

JOINT OPERATING BUDGET MEETING
OF THE
WAYS and MEANS
and
BUDGET and FINANCE COMMITTEE

A joint Operating Budget Meeting of the Ways and Means and Budget and Finance Committees was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Smithtown, New York, on Wednesday, October 20, 2008 at 9:30 a.m.

MEMBERS PRESENT:

Legislator DuWayne Gregory - Chairman - Budget and Finance
Legislator Louis D'Amaro - Chairman - Ways and Means
Legislator Brian Beedenbender
Legislator John Kennedy
Legislator Tom Barraga
Legislator Kate Browning
Legislator Nowick
Legislator Vilorio-Fisher

MEMBERS NOT PRESENT:

Legislator Ed Romaine
Legislator Cameron Alden

ALSO IN ATTENDANCE:

Presiding Officer Bill Lindsay
Gail Vizzini - Director - Budget Review Office
Fred Pollert - County Exec's Budget Office
Barbara LoMoriello - Deputy Clerk, Clerk's Office
Lance Reinheimer - Budget Review Office
Angie Carpenter - Suffolk County Treasurer
Doug Sutherland - County Treasurer's Office
Anita Katz - Commissioner - Board of Elections
Ivan Young - Board of Elections
Christine Malafi - County Attorney
Cheryl Felice - President - AME
Justin Littell - Aide to legislator D'Amaro
Robert Mitchell - Suffolk County Legal Aid
Lynda Rakvin - Colonial Youth
Christopher Destio - John J. Foley
Mary J. Finnin

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

MINUTES TRANSCRIBED BY:

Kim Castiglione - Legislative Secretary

(*THE MEETING WAS CALLED TO ORDER AT 9:38 A.M.*)

CHAIRMAN GREGORY:

Good morning, everyone. Welcome to the joint Operating Budget meeting of the Ways and Means and Budget and Finance Committees. Please stand so we can do the Pledge of Allegiance led by Legislator Barraga.

(Salutation)

Thank you. We have two cards. We have Robert Mitchell, Esquire.

MR. MITCHELL:

Good morning, gentlemen. Sorry to keep you waiting. My name is Bob Mitchell, Suffolk County Legal Aid. I have a two page handout which I faxed to your respective offices in regards to our budget. We submitted a budget which was under the 2% cap, it was about one-nine. And the County Executive gave us that minus \$24,000. So we are looking to have the \$24,000 put back in, cost to continue.

In addition to that, we requested an additional \$336,000 for positions, attorney positions. The District Attorney, which I'm reading from this, has 36 additional positions in the last ten years. We've had none and they are putting in for four more this year. So we're asking for four additional attorneys. And if we get that, it would be an additional \$336,000. And that's basically it.

CHAIRMAN GREGORY:

Okay. Anyone have any questions?

LEG. NOWICK:

Good morning.

MR. MITCHELL:

Good morning.

LEG. NOWICK:

So the bottom line is -- say that again, how much was the bottom line?

MR. MITCHELL:

The bottom line is that we are looking for \$555,000.

LEG. NOWICK:

Five-hundred and fifty-five thousand.

MR. MITCHELL:

Two-hundred and eighteen of it goes to cost to continue, and the balance is for an increase in positions.

LEG. NOWICK:

Okay. And there were how many more positions, four?

MR. MITCHELL:

Four.

LEG. NOWICK:

Okay. Thank you.

CHAIRMAN GREGORY:

Thank you, Mr. Mitchell.

MR. MITCHELL:

Would you like me to give you these handouts?

CHAIRMAN GREGORY:

You can give it to the Clerk. Next we have Commissioner Katz from the Board of Elections. Good morning, Commissioner.

MS. KATZ:

Good morning. I'm here with Ivan Young. We're here this morning to discuss Budget Review Office recommendations for our budget at the Board of Elections. We're only here to discuss that part of the budget. Obviously we'll answer any questions anybody has, but I know there's a long line of speakers.

The County Executive's Office deleted two and a half million out of the five million that we requested for any work we needed for the new machines for next year. Understanding the fiscal crisis that everyone, including the County, is going through, we requested a million of that two and a half million to be put back into the budget and that's what I'm here to speak about this morning.

The two items that we were pleased to see that Budget Review did include were the two that we requested. It's a half million dollars put back into the line for printing ballots for the new machines for next year, and a half a million to be added to the training of polling inspectors.

I think that people don't realize the really crucial aspect that polling inspectors will play in the new election with the new machines next year. They are really the frontline. Those are the people when you go into your polling place and you sign the book behind the table, those are the people who will help the citizens vote on these new machines. There are not enough classes that can be given to teach these people new machines. If you think about your own computers at home, you use something once, maybe you look it up in a book, you learn something new, you use it once or twice. You don't use it for another month, you come back, you forget how to indent that paragraph. There needs to be constant and frequent training. And that is why we asked for the additional money in our original budget in June and now that it's been deleted that is why we picked that as one of the two items that we are requesting that the money needs to be returned.

