost two percent, I will explain that in a

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2 moment, could not be reached by the college  
3 because of this diminution in tuition  
4 revenue.

5 At the same time while not a  
6 causation of this more circumscribed position,  
7 financial circumscribed position, we also have  
8 the course of threat of state aid reductions.  
9 Although that has not quite yet occurred  
10 pending what happens in Washington with aid to  
11 the states.

12 The primary cause of a change in  
13 our position at the bargaining table was the  
14 recognition of this reduction in student  
15 enrollment and tuition.

16 As a result we had extensive  
17 discussions with the leadership of NCCFT who  
18 were working with us and we focused on a  
19 different financial approach.

20 I mentioned before increment. In  
21 just about every community college in the  
22 state of New York which mimics a bit in what  
23 occurs in K-12 in the school districts  
24 compensation systems, there is an incremental  
25 structure where professors, and in the case of



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2 Nassau Community College everybody is hired at  
3 an instructor rate before they move into the  
4 professorial ranks, they're hired at what  
5 might be considered somewhat depressed  
6 salaries for someone with a master's degree  
7 and/or Ph.D. somewhere in the 70 or \$80,000.  
8 It takes 20 years for them to reach the  
9 maximum step. When step is granted at Nassau  
10 Community College it essentially equates to  
11 approximately two percent of base payroll.

12 While the Nassau Community College  
13 Federation of Teachers contract does not  
14 require automatic payment, that is in the  
15 contract, that is always a critical item of  
16 negotiations. And the college has always been  
17 able to negotiate somewhat limited across the  
18 board increases by reference to that high cost  
19 of two percent.

20 In this instance we discussed with  
21 the association first with a notion that we  
22 would only grant increments. That was not  
23 acceptable because that would leave many of  
24 the senior professors without even a modest  
25 increase. So the agreement we struck to keep

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2 and frankly to reduce by half what could have  
3 been anticipated to be the settlement.

4 What we did was we negotiated an  
5 increase of only one percent for each of two  
6 years but increment only one half of the  
7 increment would be granted. So, in essence,  
8 someone who's in the incremental structure  
9 it's two years to move one step as opposed to  
10 one. That cost us only one percent per  
11 annum.

12 The net result is two percent for  
13 each of two years of the two year contract.  
14 That, in essence, if one assumes and in just  
15 about every year -- and I've represented the  
16 college for quite some time -- every year  
17 increment ultimately is negotiated as part of  
18 the package with an across the board COLA  
19 increase. By approaching it with only half a  
20 step the cost is essentially the same as  
21 merely granting increment with no COLA.

22 In essence, the persons within the  
23 incremental structure they're getting only one  
24 half of a step. Giving up step for two years  
25 gives us some flexibility then to give the

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2 more senior professors who are on top step a  
3 one percent increase.

4 We were very pleased with the  
5 cooperation of the association. They fully  
6 recognized the financial extremist which  
7 continues. We're still now negotiating other  
8 issues regarding potential layoffs and  
9 alternatives to layoffs. But we were very  
10 pleased to achieve this.

11 At the same time there are several  
12 items that we did obtain by way of what one  
13 might characterize as traditional employer  
14 concessions. Concessions to the employer.  
15 One is the attendance law requires that any  
16 change in attendance reporting is a fully  
17 negotiable item. The county has switched to a  
18 different recordation system which may not  
19 sound to be very important but it is and the  
20 association has agreed to shift to that new  
21 one.

22 Secondly, with the advent of COVID  
23 and various health-related issues that are  
24 prevalent every day now at the college, per  
25 contract only permits the college to require a

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2 sick note after 20 consecutive days. That has  
3 now been reduced to five.

4 Very important because we have  
5 moved now to remote instruction there's an  
6 obligation of any employer to make certain  
7 that the quality of instruction offered by  
8 faculty is up to par. Also is an obligation  
9 of the employer in terms of promotional  
10 situations. Make sure that accurate  
11 evaluations occur of the staff.

12 You can understand that moving to a  
13 remote setting presents enormous difficulties  
14 as opposed to a department chairperson opening  
15 a door and observing a class. We've worked  
16 out a procedure that will permit utilization  
17 of observation based on remote attendance.  
18 There's a process that we've worked out.  
19 Advanced notice. If there's a deficiency in  
20 the actual remote observation then we are  
21 permitted even to do drop observations  
22 remote. So that was a concession.

23 Next item, there are two cohorts  
24 within the faculty union. One is the  
25 classroom faculty. We're all familiar with

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2 having -- those of us who have had the  
3 privilege of attending college and being  
4 taught by professors. But we also have a very  
5 large cohort of nonclassroom faculty. Who,  
6 for example, counseling faculty, students.  
7 And then there are other groups within that  
8 classification.

9 But some of them the college sought  
10 to establish criteria for promotions as  
11 opposed to them being automatic which they  
12 currently are and the association has agreed  
13 to the establishment a committee to come up  
14 with that appropriate criteria for those  
15 promotions. So that is done on a much more  
16 subjective albeit formed basis relative to  
17 performance as opposed to mere service.

18 We have another program called the  
19 Link program, which is a second language  
20 intensive program. With the advent of COVID  
21 and the lack of travel and attendance by many  
22 of the instructors who are in that special  
23 program, both sides have agreed to form a  
24 committee to review the viability of the  
25 program.

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2 Finally, we have to establish a  
3 certain number of what are called temporary  
4 lines which back up absences by, long-term  
5 absences, or other needs of the college.  
6 Right now when somebody gets appointed to a  
7 temporary line, and it's a seven year period  
8 roughly, you get to professorship so to  
9 speak. Right now service in the temporary  
10 line counts towards the acquisition of service  
11 credit towards tenure.

12 Because of the uncertain nature of  
13 funding, forgive me for characterizing it as  
14 funding, due to the difficulties we are  
15 anticipating relative to revenue stream from  
16 students' tuition the union has agreed that  
17 any of the temporary lines that we do this  
18 year, which are approximately 15 and are  
19 needed, will only be one year and will not  
20 have that additional problematic obligation of  
21 having that count towards the acquisition of  
22 permanent status. That is --

23 LEGISLATOR NICOLELLO: You have  
24 giving a lot of information to the  
25 legislators. Thank you for the comprehensive

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2   presentation. Maybe we'll just now turn it  
3   over to the legislators for any questions they  
4   may have. Is that okay? Anyone have any  
5   questions for Mr. Gross? I think you've  
6   covered everything. I don't know if anyone  
7   else from the college would want to add  
8   anything? I think the legislators have as  
9   much information as we need.

10                   It does appear to be an excellent  
11   contract for the college and the numbers are  
12   very impressive in terms of the wage increases  
13   and the step increases. I think those  
14   obviously are the two major things we look  
15   at. I know Legislator Drucker did you want to  
16   add anything? I know you served on the board  
17   at one time.

18                   LEGISLATOR DRUCKER:     No. I  
19   wholeheartedly echo your statements Presiding  
20   Officer.

21                   LEGISLATOR NICOLELLO:     Thank you  
22   John. Any other debate or discussion from the  
23   legislators? Mr. Budnick, there's no public  
24   comment on items. So if you can save your  
25   comments until after the meeting we will

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2 invite you back up. Thank you. No.

3 Basically no.

4 MR. BUDNICK: It's terrible  
5 because it's not doing anything to find out  
6 how much more it's going to cost the  
7 students.

8 LEGISLATOR NICOLELLO: Thank  
9 you. Anyway, any further debate or  
10 discussion? All in favor of the item signify  
11 by saying aye. Those opposed? Carries  
12 unanimously. Thank you very much for the  
13 presentation.

14 MR. GROSS: Thank you.

15 LEGISLATOR NICOLELLO: Next item  
16 I'm going to call is calendar number 65.  
17 Sorry for jumping around. We will get back to  
18 the beginning of the calendar in a moment.

19 65 is Resolution 200. It is a  
20 resolution directing the Nassau County  
21 Department of Health to comply with the New  
22 York State Department of Health interim  
23 guidance on mandatory COVID-19 testing in  
24 public and nonpublic schools located in areas  
25 designated as yellow zones under New York



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2     State Cluster Action Initiative as issued on  
3     October 9, 2020 and updated November 12,  
4     2020.

5                   That is moved by Legislator  
6     Ferretti. Seconded by Legislator Rhoads.

7                   Our commissioner, Dr. Eisenstein,  
8     is here. I don't know if he wanted to say a  
9     few words about this. We had an extensive  
10    briefing with Dr. Eisenstein in our caucus  
11    with respect to this initiative and certain  
12    issues that are there with respect to them.

13                  DR. EISENSTEIN:     Good afternoon  
14    legislators. It's nice to see you all. Jerry  
15    Giuliano, Nassau County public health attorney  
16    with me.

17                  Thank you for the opportunity to  
18    brief you earlier. I want to say that we are  
19    very proud of the work that we've done at the  
20    health department with our school districts.  
21    We've had so many superintendent calls,  
22    principal calls. We have been able to keep  
23    our schools mostly open since the start of the  
24    school year.

25                  If a school zone were to become

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2 yellow they do have a requirement to test 20  
3 percent of their students within two weeks.  
4 We've discussed this situation with many of  
5 our superintendents. There are numerous  
6 different ways that they can go about  
7 achieving the testing and we've helped them go  
8 through the options. We don't know how many  
9 school districts may become yellow at any  
10 time.

11 I'm happy to say that during this  
12 proceeding Governor Cuomo came out with new  
13 zones and there were none in Nassau County.  
14 So for this week it doesn't look like there's  
15 any new yellow zones. That was as of about  
16 ten minutes ago. But that's good news for  
17 us.

18 We are concerned and I want to  
19 share the concerns. We are the only  
20 non-Article 28 health department in New York  
21 State. We are a clinical health department  
22 because in 1998 our clinics were contracted to  
23 then Nassau County Medical Center. And as  
24 such, we are not allowed to do diagnostic  
25 treatment. Which leaves us in the situation

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2 where I am the only full-time physician at the  
3 health department. We have nurses who do  
4 communicable disease and a few nurses doing  
5 other disease control things such as lead  
6 prevention. But we are not equipped to take  
7 on clinical oversight in any kind of large  
8 scale whatsoever.

9 We feel that we have communicated  
10 with our school districts any time they have  
11 reached out. I myself have spoken with many  
12 superintendents. I have a team led by Dr.  
13 Tavora Buckman who have worked seven days a  
14 week. She and I very often are on the phone  
15 10, 11, 12 o'clock at night, even on the  
16 weekends, trying to help schools make a smart  
17 decision and protect the students and the  
18 faculty.

19 The situation is that schools have  
20 the option of applying for and acquiring their  
21 own limited services laboratories -- LSL as  
22 it's written -- permit. So let me be clear  
23 because the naming is a little confusing.  
24 Being an LSL, limited service laboratory, does  
25 not mean you are a lab. In fact, what this is

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2 is this is a permission, a permit to do  
3 testing without a lab. And there's only  
4 certain tests that are allowed. Those little  
5 tests that can happen outside of a lab where  
6 it's just a swab or another thing and maybe  
7 there's one stripe for yes positive or two for  
8 negative or something like that.

9 We do have a limited services  
10 laboratory. We use it for two tests. One is  
11 for HIV swabs if people were to come to our  
12 office. Although most people go to the STD  
13 clinics that are contracted to NUMC.

14 As you know, we have WIC centers.  
15 In order for a women to be enrolled as a WIC  
16 member we have to follow their serum iron  
17 levels. So we do finger sticks just in the  
18 little kit. So you don't need a laboratory  
19 for that.

20 Every school district is required  
21 to have a medical director. Every medical  
22 director can apply for their own permit to do  
23 this testing in the schools. The permit  
24 process is not complicated and it does require  
25 a \$200 check.

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2 I can tell you we work with a few  
3 of our school districts, including Wantagh and  
4 Island Trees, who have secured their own to do  
5 the testing on their own. They will have  
6 oversight of it. They have relationships with  
7 their parents. Any school district can do  
8 this. And in helping our school districts,  
9 which is what the main purpose of the  
10 executive order was for local health  
11 departments to help school districts, I called  
12 New York State Department of Health, explained  
13 the situation. It's about a two-week  
14 turnaround time to get these limited service  
15 laboratory permits done. But they assured me  
16 that if a school district were to turn yellow  
17 they would put them at the front of the line  
18 and get it done within a day. Which would  
19 still leave 13 days for them to do the  
20 testing.

21 We are able to provide kits free of  
22 charge, the testing supplies, free of charge  
23 to any school that asks. We have stood up  
24 numerous testing sites all around the county,  
25 including the one that's on Community Drive,

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2 including the one in the Five Towns which is  
3 relocated for the winter because of weather  
4 concerns with the equipment to a heated tent  
5 on the grounds of South Nassau Hospital.

6 I'm happy to say that we are  
7 hopefully going to be announcing many more  
8 sites in the next few days. I'm just waiting  
9 for the final contractual pieces. So that  
10 there will be geographic locations for people  
11 to get to free testing basically across the  
12 county. And we've asked our hospitals to  
13 expand what they're doing with that and many  
14 of our hospitals have agreed and we're in the  
15 process of expanding sites.

16 We feel in the spirit of this we  
17 have done everything we can to help the  
18 schools get through this. We've coached them  
19 on how to get their own testing ability.  
20 We've stood up testing sites. On Friday  
21 19,000 test results were recorded in one day  
22 in Nassau County residents. That's about one  
23 and a half percent of the entire county in one  
24 day. We feel that there is adequate testing  
25 availability. There are very few places in

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2 the world that have that kind of rate of  
3 testing available.

4 And most importantly, as a  
5 nonclinical health department we couldn't go  
6 into a school and take over the process. The  
7 owner of the LSL is responsible. The  
8 responsibility is not just to have that permit  
9 and say to whatever entity it is, a school or  
10 any other place, okay, you can use our LSL,  
11 go. There is a responsibility when you are  
12 the owner -- and in this case it's under my  
13 own personal medical license -- there is a  
14 responsibility and the county of course, as  
15 your health commissioner, there is a  
16 responsibility for the schools -- for whoever  
17 owns the LSL from start to finish on the  
18 process. That includes obtaining an informed  
19 consent. That includes making sure that  
20 training is adequate. Making sure that the  
21 testing is being done in a quality manner.  
22 Making sure that all the test results are  
23 submitted into the state system -- which is a  
24 large clerical amount of work -- in a  
25 reasonable amount of time.

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2 If we even had two or three school  
3 districts go yellow, which could be six,  
4 eight, ten schools in each, that  
5 responsibility of overseeing that testing, if  
6 this resolution passes, would be fully under  
7 the department of health. We don't have the  
8 resources to do that. I'm the only doctor.  
9 There's no way I could oversee this in eight,  
10 ten, 12, 14 different schools.

11 And we work very hard to help with  
12 alternatives. We don't feel that we've hung  
13 any of our school districts out. A few  
14 superintendents who've reached out to me, I've  
15 worked with them, we've come up with solutions  
16 and I'm willing to do that with any school  
17 district.

18 We've asked in some cases hospital  
19 partners to help. They've been willing.  
20 We've helped people get -- and school  
21 districts have come up with other solutions.  
22 In some school districts they said we're going  
23 to tell the parents it's on them because many  
24 parents, not all of them, many parents  
25 indicated they would be more comfortable with



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2 their own pediatrician if they have to do it.  
3 That's what some school districts are doing,  
4 saying to parents you have to get your kids  
5 tested and bring us the result.

6 There's so many different ways this  
7 can be done and we want you to know that we  
8 have worked around the clock to help our  
9 schools. We've been incredibly supportive of  
10 our schools. We have a great relationship  
11 with our schools. So many of our  
12 superintendents and our staff, I have eight  
13 people working as school liaisons every day  
14 lead by Dr. Buckman. The feedback I'm getting  
15 from schools is incredible. We just don't  
16 want to be in a position where we can't meet  
17 what you're asking us to do. That's our  
18 feeling on this.

19 I know there was a rumor that I've  
20 heard a couple of superintendents brought up  
21 that I want to address. That we're the only  
22 county not doing this. That is absolutely not  
23 true. There are many other counties in the  
24 state that have mandated other ways of doing  
25 it or have chosen not to do it.

