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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, May 24, 2021
1:30 P.M.

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

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4 LEGISLATOR RICHARD J. NICOLELLO

5 Presiding Officer

6 9th Legislative District

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8 LEGISLATOR HOWARD KOPEL

9 Deputy Presiding Officer

10 7th Legislative District

11

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

16

17 LEGISLATOR JAMES KENNEDY

18 12th Legislative District

19

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

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14 LEGISLATOR STEVEN RHOADS

15 19th Legislative District

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17 MICHAEL PULITZER

18 Clerk of the Legislature

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2 LEGISLATOR NICOLELLO: Let's
3 start the meeting off as we always do with the
4 Pledge of Allegiance and I'd ask Legislator
5 Debra Mule to lead us in the pledge.

6 Mike, could you please call the
7 roll.

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

10 LEGISLATOR KOPEL: Here.

11 MR. PULITZER: Alternate Deputy
12 Presiding Denise Ford.

13 LEGISLATOR FORD: Here.

14 MR. PULITZER: Legislator Siela
15 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 LEGISLATOR 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: Presiding Officer
16 Richard Nicolello.

17 LEGISLATOR NICOLELLO: Here.

18 MR. PULITZER: We have a quorum
19 sir.

20 LEGISLATOR NICOLELLO: Thank
21 you. We have three items on the emergency
22 agenda and I'd ask the clerk to call all three
23 and the emergencies.

24 MR. PULITZER: Yes, sir.

25 LEGISLATOR NICOLELLO: Actually

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2 you can hold off for a moment. I have several
3 slips for public comment. Three of them
4 relate to one of the items on the agenda which
5 we will call in a few minutes but one is just
6 a general public comment so I will call that
7 now. Richard Clolery.

8 MR. CLOLERY: To the members of
9 the legislature. Hello again. It's been such
10 a long time since we last saw one another and
11 I here once again to plead my case for
12 increased funding for the buses. Only now
13 there is an increased reason for this.

14 As you may be aware, due to the
15 pandemic and a recent cyber attack on a gas
16 pipeline, there's been increasing gas prices
17 may continue which will of course decrease
18 public using their cars this summer for
19 anything outside of work. Which means less
20 recreational driving which will lead in its
21 own way to less money coming into the Nassau
22 County coffers.

23 Also due to the pandemic, there's
24 been shortages of processing chips, which
25 makes it impossible for me to get the latest

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2 video game systems and for everyone else who
3 might want to get a new car, used car, also
4 impossible due to increased prices at such a
5 level that it's too expensive without a loan.
6 Who they if they miss a single payment means
7 that this person with this loan will probably
8 default on it. Don't believe me? Ask your
9 local repo man.

10 Look, I know that you've probably
11 heard this all before but I want you to think
12 about this. With increased funding that means
13 more buses for people who can't drive and
14 increased connectivity to railroad stations,
15 to recreational places like Adventureland,
16 like the Nassau Coliseum, to places where they
17 shop.

18 All I'm saying is this, don't look
19 upon a well-run bus system as a cost but
20 potential benefit for the people of Nassau
21 County who, because of what is going on, can't
22 drive to the places where they need to be or
23 have to be or want to be.

24 Also, for the members of the local
25 Republican Party who might want to impose on

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2 what I am saying, I want to ask you
3 something. How are you feeling about the
4 national party as a whole? Especially with
5 the opposition to the January 6th commission
6 creation? Creation of voter suppression laws
7 for minorities all over the country. There
8 attempts to override Rowe v Wade, which won't
9 stop women from getting abortions if
10 overturned by the way. Their support for from
11 right wing extremist news organizations like
12 Faux news. Yes, F-A-U-X News. Their antics
13 like Marjorie Greene's equating the Holocaust
14 to mask wearing.

15 If I were a conscientious
16 Republican I would be asking myself this.
17 Should I still be one? Especially with what's
18 going on lately. Or should I listen to my
19 conscious and do one of two things. One, join
20 the Democratic Party. Or two, either start a
21 new political party that will require me to be
22 more inclusive of people or join an
23 independent party with the same philosophy
24 like the Worker's Party or Independent Party.

25 And by the way, for those of you

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2 who may drive and may be afraid of what I'm
3 saying, I have nothing but great respect and
4 admiration for those who drive carefully.
5 Keep up the good work. Thank you for your
6 time everyone.

7 LEGISLATOR NICOLELLO: Let's go
8 to the emergencies.

9 MR. PULITZER: Thank you Mr.
10 Chairman. Emergency Resolution 3-2021. An
11 emergency resolution declaring an emergency
12 for immediate action upon a resolution
13 requesting the legislature of the state of
14 New York to enact and the governor to approve
15 an act to amend the Retirement and Social
16 Security law, in relation to disability
17 retirement benefits for sheriffs, deputy
18 sheriffs, undersheriffs and correction
19 officers in Nassau County.

20 The following ones are emergency
21 resolution number 4-2021. An emergency
22 resolution declaring an emergency for
23 immediate action upon a resolution requesting
24 the legislature of the state of New York to
25 enact and the governor to approve an act to

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2 amend the Retirement and Social Security Law
3 in relation to providing death benefits for
4 correction officers employed by Nassau
5 County.

6 The next emergency is number
7 5-2021. Emergency resolution number 5-2021,
8 an emergency resolution declaring an emergency
9 for immediate action upon a resolution
10 requesting the legislature of the state of
11 New York to enact and the governor to approve
12 an act to amend the Retirement and Social
13 Security Law in relation to accidental
14 disability retirement for deputy sheriffs.

15 LEGISLATOR NICOLELLO: Thank
16 you. We need a motion to establish the
17 emergency. Moved by Legislator McKevitt.
18 Seconded by Legislator Birnbaum. Any debate
19 or discussion? All in favor signify by saying
20 aye. Those opposed? The emergency is
21 established.

22 I'm going to call the items.
23 178-2021 a resolution requesting the
24 legislature of the state of New York to enact
25 and the governor to approve an act to amend

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2 the Retirement and Social Security Law in
3 relation to disability retirement benefits for
4 sheriffs, deputy sheriffs, undersheriffs and
5 correction officers in Nassau County.

6 Item 179. A resolution requesting
7 the legislature of the state of New York to
8 enact and the governor to approve an act to
9 amend the Retirement and Social Security Law
10 in relation to providing death benefits for
11 correction officers employed by Nassau
12 County.

13 Item 182 of 2021. A resolution
14 requesting the legislature of the state of
15 New York to enact and the governor to approve
16 an act to amend the Retirement and Social
17 Security Law in relation to accidental
18 disability retirement for deputy sheriffs.

19 I think the titles provide most of
20 the information that's necessary. I don't
21 know if anyone is here from the administration
22 who wants to speak on these but these are
23 joint initiatives on the part of the
24 legislature and the administration.

25 The last one, 182 of 2021, provides

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2 accidental disability benefits for deputy
3 sheriffs to be increased from two-thirds to
4 three-quarters final average salary. Which is
5 in line with other similar positions whether
6 it be the police department etcetera.

7 So, any debate or discussion on
8 these three items? Legislator
9 DeRiggi-Whitton.

10 LEGISLATOR DERIGGI-WHITTON: I
11 just want to say we were discussing I think
12 this is the third time that we've tried this
13 in my tenure. We do support and we hope it
14 gets the signatures that it requires going
15 forward.

16 LEGISLATOR NICOLELLO: We echo
17 that completely. Any further debate or
18 discussion? Hearing none, all in favor
19 signify by saying aye. Those opposed?
20 Carries unanimously.

21 Now we move on to the regular
22 agenda. The first three items related to the
23 capital plan are not being called today. Go
24 to item four, which is a hearing on a proposed
25 local law to amend Article 10 of the Nassau

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2 County Administrative Code to require written
3 notification to towns, villages, cities and
4 school districts of agreements proposed to be
5 entered into by Nassau County for the
6 operation of multiunit shelters to be located
7 within such jurisdictions.

8 That item is moved by Legislator
9 Walker and seconded by Legislator Schaefer.
10 It is now before us.

11 This action we're taking with
12 respect to this local law is in response to
13 the administration's action with respect to
14 the proposed emergency shelter to be located
15 at 120 Jericho Turnpike and actions that they
16 took before the public and before legislators
17 and most people knew what was happening.

18 So, what the purpose of this is to
19 provide greater transparency. It is a focused
20 piece of legislation, narrowly focused on the
21 issue of providing notice when such issues are
22 being considered. So that at least ten days
23 prior to the execution of a contract or
24 agreement for shelter facilities in Nassau the
25 Department of Social Services must provide

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2 written notice to the legislator representing
3 the district where the shelter is to be
4 located as well as town, villages, cities and
5 school districts where the proposed shelter is
6 to be located.

7 Again, rather than providing notice
8 after a contract has been entered into, this
9 legislation simply says before you enter into
10 a contract for a shelter you provide all of
11 the interested parties, especially the elected
12 officials and office holders, of the proposed
13 action to enforce greater transparency and
14 allow the public additional information before
15 you enter into the transaction for this.

16 Any debate or discussion on this
17 proposed law? Legislator Drucker.

18 LEGISLATOR DRUCKER: Thank you
19 very much Presiding Officer. I just want to
20 reiterate some of the comments I made a couple
21 of weeks ago when this bill was before the
22 committees. I support this bill, I really do,
23 but I also recall I really strongly supported
24 the Jericho Family Support Center. I was
25 extremely disappointed as this bill addresses

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2 the manner in which the community and the
3 elected officials, like ourselves, myself, who
4 represent the community were informed of this
5 contract and this plan at the very last minute
6 actually after the school district knew, after
7 the community knew at school board meetings.

8 So, I understand the need for it
9 because the transparency is critical. But I
10 also want -- I'm hopeful that this bill will
11 not minimize or marginalize this county's
12 obligation to legally -- we have a legal and
13 moral obligation to house homeless men and
14 women and children of Nassau County. It's a
15 statutory obligation as well as a moral
16 obligation.

17 Many of these people are seniors
18 who have spent long, productive lives
19 contributing to our communities or veterans
20 even who have made extraordinary sacrifices
21 for our nation.

22 I had filed an amended version of
23 this clerk item that would ensure the
24 notification of local officials regarding the
25 placement of shelters but respect the legal

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2 mandates of confidentiality and will not
3 contain identifying information of residents
4 of the proposed shelter, nor disclose the
5 address of any shelter housing domestic
6 violence or abuse victims.

7 One of the most unfortunate
8 elements about the debate about the Jericho
9 Family Support Center was the level of
10 dishonest vitriol that had been directed
11 towards the concept and who the people were
12 that would be residing there.

13 I really feel that our shared sense
14 of humanity and decency makes it imperative
15 that we as a united community reject some of
16 theses toxic attitudes of a few who out of
17 ignorance, racial or class prejudice, fear or
18 just callous opportunism seek to obstruct
19 these efforts.

20 So, I just would like to make sure
21 that going forward we can operate under the
22 guise of this bill in a manner so as to not to
23 impede our ability to deliver lifesaving
24 services or further jeopardize the safety or
25 welfare of our most vulnerable population.

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2 And I urge the administration to consider the
3 amendment that I had filed too. So thank you
4 very much Presiding Officer.

5 LEGISLATOR NICOLELLO: Thank you
6 Legislator Drucker. I would say this bill was
7 very narrowly drafted. Just focuses on
8 providing that notice before the contract is
9 entered. In no way does it or could we ever
10 minimalize or marginalize our legal or moral
11 obligations. And in no way obviously does it
12 require disclosure of any confidential
13 information or identifying information
14 because, again, that would be in violation of
15 legal mandates.

16 Again, it simply requires that
17 before the county executive enters into a
18 contract for such a facility she provides the
19 officials with notice. I know you've stated
20 it many times you're in support of that.

21 Legislator Walker then Legislator
22 Bynoe and then Legislator DeRiggi-Whitton.

23 LEGISLATOR WALKER: Thank you
24 Presiding Officer. I agree with what has been
25 said already this morning, and I really do

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2 believe that if this had gone in the right
3 direction and we did know ahead of time and we
4 sat down with all the parties involved I would
5 hope that that shelter would have been there.

6 We do need to do something
7 different. We have families that are living
8 in hotels with nothing for the children to do
9 there. One bedroom where you have two beds
10 and a mom and three children are there. No
11 other services are there for them. A facility
12 like this, it was my understanding, would have
13 certainly helped and offered so much more to
14 our families that have to live in a shelter
15 right now. With training perhaps for the
16 adults and childcare right there for the
17 children, after school tutoring and so on and
18 so forth.

19 Again, if things had been done
20 properly and it wasn't at the last minute and
21 no one knew about it and there wasn't so much
22 confrontation regarding it I would have hoped
23 that that would have been operating.

24 So I hope, by passing this, it
25 stops that problem in the future and that we

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2 move on and find very, very productive
3 shelters for those families that need it.
4 Need it the most. And at a time when their
5 lives are really dealing with a lot of
6 struggles.

7 So, like I said, I hope that it is
8 supported by everyone and we do move on and do
9 things and be upfront about them right from
10 the beginning. Thank you.

11 LEGISLATOR NICOLELLO: Thank you
12 Legislator Walker. Legislator Bynoe.

13 LEGISLATOR BYNOE: Thank you
14 Presiding Officer. I'm not sure who I should
15 pose this question to. Would it be Legislator
16 Walker? Were you the lead sponsor on the
17 bill?

18 LEGISLATOR NICOLELLO: I guess
19 any one of us can respond.

20 LEGISLATOR BYNOE: I'd like the
21 definition for multiunit. I'd like to
22 understand what would that capture? Because
23 currently what we have proliferating certain
24 communities are units, are shelters that house
25 four to five families in one house. Is that

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2 considered multiunit?

3 LEGISLATOR NICOLELLO: We're
4 going to try to get you an answer to that.
5 It's potentially a term that's defined in
6 state law. Why don't we leave this hearing
7 open. Other legislators obviously can have
8 their say at this point but we will get you an
9 answer to that question before we conclude.
10 If necessary, we will go on to the next item
11 and come back.

12 LEGISLATOR BYNOE: I appreciate
13 that.

14 LEGISLATOR NICOLELLO: Anyone
15 else like to speak on this? We will leave --

16 LEGISLATOR SOLAGES: Yes. This
17 is Legislator Solages. Good afternoon. Thank
18 you Presiding Officer. I would like to know
19 what internal mechanisms the county has to
20 ensure that this piece of legislation meant
21 for notification is not meant for other
22 purposes such as protectual purposes to keep
23 certain people out of certain neighborhoods?
24 Thank you.

25 LEGISLATOR NICOLELLO: I mean,

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2 there's nothing that can be read into the text
3 of this local law that could be used to imply
4 that. It's very simple and straightforward
5 and simply requires notice of these shelters,
6 notice be provided to elected officials in the
7 community in general when a contract is
8 entered into to place one of these shelters in
9 a community. Obviously the only purpose here,
10 the only purpose that can legitimately be read
11 into this is that under those circumstances
12 when they are about to enter into a contract
13 the community, the elected officials at least,
14 should know about it. So, I don't think it
15 can be used, certainly there's nothing in the
16 language of the statute could support what
17 you're suggesting.

