

**CERTIFICATE OF NECESSITY FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. 1096 - 2011**

**WHEREAS, INTRODUCTORY RESOLUTION NO. 1096- 2011**

**RESOLUTION NO. AUTHORIZING THE COUNTY  
TREASURER TO BORROW CASH FUNDS FROM  
OTHER COUNTY FUNDS FOR 2011**

**WHEREAS, IT IS ESSENTIAL THAT SAID INTRODUCTORY  
RESOLUTION BE CONSIDERED IMMEDIATELY,**

**NOW, I, BRENDAN CHAMBERLAIN, DIRECTOR OF INTERGOVERNMENTAL  
RELATIONS, CERTIFY PURSUANT TO ARTICLE II, SECTION 2-12(A), AND  
ARTICLE III, SECTION 3-9 OF THE SUFFOLK COUNTY CHARTER, THAT  
THERE EXISTS A NEED FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. 1096 - 2011, BECAUSE THE COUNTY  
TREASURER RECOMMENDS THAT MONEYS BE BORROWED FROM A  
VARIETY OF COUNTY FUNDS IN THE EVENT OF A TEMPORARY  
SHORTFALL OF CASH DURING 2011.**

**IN WITNESS THEREOF, I HAVE HEREWITH SET MY HAND AND  
CAUSED TO BE AFFIXED THE SEAL OF SUFFOLK COUNTY THIS  
THIRD DAY OF MARCH, 2011.**



**BRENDAN CHAMBERLAIN  
DIRECTOR OF INTERGOVERNMENTAL RELATIONS**

**REVISED 3/3/11**

Intro. Res. No. 1096-2011

Laid on Table 2/1/2011

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2011, AUTHORIZING THE COUNTY  
TREASURER TO BORROW CASH FUNDS FROM OTHER  
COUNTY FUNDS FOR 2011**

**WHEREAS**, the County Treasurer recommends that moneys be borrowed from a variety of County Funds in the event of a temporary shortfall of cash during 2011; and

**WHEREAS**, in accordance with Section 9-a of the NEW YORK GENERAL MUNICIPAL LAW, moneys can be temporarily advanced between funds, but must be repaid with interest by the end of the fiscal year; and

**WHEREAS**, the original intent of the Suffolk County Legislature and New York State Laws in creating said funds will not be circumvented by the enactment of the resolution; and

**WHEREAS**, the Suffolk County Legislature has previously granted the County Treasurer approval to temporarily borrow cash in Resolution Nos. 92-2010; 105-2009; 62-2008; 609-2007; 1011-2006; 1097-2005; 800-2004; 711-2003; 878-2002; and prior years; and

**WHEREAS**, it is prudent fiscal management for the County to borrow from its own funds since the County will not incur borrowing fees, such as the cost of issuance from such action; now, therefore be it

**1<sup>st</sup>** **RESOLVED**, that for the entire 2011 fiscal year, the County Treasurer is hereby authorized and empowered to borrow available cash from individual County Funds to the extent this cash is not needed for budgeted expenditures of said funds; and be it further

**2<sup>nd</sup>** **RESOLVED**, that any moneys borrowed from any County Fund pursuant to this resolution shall be repaid to said fund with interest at the prevailing rate from subsequent revenues as soon as it is fiscally practicable, but no later than December 31, 2011; and be it further

**3<sup>rd</sup>** **RESOLVED**, that the County Treasurer is hereby directed to provide the County Legislature, County Executive, County Comptroller, County Executive Budget Office, and the Legislative Budget Review Office with a report within five business days following any transaction that increases or decreases the fund balance in any County Fund through an internal transfer between funds.

DATED:

APPROVED BY:

\_\_\_\_\_  
County Executive of Suffolk County

Date:

**FINANCIAL IMPACT  
2011 PROPERTY TAX LEVY  
COST TO THE AVERAGE TAXPAYER**

**GENERAL FUND**

	2011 PROPERTY TAX LEVY	2011 COST TO AVG TAXPAYER	2011 AV TAX RATE PER \$100	2011 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

**POLICE DISTRICT AND DISTRICT COURT**

	2011 PROPERTY TAX LEVY	2011 COST TO AVG TAXPAYER	2011 AV TAX RATE PER \$100	2011 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

**COMBINED**

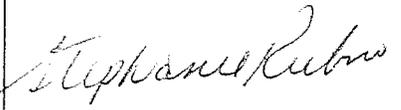
	2011 PROPERTY TAX LEVY	2011 COST TO AVG TAXPAYER	2011 AV TAX RATE PER \$100	2011 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

**NOTES:**

- 1) SOURCE FOR NUMBER OF FAMILY PARCELS AND CORRESPONDING ASSESSED VALUATION: SUFFOLK COUNTY REAL PROPERTY TAX SERVICE, SEPTEMBER 2010.
- 2) SOURCE FOR TOTAL TAXABLE ASSESSED VALUATION FOR COUNTY PURPOSES: SCHEDULE A, REPORT OF ASSESSED VALUATION FOR 2010-2011.
- 3) SOURCE FOR EQUALIZATION RATES: TENTATIVE 2010 COUNTY EQUALIZATION RATES ESTABLISHED BY THE NEW YORK STATE BOARD OF EQUALIZATION AND ASSESSMENTS.

*Stephan Ruben*  
*Chief Executive Analyst*  
*3/3/11*

**STATEMENT OF FINANCIAL IMPACT  
OF PROPOSED SUFFOLK COUNTY LEGISLATION**

1. Type of Legislation Resolution <u>  X  </u> Local Law <u>      </u> Charter Law <u>      </u>		
2. Title of Proposed Legislation  <b>AUTHORIZING THE COUNTY TREASURER TO BORROW CASH FUNDS FROM OTHER COUNTY FUNDS FOR 2011</b>		
3. Purpose of Proposed Legislation  To authorize the County Treasurer to move funds between accounting funds to meet cash flow requirements to the extent that these funds are not needed for budgeted expenditures.		
4. Will the Proposed Legislation Have a Fiscal Impact?    Yes <u>      </u> No <u>  X  </u>		
5. If the answer to item 4 is "yes", on what will it impact? (circle appropriate category)		
County	Town	Economic Impact
Village	School District	Other (specify):
Library District	Fire District	
6. If the answer to item 5 is "yes", Provide Detailed Explanation of Impact.		
7. Total Financial Cost of Funding over 5 Years on Each Affected Political or other Subdivision. None.		
8. Proposed Source of Funding. Various County fund entities		
9. Timing of Impact. Immediate		
10. Typed Name &  Title of Preparer Stephanie Rubino Chief Executive Analyst	11. Signature of Preparer  	12. Date  March 3, 2011

