

NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,  
PRESIDING OFFICER

RULES COMMITTEE

NORMA GONSALVES,  
CHAIRWOMAN

1550 Franklin Avenue  
Mineola, New York

August 15, 2016  
3:27 p.m.

REGAL REPORTING SERVICES  
516-747-7353

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

NORMA GONSALVES (Not Present)  
Chairwoman

RICHARD NICOLELLO  
Vice Chairman

DENNIS DUNNE (Not Present)

STEVEN RHOADS (Sitting in for Dennis Dunne)

HOWARD KOPEL

DONALD MACKENZIE (Sitting in for Norma Gonsalves)

KEVAN ABRAHAMS  
Ranking

JUDY JACOBS

CARRIE SOLAGES

MICHAEL C. PULITZER, Clerk

LIST OF SPEAKERS

KEN ARNOLD. . . . .	6
DONNA BOYLE . . . . .	10
SAMANTHA GOETZ. . . . .	
META J. MEREDAY . . . . .	18

2 CHAIRMAN NICOLELLO: I ask all  
3 legislators to please rise and ask Bill Gaylord  
4 to lead us in the Pledge.

5 (Whereupon, the Pledge of Allegiance was  
6 recited.)

7 CLERK PULITZER: The Rules Committee.  
8 Legislator Carrie Solages?

9 LEGISLATOR SOLAGES: Here.

10 CLERK PULITZER: Legislator Judith  
11 Jacobs?

12 LEGISLATOR JACOBS: Here.

13 CLERK PULITZER: Ranking Member Kevan  
14 Abrahams?

15 LEGISLATOR ABRAHAMS: Here.

16 CLERK PULITZER: Alternate Deputy  
17 Presiding Officer Howard Kopel?

18 LEGISLATOR KOPEL: Here.

19 CLERK PULITZER: Legislator Steven  
20 Rhoads for Dennis Dunne?

21 LEGISLATOR RHOADS: Present.

22 CLERK PULITZER: Vice Chairman Richard  
23 Nicolello?

24 LEGISLATOR NICOLELLO: Here.

25 CLERK PULITZER: Legislator Donald

2 MacKenzie for Chairwoman Norma Gonsalves?

3 LEGISLATOR MACKENZIE: Here.

4 CLERK PULITZER: We have a quorum.

5 CHAIRMAN NICOLELLO: Thank you, Mr.

6 Clerk.

7 We have two items for the Rules Committee  
8 today. The first item is 305-2016, an ordinance  
9 to amend Ordinance Number 13-2016, adopting the  
10 county budget for the year - the capital budget  
11 for the year 2016 for the County of Nassau,  
12 corresponding to the first year of the four year  
13 capital plan pursuant to the provisions of  
14 Section 310 of the County Government Law of  
15 Nassau County.

16 LEGISLATOR KOPEL: So moved.

17 LEGISLATOR RHOADS: Second.

18 CHAIRMAN NICOLELLO: Moved by Legislator  
19 Kopel, seconded by Legislator Rhoads.

20 This item is before the Rules Committee.

21 Mr. Arnold.

22 MR. ARNOLD: Ken Arnold, Public Works.

23 This item is the amendment of the capital plan  
24 for outside funding associated with the West  
25 Shore Road project and also road resurfacing. On

2 the West Shore we're resurfacing - we're  
3 allocating ships funding and paid New York  
4 funding to these capital projects. And for road  
5 resurfacing, we also have two other federal  
6 projects that we're allocating the outside  
7 funding towards. Page 32 and 33.

8 CHAIRMAN NICOLELLO: Within this is the  
9 resurfacing of various county roads, correct?

10 MR. ARNOLD: That is correct, the 61587.

11 CHAIRMAN NICOLELLO: How many different  
12 projects within that?

13 MR. ARNOLD: We're looking at - for that  
14 work to do - page 32 and 33 are both federal  
15 projects, and, in addition, two, possibly three  
16 county phases of work.