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2 What is true is that we are the  
3 only nonclinical one. There isn't even a  
4 staff I could pull from a clinic to send them  
5 to a school. That doesn't exist. I'm the  
6 only doctor.

7 Lastly, as you know, vaccination  
8 hopefully will be starting in the very near  
9 future for beyond hospitals which started  
10 today thankfully. Between testing and  
11 focusing on making sure we can as many people  
12 vaccinated as quickly as possible that's  
13 really where our focus is. So, we are  
14 concerned -- any time you've given us an ask  
15 or regulation we've done everything we can to  
16 comply and we've always done it well. This is  
17 just one that we don't want to be in a  
18 position where we couldn't succeed. That's my  
19 concern.

20 LEGISLATOR NICOLELLO: Let me  
21 just say in response, the requirements with  
22 respect to the LSL and the school districts  
23 came in a guidance from the state. As with  
24 much of the guidance that we have been getting  
25 from the governor's office they're not crystal

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2 clear let's put it that way. Either there's  
3 some vagaries, some gray areas. Sometimes  
4 it's difficult to operate with that. Trying  
5 to do what's required and what's allowed but  
6 there are questions that are asked.

7 Your comment that there are now no  
8 yellow zones in the Nassau County as of this  
9 week combined with the fact that schools are  
10 breaking early next week means that this is  
11 really not an issue that has to be addressed  
12 at this point. I think what we're going to  
13 seek from the state is some clarification on  
14 this issue. Of course, all your concerns with  
15 respect to being a medical doctor, holding the  
16 LSL and the county not being a -- having a  
17 clinical practice we understand. So we are  
18 going to try to work this out. Legislator  
19 Ferretti.

20 LEGISLATOR FERRETTI: Thank you  
21 Rich. Dr. Eisenstein, I see Jerry back there  
22 too. I want to just thank you for all of your  
23 hard work throughout this pandemic. You and  
24 your staff, Dr. Eisenstein, have been  
25 exemplary. You've been there for us. We call

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2 you 24 hours a day. I know you're working 24  
3 hours a day and doing a great job. Thank you  
4 both.

5 With this issue in particular, you  
6 indicated you're the only doctor in the county  
7 but we do have NUMC as well, correct? Their  
8 doctors there they could be contracted in  
9 order to fulfill this requirement, right?

10 DR. EISENSTEIN: Absolutely. And  
11 some school districts have contracted with  
12 other hospitals in order to fulfill this, yes.

13 LEGISLATOR FERRETTI: In terms of  
14 the LSL license, could we use NUMC doctors --  
15 if we were to give the LSL license could we  
16 use the NUMC doctors to expand the amount of  
17 doctors that we have in the county overseeing  
18 the testing?

19 DR. EISENSTEIN: I'll ask the  
20 lawyer I don't know the answer.

21 MR. GIULIANO: Gerald Giuliano,  
22 attorney Nassau County Department of Health.  
23 I think the answer to that is since they  
24 already have a lab license any work that they  
25 do from the hospital would happen under their

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2 lab license.

3 LEGISLATOR FERRETTI: Is that a  
4 yes or no?

5 MR. GIULIANO: I believe they  
6 would have to use their lab license. I do not  
7 believe they could use our lab license. They  
8 would have to use their own.

9 DR. EISENSTEIN: But they could  
10 do that, they could use their own if a school  
11 district were to set that arrangement up.

12 LEGISLATOR FERRETTI: Now, I  
13 know, Dr. Eisenstein, I believe you had asked  
14 for an opinion on this from the county  
15 attorney. Have you gotten any opinion in  
16 terms of --

17 MR. GIULIANO: Of course I would  
18 always defer any legal opinion for this county  
19 to the county attorney. We don't have a  
20 specific legal opinion that's been issued on  
21 this. However, it's been discussed amongst  
22 many county attorneys from the point of view  
23 that this information came down in guidance, a  
24 guidance document. It didn't come down in  
25 state law. It didn't come down in a state

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2 executive order. It came down as general  
3 guidance. It came as a great surprise.

4 And within two days after it came  
5 down an additional addendum came down from the  
6 state on the same issue where it seemed to  
7 walk that language back. Spoke about what  
8 local health departments could do to assist.  
9 It gave a website at the state for schools to  
10 go to if they needed to find a partner. But  
11 it took out that language which had appeared  
12 earlier in guidance.

13 It's also my legal opinion that any  
14 requirement such as a mandate in a piece of  
15 guidance is not holding. It's not a mandate  
16 upon a local health department. But that  
17 guidance looks like it's been walked back by  
18 the state already in subsequent guidance  
19 that's come down.

20 LEGISLATOR FERRETTI: I know, Dr.  
21 Eisenstein, you spoke about some of the other  
22 options that schools have such as sending the  
23 parents to have their kids tested or get their  
24 own LSL license, and I think that that's part  
25 of the concern that I have in that those other

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2 options, although they are there in the  
3 guidance, I read the guidance, I saw that  
4 those were other options I don't think that  
5 they are always practical.

6 For example, I have a three year  
7 old and an eight year old. My understanding  
8 is if I was told to go get them tested it  
9 would be very difficult for me to keep them in  
10 line at City MD for three hours and a half  
11 hours in the rain all with the happy ending of  
12 getting a Q-tip up their nose. I don't know  
13 that that's a practical option. And I know  
14 that the superintendents that I spoke that  
15 option wasn't really one that most of them  
16 were considering.

17 And just to be clear, I respect  
18 your opinion Mr. Giuliano that guidance is  
19 guidance, it's not an executive order. But  
20 just going to what something the presiding  
21 officer said in that it's not always crystal  
22 clear this guidance coming down from the  
23 governor, this did seem to be pretty clear.  
24 It explicitly said -- it didn't give any  
25 latitude -- the county was required to give

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2 the ability to schools to use the LSL unless,  
3 quote, unable to do so. That doesn't seem  
4 fuzzy to me. It seems pretty clear.

5 DR. EISENSTEIN: But the next  
6 sentence also says "unless unable to do so."  
7 Then there was a comment that followed up -- I  
8 don't have it in front of me -- about  
9 assisting them with community partners.  
10 That's what we've done by standing up so many  
11 different sites. I do think that we are  
12 unable to do so. To allow them to have it  
13 would put the burden of making sure that it's  
14 being done safely and appropriately on us and  
15 we don't have the staff for that capacity.

16 LEGISLATOR FERRETTI: The  
17 problem, Dr. Eisenstein, from my perspective,  
18 the guidance contemplates that option within  
19 the guidance. If you take that option away  
20 the question is then well, would you then  
21 change the guidance elsewhere because that  
22 option no longer exists? Obviously our chief  
23 concern here, all of us, is to keep people  
24 safe. One of my top concerns and I'm sure I  
25 share the same thing with a lot of the



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2 legislators up here is to keep in-school  
3 education option open. We need to do that.

4 DR. EISENSTEIN: I fully agree.  
5 My staff has worked around the clock toward  
6 that. We are in agreement, absolutely.  
7 Certainly other counties have handled it very  
8 differently and school districts have all felt  
9 very differently about it. As I have spoken  
10 to superintendents, each of them has a school  
11 board with different view on it and different  
12 ways of handling it. I've heard so many  
13 differing opinions on it and my concern simple  
14 is I just want the opportunity to be  
15 successful with whatever we're given and I'm  
16 concerned about it in this case.

17 LEGISLATOR FERRETTI: Thank you  
18 again both of you for all the work you've put  
19 in.

20 DR. EISENSTEIN: Thank you for  
21 the consideration and the time to discuss  
22 this.

23 LEGISLATOR NICOLELLO: Legislator  
24 DeRiggi-Whitton.

25 LEGISLATOR DERIGGI-WHITTON: Dr.

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2 Eisenstein just a quick question. I know you  
3 said we have plenty of kits. If a school  
4 district gets a kit and then they send it to  
5 get the result is there a cost involved at  
6 that point?

7 DR. EISENSTEIN: The kits that we  
8 have give you an answer on the spot in a few  
9 minutes. If a school district had their own  
10 LSL under their medical director then the  
11 school nurse or whoever in the building was  
12 trained to do the testing would do it, the  
13 results would be done in five minutes, ten  
14 minutes and it's right there and it's a swab.  
15 So there's no laboratory involvement.

16 And the test kits themselves from  
17 the state I can give to whatever school would  
18 request it. As we have to some of our stand  
19 up testing sites to help control the cost of  
20 testing. So like as we're working on a new  
21 contract with our FQHC we're going to be  
22 providing tests for free so that we don't have  
23 to pay for that because we have them.

24 LEGISLATOR DERIGGI-WHITTON:  
25 That's terrific. In other words, other than

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2 applying for the special permit and the fee  
3 there shouldn't be any other cost to the  
4 school district; is that correct?

5 DR. EISENSTEIN: Just the cost of  
6 doing the work. The time to upload the data.  
7 The time to do the swabs. Then they do have  
8 send -- they just have put the percentage of  
9 results into the state dashboard so that the  
10 state knows the results. If they're under 20  
11 percent, if a school district turns yellow and  
12 they do testing and they're under the  
13 percentage of the community at large it's a  
14 one-time deal. So far, I think as of last  
15 week, every single school district in the  
16 state the school testing had been under the  
17 community at large. Hopefully it would be,  
18 whatever method they choose, it would be a  
19 one-time deal.

20 LEGISLATOR DERIGGI-WHITTON:

21 Thank you.

22 LEGISLATOR NICOLELLO: Any other  
23 legislators? Legislator Rhoads.

24 LEGISLATOR RHOADS: Dr.  
25 Eisenstein again I want to echo Legislator

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2 Ferretti's comments and what a wonderful job  
3 our health department has done. It's been  
4 outstanding. The information we have received  
5 has been timely, accurate and has been  
6 refreshing from some of the information that  
7 we hear in media outlets and sometimes from  
8 other elected officials in other levels of  
9 government.

10 I want to be sure that I understand  
11 what the issues are though with respect to  
12 this particular piece of legislation. It  
13 seems as though obviously one of the concerns  
14 is individual liability, correct?

15 DR. EISENSTEIN: That's one of  
16 the concerns, yes.

17 LEGISLATOR RHOADS: The other  
18 concern is logistics but it seems as though  
19 under logistics if we did have a contract with  
20 an outside vendor that would take care of the  
21 logistics part of it, correct?

22 DR. EISENSTEIN: If the outside  
23 vendor was able to appropriately oversee the  
24 process, yes.

25 LEGISLATOR RHOADS: So, in terms

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2 of -- you had indicated I believe you had  
3 conversations with about 50 of the 56 school  
4 districts?

5 DR. EISENSTEIN: I don't myself  
6 but my staff has spoken to most of them.

7 LEGISLATOR RHOADS: Is it  
8 possible to compile for us -- can we identify  
9 the districts with which we don't have a  
10 plan?

11 DR. EISENSTEIN: Each school is  
12 doing it on their own. When we say we speak  
13 to them some of them just consult with us and  
14 come up with there own plan. I don't know  
15 what each of them is doing but we certainly  
16 can ask through BOCES are there any that don't  
17 have a plan and I can compile that. I know  
18 when this issue was brought to you I don't  
19 know upfront who the specific school districts  
20 are. So I could ask around sure, absolutely.

21 LEGISLATOR RHOADS: Because the  
22 one concern, as Legislator Ferretti mentioned,  
23 is that we want to make sure that one, kids  
24 are safe but two, kids continue to learn in  
25 school.

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2 DR. EISENSTEIN: I fully support  
3 that 100 percent.

4 LEGISLATOR RHOADS: Which I know  
5 that you do. The purpose for this legislation  
6 is to make it easier for school districts to  
7 have available to them, as the guidance  
8 suggested, the option of the county's LDL in  
9 order for them to be able to accomplish the  
10 testing requirements that the governor has  
11 established, right?

12 That's guidance. The guidance is  
13 the LDL. One thing that isn't guidance and  
14 actually is part of the executive order is the  
15 fact that they have to test if they're in a  
16 yellow zone, right? So we know there is an  
17 identifiable problem. There's is an absolute  
18 requirement that they have to do testing. And  
19 then guidance on what the best way to do that  
20 might be. We just want to make sure that  
21 we're part of the solution which I know you  
22 want to be part of the solution as well,  
23 right?

24 DR. EISENSTEIN: Absolutely.

25 LEGISLATOR RHOADS: Perhaps what

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2 we can do isn't necessarily scuttling this  
3 legislation or even major revisions to  
4 legislation. I think there's a benefit to it  
5 as an option for school districts to use as a  
6 last resort. You seem to be confident that if  
7 you were able identify the remaining districts  
8 that don't already have a plan then we can  
9 work on a plan with them so that this might be  
10 almost academic and would be that last resort.

11 DR. EISENSTEIN: Yes. We've  
12 tried to do that. And, for example, I don't  
13 know why a school district, and I haven't  
14 spoken to each of them so they may have a  
15 reason that I don't know, but I don't know why  
16 a school district wouldn't just apply for  
17 their own and oversee their own LSL and  
18 oversee their own process. But by all means  
19 I'm open and amenable to anything that helps  
20 them stay open.

21 LEGISLATOR RHOADS: If there were  
22 a scenario where a school district had no  
23 other option, and I can't conceive of one and  
24 it sounds as though at this point you can't  
25 conceive of one either, but if it was possible

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2 that a district had no other option the  
3 county's LDL could be a fail safe for them,  
4 right?

5 DR. EISENSTEIN: It could. Of  
6 course we would want to make sure that the  
7 proper protective measures would be in place  
8 before we would allow that. But could it,  
9 sure.

10 LEGISLATOR RHOADS: And there are  
11 ways that we can work around some of the other  
12 issues that you've identified with respect to  
13 staffing and even with respect to potential  
14 liability, right?

15 DR. EISENSTEIN: The liability  
16 piece I would leave up to Jerry and the county  
17 attorney. As far as staffing, if you're  
18 referring to say contracting somebody then by  
19 all means, sure.

20 LEGISLATOR RHOADS: By the way,  
21 to your knowledge, has anybody from the  
22 administration reached out to the governor's  
23 office? Because the governor obviously  
24 through his executive orders has exempted  
25 hospitals, has exempted nursing homes with



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2 respect to liability as it pertains to COVID.  
3 Has anyone from the administration reached out  
4 to the governor's office specifically with  
5 respect to this issue and whether you can be  
6 insulated as the holder of that license?  
7 Where you be insulated for potential liability  
8 as well.

9 DR. EISENSTEIN: I don't know  
10 about anybody from the administration speaking  
11 to the governor's office but I will tell you,  
12 you know, many health commissioners and  
13 directors through the state have discussed  
14 this with the state health department which is  
15 my chain up the line and many county health  
16 departments feel in a similar position. But  
17 to answer your question, I don't know the  
18 answer to your specific question.

19 LEGISLATOR RHOADS: Really I'm  
20 asking the question as a suggestion perhaps  
21 that the county executive and the executive's  
22 office perhaps reach up to Albany and speak to  
23 the governor's people and see if that's  
24 something that can be done. Because I don't  
25 want that to be what's standing in the way

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2 between people being able to send their kids  
3 to school where we know students learn best.

4 DR. EISENSTEIN: I do want to  
5 just clarify and correct one thing. There is  
6 the governor's regional control call to have  
7 raised the issue on it. So hopefully  
8 that's not-- I don't know if that matches what  
9 you're saying. But our concern as the health  
10 department we're not the only one. Most  
11 health departments feel the same way. And we  
12 have certainly expressed this through various  
13 channels.

14 LEGISLATOR RHOADS: We just want  
15 to see if we can get to top of the food chain  
16 on it and get a decision on it sooner rather  
17 than later. It might require a phone call  
18 from the county executive or somebody on the  
19 county executive's staff up to somebody in the  
20 governor's office to get them that. Thank  
21 you.