SCIN FORM 175b (10/95)

**CERTIFICATE OF NECESSITY FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. 1230 - 2011**

**WHEREAS, INTRODUCTORY RESOLUTION NO. 1230 – 2011**

**RESOLUTION NO. -2011, A LOCAL LAW  
AUTHORIZING THE COUNTY EXECUTIVE TO  
EXECUTE AGREEMENTS FOR THE SALE OF THE  
JOHN J. FOLEY SKILLED NURSING**

**WHEREAS, IT IS ESSENTIAL THAT SAID INTRODUCTORY  
RESOLUTION BE CONSIDERED IMMEDIATELY,**

**NOW, I, BRENDAN CHAMBERLAIN, DIRECTOR OF  
INTERGOVERNMENTAL RELATIONS, CERTIFY PURSUANT TO  
ARTICLE II, SECTION 2-12(A), AND ARTICLE III, SECTION 3-9 OF  
THE SUFFOLK COUNTY CHARTER, THAT THERE EXISTS A NEED  
FOR THE IMMEDIATE CONSIDERATION OF INTRODUCTORY  
RESOLUTION NO. 1230 – 2011, BECAUSE THE UNDERLYING SALE  
AGREEMENT IS ABOUT TO EXPIRE AND APPROVAL FROM THE  
LEGISLATURE IS REQUIRED TO COMPLETE THE TRANSACTION.**

**IN WITNESS THEREOF, I HAVE HEREWITH SET MY HAND  
AND CAUSED TO BE AFFIXED THE SEAL OF SUFFOLK COUNTY  
THIS THIRD DAY OF MARCH 2011.**



**BRENDAN CHAMBERLAIN  
DIRECTOR OF INTERGOVERNMENTAL RELATIONS**

**REVISED 3-3-11 11:45 PM**

Intro. Res. No. 1230-2011

Laid on Table 3/1/2011

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2011, ADOPTING LOCAL LAW NO.  
-2011, A LOCAL LAW AUTHORIZING THE COUNTY  
EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF  
THE JOHN J. FOLEY SKILLED NURSING FACILITY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on \_\_\_\_\_, 2011, a proposed local law entitled, "**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

**RESOLVED**, that said local law be enacted in final form as follows:

**LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO  
EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY  
SKILLED NURSING FACILITY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY  
OF SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature finds and determines that John J. Foley Skilled Nursing Facility (the "Facility") is a 264-bed facility located on approximately 14 acres in Yaphank in Suffolk County (the County). In addition to operating 252 residential health care facility beds (including an Alzheimer's unit) and 12 designated AIDS beds, the nursing facility operates a 60-slot Adult Day Health Care Program (ADHCP). In 1995, the Facility began operating in a newly-constructed building. The total building size is approximately 181,749 square feet with recent (2005) expansions to the adult day health and rehabilitation program space as well as dining and recreational areas on the second floor.

This Legislature further finds and determines that the County has examined the operations at the Facility in order to determine the feasibility of continuing its operation as a County facility. The County has determined that, due to business impediments unique to municipalities (rising municipal labor and employee benefit costs and unreliability of continued intergovernmental transfer (IGT) payments), operating a municipal skilled nursing home is no longer in the best fiscal interest of the County.

This Legislature further finds and determines that where the County had once provided the Facility as an institution for destitute individuals, this is no longer the case. All nursing homes are eligible to receive payments from Medicaid and uninsured and underinsured patients can be cared for at any of Suffolk's 40+ nursing homes.

This Legislature further finds and determines that the Facility could be operated at the same high level of care, but more efficiently by individuals or entities that do not face the operational restrictions particular to municipalities.

This Legislature further finds and determines that pursuant to Suffolk County Resolution No. 881-2008 the County Executive, through the Department of Health Services issued a request for expressions of interest ("RFEI") to transfer ownership and/or operation and management of the "Facility." Qualified RFEI respondents received a request for proposals ("RFP") to transfer ownership and/or operation and management of the Facility issued on September 21, 2009. On February 23, 2010, based on the evaluation of the RFP Review Committee, an award letter for the sale of the Facility was issued to Mr. Kenneth Rozenberg. The County issued, and Mr. Kenneth Rozenberg accepted, a Letter of Intent, dated March 17, 2010, to enter into an agreement for the sale and purchase of the Facility.

This Legislature also finds that a Land Sale Contract and Asset Purchase Agreement ("the Plan") has been subject to the Suffolk County Administrative Code Section A9-6 review process, including four separate public hearings at which comments were solicited.

Therefore, the purpose of this law is to approve the Plan, an agreement for the sale and purchase of the Facility by the County to Mr. Kenneth Rozenberg, an established nursing home operator, through his companies, Foley Operating LLC and Foley Land LLC.

## **Section 2. Approval of Request for Proposals.**

The County hereby approves the award dated February 23, 2010 to Mr. Kenneth Rozenberg for the sale of the Facility and all assets, property, real or personal, and rights used or usable in the operation of the Facility, of every type and description, tangible or intangible, wherever located.

## **Section 3. Declaration of Surplus Land.**

The 14.06 acres of land, which acreage shall be subject to final survey, is surplus to County needs. The Facility and all associated assets and inventory used to carry out its functions as a skilled nursing facility, as more specifically set forth in the proposed Asset Purchase Agreement and Land Sale Contract, is likewise declared surplus to County needs.

## **Section 4. Sale of Surplus Land.**

The sale by the County to Mr. Kenneth Rozenberg through his company Foley Land LLC of the County's right, title and interest in and to 14.06 acres of land, without recourse, is hereby authorized in exchange for the delivery, to or upon the order of the County, of (i) the payment of the purchase price as set forth in the proposed Land Sale Contract, and (ii) upon such other terms and conditions as are set forth in the proposed Land Sale Contract with Foley Land, LLC, as purchaser, and the County, as seller.

## **Section 5. Approval of Land Sale Contract.**

The form and substance of the Land Sale Contract, presented to the members of the Legislature at this meeting as Exhibit 1, is hereby approved.

**Section 6. Execution and Delivery of Land Sale Contract.**

The execution and delivery on behalf of and in the name of the County by the County Executive and/or his designee(s) of the Land Sale Contract presented to the members of the Legislature at this meeting, is hereby authorized and directed, with such ministerial and non-substantive changes therein as the County Executive and/or his designee(s) may approve, and the execution and delivery of such Land Sale Contract shall be conclusive evidence of his approval of any such changes and of the authorization and direction thereof by this Legislature.