The other item is printing the paper ballots. As you know, we are going with scanners in Suffolk County so that when you come in as a voter you fill in the little circles and chose your elected officials, and then it gets put through a scanner and read. Those paper ballots have a long line of criteria that they have to meet for them to work in the machine. They have to be a certain weight. You can't just go to Kincos and pick the cheapest, pretty paper and have them printed. They have a tear-off sheet. You need a printer that can do perforations, that can do binding. There are very clear specs from the manufacturer for these paper ballots.

The truth is the first year we will need more ballots, the first two years probably, than any time after that, and no one is quite sure how many. That is why we are asking for the extra money, because we have not gone out to bid yet so we don't know what they are going to charge, and we will go out to bid because this is a unique item. We assume that for the first year people will make more mistakes when they come in and fill out the ballots then they will once they are used to it, so you need a larger volume.

The law is very clear in the State that you have to print 110% of the number of registered ballots -- of the number of registered voters as a minimum. So regardless of what the turnout is, the law says you must print 110% of the registered voters in that district. We also have Spanish ballots that we need to print.

Because these are uniquely printed ballots, not something that would be run off at the Board of Elections, for instance, if we have any litigation that comes up between candidates we may have to print ballots for both the winners and the losers, not knowing who it will be. This is not something that we can do at the last minute the way we do now with lever machines. If a judge makes a decision three days before Election Day, we have employees who can go around and change the strips and fix the names. Unfortunately, modern technology doesn't really allow you to do that. This year, as an example, there is still one candidate for the State Senate who thinks he is going to be put back on the ballot and is still in litigation, even though tomorrow the election is two weeks away. Although we don't expect anything to change, there was really no way to know. If we had the new machines the prudent thing to do would be to print ballots with both names on it and then just use the one where the judge decided that person is the candidate.

So these are all the unknowns and that was why we were asking for an amount of money that would cover all contingencies. No one knows if there will be a County-wide primary. There are just too many unknowns when you are going through a first year. And, of course, as you all know, the Legislature is up next year and all the towns are up. So it will be a complicated, long ballot and you've always been very supportive of all of our requests in the past. We've tried to pare it down to a minimum. As I said, we are only asking -- although a million dollars is a fortune, I understand, we asked for the minimum amount that we could manage. And if it doesn't work out and we need more, we know we can always come back. But this is where we are at this point so we are asking for you to support the Budget Review recommendations.

CHAIRMAN GREGORY:

All right. Thank you. I have a quick question, and you may or may not know the answer. What is the approximate average age of your poll inspectors?

MS. KATZ:

I don't have a specific answer because it's not legal to ask people's ages. I think we all have anecdotal information when we go to vote that they are older.

CHAIRMAN GREGORY:

Right.

MS. KATZ:

They're older.

CHAIRMAN GREGORY:

Exactly. Okay.

MS. KATZ:

But we're hopeful.

CHAIRMAN GREGORY:

And from past experience, I mean, I think this is kind of -- I don't want to be prejudicial or anything, but I think older people have, I guess, a higher learning curve when it comes to, possibly, when it comes to computer training and things like that. And this would be beneficial for the extra training classes, is that what you are saying?

Not to put words in your mouth.

MS. KATZ:

You can't have too much training. That's the bottom line. Age notwithstanding, you cannot have too much training, and we want to train right up until the election.

CHAIRMAN GREGORY:

Now, with the new laws and the new machines, is it going to require more inspectors, the same

level, less inspectors?

MS. KATZ:

The level won't change, the number of inspections, at this point. I mean, we have very high staff. We have 5000 inspectors, approximately, at each election, and we have a Coordinator and a Deputy Coordinator as well as the four people who sit behind the tables. So I don't think it's a function of more, it's always a function of who wants to be an inspector after the new machines come in.

CHAIRMAN GREGORY:

Okay. Does anyone else have any questions? Legislator D'Amaro.

CHAIRMAN D'AMARO:

Thank you. Good morning, Commissioner Katz. Thank you for coming today. I had a question about the election inspectors also and the funding. The recommended budget is about 2.4 million submitted by the County Executive. It's a million-three less than the 2008 adopted budget of 3.7. You're requesting 500,000 -- or the Budget Review Office is recommending 500,000 more, but yet not bringing you up to the 2008 adopted level of almost 3.8. Did you use the 3.8? Do you need more than the 500 with the election inspectors?

MS. KATZ:

Well, again, we're cognizant of the financial constraints and we're trying to do more with less like every County department. The one thing that enabled us to factor in a somewhat lower number is that for this year the State Board has mandated one BMD machine, ballot marking device, like the scanner without the paper, in each polling place. That gave us an opportunity to start training people at least on phase one of knowing how to use the machine. So that gave us a bit of a head start because we've got 375 machines. Also, this is a presidential year and we always have more than training, more issues, and more money requested, in our every four year budget.

CHAIRMAN D'AMARO:

Okay. Also, it notes that with respect to privacy booths the BRO Report indicates that it is possible that you'll be able to cover the remaining cost of privacy booths through the original HAVA grant. Is that accurate?