18 LEGISLATOR SOLAGES: I'm not
19 suggesting that Presiding Officer. It's a
20 simple reality that these laws are used in
21 this fashion. Thank you.

22 LEGISLATOR NICOLELLO: I
23 categorically reject that. This law could not
24 be used in that connection.

25 LEGISLATOR SOLAGES: I hope that

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2 we are not devoid of reality here. That is
3 exactly the way these laws are being used.

4 LEGISLATOR NICOLELLO: The
5 alternative is that you don't want to let the
6 community have notice of the placement of a
7 shelter in the community. Is it supposed to
8 be kept a secret? All we're suggesting is,
9 all we're requiring is that ten days before a
10 contract is entered you tell the community
11 you're about to enter into a contract. That's
12 simple enough.

13 LEGISLATOR SOLAGES: And at that
14 point that information could be used to
15 encourage fearmongering to scare people from
16 allowing these people who are in need to get
17 the need that they help.

18 LEGISLATOR NICOLELLO: But also
19 on the contrary, it could be used to provide
20 information to the community about the need
21 for such and such a site or the circumstances
22 of where it's being placed and it actually
23 might build support for something before it
24 goes forward. I fully believe that
25 transparency is the better way to approach

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2 this.

3 LEGISLATOR SOLAGES: At
4 Georgetown and Boston College law school I
5 have researched various laws during the
6 reconstruction of the south in which Jim Crow
7 laws were used to muster up a lot of hate and
8 anger to make sure certain people were not
9 allowed in certain neighborhoods. Do we know
10 if this law will be used in that fashion?

11 LEGISLATOR NICOLELLO: Look, I'm
12 not even going to respond to that. If you're
13 going to start raising Jim Crow in response to
14 this legislation then there's no reasonable
15 argument that can be made. There's no
16 reasonable discussion that can be had.
17 Legislator Walker.

18 LEGISLATOR WALKER: I just want
19 to look back on our hearing that we had
20 regarding this issue and social services. And
21 the attorney for social services actually sat
22 here with the commissioner and said that if he
23 had been at the meeting with the commissioner
24 he would have advised her not even to let the
25 school district be aware of the fact that they

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2 were discussing this shelter.

3 We were in the throws of COVID at
4 that time where every single parent, and
5 Legislator Solages I know you are aware of
6 this, that every single parent had to decide
7 if their child was going to school in the
8 district. If they were going to do remote
9 learning. If the school had offered a hybrid
10 what they were doing. The whole busing
11 issue. If they were eligible for a bus were
12 they going to be on the bus or were you going
13 to drive them to school. It was an even
14 crazier time than we normally have.

15 This hotel is not in my district
16 but I do -- I am the chair of Health and
17 Social Services. There were so many questions
18 in regard to the hotel at that time. There
19 was a pool that was in the hotel that just had
20 like garbage in it. They emptied the pool and
21 they threw garbage in it. I asked did we even
22 see the site? Do we know what it's like?

23 I want to ensure the health and
24 safety of the residents. These are our
25 families that are going into these shelters

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2 and we have to make sure they're in a place
3 where we should have our families.

4 Like I said, I totally agree with
5 the concept of what the shelter was going to
6 offer but I just think it was done very
7 quickly without any knowledge and there were
8 certainly a lot of questions I wanted to ask
9 and I wanted to know. Every time we had
10 whether we had a hearing or whatever, a
11 discussion about it, I said this is not in
12 opposition to the shelter. This is just
13 regarding the way this was done dealing with
14 this hotel. So, in no way would I look at
15 this as being a way to keep residents, any of
16 our residents out of any community. So, I can
17 only share my information about it.

18 LEGISLATOR NICOLELLO: Any other
19 legislators?

20 MS. MEREDAY: Good afternoon
21 Presiding Officer and legislators. I am
22 concerned with regard to this legislation and
23 hearing that you all have concerns about how
24 this was put forth even heightens my concerns
25 because coming from situations where I have

1

2 seen the plethora of these types of shelters
3 both legal and illegal in communities of color
4 with no jurisdictional resources, no supports,
5 nothing, until something happens, there's a
6 fire or some kind of incident where children's
7 lives are in jeopardy or families.

8 I myself have moved a veteran's
9 family out of a similar type facility as
10 Legislator Walker stated that was unsafe for
11 the veteran who was in that shelter and this
12 hotel was located on Northern Boulevard. The
13 fact that the north shore gets those very few
14 circumstances but the south shore is inundated
15 with them.

16 So, the concerns for these
17 underserved communities, including communities
18 of color and veteran communities, ties into
19 finding out where will the public get to speak
20 with regard to how they want their communities
21 to be represented? Even when we had
22 unescorted children who were summarily just
23 dumped in our county. The Village of
24 Hempstead received an increased number versus
25 even Baldwin where I live. There were

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2 hundreds that were put into the Village of
3 Hempstead and maybe 14 that ended up in
4 Baldwin. And I don't think any crossed the
5 threshold in Garden City or any place north of
6 Northern Boulevard.

7 So, the disproportionate number of
8 these shelters, however they're administered,
9 however they're monitored or established,
10 still creates a problem that yes, rings true
11 to the same types of systemic and systematic
12 racism that was engendered upon people of
13 color through Jim Crow and other type laws,
14 many of which are still indirectly on the
15 books even in our illustrious state of
16 New York.

17 So, I'm very concerned about how,
18 one, this legislation was put forth to begin
19 with and the fact that there isn't as much
20 input locally with residents who are not able
21 to attend these hearings. I myself literally
22 have left a medical office where I've been
23 assisting a critical care physician since
24 COVID started to attend this full meeting
25 because I'm continuously concerned about what

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2 is happening with my tax dollars when I have
3 to travel along roadways and I read in the
4 paper about certain residents who are going to
5 get checks but then we have a medical facility
6 that's going to get shut down, that people are
7 using as a political jockeying position that
8 they claim they may be putting in some type of
9 veteran village. But I find it very
10 interesting that all these ideas for
11 homelessness and housing and veteran services
12 come right before an election.

13 But to this issue right here where
14 we're talking about multiunit shelters, I too
15 concur with Legislator Bynoe as to what
16 constitutes multiunit? What are we talking
17 about in terms of the family? What are we
18 talking about in terms of the support services
19 that are going to go into these hotels.

20 We have many empty facilities. You
21 have a structure that's being built right over
22 here where Sears was. I'm pretty sure it
23 looks like it's going to be yet another
24 medical type of facility.

25 But we need to address the shortage

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2 of housing and resources for all of our
3 residents, but particularly those who are the
4 most vulnerable, the most underserved. That
5 includes our veterans. That includes our
6 seniors and that includes young people who
7 can't afford to live here. They don't want to
8 stay here. But if we do have families that
9 are in crisis, that are in need, that need to
10 be in a multiunit facility or a shelter or
11 some type of supportive housing they should
12 receive the same care, consideration, dignity
13 and sense of decency and a place to live and
14 guess what? It should be distributed across
15 the board, across the county, across the
16 borders and boundaries that are set up to keep
17 it in significant numbers in the south shore.
18 But everything on the north shore has to be a
19 certain way. And we're all paying the same
20 amount of taxes but we're not getting the same
21 resources.

22 So, I'm hoping that it goes beyond
23 this hearing that we can individually, in all
24 of your respective legislative districts, you
25 talk to your community residents and get an

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2 idea of how many of these shelters are in
3 their own communities that they know about.
4 Whether they know about them or not it's still
5 is going to be an impact on their taxes in
6 their breakdown.

7 So, the concerns are there and we
8 cannot continue to just rush things through,
9 throw it on the wall and see what sticks and
10 think that the taxpayers are continuing to put
11 up with that. Thank you.

12 LEGISLATOR NICOLELLO: Any other
13 public comment on this? I'm being told that
14 the term multiunit is solely in the title to
15 this legislation and the text of it actually
16 refers simply to shelter facilities.

17 So, what we are going to do today
18 is close the hearing and I will not call the
19 local law. I think we're going to need to
20 make sure the terminology being employed in
21 the legislation is as focused as possible.
22 It's clear what we want to do but we want to
23 make sure that the legislation is narrowly
24 focused on those types of facilities such as
25 the one in Jericho where you were placing a

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2 shelter that could accommodate 80 families.
3 So, again, we want to make sure the language
4 of the legislation is as clear as possible.

5 Anyone else have any comments or
6 discussion during this hearing?

7 LEGISLATOR BYNOE: Presiding
8 Officer if you will? I would like if our
9 counsel was kept in the loop of what is
10 happening before it shows back up on our
11 agenda.

12 LEGISLATOR NICOLELLO:
13 Absolutely.

14 LEGISLATOR BYNOE: Because I have
15 some thoughts.

16 LEGISLATOR NICOLELLO: We would
17 welcome those thoughts and we welcome the
18 input.

19 We need a motion to close the
20 hearing. Moved by Legislator Kennedy.
21 Seconded by Legislator Kopel. All in favor of
22 closing the hearing signify by saying aye.
23 Those opposed? The hearing is closed.

24 We are going to jump to Item 8
25 since there are people here, several

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2 individuals, community leaders come to speak
3 on this item. So we're going to do that
4 first.

5 This is a local law to prohibit the
6 smoking or vaping of cannabis in all
7 county-owned properties. We had a hearing
8 several weeks ago on this. What we're going
9 to do at this point is going to amend the
10 statute to decrease the penalty for violation
11 from \$200 to a maximum amount not to exceed
12 \$25. Why we are doing that is because the
13 state legislation sets a penalty with respect
14 to the use of cannabis products of \$25 and the
15 county's legislation cannot be inconsistent
16 with that amount.

17 A motion to amend by Legislator
18 Ferretti. Seconded by Legislator Schaefer.
19 All in favor of amending this legislation to
20 reduce the amount of the penalty from \$200 to
21 \$25 signify by saying aye. Those opposed?
22 The amendment passes unanimously.

23 Is there any further debate or
24 discussion on this legislation or anyone who
25 wants to speak on its behalf? Deputy

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2 Presiding Officer Kopel. I'm sorry. We have
3 public to speak on this. Let's bring up the
4 three speakers. First off we have Elizabeth
5 Boylan.

6 MS. BOYLAN: I want to thank you
7 for passing the ordinance. I'm disappointed
8 in the penalty. But the fact that you have
9 the vision to post all these signs on Nassau
10 County properties, over 6,000 acres of parks,
11 beaches, golf courses, beautiful preserves.
12 Which my family, friends and guests we take
13 advantage of and I know that many people in
14 Nassau County and the surrounding area take
15 advantage of. I hope that this will reduce or
16 eliminate people smoking anything on the
17 Nassau County-owned properties.

18 Especially the way the secondhand
19 smoke affects our most vulnerable, our
20 children and our elderly. We just stopped
21 wearing masks because we're vaccinated with
22 the pandemic but we still have an epidemic
23 which is only fueled by the legalization of
24 marijuana. Thank you.

25 I also encourage you if you could

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2 get to your colleagues in the Town of
3 Hempstead, Town of North Hempstead, Town of
4 Oyster Bay and encourage them to opt out. The
5 pot bars, the pot sales that will be
6 problematic for the towns. I know people say
7 well, they can go to the next city. You know
8 what? Go to the next city. Let's make it
9 difficult.

10 We have a beautiful county. We
11 don't want to be New York City. That smell is
12 not only horrendous it's also dangerous to
13 people with compromised systems. Thank you.

14 I hope to see that those signs are
15 posted at all the facilities that you have
16 because that's clear and you are supposed to
17 be as strict or more strict than the Clean
18 Indoor Air Act. Thank you for your vision for
19 protecting Nassau County and keeping it
20 beautiful for all our families, friends and
21 surrounding neighbors. Thank you.

22 LEGISLATOR NICOLELLO: Next we
23 have Susan Blauner, who is from Savings Lives
24 and Five Towns Coalition.

25 MS. BLAUNER: Good afternoon.

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2 I'm here as well to echo Liz and to echo
3 Ruthanne who will be stepping up in just a
4 moment. We are grateful, we are thankful for
5 the local law to prohibit the smoking or
6 vaping of cannabis. As you know, we are here
7 to protect the youth and families of our
8 community. We work long and hard hours to do
9 that. We're greatly appreciative of all that
10 you do at the legislature here. Thank you
11 very much.

12 LEGISLATOR NICOLELLO: Thank you
13 very much. Ruthanne McCormack, Rockville
14 Centre Coalition for Youth.

15 MS. MCCORMACK: Good afternoon.
16 Thank you for passing the ordinance to protect
17 our communities and the health of our youth.
18 I just wanted to go over some data that we
19 have from our Rockville Centre youth, from our
20 2019 youth survey results.

21 Rockville Centre youth displays
22 some of the highest rates of underage drinking
23 and marijuana use where adolescents have
24 become the stepping stones for future
25 addiction and life threatening behaviors.

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2 When comparing Rockville Centre court measures
3 to county, state and national data, passed 30
4 day use of marijuana and alcohol often exceeds
5 Nassau County and the state.

6 Future survey rates of use and
7 RVC's parent-youth focus groups further
8 confirm why underage drinking and marijuana
9 use are prevalent in our community. Older
10 siblings and friends purchase beer for
11 school-age children and parents would rather
12 have kids drink in their house. Parents are
13 also talking about providing marijuana to
14 their youth now that it's been legal and
15 partaking in marijuana use as a family. This
16 is very disturbing to us and to our school
17 officials and to our medical professionals.

18 I would hope that Nassau County
19 steps up their education, prevention and just
20 basic messaging of the dangers that marijuana
21 use can do to the teenage brain. It also
22 drops the IQ points as much as eight points
23 for a heavy marijuana use and also t affects
24 our youth and their mental health by
25 increasing suicide and psychosis in our

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2 youth.

3 As far as the revenue fund for the
4 state, only 20 percent will be left for drug
5 treatment and public health education. We're
6 hoping our schools will enforce prevention
7 education with our youth if they are found
8 with marijuana in school. We're also hoping
9 that our social host laws will be adjusted to
10 include marijuana. When a person 21 or older
11 in the county and the state provides marijuana
12 to a youth underage there are stiff penalties
13 for this. We have our own social host law in
14 Rockville Centre and they are adjusting that
15 in our village and we thank our mayor and town
16 board for that.

17 I just want to hope that the county
18 steps up their educational about the dangers
19 of marijuana use to further protect the future
20 of our youth that are already suffering so
21 with suicides, mental health issues and peer
22 pressure. Thank you.

23 LEGISLATOR NICOLELLO: Thank you
24 very much. Deputy Presiding Officer Kopel.

25 LEGISLATOR KOPEL: Ruthanne and

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2 all of you actually. All three of you. Thank
3 you so much for what you do. The Rockville
4 Centre Coalition has been a leader for as long
5 as I've been involved for the protection of
6 youth. This legislation is focused on
7 protecting our young people. Older people
8 we're going to do what we want to do. We
9 can't do much about that at this point.