17 CHAIRMAN NICOLELLO: Next is the West  
18 Shore Road construction project.

19 MR. ARNOLD: Yes. And that's the third  
20 phase of West Shore, the final phase of the  
21 seawall and the road reconstruction.

22 CHAIRMAN NICOLELLO: Lastly, you have  
23 Wantagh Park improvements; is that correct?

24 MR. ARNOLD: Yes.

25 CHAIRMAN NICOLELLO: I see that the

2 money that we're getting there is non-county  
3 funds from Senator Michael Venditto.

4 MR. ARNOLD: Yes. We have some member  
5 item money that we're receiving there for Wantagh  
6 Park.

7 CHAIRMAN NICOLELLO: Does anyone else  
8 have any questions for Mr. Arnold? Legislator  
9 Solages.

10 LEGISLATOR SOLAGES: Thank you,  
11 Legislator Nicolello. Good afternoon, Mr.  
12 Arnold. Just briefly.

13 Is this just resurfacing or are there any  
14 traffic sign improvements to these projects? I  
15 just want to know. I just want to get some  
16 details about these projects.

17 MR. ARNOLD: On 61587, it's road  
18 resurfacing. But when we do road resurfacing we  
19 are required to bring handicapped ramps up to  
20 compliance, where feasible. If there are curbs  
21 that are damaged, we might look to fix the curbs.  
22 If there - if drainage structures have collapsed,  
23 they will be addressed as part of the project.

24 LEGISLATOR SOLAGES: But it doesn't  
25 include any signage or nothing to that effect?

2 MR. ARNOLD: No. Signage would be done  
3 separately. We identify the conditions of the  
4 signs but the signage would come from a separate  
5 funding source.

6 LEGISLATOR SOLAGES: I understand. So  
7 if there are any issues regarding signage before  
8 these projects, just at least bring it to your  
9 attention.

10 MR. ARNOLD: Yeah. We do a full  
11 inventory of all signage as part of the project.

12 LEGISLATOR SOLAGES: Thank you.

13 LEGISLATOR MACKENZIE: Mr. Arnold, just  
14 a few questions with respect to West Shore Road.

15 It's my recollection that there was  
16 previously, before the legislature, items to bond  
17 the funding for this phase; is that correct?

18 MR. ARNOLD: That is correct.

19 LEGISLATOR MACKENZIE: So this normally  
20 wouldn't be the methodology that we would use to  
21 fund a project of this size and scope, is that  
22 fair to say?

23 MR. ARNOLD: Yes. We're reallocating  
24 CHIPS funding and Pave New York funding from road  
25 resurfacing and applying to West Shore because



2 West Shore is a critical project to get done this  
3 year.

4 LEGISLATOR MACKENZIE: And when you say  
5 reallocating, that means that money is being  
6 taken away from other projects and applied to  
7 West Shore Road because of the condition of the  
8 roadway and the public safety issues involved  
9 there.

10 MR. ARNOLD: That is correct. We are  
11 moving it from one set of work to another set of  
12 work.

13 LEGISLATOR MACKENZIE: And if you could,  
14 could you just briefly describe the history of  
15 West Shore Road and how this third phase  
16 interplays within that history, in terms of  
17 collapses and so forth?

18 MR. ARNOLD: I would like to bring up  
19 Donna Boyle, she's the design engineer for it.  
20 She can get into specifics on the condition of  
21 that section.

22 LEGISLATOR MACKENZIE: Okay. Thank you.

23 MS. BOYLE: Donna Boyle, Nassau County  
24 Civil Engineer.

25 West Shore Road project has been around

2 for a very long time. It was tabled at one point  
 3 and then Sandy hit. A portion of the road  
 4 collapsed. We had another nor'easter after Sandy  
 5 and a section at the north end, up by the bridge,  
 6 the Bayville Bridge, also had some damage done  
 7 and stuff. If you're familiar with that area,  
 8 you'll notice that we did fix about 1,000 feet of  
 9 seawall in that area.