MS. KATZ:

That is certainly our hope. And if the money is not in there -- privacy booths are the booths that you go behind when you fill out your ballot and fill out the little circles. We are going to try and move some of the machine money set aside for HAVA to cover that based on the idea that we did not think that we could ask for everything, so we asked for the two most important things. Obviously it would be preferable to have it put back in because then we can purchase more machines with the machine money, but we're trying to come down the middle.

CHAIRMAN D'AMARO:

I appreciate that and I'm sure my colleagues on this committee appreciate that you are trying to do the best you can given the funding constraints. My last question is going to the printing costs. Do you believe that the RFP process for printing will result in a lower cost for printing? Is that the route we're taking?

MS. KATZ:

It isn't a function of the cost per ballot. It may be a function in terms of the lower amount of money that we requested rather than the total amount. It's going to be a function probably of the number of ballots printed. I mean, realistically every person could make a mistake on one ballot when they go in, even if it is just, you know, putting a circle and then you erase it, it's a smudge, then it doesn't go through. We were trying to be more conservative, and I use that word in quotation marks, by asking for more money in our first projected number because the more ballots you have, the less likely it is that you run out. I mean, that's the simple fact of it. And because it's the first year I think we ourselves are not sure how many times people will make a mistake on a ballot and

how many extras they will need, whether or not there will be primaries. There are so many contingencies. Again, we try to pick a reasonable number that would get us at least to a baseline.

CHAIRMAN D'AMARO:

So we just have no track record yet on how this is all going to play out and you want to ensure that you have sufficient number of ballots in that very first election where we are using the new voting machines.

MS. KATZ:

Absolutely.

CHAIRMAN D'AMARO:

Yeah, it makes sense. Thank you.

CHAIRMAN GREGORY:

Thank you, Commissioner. We have Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Thank you. Good morning.

MS. KATZ:

Good morning.

LEG. VILORIA-FISHER:

And I'm sorry I came in at the tail end of what you were saying. I did just want to ask a couple of things because one of the -- as I reviewed the recommended budget, the Board of Elections was the most startling to me in the cuts between what you requested and what was recommended. The printing cost came to half of what you had asked. There was a -- the 560,000 I think on supplies was also cut, and your request for election inspectors. I believe that that covers the educational piece which under HAVA that's absolutely necessary.

Now, I came in on your saying that you have cutback and are looking to compromise, but within HAVA we do have requirements and so what are you able to live with and what do you need restored? Those three areas.

MS. KATZ:

I appreciate the sentiment. We have contemplated reworking the amount of HAVA money that we get to buy machines and we'll use some of that money or that's the money we'll use to buy the privacy screens. That's the informational piece. I think it was 568,000.

LEG. VILORIA-FISHER:

Five-hundred and sixty-eight thousand, right.

MS. KATZ:

Right -- 86,000, right. We will take that out of machine money. That, of course, means we will buy less machines and there may be longer lines. Everything is a compromise. And what I had said before you had come in --

LEG. VILORIA-FISHER:

Wait a minute. With our concern all over the nation with the fact that there are long lines, voters are going to have to take a little longer because it's a new method of voting. You are saying to me that because of these cuts that we're going to put our voters in a position where they will have longer lines?

MS. KATZ:

Not necessarily, and that really is the question. We do not know. So at the Board we chose to pick the crucial pieces. One of things that keeps the lines moving quickly is educating our inspectors, and that was recommended by Budget Review.

LEG. VILORIA-FISHER:

Okay, but that's that other cut.

MS. KATZ:

Well, but Budget Review recommended putting it back and we're here this morning to ask that those two recommendations be implemented -- and if we put that back. And quite frankly, we're all taking it one month at a time. And believe me, if we feel at the Board of Elections that for some reason something has occurred that was either uninspected or is going to be a problem, we will be back and we will ask for more money, that is certainly not our goal, later on.

LEG. VILORIA-FISHER:

And then we would have to try to find it sometime later on.

MS. KATZ:

Well, I understand that's an issue. They have to try and find it now, so what I had said before you had come in was that we went through the budget and tried to be as reasonable as we could, knowing every group will come up here and ask for more money. Every department will ask.

LEG. VILORIA-FISHER:

I'm sorry. I thought you were done. I'm sorry, Anita. Where do you see that there might be a bump that you are not expecting, in the printing costs or in the educational piece?

MS. KATZ:

I think there is no way to really know. We are going to put out an RFP to print those ballots. With any luck, and that's one of the upsides sometimes of the economy not being as strong, businesses want your business, and we may get a fabulous price. There is just no way to know. We put in our budget in June, like every other department, before the fiscal crisis really hit. We're trying to pick out the most important items. If we feel that there is not enough money for training, we will come back, but there is no way to really know. And we have trained 700 of our inspectors to use the new voting machines already because we're using them for September and November. Now although they are not fully up to speed because they are only being used for the handicapped at this point, it was crucial training for people to get used to the machines. We certainly are hopeful that this money will carry us through the year.

LEG. VILORIA-FISHER:

I appreciate that, Anita. Okay. Thank you very much.

CHAIRMAN GREGORY:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Hi, Anita. I ask this question in some seriousness but in jest as well. Knowing, you know, I'm coming from the perspective that we don't have any money and I don't know where we are going to get the increase to give you, but what is a privacy booth? I mean, are we talking about the stuff -- is it like a table with two pieces of cardboard on the side so you can write something down and people don't see you? What is a privacy booth?