10 But we certainly can set examples
11 for our young people and show them that at
12 least where we're in charge we're not going to
13 allow this to be going on. The efforts that
14 you all put in, the tireless work that you put
15 in for so long, not only on marijuana but on
16 drugs in general, on tobacco and just in
17 general to protect the young people who after
18 all are our future is wonderful and
19 admirable.

20 And once again, just thank you.
21 And I hope and I expect that pretty much
22 everyone is going to go along with this
23 legislation. We only wish that we could do
24 more.

25 MS. MCCORMACK: Thank you. I

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2 appreciate everything you do Howard and the
3 support you provide to us. My colleague at
4 Long Beach Aware, Judy Vining, also thanks you
5 for this and is hoping that further education
6 will come out at the county level for our
7 youth. Thank you.

8 LEGISLATOR NICOLELLO: We will
9 look to doing further education on a
10 countywide level. I did attend a program last
11 year from CASA, the Community Against
12 Substance Abuse, in Manhasset. The program
13 was given by Dr. Jeffery Reynolds from the
14 Family and Children's Services Association.
15 It was truly an extraordinary and eye opening
16 program. To the extent that if you haven't
17 had him in as a speaker yet you may want to
18 think about doing so.

19 MS. MCCORMACK: We are strong
20 colleagues of him and he does support us. We
21 welcome his expertise and education. He
22 really is the best.

23 LEGISLATOR NICOLELLO: Thank you.

24 MS. BOYLAN: Just want to say
25 we're also members of the Nassau County Heroin

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2 Prevention Task Force which is chaired by Rene
3 Fichter under the auspices of Madeline
4 Singas. It's an incredible task force. Over
5 500 people on that list. The individuals that
6 are involved, the professionals, social
7 workers, law enforcement, people, former
8 addicts, recovery, they are a phenomenal group
9 of people. They work very hard. We're all
10 very disappointed about this legislation, but
11 we're pursuing prevention and education and
12 there's all sorts of events happening to
13 educate our public. Especially with the
14 heroin, the Fentanyl. The marijuana with the
15 poly substance use it's becoming a big
16 problem.

17 That is an incredible group that I
18 would ask that each legislator, if you can,
19 take time out once a month to attend one of
20 those meetings and listen to the members on
21 that task force and their subcommittees. It's
22 an incredible, amazing source of support and
23 recovery and help and I encourage you to do
24 that.

25 LEGISLATOR NICOLELLO: Thank you

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2 Legislator Ferretti.

3 LEGISLATOR FERRETTI: Thank you
4 Presiding Officer. Thank you ladies for
5 coming out and for your words. I'm going to,
6 of course, support this legislation but I just
7 wanted to put a comment on the record.

8 The fact that this fine has to be
9 reduced and amended, this bill has to be
10 amended to be reduced to a \$25 fine is a
11 travesty. I mean, Ruthanne, I believe you
12 spoke about the messaging we need to have for
13 our children. I agree 100 percent with you.
14 What kind of message does it send that this
15 body's hands are tied and we can only fine
16 somebody \$25 for violating this? You could
17 have two people standing next to each other in
18 a county park. One smoking a cigarette, one
19 smoking marijuana. Both are not permitted.
20 And the one smoking the cigarette is going to
21 get a ticket for \$200 and the one smoking pot
22 is going to get a ticket for 25. What message
23 does that send to our children?

24 The fact that our hands have been
25 tied by Albany on this is a travesty. It's

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2 the wrong message to children. And as the
3 deputy presiding officer said, as long as we
4 have anything to say about it we're certainly
5 going to do everything we can to protect the
6 community from this. But the people up in
7 Albany really need to get on the right page on
8 this. Thank you.

9 LEGISLATOR NICOLELLO: Legislator
10 Walker.

11 LEGISLATOR WALKER: I agree with
12 Legislator Ferretti, and I want to thank you
13 ladies for all you do to protect our young
14 people and I really can't thank you enough.
15 It's truly my hope that once September starts
16 and things are a bit more normal than we've
17 had for the past year, year and a half. Our
18 police department does a great job with
19 educating our youth, our school children.
20 They get into the schools. They do various
21 programs. They've tried to keep up with them
22 as much as they possibly could during COVID
23 but that's been an issue.

24 We've seen those results. We've
25 seen the opioid addiction rise again and

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2 various problems that we've had that we were
3 really attacking full strength ahead and it
4 hurt us. COVID hurt us in many ways that I
5 think people don't even realize.

6 But again, I'm sure that they
7 hopefully will get back in the school
8 buildings and the more we can educate our
9 young people the better. And again, I thank
10 you for everything that you do.

11 LEGISLATOR NICOLELLO: Any other
12 legislators? Hearing none, I'm going to call
13 for a vote on this item. All in favor signify
14 by saying aye. Those opposed? Carries
15 unanimously.

16 I should have done this at the
17 outset but I'm going to go the consent
18 calendar and call those items now so that
19 those members of the administration who are
20 here waiting to hear these we can take care of
21 this right now.

22 These are all items that went
23 through committees a couple of weeks ago.
24 They've been agreed upon by the Majority and
25 Minority that they can pass without any

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2 further debate or discussion among the
3 legislators. Here we go.

4 Item 13, Ordinance 45. Item 15,
5 Ordinance 47. Item 16, Ordinance 48. Item
6 17, Ordinance 49. Item 18, Resolution 73.
7 19, Resolution 74. Item 20, Resolution 75.
8 22, Resolution 77. 23, Resolution 78. 24,
9 Resolution 79. 25, Resolution 80. 26,
10 Resolution 81. 27, Resolution 82. 29,
11 Resolution 84. 30, Resolution 85. 31,
12 Resolution 86. 32, Resolution 87. 33,
13 Resolution 88. 34, Resolution 89. And that's
14 it.

15 Moved by Legislator
16 DeRiggi-Whitton. Seconded by Legislator
17 Kennedy. Any debate or discussion? Hearing
18 none, all in favor signify by saying aye.
19 Those opposed? Carries unanimously. They
20 carry unanimously.

21 Now we go back to item five which
22 is a hearing on a proposed local law further
23 postponing the date of the 2021 sale of tax
24 liens pursuant to Article 2 of Title B of
25 Chapter 5 of the Nassau County Administrative

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2 Code.

3 Moved by Legislator Mule. Seconded
4 by Legislator McKevitt.

5 I don't know if there's anyone here
6 on behalf of the administration on this item.
7 By the way, that motion was to open the
8 hearing. I should have a vote on that. All
9 in favor of opening the hearing signify by
10 saying aye. Those opposed? The hearing is
11 open. Katy, do we have a speaker on this
12 item?

13 MS. HORST: The treasurer is on
14 his way over. He was just waiting for the
15 consent calendar to be called.

16 LEGISLATOR NICOLELLO: When you
17 say he's "on his way over" he's coming from
18 which building?

19 MS. HORST: Coming from One
20 West.

21 MR. JEFFERSON: Just want to
22 catch my breath for a minute. I was listening
23 in.

24 Good afternoon legislators.
25 Beaumont Jefferson, county treasurer.

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2 The item before you is a
3 postponement of our annual tax lien sale. And
4 in light of the continuing economic
5 difficulties caused by COVID-19, the New York
6 State Legislature recently adopted Chapter 104
7 of 2021 which further postponed or delayed the
8 tax lien sales for COVID-19 hardship
9 declarations from May 1st to August 31st of
10 2021.

11 So, the item before you is to
12 further postpone our county sale for a date to
13 be determined by the treasurer's office beyond
14 August 31st of 2021. So, after August 31st of
15 2021 we are proposing that we will set a date
16 for the annual lien sale. Sorry about that.

17 LEGISLATOR NICOLELLO: Thank you
18 very much. Any debate or discussion?

19 LEGISLATOR SCHAEFER: I have a
20 question. This is Laura Schaefer. Hi
21 Mr. Jefferson. I'm just curious, what's the
22 reason for the process? The state has already
23 enacted this? Do we just have to follow and
24 sort of approve it on the county level?

25 MR. JEFFERSON: Yeah. So, the

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2 state -- actually their approval of 104 of
3 2021 sets a date that allows taxpayers to file
4 a hardship. So, as a result of that we have
5 to notice taxpayers or delinquent taxpayers
6 and we cannot sell their lien until after
7 August 31st.

8 LEGISLATOR SCHAEFER: Okay.
9 Thank you.

10 LEGISLATOR NICOLELLO: Anyone
11 else? No other legislators? Sorry.
12 Legislator Ferretti.

13 LEGISLATOR FERRETTI: Just a
14 quick question while you're here,
15 Mr. Jefferson. You weren't here for the vote
16 but on the consent calendar we had passed the
17 reimbursement for the resident, the 95 year
18 old resident, who had the issue with the
19 assessment, the exemption. So now that that's
20 passed, do you have a time frame as to when
21 she'll be reimbursed?

22 MR. JEFFERSON: Once we get that
23 signed resolution we will reimburse her. The
24 resident in question we mailed the affidavit
25 and the W-9. We received that. We have it on

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2 file. As soon as we get the signed resolution
3 we can issue a check.

4 LEGISLATOR FERRETTI: So, it
5 should be pretty instantaneous once you get
6 the signed resolution?

7 MR. JEFFERSON: Once we get the
8 signed resolution. We have everything else in
9 place.

10 LEGISLATOR NICOLELLO: Legislator
11 Walker.

12 LEGISLATOR WALKER:
13 Mr. Jefferson, I'm going to take advantage of
14 the fact that you're also here in front of us
15 today. Can you tell us, we've been told time
16 and time again that the reimbursement checks
17 to veterans and those who had the errors on
18 their tax bills that those checks were being
19 sent. We've told our residents over and over
20 that they were being sent. We're being sent
21 in this many days. Have those checks started
22 to go out? Because obviously I'm still
23 getting calls from the residents that they
24 have not received a single check.

25 MR. JEFFERSON: In anticipation

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2 of that question being asked, I checked just
3 before I left the office, the checks for
4 Oyster Bay went out. North Hempstead those
5 should be going out this week and we're
6 working on the Hempstead file, which we have
7 about maybe 500 more properties to review.

8 But Oyster Bay they do have them in
9 their hands. In fact, today we received a
10 call from a resident who received a check and
11 we have to reissue it because of a death in
12 the family. But I can say Oyster Bay
13 definitely those checks are out the door.
14 North Hempstead is right behind.

15 LEGISLATOR WALKER: And if you
16 received a call that someone got them, if they
17 didn't get them yet they should be getting
18 them any day?

19 MR. JEFFERSON: If they haven't
20 gotten a check yet they should be getting
21 them. They should call my office and we can
22 research and we can tell them when it was
23 mailed and if they don't receive it within a
24 couple of weeks we can reissue the check. But
25 they're in the mail.

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2 LEGISLATOR WALKER: I would hope
3 that they would receive them in a couple of
4 weeks.

5 MR. JEFFERSON: Hopefully in five
6 days. But just in case it gets lost in the
7 mail we usually want to wait.

8 LEGISLATOR WALKER: All of Oyster
9 Bay's have been sent out?

10 MR. JEFFERSON: Yes.

11 LEGISLATOR WALKER: And now
12 you're working on North Hempstead. Should
13 be --

14 MR. JEFFERSON: North Hempstead
15 was in the comptroller's office last week.
16 They were reviewed. We expect to have a run,
17 a check run on those either today or, I'm
18 sorry, Tuesday or Thursday.

19 LEGISLATOR WALKER: Hempstead
20 will be next?

21 MR. JEFFERSON: Hempstead is in
22 the queue?

23 LEGISLATOR NICOLELLO: Anyone
24 else? Thank you Beaumont. Meta. I was going
25 to say any public comment but it looks like

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2 you're it today.

3 MS. MEREDAY: Meta Mereday,
4 Baldwin resident and a strong advocate for
5 veterans. And I appreciate Legislator
6 Walker's question because I too have gotten
7 some calls and I'm concerned. I support this
8 legislation as far as the liens being put on
9 hold. I'm still concerned about what actually
10 is being done for any resident that is facing
11 this possible situation of having their home
12 sold from underneath them. I'm concerned that
13 there are a number of residents again on the
14 south shore. And the fact that Hempstead,
15 again, south shore, seems to be always the
16 ones bringing up the rear and usually, in most
17 cases, we have the most numbers in terms of
18 seeking these exemptions and needing those
19 exemptions.

20 But we also have residents in the
21 south shore who were impacted from Superstorm
22 Sandy. Many of them were still living in
23 rental facilities. They did not receive any
24 of this rental income that was set up with
25 regard to the COVID assistance. Research has

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2 shown the limited amount of money that
3 actually went to rental assistance. Many of
4 those families were impacted.

5 So, I'm concerned about what is
6 actually being done as opposed to just a brief
7 delay to address the issues that caused these
8 residents to be in these situations to begin
9 with. Including a number of veterans who are
10 possibly within that pool. I myself have sat
11 with veterans, older veterans, again, coming
12 across the county not just the south shore.
13 I've sat with them at these hearings and these
14 sales. It's also an embarrassment that our
15 veterans who have served our country, that we
16 will proudly walk around and put on a lapel
17 pin and as soon as you can get back to those
18 parades and the pancake breakfasts you'll be
19 standing there and saying you're going to do
20 all the things you claim that you're going to
21 do and they're still living in fear in their
22 homes because they have this type of situation
23 waiting for a judgement to come up.

24 So, I'm hoping that there is some
25 type of directive, some type of proactive

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2 resource planning in place to do something to
3 help these residents to stay in their homes as
4 opposed to just delaying the inevitable for
5 them to be put out and among the
6 homelessness.

7 Because again, if we don't have a
8 proper facility, because we still have not
9 determined where we can actually shelter folks
10 in place, because we just don't have any more
11 room on the south shore to actually house
12 people if we're not focused on providing home
13 support and resources.

14 Again, I support this for the most
15 part but I still have questions as to what is
16 being done for the residents. These are not
17 just statistics. These are taxpayers. These
18 are residents. These are veterans. These are
19 families. Mothers, fathers and children who
20 run the risk of being put out of the home,
21 probably the only home that they've ever known
22 and I'm just concerned as to what is being
23 done to address those issues. Thank you.

24 LEGISLATOR NICOLELLO: Thank
25 you. Any other members of the public? Any

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2 other debate or discussion? Hearing none, we
3 need a motion to close the hearing. Moved by
4 Legislator Walker. Seconded by Legislator
5 DeRiggi-Whitton to close the hearing. All in
6 favor of closing the hearing signify by saying
7 aye. Those opposed? Carries unanimously and
8 the hearing is closed.

9 We go to item number 10 which is a
10 vote on the proposed local law further
11 postponing the date of the 2021 sale of tax
12 liens pursuant to Article 2 of Title B of
13 Chapter 5 of the Nassau County Administrative
14 Code.

