

NASSAU COUNTY LEGISLATURE

COMMITTEES MEETING

HOWARD KOPEL

PRESIDING OFFICER

CHAIRMAN

RULES COMMITTEE

County Executive and Legislative Building

1550 Franklin Avenue

Mineola, New York

Monday, January 8, 2024

3:50 p.m.

TAKEN BY: KAREN LORENZO, OFFICIAL COURT REPORTER

A P P E A R A N C E S

CHAIRMAN HOWARD KOPEL

VICE CHAIRMAN THOMAS MCKEVITT

LEGISLATOR JOHN FERRETTI

LEGISLATOR JAMES KENNEDY

LEGISLATOR DELIA DERIGGI-WHITTON

LEGISLATOR SIELA BYNOE

LEGISLATOR ARNOLD DRUCKER

MICHAEL PULITZER Clerk of the Legislature

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2 CHAIRMAN KOPEL: We're going to
3 reconvene Rules. And the way this works
4 is that what we do first is we go through
5 the contracts, then we recess and then we
6 do some other committees and we finish
7 Rules after that.

8 I am now going to call a number of
9 contracts together, and we'll move on
10 them one at a time afterwards.

11 E1-24; E2-24; E3-24; E4; E5; E6; E7;
12 E10; E11, which are, respectively,
13 resolutions authorizing the County
14 Executive to execute Personal Services
15 Agreements Or Amendments, thereto,
16 between the County and LAH Law Firm; WSP
17 USA; NV5; Lewis K. McLean Associates; N&P
18 Engineering; VHB Engineering; Hardesty &
19 Hanover Construction Services; Sokolov
20 and Stern; and Bee Reporting Agency.

21 E8-24, which is a resolution
22 ratifying the County Executive's
23 Execution of a Personal Services
24 Agreement between the County of Nassau
25 and Entech Engineering.

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2 We have a motion by Legislator
3 McKevitt, seconded by Legislator
4 Ferretti.

5 E1-24, who's here to speak on that?
6 Anyone?

7 MR. LIBERT: E-1, this is for a case
8 called Highsmith. I'll just give you a
9 very brief summary of the facts.

10 On August 15th, 2017, at
11 approximately 8:45 p.m., plaintiff was
12 walking at her job from an Ikea store.
13 She was struck by a car driven by
14 defendant. Plaintiff was struck as she
15 walked through the crosswalk in West John
16 Street. This is road design case. So in
17 other words, there is not a County
18 vehicle involved. Just to clarify what I
19 was saying. The County's involvement is
20 relative to its engineering and design of
21 that road and that intersection.

22 CHAIRMAN KOPEL: All right. Any
23 questions on this?

24 LEGISLATOR DRUCKER: I'm just asking
25 a question. This seems like a run of the

1
2 mill accident case. Why is it so
3 necessary to hire a special counsel?

4 MR. LIBERT: I think actually road
5 design cases are, in my view, not run of
6 the mill. They're quite complicated
7 because the County has a funny obligation
8 relative to the MUTCD, the Manual Uniform
9 Traffic Control Devices. What that
10 basically says is that the County has an
11 obligation -- speaking generally, if
12 there's any plaintiffs in the audience --
13 you can put on the record -- don't get me
14 on the way out and say this is your
15 theory of the case. So the general idea
16 is that the County's obligation is to
17 drive around or to monitor these
18 locations all the time, sort of on a
19 constant basis. And it makes it very
20 tricky to get out on motion and just on
21 procedural grounds. So from my personal
22 professional view, the road design cases,
23 from a governmental standpoint, they are
24 especially tricky.

25 LEGISLATOR DRUCKER: Obviously, it

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2 requires an expert to come and evaluate
3 the road and render an opinion. But in
4 terms of trying the case and presenting
5 that witness, why does that require a
6 special counsel? I mean, you have you
7 have attorneys who are capable of
8 evaluating the expert opinions on the
9 road safety. They provide you with the
10 reports, you go with them. This is
11 something that's an ongoing problem for
12 me. I don't understand why we have
13 capable, talented county attorneys who
14 can't try these cases. They can evaluate
15 the expert witnesses testimony and their
16 reports. I don't understand that, I
17 really don't.