MS. KATZ:

Yes. Now, there are various kinds. We could buy literally tables and chairs and then a three-quarter that you would sit behind when you would fill it out. We have been looking at -- because that's the most expensive. And remember, you have to store them. If you have to store all the tables, then you have to store all the chairs. Everything has an effect down the line. There are other companies

that make privacy booths that are almost -- if you can visualize a circle and then an X, so that you would have four places for people to stand to fill out their ballot. But, yes, that's what a privacy booth is.

LEG. BEEDENBENDER:

Well, because I had two thoughts. Number one, my first thought was we should just use the old machines for the privacy booths but we obviously can't do that. But I was thinking, blood services. When you go and donate blood, that's what they have. I mean, it's just a piece of plastic. The problem I can't wrap my head around is that costs us like \$580,000?

MS. KATZ:

That was based on a company's projected cost. First of all, you need a lot of them because that's where the lines can form. Because it may not take that long to zip it through the machine, but particularly the first year or two when people are filling it out, it will take a long time and you need many more -- you may have one scanner in a polling place and you need 12 or 15 privacy sections we'll call them, because that's where the lines form. Where normally when you go into a voting booth maybe it takes you a minute now, it is going to take a lot longer for many years until people get used to it. So that was based on a projected cost from a company who had a product that we were very interested in, so.

LEG. BEEDENBENDER:

Okay. All right.

MS. KATZ:

Unfortunately, nothing is inexpensive, as everybody knows.

LEG. VILORIA-FISHER:

I'm sorry, Anita, you might have mentioned this before I got here. Regarding the printing costs, there had been some ideas floated around regarding inhouse printing or OTB. Has either idea moved off the starting line?

MS. KATZ:

It's not realistic to think that you can do in-house printing for these ballots, either at the Board or at DPW. OTB will be able to bid like any other company when we put out the RFP.

LEG. VILORIA-FISHER:

But they don't have the equipment necessary to do these ballots, right?

MS. KATZ:

I don't know. They have a huge print shop there. They may have it. It might be worth, for instance, if they don't have a piece that goes on a print machine to do perforations, it's certainly worth the investment if you know you are going to have a bid for a million dollars every year for several years. So we'll see when we put the RFP out who responds. That's another one of our unknowns.

LEG. VILORIA-FISHER:

But DPW doesn't have the capability. So we don't have the capability to do inhouse printing.

MS. KATZ:

They print for the entire County. We need to be someone's customer where we are a priority because we may have printing changes right up until the end.

LEG. VILORIA-FISHER:

Okay. Thank you.

CHAIRMAN GREGORY:

Thank you, Commissioner.

MS. KATZ:

Thank you all.

CHAIRMAN GREGORY:

Next we have Lynda Rakvin.

MS. RAKVIN:

Good morning. I'm here like everybody else to make my plea. I am the Executive Director of Colonial Youth and Family Services, which is a not-for-profit youth and family oriented agency within the William Floyd School District. As you guys are all aware, I am sure that you know that William Floyd School District is now the largest in Suffolk County, and in my opinion, one of the most needy. Colonial Youth is the only comprehensive agency in that jurisdiction that is able to service all of the families and the students of that district for a variety of different needs.

We provide counseling, we provide holiday assistance. We also operate oil programs in the winter. We have a large community volunteer corp which participants in different organizational as well as civic minded activities throughout the year. One of our fee for service programs is our child care and our daycare services, which is subsidized through a grant through the Youth Bureau of Suffolk County. I understand that that is in jeopardy of being cut.

I just wanted to make our plea that for the past three years Colonial Youth as an agency as well as that program has been operating in a deficit situation. We currently serve approximately 180 students in that program, and unless the funding is kept as is, we have a great fear that that program will have to be closed or at least limited. We won't be able to fund that which I think would be a detriment to our agency as well as the services that we're able to provide to that community.

Also, in addition, we just recently found out that the living wage hardship funding that I had applied for has been denied. That was another cut of about \$60,000 that our agency has taken. Without that money, taking a cut in this funding also would just be completely detrimental to us.

CHAIRMAN GREGORY:

Okay. Legislator Browning.

LEG. BROWNING:

Lynda, thanks for coming. You are talking about the hardship money and I know it was about \$60,000 you lost. Would you like to explain a little bit about the reasoning why they said that you could not have that hardship money?

MS. RAKVIN:

Okay. The hardship funding assistance is for anybody that has a contract with Suffolk County and is basically -- in order to keep those contracts active and in compliance you need to be able to pay your childcare staff or any staff on any County contract a minimum of 10.50 per hour, and our child care services, prior to the living wage coming into effect, were only being paid approximately 7 to 8 dollars an hour and the living wage funding actually tries to bridge that gap. Colonial had been lucky enough to be eligible for this funding since 2006 and we have received it and we appreciate that.