**Section 7. Sale of the Facility.**

The sale by the County to Kenneth Rozenberg through his company Foley Operating LLC of all assets, property, real or personal, and rights used or usable in the operation of the Facility, of every type and description, tangible or intangible, wherever located, without recourse, is hereby authorized in exchange for the delivery, to or upon the order of the County, of (i) the payment of the purchase price as set forth in the proposed Asset Purchase Agreement, and (ii) upon such other terms and conditions as are set forth in the proposed Asset Purchase Agreement with Foley Operating LLC, as purchaser, and the County, as seller.

**Section 8. Approval of Asset Purchase Agreement.**

The form and substance of the Asset Purchase Agreement, presented to the members of the Legislature at this meeting as Exhibit 2, is hereby approved.

**Section 9. Execution and Delivery of Asset Purchase Agreement.**

The execution and delivery on behalf of and in the name of the County by the County Executive and/or his designee(s) of the Asset Purchase Agreement presented to the members of the Legislature at this meeting, is hereby authorized and directed, with such ministerial and non-substantive changes therein as the County Executive and/or his designee(s) may approve, and the execution and delivery of such Asset Purchase Agreement shall be conclusive evidence of his approval of any such changes and of the authorization and direction thereof by this Legislature.

**Section 10. Further Actions.**

The County Executive and/or his designee(s) are further authorized to execute and deliver, on behalf of the County, such agreements, instruments or authorizations as may be contemplated by, or necessary or advisable to consummate or otherwise give full effect to, the Land Sale Contract, the Asset Purchase Agreement and this local law, and which are deemed necessary or desirable to effectuate the transactions contemplated by the Land Sale Contract, the Asset Purchase Agreement and this local law, and to perform all acts and do all things required or contemplated to be performed or done by the Land Sale Contract, the Asset Purchase Agreement or by this local law or by any agreement, instrument or authorization approved, contemplated, necessary or authorized hereby.

**Section 11. Suffolk County Administrative Code A9-6 Compliance**

The County has complied with the procedures set forth in Section A9-6 of the Administrative Code. A report to the Suffolk County Legislature pursuant to Suffolk County Administrative Code Section A9-6 is attached as Exhibit 3. In addition, attached as Exhibit 4 is

a letter from the New York State Department of Health supporting Kenneth Rozenberg as purchaser of the Facility.

**Section 12. Applicability.**

- a. This law shall apply to all actions and transactions occurring on or after the effective date of this law. Adoption of this law shall be conclusive evidence of full compliance with Suffolk County Administrative Code § A9-6, and shall apply to all actions and transactions occurring on or after the effective date of this law.
- b. Legislative approval of the foregoing is contingent upon receipt of a determination from the Appellate Division of the Supreme Court, Second Department that the Legislative action reflected herein does not violate the current stay issued by the Court pursuant to its Order dated March 3, 2011 in *Perez v. Levy*.

**Section 13. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 14. SEQRA Determination.**

This Legislature has independently considered the Environmental Assessment Form (“EAF”), the Council on Environmental Quality (“CEQ”) recommendation, and any relevant testimony concerning the same; and

This Legislature, being the lead agency under State Environmental Quality Review Act (“SEQRA”) and Chapter 279 of the Suffolk County Code, hereby determines that this local law constitutes an unlisted action, pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (SEQRA) of the Environmental Conservation Law; and

This Legislature hereby determines that implementation of this action will not have a significant adverse impact on the environment for the following reasons, as demonstrated in the EAF:

- 1. The action involves the simple transfer of the ownership of an existing operating facility and associated property with no change to the environment or facility operations;
- 2. The proposed action will not exceed any of the criteria in Section 617.7 of Title 6 NYCRR which sets forth threshold for determining significant impact on the environment;
- 3. The proposal does not appear to significantly threaten any unique or highly valuable environmental or cultural resources as identified in or regulated by the

Environmental Conservation Law of the State of New York or the Suffolk County Charter and Code;

4. The parcel does not appear to suffer from any severe environmental development constraints (no poor soil properties, no high groundwater and no unmanageable slopes); and

This Legislature hereby directs, in accordance with Section 279.5(c) (4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality to prepare and circulate any appropriate notices or determinations in accordance with this resolution.

**Section 15. Effective Date.**

This Local Law shall not take effect until at least forty-five (45) days after its adoption, nor until approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting on a proposition for its approval if within forty-five (45) days after its adoption there is filed with the Clerk of the County Legislature a petition protesting against such Local Law in conformity with the provisions of §24 (1) (a) of the MUNICIPAL HOME RULE LAW, and not until all of the terms and conditions of Introductory Resolution No. 1234-2011 have been accepted in writing by Kenneth Rozenberg or his designee and upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

\_\_\_\_\_  
County Executive of Suffolk County

Date:

# OFFICE OF THE COUNTY LEGISLATURE

COUNTY OF SUFFOLK

GEORGE NOLAN  
COUNSEL TO THE LEGISLATURE  
email: george.nolan@suffolkcountyny.gov



WILLIAM H. ROGERS BUILDING  
P.O. BOX 6100  
HAUPPAUGE, NY 11788-0099  
(631) 853-5494 (PHONE)  
(631) 853-4415 (FAX)

DATE: MARCH 2, 2011

TO: CLERK OF THE COUNTY LEGISLATURE

RE: MEMORANDUM OF COUNSEL TO THE LEGISLATURE PURSUANT TO RULE 28

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## PROPOSED LOCAL LAW YEAR 2011

TITLE: I.R. NO. -2011; A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY

SPONSOR: PRESIDING OFFICER, ON THE REQUEST OF THE COUNTY EXECUTIVE

DATE OF RECEIPT BY COUNSEL: 3/2/2011 PUBLIC HEARING: 3/3/2011

DATE ADOPTED/NOT ADOPTED: \_\_\_\_\_ CERTIFIED COPY RECEIVED: \_\_\_\_\_

This proposed local law authorizes the sale of the County's John J. Foley Skilled Nursing facility ("Foley facility") to two companies controlled by Kenneth Rozenberg. Specifically, this law:

1. **Declares the 14.06 acres of land on which the Foley facility sits and all associated assets and inventory, as surplus to the needs of the County.** Pursuant to Section 215 of NEW YORK COUNTY LAW, any surplus declaration requires a two-thirds vote of approval by the County Legislature.
2. **Approves the Land Sale Contract that is attached as Exhibit "1" to the proposed local law.** Pursuant to this contract, the buyer<sup>1</sup> will acquire the building and land currently used as the Foley facility, together with certain easements, for Eighteen Million Dollars (\$18,000,000.00). The buyer represents that it "intends to continue to use the premises as a skilled nursing facility as it is being operated by seller."
3. **Approves the Asset Purchase Agreement attached to the local law as Exhibit "2".** Pursuant to this agreement, the buyer<sup>2</sup> will purchase the Foley facility assets - that is all of the assets, properties and rights used or usable in the operation of the Foley facility, separate and apart from the building and property that is the subject of the Land Sale Agreement. Among the assets are the licenses, certificates and permits held by the County to operate the Foley Facility and the Adult Day Care Program, to the extent that they are transferrable. The purchase price of the assets is Eighteen Million Dollars (\$18,000,000.00).