22 LEGISLATOR NICOLELLO: Legislator  
23 Bynoe.

24 LEGISLATOR BYNOE: Thank you  
25 Presiding Officer. Good afternoon

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2 Commissioner. I'd first like to echo the  
3 sentiments of Legislator Ferretti and Rhoads  
4 in thanking you for all that you have been  
5 doing throughout the pandemic. I know  
6 personally myself I've reached out to you on  
7 weekends. We've been on the phone as late as  
8 like almost 10 o'clock on a Sunday night. I  
9 really appreciate that. It was centered  
10 around questions for the school district. So,  
11 I just have a couple of questions because you  
12 have talked about this extensively.

13 The county has created some kind of  
14 relationships between other entities to  
15 supplement whatever the school would have in  
16 place, am I correct? Like by way of the  
17 Catholic Health Centers. Could you talk a  
18 little bit about that?

19 DR. EISENSTEIN: We've stood up  
20 numerous sites. Northwell is a partner. They  
21 have a test site opening on Community Drive  
22 that originally started a little bit further  
23 north in Great Neck on the school grounds but  
24 because of traffic and other concerns it moved  
25 a little bit down.

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2 South Nassau has been a contracted  
3 partner from the Five Towns way back when they  
4 were the only color zone that we had. It was  
5 orange and yellow at the time. That has  
6 relocated and continued through -- terms have  
7 changed and pieces have changed but they still  
8 are up and running the site. We send them  
9 test kits. That is in a heated tent so the  
10 technology can stay useful on the  
11 drive-through, it's fascinating, on the  
12 grounds of South Nassau.

13 If you remember when we were in the  
14 peak we started testing sites in the FQHCs and  
15 I'm happy to say we're working on extending  
16 that and expanding it so that schools in the  
17 areas would have access to free testing.  
18 We're working even on -- we're not ready to  
19 reveal all the details but things like making  
20 sure it's open in the evening when parents can  
21 take kids is an important piece. We are  
22 continuing that and on weekends as well.

23 County Executive Curran hosted a  
24 call with hospital CEOs asking for an increase  
25 presence and help and we certainly have more

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2 that we will be announcing soon. They have  
3 been very responsive. Our hospitals have been  
4 great partners. They understand the position  
5 we're in. I just don't want to say anything  
6 while we are still negotiating before it comes  
7 out. You will be hearing of more sites that  
8 the county is partnering with. We have gotten  
9 great response so far with our partners and  
10 being willing to do this. And this has worked  
11 and it requires people and I'm very grateful  
12 that they have all been able to participate.

13 LEGISLATOR BYNOE: Thank you. So  
14 the FQHC we already know that if you go there  
15 they don't ask you about insurance. If you  
16 have it you present it. They can charge it.  
17 But if you don't then it's no problem. They  
18 don't ask you about immigration status and the  
19 like. What about when you go to the one of  
20 the Catholic Hospital Centers in terms of  
21 insurance?

22 DR. EISENSTEIN: Anything that we  
23 are partnering in, that we have a piece of  
24 providing test kits or paying for it all, part  
25 of the deal is there is no charge.

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2 LEGISLATOR BYNOE: None

3 whatsoever?

4 DR. EISENSTEIN: None

5 whatsoever. There may be partners who we just  
6 say there's a site that's open, they'll take  
7 insurance if you have it. But we're not going  
8 to be involved in anything that people are  
9 going to have to be charged in order to  
10 participate. We feel strongly about that and  
11 there is no charge at any of the sites that we  
12 are contractually partnering with at all.

13 LEGISLATOR BYNOE: A school  
14 district that has to test upwards of 1200 kids  
15 they could potentially do some of the testing  
16 in the school. It could be a hybrid approach  
17 where they do some of the testing and then  
18 some might go to their own pediatrician or the  
19 like and then some might take advantage of  
20 some of the sites that we will make them aware  
21 of, correct?

22 DR. EISENSTEIN: Correct. And  
23 the 20 percent is not only students. It  
24 includes the faculty and all other employees.  
25 It's 20 percent of people and however they get

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2 the testing done as long as the school  
3 district meets that 20 percent of the  
4 population that satisfies the requirement.

5 LEGISLATOR BYNOE: In terms of  
6 malpractice insurance, can the county get you  
7 additional -- because I know we're still going  
8 to offer this, right? From what I understood,  
9 we'd still be offering this with some  
10 provision that the school district would do an  
11 indemnification I guess to protect the county  
12 and protect your license, right?

13 DR. EISENSTEIN: Yes. And  
14 certainly when I came to the county from  
15 clinical practice there was -- and we're a  
16 nonclinical health department -- there was no  
17 reason for me to maintain my outside clinical  
18 malpractice insurance. Personally I don't  
19 want to take too much time up on this.  
20 Certainly we would probably need to do that  
21 and could. But my concern is even if there's  
22 a settlement and I'm financially secured, I'm  
23 still going to be the doctor named on anything  
24 that's called. And even if there's a  
25 settlement that's going to be on my license

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2 even if I didn't pay anything for it. But I  
3 don't want to get into my personal concerns.  
4 That's not what's guiding it.

5 LEGISLATOR BYNOE: I appreciate  
6 the answer. I'm just talking about  
7 malpractice. I wanted to tie that up.

8 I just have one other question.  
9 Are other departments of health in the region  
10 similarly situated as we are in terms of only  
11 having one doctor?

12 DR. EISENSTEIN: We're the only  
13 nonclinical health department. The answer is  
14 no. Most of them have clinical programs so  
15 they have full medical teams. But even in  
16 some of those counties, including Orange and  
17 Rockland and some of the other larger ones,  
18 they've taken the same position that this is  
19 not something that they feel their health  
20 department can do. Especially as we're now  
21 refocusing into -- we're going to soon have to  
22 be seeing that there is adequate testing and  
23 adequate vaccination going on at the same  
24 time.

25 But as Legislator Nicoletto said,



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2 there are no new yellow zones in Nassau. So  
3 thankfully, we have a few days to sort it all  
4 out at least. Hopefully more.

5 LEGISLATOR BYNOE: Thank you very  
6 much.

7 LEGISLATOR NICOLELLO: Any other  
8 legislators? Legislator Walker.

9 LEGISLATOR WALKER: Dr.  
10 Eisenstein, thank you again. I know it's been  
11 said by many of the legislators and I know we  
12 all feel that way. You have been wonderful,  
13 your entire department. You've worked  
14 tirelessly and again on this issue you  
15 answered many questions, taken many phone  
16 calls.

17 I think at this time I'm going to  
18 ask that we table this and seek to reach out  
19 to those school districts that might not have  
20 a plan yet and see, as we move forward, the  
21 direction that we definitely need to go in and  
22 perhaps get some additional answers from the  
23 state. And hopefully we don't go into the  
24 yellow zone at all and some of our schools  
25 will be closing even as of going full remote

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2 as of next week. It will give us some time,  
3 and I'm sure it will take some worries off of  
4 you personally.

5 And I know you work for us in the  
6 department and you take that job very  
7 seriously, but your medical license certainly  
8 is very, very important too. And it's  
9 Hanukkah and Christmastime and you don't need  
10 to be worrying about that on top of all the  
11 other worries that we have to worry about  
12 right now. So I'm going to motion that we do  
13 table this.

14 LEGISLATOR NICOLELLO: That  
15 motion to table is seconded by Deputy  
16 Presiding Officer Kopel. No debate or  
17 discussion on the motion to table. All in  
18 favor signify by saying aye. Those opposed?  
19 Okay. The item is tabled by a vote of 17  
20 votes to table, two votes against by  
21 Legislators Rhoads and Ferretti. Thank you  
22 Dr. Eisenstein.

23 DR. EISENSTEIN: Thank you and if  
24 there's any specific scenario with school  
25 superintendents that you would like me to

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2 contact just reach out to me. I'd be happy to  
3 do it.

4 LEGISLATOR NICOLELLO: Just real  
5 quickly. You mentioned this in our caucus.  
6 In terms of the vaccine, I know that we've  
7 gotten small amounts. So, some of the first  
8 responders are contacting us now and want to  
9 know what to expect in the next few weeks or  
10 next few days.

11 DR. EISENSTEIN: The formal long  
12 term guidance is not out. But what I can tell  
13 you that I know is, some hospitals have  
14 started receiving shipments. The very first  
15 group to be vaccinated will be front line  
16 hospital workers. And the state gave the  
17 hospitals the definition of what that is.  
18 It's not every hospital worker. It's people  
19 in emergency rooms, doctors, nurses,  
20 laboratory techs, radiation, phlebotomists.  
21 Anybody that might be in that facility and are  
22 around patients that's going to be the very  
23 first group with the first very limited  
24 doses. We're very hopeful that by the end of  
25 this week the second product, the Moderna

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2 vaccine, will also be approved and that will  
3 increase the number of vaccines.

4 We anticipate -- New York State has  
5 announced that they opted into the federal  
6 vaccination program of nursing homes. And  
7 that is by opting in some of our chain  
8 pharmacies, including CVS and Walgreens that  
9 I'm aware of, will be going to the nursing  
10 homes directly. This isn't going to happen  
11 this week. I don't think there's enough  
12 vaccine yet but maybe as early as next week.  
13 And they will be vaccinating in the nursing  
14 homes patients and staff. Those are the  
15 immediate first two groups with EMS also in  
16 group one to be followed as soon as there is  
17 adequate supply but that's my guess. I  
18 haven't heard that formally. I'm guessing.  
19 That's what makes sense. We've heard over and  
20 over that EMS will be in phase one.

21 So even though hospital workers and  
22 nursing homes and EMS responders are phase one  
23 there's still very limited supply. So they  
24 have created such groups. And just the fact  
25 that people are being vaccinated right now as

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2 we speak it's day one of vaccine. It starts a  
3 new era. And I remember presenting to you I  
4 believe in March when I said -- somebody had  
5 asked, I don't remember who, where are we on  
6 the curve. I said you're at the very, very  
7 beginning. Finally we're towards the back end  
8 and it's just a couple of more months we have  
9 to get through.

10 The timing has been as we've  
11 expected. Hopefully the next month will be  
12 very exciting and we're ready. We're ready if  
13 we were asked that a shipment was coming and  
14 we need to stand up to vaccinate whether it's  
15 our county employees, our police, our first  
16 responders, whatever, with our medical reserve  
17 corp volunteers we did a training this  
18 weekend, the flu, and that was partially a  
19 training for what we would do in the big  
20 picture. We could be up and ready to  
21 vaccinate within hours, two, three hours if we  
22 received vaccines. I don't think we're there  
23 yet. I think we're still a few weeks away  
24 from that. Hospital personnel is going to go  
25 first. But I just want you to know we are

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2 ready --

3 LEGISLATOR NICOLELLO: Real  
4 quickly, those first responders, for example  
5 our fire fighters.

6 DR. EISENSTEIN: I haven't seen  
7 the formal plan on where that is certainly. I  
8 think all first responders are a priority and  
9 should be and so we will advocate for that as  
10 well. For right now I just know it's high  
11 risk hospital employees to be followed by  
12 nursing homes. The hospitals themselves will  
13 be vaccinating their own hospital employees.  
14 Like I said, the chain pharmacies will be  
15 doing the nursing homes. Nobody else is  
16 vaccinating yet. Just hospitals and the chain  
17 pharmacies and that's still not yet.

18 LEGISLATOR NICOLELLO: Thank you  
19 very much Legislator Rhoads.

20 LEGISLATOR RHOADS: Sorry about  
21 that. I know you said that first responders  
22 you're not exactly sure where they fall in the  
23 priority. A particular concern obviously  
24 particular immediate concern is ambulance  
25 personnel, EMS workers that are transporting

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2 active COVID patients. There's been no  
3 guidance with respect to that?

4 DR. EISENSTEIN: We were told  
5 that they're in group one and we advocate that  
6 they're in group one. But group one now, the  
7 initial number of doses is so small that  
8 they've created sub groups within group one.  
9 I don't know this is a fact. I don't have  
10 that knowledge yet. I suspect right now with  
11 the very limited dose they have they're just  
12 going to do high risk hospital workers. Next  
13 week the nursing homes. As soon as there's  
14 enough I think that's what's next. That's  
15 what makes sense to me.

16 LEGISLATOR NICOLELLO: Thank you.

17 DR. EISENSTEIN: Have a good day.

18 LEGISLATOR NICOLELLO: You too.

19 Go back to the beginning of the calendar.  
20 Number one is a local law to amend the county  
21 government law of Nassau County to require  
22 public notification of the meetings and  
23 agendas for the Nassau County Planning  
24 Commission.

25 Legislator McKevitt makes that

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2 motion. Seconded by Legislator Kennedy.

3 That's a motion to open the hearing. All in  
4 favor of opening the hearing signify by saying  
5 aye. Those opposed? The hearing is now open.

6 This is a majority-introduced  
7 legislation. Essentially it's a transparency  
8 measure. Currently the agendas for the Nassau  
9 County Planning Commission, which considers  
10 both subdivisions and certain zoning matters,  
11 is produced maybe two days before events which  
12 creates difficulty in terms of events from two  
13 days before these meetings are to be held,  
14 which creates difficulties with respect to  
15 communicating to the residents who may want to  
16 comment on a particular matter because it  
17 simply is not enough time.

18 What this does is require the  
19 planning commission to publish its agenda one  
20 week prior to a meeting. They must establish  
21 and maintain an email notification system on  
22 the official website so that individuals can  
23 request to be received and be emailed agendas  
24 for specific items and/or meetings.

25 Lastly, the planning commission



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2 must send its agendas to elected officials,  
3 your legislators, your mayors, your town  
4 supervisors for subdivisions or zoning within  
5 that jurisdiction.

6 Again, this is a transparency  
7 measure just intended to provide additional  
8 notice of action that the planning commission  
9 may be considering so that various  
10 stakeholders may have an opportunity to  
11 comment.

12 Any debate or discussion on this  
13 item? No. A motion to close the hearing by  
14 Legislator McKevitt. Seconded by Legislator  
15 Kennedy. All in favor of closing the hearing  
16 signify by saying aye. Those opposed? The  
17 hearing is closed.

18 Number eight is a vote on a local  
19 law to amend the county government law of  
20 Nassau County to require public notification  
21 of meetings and agendas for the Nassau County  
22 Planning Commission.

23 Again, we will have Legislator  
24 McKevitt move that. Seconded by Legislator  
25 Kennedy. Any further debate or discussion on

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2 this item? Hearing none, all in favor signify  
3 by saying aye. Those opposed? Carries  
4 unanimously.

5 Item two is a hearing on a local  
6 law to amend Chapter 12 of the Nassau County  
7 administrative code in relation to the  
8 Department of Public Works' approval of  
9 building permits and curb cuts pursuant to  
10 Section 239-F of the New York State General  
11 Municipal Law.

12 Motion to open the hearing by  
13 Deputy Presiding Officer Kopel. Seconded by  
14 Legislator DeRiggi-Whitton. All in favor of  
15 opening the hearing signify by saying aye.  
16 The hearing is open. Legislator Kopel would  
17 you like to say something?

18 LEGISLATOR KOPEL: Thank you  
19 Presiding Officer. This legislation would  
20 relate to the county's approval of various  
21 curb cuts and other features of new building  
22 applications or other developments in the  
23 county.

24 Right now we are experiencing  
25 delays of many, many months. Sometimes

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2 stretching into years for the county to  
3 respond to the applications for these  
4 permits.

5 Now, the proposed legislation would  
6 go some way, although not all the way, towards  
7 getting the county into compliance with the  
8 state law 239-F of the general municipal law.  
9 What it would provide is a period of 30 days  
10 after filing of the application within which  
11 the county would be required to respond to the  
12 permit application. The permit application I  
13 should note is made in the first instance to a  
14 different municipality be it a town or  
15 sometimes a village or the city. The county  
16 does not maintain building departments.

17 The county would have 30 days  
18 within which to respond, file objections or  
19 request for changes. Should the county not  
20 respond within the 30 day period, the fee that  
21 was payable to the county in connection with  
22 this application would be reduced 25 percent.  
23 Additional 25 percent reduction would apply  
24 every ten days thereafter during which the  
25 county does not respond. And at the time fees

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2 reach zero the application would be deemed  
3 approved so that the municipality could go  
4 ahead and issue the permit at its discretion.

5 During any period for which the  
6 county is waiting for answers, for information  
7 which it requests from an applicant the  
8 relevant period would be extended for an equal  
9 number of days.