But in 2008 we were denied the funding because I had some staff members who have been eligible for the hardship funding for the past three years. Like I said, we operated daycare service to the community and in 2008 the Board of Directors and myself decided that there were I think ten to 12 of our childcare staff who had been with us for three or four years, and in effort to retain staff and not have a turnover and be able to keep the programs running effectively, we then gave them a 25 cent increase over that 10.50, which I was unaware that then made me ineligible to apply for

harding funding for those employees. And when I put in my application I didn't put in the application to take that extra 25 cents per hour, I only put it in for the difference between the regular wage and the 10.50. But I was -- like I said, I was unaware until after I realized that we got denied any of the -- the majority of the hardship funding that we applied for.

So therefore, it kind of puts me up the creek for the rest of the time also because I can't lower their raises now, and now they make 10.75 an hour and that's going to be what their salary will be indefinitely.

LEG. BROWNING:

And, Lynda, also, you know, as far as the hardship money, do you get anything from the Department of Labor as to what the guidelines, procedures -- do they notify you that you, you know, you can't do that, that you can't pay that 25 cents? I mean, do they ever give you anything in writing to say what you can and can't do?

MS. RAKVIN:

No. The only thing I have on file is the original Living Wage Law that was passed that's about this thick, but at the time when it came into effect we, you know, had read scrupulously. But since then every year I just get my renewals to be in compliance and to apply for the hardship funding, and that's it.

LEG. BROWNING:

And do they notify you when -- when you are being denied do they notify you or how do you find out that you're not going to get it.

MS. RAKVIN:

No. Actually, after the hardship funding application is put into place, then after there was several months, and usually by that time I had received a letter stating that I had been awarded it in the years past, and this year when I hadn't then I actually had to get in touch with the Department of Labor and the Living Wage Unit. After going through several phone calls I then was able to identify the fact that the \$60,000 I had applied for had now been reduced to 2700.

LEG. BROWNING:

Thank you, Lynda.

CHAIRMAN GREGORY:

Anybody else? Thank you.

MS. RAKVIN:

Thank you.

CHAIRMAN GREGORY:

Next we are going to call up Suffolk County Treasurer Angie Carpenter.

MS. CARPENTER:

Good morning.

CHAIRMAN GREGORY:

Good morning.

MS. CARPENTER:

Having been on the receiving end of this, it's a little different sitting at this side, and I will try to be cognizant of what it feels like to have people asking you to produce money.

I would like to ask that you support the Budget Review Office's recommendations to restore one of the eliminated positions of a Tax Supervisor. And BRO goes into detail of why that is important to

the unit and the department. This is the person who is responsible for maintaining the veracity of the 582,000 plus parcels that we have in Suffolk County, working with the ten town tax receivers and so forth. And it is imperative that a supervisor be in that unit.

The other thing I would ask is that you support the additional \$10,000 for overtime because if we are to do with the vacant positions that we have, and we have a vacancy rate of over 17% in the department, and the staff has really risen to the challenge over the past year or two doing more with less that we are all required to do, but it's even more critical because as they are working to try to respond to the increased number of phone calls and people that are coming into the office who have missed paying their taxes and so forth, they are working under some pretty adverse conditions. We're up to day 94 of construction with no ceilings, dust on everybody's, you know, work stations. Every morning they have to do a total cleaning up of everything. It's pretty bad.

So other than that, the one minor thing I would ask be done so that it doesn't add to any of the confusion, in the authorized staff 0200 is described as Real Estate. It is more accurately referred to as the Tax Deed Division of our department, it is not the Real Estate Division. That change was made about a year and a half ago. So I just ask that all the documents reflect the proper name of that unit being Tax Deed.

Other than that, I wish you well in your deliberations. I know how seriously the Legislature works on the budget and this is really a tough time. Prior to this I am sure that at the County Executive side Connie Corso, Fred Pollert and everybody involved at their end, it was not easy. Other than that, I thank you for your attention and good luck.

CHAIRMAN GREGORY:

Thank you. Anyone have any questions? Thank you.

MS. CARPENTER:

Thank you.

CHAIRMAN GREGORY:

Christopher Destio.

MR. DESTIO:

Good morning. I will talk a little bit lower today. It's always a pleasure to come up here and speak in front of the honorable Legislators here. I read Thursday's newspaper and I was kind of shocked what was in it. It's quoted as the County Executive saying, "I need only six votes, because County Legislator Romaine cannot vote on the nursing home because it would violate the Ethics Law," unquote.

When Legislator Romaine had just gotten the confidential opinion from the Ethics Committee, how did the County Executive know about this? Confidentiality rules make it a misdemeanor to reveal details of the Ethics proceedings. This is the Ethics Committee, and we entrust in them that they will speak on behalf of the people of Suffolk County. And it leaked out. How ethical is that? How can we point a finger at everyone else, when he himself is unethical dealing with the issue concerning John J. Foley? Is County Executive Levy using the Ethics Committee as a political weapon on his proposed budget and closure of John J. Foley? I tend to think so.

On another note here. I actually have statistics dealing with the private and the public nursing homes. I'd like to read some of them to you. We acquired research statistics from the American Journal of Public Health, and here is some of them. Investor nursing homes had more deficiencies that did profit -- nonprofit and public nursing homes. Results suggest that investor owned nursing homes deliver lower quality of care to them than nonprofit and public facilities. Most investor nursing homes are part of a chain ownership which is associated with decrement of quality. Investor nursing homes appear to provide less care, a finding consistent with previous research. Skimping on staffing by profit homes may partially explain for their lower quality.