The Asset Purchase Agreement provides that the buyer will not assume or be responsible for any collective bargaining contract or agreement related to the Foley facility and the adult day care program. The buyer agrees that for a three-month period

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<sup>1</sup> The buyer in this transaction is Foley Land LLC.

<sup>2</sup> The buyer in this transaction is Foley Operating LLC.

following the closing, it will offer the Foley facility's' existing employees the positions of employment that the buyer determines are necessary to operate the facility, provided that the existing employees are qualified to perform the job requirements. To the extent the buyer offers employment to the former County employees, their rates of pay will be consistent with nursing homes in Suffolk County.

Additionally, the County agrees to use reasonable efforts to obtain licenses to increase the adult day care program from the current 24 participants to 60 participants.

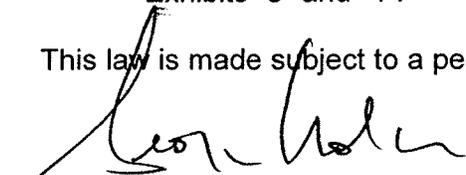
Pursuant to this Agreement, the buyer agrees to continue treatment of each patient receiving services at the Foley facility on the date of closing. Only patients requiring services not available at the facility will be eligible for transfer. To the extent any resident is being treated at another facility, the buyer will reserve the resident's bed in accordance with applicable law and comply with "bed hold" regulations.

The Agreement further provides that should the County Legislature fail to approve the sale of assets by December 31, 2010, either party will have the right to terminate.

The parties also agree to use "reasonable commercial efforts" to complete the subject transaction by December 31, 2011.

4. **States that the County has complied with the procedures set forth in Section A9-6 of the SUFFOLK COUNTY ADMINISTRATIVE CODE.** This section of the Code sets forth detailed procedures that must be followed before any health care service currently provided by the County may be privatized. Among the requirements are four (4) public hearings and a report from the Budget Review Office. In an attempt to comply with Section A9-6, a report from the Suffolk County Department of Health Services and a letter from New York State Department of Health have been attached to the local law as Exhibits "3" and "4".

This law is made subject to a permissive referendum.



**GEORGE NOLAN**  
Counsel to the Legislature

**GN:js**

s:\rule28\28-refile-sale-JJ-Foley-Nursing-Home

STATEMENT OF FINANCIAL IMPACT  
OF PROPOSED SUFFOLK COUNTY LEGISLATION

<b>1. Type of Legislation</b> Resolution <input checked="" type="checkbox"/> Local Law <input type="checkbox"/> Charter Law <input type="checkbox"/>											
<b>2. Title of Proposed Legislation</b>  <b>RESOLUTION NO. -2011, ADOPTING LOCAL LAW NO. -2011, A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY</b>											
<b>3. Purpose of Proposed Legislation</b>  To adopt a local law authorizing the County Executive to execute agreements for the sale of the John J. Foley Skilled Nursing Facility											
<b>4. Will the Proposed Legislation Have a Fiscal Impact?</b> Yes <input checked="" type="checkbox"/> No											
<b>5. If the answer to item 4 is "yes", on what will it impact? (circle appropriate category)</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;"><input checked="" type="checkbox"/> County</td> <td style="width: 33%;">Town</td> <td style="width: 33%;">Economic Impact</td> </tr> <tr> <td>Village</td> <td>School District</td> <td>Other (Specify):</td> </tr> <tr> <td>Library District</td> <td>Fire District</td> <td></td> </tr> </table>			<input checked="" type="checkbox"/> County	Town	Economic Impact	Village	School District	Other (Specify):	Library District	Fire District	
<input checked="" type="checkbox"/> County	Town	Economic Impact									
Village	School District	Other (Specify):									
Library District	Fire District										
<b>6. If the answer to item 4 is "yes", Provide Detailed Explanation of Impact</b>  2011 Additional Revenue: estimated at \$20,000,000											
<b>7. Total Financial Cost of Funding over 5 Years on Each Affected Political or Other Subdivision.</b>  See attached Worksheet.											
<b>8. Proposed Source of Funding</b>  2011-1016 Adopted Operating Budgets											
<b>9. Timing of Impact</b> Upon Approval											
<b>10. Typed Name &amp; Title of Preparer</b>  Theresa Lollo Principal Financial Analyst	<b>11. Signature of Preparer</b>  	<b>12. Date</b>  March 2, 2011									

ATTACHED WORKSHEET

7. Total Financial Cost of Funding Over 5 Years on Each Affected Political or Other Subdivision

**2012**

1. Additional Revenue: Estimate	\$1,086,750
2. Projected Operating Savings:	<u>\$5,039,084</u>
	\$6,125,834

**2013**

1. Additional Revenue: Estimate	\$2,659,000
2. Projected Operating Savings:	<u>\$7,024,352</u>
	\$9,683,352

**2014**

1. Additional Revenue: Estimate	\$1,053,000
2. Projected Operating Savings:	<u>\$7,466,318</u>
	\$8,519,318

**2015**

1. Additional Revenue: Estimate	\$0
2. Projected Operating Savings:	<u>\$7,928,584</u>
	\$7,928,584

**2016**

1. Additional Revenue: Estimate	\$0
2. Projected Operating Savings:	<u>\$8,412,187</u>
	\$8,412,187

**TOTAL 2012-2016**

1. Additional Revenue: Estimate	\$4,798,750
2. Projected Operating Savings:	<u>\$35,870,526</u>
	\$40,669,276

1R 1230-11

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a local law entitled "A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY" has been introduced in the Suffolk County Legislature.

This local law would declare the John J. Foley Skilled Nursing Facility as surplus to the County's needs and authorize the sale of the facility to Kenneth Rozenberg.

NOTICE IS FURTHER GIVEN that the County Legislature will hold a public hearing in the Rose Y. Caracappa Auditorium of the Suffolk County Legislature, in the William H. Rogers Building, Hauppauge, New York, on the 3rd day of March, 2011, at 3:30 P.M.

It is requested that speakers prepare a written statement to submit for the record.