10 I'd be very happy if anybody wants  
11 to speak about this for the administration.

12 MR. ARNOLD: Ken Arnold, public  
13 works. The department has received this local  
14 law. We passed it off to the blue ribbon  
15 panel and had a series of discussions last  
16 week which accumulated in a report going back  
17 to your body on our thoughts on the  
18 legislation. The panel believes that this is  
19 not necessary at this time. We are still  
20 implementing all the requirements of the  
21 panel. We've looked at our review process.  
22 We've looked at our complying of data and  
23 we've looked at our personnel and staffing.  
24 We'd like to meet with you before this local  
25 law is voted on.

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2 LEGISLATOR KOPEL: Okay. That  
3 would be fine. I believe we're not going to  
4 actually go ahead with the vote on it today.  
5 We'd be certainly very happy to have  
6 discussions on it. I do have some questions,  
7 Mr. Arnold, and thank you for coming here  
8 today. What are the items that you look at  
9 when you look at these applications? What  
10 specific types of issues do you look at?

11 MR. ARNOLD: We look at four  
12 different groupings of items. We look at  
13 traffic impacts of the curb cut to the county  
14 road. As part of that my traffic engineers  
15 look at impacts of pulling in and pulling out  
16 of the driveways on pedestrians and their  
17 parking and deliveries. Waste water of course  
18 is looked at. The availability of sewers.  
19 That's a fairly simple review.

20 Site development looks at on-site  
21 drainage and whether the proposed development  
22 will impact the surrounding county  
23 facilities. And we look at things that are in  
24 the county's right of way.

25 LEGISLATOR KOPEL: Isn't it true

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2 though that at this time there are people who  
3 are sitting out there who had applications in  
4 there for many months? Because I know that  
5 people call me fairly often complaining that  
6 they're unable to get any response at all from  
7 the department when they submitted  
8 information. People say that they can't get a  
9 return phone call. They say they're not  
10 getting information back.

11 MR. ARNOLD: My staff works very  
12 hard in talking to people. COVID has limited  
13 our in person meetings but my staff is  
14 available to have discussions at all times.  
15 We looked at those numbers and it's in the  
16 report that we provided to you. We have 227  
17 active, open or rejected plan submittals right  
18 now. Of the 227, 140 of them were rejected  
19 and returned to the applicants. We are  
20 waiting for them to be returned to us.

21 Of the 227, there's also 62 that  
22 are on hold, incomplete or withdrawn or  
23 already built. These are the problematic  
24 ones. We have to go through and find out what  
25 the issues are why we have not received

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2 anything back to us. And we currently only  
3 have 25 applications that are under our  
4 review.

5 LEGISLATOR KOPEL: Would you be  
6 able to provide the details of those numbers  
7 to us please?

8 MR. ARNOLD: A lot of those  
9 details are in the report. We can, of course,  
10 sit down and go through them in more detail  
11 when we have our meeting.

12 I will tell you that the panel, in  
13 their discussion last week, that we do  
14 recognize that we have a challenge of why do  
15 we get so many rejections and we're looking at  
16 different options on dealing with the  
17 rejections including a mandatory meeting with  
18 applicants after their first submittal. That  
19 is part of our --

20 LEGISLATOR KOPEL: How long would  
21 it take to set up such a meeting on the  
22 county's part?

23 MR. ARNOLD: We believe that  
24 could be something that could be done a week  
25 or ten days after a rejection. One thing that

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2 COVID has taught us is virtual meetings and  
3 sharing of plans virtually is something that  
4 the department has fully embraced. So instead  
5 of having applicants come in and go over plans  
6 on a desk that is something we're looking  
7 towards doing for rejections. Because  
8 rejection is the issue. We don't understand  
9 why we are seeing three, four, five rejections  
10 on certain sets of plans.

11 LEGISLATOR KOPEL: You're aware,  
12 are you not, that Section 239-F provides  
13 actually that if the county doesn't respond  
14 within ten working days the county loses its  
15 rights to object. You're aware of that?

16 MR. ARNOLD: Yes we are.

17 LEGISLATOR KOPEL: We're way out  
18 of compliance with that.

19 MR. ARNOLD: Also understand that  
20 239 process has been combined with our permit  
21 process. So when the applicant leaves with an  
22 approval he now has a road opening permit to  
23 do all his work, not just the 239 that gets  
24 delegated to the town.

25 LEGISLATOR KOPEL: Perhaps that



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2 ought to be separated so that we can get  
3 closer to compliance with the state law.

4 MR. ARNOLD: That has been  
5 discussed and we can discuss that in further  
6 when we meet about the pit bulls of that also.

7 LEGISLATOR KOPEL: Now, when you  
8 say that it's not necessary I say that I would  
9 suggest to you that it certainly doesn't  
10 hurt. It's something that would hold the  
11 county's department's feet to fire. If it's  
12 something for which you're already you say  
13 close to compliance it doesn't hurt. It  
14 doesn't go all the way the same distance that  
15 the state already gives the -- as a matter of  
16 fact, I would imagine that the county would  
17 have a really hard time defending it if  
18 somebody brought a lawsuit saying that the  
19 county simply does not have the right to  
20 object, because that's the plain wording of  
21 the statute, after ten working days. So, this  
22 legislation actually gives the county quite a  
23 bit more time, this proposed legislation.

24 MR. ARNOLD: One of my questions  
25 on the legislation that we can discuss at our

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2   meeting is, is the department required to make  
3   an action within 30 days in total or when  
4   something gets rejected and gets submitted?  
5   How does that clock work? Those are the times  
6   I need to understand.

7                   LEGISLATOR KOPEL:     One more time  
8   please.

9                   MR. ARNOLD:     The way I read the  
10   legislation, if the department rejected an  
11   application on day ten and the applicant comes  
12   back with a revised set of plans are working  
13   off from day 11 or are we back to day one?

14                  LEGISLATOR KOPEL:     The actually  
15   legislation expressly provides that the time  
16   during which the department is waiting for  
17   additional information or a response from the  
18   applicant would be added to the time. So if  
19   the department asks for information on day  
20   nine and you don't get it back for two months  
21   that two months does not get counted against  
22   the county.

23                  MR. ARNOLD:     I understand that.  
24   But then when we do get the information back  
25   am I starting at day ten or am I starting at

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2 day one based on the legislation?

3 LEGISLATOR KOPEL: That's an  
4 interesting question.

5 MR. ARNOLD: Those are the things  
6 I need to talk through. If I'm starting at  
7 day one that fits within my turnaround. If  
8 every time a submittal gets rejected and the  
9 clock keeps sliding down I have a concern  
10 about that.

11 LEGISLATOR KOPEL: I look forward  
12 to this meeting because the problems are  
13 fairly manifest. I mean, during the time that  
14 these things are delayed people, builders are  
15 incurring carrying costs whether it's interest  
16 and other major costs. Because of that  
17 developing building is more expensive.  
18 Because of that buildings are delayed. And  
19 when they're delayed the county and other  
20 taxing jurisdictions don't get to collect the  
21 increased taxes that would otherwise apply  
22 once a development is completed.

23 MR. ARNOLD: Legislator, we  
24 understand that. That's why the county  
25 executive put together the panel of all

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2 experts and we worked towards the solution and  
3 the panel and myself are more than -- would  
4 like to sit down and further enhance this  
5 along.

6 LEGISLATOR KOPEL: We can set up  
7 a meeting. I guess whoever wants to be in it  
8 would be in it. Will you send out an  
9 invitation?

10 MR. ARNOLD: I can work on that  
11 with the panel, yes and I'll work through your  
12 office.

13 LEGISLATOR KOPEL: Thank you.

14 LEGISLATOR NICOLELLO: Any other  
15 debate or discussion? Legislator Schaefer.

16 LEGISLATOR SCHAEFER: Hi  
17 Commissioner. How are you? I have a  
18 comment. I'm on that 239-F panel as you well  
19 know and I know how much work has gone into  
20 that and what the changes are that have  
21 already happened and what we are hoping for  
22 going forward. We all know it's going to make  
23 a huge difference when we have certain things  
24 in place.

25 I think we were all blindsided by

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2 COVID obviously in every where and every way.  
3 In that regard and especially with the impact  
4 that it's having on businesses. I know our  
5 goal was to move forward with this process and  
6 make it a lot more condensed and simpler and  
7 that's the direction we're all heading in.

8 I think Legislator Kopel having put  
9 forward this legislation has just really kind  
10 of I guess put it more on the table for us to  
11 discuss, especially during these difficult  
12 times for everybody.

13 In that regard I think it's good  
14 that we are going to have this meeting and  
15 we're going to talk about it. But I do know  
16 that a lot of work has been put into it  
17 already by your department and I do want to  
18 say thank you for all that you have done.  
19 Because I know you have the best intentions in  
20 mind for the county and certainly for the  
21 residents and the businesses out there. Thank  
22 you.

23 LEGISLATOR NICOLELLO: Any other  
24 debate or discussion? Hearing none, Deputy  
25 Presiding Officer makes a motion to close the

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2 hearing. Seconded by Legislator  
3 DeRiggi-Whitton. All in favor of closing the  
4 hearing signify by saying aye. The hearing is  
5 closed.

6 Move on to calendar number three.  
7 Hearing on a local law to amend the Nassau  
8 County Administrative Code in relation to the  
9 collection of unpaid taxes, penalties and  
10 interest by the county treasurer.

11 Moved by Legislator Rhoads.  
12 Seconded by Legislator Ferretti. That's a  
13 motion to open the hearing. All in favor of  
14 opening the hearing signify by saying aye.  
15 Those opposed? The hearing is open.

16 This is also a majority  
17 legislation. With the pandemic, the governor  
18 has ordered a stay on any evictions of people  
19 who due to hardships are unable to pay their  
20 rent currently. I believe that applies to  
21 commercial as well.

22 But you have the building owners  
23 who are not receiving income. Obviously for  
24 the large building corporate entities it's not  
25 as big an issue. But for small owners it is a

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2 major issue because they continue to have the  
3 cost, the overhead of operating a structure  
4 from utilities to taxes and all the costs are  
5 involved but the income is limited.

6 So what this legislation is  
7 designed to do is give some small measure of  
8 relief to those owners, specifically with  
9 respect to staying tax lien enforcement.

10 When would this take place? It  
11 would take place once a particular building  
12 owner came to the county and submitted a sworn  
13 affidavit indicating an inability to pay their  
14 taxes as a result of the directly connected to  
15 the orders staying enforcement of evictions  
16 and lack of rent coming in.

17 Basically they have to submit that  
18 sworn affidavit and the county, although it  
19 will have the lead, will not be enforcing it  
20 until such time as the order staying with  
21 respect to rents is lifted by the governor.

22 Again, it's designed to give some  
23 relief to those small business owners who are  
24 also struggling with this pandemic.

25 Anyone else want to discuss this?

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2 Anyone at home? No. Need a motion to close  
3 the hearing. Moved by Legislator Bynoe.  
4 Seconded by Legislator Schaefer. All in favor  
5 of closing the hearing signify by saying aye.  
6 Those opposed? Carries unanimously.

7 We have to go to item ten, which is  
8 the vote on the local law to amend Nassau  
9 County Administrative Code in relation to  
10 collection of unpaid taxes, penalties and  
11 interest by the county treasurer.

12 Moved by Legislator Kennedy.  
13 Seconded by Legislator Walker. Any debate or  
14 discussion? Hearing none, all in favor  
15 signify by saying aye. Those opposed?  
16 Carries unanimously.

17 Back to item four. Item four is a  
18 hearing on a local law to create a special  
19 revenue fund to assist in the finance or  
20 payment of tax certiorari settlements and  
21 judgements in Nassau County.

22 That is moved by Legislator  
23 McKevitt. Seconded by Deputy Presiding  
24 Officer Kopel. A motion to open the hearing.  
25 All in favor of opening the hearing signify by



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2 saying aye. Those opposed? The hearing is  
3 open.

4 This is designed to provide a  
5 safety valve and to provide a fund which will  
6 assist in paying off the county's existing tax  
7 refund liability. There were discussions  
8 about expanding that reserve fund but those  
9 discussions haven't been completed yet.  
10 Again, the county has hundreds of millions of  
11 dollars it owes in tax refund liability to  
12 residents and commercial entities much of  
13 which is generating interest. Especially in  
14 this pandemic we should be looking for ways to  
15 get that money back into the community and  
16 into the hands of our business owners.

17 Currently, the county executive's  
18 budget does have \$30 million set aside in  
19 operating funds for 2021 but does not intend  
20 to finance the payment in terms of borrowing  
21 for the finance of this outstanding refund  
22 liability for two years basically. Basically  
23 we would be treading water.

24 The idea is this, there was much  
25 discussion specifically about sales taxes,

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2 whether the county's projections are overly  
3 pessimistic. The idea is to the extent that  
4 in the adopted budget the revenues come in  
5 above what those sales tax projections are the  
6 money gets put aside into this fund which then  
7 can be used to pay these tax certiorari and  
8 potentially other purposes that, again, we are  
9 negotiating.

10 Also, monies that get freed up in  
11 the budget as a result of CARES Act, in other  
12 words, federal relief money, can potentially  
13 go into the fund as well. This is a good  
14 government initiative creating a dedicated  
15 fund for a purpose that is something that  
16 needs to be addressed and that is the idea  
17 behind it.

18 Again, there are some negotiations  
19 going on with respect some particulars of the  
20 fund so we will not be voting at this point  
21 but I wanted to have the hearing out of the  
22 way. Any other legislators want to discuss  
23 this item? Legislator DeRiggi-Whitton.

24 LEGISLATOR DERIGGI-WHITTON: Can  
25 I just ask that, I mean, we can have the

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2 hearing out of the way, once we get the final  
3 details maybe we should talk about it.

4 LEGISLATOR NICOLELLO: Yes. At  
5 that point we will have the -- once we call  
6 the item for a vote we will have a full  
7 opportunity to debate this.

8 LEGISLATOR DERIGGI-WHITTON: It  
9 won't be a hearing but we will be able to  
10 debate it?

11 LEGISLATOR NICOLELLO: Yes.  
12 Absolutely. Since it's a hearing, any public  
13 comment? Hearing none, motion to close the  
14 hearing by Legislator Bynoe. Seconded by  
15 Legislator Drucker. All in favor of closing  
16 the hearing signify by saying aye. The  
17 hearing is closed.

18 Again, we will not be calling the  
19 vote for the item right now.

20 Item five is a hearing on a local  
21 law to amend Section 21-10.2(2)(c) of the  
22 Nassau County Administrative Code with respect  
23 to due process for trade practice violations.

24 We need a motion to open the  
25 hearing. Motion by Legislator Walker.

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2 Seconded by Legislator McKevitt. All in favor  
3 of opening the hearing signify by saying aye.

4 Let me just talk about this. This  
5 is a majority initiative. There are obviously  
6 and of course unfortunately unscrupulous  
7 retail businesses that engage in price gouging  
8 during times of crisis. Again, unfortunately,  
9 we have seen this during our pandemic. These  
10 businesses should be prosecuted and punished  
11 to the utmost.

12 However, there are also upstanding  
13 businesses that are compelled and forced to  
14 raise prices due to factors outside of their  
15 control. Most importantly because the cost of  
16 the wholesale goods have gone up.

17 Automatically hitting a business with a  
18 violation because of a higher price  
19 potentially penalizes a business for something  
20 they have no control over. We should at least  
21 give these businesses an opportunity to  
22 explain the basis for the price they are  
23 charging.

24 My office and a number of my  
25 colleagues, maybe all of my colleagues, have

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2 received calls during the pandemic from  
3 distressed business owners with respect to  
4 this issue. One in particular had to raise  
5 the price of a good that his store was  
6 selling. I don't recall exactly what it was.  
7 I think it was hand sanitizers. But he did  
8 that because the cost to him had gone up. The  
9 people who were providing those hand  
10 sanitizers to him were charging more. So  
11 therefore, he raised the price to  
12 accommodate.

13 He was hit with multiple violations  
14 by the Department of Consumer Affairs. Even  
15 though he had the receipts from the wholesaler  
16 showing his expenses were increasing he was  
17 still hit with violations.