15 Moved by Legislator
16 DeRiggi-Whitton. Seconded by Legislator
17 Walker. Any further debate or discussion?
18 All in favor signify by saying aye. Those
19 opposed? Carries unanimously.

20 Now we go back to number six. A
21 hearing on a proposed local law to impose
22 certain requirements on the Department of
23 Assessment with respect to evidence presented
24 at Small Claims Assessment Review hearings.

25 Moved by Legislator Rhoads.

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2 Seconded by Legislator Ferretti. That's a
3 motion to open the hearing and second to open
4 the hearing. All in favor of opening the
5 hearing signify by saying aye. The hearing is
6 now open.

7 This is an effort to create greater
8 transparency and fairness as part of the SCAR
9 process. And these concepts in this local law
10 stem from conversations that we have had with
11 numerous constituents who have participated in
12 these pro se hearings. Again, in particular
13 it's pro se hearings, it's not claimants who
14 are represented by representative law firms
15 but by individuals doing it themselves. There
16 are a number of issues that they are facing at
17 these hearings.

18 One of which is they are being
19 presented with comparable values for the first
20 time by representatives of the county for
21 houses that are supposedly comparable to their
22 own. Having seen these comparables for the
23 first time and no ability to check them, the
24 constituents are unable to provide
25 distinguishing characteristics which we think

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2 would help to receive a fairer, more just
3 outcome to these proceedings. That's just one
4 of the examples.

5 But anyway, what the proposed
6 legislation does it states that not later than
7 30 days prior to a hearing the Department of
8 Assessment must mail a notice setting forth
9 the evidentiary proof that the pro se
10 petitioner may present at such hearing. That
11 is just giving the petitioner an idea of what
12 type of proof as an individual and someone
13 who's not an attorney for the most would like
14 to know as to how to present their case at the
15 forum.

16 Also, not later than 30 days prior
17 to a hearing Assessment must disclose the
18 evidence it will present to the pro se
19 petitioners. Assessment can only present
20 evidence that it used to determined assessed
21 valued in dispute and cannot offer any other
22 evidence to support its determination.

23 I know the administration has
24 submitted a couple of memos. One from Mr. Ray
25 Orlando, deputy county executive for budget

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2 and finance, as well as a memo from the county
3 attorney's office. Do we have anyone here
4 from either OMB or the county attorney's
5 office?

6 MR. DENION: Conal Denion, county
7 attorney's office.

8 LEGISLATOR NICOLELLO: And the
9 gentleman in the seat over there?

10 MR. MILES: Robert Miles, deputy
11 assessor.

12 LEGISLATOR NICOLELLO:
13 Mr. Denion, you weren't the author of the memo
14 from the county attorney's office, correct?

15 MR. DENION: No but I am familiar
16 with it.

17 LEGISLATOR NICOLELLO: Why isn't
18 the county attorney who wrote it here?

19 MR. DENION: The county attorney
20 asked me to appear in his place. He was
21 unable to attend.

22 LEGISLATOR NICOLELLO: Actually,
23 I meant the deputy county attorney who
24 actually wrote the opinion. Why isn't he
25 here?

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2 MR. DENION: I'm sorry,

3 Mr. Kasschau --

4 LEGISLATOR NICOLELLO: Not

5 Mr. Kasschau. The deputy county attorney.

6 The individual who actually wrote this thing.

7 MR. DENION: I think you're

8 questions about internal processes in the

9 county attorney's office.

10 LEGISLATOR NICOLELLO: It's not

11 an internal process. You didn't right the

12 memo, correct?

13 MR. DENION: I assisted

14 Mr. Kasschau and he directed and oversaw the

15 process of the memo.

16 LEGISLATOR NICOLELLO: Who else

17 worked on it in the county attorney's office?

18 MR. DENION: I don't know if I'm

19 the right person for you to ask those

20 questions. I'd prefer someone in either the

21 county attorney himself or the chief deputy

22 county attorney to answer.

23 LEGISLATOR NICOLELLO: The

24 purpose is not to trick you or to get overly

25 complicated. We simply wanted to know,

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2 there's somebody in the office, and I think
3 probably gleaned from the content of the
4 memo, that somebody from your office actually
5 wrote it. I think that's the person we'd
6 prefer to have here. Actually, Mr. Scott.
7 His email address is on the bottom. Is he
8 here?

9 MR. DENION: I believe that's
10 just an error.

11 LEGISLATOR NICOLELLO: So then
12 you assisted in the process. Who else wrote
13 it with you?

14 MR. DENION: Again, I don't think
15 these are proper questions for me. They're
16 for Mr. Kasschau or the chief deputy. I can
17 ask her to come over. I answer to
18 Mr. Kasschau and others in the county
19 attorney's office.

20 LEGISLATOR NICOLELLO: Here's why
21 I'm asking that question. We wanted to have
22 the individual whose opinions are represented
23 in this letter. I understand it comes from
24 the chief of the department but we wanted to
25 speak with the person who formulated these

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2 opinions. It's very simple.

3 MR. DENION: Again, I assisted, I
4 took part in this. But Mr. Kasschau is the
5 person who delivered the opinion under his
6 name as all county attorney opinions are. I
7 think those are types of questions that are
8 properly directed at him or to the chief
9 deputy.

10 LEGISLATOR NICOLELLO: Go ahead
11 with what you were going to say.

12 MR. DENION: I'm here to answer
13 any questions you have.

14 LEGISLATOR NICOLELLO: You don't
15 want to present the argument that's in this
16 memo that was delivered to us? You simply
17 want to answer questions?

18 MR. DENION: I'd be happy to go
19 through the memo if that's what you prefer.

20 LEGISLATOR NICOLELLO: If you
21 want to give us the gist of the memos.

22 MR. DENION: Certainly. The
23 county attorney is of the opinion that the
24 local law is not authorized for a number of
25 reasons. Because without state law

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2 authorization, it would improperly relate to
3 the judicial review of taxes and would be
4 inconsistent with state general laws.

5 It would also require county
6 employees to take certain legal actions or
7 violate a rule of professional conduct. And
8 it would also present the county with
9 additional refund liability and other cost.

10 The judicial review of taxes, the
11 county would be violating provision of the New
12 York Municipal Home Rule Law which requires
13 that a law such as this not supersede any
14 general or special law of the legislature
15 because it relates to the judicial review of
16 taxes and the inconsistency with state general
17 laws. Article 7 is a state general law. And
18 this law would prevent judges and hearing
19 officers from obtaining the evidence that is
20 permitted to be presented under Article 7 of
21 the Real Property Tax Law and whatever is
22 permitted by state law and prohibited by local
23 law is inconsistent and if it deals with a
24 statute where the state has expressed its
25 intent to control the field, which it has in

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2 this case, Article 7 is the exclusive law, the
3 county would not be able to enact this without
4 state law authorization.

5 LEGISLATOR NICOLELLO: What is
6 your concern about the financial impacts?

7 MR. DENION: Well, from a legal
8 perspective, if the county is not able to
9 present evidence that it otherwise could, we
10 would lose more cases, there would be more
11 refunds. It could open us up as well to
12 claims of perhaps waste under the general
13 municipal law or maybe impermissible gifts
14 under the constitution because we would have,
15 in effect, be allowing people to get refunds
16 without presenting a defense that we could
17 otherwise present.

18 LEGISLATOR NICOLELLO: Shouldn't
19 the focus of the entire process be on a fair
20 outcome in determining what the actual
21 assessed value of property is?

22 MR. DENION: I couldn't agree
23 with you more. The state has set up Article 7
24 to do that as a de novo process. And
25 therefore, it's in the hand of a judge or

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2 hearing officer at that stage. It's no longer
3 about the assessment. It's now a judicial
4 review of the assessment, which is a different
5 thing, and it's governed by state law. It's
6 not an Article 78 type review of the action of
7 the assessor. Again, it's a brand new look at
8 what the value is and what the other issues
9 are based on the grounds that are in the
10 statute and that's governed by state law.

11 LEGISLATOR NICOLELLO: Let me ask
12 you this. If I'm a resident and I challenged
13 my assessment and I'm going to SCAR, not an
14 attorney, and then I show up at a SCAR hearing
15 and the county attorney is offering comparable
16 properties' values shouldn't I have the
17 opportunity to look at those properties if
18 they're in my neighborhood and to point out
19 the distinguishing features? Wouldn't that be
20 fair?

21 MR. DENION: It may be a good
22 idea, it may not be, but it's just governed by
23 state law.

24 LEGISLATOR NICOLELLO: You keep
25 going back to state law and you keep referring

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2 to the state laws with respect to taxes.

3 These hearings don't involve taxes, correct?

4 They involve the assessed values of homes?

5 MR. DENION: They involve the
6 judicial review of assessments and if found to
7 be improper result in a refund of taxes.

8 LEGISLATOR NICOLELLO: That's a
9 different thing. Obviously there are laws
10 regulating taxation and taxes. But again,
11 these hearings involve assessment.

12 MR. DENION: I would say that
13 there's no effective difference. I think that
14 the judicial review of assessments and taxes
15 are effectively the same thing.

16 LEGISLATOR NICOLELLO: So, every
17 action the county takes with respect to
18 assessment has to be consistent with laws with
19 respect to taxation, is that what you're
20 telling us?

21 MR. DENION: Judicial review.
22 Laws that would relate to judicial review.

23 LEGISLATOR NICOLELLO: Judicial
24 review of assessment. Why is that different
25 than an ARC proceeding on assessment?

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2 MR. DENION: ARC is also governed
3 by state law.

4 LEGISLATOR NICOLELLO: Right.
5 But specifically the state laws that you've
6 pointed out involve taxation which is not what
7 this is. This is assessment.

8 MR. DENION: Again, I think that
9 it is effectively the same thing.

10 LEGISLATOR NICOLELLO: What's the
11 basis for your thought?

12 MR. DENION: Again, because it's
13 a judicial review of assessments and
14 assessments will lead to a refund in taxes if
15 the court finds that the assessment was
16 improper.

17 LEGISLATOR NICOLELLO: But if ARC
18 determines that the assessment was incorrect
19 and leads to a refund of taxes it's the same
20 principle. So then doesn't your rational
21 apply to ARC as well?

22 MR. DENION: ARC is governed by
23 state law that allows the county to --

24 LEGISLATOR NICOLELLO: But laws
25 respecting taxation, ARC is bound by laws with

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2 respect to taxation?

3 MR. DENION: ARC is bound by its
4 statute which authorizes it to do that
5 administrative level of review.

6 LEGISLATOR NICOLELLO: We're
7 going around in a circle. I'm trying to find
8 out where this inconsistency is and you keep
9 bringing up laws with respect to taxation
10 trying to make a connection with a judicial
11 proceeding with respect to assessment.

12 MR. DENION: ARC is not a
13 judicial proceeding, it's an administrative
14 proceeding and it's governed by --

15 LEGISLATOR NICOLELLO: I'm saying
16 that that's what your argument is. But what
17 I'm saying is that there is no difference
18 practically between what ARC is doing and what
19 is being done at SCAR.

20 MR. DENION: Actually there are
21 two different things. One is administrative
22 review under its own section of the RPTL and
23 the other is judicial review under separate
24 section, separate article.

25 LEGISLATOR NICOLELLO: That's

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2 very true but they are both dealing with the
3 assessed value of a home, correct?

4 MR. DENION: Yes. To some
5 extent, right. There are other things.

6 LEGISLATOR NICOLELLO: To some
7 extent. What else are they dealing with other
8 than determining a fair assessed value to a
9 home?

10 MR. DENION: Exemptions. Whether
11 the property is misclassified. Whether there
12 was a ratio issue, which is an inequality
13 claim. So, there are other things that go
14 into it besides what's the value of the home.

15 LEGISLATOR NICOLELLO: Ratio is
16 involved, correct.

17 MR. DENION: That's part of the
18 review.

19 LEGISLATOR NICOLELLO: But in
20 terms of making laws relating to taxation
21 applicable to these hearings, why isn't it
22 applicable to a SCAR hearing and not an
23 Assessment Review Committee determination?

24 MR. DENION: Because the state
25 legislature has separately authorized

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2 everything that ARC does.

3 LEGISLATOR NICOLELLO: Is that
4 under the taxation laws?

5 MR. DENION: It's under 523B of
6 the RPTL. As authorized to be our
7 administrative code.

8 LEGISLATOR NICOLELLO: So that's
9 not under the taxation laws?

10 MR. DENION: It is but it's also
11 authorized by the state legislature, as
12 opposed to this proposed local law, would not
13 be authorized by the state legislature.

14 LEGISLATOR NICOLELLO: I think
15 there was a term that Legislator Ferretti used
16 but I'm not going to use it right now. Anyone
17 else have any questions? Legislator Rhoads.

18 LEGISLATOR RHOADS: Thank you for
19 your presentation Mr. Denion. Just a couple
20 of follow-up questions.

21 Essentially it sounds as though the
22 county attorney's point in all of this is that
23 somehow by this legislation we are attempting
24 to change what state law says the process
25 should be for the SCAR hearings. That's

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2 essentially what the county attorney's opinion
3 is?

4 MR. DENION: Yes. That's part of
5 it, yes.

6 LEGISLATOR RHOADS: However, when
7 you look at what we're actually attempting to
8 do in this law we're simply governing what is
9 disclosed by our own internal county
10 employees. We don't change the process of
11 state law at all. The SCAR hearings still
12 proceed the same way that SCAR hearings would
13 proceed. We're just controlling the
14 information that's provided by our own
15 employees and disclosed to participants in
16 that hearing.

17 MR. DENION: I don't necessarily
18 agree with that because what the law does is
19 say that if the county fails to provide the
20 information required by the local law it would
21 be prevented from offering the evidence that
22 it otherwise could under the state law. And
23 therefore that is different from the state
24 law. There's nothing in the state law that
25 says that the county would be barred from

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2 presenting evidence in a de novo proceeding
3 that the hearing officer or the court would
4 need to determine that assessment for the
5 first time.

6 LEGISLATOR RHOADS: But why
7 wouldn't we have the ability, just as any
8 client would of any attorney, why wouldn't we
9 have the ability to control that information
10 we present at a hearing?

11 MR. DENION: For one thing, the
12 law not only requires that a disclosure of
13 what the county's evidence would be, but also
14 requires what the county attorney has
15 concluded could be legal advice to the other
16 side which would present issues of --

17 LEGISLATOR RHOADS: Let's deal
18 with the first issue first. Why don't I have
19 the ability as the client to direct our
20 employees as to what information they may or
21 may not present at a hearing? Understand, in
22 this legislation we are not preventing the
23 court or the hearing officer from receiving
24 any information. We're simply making a
25 determination as to the ground rules that our

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2 department is going to operate under as to
3 what information is provided.

4 MR. DENION: I do think there is
5 a restriction on the ability of the evidence
6 to be presented to the hearing officer because
7 the law says it has to be done 30 days prior
8 to the hearing. When the real property tax
9 law requires them to only send a notice out
10 ten days before.