18 MR. LIBERT: My perspective of that
19 is that the very talented attorneys that
20 you speak of are the very same ones who
21 recommended this case, in fact, to go to
22 outside counsel. They themselves -- I'm
23 the mouthpiece for them. I work with
24 them, but they themselves analyze the
25 files and issues involved, and they make

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2 these requests. So to the extent that the
3 request have been made, it's been made by
4 those skilled attorneys. We're always
5 available to answer any questions you
6 have specifically about cases, although
7 we try not to get into it on the record
8 as it could involve trial strategy.

9 LEGISLATOR DRUCKER: I don't want to
10 get on the record about it, but you're
11 now asking us to approve money to pay for
12 a special attorney who I think is
13 unnecessary.

14 The other thing is, I see here that
15 the work was supposed to commence on June
16 30, 2023, right?

17 MR. LIBERT: Correct.

18 LEGISLATOR DRUCKER: And yet you
19 sent them an engagement letter on August
20 21st, almost two months later. And now
21 it's coming before us now. How does how
22 does employment of a law firm start
23 without an engagement letter right off
24 the bat? We don't do it in my office,
25 and there's a lot of lawyers here on this

1
2 dais who wouldn't do it either.

3 MR. LIBERT: Sure, I'm happy to
4 address that. We did have this question,
5 I think, a very similar one the last time
6 I was here, and I think I gave a similar
7 answer, and I will just sort of
8 symbolically turn to my right and look at
9 Robert Cleary, who can feel the heat
10 coming his direction. He's aware of these
11 issues that County Attorney has been
12 having with disclosure and procurement.

13 But relative to your question
14 specifically about engagement letters, we
15 as a matter of policy, cannot issue
16 engagement letters because it would be
17 ultra vires to the Legislature's power.
18 So what we do is we tell someone that you
19 may begin and in writing they are
20 informed at your own peril. You may begin
21 until the Legislature approves it, and
22 that that is in writing in all cases,
23 because I'm the one who issues that
24 instruction. So they they begin, but
25 they cannot get paid up and until the

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2 Legislature approves it. So that's how
3 that process works. We we do not do
4 retainer letters. It's simply not a
5 process for our office.

6 LEGISLATOR DRUCKER: So then we to
7 assume that they've worked for six months
8 and may not get paid?

9 MR. LIBERT: They would only not get
10 paid if you don't approve it.

11 LEGISLATOR DRUCKER: That's
12 certainly a possibility, correct?

13 MR. LIBERT: That's always a
14 possibility. Yes.

15 LEGISLATOR DRUCKER: And that law
16 firm was perfectly capable and willing
17 to, at their peril, work for six months
18 without getting paid?

19 MR. LIBERT: Correct.

20 LEGISLATOR DRUCKER: Okay.

21 LEGISLATOR DERIGGI-WHITTON: Did we
22 correct the roadway or is it still the
23 same way?

24 MR. LIBERT: I actually would have
25 to look at this specific allegation in

1
2 this case as to what the design was. I
3 think, without going too much down the
4 road, obviously no pun intended, as
5 Legislator Drucker had asked, the road
6 design cases are fairly complicated. My
7 personal professional view, is sometimes
8 that the allegation is specious but
9 difficult to knock out. So that's why
10 special counsel is especially useful in
11 some of those situations.

12 LEGISLATOR DERIGGI-WHITTON: Well, I
13 mean, if we were held as being liable for
14 at this, you know, with this instance, it
15 could possibly open us up for further,
16 you know, situations.

17 MR. LIBERT: So I'm more than happy
18 to look into that specific intersection,
19 uh, and just make sure that whatever was
20 alleged is correct. Off the top of my
21 head, I don't know specifically, but more
22 than happy to look into it.

23 LEGISLATOR DERIGGI-WHITTON: It
24 would be a good system to have in place
25 that whenever we pay out on poor road

1
2 design, we then send DPW a memo, you
3 know, explaining what happened.
4 Otherwise, the next time it'll even be
5 worse because we're on notice.