Tim Laube  
Clerk of the County Legislature

**Additional back-up material regarding IR 1230 is on file in the  
Clerk's Office, Hauppauge.**

**CERTIFICATE OF NECESSITY FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. - 2011**

1232

**WHEREAS, INTRODUCTORY RESOLUTION NO. - 2011**

**RESOLUTION NO. -2011, OF THE  
LEGISLATURE OF THE COUNTY OF SUFFOLK,  
ELECTING A CENTS PER GALLON RATE OF  
SALES AND COMPENSATING USE TAXES ON  
MOTOR FUEL AND DIESEL MOTOR FUEL, IN LIEU  
OF THE PERCENTAGE RATE OF SUCH TAXES,  
PURSUANT TO THE AUTHORITY OF ARTICLE 29  
OF THE TAX LAW OF THE STATE OF NEW YORK**

**WHEREAS, IT IS ESSENTIAL THAT SAID INTRODUCTORY  
RESOLUTION BE CONSIDERED IMMEDIATELY,**

**NOW, I, BRENDAN CHAMBERLAIN, DIRECTOR OF INTERGOVERNMENTAL  
RELATIONS, CERTIFY PURSUANT TO ARTICLE II, SECTION 2-12(A), AND  
ARTICLE III, SECTION 3-9 OF THE SUFFOLK COUNTY CHARTER, THAT  
THERE EXISTS A NEED FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. - 2011, BECAUSE PASSAGE OF THIS  
RESOLUTION WILL EXPEDITE IMPLEMENTATION.**

**IN WITNESS THEREOF, I HAVE HERewith SET MY HAND AND  
CAUSED TO BE AFFIXED THE SEAL OF SUFFOLK COUNTY THIS  
THIRD DAY OF MARCH, 2011.**



**BRENDAN CHAMBERLAIN  
DIRECTOR OF INTERGOVERNMENTAL RELATIONS**

1232

Intro. Res. No. -2011  
Introduced by Legislator Muratore

Laid on Table 3/3/11

**RESOLUTION NO. -2011, OF THE LEGISLATURE OF THE COUNTY OF SUFFOLK, ELECTING A CENTS PER GALLON RATE OF SALES AND COMPENSATING USE TAXES ON MOTOR FUEL AND DIESEL MOTOR FUEL, IN LIEU OF THE PERCENTAGE RATE OF SUCH TAXES, PURSUANT TO THE AUTHORITY OF ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK**

Be it enacted by the Legislature of the County of Suffolk, as follows:

SECTION 1. Resolution No. 745 of 1968, as amended, is amended by adding a new section 4-B to read as follows:

**Section 4-B. Cents per gallon rate of sales and compensating use taxes on motor fuel and diesel motor fuel.**

Notwithstanding any provision of this enactment to the contrary, in lieu of the percentage rate of sales and compensating use taxes imposed on receipts from the retail sale of and consideration given or contracted to be given for, or for the use of, motor fuel and diesel motor fuel, such taxes shall be imposed at a rate of cents per gallon of such motor fuel or diesel motor fuel, in the manner prescribed by subdivision (m) of section 1111 of the New York Tax Law, provided that, for purposes of calculating the cents per gallon rate of tax, such receipts or consideration shall be limited to \$3.00 dollars per gallon of either such fuel. Provided, that, if the average price of such fuels changes as described in such subdivision (m) of section 1111 of the Tax Law, the Commissioner of Taxation and Finance shall adjust the cents per gallon tax rate on such fuels in the manner prescribed in such subdivision (m) of section 1111 of the Tax Law.

Section 2. This resolution shall take effect June 1, 2011.

DATED:

APPROVED BY:

\_\_\_\_\_  
County Executive of Suffolk County

Date:

s:\res\r-electing-cents-per-gallon-rate

## **Statement of Financial Impact on Proposed Suffolk County Legislation**

**IR Number:** 1232

**IR Year:** 2011

**Introduced By:** Tom Muratore

### ***Title of Proposed Resolution:***

**OF THE LEGISLATURE OF THE COUNTY OF SUFFOLK, ELECTING A CENTS PER GALLON RATE OF SALES AND COMPENSATING USE TAXES ON MOTOR FUEL AND DIESEL MOTOR FUEL, IN LIEU OF THE PERCENTAGE RATE OF SUCH TAXES, PURSUANT TO THE AUTHORITY OF ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK**

### ***Purpose and Intent of Proposed Legislation:***

This resolution proposes to cap the sales tax on motor fuel and diesel motor fuel exempting from the County sales tax the portion of the fuel price greater than \$3.00 per gallon. The start date would be June 1, 2011.

This would effectively change the motor fuel sales tax from a tax on the price (an ad valorem tax) to an excise tax per gallon, with the tax set once per quarter based on a blended average of statewide prices for the various grades of gasoline (regular, premium, diesel).

### ***Detailed Explanation of Fiscal Impact:***

Annual data for the motor fuel portion of the sales tax are available for the February to January each year, which is close, but not exactly equal to, the County budget year. In 2009 (Feb. 2009 to Jan. 2010) the County received \$57.1 million from motor fuels as part of more than \$1 billion in sales tax revenue collected. This was down from 2008, when sales tax revenue from motor fuels was almost \$75.4 million. These revenues are a function of consumption and motor fuel prices. The decrease from 2008 to 2009 can be attributed to a combination of gas prices being down and the weak economy.

Energy prices have increased substantially in recent weeks, with pump prices currently in excess of \$3.50 per gallon. The increase in large part reflects current uncertainties in the Middle East. It should be pointed out that motor fuel prices tend to be highly volatile, making it difficult to project associated sales tax revenue. That being said, we expect sales tax from motor fuels to be up in 2010 and 2011. Based on a regression of the motor fuels sales tax on gas prices and the sales tax rate, we project this revenue to be \$67.5 million in 2011.

Factors that need to be considered to project any loss of sales tax revenue are:

1. We assume that sales tax revenue from motor fuels equals the above 2011 projected amount of \$67.5 million per year for the five year period covered by this fiscal impact statement. Volatility in this revenue source may result in higher or lower collections in any given year.
2. Based on past experience, the June 1, 2011 proposed start date amounts to an estimated 60% of annual motor fuel collections.
3. The tax cap is based on a blended average of statewide prices for the various grades of gasoline (regular, premium, and diesel). For this analysis we assume that local gas prices exceed statewide prices by 2 cents per gallon. This approximates the long run average difference for regular grade gasoline between the downstate region and statewide.
4. Based on available data, we assume that
  - a. The price of regular grade gasoline is 20 cents less than premium and diesel

grades.