18 The information about this store,  
19 not the name but the type of store and the  
20 community, was released to the newspapers.  
21 Because this was the only store of its kind in  
22 that community everybody reading those local  
23 newspapers understood that it was this store  
24 owners he was accused of price gouging in the  
25 middle of a pandemic.

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2 Now, you can imagine the uproar  
3 that came about. And again, here's a store  
4 owner who was hit with higher prices and  
5 passed those along to the consumer, which they  
6 had to do, was charged with price gouging,  
7 released to the community and became somewhat  
8 of a pariah in the community.

9 Again, we have to come down hard on  
10 those that are price gouging but there has to  
11 be some element of fairness in how we treat  
12 our local businesses. They should be provided  
13 an opportunity when an inspector is in the  
14 store to provide the books or receipts showing  
15 that there was no price gouging but it was due  
16 to the increased cost or other reasons on  
17 their behalf. This should be done before the  
18 violation is issued.

19 Why would you want it before the  
20 violation is issued? Because once the  
21 violation is issued, quite frankly, it goes  
22 into the process and then each store owner is  
23 pressured somewhere along the line to settle  
24 the matter before they have to spend for an  
25 attorney go to a hearing and potentially face

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2 those costs. You have to give them an  
3 opportunity before they get the violation.

4 Our small businesses are  
5 struggling. We don't want our small  
6 businesses to stop selling these goods in a  
7 pandemic. Again, by doing this, if we are  
8 eliminating the availability of things that  
9 people need in the community then we should  
10 not be doing it.

11 So, the local law requires the  
12 Department of Consumer Affairs to post its  
13 rules and regulations on its county website.  
14 More importantly, prior to issuing a summons  
15 regarding price gouging on fair trade  
16 practices, the individual from the Department  
17 of Consumer Affairs must provide the business  
18 owner a reasonable opportunity to explain why  
19 the prices went up. Including receipts,  
20 books, records showing that the increase in  
21 price was due to increased costs outside of  
22 his control.

23 Prior to the issuance of the  
24 summons, again, the business owner must be  
25 provided reasonable opportunity to provide

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2 exculpatory evidence.

3 Lastly, when the violation reaches  
4 the Department of Assessment stage and it's  
5 going to go to a hearing, which is by an  
6 individual that's appointed by the county who  
7 will hear that hearing, the department must  
8 provide a written explanation of the charges  
9 in its evidence with respect to the violation  
10 before the hearing. This is the standard due  
11 process.

12 Again, this is intended to give  
13 business owners an opportunity to explain and  
14 prepare for a hearing so that if there is a  
15 reason they have increased prices they can  
16 explain that, not be hit with a violation and  
17 that's it.

18 Failure to do this on the first  
19 offense leads to an adjournment of the case.  
20 Failure to do this meaning providing the due  
21 process leads to an adjournment of the case.  
22 If it's done repeatedly it will lead to a  
23 dismissal by the Department of Consumer  
24 Affairs.

25 That's what the legislation



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2 provides. Anyone else want to discuss this  
3 item? Legislator Bynoe then Legislator  
4 Drucker.

5 LEGISLATOR BYNOE: Thank you  
6 Presiding Officer. I have a couple of  
7 questions I guess I will pose it to you?  
8 Should I pose it to you?

9 LEGISLATOR NICOLELLO: Sure.

10 LEGISLATOR BYNOE: Have we  
11 checked to verify that the individual who  
12 would be going into the store to investigate  
13 the allegations that they are actually working  
14 within title to then render a decision?  
15 Because I suspect that the way it worked  
16 earlier on, how it works currently I should  
17 say, the individual who goes into the store is  
18 not required to render a decision. They  
19 render a decision that there was a violation.  
20 They go in, they determine that the cost for  
21 the item is higher than it should be and they  
22 decide that there should be a violation.

23 I'm not sure that someone in that  
24 class would also have within their charge to  
25 make a determination that the individual was

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2 not in fact price gouging by way of  
3 authenticating whatever documentation they  
4 provide. The store owner provides. I'm not  
5 sure that that person is properly trained to  
6 go in and render that type -- have that level  
7 of discretion and render that kind of a  
8 decision.

9 LEGISLATOR NICOLELLO: I think  
10 what the person who is issuing the violation  
11 does is simply not issue the violation. Takes  
12 the information. If there's any question  
13 brings it back to his supervisors, to even the  
14 commissioner of consumer affairs, and says  
15 this is what's represented, do I go ahead or  
16 not?

17 I think if the issue is authority I  
18 think it's simply a matter of just at that  
19 matter not issuing the violation. In this era  
20 of technology, take a picture of the receipts,  
21 send it back to the office and have somebody  
22 up the supervisory chain make that decision.

23 LEGISLATOR BYNOE: This policy  
24 allows for that?

25 LEGISLATOR NICOLELLO: Yes.

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2 Basically, once presented with evidence of why  
3 the prices were increased which shows it  
4 wasn't price gouging I think they have to step  
5 back and say okay, let's look at this evidence  
6 and if it's compelling then they don't issue  
7 the violation.

8 LEGISLATOR BYNOE: I may have  
9 missed that step when you explained it. I  
10 didn't hear that that step was actually  
11 taking. That they were not required to render  
12 a decision on the spot. That they could in  
13 fact push it up the food chain for someone  
14 else who is in a position to render that type  
15 of decision or have that level of discretion  
16 to make a decision.

17 LEGISLATOR NICOLELLO: Look,  
18 there are unscrupulous business owners who may  
19 be presenting false information and that's  
20 something that the Department of Consumer  
21 Affairs would have to take into  
22 consideration. Look, if somebody has a  
23 history of doing this and hit him repeatedly  
24 for violations I think you take their evidence  
25 take their evidence with a grain of salt. But

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2 if you're a business owner and haven't really  
3 not in the system ever before I think you give  
4 them a little credibility.

5 LEGISLATOR BYNOE: So the idea is  
6 they are then going to push it up the food  
7 chain?

8 LEGISLATOR NICOLELLO: It's very  
9 easy. Take a look. This is what business  
10 owner Y gave to me. Should I go ahead and  
11 issue a violation or do I hold off?

12 LEGISLATOR BYNOE: Then have we  
13 conferred with the commissioner to determine  
14 whether -- what level of impact this would  
15 have on his office in terms of because  
16 before -- currently they go out, they look,  
17 they determine whether the price is in excess  
18 of what they should be charging. They issue  
19 the summons or the complaint against the store  
20 and they move on. In this case now we could  
21 potentially be touching items twice. Have we  
22 conferred to determine whether this would have  
23 a high level of impact to his staffing?

24 LEGISLATOR NICOLELLO: No, I  
25 personally have not spoken to him with respect

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2 to that. I know after we introduced this they  
3 indicated that they were also looking at  
4 amendments to the legislation which we can  
5 certainly consider once assuming it ever comes  
6 to us. No, I have not discussed with him in  
7 terms of staffing.

8 LEGISLATOR BYNOE: Some of the  
9 amendments that they were talking about,  
10 presiding officer, were they relative to what  
11 will actually define price gouging so that  
12 there wouldn't be such a subjective view to  
13 what exactly is price gouging?

14 LEGISLATOR NICOLELLO: I don't  
15 know if their amendments will address that.  
16 That's certainly that we would interested in  
17 doing. You're 100 percent right. A lot of  
18 subjectivity in this.

19 LEGISLATOR BYNOE: Thank you.

20 LEGISLATOR NICOLELLO: Legislator  
21 Drucker.

22 LEGISLATOR DRUCKER: Thank you  
23 Presiding Officer. Let me just say I commend  
24 you and the Majority. I think this is a good  
25 bill. As legislators, we are tasked with

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2 providing legislation that is fair and  
3 balanced. And although as we are all  
4 consumers, none of us want to be price gouged  
5 or charged more than what is reasonable at any  
6 given moment.

7 But we do have to be mindful that  
8 the scales of justice require us to pay  
9 attention to some of the local merchants who  
10 are fighting for their lives right now.

11 I did read the commissioner's memo  
12 about the legislation that they're looking to  
13 do, and I would like to see some mechanism  
14 that can be instituted to go after the  
15 wholesalers. Because I think they're the ones  
16 who are really the culprits here. They charge  
17 the merchant an exorbitant amount and he has  
18 no choice but to raise the price. I'll mark  
19 it up a certain way and although the  
20 percentage of the markup may be the same that  
21 is customary done on any product because of  
22 the expense they may occur. I think the  
23 commissioner had raised it but if there's some  
24 way that we can find or explore a mechanism to  
25 go after these wholesalers I would really be

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2 happy about that too.

3 LEGISLATOR NICOLELLO: I agree.

4 Something that maybe we can consider going  
5 forward in January. Legislator Schaefer.

6 LEGISLATOR SCHAEFER: I agree  
7 with that as well. I think though an  
8 investigation into that is necessary also,  
9 right, because they could be getting get hit  
10 with material fees to cost that are more  
11 expensive for them as well. That's a good  
12 idea.

13 I'm glad I just see the  
14 commissioner coming up here because I was  
15 going to ask him a couple of questions if  
16 that's okay Mr. May?

17 MR. MAY: Good afternoon  
18 legislators.

19 LEGISLATOR SCHAEFER: So I'm  
20 wondering what is your policy with regard to  
21 this?

22 MR. MAY: It could be a long  
23 answer and I apologize. Our enforcement  
24 against price gouging is not just against the  
25 idea of price gouging. It's the unfair trade

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2 practice. So it's easier to describe it as  
3 price gouging. Most people when they go to a  
4 store they see prices that appear out of whack  
5 they think it's price gouging they let us  
6 know. So we've adopted that nomenclature. We  
7 call it price gouging.

8 Under the unfair trade practice  
9 violation it's not just price gouging. Most  
10 of the violations that we've issued weren't  
11 necessarily for price gouging per se. They  
12 were merchants who were taking boxes of the  
13 medical masks, the three-ply surgeon masks  
14 that everyone one was mostly wearing until we  
15 got our cloth masks, our reusable masks,  
16 opening them and selling them individually for  
17 two and \$3 when the piece cost per item 25  
18 cents, 12 cents. Taking the N-95 masks,  
19 breaking those open, selling them  
20 individually, handling them. We encountered  
21 merchants who were opening up N-95 boxes and  
22 wrapping each individual N-95 mask in Saran  
23 Wrap, having no idea who was handling the  
24 product, if they were sick, if they were  
25 wearing any kind of medical equipment.



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2 So, it's not just this idea of  
3 price gouging. Oh, this item cost more than  
4 it was last week when I came in. It sort of  
5 runs the gamut.

6 So now specifically about price  
7 gouging what happens? We have been monitoring  
8 to the best of our ability the prices for the  
9 different items. Like I said, I know now that  
10 a three-ply mask was between 12 and 25 cents  
11 per item because we had to like really track  
12 this stuff down, do the math on it. We've  
13 spoken to manufacturers. We've spoken to  
14 representatives from 3M. We've spoken to  
15 representatives of RB, who are the makers of  
16 Lysol. They've indicated to us that they have  
17 not raised their prices to their wholesalers.

18 Again, as I think Legislator  
19 Drucker had pointed it out, based on the  
20 information that we have available to us, we  
21 believe that if there are bad actors in the  
22 stream here, the bad actors appear to be the  
23 wholesaler.

24 You had mentioned material cost.  
25 We've at least run down with a few of these

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2 manufacturers that they haven't changed their  
3 prices at all to their wholesalers. In fact,  
4 they're looking to boot wholesalers that are  
5 taking advantage of retailers and the public  
6 from their distribution chains entirely. So,  
7 there's a lot going on here.

8 I don't know if that answered your  
9 question or raised more questions by bringing  
10 it up.

11 LEGISLATOR SCHAEFER: I'm  
12 wondering so is there a process by which you  
13 determine you are going to investigate? How  
14 do you investigate if you do that? Like how  
15 does it go? If somebody reports to you that  
16 they believe a certain vendor is price gouging  
17 what do you do?

18 MR. MAY: We've received about  
19 1,000 complaints from consumers at this point  
20 dealing with price gouging. Again, it sort of  
21 runs the gamut of these things for price  
22 gouging. We've issued about 300, 350  
23 violations. The investigators we've trained  
24 and worked with them to go over what items we  
25 are seeing in the field. What the typical per

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2 unit cost is for those units. And if they see  
3 that based on a report from a consumer to go  
4 ahead and issue a violation. Most of that  
5 activity has died down since May, June when  
6 the cloth masks came out because most of the  
7 price gouging was occurring with the masks.

8 What we have seen recently and what  
9 we're seeing retailers putting out there is  
10 cans of Lysol, the 19 ounce can of Lysol, that  
11 typically retails for \$5 for \$15. When we see  
12 something like that, the product is available,  
13 maybe not in sufficient quantities but the  
14 product is out there. Last I checked you can  
15 get it at Walmart I think at the Westbury  
16 location for \$5. I'm not advertising for that  
17 but they had in-store pickup available. I'd  
18 be interested to see what the availability of  
19 the product is.

20 So, we have a pretty robust idea of  
21 what the product normally costs both  
22 prepandemic, postpandemic. Again, we saw  
23 prices settle down when the production of the  
24 cloth masks increased.

25 So that's the process. We get a

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2   complaint from a consumer. It's detailed out  
3   to an investigator. An investigator goes to  
4   the location. Confirms that the prices that  
5   we are being told is being charged are being  
6   charged. If we know that that price indicates  
7   that there's some price gouging on, if it's  
8   the price gouging issue per se, issue a  
9   violation.

10                   LEGISLATOR SCHAEFER:     Is that  
11   before you even take a step and find out if  
12   that particular store is being overcharged or  
13   being charged more by their distributor? Do  
14   you even go there or you didn't do that? It  
15   didn't sound like from what you just explained  
16   to me that that's not the way that it goes.  
17   You're just talking about if you see a higher  
18   price and you know it's available less  
19   somewhere else you're just assuming that  
20   they're price gouging rather than maybe -- I'm  
21   just thinking as you're speaking if it's Lysol  
22   everybody in the world wanted it or some sort  
23   of cleanser. Do they have time to go find  
24   another distributor? Probably not. I'm just  
25   saying maybe that's one of the reasons things

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2 were or in some stores were higher priced than  
3 others. But I don't know without an  
4 investigation.

5 MR. MAY: We don't typically  
6 accept evidence in the field in that manner.  
7 We want evidence submitted to us as part of  
8 the investigatory and due process part of  
9 this. If the violation is issued, the owner  
10 of the store, if it's a local store, which I  
11 understand is sort of the impetus of all of  
12 this, has an opportunity to reach out to us.  
13 They can contact us at any time up to the  
14 prehearing settlement conference date, which  
15 is the return of the violation. We are all  
16 cognizant of the challenges of the pandemic.  
17 Nobody is getting penalized if they miss a  
18 prehearing settlement date. We're looking to  
19 work with all of the local businesses and even  
20 national businesses as much as we can.

21 As long as they have evidence that  
22 they can submit to us, assuming it's the  
23 appropriate evidence, we can go ahead and  
24 dismiss the violation or offer reduction as  
25 appropriate. It's not really the purpose of

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2 the investigator in the field issuing the  
3 violation to also make a determination of  
4 whether or not there's sufficient evidence if  
5 they've determined a violation should be  
6 issued.

7 The standard procedure of the  
8 office is someone other than the issuing  
9 officer, or investigator in this case, not  
10 officer, not sworn officers, takes a look at  
11 the evidence that's presented. Also takes a  
12 look at what the investigator provides to  
13 them. So that there is a check within the  
14 office that one specific investigator isn't  
15 necessarily taking on any particular retailer  
16 or isn't cutting somebody that maybe they know  
17 a break. So there's a check and balance  
18 within the office.

19 LEGISLATOR SCHAEFER: You said  
20 you had about 350 cases; is that right?

21 MR. MAY: We had over 1,000  
22 complaints and about 350 violations issued.

23 LEGISLATOR SCHAEFER: And what  
24 percentage would you say resulted in some sort  
25 of discussion before and a change in whether

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2 or not they're fined? How many of them were  
3 just fines were paid and that was it, if you  
4 can remember.