6 MR. LIBERT: I think it was actually
7 you who made that point. And I think
8 we've made a process of doing that. This
9 is just a contract at this point. But if
10 counsel were to come back and say -- I'm
11 making things up, not about this case,
12 just in general -- if counsel were to
13 come back and say, look, you have a
14 liability problem, this is something you
15 should address. Certainly, our office
16 would respond swiftly to such a report.

17 CHAIRMAN KOPEL: Anyone else?

18 LEGISLATOR FERRETTI: Brian, just
19 just real quick. In terms of the work,
20 beginning by the law firm prior at their
21 own peril, is that based on your
22 knowledge, a new policy, or has that been
23 in place for decades?

24 MR. LIBERT: Decades.

25 LEGISLATOR FERRETTI: Okay. So it

1
2 predates this administration, even two
3 administrations before that, correct?

4 MR. LIBERT: Correct.

5 LEGISLATOR FERRETTI: Okay. Thank
6 you.

7 CHAIRMAN KOPEL: Brian, next one.
8 Sokolov, Stern; E10.

9 MR. LIBERT: This is a case we call
10 seaweed, and I don't know if the person
11 is here. I certainly don't want to
12 mispronounce their name. We call it
13 seaweed. This is an inmate case. In 2018,
14 the plaintiff was in a cell while the
15 nurse was distributing medication.
16 Plaintiff made a comment about lockdown.
17 The plaintiff reached out of his cell,
18 and he threw his belongings on the floor.
19 Essentially, pardon me, this is not the
20 nicest thing to say on the record. He
21 urinated on the bed, and as a result of
22 urinating on the bed, got bedsores. So
23 that is the nature of the lawsuit.

24 CHAIRMAN KOPEL: E11.

25 MR. LIBERT: E11 is a contract with

1
2 the court reporters. This is a closeout
3 contract. There's a new RFQ. I believe
4 it's complete or in process. So this is
5 just a closeout for the old contract to
6 pay some bills that were extended. I can
7 give you further details, but it's not a
8 new procurement. It's just an amendment
9 to close out the old contract.

10 CHAIRMAN KOPEL: Okay. Thank you.
11 Anyone?

12 (Whereupon, no verbal
13 response.)

14 CHAIRMAN KOPEL: Okay. Thank you,
15 Brian.

16 MR. LIBERT: Thank you. Have a great
17 day.

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CHAIRMAN KOPEL: Now the next bunch are with Public Works. First of all, I'm going to take a motion to table E2-24 and E6-24.

And that motion is made by Mr. Kennedy and seconded by Mr. Drucker.

All those in favor of tabling those two?

(Whereupon, all members of the Rules Committee respond in favor with, "Aye".)

CHAIRMAN KOPEL: Any opposed?

(Whereupon, no verbal response.)

CHAIRMAN KOPEL: Those two are tabled unanimously.

LEGISLATOR DERIGGI-WHITTON: Is that because of the Inspector General?

CHAIRMAN KOPEL: Yes.

LEGISLATOR DERIGGI-WHITTON: Thank you for doing that.

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CHAIRMAN KOPEL: Now the rest are with Public Works. First would be E3, which would be NV5.

MR. GEORGE: Good evening. My name is Thomas George, deputy commissioner for DPW.

E3-24. This is a professional service contract for On-call design service with the NV5. The purpose of this contract is to provide on-call civil engineering and site development, design and support services for civil Engineering and site development unit. This is a 4 year term beginning with the NDP. Contract cap is 10 million. Initial encumbrances \$200,000.

CHAIRMAN KOPEL: Okay. Any questions.

(Whereupon, no verbal response.)

CHAIRMAN KOPEL: All right. Thank you. E4.

MR. GEORGE: Yes. E4-24. This is all also civil On-call contract. Professional

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2 service contract for on-call design
3 service. The purpose of the contract is
4 to provide on call civil engineering and
5 site development, design support service
6 for civil engineering and site
7 development unit. Again, this is also a
8 four year term beginning with the NDP.
9 The contract cap is 10 million. Initial
10 encumbrances \$200,000.