- b. Diesel accounts for 13.8% of consumption, regular 77.6% and premium 8.6%.
- a. \$3.00 cap is not on the "pump price", but rather on the "wholesale price", that is over 90% of the "pump price". An adjustment for this needs to be made to account for the sales tax being applied prior the 8-cent per gallon State Article 12-A Motor Fuel Excise Tax.

For 2011, applying the above factors to the proposed June 1<sup>st</sup> start date, results in a projected loss that varies based on different price assumptions. Different price assumptions are shown because motor fuels prices are highly volatile. Gas prices are currently closest to \$3.50 per gallon scenario presented in the table below. The loss is estimated to be \$2.3 million in 2011 and \$17.8 million over 5-years (2011-2015). The table also shows increments of 50 cents for regular grade gas, ranging from \$2.50 per gallon to \$5.00 dollars. For instance, at pump price of \$4.00 per gallon the loss would be over \$18.9 million per year.

IR 1232-2011

Electing a Cents Per Gallon Rate of Sales and Compensating Use Taxes on Motor Fuel and Diesel Fuel, In Lieu of the Percentage Rate of Such Taxes Pursuant to the Authority of Article 29 of the Tax Law of the State Of New York

Price		Estimated Loss of Sales Tax Revenue at various prices			Annual savings to the average driver	Annual property tax increase if the loss was passed on
Regular Grade	Blended Grades *	2011 Loss (based on a June 1st start date)	Annual Loss	5-Year Loss (2011-2015) = 2011 + (4X Annual Loss)		
\$2.50	\$2.545	\$367,195	\$611,991	\$2,815,159	-\$0.61	\$1.11
\$3.00	\$3.045	\$312,148	\$520,246	\$2,393,132	-\$0.61	\$0.94
** \$3.50	\$3.545	\$2,326,084	\$3,876,806	\$17,833,308	-\$4.81	\$7.02
\$4.00	\$4.045	\$7,375,634	\$12,292,723	\$56,546,526	-\$17.41	\$22.25
\$4.50	\$4.545	\$11,373,696	\$18,956,160	\$87,198,336	-\$30.48	\$34.31
\$5.00	\$5.045	\$14,408,436	\$24,014,060	\$110,464,676	-\$43.08	\$43.47

\* "Blended Grades" are a weighted average of the price of regular, premium and diesel, with the weights based on each grade's estimated share of total consumption.

\*\* Gas prices are currently closest to \$3.50 per gallon scenario presented in the above table.

***If applicable, what is the comparison cost if this is undertaken in-house, compared to an outside contractor or vendor?***

N/A

***Total Financial Cost and timing over five years on each affected political or other subdivision:***

As noted above, the projected loss in 2011, based on the March 1<sup>st</sup> start date, is 60% of a full year loss, with the loss depending on the price of motor fuels. At current prices (close to \$3.50 per gallon for regular) the 5-year impact (2011-2015) is estimated to be over \$17.8 million. The 5-year loss increases to \$87.2 million at a pump price of \$4.00.

***Proposed Source of Funding:***

The 2011 adopted budget assumed the sales tax on motor fuels would be capped at \$3 per gallon starting on March 1, 2011. This proposed legislation would not take place until June 1<sup>st</sup>. As such it could be argued that the associated loss of revenue is implicit in the budget,

requiring no offset. It should be pointed out that at the time the 2011 budget was adopted motor fuel prices were below the \$3 cap. At the present time, prices exceed the cap and therefore are expected to result in a greater loss of revenue.

**Total Estimated Financial Impact on all Funds, tax rates, and property tax:**

The local portion of the sales tax in Suffolk County is 4.25%. The Suffolk County Water Protection Fund (477) receives 0.25% and for the most part the General Fund receives the remaining 4.0%. (The Police District receives a portion of the sales tax, but typically it is set at a fixed dollar amount to balance the budget. As such, we assume that the General Fund bears the entire remaining 4.0%).

Based on (1) an approximate distribution of sales tax revenue of 5.6% going to the Water Protection Fund and the remaining 94.4% going to the General Fund, and (2) a price of \$3.50 per gallon for regular, the annual full year loss of \$3,876,806 shown in the above table would result in a revenue loss of \$217,101 in the Water Protection Fund and \$3,659,705 in the General Fund. Assuming no offsetting reductions in expenditures and/or increases in revenue, the General Fund loss translates into an increase in the average residential property tax bill of \$6.67 per year starting in 2012.

Offsetting a potential property tax increase to make up for the lost revenue is a motor fuel sales tax savings to the average driver. Assuming 12,000 miles driven per year and fuel mileage of 20 miles per gallon, the average consumer would purchase 600 gallons per year. As a result, at the \$3.50 price the motor fuel tax would save an estimated \$4.81 per year for the average driver, compared to a possible property tax increase of \$6.67 per year. It should be noted that the savings to consumers assumes that the gas companies pass on the tax cut to the consumer. Given that demand for gas is inelastic, it is likely that much of the tax cut would be passed on.

**Total Estimated Financial Impact on Suffolk County's economy including the impact on goods or services, economic development, small business activity, employment opportunities and overall business activity:**

The potential for an increase in the property tax may offset the benefits of a decrease in the sales tax.

Another important economic issue is the misconception that the County receives a windfall from a spike in energy prices. In general, higher gas prices are likely to result in a substitution of discretionary spending from other goods and services to gas. As a result, any windfall in sales tax revenue from higher gas prices is likely to lead to a shortfall in sales tax revenue from other goods and services. In other words, there is not likely to be a windfall.

In addition, from an economics perspective lowering the motor fuels sales tax could be likely to be inefficient. For one thing, the tax corrects for negative externalities, associated with pollution, as well injuries and deaths indirectly caused by motor vehicles. Finally, from an energy independence perspective, a higher tax would discourage use of imported fuels and encourage innovation of alternatives.