10 The section that is left will run from  
 11 about 1,000 feet south of the bridge to the end  
 12 of the first section that we did. There are  
 13 areas of localized deterioration in that area, in  
 14 addition to the fact that there are some gabion  
 15 seawall baskets that have been put there to  
 16 stabilize the slope, there are some trees that  
 17 are holding the slope in. If anybody wants to  
 18 take a walk on the beach at low tide with me,  
 19 I'll be glad to point out every area that I'm  
 20 concerned about.

21 Now, the reason that this section was  
 22 left for last was because it was in slightly  
 23 better shape than some of the other sections.  
 24 The section that we did first obviously  
 25 collapsed, so that was obviously the worst

2 section. Further south, again, there were areas  
3 of localized collapse but it was a much smaller  
4 area of seawall. This last section that we're  
5 going to fix, right, will let you have the West  
6 Shore Road open continuously.

7 The reason that the job needs to happen  
8 this fall is because we don't want to take West  
9 Shore Road out of service during the summer, so  
10 we need to be out of there by May. If we start  
11 in October we can make May. If we don't start  
12 then, then the road will need to be closed for  
13 the summer beach season, which you obviously  
14 don't want to do.

15 LEGISLATOR MACKENZIE: Which would  
16 clearly affect the business owners, restaurants,  
17 marinas, and so forth, in the area if it was  
18 closed through next summer; is that correct?

19 MR. BOYLE: That is correct.

20 LEGISLATOR MACKENZIE: I've seen some of  
21 the older maps which I believe took an audit of  
22 the road back in 2004. By my count, if I  
23 understood it correctly, this section had at  
24 least a dozen places that were marked in red on  
25 the map as being in danger of collapse back in

2 2004, so is that was you use as a basis for your  
3 testimony?

4 MS. BOYLE: That map that was prepared  
5 in 2004 is obviously in excess of ten years old.  
6 Areas that were repaired were not reflected on  
7 that map. We have made some interim repairs  
8 since then.

9 The DEC stopped granting us permits to go  
10 on the beach. They said fix it right or let it  
11 fall. When we found out that they weren't  
12 kidding, we had to fix it right. That permit  
13 that we have now will let us fix it right, it  
14 won't let us make interim repairs. They will be  
15 very unhappy if the wall falls in and they lose  
16 additional beach.

17 LEGISLATOR MACKENZIE: And by you - when  
18 you say fix it right you mean perform this third  
19 phase reconstruction.

20 MS. BOYLE: Correct.

21 LEGISLATOR MACKENZIE: And just to be  
22 clear, it's your professional opinion that the  
23 road is in danger of collapse and that is one of  
24 the reasons we need to rebuild at this time.

25 MS. BOYLE: The road is in danger of

2 collapse I believe the next time a nor-Easter  
3 hits. If we never have another nor-Easter, the  
4 road will probably be okay. It will withstand  
5 the normal tide movements; however, it does not  
6 withstand the nor-Easters.

7 LEGISLATOR MACKENZIE: Thank you.

8 MS. BOYLE: You're welcome.

9 CHAIRMAN NICOLELLO: Any other  
10 questions? Legislator Solages.

11 LEGISLATOR SOLAGES: So just to be  
12 clear, Mr. Arnold, we're able to get West Shore  
13 Road done without the bonding.

14 MR. ARNOLD: That is correct. But we  
15 may have to bond additionally for resurfacing  
16 where this money would have been applied.

17 LEGISLATOR SOLAGES: Thank you.

18 LEGISLATOR MACKENZIE: Not to confuse  
19 the issue. When you say reallocate, you mean you  
20 take the money that was going to be used to pave  
21 other roads that are in poor condition and  
22 allocate it to this project because this project  
23 is an emergency that would leave people stranded;  
24 is that correct?

25 MR. ARNOLD: That is correct.

2 LEGISLATOR MACKENZIE: So to say that  
3 you don't have to bond this is really misleading  
4 and doesn't really address what's taking place  
5 here, is that true?