11 CHAIRMAN KOPEL: Thank you. Any
12 questions?

13 (Whereupon, no verbal
14 response.)

15 CHAIRMAN KOPEL: Okay. E5, which
16 would be N&P Engineering.

17 MR. GEORGE: E5-24, that's Nelson
18 and Pope is the firm. Also a professional
19 service contract for on-call design
20 service. The purpose of the contract is
21 to provide on call civil engineering and
22 site development, design and support
23 service for civil Engineering and service
24 development unit for term beginning with
25 the four year term beginning with the

1
2 NDP. Contract cap is 10 million. Initial
3 encumbrance \$200,000.

4 CHAIRMAN KOPEL: E7, Hardesty and
5 Hanover.

6 MR. GEORGE: Item E7-24. This is a
7 two year professional service contract
8 with Hardesty and Hanover for the
9 construction, management and inspection
10 service for Glen Curtis Boulevard Bridge
11 over Meadowbrook State Parkway, which is
12 federally funded. This service will
13 include providing a resident engineer,
14 office engineer, and construction and
15 specialty bridge inspection service.

16 CHAIRMAN KOPEL: Okay. Anything?

17 (Whereupon, no verbal
18 response.)

19 CHAIRMAN KOPEL: E8, Entech
20 Engineering.

21 MR. TUMAN: Hi. Good afternoon, Doug
22 Tuman, Deputy Commissioner, DPW.

23 Item E8-24 is a professional service
24 contract for construction management
25 services for the emergency contract for

1
2 the repair of the Correction Center 832
3 building. The construction contract
4 itself primarily consists of installing a
5 new roof and HVAC units. This contract is
6 for professional services, for
7 construction management, for managing
8 that contract.

9 CHAIRMAN KOPEL: Okay. Mr. Drucker?

10 LEGISLATOR DRUCKER: One question.
11 Has work commenced at all on this?

12 MR. TUMAN: On the actual
13 construction contract?

14 LEGISLATOR DRUCKER: Yes.

15 MR. TUMAN: No, it has not commenced
16 yet. Notice to proceed should be issued
17 this week.

18 LEGISLATOR DRUCKER: And then how
19 long does it take to start? Because I
20 know this this jail needs emergencies
21 like you wouldn't believe.

22 MR. TUMAN: This contract is
23 primarily focusing on a new roof and all
24 new HVAC units, and it's estimated at a
25 two year contract.

LEGISLATOR DRUCKER: Okay. Thank you.

CHAIRMAN KOPEL: Okay. Thank you. I'm going to put the Rules Committee in recess -- actually, we're going to vote on all these contracts.

Those would be E1, E10, E11, E2; E3; E4 -- not E2, we're not voting on E2. So E3; E4; E5; E7; and E8.

All those in favor of those items, please so indicate by saying, Aye.

(Whereupon, all members of the Rules Committee respond in favor with, "Aye".)

CHAIRMAN KOPEL: Any opposed?

(Whereupon, no verbal response.)

(Whereupon, off record discussion.)

CHAIRMAN KOPEL: E10 and E11.

All those in favor of those two?

(Whereupon, all members of the Rules Committee respond in favor with, "Aye".)

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CHAIRMAN KOPEL: Any opposed?

(Whereupon, no verbal
response.)

CHAIRMAN KOPEL: We've got those
unanimously as well.

Okay. Now we'll put the committee in
recess.

Public Safety is next followed by
Health, Government and Finance.

(Whereupon, recess, 4:09 p.m.- 4:54
p.m.)

CHAIRMAN KOPEL: Okay, we're back to
Rules.

I'll take a motion to suspend the
Rules, moved by Mr. Ferretti, seconded by
Mr. Kennedy.

All those in favor of suspending the
Rules, please say, "Aye".

(Whereupon, all members of
the Rules Committee respond in
favor with, "Aye".)