**Authorized Signature**



**Gail Vizzini, Director  
Budget Review Office**

**Date Completed**

3/3/11

**Analyst Code**

RL

Motor Fuel Taxes on Gasoline

Illustrative Base Price per gallon (varies with market conditions)	\$2.646	(1)
Federal Fuel Tax per gallon	\$0.184	(2)
State Article 13-A Fuel Tax (petroleum business tax) per gallon	\$0.1700	(3)
Sub-Total	<b>\$3.000</b>	(4)=(1)+(2)+(3)
Sales Tax (8.625% in Suffolk County) per gallon	<b>\$0.2590</b>	(5)=.08625x(4)
State portion: 4% with \$2 cap (rounded to nearest 1-cent)	<b>\$0.12</b>	
NYS MTA: .375% (3/8 <sup>ths</sup> ) with \$2 cap (rounded to nearest 1/100 <sup>th</sup> -cent)	<b>\$0.0113</b>	
Suffolk portion: 4.25% (rounded to nearest 1-cent)	<b>\$0.13</b>	
State Article 12-A Motor Fuel Excise Tax per gallon	\$0.080	(6)
Total Price per gallon	<b>\$3.339</b>	(7)=(4)+(5)+(6)

CERTIFICATE OF NECESSITY FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. - 2011

1234

WHEREAS, INTRODUCTORY RESOLUTION NO. - 2011

RESOLUTION NO. -2011, AUTHORIZING STEPS  
TO BE TAKEN TO PROVIDE A SEVERANCE  
PACKAGE FOR JOHN J. FOLEY SKILLED NURSING  
FACILITY EMPLOYEES AND TO ENCOURAGE  
ADDITIONAL COMMUNITY BASED LONG-TERM  
HEALTH CARE ALTERNATIVES FOR SUFFOLK  
COUNTY RESIDENTS

WHEREAS, IT IS ESSENTIAL THAT SAID INTRODUCTORY  
RESOLUTION BE CONSIDERED IMMEDIATELY,

NOW, I, BRENDAN CHAMBERLAIN, DIRECTOR OF INTERGOVERNMENTAL  
RELATIONS, CERTIFY PURSUANT TO ARTICLE II, SECTION 2-12(A), AND  
ARTICLE III, SECTION 3-9 OF THE SUFFOLK COUNTY CHARTER, THAT  
THERE EXISTS A NEED FOR THE IMMEDIATE CONSIDERATION OF  
INTRODUCTORY RESOLUTION NO. 1234-2011, BECAUSE OF THE NEED  
TO PROMPTLY RESOLVE EMPLOYEE SEVERANCE, RESIDENT HEALTH  
CARE SERVICES AND SECONDARY COMMUNITY LONG TERM CARE  
SOLUTIONS TO COINCIDE WITH THE ADOPTION OF INTRODUCTORY  
RESOLUTION 1230-2011 A LOCAL LAW AUTHORIZING THE COUNTY  
EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J.  
FOLEY SKILLED NURSING FACILITY.

IN WITNESS THEREOF, I HAVE HEREWITH SET MY HAND AND  
CAUSED TO BE AFFIXED THE SEAL OF SUFFOLK COUNTY THIS  
THIRD DAY OF MARCH, 2011.

*Brendan R. Chamberlain*

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BRENDAN CHAMBERLAIN  
DIRECTOR OF INTERGOVERNMENTAL RELATIONS

**RESOLUTION NO. -2011, AUTHORIZING STEPS  
TO BE TAKEN TO PROVIDE A SEVERANCE PACKAGE  
FOR JOHN J. FOLEY SKILLED NURSING FACILITY  
EMPLOYEES AND TO ENCOURAGE ADDITIONAL  
COMMUNITY BASED LONG -TERM HEALTH CARE  
ALTERNATIVES FOR SUFFOLK COUNTY RESIDENTS**

**WHEREAS**, the John J. Foley Skilled Nursing Facility (the "Facility") is a 264-bed nursing facility located on approximately 14 acres in Yaphank in Suffolk County (the County). In addition to operating 252 residential nursing care facility beds (including an Alzheimer's unit) and 12 designated AIDS beds, the Facility operates a 60-slot Adult Day Health Care Program (ADHCP); and

**WHEREAS**, The County has examined the operations at the Facility in order to determine the feasibility of continuing its operation as a County facility. The County has determined that, due to business impediments unique to municipalities (rising municipal labor and employee benefit costs and unreliability of continued intergovernmental transfer (IGT) payments, among other impediments), operating a municipal skilled nursing home is no longer in the best fiscal interest of the County; and

**WHEREAS**, as a result, the Legislature has approved a plan to sell the Facility to Kenneth Rozenberg ("Rozenberg"), an established nursing home operator, through his companies, Foley Operating LLC and Foley Land LLC; and

**WHEREAS**, the Legislature has authorized the County Executive to execute agreements with Rozenberg to effectuate the sale of the Facility and associated property, including, but not limited to, a Land Sale Contract and Asset Purchase Agreement; and

**WHEREAS**, as a result of this sale, the County will terminate the employment of nearly all of the current Facility employees, subject to applicable Civil Service regulations and existing collective bargaining agreements, but Rozenberg has agreed to interview and offer available positions to qualified employees so that they may continue employment at the Facility; and

**WHEREAS**, the County recognizes that the Facility employees have given long and faithful service to the County and, even if employed by Rozenberg, may earn less pay and benefits than had been provided by their County employment, and in recognition thereof, the County wishes to ease the employees' transition to private rather than public sector employment; and

**WHEREAS**, by providing a severance package, these employees will also be encouraged to remain living and employed in Suffolk County, rather than relocating elsewhere, thereby benefitting the County as a whole; and

**WHEREAS**, members of the Suffolk County Legislature have been working cooperatively with the County Executive to explore potential severance package options

to be negotiated between the Facility employees' Collective Bargaining representative and the Suffolk County Director of Labor Relations; and

**WHEREAS**, in addition to concerns regarding the Facility employees, the Legislature is also concerned that all Facility residents be given every opportunity to continue residing in the Facility; and

**WHEREAS**, pursuant to the negotiated Asset Purchase Agreement, Rozenberg is required to continue treatment to each resident receiving services at the Facility, but he may transfer Facility residents who require services not available at the Facility, such as, for example, dialysis treatment; and

**WHEREAS**, it is deemed appropriate and in the best interest for the County to enter into a secondary agreement with Rozenberg to provide for services not otherwise currently available at the Facility for Suffolk County residents; and

**WHEREAS**, it is also deemed appropriate and in the best interest for the County to explore and encourage community based long-term care alternatives for its residents; now therefore be it resolved

**1<sup>st</sup> RESOLVED**, that the Suffolk County Director of Labor Relations is hereby authorized and directed to initiate negotiations with the Suffolk County Association of Municipal Employees ("AME") Bargaining Units No. 2 and No. 6 to establish a John J. Foley Skilled Nursing Facility Employee Severance Package, which may include items such as, but not limited to the following:

1. Separation payment of \$700 per year of service for all employees with ten or more years of Suffolk County service or who are eligible to retire; or
2. Separation payment of \$8,500 per employee; or
3. Separation payment of \$600 per year of service for all employees; or
4. Separation payment of \$1,000 per year of service for those employees eligible to retire, and \$500 per year of service for those with ten or more years of service who are not eligible to retire; or
5. Separation payment of \$10,000 for each employee who leaves Suffolk County employment and is not employed by Rozenberg, or who leaves Suffolk County employment and is employed by Rozenberg, but whose employment by Rozenberg is for wages which are lower than such employee's current Suffolk County wages; or
6. Separation payment to be utilized to cover any transitional medical health insurance coverage and/or benefits during the Facility employees' transition; or
7. payment of sick time and vacation accruals to Facility employees as if they retired from County service; and be it further

**2<sup>nd</sup> RESOLVED**, that the total cost of such John J. Foley Skilled Nursing Facility Employee Severance Package should not exceed two million dollars (\$2,000,000); and be it further

**3<sup>rd</sup> RESOLVED**, that by subsequent resolution, a reserve account in the amount of up to approximately two million dollars (\$2,000,000) will be established from the proceeds of the Facility sale which will be for the sole purpose of funding the negotiated John J. Foley Skilled Nursing Facility Employee Severance Package; and be it further resolved

**4<sup>th</sup> RESOLVED**, that the County Executive is hereby authorized, empowered, and directed to enter into an agreement with Rozenberg or his representative for a sum not to exceed one million dollars (\$1,000,000) for such medical services that are not otherwise currently provided at the Facility to be provided to Suffolk County residents who are now, or shall become during the term of such agreement, residents of the Facility; and be it further

**5<sup>th</sup> RESOLVED**, that the Department of Health Services, is hereby authorized, directed, and empowered to issue a request for proposals (“RFP”) to explore partnerships for community based long-term care alternatives for the purpose of encouraging and enhancing such alternatives and that such alternatives may include, but not be limited to:

- assisted living,
- medical transportation services/ambulance services,
- caregiver support services
- expansion of senior housing; and be it further

**6<sup>th</sup> RESOLVED**, that such RFP should include provision for the potential lease and/or sale of a portion of the County owned property adjacent to the Facility; and be it further

**7<sup>th</sup> RESOLVED**, that the RFP evaluation committee shall consist of the following individuals or their designees: the County Executive, the Presiding Officer of the Suffolk County Legislature, the Minority Leader of the Suffolk County Legislature, the Budget Director, the Director of the Legislative Office of Budget Review, the Commissioner of Health Services, and the Director of Aging; and be it further

**8<sup>th</sup> RESOLVED**, that the County Executive is hereby authorized, directed and empowered to negotiate an ancillary agreement with Rozenberg or his designee for Rozenberg or his designee to warrant compliance with federal and New York State labor laws as to the right of employees to determine, without interference from management, which, if any, labor union shall represent the employees for collective bargaining purposes, and be it further

**9<sup>th</sup> RESOLVED**, that Rozenberg shall enter into a neutrality agreement ensuring employees’ right to organize and access to a union of their choosing; and be it further

**10<sup>th</sup> RESOLVED**, that the County Executive is hereby authorized, directed and empowered to negotiate an ancillary agreement with Rozenberg or his designee allowing the County to require the right of first refusal should he decide to sell the Facility to another operator for any other purpose within the first five years; and be it further

**11<sup>th</sup> RESOLVED**, that residents of the Facility as of the effective date of this Resolution that go to the hospital cannot be denied readmission unless their medical needs cannot be satisfied by the Facility; and be it further

**12<sup>th</sup> RESOLVED**, that Facility employees will remain County employees until such time as the legal transfer of ownership of the Facility to Rozenberg, subject to Civil Service law and regulations and applicable collective bargaining agreements and, in addition, after the transfer of ownership to Rozenberg that any permanent County employees will be on a civil service preferred list for four years pursuant to New York Civil Service Law; and be it further

**13<sup>th</sup> RESOLVED**, that former County Facility employees that retired will be given first opportunity for per diem work over agency employees, provided that it is otherwise legally permissible, and be it further

**14<sup>th</sup> RESOLVED**, that as of the effective date of this Resolution all permanent employees that were laid off from their County position in February 2011 and/or transferred out of their position as a result of the 2011 Suffolk County Adopted Operating Budget shall be restored or reinstated to the County position such employee had prior to such layoff or transfer; and be it further

**15<sup>th</sup> RESOLVED**, any employees restored to their County positions as a result of the 14<sup>th</sup> Resolved Clause of this Resolution shall be entitled to the terms of any approved collective bargaining agreement, including any Facility employees who have retired from the Facility since January 1, 2011 or were otherwise on the Facility payroll as of January 1, 2011; and be it further

**16<sup>h</sup> RESOVLED**, the County shall not take any actions that would adversely effect the unemployment insurance benefits of any current Facility employee; and be it further

**17<sup>TH</sup> RESOLVED**, that pursuant to Section 11.18 of the Asset Purchase Agreement the County shall pay to Rozenberg an amount equal to two weeks salary plus FICA payroll tax for each Hired Employee (as such term is defined in Section 6.3 of the Asset Purchase Agreement) and as more specifically in Section 11.18; and be it further

**18<sup>th</sup> RESOVLED**, that the terms and conditions of this Resolution shall survive execution of the Transaction Documents as that term is defined in the Asset Purchase Agreement and the Land Sale Contract and the Closing of both such agreements; and be it further

**19<sup>th</sup> RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date:



1234

**FINANCIAL IMPACT  
2011 PROPERTY TAX LEVY  
COST TO THE AVERAGE TAXPAYER**

**GENERAL FUND**

	2011 PROPERTY TAX LEVY	2011 COST TO AVG TAXPAYER	2011 AV TAX RATE PER \$100	2011 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

**POLICE DISTRICT AND DISTRICT COURT**

	2011 PROPERTY TAX LEVY	2011 COST TO AVG TAXPAYER	2011 AV TAX RATE PER \$100	2011 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

**COMBINED**

	2011 PROPERTY TAX LEVY	2011 COST TO AVG TAXPAYER	2011 AV TAX RATE PER \$100	2011 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

**NOTES:**

- 1) SOURCE FOR NUMBER OF FAMILY PARCELS AND CORRESPONDING ASSESSED VALUATION: SUFFOLK COUNTY REAL PROPERTY TAX SERVICE, SEPTEMBER 2010.
- 2) SOURCE FOR TOTAL TAXABLE ASSESSED VALUATION FOR COUNTY PURPOSES: SCHEDULE A, REPORT OF ASSESSED VALUATION FOR 2010-2011.
- 3) SOURCE FOR EQUALIZATION RATES: TENTATIVE 2010 COUNTY EQUALIZATION RATES ESTABLISHED BY THE NEW YORK STATE BOARD OF EQUALIZATION AND ASSESSMENTS.