6 MR. ARNOLD: That is correct. At the  
7 end of the day we have work to get done. We're  
8 just moving the outside funding to the more  
9 critical project. But the other roads need to be  
10 resurfaced and will be looking for bonding in the  
11 future for those projects.

12 CHAIRMAN NICOLELLO: Any other  
13 questions? Minority Leader Abrahams.

14 LEGISLATOR ABRAHAMS: Thank you. How  
15 are you, Mr. Arnold?

16 MR. ARNOLD: Very good.

17 LEGISLATOR ABRAHAMS: I guess I have a  
18 question in regards to the actual plan itself, in  
19 terms of the phases. I know you started to spell  
20 out the phases. And you were kind enough to come  
21 to meet with our caucus, in terms of the phases,  
22 in terms of what was going to be incorporated.  
23 But I guess for clarity, are there any activities  
24 that will be undertaken under this amendment that  
25 we wouldn't be able to undertake without the

2 amendment?

3 MR. ARNOLD: Yes. Without the amendment  
4 we cannot move on Phase 32, 33, 44, 52, or start  
5 the new designs for construction that -

6 LEGISLATOR ABRAHAMS: No, no. Were  
7 they a part of the capital plan originally?

8 MR. ARNOLD: They might have been part  
9 of the budget but we need authorization and  
10 signed contracts. This outside authorization  
11 allows us to sign contracts to move forward and  
12 spend the money.

13 LEGISLATOR ABRAHAMS: Just so I'm  
14 clear. So we couldn't carry out those activities  
15 without the amendment?

16 MR. ARNOLD: Correct. We are adding  
17 appropriation to the capital plan that allows us  
18 to enter contracts by identifying the outside  
19 funding for the state.

20 LEGISLATOR ABRAHAMS: Okay. I'm just  
21 trying to make sure I understand it, in terms of  
22 a point of clarity, where I'm reading the actual  
23 resolution that's been provided to the  
24 legislature where it states - and you may not be  
25 able to answer this, Mr. Arnold, probably more

2 for counsel.

3 It says that he 2016 capital budget would  
4 provide for additional programs, projects, or  
5 activities and pursuant to Section 310(d) of the  
6 County Government Law of Nassau County may be  
7 approved only if the County Legislature, by 13  
8 affirmative votes, declares a capital budget  
9 emergency; now, therefore be it.

10 If we weren't able to do things as the  
11 current item that's before us and we are changing  
12 it, then it sounds like, to me, that this has to  
13 pass with 13 votes.

14 MR. ARNOLD: I believe the emergency has  
15 to pass not the actual item itself.

16 LEGISLATOR ABRAHAMS: The emergency,  
17 yes. That's what I mean.

18 MR. ARNOLD: That's not my area of  
19 expertise. I would ask somebody else to clarify  
20 that.

21 CHAIRMAN NICOLELLO: My understanding is  
22 that the minority has raised these issues with  
23 respect to the resolution, the phrasing of it.  
24 And the issue that the Minority Leader just  
25 raised, we have someone from the county



2 attorney's office coming down to speak to that.  
3 I don't know if he's going to be here in time for  
4 the Rules Committee, but this item is also before  
5 the Full Legislature. If he's not here, I'd like  
6 to move this forward and then move on to the  
7 Legislature, itself.

8 Any other questions for Mr. Arnold?

9 (No verbal response.)

10 Any public comment on this item?

11 MS. MEREDAY: Good afternoon. Meta J.  
12 Mereday, Baldwin resident.

13 Yes. In terms of my questions that have  
14 to do with the fact that it was stated that state  
15 and federal funding will be used for this -  
16 again, not having all the information that you  
17 all are privy to, as far as the documents and the  
18 attachments, I still would question as to what is  
19 the program for participation with regard to  
20 service-disabled veterans, since it's a three  
21 percent mandate. I know unfortunately Nassau  
22 County, we put out a lot of mandates but we just  
23 don't put any teeth to it. Again, we're talking  
24 about federal dollars as this point. I would be  
25 interested to know what is the outreach and what