11 LEGISLATOR RHOADS: Let's say we
12 made the 30 days seven days, does that fix the
13 problem?

14 MR. DENION: It would take care
15 of that particular part of it. But again, the
16 failure to --

17 LEGISLATOR RHOADS: No, no.
18 Conceptually, because we keep bouncing around
19 to different topics here, what I'm trying to
20 understand philosophically is why us giving
21 direction to what county employees are going
22 to do somehow violates state law?

23 MR. DENION: Because it's under
24 state law that you're not allowed to do that
25 local law making because it would interfere

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2 with ultimately the evidence that would be
3 presented in the forum where the hearing
4 officer or the judge would want to get the
5 evidence that the state law allows.

6 LEGISLATOR RHOADS: So, if in a
7 normal court proceeding let's say any personal
8 injury case for example, let's say we make a
9 determination that I don't want to take the
10 witness stand as a witness, right? I'm not
11 preventing the court from receiving that
12 information, right? The court would still be
13 able to receive it. If the law says that
14 we're entitled to get it you would still be
15 able to get it. I'm just making a strategic
16 decision that I don't want to present that
17 particular piece of evidence. How does that
18 violate state law?

19 MR. DENION: I think the
20 difference here is you'd be making a local law
21 that said that. Whereas, if the county
22 attorney or the county executive wanted to
23 direct employees in course of a SCAR hearing
24 what to do or not do that's a different
25 issue. But it's the law making that makes a

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2 difference.

3 LEGISLATOR RHOADS: Here's a
4 philosophical question. The county executive
5 doesn't get to do whatever she wants whenever
6 she wants. The legislature has a role to play
7 here. So, we have a role in setting some of
8 these grounds rules as well. We have the
9 ability to tell the county executive these are
10 the ground rules that I want you to play
11 under. That's law making. That's kind of
12 what we do.

13 MR. DENION: To the extent that
14 you're not prohibited by state law.

15 LEGISLATOR RHOADS: We're not
16 prohibited.

17 MR. DENION: I think the county
18 attorney has a different opinion, again, for
19 the reasons stated.

20 LEGISLATOR RHOADS: But again,
21 I'm trying to understand why the county
22 attorney has that opinion.

23 MR. DENION: Because it would a
24 law related to taxes which I believe is
25 tantamount to assessment in this context.

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2 Plus there would be an inconsistency with the
3 general law and the county is not allowed to
4 make local laws inconsistent with state
5 general laws.

6 LEGISLATOR RHOADS: I'm still
7 trying to understand how it's inconsistent.
8 I'm not changing what evidence the judicial
9 hearing officer is able to receive. I'm
10 controlling what evidence our own employees
11 are able to offer. By the way, making it more
12 restrictive for the county as opposed to
13 broadening it.

14 MR. DENION: I respectfully
15 disagree because, again, the ultimate penalty
16 on the county through this law would be not
17 being able to present evidence that otherwise
18 would be presented in a hearing under the
19 RPTL.

20 So, a judge who is looking at a
21 case, again, a brand new proceeding, it's not
22 a review of the assessor's work, getting
23 evidence from the petitioner and getting
24 evidence from the government, that judge is
25 not going to get evidence from the government

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2 under certain circumstances in this law.
3 Certainly not evidence that is normal and
4 expected of three comparables say in a SCAR
5 hearing. Because this law says that the only
6 evidence that can be presented is what the
7 assessor did. Which is a computer-assisted
8 mass appraisal based on all the factors that
9 you know very well, the ladder and all the
10 rest. How the assessor builds a model
11 assessment is much different from a review of
12 that assessment asking for three comparables.

13 LEGISLATOR RHOADS: But that's
14 actually not what the law says. What the law
15 essentially says is that all we want the
16 Department of Assessment to do is whatever
17 we're going to rely upon in a SCAR hearing we
18 want disclosed to the petitioner in advance of
19 the hearing. We may have a discrepancy with
20 respect to 30 days and the hearing is only
21 noticed ten days before. So, that's something
22 that we can adjust and address.

23 I'm trying to understand why it is
24 that us simply saying, look, whatever
25 information we're going to rely upon for the

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2 sake of fairness and transparency we're going
3 to disclose to the petitioner so that they're
4 not getting sandbagged at the hearing with
5 something that they don't know about and
6 haven't prepared for and can't prepare for and
7 can't react to at the hearing.

8 MR. DENION: But, respectfully,
9 it does more than that. I will read from the
10 proposed law. The Department of Assessment
11 shall only present evidence that it used to
12 determine the assessed value in dispute. It
13 is precluded from offering any other
14 evidence.

15 So, it does say that they can only
16 present evidence that they used to determine
17 the assessment. Which is a different process
18 from what goes on at SCAR.

19 LEGISLATOR RHOADS: So, what
20 would the county attorney's opinion be if we
21 were to modify that language? Because I
22 understand that there's some ambiguity there.
23 If I were to modify that language or we were
24 to modify that language simply to say whatever
25 evidence the Department of Assessment intends

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2 to present at the SCAR hearing must be
3 disclosed to the petitioner within whatever
4 time frame is reasonable?

5 MR. DENION: I'm reluctant to
6 discuss a hypothetical and I don't want to
7 give the county attorney's opinion but I think
8 that would be different than this.

9 LEGISLATOR RHOADS: Really it's
10 not because if the basis for the county
11 attorney's opinion is that somehow we're
12 impacting state law by requiring this that
13 opinion should be the same, right?

14 MR. DENION: Again, the various
15 facets of the law that the county attorney has
16 pointed out that are inconsistent it deals
17 with, again, not allowing evidence that
18 otherwise could be presented. So, if you
19 change the law to say any evidence that could
20 be presented under the state law must be
21 disclosed I think that's a different question.

22 LEGISLATOR RHOADS: Out of
23 curiosity, what would be the penalty? Because
24 I think we all have experience on this board
25 and I know certainly Legislator Ferretti and I

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2 have experience with laws being passed and
3 adopted by the county executive that she
4 simply decided not follow for a period of
5 time.

6 My question is, what exactly would
7 be the sanction on the Department of
8 Assessment for not complying with the
9 requirement to disclose the information to the
10 petitioner in advance of the hearing?

11 MR. DENION: It's what I just
12 read to you. That they're limited to the
13 proof of that -- also failure to timely
14 disclose the proof precludes the department
15 from offering evidence, any evidence at the
16 hearing. That's your penalty.

17 LEGISLATOR RHOADS: I understand
18 what the legislation says. But in the county
19 attorney's opinion what sanction is
20 permissible?

21 MR. DENION: I don't want to
22 address a hypothetical like that.

23 LEGISLATOR RHOADS: So, the
24 county attorney can only tell us what's wrong
25 he can't tell us what's right?

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2 MR. DENION: I think he can
3 address legislation that's before him, before
4 this body and that he's been asked to review.
5 Again, a hypothetical is a different thing.
6 You want to see it in writing. There could be
7 nuances. You're an attorney. You know
8 hypotheticals are dangerous things.

9 LEGISLATOR RHOADS: I understand
10 that Mr. Denion, but again the larger point
11 and the thing I'm still having difficulty
12 understanding though is why it is that setting
13 the grounds rules for our own employees
14 impacts state law?

15 If we're saying, look, in the
16 interest of fairness and equity we're
17 requiring that the Department of Assessment
18 provide to the other side in an adversarial
19 proceeding disclosure of our proof in advance
20 of the hearing so that they can react and
21 respond to it. And if you don't do that,
22 we're making a decision as the county that
23 we're not going to present proof at all at the
24 SCAR hearing if we fail to do that. Why can't
25 I, as the client, voluntarily do that? How

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2 does that violate state law? We're not
3 changing state law. We're just setting the
4 ground rules that our own employees operate
5 under.

6 MR. DENION: Under this proposal
7 those ground rules result in the county not
8 being able to present evidence that it would
9 otherwise ordinarily do and that the court
10 would expect to see as in three comparable
11 properties in the case of a SCAR hearing.

12 LEGISLATOR RHOADS: The simple
13 way to avoid that is doing what the law
14 requires, right?

15 MR. DENION: Which is?

16 LEGISLATOR RHOADS: Which is
17 disclosing. That's only a sanction if you
18 fail to abide by the law.

19 MR. DENION: But the law says
20 that you can't offer three comparable
21 properties because it says you can only do
22 what -- can only present evidence of what
23 Assessment did in setting the assessment.
24 Which is different. That's not three
25 comparables. That's a computer model that

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2 generates an assessment.

3 LEGISLATOR RHOADS: For the
4 moment, let's look past that. Let's say
5 there's an amendment here to the law which
6 simply -- again, the point of the law is
7 simply whatever proof we're relying upon at
8 the hearing we've got to disclose in within X
9 number of days prior to the hearing so that
10 the claimant, the petitioner, has full
11 disclosure.

12 MR. DENION: I would reserve the
13 right of the county attorney to review that
14 when he sees it in writing. I don't want him
15 to address it as a supposition or a
16 hypothetical if the law were changed.

17 LEGISLATOR RHOADS: Would that
18 satisfy his concern?

19 MR. DENION: It may or may not
20 and I don't want to speak for him but I don't
21 want to speak to a hypothetical. It's not the
22 law we've been asked to review. Can only
23 review the one that's before us.

24 LEGISLATOR RHOADS: But that
25 seems to be the basis of the objection,

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2 right?

3 MR. DENION: Again, there are a
4 number of bases of objection here. Not saying
5 that things couldn't be improved or things
6 could eventually be different. I don't know.
7 But I can't speak for the county attorney and
8 we'd have to see what those changes were
9 before offering an opinion.

10 LEGISLATOR RHOADS: Conceptually,
11 it seems as though the county attorney would
12 agree that we do have the ability to direct
13 our own employees, right?

14 MR. DENION: I think there's
15 probably some room for that to the extent it
16 doesn't interfere with the state general law
17 or any other prohibition on the county's local
18 law making ability.

19 LEGISLATOR RHOADS: So, I think
20 we're in agreement that if we were to move
21 this to seven days that would alleviate the
22 county attorney's concerns about the timing.

23 MR. DENION: That one particular
24 concern.

25 LEGISLATOR RHOADS: I think that

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2 if we were to modify the language, it sounds
3 as though, if we were to modify the language
4 that we must simply provide the -- to make it
5 clearer -- that we don't have to provide the
6 information we initially relied upon. We have
7 to provide the information that we intend to
8 use at the hearing in advance of the hearing.

9 MR. DENION: I think you can take
10 a look at that and see what it looks like.

11 LEGISLATOR RHOADS: That seems as
12 though that would, conceptually, that would
13 satisfy that concern.

14 MR. DENION: Potentially.

15 LEGISLATOR RHOADS: So, now with
16 respect specifically to the issue of
17 preclusion from offering evidence, the county
18 attorney's opinion is that the reason that we
19 can't preclude the Department of Assessment
20 from offering evidence if they fail to
21 disclose it is because we're denying the state
22 the opportunity to receive the evidence?

23 MR. DENION: The hearing officer
24 and the court. That's the standard practice
25 and that's the scheme, that's the framework of

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2 Article 7, it's an adversarial proceeding like
3 any other and evidence is presented on both
4 sides. Out of that, again, it's a de novo
5 proceeding to determine the assessment in
6 question. It's not a review of the assessor's
7 work. So, if the county is not able to
8 present evidence to the court in this brand
9 new proceeding the court can't do what it's
10 supposed to do under the statute.

11 LEGISLATOR RHOADS: It simply
12 would mean that the claimant would win.

13 MR. DENION: That leads to like
14 any other issues about is does that raise a
15 question of waste? Does it raise a question
16 of improper gift where there is a defense to
17 be made?

18 LEGISLATOR RHOADS: I don't know
19 how it would raise the question of it being an
20 improper gift. But essentially what we're
21 talking about is that if the county fails to
22 abide by our own internal procedures that we
23 set up, we, as a penalty that we're imposing
24 on ourself, are going to say that we're not
25 going to present evidence.

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2 MR. DENION: Again, I think it
3 rises to the level of interfering with the
4 state framework and that's --

5 LEGISLATOR RHOADS: To our own
6 disadvantage.

7 MR. DENION: Maybe so, of
8 course. But, again, that's not what the law
9 is. The law is whether or not we have the
10 power to enact a local law that does that. If
11 the state has preempted the field then you
12 can't enact a local law that has the effect of
13 changing state's plan for Article 7.

14 LEGISLATOR RHOADS: So, under no
15 circumstances, according to Mr. Kasschau, are
16 we able to direct or control the evidence that
17 we present in any judicial proceeding?

18 MR. DENION: I think it's too
19 broad a question. Again, the law before us I
20 think fails in that test.

21 LEGISLATOR RHOADS: But there are
22 conceptual parallels to this. Again, for
23 example, in any tax certiorari case, in any
24 auto accident case involving a county vehicle,
25 in any premises liability case we don't have

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2 the ability to control what evidence we
3 present?

4 MR. DENION: You have to look
5 at -- if you passed a local law to control
6 that evidence to see whether or not it
7 interfered with the application of a state
8 general law. And if it did, then those
9 questions would have to be addressed. It's
10 not the question of administratively the
11 county attorney decided to do something, it's
12 whether the county legislature has the power
13 under the constitution and under the municipal
14 home rule law to enact a law that interferes
15 with the state general law. Does it interfere
16 with the operation of a state general law is
17 question you would have to ask in all those
18 situations.

19 LEGISLATOR RHOADS: I guess the
20 issue that I have is, how does it interfere?

21 MR. DENION: Because, again, it
22 it's a de novo proceeding where there's
23 evidence presented on both sides. It's
24 adversarial proceeding that the county would
25 be saying the county is not allowed by law to

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2 do that even though the state law permits it
3 and any time a local law prohibits what the
4 state permits it runs afoul of the laws
5 against interfering with the state general
6 law.

7 LEGISLATOR RHOADS: I guess my
8 philosophical difference is that we're not
9 changing the information that the state can
10 receive we're making an internal direction as
11 a matter of policy and as a matter of law as
12 to what evidence we're going to produce.
13 There's a difference between what evidence is
14 being produced and what evidence can be
15 received, right?

16 We're not changing what information
17 the state is able to receive. We're changing
18 the information that we're actually going to
19 present.

20 MR. DENION: I do believe that
21 the state is not going to receive any evidence
22 from the county to counter the evidence
23 presented by the petitioner. In general,
24 petitioner will present evidence favorable --

25 LEGISLATOR RHOADS: So, in other

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2 words, would it be more clear if we said that
3 if we don't comply with the disclosure
4 requirement we're simply not going to contest
5 the petition?

6 MR. DENION: Again, I think
7 anything that interferes with the operation of
8 the -- the state has set up Article 7 as a way
9 to determine the assessment. The way it does
10 that is it gets evidence from both sides and
11 looks at the assessment brand new. So, if the
12 county is passing a local law that interferes
13 with that operation, how that's envisioned to
14 work and play out, that the court is looking
15 to get evidence from both sides, if it doesn't
16 get evidence from both sides, why? because a
17 local law has changed the rules and changed
18 ground rules. That's what the problem is.