An analysis of 1987 data found approximately 6% higher death and infection rates among private pay patients in for profit homes compared to those in non-profit ones. And an explanation for the research finding is that profit seeking diverts funds and focus on clinical care. Nursing homes care for the many people who are too frail and too sick and too poor and too powerless to choose or even protest their care. The American Journal of Health believes that it is unwise to entrust vulnerable patients to profit seeking firms. I'd just like to give you the documentation that I have. Thank you.

CHAIRMAN GREGORY:

Okay. Is that it? You're done?

MR. DESTIO:

Yeah, I'm done. I'm sorry.

CHAIRMAN GREGORY:

Okay. Thank you. All right, anyone have any questions? Okay. Thank you. Next we have Cheryl Felice.

MS. FELICE:

Good morning. Do I have a time limit?

CHAIRMAN GREGORY:

Three minutes.

MS. FELICE:

I have three minutes?

LEG. BEENDENBENDER:

We'll just keep asking you --

MS. FELICE:

Was that the first question?

CHAIRMAN GREGORY:

You have five minutes, excuse me.

LEG. BEENDENBENDER:

Yes.

MS. FELICE:

Thank you.

LEG. BEENDENBENDER:

What would you like to say, Cheryl?

MS. FELICE:

Thank you very much, Legislator Beedenbender. The reason that I am before you today is, as you know, to represent the workers of Suffolk County, the Association of Municipal Employees. So I'm here before you today to request that the 2009 Suffolk County Budget be amended to include allowances for proper staffing at the Department of Social Services, the Police Department, and the Health Department. And to allow for, of course, the full funding of the John J. Foley Skilled Nursing Facility so that it can remain open.

This request is not made, as you have been told, solely due to the impending unemployment of AME members who are employed at Foley, while they are arguably 300 of the hardest working workers this County has ever seen. This battle is beyond them. The fight is to save the collective soul of

Suffolk County Government itself. The County Executive cannot be allowed to run rampant over the laws he has been sworn to uphold.

The following are the facts, and they are indisputable. Suffolk County has maintained a public nursing home since 1871. Its primary purpose was to serve those who could not afford to go to a private facility. That mission continues today. However, it has evolved, and rightfully so, with the times. The John J. Foley Skilled Nursing Facility ministers to those with HIV/AIDS, severe head trauma, Alzheimer's, dementia, and those who are younger than the normally targeted nursing home population, and further provides rehabilitation services.

It is licensed under Article 28 of the New York State Public Health Law. It states under Section 2851 in part that quote, "Serious shortage of safe and sanitary nursing home accommodations for persons of low income whose needs for a combined nursing care, lodging and board cannot readily be provided by the ordinary, unaided operation of private enterprise", unquote. This law further provides for the sick, the invalid, the infirm, the disabled, or the convalescent persons of low income so that they can receive care. That the percentage of persons residing in John J. Foley Skilled Nursing Facility are those who are categorized as low income, and it is disproportionately higher than residents in other nursing homes due to the types of specialized care available at Foley that is not available at other nursing homes for clients who are only recipients of Medicaid. Thus, administering to the care of those the law was intended to provide for.

Local Law 20-97, commonly referred to as the Mary Hibberd Law, provides for the compliance with 17 separate and distinct conditions prior to implementation of any attempt to privatize, sell, or dismantle, any capacity, or in any capacity, the John J. Foley Skilled Nursing Facility. To date, those conditions have not been met, and yet the County Executive has unilaterally chosen to write Foley out of the Suffolk County Budget effective January 1, 2009, in contravention of Article 9, Section 6, of the Administrative Code, which is clearly a violation of the law. The County Executive was a sitting Legislator at the time. He was a lawmaker and participated in the conversations about the Mary Hibberd Law and took an oath to uphold that law.

The Berger Commission report and discussion of the state of the nursing home beds in Suffolk County made no recommendation to downsize or to close Foley, even though it made similar recommendations regarding other facilities. There is not another public nursing home east of Route 110 to Montauk Point. John J. Foley is the only entity that is empowered to provide care for the low income specialized population it was created for.

Through the efforts of the Suffolk County Association of Municipal Employees and Congressman Bishop, the John J. Foley Skilled Nursing Facility is now able to accept the medical insurance Tricare, which is provided through the Federal Government to its veterans and their dependents, thereby allowing for additional revenue streams and a means to place those veterans who served their country and who are now unable to care for themselves. They can now be at John J. Foley and closer to home. These veterans had previously had no other option but to remain at Walter Reed Hospital in Washington, D.C, or in another facility far away from family.

The Foley Nursing Facility provides for an inpatient program and allows for those who are able to remain in the community at a much lower cost but receive the same quality of services. The County Executive yet has not allowed Foley to remain open if his proposed budget is allowed to prevail. By allowing the program for Tricare to flourish through the use of the economies of scales, a small investment will go a long way. For every participant in the program, thousands of dollars may be saved monthly in Medicaid costs as the client is allowed to remain at home in the community and not forced to enter the facility as a full-time resident. A small increase in staff would result not only in an increase in revenue, but a cost containment as well.