5 MR. MAY: I would have to take a  
6 look at the numbers. It's not that many. I  
7 think we've probably had about 20 where we've  
8 had a settlement conference or administrative  
9 hearing. But everyone has an opportunity to  
10 present whatever evidence that they have. And  
11 we have dismissed a number of violations once  
12 we information that their wholesaler, for lack  
13 of a better term, is ripping them off.

14 I think that's the challenge with  
15 the law as it's currently written, not the law  
16 that we're debating here, that the department  
17 is prevented from going after the wholesaler.  
18 You can only do consumer goods and retail. If  
19 there's an opportunity to work with the body  
20 here to deal with this, I think that's one of  
21 the key things that we should be looking to  
22 address. We don't want to be hitting local  
23 businesses, even national businesses, anymore  
24 than any of you do. We want to find out who  
25 the real culprit is.

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2 During the height of the pandemic  
3 how is a shoe store able to get three-ply  
4 masks when hospitals couldn't get them? What  
5 is that wholesaler doing? How are they  
6 getting that material to sell to somebody who  
7 may not necessarily have been in that business  
8 a week prior. So, having now unfortunately  
9 been through whatever it is, nine months of  
10 the pandemic, we have a better idea of what  
11 we're looking at one. And two, things that we  
12 can change to move forward to address the  
13 concerns.

14 I actually want to thank the  
15 Presiding Officer. We had an opportunity to  
16 discuss this, I've lost all track of time, I  
17 apologize, it might have been May, it might  
18 have been June, but you brought your concerns  
19 to me about the individual business that you  
20 were speaking about in the beginning. I took  
21 your concerns immediately to heart. I don't  
22 know if anybody maybe realized or not, but we  
23 stopped reporting the type of businesses and  
24 the specific town that they're in. We moved  
25 to much broader numbers at the town and city



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2 level.

3 Understanding that while we thought  
4 that we were masking the identities of  
5 businesses that had not been fully  
6 adjudicated, obviously you, as the  
7 legislators, know your communities better than  
8 I do. I did not realize that what we were  
9 giving out was pretty significantly  
10 identifiable to the store in question and we  
11 changed our practice immediately thereafter.  
12 Again, if there's an opportunity here to work  
13 with everybody I think there are changes that  
14 need to be made. So, that's the complete  
15 answer to question. I might have gone on too  
16 long and I apologize.

17 LEGISLATOR SCHAEFER: That's  
18 okay. How much did you collect in total from  
19 the businesses?

20 MR. MAY: I think it's around  
21 \$50,000 we've collected in total so far.

22 LEGISLATOR SCHAEFER: When was  
23 the first fine issued, if you recall?

24 MR. MAY: The first fine issued I  
25 think it was the week of March 9. One of the

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2 legislators had reached out to us regarding --  
3 again, I don't want to unmask any of the  
4 stores that haven't been fully adjudicated  
5 yet, but they were selling boxes of masks for  
6 I think it was \$50? A box of ten-year old  
7 three-ply masks that the manufacturer  
8 essentially forswore any knowledge of. They  
9 hadn't been manufactured in ten years. They  
10 didn't know what condition that they were  
11 stored in. And the location was selling them  
12 for 50 or \$60. I forget the exact time.  
13 Starting that first week in March before  
14 everything got sideways.

15 LEGISLATOR SCHAEFER: I think  
16 that's it. Thank you.

17 LEGISLATOR NICOLELLO: Any other  
18 questions for Mr. May? Yes, Legislator  
19 Drucker.

20 LEGISLATOR DRUCKER: Thank you  
21 Presiding Officer. Commissioner, thank you  
22 very much. Under your current system, as you  
23 explained, this is one of the reasons why I  
24 think the Majority's bill is good because it  
25 provides the merchant with an opportunity to

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2 present their proof before a violation is  
3 issued.

4 Under your current system your  
5 investigator goes there, makes an  
6 investigation about the price and the product  
7 and issues a violation. Now, what you're  
8 saying is your process does allow for the  
9 merchant to dispute it, present proof and if  
10 they present the proof according to what  
11 you're saying and the criteria about their  
12 supply chain they're going to be found not  
13 guilty of it. But the point is, is that once  
14 that violation is issued you're now forcing  
15 the merchant to go hire an attorney, spend  
16 money trying to defend a violation that may  
17 have been wrongly issued in the first place.

18 What I'm saying as far as due  
19 process goes, if you can allow a merchant an  
20 opportunity to demonstrate through documentary  
21 evidence ahead of time, before having to go  
22 through the adjudication process, I think that  
23 makes more sense. That's all I'm trying to  
24 say.

25 I understand that your

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2 investigators do a very good job in  
3 determining if this particular product is  
4 being overpriced or other unfair trade  
5 practices are being employed. But why not  
6 give the merchant an opportunity to explain  
7 before he's issued the violation?

8 MR. MAY: Legislator, part of the  
9 problem there is the way that the department  
10 is operating, the individual issuing violation  
11 really is not supposed to be the one making a  
12 determination as to the facts afterwards. In  
13 other words, we have investigator ones who are  
14 in the field. The investigators twos are the  
15 ones who are doing at least the presettlement  
16 conference and taking the information that the  
17 merchant, in this case it's a merchant, in  
18 other cases it could be based on a consumer  
19 complaint.

20 I think one of the things, again if  
21 we have the opportunity to work on with this  
22 bill as it's written, the bill as written  
23 affects the unfair trade practice sort of  
24 entirely. It doesn't take it out of the realm  
25 of the unfair trade practice and focus on the

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2 issue of price gouging, which I think we would  
3 like to see. But again, that's not up to us.

4 There are internal controls in the  
5 department so that the investigators are  
6 not -- I'm not casting aspersions on any of my  
7 staff here but it's also to protect them from  
8 anybody coming in and saying why is store A  
9 getting a deal and store B isn't? Or  
10 investigator A comes in and everything's fine  
11 but investigator B comes in and I got all  
12 these problems. What's going on here?

13 The point is to have a standard  
14 operating procedure that everybody including  
15 between the investigators, the store owners,  
16 consumers, everyone understands what the  
17 process is.

18 So, this fundamentally changes how  
19 the department operates and I don't that it's  
20 necessarily for the better. But I think there  
21 is an opportunity, as I said, to address what  
22 I think are inadequacies in the law as it  
23 currently stands. I don't disagree with the  
24 Majority's thrust here with the legislation.  
25 I think we really ought to change how the

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2 department is able to handle the complaints of  
3 price gouging.

4 I don't know if it was Legislator  
5 Bynoe or somebody said there's no definition  
6 of price gouging in the admin code. You've  
7 all seen the memo I presented over the  
8 weekend. That's one of the changes we want to  
9 make. We want to make it very clear for the  
10 merchants what the rules of the road are so to  
11 speak. So that everybody has an opportunity  
12 to play by those rules equally and fairly.  
13 Again, I don't know if I answered your  
14 question and gone on too far.

15 LEGISLATOR DRUCKER: You answered  
16 it and I agree with the concept and the ideal  
17 that you're saying is that you want to give  
18 every merchant on opportunity. But what  
19 you're forcing them to do is to now be on the  
20 defensive. They now have to go through the  
21 court process to defend themselves. They now  
22 have to present you with proof in an  
23 adjudication process in order to be vindicated  
24 from it.

25 All I'm saying is what the

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2 Majority's bill from what I understand it is  
3 they can alert the merchant and the retailer  
4 that there is a complaint, there is a  
5 potential for a violation here. Unless you  
6 demonstrate how you've arrived at this pricing  
7 we're going to issue a violation and then  
8 you'll have to answer it in a judicial forum.

9 But I just think that the  
10 opportunity before you slap him with a  
11 violation and now they have to go and hire a  
12 lawyer and defend it and spend all this money  
13 when in fact they had a very plausible reason  
14 why they charged this price is the better way  
15 to go that's all I'm saying.

16 LEGISLATOR NICOLELLO: I have a  
17 number of legislators who'd like to speak.  
18 Legislator Walker, Legislator Birnbaum,  
19 Legislator Rhoads and Legislator Bynoe.

20 LEGISLATOR WALKER: Hello  
21 Commissioner. I want to thank you too for  
22 addressing all the issues I had early on in  
23 COVID. I did have several of those businesses  
24 that were selling individual face masks that  
25 came out of a package and I thought the same

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2 thing. Why would anyone even consider buying  
3 those when they were obviously -- you couldn't  
4 even say they were put in a baggy. They were  
5 just whatever. Of course, added to that and  
6 whether it was called price gouging or  
7 whatever but they were selling those  
8 individual masks for a large amount of money.

9 I think we do all understand that  
10 like small little businesses, like the deli  
11 isn't going to get the best deal on goods  
12 compared to like a Target or a Walmart or  
13 whatever. Normally their expenses are a  
14 little bit higher and I thank you for  
15 addressing them.

16 In those circumstances where people  
17 were selling individual items or whatever,  
18 were they immediately given some kind of  
19 violation? Obviously I would hope that they  
20 were made to stop doing -- continuing to do  
21 that because you did have people who were  
22 buying them like that. I don't know how --  
23 did you address those immediately?

24 MR. MAY: Those are all addressed  
25 immediately, yes. I guess the challenge for



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2 our department during the pandemic is to apply  
3 as evenhandedly as we can the same processes  
4 and procedures for everybody that we're  
5 notified that price gouging is occurring.

6 I do want to emphasize the point  
7 here with the exception of that first week  
8 where everything was kind of weird but not  
9 sideways, right, my staff and I, we could all  
10 ride around in cars together not wearing face  
11 masks, did go around to stores that we were  
12 aware of that were selling the individual  
13 masks. Masks in boxes for \$60. Again, almost  
14 an unknown providence. And that was probably  
15 the last time that we issued a violation under  
16 UTP related to price gouging. That was not  
17 the direct result of a consumer complaint.

18 We are not out there looking to  
19 hammer retail stores during a pandemic. We  
20 are all very sensitive to the unfortunately  
21 changed business climate for everybody. We  
22 understand that costs have gone up for  
23 everybody. We understand it's not in Nassau  
24 County. You look at New York City with the  
25 closure of the indoor dining for the

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2 restaurants. You read the New York Times.  
3 And all of these small businesses,  
4 family-owned businesses, are under incredible  
5 pressure in unprecedented times. We are not  
6 out there looking to crush local businesses.

7 And that's again why we circulated  
8 the memo over the weekend that based on our  
9 experiences there are changes that need to be  
10 made. I don't know that the bill that we are  
11 debating now accomplishes everything that I  
12 think that we want to do here. Again, also, I  
13 think I have gone on too long and I lost the  
14 thread myself. I don't know if I answered  
15 your question or not. I think that's how I'm  
16 going to end every question that I'm answering  
17 I don't know if I answered the question or  
18 not. I'm sorry.

19 LEGISLATOR WALKER: Just one  
20 added piece to that. I know you said I guess  
21 you said about 350 violations were given?

22 MR. MAY: Yes.

23 LEGISLATOR WALKER: Do you know  
24 how many you have outstanding?

25 MR. MAY: The bulk of them are

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2 outstanding. Again, just because we had a  
3 return date on a violation doesn't mean that  
4 if somebody couldn't make it for whatever  
5 reason that we were immediately punishing  
6 them. We were happy to adjourn violations.  
7 Adjourn administrative hearings. The  
8 department was essentially closed to the  
9 public until the summer. So we're not out  
10 again looking to hammer or seriously  
11 inconvenience any of the local businesses.

12 One point that I wanted to raise  
13 and I thank you for the opportunity here is,  
14 the people who receive violations don't even  
15 have to come to the department at this point.  
16 We can do adjudications over the phone, then  
17 can email whatever information they have. We  
18 have Zoom available. Teams. I don't think we  
19 use Skype. Methods available to be as  
20 convenient as possible for all of the  
21 businesses. If they want to hire a lawyer  
22 that's certainly their right. Most of this  
23 they can handle themselves on their own.

24 The underlying purpose of having  
25 the Department of Consumer Affairs in the

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2 first place is to offer a low cost venue for  
3 people to adjudicate these kinds of  
4 complaints. So, there's an opportunity there  
5 for everyone to be heard and be heard as  
6 conveniently as possible for lack of a better  
7 term.

8 LEGISLATOR WALKER: Thank you.  
9 And I have to tell you I think it's important  
10 obviously the department doesn't let on what  
11 businesses or the exact type of business,  
12 especially if it's the only business like that  
13 in a community. But I can tell you, early on  
14 social media let everybody know. Pretty much  
15 people in the neighborhoods knew what stores  
16 were doing things wrong. And hopefully those  
17 stores got the message also even if it wasn't  
18 right away from you that they got it from the  
19 residents and people were aware of what was  
20 happening.

21 MR. MAY: I think that that's  
22 true. And the department has seen a pretty  
23 steep decline in complaints about price  
24 gouging of any kind. Like I said at the  
25 beginning, the product that we seem to be

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2 seeing the most about is the cans of Lysol  
3 again retailing for \$5. Some stores are  
4 selling them for \$15. That's the bulk of the  
5 complaints. I think most of the merchants,  
6 for lack of a better term, received the  
7 message as you are saying. Thank you.

8 LEGISLATOR KOPEL: Legislator  
9 Birnbaum.

10 LEGISLATOR BIRNBAUM: Thank you.  
11 I know many of you spoke for a while already  
12 commissioner, so you answered many of my  
13 questions. But how would you categorize the  
14 amount of cases that stores, amount of stores  
15 that need to or use attorneys I should say in  
16 defending themselves when they get these  
17 violation notices? You said anybody can do it  
18 on their own but how often do people incur  
19 expenses for hiring an attorney?

20 MR. MAY: I'm going to have Dawn  
21 O'Brien, the department counsel, answer that  
22 question. My experience has been not many  
23 have required attorneys but she's been  
24 handling it directly.

25 MS. O'BRIEN: Good afternoon

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2 legislator. For most of the cases that I've  
3 handled the stores have been representing  
4 themselves. We make it really easy for them.  
5 I will accept their evidence via email. They  
6 can scan it into me. We do a calculation and  
7 we determine that if their gross profit margin  
8 is at or below what it was prior to the  
9 pandemic or at a reasonable level then we will  
10 dismiss the ticket without them ever coming  
11 in. And we are happy to do that for them.

12 LEGISLATOR BIRNBAUM: What's the  
13 time period between the time they were  
14 initially issued the violation and the case  
15 could be settled?

16 MS. O'BRIEN: What's the return  
17 date that we usually give them? Like how many  
18 weeks, do you know? If it's ten days, if they  
19 call us I can do it even before then. Either  
20 Ken or I typically look at most of them and we  
21 make that determination -- we can make that  
22 determination basically on the spot with  
23 them. We've seen so many of them at this  
24 point.

25 LEGISLATOR BIRNBAUM: You gave

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2 the number before. I wasn't sure. How many  
3 have been settled with no penalty at all  
4 during the pandemic?

5 MS. O'BRIEN: I don't have that  
6 number. Do you have it Greg?

7 MR. MAY: I don't have it on me.  
8 We can certainly get that for you.

9 LEGISLATOR BIRNBAUM: Would you  
10 say less than half?

11 MS. O'BRIEN: Most of the ones  
12 that are settled immediately are the ones that  
13 are dismissable because it's very easy to  
14 determine that the vendor didn't do anything  
15 wrong and we are able to make that  
16 calculation. If we then make them an offer  
17 and they don't want to take that offer that's  
18 what's getting put off. Because now we have  
19 to wait until a time we can have a hearing and  
20 we only just starting having our hearings  
21 maybe about a month ago.

22 LEGISLATOR BIRNBAUM: What  
23 evidence do they need? Do they just have to  
24 show you receipts? What do they have to show  
25 to prove how much they paid? Is it just their

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2 orders or how do you do it?

3 MS. O'BRIEN: Their invoices from  
4 their wholesaler. And it is nice if we can  
5 have one prior to the pandemic. Often times  
6 they're not able to show that. But yeah, the  
7 invoices from the wholesalers.

8 LEGISLATOR BIRNBAUM: I'm just a  
9 little concerned that that -- you said it's  
10 inspector ones who go to the store, right? So  
11 the person in the store probably wouldn't show  
12 it to them unless it's a very small store but  
13 if the owner wasn't there that's not something  
14 that can be produced on the spot I would  
15 imagine.