2 is the participation from service-disabled  
3 veteran-owned business, if any, and, if not, why  
4 are we not doing the outreach in this much needed  
5 area, considering the bipartisanship, which is  
6 very rare in this establishment, passed the  
7 Veteran-Owned Business Act back in April with the  
8 provisos that this type of outreach and  
9 participation would be something that would be  
10 made a priority. Again, it was mandated and  
11 unfunded, which seems to be a theme here for  
12 certain areas, definitely not as it pertains to  
13 the county attorney's office and all of the  
14 personal service contracts that you continue to  
15 approve on a regular basis for all of the legal  
16 support.

17           Again, my question has to do with what  
18 are the parameters that have been put in place to  
19 ensure that we are reaching some kind of goal  
20 that is inclusive of service and veteran-owned  
21 businesses.

22           CHAIRMAN NICOLELLO:     Mr. Arnold, would  
23 you like to respond?

24           MR. ARNOLD:     For the Phase 32 and 33,  
25 they're both 80 percent federal money. We follow

2 all the federal guidelines in our procurement  
3 documents, which include any DBE. I have to go  
4 back and see on the veterans, how that is applied  
5 to that contract. For our other contracts, the  
6 department follows Appendix EE, which is our  
7 utilization plan, best efforts for MWBE, and if  
8 the new service item comes to pass, that will  
9 also be included in our contracts.

10 CHAIRMAN NICOLELLO: The other items  
11 you're speaking about are state funding, right?  
12 So I'm assuming there's a state requirement in  
13 place as well.

14 MR. ARNOLD: Yes. CHIPS funding is  
15 reimbursed, is a county-bid contract and then we  
16 get reimbursed by the other. 32 and 33 are  
17 actually state review contracts.

18 CHAIRMAN NICOLELLO: All right. Thank  
19 you. Any other public comment?

20 (No verbal response.)

21 Hearing none; all in favor of Item 305-  
22 2016 signify by saying aye.

23 (Aye.)

24 Those opposed?

25 (No verbal response.)

2 The item carries unanimously.

3 Item 306-2016 is a resolution declaring a  
4 capital budget emergency pursuant to §310(D) of  
5 the County Government Law of Nassau County.

6 LEGISLATOR MACKENZIE: So moved.

7 LEGISLATOR KOPEL: Second.

8 CHAIRMAN NICOLELLO: Moved by Legislator  
9 MacKenzie, seconded by Legislator Kopel.

10 Again, this resolution and the wording of  
11 this resolution is the issue that the county  
12 attorney must address. Rather than hold the  
13 proceedings up any longer, we'll just move this  
14 along and have that addressed at the time of the  
15 Full Legislature. The Full Legislature meets  
16 this afternoon.

17 Any comment?

18 (No verbal response.)

19 Any discussion?

20 (No verbal response.)

21 Any public comment?

22 (No verbal response.)

23 All in favor signify by saying aye.

24 (Aye.)

25 Those opposed?

1	Rules Committee - 8-15-16	21
2	(No verbal response.)	
3	It carries unanimously.	
4	Legislator Rhoads makes a motion to	
5	adjourn, seconded by Legislator MacKenzie.	
6	All in favor of adjourning signify by	
7	saying aye.	
8	(Aye.)	
9	Those opposed?	
10	(No verbal response.)	
11	Rules is adjourned.	
12	(Whereupon, the Rules Committee recessed	
13	at 3:44 p.m.)	
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C E R T I F I C A T E

I, FRANK GRAY, a Shorthand Reporter and  
Notary Public in and for the State of New York,  
do hereby state:

THAT I attended at the time and place above  
mentioned and took stenographic record of the  
proceedings in the above-entitled matter;

THAT the foregoing transcript is a true and  
accurate transcript of the same and the whole  
thereof, according to the best of my ability and  
belief.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 24th day of August, 2016.

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FRANK GRAY