The John J. Foley Skilled Nursing Facility has systematically been driven into the ground by the County Executive in an attempt to make it appear that it is unable to carry its load. The deliberate underutilization and staffing of the facility combined with the nonaggressive policies in collecting

reimbursement revenue, coupled with the lack of marketing and development office to promote Foley, has produced an ineffective management team which gives pause to reflect if there ever would be any problem that could be encouraged to thrive or live up to its potential for Foley.

CHAIRMAN GREGORY:

Cheryl, can you wrap up?

MS. FELICE:

Can I wrap up? Sure.

CHAIRMAN GREGORY:

Thank you.

MS. FELICE:

Convincing you today to override the County budget's theme is something that this organization, the Association of Municipal Employees, is committed to do, but one that we have to do because we continually stress the unreasonableness of the County Executive in using temporary positions to fill overtime and fill much needed positions. We need to bring your attention to these situations. We need to bring your attention to the 911 Call Center, to the high caseloads in DSS, and certainly to the deplorable state of the budget if Foley has to be closed in this budget cycle. So we appeal to you on this day to do the right thing on behalf of the community of Suffolk. Thank you.

CHAIRMAN GREGORY:

Thank you. Legislator D'Amaro.

CHAIRMAN D'AMARO:

Yes, thank you. Cheryl, good morning and thank you for coming to this joint meeting of these committees. I know you ran out of time. I wanted to ask you if you had any further comments specifically that go to the Operating Budget or BRO's recommendations and response. I'd be very anxious to hear your positions, especially as they relate to the various departments, including the Foley center.

MS. FELICE:

We have -- we have a number of presentations that we'll be making throughout the process, and thank you very much, Legislator D'Amaro, for the additional time.

But with regards to the various departments, Social Services you've been hearing from us over the course of the year of the severe understaffing and the caseloads that are just -- continue to escalate. And also affects your senior population with the processing of Medicaid applications.

The 911 Center, again, there's been much discussion on the 911 Center, but this union remains firm in asking this Legislature to have those positions fully staffed up at the 911 Center.

Over in DPW, DPW you also have a situation right now where I think the overtime is being provided so that your facilities can remain clean and safe. So that's seems to be working in that particular department. But again, the staffing overall seems to be the continuing theme that goes throughout the budget, not only this year, but in previous years. Those will be some of the highlights that we'll be hitting upon in the rest of our presentations. Okay? All right.

CHAIRMAN GREGORY:

Thank you. Anyone else?

MS. FELICE:

Thank you.

CHAIRMAN GREGORY:

Thank you. Christine Malafi.

MS. MALAFI:

Good morning. I am here in case anyone has any questions on my portion of the budget, but why I put the card in to speak is because of what the gentleman before Ms. Felice indicated about the Ethics Commission. And as attorney for both the County Executive and the Ethics Commission and this whole body, I just wanted to defend both the Ethics Commission and the County Executive.

The Ethics Commission consists of three members appointed by the County Executive, the Legislature and the Presiding Officer, all of whom work very hard for no pay, they work hours and hours and hours, and they all maintain the confidentiality that they are supposed to. Nothing that goes on at the Ethics Commission is ever made public. The County Executive does not get reports from the Ethics Commission, does not get -- does not know what is going on at the Ethics Commission. People who makes requests of the Ethics Commission are not bound by the same confidentiality. They can say whatever they want. They can go and they can tell everyone that they've made a written request to the Ethics Commission. When they get something from the Ethics Commission, they can show it to whoever they want.

The County Executive is a lawyer, a practicing lawyer before he became County Executive. He has read the Ethics Code and he has seen other ethics opinions that deal with the employment of a spouse of an elected official. And I can tell you that because I've shown them to him. They are mine, and I have shown them to him. So the comments that he made to apparently a Newsday reporter were based upon his reading of the law and his knowledge of what has been written to the Ethics Commission. No one has breached any confidentiality requirements of the Ethics Commission or of anybody else. They work very hard as do myself and the lawyers I have assigned to assist them. And no one has ever breached confidentiality. And the County Executive -- neither the County Executive or anyone from his office has ever asked us to breach any confidentiality. And I just thought that that needed to be said, because that is the truth. And the three people who consist of the Ethics Commission work way too hard to have their -- their work questioned in this way.

CHAIRMAN GREGORY:

Just to sort of kind of discuss the issue a little bit in case people don't know what happened. Was this -- from my understanding, Legislator Romaine submitted a request himself for an opinion?

MS. MALAFI:

I cannot say -- I cannot answer that question.

CHAIRMAN GREGORY:

You can't say that? Oh, okay. All right.

MS. MALAFI:

I mean, what I can say is that based upon the article, he has said that he has an opinion. That was printed in Newsday.