19 LEGISLATOR RHOADS: It changed
20 the rules for only one side.

21 MR. DENION: Which changes the
22 rules for the state law.

23 LEGISLATOR RHOADS: It didn't
24 change the rules for both sides. It changed
25 the rules for one side.

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2 MR. DENION: But for one side is
3 interfering with how the law contemplates that
4 the judge or the hearing officer arrives at
5 the assessment by hearing new evidence from
6 both sides. Not what the assessor did but new
7 evidence from both sides.

8 LEGISLATOR RHOADS: It's making a
9 determination that under certain circumstances
10 we're not going to contest the petitioner.
11 That's the equivalent of a preclusion from
12 offering evidence. It means that we're simply
13 not going to contest or we're going to argue
14 based solely upon the information that's
15 provided by the petitioner. Why can't we make
16 a decision on behalf of the county, that's
17 what we do, why can't we make a decision on
18 behalf of the county as to what we're going to
19 produce? Or whether we're going to produce
20 evidence at all?

21 Under what you're saying
22 essentially, if the Department of Assessment
23 made a decision that they weren't going to
24 contest a particular petition that was before
25 SCAR we're not allowed to do that. What's the

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2 difference between the Department of
3 Assessment making that determination and the
4 legislature, which controls the activities of
5 the Department of Assessment, just as it does
6 with every other department, making the
7 determination that under certain circumstances
8 we're not going to contest a petition?

9 MR. DENION: I think the
10 difference is local law making and whether
11 it's allowed.

12 LEGISLATOR RHOADS: Let me ask
13 this question then. Every year it seems the
14 deadline for ARC is extended. We don't have
15 the ability to actually extend the deadline
16 ourselves, right?

17 MR. DENION: I believe the way
18 that's done is a grace period provided by the
19 Assessment Review Commission.

20 LEGISLATOR RHOADS: The state is
21 the one that actually sets the deadline. What
22 we simply say is, we have made a determination
23 that we're not going to enforce the deadline
24 for a specific period of time. So, if you're
25 supposed to file your grievance by March 1st

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2 we're going to give you until the 31st. It
3 doesn't mean that that deadline isn't March
4 1st. It just means that we're not going to
5 raise the defense of timeliness of your
6 petition until we reach March 31st, right?

7 MR. DENION: Are you asking about
8 what the Assessment Review Commission is doing
9 or what the legislative action was in those
10 cases?

11 LEGISLATOR RHOADS: What I'm
12 asking is, how is it that we're able to turn
13 around and simply say we're making an internal
14 policy determination that we're not going to
15 raise the defense of timeliness for an
16 application that's made, whatever the dates
17 happen to be, in this case in my example
18 you're supposed to file it by March 1st, you
19 filed it on March 30th, but you know what?
20 we're not going to raise the defense of
21 timeliness because we internally extended the
22 deadline or we simply said we're not going to
23 enforce the deadline up to March 31st. What's
24 the difference between that and this?

25 MR. DENION: When you say we --

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2 that was the question I was trying to ask --
3 when you say we if you mean the Assessment
4 Review Commission has provided a grace period
5 that's again --

6 LEGISLATOR RHOADS: Every year
7 the Assessment Review, well, the Assessment
8 Review Commission is directed either by the
9 county executive or we have attempted to
10 direct the Assessment Review Commission, as a
11 legislature, but the county has taken an
12 action to direct the Assessment Review
13 Commission that it's not going to raise the
14 defense of timeliness for whatever the period
15 of time is. Whatever the grace period is.
16 What's the difference between that and us
17 legislatively saying to the Department of
18 Assessment, hey, you know what? if we violate
19 our own rules we have decided that we're not
20 going to raise a defense at SCAR?

21 MR. DENION: The difference is
22 that the Assessment Review Commission is
23 acting administratively. It's not enacting a
24 law, it's not passing a law that's conflicting
25 with the state law. It's providing a grace

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2 period. And to the extent that the county
3 attorney does not raise that as a defense,
4 that's also an administrative decision. Those
5 are not local law making actions.

6 LEGISLATOR RHOADS: So what
7 you're essentially saying is that if the
8 county executive were to direct the Department
9 of Assessment -- if the county executive were
10 to direct the Department of Assessment to do
11 exactly what this law does that would be
12 permissible. But if the legislature passed it
13 by local law that would not be permissible?

14 MR. DENION: Again, it's a
15 hypothetical. I don't want to answer.

16 LEGISLATOR RHOADS: I really need
17 the answer to that question, Mr. Denion,
18 because it goes to the heart of what we're
19 trying to do here. What you're telling me is,
20 it sounds as though that the county executive
21 has the ability to direct the Department of
22 Assessment to do whatever it is that she wants
23 to do, waive whatever laws she wants to waive,
24 create whatever restrictions she wants to
25 create but the legislature, doing it by

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2 operation of law as a coequal branch of
3 government does not have the ability to do
4 that?

5 MR. DENION: Not at all. That's
6 not what I said at all. Again, it's not the
7 county executive in your other question
8 directing ARC I believe the county executive
9 requests and ARC itself decides to provide a
10 grace period. Whether the county executive
11 can do exactly what's in this law I think
12 what's exactly in this law is problematic in a
13 number of fronts. But, again, that's a
14 hypothetical. I'm not here to talk about what
15 the county executive's powers are. It's a
16 question of what this law purports to do.

17 LEGISLATOR RHOADS: Mr. Denion,
18 the question is simple though. If the county
19 executive were to make a decision today saying
20 to the Department of Assessment hey, look,
21 you've got to provide whatever information
22 you're going to rely upon at a hearing seven
23 days before the hearing to the petitioner so
24 that they can have that information. If you
25 don't, we're going to waive our defense at

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2 SCAR. Does the county executive, in the
3 county attorney's opinion, have the ability to
4 do that?

5 MR. DENION: As we talked about
6 earlier, that's an area that if the
7 legislature did that, that said, if the law
8 was not interfering with state law, changing
9 the evidence but just saying that you have to
10 present it to the other side within a certain
11 amount of time, again I'd like to see that in
12 writing but as you and I talked, that could be
13 an area where perhaps the legislature could
14 legislate.

15 So, if the legislature could do
16 that, I mean, again, without addressing the
17 hypothetical too directly, that the county
18 executive is able to, of course, direct the
19 departments that report to her in certain
20 ways. But just telling what you're going to
21 give the other side it's allowed and permitted
22 by state law it's a different question.
23 That's something that could be looked at.

24 LEGISLATOR RHOADS: I don't mean
25 to sort of usurp your authority here but do

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2 you want to continue with questions if anybody
3 else has questions for this witness or do you
4 want to see if we have anyone from Finance?

5 LEGISLATOR NICOLELLO: I just
6 have a couple of follow-ups.

7 MR. DENION: I believe someone
8 from OMB is available virtually.

9 LEGISLATOR NICOLELLO: We'll
10 transition to that in a moment. Is there
11 anything in the law that prohibits the county
12 from providing a pro se petitioner with a
13 description of the type of evidence that
14 they're going to need at a SCAR hearing?

15 MR. DENION: I think that raises
16 some troubling issues that the county attorney
17 has identified. For a non-attorney at the
18 Department of Assessment to do that it would
19 require knowledge of both the statute that
20 governs the evidence and case law that has
21 interpreted a statute which could be seen as
22 the improper practice of law which carries
23 consequences. And for an attorney to do it it
24 raises ethical issues of providing advice to
25 both sides in a litigation.

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2 LEGISLATOR NICOLELLO: So,
3 there's no way that the county attorney,
4 Department of Assessment can sit down and
5 write down a list of the type of evidence that
6 a pro se petitioner can bring to court because
7 it violates ethical obligations on both?

8 MR. DENION: It's legal advice.
9 It's governed by statute and case law. Where
10 do you start? Where do you stop?

11 LEGISLATOR NICOLELLO: To be
12 honest with you, our approach here is we have
13 identified what is an unlevel playing field at
14 these SCAR hearings and we have identified
15 that by talking to the people, individuals who
16 go to these hearings, and it seems to me that
17 the administration likes the unlevel playing
18 field and they like it because of financial
19 reasons. You set forth that one of the main
20 reasons to oppose this is because the county
21 would lose revenue.

22 Every suggestion we've given you
23 you've given us a reason why you can't do it.
24 That in particular seems flimsy. I don't for
25 a moment believe that this government couldn't

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2 put together a fact sheet and provide it to a
3 resident who's going to a SCAR hearing and
4 that that would not be a violation of an
5 attorney's duties. It would not be illegal
6 practicing of law. I believe that's done all
7 the time. Agencies across the state, if you
8 have challenges to those agencies, will tell
9 you what you have to present at a hearing.
10 The fact that you're resisting that is kind of
11 stunning to me.

12 MR. DENION: I can't speak to the
13 other statutes but I will comment that the
14 whole point of the SCAR statute is to be as
15 informal and friendly as possible and
16 representatives do not have to be attorneys.
17 So representatives are eager to represent
18 everyone who's out there who wants to do it
19 pro se. Who wants to, I'm sorry, challenge
20 their taxes. I think they're out there trying
21 to represent people. Attorneys are obviously
22 trying to get that business. I don't know if
23 it's the county's business to represent or try
24 to make legal representations to someone on
25 the other side of litigation.

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2 LEGISLATOR NICOLELLO: It's not a
3 legal representation. They're simply
4 providing a general description of the type of
5 evidence that an individual can present. And
6 it's not a friendly proceeding. The
7 representative from the county is trying to
8 defeat the claim of the petitioner. So it's
9 not a friendly -- it's not a helpful
10 procedure. All we're trying to do is give
11 someone who's challenging their assessment,
12 who goes to this length to a SCAR hearing,
13 give them the simple tool to determine what I
14 can come in with and what I can present to the
15 judicial hearing officer.

16 Does the county have the power to
17 determine what evidence it's going to present
18 at the SCAR proceeding?

19 MR. DENION: I believe that the
20 administration does. But again, it's back to
21 the question of whether the county legislature
22 can enact a local law that changes the
23 evidence that the court --

24 LEGISLATOR NICOLELLO: So when
25 this proceeding is taking place it's the

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2 county that's defending, correct? You're
3 making a distinction in response to a very
4 simple question. When the county of Nassau is
5 participating in these proceedings it has the
6 ability to determine what evidence it's going
7 to rely on, correct?

8 MR. DENION: The departments that
9 are involved are the Department of Assessment
10 and the county attorney's office. And there
11 is discretion to determine the scope, right,
12 and the breath of the defense, sure.

13 LEGISLATOR NICOLELLO: Do those
14 departments have the power to determine
15 whether in advance they're going to provide
16 these pre se petitioners the comparables sales
17 that they're going to rely upon?

18 MR. DENION: I don't believe that
19 they have that authority. I think it raises
20 ethical and the other issues that we
21 discussed.

22 LEGISLATOR NICOLELLO: You're an
23 attorney, correct?

24 MR. DENION: Sure.

25 LEGISLATOR NICOLELLO: Your

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2 office handles civil discovery every day,
3 correct?

4 MR. DENION: Sure.

5 LEGISLATOR NICOLELLO: And your
6 office is providing to plaintiffs every day
7 information about the county's case as much
8 information as possible, correct?

9 MR. DENION: Again, I think we
10 agreed on that point that what the county's
11 evidence is is something that probably could
12 get done under a different version of this.
13 But --

14 LEGISLATOR NICOLELLO: Right.
15 So, it's different from what you just said. I
16 think we can agree then that the county can
17 decide that it's going to disclose its
18 comparable sales if it wants to.

19 MR. DENION: Just to be clear,
20 what I'm being consistent on is that the
21 county could disclose its evidence but it's a
22 different thing to say it's going to provide
23 advice what the other side can present.
24 That's a different thing to me.

25 LEGISLATOR NICOLELLO: We had

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2 that discussion and I think, I mean, I think
3 that position has utterly -- is unsupported.
4 Again, there is nothing that would ever
5 prevent this county from putting together a
6 fact sheet and sending it to pro se petitioner
7 before the event and say here's the type of
8 evidence you need at this hearing just in a
9 general way. There's no way that violates
10 anybody's ethical, legal, professional
11 responsibility.

12 Again, the resistance of the county
13 to this leads me back to -- I think this is
14 why we're going to need someone from Finance --
15 that it almost seems as if the county enjoys
16 the unlevel playing field and enjoys the fact
17 that it can defeat Joe who comes in trying to
18 get his assessment correct because Joe doesn't
19 know what he's doing. The county has all the
20 power. It seems that that's what the real
21 resistance is not what you're suggesting.

22 MR. DENION: I respectfully
23 disagree. Again, the county spends a lot of
24 money and time at ARC to make sure that those
25 pro se petitioners have the ability on the

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2 administrative level at no cost, to file at no
3 cost at ARC, to get a resolution at that
4 level. As you know, you've been here forever,
5 it's been a big process with ARC to improve
6 ARC over the years. About a year's worth of
7 time to do that. Increase staff. Increase
8 budget. They're doing their best for pro
9 ses. I believe maybe Mr. Miles can address
10 the outreach to pro ses at ARC. But I think
11 the county is trying to help pro se
12 petitioners get a resolution as expeditiously
13 and as inexpensively as possible. But when it
14 gets into a court proceeding then these issues
15 do unfortunately come up.

16 LEGISLATOR NICOLELLO: Is there
17 anyone here Finance?

18 MR. DENION: I believe it may be
19 remote. Phil Wasserman from OMB is on
20 remotely.

21 LEGISLATOR NICOLELLO: All
22 right. I guess Mr. Orlando is not available
23 but actually the memo we have is from him.

24 MS. HORST: The request for DC
25 Orlando came in as this meeting was starting.

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2 So, he was not available. But Phil did make
3 himself available.

4 LEGISLATOR NICOLELLO: Thank you.

5 Mr. Wasserman, you're familiar with
6 the memo that was submitted by DCE Orlando?

7 MR. WASSERMAN: Yes, I am.

8 LEGISLATOR NICOLELLO: You want
9 to just summarize what that memo says?

10 MR. WASSERMAN: So, what we
11 looked at was basically what would be the
12 implications for the county financially if we
13 were to lose 100 percent of the pro se cases,
14 80 and 60 percent of the pro se cases. This
15 was an estimate based on previous year and we
16 just sort of scaled up the cost to the county
17 assuming those losses.

18 LEGISLATOR NICOLELLO: Legislator
19 Ferretti. Are you finished Mr. Wasserman?

20 MR. WASSERMAN: I'm sorry?

21 LEGISLATOR NICOLELLO: I thought
22 you had stop and you started talking again. I
23 wasn't sure if you were done or not.

24 MR. WASSERMAN: We also looked at
25 what would happen if this law was extended to

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2 all SCAR hearings and there we showed what
3 would happen on a hearings basis and then for
4 all filers, assuming all SCAR filers would
5 basically push for a hearing with this law in
6 place.