CHAIRMAN KOPEL: I'm going to call
one item separately. And that would be
1-24, which is the resolution to

authorize transfer of appropriations.

All those in favor, say, "Aye".

(Whereupon, all members of
the Rules Committee respond in
favor with, "Aye".)

CHAIRMAN KOPEL: Aye.

LEGISLATOR FERRETTI: Aye.

LEGISLATOR MCKEVITT: Aye.

LEGISLATOR KENNEDY: Aye.

CHAIRMAN KOPEL: Any opposed?

(Whereupon, no verbal
response.)

CHAIRMAN KOPEL: All abstaining?

Hello, guys?

LEGISLATOR DERIGGI-WHITTON: We're
abstaining.

CHAIRMAN KOPEL: All right. So it's
4 to 0 to 3.

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CHAIRMAN KOPEL: Okay. All right.
Now I'm going to call the rest which is
2-24; 3; 4; 5; 6; 8, 9, 10, 11 and 12.

Motion by, Mr. Drucker, seconded by
Mr. McKevitt.

All in favor of these items, say,
"Aye".

(Whereupon, all members of
the Rules Committee respond in
favor with, "Aye".)

CHAIRMAN KOPEL: Any opposed?

(Whereupon, no verbal
response.)

CHAIRMAN KOPEL: All right. So
that's those of unanimous.

LEGISLATOR DERIGGI-WHITTON: Howard,
don't get mad. I know you hate this, but
just, regarding the ARPA transfer, I just
would love to --

CHAIRMAN KOPEL: Let me finish off
those those items. We'll come back to
that.

Those items were unanimous.
Now, go on.

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2 LEGISLATOR DERIGGI-WHITTON: Okay.

3 Just before Full Ledge, we had asked for
4 funding that was much greater than what
5 they're allocating for the Legislature
6 and the Legislature, all of us, all 19 of
7 us, were asked to come up with a list of
8 nonprofits and other groups back in June,
9 and we came up with some really good
10 groups with that money that we were
11 promised. And now it's been reduced
12 substantially. So I understand it's
13 passed through, but for Full Ledge, I
14 would really like for the Administration
15 to consider putting that funding back in
16 the legislative line and also possibly
17 funding different agencies like the Water
18 District, the Fire District, the Library
19 District. I know your side asked for that
20 as well. It's not a huge number compared
21 to what they're putting in the General
22 Fund. And I think we have an opportunity,
23 like a once in a lifetime opportunity to
24 really make a difference for a lot of
25 these nonprofits and Fire Districts and

Water Districts, special districts, etc..

Chris Leimone, is that okay?

MR. LEIMONE: Chris Leimone from
the Administration. Yes?

LEGISLATOR DERIGGI-WHITTON: I'm
just I'm just asking on behalf of myself
and my caucus that we go back to that
initial number that was discussed back in
June for all 19 legislators. I mean, it
was depleted by, I think, over 50%. So if
they could reconsider that, or at least
just put more money in for the Fire
Districts and the Water District and
Library Districts, possibly.

I understand we need money in the
operational, but, you know, a couple
million dollars could go so far with
these non for profits.

MR. LEIMONE: Okay.

LEGISLATOR DERIGGI-WHITTON: Thank
you.

CHAIRMAN KOPEL: Okay.

I will take a motion to adjourn. Mr.
Ferretti moves to adjourn, Mr. McKeivitt

seconds the motion.

All in favor of these items, say,
"Aye".

(Whereupon, all members of
the Rules Committee respond in
favor with, "Aye".)

CHAIRMAN KOPEL: Any opposed?

(Whereupon, no verbal
response.)

CHAIRMAN KOPEL: We are adjourned.

(Whereupon, the Rules
Committee is adjourned, 4:58
p.m.)

C E R T I F I C A T E

STATE OF NEW YORK)

: SS.:

COUNTY OF NASSAU)

I, KAREN LORENZO, a Notary Public
for and within the State of New York, do
hereby certify:

That the above is a correct
transcription of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of January, 2024.

Karen Lorenzo

Karen Lorenzo

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