16 MS. O'BRIEN: I've never been on  
17 the scene. You've been on the scene for some  
18 of them, correct?

19 MR. MAY: Right. For some of  
20 them they're not able to produce it on the  
21 scene. Some of them I suppose can. I haven't  
22 seen any. I shouldn't say that. We've had  
23 retailers show us handwritten notes that,  
24 again, are sort of an unknown providence. But  
25 as long as the store is willing to submit it



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2 to the department and have it be on file and,  
3 for lack of a better term, auditable we'll  
4 take it. And if the attorneys and the  
5 investigators twos are satisfied with the  
6 investigation we can go ahead and dismiss the  
7 violation. Like Dawn said, we're set up in  
8 such a way that the store owner doesn't have  
9 to come into the department at this point.

10 LEGISLATOR BIRNBAUM: In terms of  
11 publicity, because I know that there was a lot  
12 of bad press for certain stores, does the  
13 department give out any information to the  
14 press?

15 MR. MAY: No. The information  
16 that's released -- let me be very clear about  
17 this. Certain information is FOILable. At  
18 the end of the day if there's a fully  
19 adjudicated violation it is a public document  
20 that can be FOILed. I don't recall seeing any  
21 FOILs from the press. Although Dawn is the  
22 FOIL officer for the department.

23 To the extent that a mistake may  
24 have been made, certainly I thought that I had  
25 been properly masking the location or the

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2 identities of some of the stores receiving the  
3 violations at the beginning of the pandemic.  
4 Again, although I've said it already, I do  
5 want to thank the presiding officer for  
6 bringing it to my attention that through the  
7 best of intentions was not really doing what I  
8 had set out to do and changed the practice so  
9 that when we were reporting to the press we  
10 were just reporting the number of locations in  
11 a township. Obviously the three towns, two  
12 cities. Because the way that I had been doing  
13 it before was not adequately protecting the  
14 people who had not been fully adjudicated.

15 LEGISLATOR BIRNBAUM: During this  
16 pandemic it was the masks, the cleaning  
17 solutions. If something else comes along, I  
18 can't even imagine right now, but do you  
19 believe that this legislation strengthens the  
20 department? Makes it better for I guess it's  
21 aimed towards the merchants but what's your  
22 view of this?

23 MR. MAY: My concern is that the  
24 legislation is focused on the unfair trade  
25 practice violations broadly and changing them

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2 in a broader sense that there may be, I don't  
3 want to say it was intended because I don't  
4 want to say it because we didn't draft the  
5 bill here, I think a better solution would be  
6 to specifically carve out price gouging.  
7 Define price gouging and then wall off price  
8 gouging from the department. Unless there's a  
9 declared emergency by the president, the  
10 governor, the county executive.

11 Excuse me, I understand from having  
12 done this now for nine months and working with  
13 some of the stores, obviously speaking with  
14 many of you, that the way that we have been  
15 operating, although I think it is perfectly  
16 appropriate, could be changed to offer some  
17 protection to the vendors as well. I think  
18 there needs to be some clarity in the law.  
19 Which again is purpose of the memo I sent  
20 around prior to the weekend.

21 The bill as written I think does  
22 change some of the broader powers of the  
23 department. We do use the unfair trade  
24 practice violation as part of our enforcement  
25 against entities that are not licensed by the

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2   department. So if you have a car dealership  
3   for example. Somebody comes in saying they're  
4   being ripped off by a car dealership.  
5   Catering halls. The tool of the department is  
6   the unfair trade practice. This legislation  
7   as written I think sort of more broadly  
8   affects that than might have been warranted.

9                   So again, if there's an opportunity  
10   to work with this body here, I think there's a  
11   broad agreement on both sides, not of the  
12   aisle here, whatever this divider is, that  
13   some change needs to be made and if there's an  
14   opportunity to work with all of you and come  
15   back to this in the new year I think that we  
16   would have something that everyone would be  
17   happy and proud to have out there.

18                   LEGISLATOR BIRNBAUM:     Thank you.

19                   LEGISLATOR KOPEL:        Mr. Rhoads.

20                   LEGISLATOR RHOADS:       Commissioner  
21   May, I understand the argument that you're  
22   making. I'm just a little bit concerned that  
23   this turns somewhat into a shoot first and ask  
24   questions later process. Which might look  
25   good for a press conference but it doesn't

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2 really get us to the point where we're solving  
3 any kind of issue. I mean, you're essentially  
4 filling out an accusatory instrument. With  
5 any other scenario you would wind up having to  
6 have probable cause to be able to do that. It  
7 would be sort of like me accusing you of  
8 murder without giving you the opportunity to  
9 tell me whether or not you had an alibi,  
10 right.

11 So, I don't see where it creates an  
12 issue for the department. And if it is a  
13 substantial change in the procedure maybe it  
14 is a procedure that needs to be changed to  
15 give the business owner the opportunity of  
16 demonstrating to the person that's there to  
17 conduct an investigation, right? An  
18 investigation is not just one side. It's  
19 listening to both sides. Conduct an  
20 investigation and see what exculpatory  
21 information there is before they make a  
22 decision to charge.

23 Because as Legislator Drucker made  
24 the point and as the presiding officer made  
25 the point, you are, as soon as that ticket is

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2 issued, exposing potentially that business to  
3 negative press, to negative attention and  
4 forcing them to incur substantial bills to  
5 fight this out through an adjudicative process  
6 when they don't necessarily have to. As, I  
7 apologize, I didn't catch your name ma'am. I  
8 would address you by name.

9 MR. MAY: Dawn O'Brien, assigned  
10 counsel for the department.

11 LEGISLATOR RHOADS: Thank you  
12 counselor. Thank you Ms. O'Brien.

13 As you indicated, quite often these  
14 are things that wind up getting resolved right  
15 away because there really is no basis for it.  
16 But in the mean time a ticket has been issued,  
17 they had to occur an expense. That's an  
18 expense that can be avoided simply by asking a  
19 few simple and necessary questions at the  
20 point of where the investigator is in the  
21 store and has the opportunity to be presented  
22 with information explaining why it is that a  
23 particular price is being charged.

24 Nobody is looking to protect people  
25 who are truly engaging in price gouging. But

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2 by the same token we shouldn't be placing the  
3 burden of establishing someone's innocence on  
4 business owners. It's supposed to be that  
5 you're innocent until proven guilty not the  
6 other way around. I think this bill goes a  
7 long way in correcting that.

8 LEGISLATOR KOPEL: Ms. Bynoe.

9 LEGISLATOR BYNOE: Thank you  
10 Legislator Kopel. Commissioner, I'm not going  
11 to go over some of the questions that I asked  
12 earlier because there's been some agreement we  
13 will be working together to try to hammer this  
14 out in a way that would be appropriate. But I  
15 do want to note if whether you have confidence  
16 that we as a county would have an ability to  
17 issue violations for wholesalers that are not  
18 seated here in county. Who are not doing  
19 business here in the county. They might be  
20 doing business in Wyoming, Utah, California  
21 and the like.

22 MR. MAY: We've worked up a draft  
23 legislation through the county attorney's  
24 legal counsel bureau. We're confident that  
25 the solution that we have will allow us to go

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2 off some of the wholesalers like you're saying  
3 who are headquartered elsewhere. I believe  
4 most if not all corporations operating in  
5 state of New York have to be registered with  
6 the State Department of State for the issuance  
7 of service. Or process of service. I'm not a  
8 lawyer. Obviously I screwed that up.

9 I don't think there's any issue  
10 with going after the wholesalers in that  
11 case. Like I said at the beginning, I think  
12 that's for most of the violations that we've  
13 issued that would probably be the appropriate  
14 party to receive the violation.

15 LEGISLATOR BYNOE: I 100 percent  
16 agree.

17 LEGISLATOR KOPEL: Legislator  
18 Walker moves to close the hearing. Legislator  
19 Bynoe seconds the motion. All those in favor  
20 of closing the hearing signify by saying aye.  
21 Forget it. I'm sorry. Check that. Public  
22 comment.

23 MR. BUDNICK: Department of  
24 Consumer Affairs my highest compliments and to  
25 Mr. Nicoletto for bringing it before you. I'm



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2 a former practicing attorney. Retired now.

3 Former assistant district attorney.

4 There are two particulars where  
5 this idea of having a screening process before  
6 there is an actual prosecution where a person  
7 is in jeopardy. One is of course is the  
8 criminal justice system where we have a  
9 screening process first in between the  
10 prosecutor and the defendant. That is one  
11 model.

12 The other model is with building  
13 departments and New York State building code  
14 violations where the state code mandates a 30  
15 day notice of violation, it doesn't have to be  
16 30 days but it is, before an accusatory  
17 instrument can be filed in order to give a  
18 homeowner, a resident, a renter, even a  
19 trespasser the right to submit why have  
20 permits for this stuff? Why are you bothering  
21 me? Or whatever the situation may be.

22 I think the public policy of this  
23 state should be followed by this county in  
24 terms of the hearings that are being run by  
25 the Nassau County Department of Consumer

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2 Affairs.

3 At one point I had a number of them  
4 many moons ago. I found out that the  
5 administrative judges wouldn't allow business  
6 records of a businessman to be considered.

7 Also, there is no procedure or  
8 existence of an appellate procedure within the  
9 department other than a, quote unquote, appeal  
10 to the commissioner. Which is effectively a  
11 nonexistent appeal because the commissioner  
12 just doesn't have a staff or ability or a  
13 function of actually reviewing all the  
14 transcripts of all the proceedings that take  
15 place if there are appeals.

16 I think also there is a lack here  
17 because there is not a preponderance -- it's a  
18 mere preponderance of the evidence, not guilt  
19 shown by clear and convincing evidence which  
20 is a higher standard.

21 I haven't read this proposed local  
22 law. I asked for a copy last week. I was  
23 told to try and find it on the Internet, which  
24 turned out to be an impossibility for me. So,  
25 I'm suggesting that Mr. Nicoletto's proposal

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2 be very, very seriously considered because it  
3 provides for the protection of human rights.

4 People who own stores are human beings too.

5 We have to come to.

6 LEGISLATOR KOPEL: Mr. Budnick  
7 just wrap it up,.

8 MR. BUDNICK: -- come to an  
9 agreement as to what we can do for everybody's  
10 sake ultimately.

11 Thank you and thank you for putting  
12 up with me. Happy holidays. God bless you.

13 LEGISLATOR KOPEL: Thank you.  
14 Any other public comment? In that case, once  
15 again Legislator Walker moves to close the  
16 hearing and Legislator Bynoe seconds the  
17 motion. All those in favor of closing hearing  
18 signify by saying aye. Any opposed? The  
19 hearing is closed. The presiding officer will  
20 be back very shortly.

21 LEGISLATOR NICOLELLO: We are  
22 going now to a vote on this proposed local law  
23 to amend Section 21-10.2(2)(c) of the county  
24 administrative code with respect to due  
25 process for trade practice violation.

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2 We need a motion on that.

3 Legislator Schaefer moves it. Deputy  
4 Presiding Officer Kopel seconds it. And  
5 further debate or discussion on this matter?  
6 All in favor signify by saying aye. Passes  
7 unanimously.

8 We are going to do the next hearing  
9 and next vote and then we'll take a short  
10 break after that.

11 Number six is a hearing on a local  
12 law to amend Title A of Chapter 6 of the  
13 Nassau County Administrative Code in relation  
14 to the renewal of the exemption for persons 65  
15 years of age or over pursuant to Section  
16 467(6)(B) of the real property tax law.

17 Moved by Legislator Bynoe.  
18 Seconded by Legislator Walker. That's a  
19 motion to open the hearing. All those in  
20 favor of opening the hearing signify by saying  
21 aye. Those opposed? The hearing is open.  
22 Does anyone want to speak to this  
23 legislation?

24 LEGISLATOR BYNOE: This bill  
25 would protect our senior citizens who are

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2 opine to the county. It came to the mind  
3 especially during COVID and our desire to  
4 reduce the requirements for senior citizens to  
5 come out and be public facing to request this  
6 exemption that those that would have applied  
7 for an exemption five years in a row would  
8 enjoy the exemption, move forward without  
9 filing any additional paperwork.

10 Yes, they have to file an affidavit  
11 with their local town when they pay their tax  
12 bill. That would be the only additional  
13 requirement.

14 LEGISLATOR NICOLELLO: It helps  
15 the seniors because it can be a cumbersome  
16 process qualifying for this tax exemption and  
17 all the paperwork that they have to gather.  
18 It will allow them to avoid that by simply  
19 filing an affidavit with their tax payment I  
20 believe, right?

21 LEGISLATOR BYNOE: With their tax  
22 payment to the town. Rich, I don't know about  
23 you, or Presiding Officer, I get calls from  
24 senior citizens where they forgot and it's  
25 lapsed and it's fallen off. This really would

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2 allow for them, once they have the five years,  
3 they don't even have to worry about it.

4 LEGISLATOR NICOLELLO: Just file  
5 an affidavit. Any other debate or  
6 discussion? Motion to close the hearing.  
7 Moved by Legislator Kennedy. Seconded by  
8 Legislator DeRiggi-Whitton. All in favor of  
9 closing the hearing signify by saying aye.  
10 Those opposed? The hearing is closed.

11 And we will go to calendar item  
12 13. A local law to amend Title A of Chapter 6  
13 of the Nassau County administrative code in  
14 relation to the renewal of the exemption for  
15 persons 65 years of age or over pursuant to  
16 Section 467(6)(B) of the real property tax  
17 law.

18 Motion by Legislator Drucker.  
19 Seconded by Legislator Walker. Any further  
20 debate or discussion on the local law?  
21 Hearing none, all in favor signify by saying  
22 aye. Those opposed? Carries unanimously.

23 With respect to the hearing on the  
24 capital plan we're going to open that hearing  
25 and then recess it. Some additional work has

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2 to be done on that before it's ready to go.

3 Let me read the item.

4 Number seven is a hearing on an  
5 ordinance to adopt the capital budget for the  
6 county of Nassau for the first year of the  
7 four-year capital plan to commence on January  
8 1, 2021 pursuant to the provisions of Section  
9 310 of the county government law of Nassau  
10 County.

11 Motion to open the hearing by  
12 Legislator McKevitt. Seconded by Legislator  
13 Ferretti. All in favor of opening the hearing  
14 signify by saying aye. Those opposed? I  
15 think we need a motion to recess the hearing  
16 at this point? We are going to place that in  
17 recess and we are going to take a brief break  
18 and come right back. Thank you.

19 (Meeting was recessed at 4:34 p.m.)

20 (Meeting reconvened at 5:14 p.m.)

21 LEGISLATOR NICOLELLO: We are out  
22 of recess. Next two items to be called are 34  
23 and 35. These are settlements. 34 is a  
24 resolution -- actually 34 and 35 are  
25 resolutions authorizing the county attorney to

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2       compromise and settle the claims of the  
3       plaintiffs as set forth in the action entitled  
4       Duarte versus the County of Nassau. As well  
5       as plaintiffs in the action entitled HVAC,  
6       Inc. versus County of Nassau pursuant to the  
7       county law, the county government law of  
8       Nassau County and the Nassau County  
9       administrative code.

10                   Moved by Legislator Drucker.  
11       Seconded by Legislator Walker. These two are  
12       before us. Were there any questions? I think  
13       a request was made to call these separately.  
14       I don't know if anyone remotely has questions  
15       this. Any recusals or anything like that?  
16       Any debate or discussion? Hearing none, all  
17       in favor signify by saying aye. Those  
18       opposed? They carry unanimously.

19                   37, Resolution 172 is a resolution  
20       authorizing the county executive to execute an  
21       agreement with the Nassau County Interim  
22       Finance Authority in relation to the return to  
23       the New York State comptroller the amount of  
24       sales tax revenue necessary to enable the  
25       state comptroller to make the distressed



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2 provider assistance account payments.