7 LEGISLATOR NICOLELLO: Legislator
8 Ferretti.

9 LEGISLATOR FERRETTI: Thank you
10 Presiding Officer. I have questions kind of
11 for probably for all three of you,
12 Mr. Wasserman, Mr. Miles and Mr. Denion. Mr.
13 Denion, if I could start with you. I might
14 kind of like go from one to other. It's just
15 easier. Mr. Denion, the county attorney
16 opinion who requested it?

17 MR. DENION: I believe it could
18 have been OLBR. Maurice I believe. OLBR.

19 LEGISLATOR FERRETTI: That's who
20 it was provided to, right?

21 MR. DENION: Yes. It was given to
22 me.

23 LEGISLATOR FERRETTI: But who
24 actually requested it? Was it the
25 administration or the county executive's

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2 office? Who requested it?

3 MR. DENION: I believe the
4 administration. I don't know if Maurice wants
5 to address that.

6 MR. CHALMERS: Maurice Chalmers,
7 OLBR. We reached out to the administration to
8 ask them for an impact, projected impact on
9 this local law and we got those two memos
10 back.

11 LEGISLATOR FERRETTI: From who?

12 MR. CHALMERS: From the county
13 executive's office. The administration.

14 LEGISLATOR FERRETTI: The county
15 executive requested this county attorney
16 opinion, is that correct?

17 MR. CHALMERS: That would be
18 correct.

19 LEGISLATOR FERRETTI: Mr. Denion,
20 I see there are three questions presented.
21 The Presiding Officer, Legislator Rhoads
22 they've kind of dug into questions one and
23 two. But I'm just looking at question three
24 and maybe this is a question for Robert. I'm
25 trying to understand why a question from the

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2 county executive's office as to this financial
3 impact would go to the county attorney's
4 office to begin with?

5 MR. DENION: I think it's to
6 address the legal aspects of do we think that
7 this would have an effect on, in general, if
8 we don't speak to the numbers of course
9 because that's an analysis that OMB has done,
10 but, as you read, we think that more cases
11 would be lost and therefore more refunds would
12 be had and additional potential claims of
13 waste or gift issues which could lead to other
14 damages if this had a disparate impact is
15 another potential claim that's raised in the
16 memo. I think there are legal aspects which
17 would tend to have an impact on the county
18 finances that were proper for this memo to
19 address.

20 LEGISLATOR FERRETTI: Let's just
21 talk about your opinion as to number three.
22 The negative impact on county finances. Just
23 reading the section in the middle of the first
24 paragraph. Additionally, represented
25 petitioners would almost surely demand that

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2 the county amend the local law to expand its
3 provisions to them in the interest of equal
4 treatment under law and fairness to all
5 taxpayers.

6 What basis do you make that
7 assertion?

8 MR. DENION: I believe that it's
9 seen as if pro se petitioners had this ability
10 to go into court without evidence on the other
11 side that perhaps the represented taxpayers
12 would say well, we'd like to have the same
13 benefits of the law that if the county doesn't
14 do what it's supposed to do it could result in
15 this very favorable treatment to them as
16 well. If so, that would lead to greater
17 refunds.

18 LEGISLATOR FERRETTI: Number
19 three your opinion is based on a
20 hypothetical?

21 MR. DENION: I think it's based
22 on a natural result that would come from this
23 law being passed.

24 LEGISLATOR FERRETTI: So that's a
25 natural result?

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2 MR. DENION: I think it's an
3 extrapolation of what's going on here. Of
4 what would happen.

5 LEGISLATOR FERRETTI: Are you
6 also extrapolating that this body will vote a
7 certain way to appease those non-pro se
8 filers?

9 MR. DENION: I don't believe the
10 memo says anything like that.

11 LEGISLATOR FERRETTI: But your
12 opinion is taking a position based on a
13 hypothetical. Just about a half hour ago you
14 told Legislator Rhoads that hypotheticals are
15 dangerous. This entire opinion is based on
16 one.

17 MR. DENION: I wouldn't consider
18 this a hypothetical. If something happened
19 that happened. I think this is, again, an
20 extrapolation of a likely result of the law.
21 I think this is an extrapolation of what would
22 happen as a result if this law passed.

23 LEGISLATOR FERRETTI:
24 Hypothetically? Yes?

25 MR. DENION: I don't know if I

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2 would use the same word.

3 LEGISLATOR FERRETTI: What word
4 would you use?

5 MR. DENION: Extrapolation.

6 LEGISLATOR FERRETTI: How many,
7 and this may be for Mr. Miles, how many SCAR
8 petitions were there this last year.

9 MR. MILES: 80,000.

10 LEGISLATOR FERRETTI: How many
11 were pro se?

12 MR. MILES: Approximately 550.

13 LEGISLATOR FERRETTI: Is that
14 about five percent of the filers were pro se?

15 MR. MILES: Potentially. I
16 didn't do the math.

17 LEGISLATOR FERRETTI: So really
18 what we're talking about here is about five
19 percent of the filers that are actually --

20 MR. MILES: Potentially, yeah.

21 LEGISLATOR FERRETTI: So, from
22 that, Mr. Denion, you're extrapolating that
23 100 percent will all of a sudden turn and
24 demand that they have this disclosure as
25 well?

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2 MR. DENION: Again, the memo says
3 that they would likely demand this. Like it
4 says 100 percent, but it's the likely result
5 of this law being enacted.

6 LEGISLATOR FERRETTI: Let's
7 assume for a second that your extrapolation my
8 hypothetical as I read it is correct and 100
9 demand it. Let's also assume that this body
10 was to vote for that. Why is it assumed that
11 the county would lose every single case?

12 MR. DENION: It's the risk I
13 think that this is talking about. That the
14 risk that if, as the law is written, with ten
15 day notice from the court or 30 days notice
16 required by the law, all those cases would be
17 loss because we could not comply, then those
18 would be just a series of lost cases.

19 LEGISLATOR FERRETTI: So the,
20 quote unquote, most accurate assessment ever
21 we would lose all the cases?

22 MR. DENION: At the judicial
23 review stage it's not an issue of whether or
24 not what the assessor did. It's a brand new
25 look at it. If there's only evidence on one

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2 side what the assessment is that's all the
3 court has before it.

4 LEGISLATOR FERRETTI: I think
5 we've talked ad nauseum about the first and
6 second questions presented to the county
7 attorney's office and it sounds like that the
8 bill can be tweaked to appease the concerns at
9 least listed in here, although I'm certain
10 there will be more once those concerns are
11 fixed, but if they were we still have this
12 number three. This issue of the financial
13 impact.

14 Now, if those concerns in question
15 presented one and question presented two were
16 appeased then the county should be able to
17 give the same exact evidence that they always
18 could have. It's just they have to disclose
19 that evidence to the other side. Just like
20 every other court proceeding that I can think
21 of you have to exchange evidence, right?

22 So, if number one and two could be
23 rectified in the county attorney's mind, would
24 that change the financial impact? Not a
25 hypothetical just extrapolating.

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2 MR. DENION: I agree with you if
3 you change one and two it's going to change
4 three to that extent. Whatever that might be.

5 LEGISLATOR FERRETTI: Mr.
6 Wasserman.

7 MR. WASSERMAN: Yes, sir.

8 LEGISLATOR FERRETTI: Just
9 reading through the memo here. I want to
10 understand what the administration's position
11 is on SCAR hearings. What's the point of
12 them?

13 MR. DENION: I don't know if
14 that's a question for --

15 LEGISLATOR FERRETTI: No. Mr.
16 Wasserman.

17 MR. WASSERMAN: I would assume
18 you send out a tax bill that you believe is
19 the best representation of what the taxpayer
20 owes and the responsibility to the other
21 taxpayers to defend that.

22 LEGISLATOR FERRETTI: What we're
23 looking for is fair and accurate assessments,
24 right?

25 MR. WASSERMAN: I believe so,

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2 yes.

3 LEGISLATOR FERRETTI: As a
4 threshold question, is the point of a SCAR
5 hearing to win at all costs or get the
6 assessments right?

7 MR. WASSERMAN: I'm sorry. I'm a
8 budget person. You should be asking the
9 people who try these hearings.

10 LEGISLATOR FERRETTI: Mr.
11 Wasserman, the reason I'm asking you is
12 because you're speaking on behalf of
13 Mr. Orlando, correct?

14 MR. WASSERMAN: Yes, that's
15 correct.

16 LEGISLATOR FERRETTI: I'm
17 referring to Mr. Orlando's memo where he
18 indicates that as written the legislation
19 could result in the county losing almost all
20 pro se cases with the resulting liability of
21 \$800,000.

22 Now, I would hope that that's not
23 the case considering we just had a
24 reassessment and supposedly it's the most
25 accurate in the history of the world. But

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2 just assuming that that's true for a second,
3 my question is -- and I hate to be frank -- so
4 what? If these people were not assessed
5 properly and these residents go to SCAR and
6 the evidence that we use is disclosed to them
7 and we nevertheless lose, God bless, you
8 weren't assessed properly. You went through
9 the system and you won. What's the problem
10 with that?

11 MR. WASSERMAN: I think in a fair
12 trial if the taxpayer proves that the
13 assessment was incorrect then matzel tov.

14 LEGISLATOR FERRETTI: I agree.
15 We all agree. But then why does this memo
16 seem to indicate that that's a major concern
17 when in fact this memo only addresses that?

18 MR. WASSERMAN: I believe our
19 understanding that the impact of this law will
20 impact the ability of the county to properly
21 defend the roll. Properly defend the
22 assessments that were made.

23 LEGISLATOR FERRETTI: Look, I
24 think it's pretty clear that three questions
25 were presented for this opinion but really it

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2 sounds to me like all they really care about
3 is number three, the financial impact. What
4 we should be shooting for is that residents of
5 Nassau County are taxed and assessed fairly
6 and accurately. What we're trying to do is
7 make a level playing field here. And it
8 sounds like the administration is doing
9 everything it can to keep an advantage. That
10 shouldn't be the goal. The goal should be
11 fair and accurate assessments. That should
12 have been the goal throughout this entire
13 process. It seems like every step of the way
14 when we try to make that the goal we get some
15 other -- I'm going to say it Rich --
16 gobbledygook thrown at us to tell us why we
17 can't do it. Thank you.

18 LEGISLATOR NICOLELLO: Are there
19 any other questions? Legislator Walker.

20 LEGISLATOR WALKER: I really
21 didn't have a question and I guess I really am
22 just summing up again what Legislator Ferretti
23 just said. Yes, I'm a legislator but I'm also
24 a taxpayer. I'm a widow. I struggle every
25 day to make ends meet and if I'm fighting my

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2 assessment I want to go there and I want to be
3 able to have everything presented that I can
4 present but know what I'm up against. Know
5 what I'm fighting against. Like you would in
6 court. Know what you're up against.

7 From everything that you've stated
8 it's just reinforced over and over and over to
9 me as a taxpayer and as a legislator that we
10 don't really care if the assessment is right
11 when you get to that point, we just want to
12 win and take their money. That's what it
13 points out to me. And I think any resident
14 that might be sitting here is going to feel
15 that same way. They're not on a level playing
16 field. And yes, the county might lose money
17 but then it's because their home was assessed
18 improperly.

19 Many of our homes are still
20 assessed improperly and I think we know that,
21 and we can say this is the best assessment
22 ever and it's fair and it's wonderful, but
23 many of our homes are still being assessed
24 improperly. That's a problem and it's a
25 problem now that all we care about really is

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2 worrying about losing all those, you know, ARC
3 or whatever it is. I'm so confused at this
4 point. The SCAR petitions. You're concerned
5 that we could lose basically all of them.
6 Well, too bad if we do because then the houses
7 weren't assessed properly.

8 Those people there that weren't
9 represented by an attorney, they're doing it
10 by themselves, they barely understand the
11 whole assessment process to begin with and now
12 it's just another way to say gotcha, you lose
13 we win. That's my perspective of what all has
14 been said this afternoon.

15 MR. DENION: Can I have a chance
16 to respond?

17 LEGISLATOR NICOLELLO: Sure.

18 MR. DENION: I would say that the
19 county is just trying to have obviously fair
20 and accurate assessments at the Department of
21 Assessment level. It's done a great job over
22 the last two years with the reassessment. ARC
23 is doing its best. And also when it comes to
24 the court procedure, when it comes to judicial
25 review county attorney, Department of

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2 Assessment are doing their best to be fair to
3 both the petitioner and to the taxpayers who
4 have to pay the refunds.

5 It has to be a process that is the
6 one that is respected, I'm sorry, is based on
7 the current state law procedures that ensure
8 fairness and that the truth does come out at
9 the proceeding so it does result in a fair and
10 accurate assessment.

11 But I think the core of the problem
12 here is this changes that state operation of
13 law to arrive at that truth by changing the
14 inputs, changing the evidence and therefore it
15 presents an unfair advantage. The county
16 shouldn't have an unfair advantage and the
17 petitioner should not have an unfair
18 advantage. The state law properly balances
19 that. This tips the balance a little too much
20 in another different direction which harms all
21 the county taxpayers who have to pay those
22 refunds.

23 LEGISLATOR NICOLELLO: Legislator
24 Drucker.

25 LEGISLATOR DRUCKER: Thank you

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2 Presiding Officer. I think this entire body
3 recognizes that we all want the same thing.
4 We want a fair and accurate assessment. But
5 once this SCAR matter gets to a hearing it
6 becomes an adversarial proceeding. It becomes
7 trial. It's called a trial de novo. And the
8 person responsible for obtaining the truth and
9 accuracy is the hearing officer. Or the
10 judge. So, I think we all want the same
11 thing.

12 But once it gets to that point
13 we're talking about a judicial proceeding.
14 It's not policy. It's not process any
15 longer. It's a matter of which side is going
16 to prevail and both sides try to present what
17 they have in the most favorable light.

18 But I think that to summarize here,
19 Legislator Rhoads and the presiding officer
20 after a very brief period of time, after an
21 hour and half of this though their line of
22 questioning shifted to hypotheticals. It was
23 always if. If we did this, if we did that, if
24 we did this and if did that why can't we do
25 it? Those are fair questions but they're not

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2 fair questions today. Because isn't it true,
3 Mr. Denion, that this bill before us is trying
4 to do indirectly what we can't do directly,
5 which is to change the SCAR process? That's
6 why it conflicts with state law; isn't that
7 correct?

8 MR. DENION: I agree, yes.

9 LEGISLATOR DRUCKER: We've spent
10 a lot of time discussing hypotheticals and I
11 understand we should know what our parameters
12 are as legislators but it's not before us
13 today. This bill is fatally defective on its
14 face and it can't go forward. I think the
15 Majority recognizes that because their line of
16 questioning shifted early on to if. If we do
17 this and if we do that. Would you agree with
18 that?

19 MR. DENION: I'd rather you
20 characterize the nature of the questions.

21 LEGISLATOR DRUCKER: I just
22 wanted to make that point. But you agree
23 thought that what this bill does on its face
24 is patently defective because of what it's
25 trying to do indirectly what we can't do

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2 directly?