3 Moved by Legislator Walker.

4 Seconded by Legislator DeRiggi-Whitton. That  
5 item is before us. Is there somebody from --  
6 I see Andy Persich.

7 MR. PERSICH: Andy Persich,  
8 Office of Management and Budget. This is just  
9 memorializing an agreement because similar to  
10 what we had to do with AIM last year, because  
11 we have a control board with NIFA, the money  
12 can't be remitted back to the state without an  
13 agreement placed. We're hoping that next year  
14 the legislation will be fixed in the state and  
15 we won't have this issue with the distressed  
16 hospital payments.

17 LEGISLATOR NICOLELLO: How much  
18 is this?

19 MR. PERSICH: Roughly around \$7.4  
20 million depending upon the calendared year  
21 with the state and everything else. But the  
22 number we have is 7.4 for this year.

23 LEGISLATOR NICOLELLO: This money  
24 comes out of our sales tax revenue?

25 MR. PERSICH: It's taken out of

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2 our share of the sales tax. Similar to what  
3 the AIM did last year.

4 LEGISLATOR NICOLELLO: How much  
5 was taken out for AIM?

6 MR. PERSICH: \$11 million.

7 LEGISLATOR NICOLELLO: Any  
8 questions? Thank you Andy. Any debate or  
9 discussion? All in favor signify by saying  
10 aye. Those opposed? Carries unanimously.

11 Next item is 51, Resolution 186 to  
12 require the assessor to restore to the  
13 official website of the county the total value  
14 of the exemption granted and the estimated tax  
15 impact to individual homeowners pursuant to  
16 real property tax law 485-u.

17 Moved by Legislator Ferretti.  
18 Seconded by Legislator Rhoads. That's before  
19 us. Anyone want to speak about this?  
20 Legislator Ferretti.

21 LEGISLATOR FERRETTI: Thank you  
22 Presiding Officer. What this would do when  
23 the property tax bills, the school property  
24 tax bills first posted back in early November  
25 there was a line at the bottom of the My

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2 Nassau Property web page which had the full  
3 impact of the reassessment, the increases  
4 listed as an exemption. The full amount.  
5 Unfortunately, that amount has since been  
6 removed from the county website. I couldn't  
7 really tell you why, I have my suspicions, but  
8 it has been removed from the county website.

9 So, residents have been calling my  
10 office, I'm sure many other offices from my  
11 colleagues here in the legislature, asking  
12 what the reassessment is going to bring in the  
13 future. What's it going to bring in the next  
14 four years. This exemption number that was  
15 listed at the bottom of that web page,  
16 although not precise, gives residents an idea  
17 of what the impact would have been this year  
18 and thus able to predict what it will be over  
19 the next four years, the remaining four years  
20 of the phase-in. So this is another instance  
21 of lack of transparency in this process.

22 It's another instance of a Majority  
23 proposal that will bring some level of  
24 transparency back to the process. I certainly  
25 hope that I'm joined by my colleagues up here

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2 in supporting it and that this number gets  
3 restored to the county website. Thank you.

4 LEGISLATOR NICOLELLO: Anyone  
5 else want to speak? Legislator Rhoads.

6 LEGISLATOR RHOADS: Thank you  
7 Presiding Officer. Even worse than -- even as  
8 bad as what Legislator Ferretti alluded to is  
9 the fact that this isn't something that  
10 information for the benefit of taxpayers that  
11 was never provided. It's the active decision  
12 to take information that was provided to them  
13 that would have given them an idea of what  
14 their projection was over the course of the  
15 next four years. A tool that they could use  
16 and deliberately taking that tool away from  
17 them.

18 So, not only do we have the case  
19 where perhaps you can make the excuse that  
20 somehow maybe they didn't think about  
21 providing this information to taxpayers. This  
22 is information that they had and was taken  
23 away, in my opinion, in a deliberate attempt  
24 to hide the true impact of reassessment so  
25 that homeowners wouldn't be able to understand

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2 it. Which makes this legislation even more  
3 necessary.

4 LEGISLATOR NICOLELLO: Anyone  
5 else want to speak?

6 LEGISLATOR FERRETTI: Can I add  
7 one extra thing? Just going back to what  
8 Legislator Rhoads just pointed out which of  
9 course is completely accurate. It was only a  
10 couple of weeks ago that the county was  
11 ordered by a court to be more transparent.  
12 Which is a very unfortunate situation that  
13 Nassau County had to be ordered by a court, by  
14 a judge, to be more transparent. And it's  
15 costing Nassau County residents, the lack of  
16 transparency, cost them not just from a  
17 personal perspective not knowing what's going  
18 for many residents, but also it costs us in  
19 real dollars and cents. We were ordered to  
20 pay attorneys' fees of almost \$600,000.  
21 Nassau County residents are on the hook for  
22 the lack of a transparency.

23 So, this is just another attempt to  
24 bring some level of transparency to this  
25 process and really the assessment department

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2 and the administration needs to learn from  
3 prior mistakes and fix these issues and we're  
4 trying to help with that. Thank you.

5 LEGISLATOR NICOLELLO: Any  
6 further debate or discussion? Hearing none,  
7 all in favor signify by saying aye. Those  
8 opposed? That carries unanimously.

9 We have two items on an emergency  
10 agenda, clerk item -- two items on the  
11 emergency calendar. Mike, you want to call  
12 the emergencies? Do the first one first.

13 MR. PULITZER: Call emergency  
14 Resolution 33-2020. Emergency resolution  
15 number 33-2020. An emergency resolution  
16 declaring an emergency for immediate action  
17 upon an ordinance to require the waiver of  
18 fees related to the modification of deeds  
19 containing covenants that discriminate on the  
20 basis of race or religion.

21 Shall I read the next one?

22 LEGISLATOR NICOLELLO: No. We'll  
23 hold off on that. This emergency has been  
24 read. We need a motion to establish the  
25 emergency. Moved by Legislator Rhoads.

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2 Seconded by Legislator Drucker. Any debate or  
3 discussion on the emergency? Hearing none,  
4 all in favor of the emergency signify by  
5 saying aye. Those opposed? Carries  
6 unanimously.

7 Now call the item for  
8 consideration. An ordinance to require the  
9 waiver of fees related to the modification of  
10 deeds containing covenants that discriminate  
11 on the basis of race or religion.

12 Moved by Legislator Rhoads.  
13 Seconded by Legislator Drucker.

14 Briefly this went through  
15 committees earlier. Waive fees for  
16 individuals to the extent that there remains  
17 these offensive covenants in deeds. Initially  
18 the proposal was that it would pertain to  
19 restrictions based on race but we have  
20 expanded that to religion as well. These  
21 covenants are illegal for generations actually  
22 but there may be still homeowners dating back  
23 to the '50s that still have this language in  
24 their deeds who may seek to get it out  
25 basically.

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2 Anyone else want to discuss it?

3 Legislator Rhoads.

4 LEGISLATOR RHOADS: The only  
5 thing I would add to the presiding officer's  
6 explanation is that as a county we want to  
7 take an active role in encouraging people to  
8 do it. Not only does this certainly provide  
9 an opportunity which they wouldn't otherwise  
10 have, but we want to make sure that  
11 opportunity can be taken free of county fees  
12 as a way of encouraging that language to be  
13 removed.

14 LEGISLATOR NICOLELLO: Any other  
15 debate or discussion? Legislator Solages.

16 LEGISLATOR SOLAGES: To what  
17 extent will there be an effort to record all  
18 of the homeowners who request that language be  
19 removed from their deed? Legislator Drucker  
20 and I initiated legislation in July that had  
21 in it to record this information because there  
22 were universities such as Molloy and Adelphi  
23 that had interest in recording this  
24 information and using it for evidence-based  
25 research to learn from the past. I applaud



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2 the effort of the Majority to initiate this  
3 bill but would also ask that there be a  
4 component to record this. Would someone able  
5 to FOIL the county clerk's office to actually  
6 request this language to be removed from their  
7 deed?

8 LEGISLATOR NICOLELLO: You were  
9 going in and out. Could you just restate what  
10 you just said right now?

11 LEGISLATOR SOLAGES: Is it  
12 possible for someone to FOIL the county  
13 clerk's office to discover who in fact may  
14 have requested this language to be removed  
15 from their deed? Because Legislator Drucker  
16 and I initiated legislation that we had a  
17 component where we would record that  
18 information.

19 LEGISLATOR NICOLELLO: I mean, I  
20 don't think it's possible to FOIL that from  
21 the county clerk's office what we're talking  
22 about. 400,000 parcels in the county and they  
23 would have to go through each one to identify  
24 whether a deed still, current deed has clause  
25 in it. I don't think that's something that

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2 can be done. We're looking at people  
3 proactively who want to make this change and  
4 Legislator Rhoads said we encourage people to  
5 do that but that's the purpose of the bill.

6 LEGISLATOR SOLAGES: It's  
7 available to the public as to what clauses did  
8 have this language.

9 LEGISLATOR NICOLELLO: I didn't  
10 catch that either.

11 LEGISLATOR SOLAGES: Will that  
12 information be made available to the public as  
13 to which clauses have this language.

14 LEGISLATOR NICOLELLO: I don't  
15 think you can, for the same reason you can't  
16 expect the county clerk to go through 400  
17 something thousand deeds and try to identify  
18 which ones have and which ones don't. I think  
19 you could, however, have a general -- we could  
20 provide general information to the public  
21 saying this is now available.

22 And to be honest with you, there's  
23 still cost involved in doing that. To  
24 actually try to get this out of the deed to  
25 file new instruments there's still state tax

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2 costs and if somebody' going to use an  
3 attorney there's cost there as well. But if  
4 someone is eagerly anticipating and would like  
5 to do this there's not going to be a charge in  
6 the county portion which is what we hope will  
7 encourage people to do so to the extent they  
8 still exist.

9 Any other debate or discussion?  
10 Legislator Ferretti.

11 LEGISLATOR FERRETTI: I would  
12 just add that the county clerk's office is a  
13 public office that is completely open to the  
14 public. Any resident or nonresident for that  
15 matter can go into the county clerk's office  
16 and go through the land records there. This  
17 information is freely accessible. From 1993  
18 forward it's actually accessible online. Any  
19 resident can go through any deed back to the  
20 beginning of the formation of Nassau County  
21 and conduct a search.

22 LEGISLATOR NICOLELLO: Any other  
23 discussion? Hearing none, all in favor  
24 signify by saying aye. Those opposed?  
25 Carries unanimously.

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2 Last item is 410 of 2020. Can we  
3 waive the reading of this entire paragraph? I  
4 think it's pretty clear as to what it is.  
5 With the consent of the Minority I would like  
6 to do that. No reason to have to read every  
7 word here. It's an ordinance amending  
8 Ordinance 101-2020 fixing the tax rates and  
9 levying taxes for the 12 month 2021 fiscal  
10 year etcetera.

11 Do we have a motion to establish an  
12 emergency? Moved by Legislator Drucker.  
13 Seconded by Legislator Kennedy. Any debate or  
14 discussion on the emergency? Hearing none --  
15 actually Andy, why don't you come up and tell  
16 us briefly what this is.

17 MR. PERSICH: This is the annual  
18 tax warrant that's usually done at this  
19 session of the legislature. It was a little  
20 delayed again this year but being that it may  
21 with COVID and everything else. But it's here  
22 before you as it comes in every year at the  
23 same time and does the exact same thing. It's  
24 the exact same resolution every year with  
25 different numbers in there.

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2 LEGISLATOR NICOLELLO: Tax bills  
3 can't go out unless they have this  
4 information?

5 MR. PERSICH: Exactly. These  
6 have to be submitted to the towns. The towns  
7 have to take it and then submit it for their  
8 tax penalties and if it gets delayed creates  
9 problems with cash for towns.

10 LEGISLATOR NICOLELLO: Which is  
11 the nature of the emergency because if we  
12 don't do it today then we're into the new  
13 year.

14 MR. PERSICH: The problem is when  
15 we get the information back and forth between  
16 the tax receivers and everything else it has  
17 to be done in December on this meeting. And  
18 the delay is that there's information going  
19 back and forth up until Friday at 4:45 I can  
20 tell you that we finally got final numbers  
21 from one of the townships. Unfortunately, we  
22 tried to streamline the process and we've  
23 gotten it closer. The turnaround time on this  
24 is going to be this way as far as I see it.

25 LEGISLATOR NICOLELLO: Any

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2 questions for Andy? Thank you. All in favor  
3 of establishing the emergencies signify by  
4 saying aye. Those opposed? The emergency is  
5 established. I will call the item 410 of  
6 2020. An ordinance amending Ordinance 101 of  
7 2020 fixing the tax rates and levying taxes  
8 for 12 month 2021 fiscal year.

9 Motion by Legislator Bynoe.  
10 Seconded by Legislator McKevitt. Any further  
11 debate or discussion on the item? Hearing  
12 none, all in favor signify by saying aye.  
13 Those opposed? Carries unanimously.

14 So, we are going to put the  
15 legislature in recess. We expect that there  
16 will be two additional emergencies to call  
17 this afternoon. This evening. While we are  
18 waiting for those to be ready we will have the  
19 Rules Committee take care of its business.

20 (Meeting recessed at 5:25 p.m.)

21 (Meeting reconvened at 5:38 p.m.)

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2 LEGISLATOR NICOLELLO: We are out  
3 of recess. We have two more emergencies for  
4 tonight. Clerk item 411 of 2020 is a local  
5 law to create a special revenue fund to assist  
6 in the financing or payment of tax certiorari  
7 settlements and judgements and the payment of  
8 other expenses in Nassau County.

9 We need to motion to establish an  
10 emergency. Moved by Legislator Schaefer.  
11 Seconded by Legislator Kennedy. Any  
12 discussion on the emergency? Hearing none,  
13 all in favor of establishing the emergency  
14 signify by saying aye. Those opposed?  
15 Carries unanimously.

16 Now for the actual item. 411 of  
17 2020, a proposed local law to create a special  
18 revenue fund to assist in the finance of  
19 payments of tax certiorari settlements and  
20 judgements and the payment of other expenses  
21 in Nassau County.

22 Moved by Legislator McKevitt.  
23 Seconded by Legislator Ferretti. The item is  
24 before us.

25 This is a special revenue fund that

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2 we had proposed at the time of the budget.  
3 It's been slightly altered to encompass  
4 additional reasons for which the money can be  
5 spent. But basically, with what we believe to  
6 be excessively pessimistic viewpoint of sales  
7 taxes, to the extent that the sales taxes  
8 actually outpace what the projections were,  
9 additional monies will flow into this reserve  
10 fund which can then be spent for various good  
11 government purposes including payment of tax  
12 refunds as well as other expenses.

13 Anyone want to say anything else?  
14 Anyone remotely? All right. All in favor  
15 signify by saying aye. Those opposed?  
16 Carries unanimously. We are going to have  
17 another recess and come back and get the last  
18 item done.

19 (Committee recessed at 5:45 p.m.)

20 (Committee reconvened at 7:01 p.m.)

21 LEGISLATOR NICOLELLO: Back from  
22 recess. The last item of business for today  
23 is 240 of 2020. We need to establish an  
24 emergency with respect to an ordinance making  
25 certain determinations pursuant to SEQRA



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2 approving a declaration of need for financing  
3 of county purposes by the Nassau County  
4 Interim Finance Authority.

5 Motion by Minority Leader  
6 Abrahams. Seconded by Legislator Debra Mule.  
7 Any debate or discussion? Hearing none, we  
8 need to actually vote on the emergency first.  
9 All in favor of the emergency signify by  
10 saying aye. Those opposed? The emergency is  
11 passed.

12 Now we can consider the item which  
13 is 240 of 2020. An ordinance making certain  
14 determinations pursuant to the State  
15 Environmental Quality Review Act approving a  
16 declaration of need for financing of county  
17 purposes by the County Interim Finance  
18 Authority.

19 Again, we need a motion. Minority  
20 Leader Abrahams. Legislator Mule makes that  
21 motion. The item is before us. Any debate or  
22 discussion? Hearing none, all in favor  
23 signify by saying aye. Those opposed?  
24 Carries unanimously.

25 Motion to adjourn? Unanimous

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2 motion to adjourn and seconded by Legislator  
3 McKevitt. All in favor signify by saying  
4 aye. We are adjourned.

5 (Meeting was adjourned at 7:10 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 21st day of  
December 2020

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FRANK GRAY