3 MR. DENION: For the reasons
4 discussed, yes.

5 LEGISLATOR DRUCKER: I have no
6 further questions. Thank you.

7 LEGISLATOR NICOLELLO: Thank
8 you. Legislator Rhoads.

9 LEGISLATOR RHOADS: Just in
10 response to that. Look, the whole idea behind
11 a hearing is to give voice to concerns on both
12 sides of legislation. There's absolutely
13 nothing wrong with asking, okay, let's assume
14 that a point is being made or what happens if
15 we address it in this way. Talking about
16 hypotheticals or talking about extrapolations
17 or whatever the terminology is that you want
18 to use, I don't know how one is somehow good
19 and the other one isn't, that's part of the
20 law making process.

21 So, I don't have a problem with
22 asking those questions, getting feedback and
23 trying to find areas where there's common
24 ground that where we might be able to reach a
25 resolution. My whole question in this process

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2 is, is there is common ground to reach a
3 resolution? I think what we're seeing here is
4 that we have a county executive who does not
5 want to do this and is using the county
6 attorney's office to come up with reasons for
7 why it cannot be done simply because she does
8 not want to come out and say we don't want to
9 level the playing field when it comes to
10 SCAR. That's my concern.

11 Whether that bears out remains to
12 be seen if there are amendments made to this
13 legislation and it passes, it remains to be
14 seen what the county executive winds up doing
15 with that.

16 Ultimately, this legislation is
17 about leveling the playing field and it is
18 about fairness. It's about disclosing as you
19 would do in any other court proceeding,
20 disclosing the evidence that's going to be
21 presented to the other side so that both sides
22 aren't surprised at the time of trial. That's
23 not anything earth shattering. That's
24 something that's done in virtually every other
25 area of the law except for some reason at

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2 SCAR.

3 Our legislation has no broader
4 implication state-wide than Nassau County.
5 And we do have the ability to control what
6 happens in Nassau County and how we respond
7 and how we react to that we still have the
8 ability to control what our own employees do
9 even with respect to what they present at the
10 SCAR hearing.

11 So, I appreciate your testimony
12 here today Mr. Wasserman, Mr. Miles and
13 Mr. Denion. I think it's given us some food
14 for thought, and I know we will be revisiting
15 this very shortly.

16 LEGISLATOR NICOLELLO: I want to
17 echo what Legislator Rhoads said. I want to
18 thank you for your comments and, again, it
19 gives us some food for thought going forward.
20 I would like to invite Mr. Kasschau down for a
21 hearing on Friday afternoon if he's
22 available. Just kidding. I know that's his
23 last day. I think there would be a revolution
24 if I did that. Thank you.

25 We will close the hearing. Motion

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2 to close. Legislator Rhoads makes a motion to
3 close. Legislator Ferretti makes a second.
4 All in favor of closing the hearing signify by
5 saying aye. Those opposed? Hearing is
6 closed. We will not be calling the proposed
7 local law today, so we have one other
8 hearing.

9 It's a hearing on a local law to
10 amend the Nassau County administrative code
11 with respect to vendor integrity and
12 disclosure documents for municipal
13 corporations and districts as defined by
14 Section 119-N of the New York State General
15 Municipal Law.

16 Legislator Walker moves that.
17 Seconded by Legislator Drucker. That's a
18 motion to open the hearing. All in favor of
19 opening the hearing signify by saying aye.
20 Those opposed? Hearing is now open.

21 Let's see. This is a legislation
22 intended to facilitate one aspect of the CRP
23 process that the county undertakes and these
24 revisions that we're going to be making in a
25 few moments when we get to the vote on the law

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2 it was a collaborative effort between the
3 Majority and Minority caucuses. And I thank
4 both counsel who worked on this.

5 This legislation is intended to end
6 the requirement with respect to municipalities
7 who submit IMAs with the county for various
8 grants to prevent those municipalities from
9 having to come back every six months to file
10 new disclosure statements when nothing has
11 changed.

12 The legislation will require that a
13 municipal corporation or district will submit
14 updated vendor integrity and disclosure
15 documents when a principal, as defined by the
16 charter, is newly elected or appointed. It
17 also requires municipal corporations or
18 districts to provide vendor integrity and
19 disclosure documents every five years.

20 Again, it's trying to avoid having
21 the repetitive requests from municipalities to
22 submit these documents when nothing has change
23 in the course of six months.

24 Any debate or discussion? Motion
25 to close the hearing by -- sorry.

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2 LEGISLATOR DERIGGI-WHITTON: I
3 just want to say this was a bipartisan effort
4 and I appreciate both sides of our caucuses
5 here. It was good to work together with our
6 legal teams as well as all the legislators. I
7 really think that this will hopefully help
8 make this process a little bit smoother for
9 each one of us. It was good to do together.

10 LEGISLATOR NICOLELLO: There's
11 another item coming later on that was worked
12 on by both sides as well.

13 Motion to close the hearing by
14 Legislator Bynoe. Seconded by Legislator
15 McKevitt. All in favor of closing the hearing
16 signify by saying aye. Those opposed?
17 Carries unanimously.

18 Move on to item 12, which is a vote
19 on a local law to amend the Nassau County
20 administrative code with respect to vendor
21 integrity and disclosure documents for
22 municipal corporations and districts as
23 defined by Section 119-N of the New York State
24 General Municipal Law.

25 Moved by Legislator

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2 DeRiggi-Whitton. Seconded by Legislator
3 Ford. That's before us.

4 We need to make an amendment in the
5 nature of a substitution. And as stated
6 before, the amendment clarifies that a
7 municipal corporation or district must submit
8 updated vendor integrity and disclosure
9 documents when a principal, as defined by the
10 charter, is newly elected or appointed and
11 further requires a municipal corporation or
12 district to provide vendor integrity and
13 disclosure statements every five years.

14 Motion to amend by Legislator
15 Ford. Seconded by Legislator
16 DeRiggi-Whitton. All in favor of the
17 amendment signify by saying aye. Those
18 opposed? Amendment passes.

19 On the amended item, any debate or
20 discussion? All in favor of the amended item
21 signify by saying aye. Those opposed?
22 Carries unanimously.

23 Move on to item 14. This is
24 Ordinance 46. An ordinance to amend Ordinance
25 105 of 1985 as amended by Ordinances 154 of

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2 1989, 103 of 2000 and 203 of 2001 with regard
3 to maintenance and guarantees associated with
4 road openings in Nassau County.

5 Moved by Legislator Rhoads.

6 Seconded by Deputy Presiding Officer Kopel.

7 Legislator Rhoads you want to make comments?

8 LEGISLATOR RHOADS: Sure. The
9 bill itself is rather simple. Nassau County
10 spends in 2020, 2021 will spend approximately
11 almost \$80 million for road resurfacing
12 projects. All throughout the county and one
13 only needs to travel on Franklin Avenue right
14 outside of these chambers you saw a perfectly
15 good roadway that was opened up by a utility
16 who then placed a temporary patch. And as a
17 result, anybody that's traveling right now
18 northbound on Franklin Avenue one would think
19 that you're driving -- hopefully you're
20 driving an all terrain vehicle in order to get
21 over the roadway.

22 What this legislation seeks to do
23 is to hold utilities accountable for the
24 patchwork that they create. Does a couple of
25 things. If a utility opens up a roadway it

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2 has 60 days to replace its temporary patch
3 with permanent restoration. Unless there is
4 some sort of exigent circumstances which are
5 brought to the attention of the Department of
6 Public Works that they would have to agree
7 that those exigent circumstances exist.

8 If the utility does not make the
9 repairs within 60 days, the permanent in-kind
10 restoration, so, in other words, if it's
11 asphalt they have to replace it with asphalt,
12 if it's concrete they have to replace it with
13 concrete because we've seen that as well.
14 Concrete roadways where they put in a
15 permanent patch that's asphalt. Not good
16 enough. You got to put what was there. If
17 you broke it you got to replace it.

18 If they don't make the repairs
19 within 60 days it gives the Department of
20 Public Works the ability to come in and
21 actually make the restoration ourselves to our
22 specification and bill back the utility for
23 the cost of those repairs.

24 It also enables the county to
25 charge the utility a per diem fine for the

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2 length of time that it takes to make that
3 restoration. It seeks to hold the utility
4 accountable and responsible. As well as for
5 the patches that they actually do put in, they
6 are responsible to maintain those patches for
7 the useful life of the roadway as determined
8 by the DPW commissioner.

9 Again, it's an issue of fairness
10 for the utility and an issue of fairness for
11 taxpayers. The useful life of the roadway is
12 determined by the commissioner because if a
13 roadway that is going to be replaced in 18
14 months is what's disturbed obviously the
15 utility shouldn't have a ten-year period that
16 they're responsible for it when we are
17 replacing the roadway.

18 Conversely, if it's a brand new
19 road and they are opening up the roadway they
20 should be responsible for maintaining it for
21 however long it is that we expect that roadway
22 to exist.

23 Again, this is about protecting the
24 investment that county taxpayers are making in
25 county roads that are disturbed by public

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2 utilities and at the same time making sure
3 that those roadways are passable as quickly as
4 possible once that work has to take place.

5 LEGISLATOR NICOLELLO: Thank
6 you. Any other legislator want to comment?
7 Legislator Drucker.

8 LEGISLATOR DRUCKER: Thank you
9 Presiding Officer. I have no problem with
10 this bill per se. I really think it's a good
11 bill. However, I have a question for
12 Legislator Rhoads or anybody else on the
13 Majority. For full disclosure, did you
14 discuss this bill with the public utility
15 companies and is 60 days enough time to
16 conduct the necessary permanent rehabilitation
17 to the road? I just want to make sure.

18 LEGISLATOR RHOADS: I did have
19 some conversations not related to this bill
20 but I did have some conversations with
21 New York American Water with respect to
22 roadway restorations. I have had
23 conversations with respect to National Grid
24 regarding some clarifications that they wanted
25 with respect to the bill. The timeliness of

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2 it was not a concern that was raised. So, the
3 60 days, I didn't ask that question
4 specifically, but the 60 days doesn't seem to
5 be a source of any concern.

6 LEGISLATOR DRUCKER: They raised
7 it with me. So, I just wanted to know if you
8 had any further discussion on it. They did
9 raise that 60 days could be potentially
10 problematic. But you know what? it is what it
11 is.

12 LEGISLATOR RHOADS: That's why if
13 there are exigent circumstances they can
14 certainly explain that to the Department of
15 Public Works. And it gives the Department of
16 Public Works the flexibility to be able to
17 adjust that time frame based on circumstances
18 on the ground.

19 LEGISLATOR NICOLELLO: Anyone
20 else? Hearing none, all in favor of this item
21 signify by saying aye. All in favor signify
22 by saying aye. Those opposed? Carries
23 unanimously.

24 Item 21 Resolution 76. A
25 resolution authorizing the county to execute

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2 an agreement with American Traffic Solutions,
3 Inc. d/b/a Verra Mobility and two agreements
4 with school districts in relation to the
5 county's bus Stop-Arm Photo Enforcement
6 program.

7 Moved by Legislator Walker.

8 Seconded by Legislator Mule.

9 MS. MALHAME: Allison Malhame,
10 deputy commissioner of shared services.

11 LEGISLATOR NICOLELLO: Thank you
12 for coming today. The IG has informed us that
13 she is still undertaking an investigation into
14 the contract which she has not completed yet.
15 I don't believe the legislature will be
16 passing this today. We have meetings coming
17 up, both committees and full legislature in
18 June, we can always defer action until that
19 time.

20 I had one question. I'm sure a lot
21 of other legislator have questions. The
22 warning time period in the agreement I guess
23 with the vendor is 30 days, correct?

24 MS. MALHAME: Yes. That's the
25 amount of time that's stated in the local law

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2 is 30 days.

3 LEGISLATOR NICOLELLO: My
4 understanding is that Suffolk extended theirs
5 to 60 days. I think Katy would like to say
6 something.

7 MS. HORST: We're going to be
8 introducing legislation to extend that warning
9 period to 60 days.

10 LEGISLATOR NICOLELLO: The local
11 law that you were referring to is the local
12 law that's before us or a local law passed by
13 the state of New York?

14 MS. MALHAME: The law passed by
15 the legislature here.

16 LEGISLATOR NICOLELLO: Katy, you
17 want to clarify? Or somebody?

18 MR. GREGWARE: Dan Gregware,
19 deputy county attorney's office. Yes, that's
20 correct. Allison had stated that correctly.
21 It's the local law that the county legislature
22 had approved. They had a 30-day warning
23 period in that local law legislation.

24 LEGISLATOR NICOLELLO: So it has
25 to be changed by local law to 60 days,

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2 correct?

3 MR. GREGWARE: Correct. As Katy
4 just confirmed, the administration is going to
5 be proposing I guess a new local law or an
6 amendment to that local law extending it to 60
7 days. I think the agreement itself is pretty
8 flexible with respect to the warning period.
9 It doesn't specifically state a 30-day warning
10 period. I think we should be okay on that
11 front. It's just a matter of amending that
12 local law.

13 LEGISLATOR NICOLELLO: Thank
14 you. Anyone else? Thank you. As I said, the
15 IG is completing her investigation and report,
16 so we are hopeful that we can take action on
17 this in the very near future. But for today,
18 we are bound to wait until she finishes.
19 Thank you.

20 Last item is Resolution 83. It's
21 item 28. It's a resolution authorizing and
22 directing the Nassau County Department of
23 Information and Technology to provide
24 legislative staff read only access to the
25 county's electronic contract routing system,

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2 ECRS.

3 Moved by Legislator

4 DeRiggi-Whitton. Seconded by Legislator

5 Ford. Again, this was a collaborative effort
6 between the Majority and the Minority. The
7 item is going to be amended and the amendment
8 will do the following. Will specify that the
9 information that must be provided by access to
10 ECRS including but not limited to the status
11 of departmental approvals of agreements
12 pertaining to CRPs. Departments that approved
13 such agreements and the date approval was
14 given as well as the department for which
15 approvals are pending.

16 Legislator Ford makes a motion on
17 that amendment. Legislator DeRiggi-Whitton
18 seconds that. Any debate or discussion on the
19 amendment? All in favor of the amendment
20 signify by saying aye. Those opposed? The
21 amendment passes unanimously.

22 Again, this relates to the county's
23 CPR grants. It will give the legislature the
24 opportunity to look at the ECRS system,
25 without making changes, to identify where a

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2 particular grant is in the process. If it is
3 still pending approval for some length of time
4 with a specific office we can make inquiries
5 of what the delay is. But the motivation is
6 to try to streamline the process and get these
7 through the system more quickly.

8 As to the item as amended, all in
9 favor signify by saying aye. Those opposed?
10 Carries unanimously.

11 Motion to adjourn? Legislator
12 Rhoads. Seconded by Legislator Mule. All in
13 favor of adjourning signify by saying aye.
14 Those opposed? Carries unanimously.

15 We are adjourned.

16 (Meeting was adjourned at 3:55 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 second day of
June 2021.

FRANK GRAY