CHAIRMAN GREGORY:

Well, from my perspective, and I'm not an attorney, it's just I think -- just from reading and from the comments that were made, it's just the timing of it seems a little suspicious. I can't talk to, you know, what knowledge the County Executive had or didn't have. I respect the Ethics Commission, I respect the County Executive as an honorable and ethical person.

I just don't want budgetary issues to become a battle using the Ethics Commission to deviate and to support a position or not to support a position. You know what I mean? I think that's the general concern that everyone has.

MS. MALAFI:

Well, the Ethics Commission would never get involved in budgetary things of that nature. What I can tell you is based upon -- there was an article in Newsday some time ago where a member of the County Executive's staff indicated to Newsday that they had written to the Ethics Commission. That person is not bound by confidentiality not to discuss the fact that he wrote a letter to the Ethics Commission.

The confidentiality requirements of the Ethics Law and the Ethics Code and the fact that it's a misdemeanor to disclose them run from within the Ethics Commission. No one who appears before the Ethics Commission can say what happened while they were in the Ethics Commission hearing or meeting, and no one from the Ethics Commission, including myself, the lawyers involved, the secretaries involved -- there's a lot of people who work very hard on the Ethics Commission, and none of them are allowed to make public what happens in an Ethics Commission meeting.

And after an Ethics opinion is written, the Ethics Commission cannot and will not disclose those opinions. The only person or persons who can disclose those opinions are the persons to whom they were issued. And having received one, I can tell you that I showed the County Executive the opinion that I received from the Ethics Commission dealing with a person working for the County with an elected official as a spouse.

CHAIRMAN GREGORY:

Okay. So that leads to another question. If you are in a situation where you may have a potential conflict of interest and you've got an opinion from the Ethics Commission, how do you look to see prior precedent -- how do you look to see if there's any precedent to see if your situation is applicable if these opinions aren't made public?

MS. MALAFI:

The opinions are very specific to the person that is involved and to the very specific facts of each person. The Ethics Commission itself when it's issuing an opinion looks at the law, which is very clear as to what's prohibited and what's not prohibited, and then they look at the very specific facts. And each Ethics opinion is binding on only the people involved in that opinion. And the Ethics Commission before they issue opinions that may be similar to others look at all of the other opinions that may be similar so that they're all in agreement. You don't need to have precedent to see whether or not a specific act falls within the Ethics Code or not. And that is -- that's the model Ethics Code not only for Suffolk County, but for across the state, has the same confidentiality.

CHAIRMAN GREGORY:

Okay. Legislator D'Amaro, then Legislator Nowick.

CHAIRMAN D'AMARO:

Yes. Thank you, Legislator Gregory. I just wanted to state since this topic has come up that my name was mentioned yesterday also in that Newsday article that the County Attorney is referring to, questioning whether or not going forward I would be somehow disqualified from voting on the Suffolk County Operating Budget. It is my opinion based on the Ethics rulings that I have received that I am not nor would I be bound by an opinion issued to any other Legislator. And I'm going to be issuing a formal statement later this afternoon. Thank you.

CHAIRMAN GREGORY:

Legislator Nowick.

LEG. NOWICK:

Good morning, Christine. Christine, I am somewhat confused about the Ethics Commission. And with due respect, because I have had opportunity years ago to go to the Ethics Commission for a ruling. But are there certain topics in the Ethics Commission that FOILable and certain that are not?

MS. MALAFI:

The only thing that is potentially FOILable are the financial disclosure statements that we all file, all the exempt employees, management employees or the elected officials. What happens if somebody would like to FOIL the financial disclosure statements, they fill out a form, you would get five days notice that the Ethics Commission is considering a FOIL request, you would have an opportunity to object to the disclosure of your financial disclosure statement. For example, if your next door neighbor just wanted to know where you had your bank accounts and that's why he was FOILING the financial disclosure statements, he would not get them. And you would have the opportunity to say, hey, this person is my next door neighbor and why would they want it, they're not a news media, they're not involved in politics.

LEG. NOWICK:

But why such a difference? Why is the News media entitled to FOIL personal -- I know not amounts. I know -- but bank accounts. Why is that so different from other things that are discussed in ethics? Why is it not all private? What is the -- how does that come about? Who makes the laws on that or the rules?

MS. MALAFI:

Well, you made the rules. The Suffolk County Legislature passed the Suffolk County Ethics Code, so that's right in there. You put it in there.

LEG. NOWICK:

The financial statements are --

MS. MALAFI:

Partially disclosable.

LEG. NOWICK:

Partially.

MS. MALAFI:

Yes. And it's in the Model Code, Suffolk County Model Code. And it's also in the State Model Code and most other counties have the same -- I say most only because I don't know of any county that discloses the opinions. One reason why the opinions are maintained private and confidential is because a lot of times they have very, very confidential information about a specific person, private information about maybe that person's financial status, who they're related to, what the -- what their specific circumstances are.

Also, each -- an Ethics opinion, if you have an Ethics opinion in your hand that allows you do to something, even if that Ethics opinion turns out to be wrong, you are protected. You cannot be charged with a crime for violating the Ethics Law. And it is very dangerous to allow -- if another elected official could get that opinion and they would guide their conduct based upon another opinion, and that doesn't protect them. It has to be an Ethics opinion issued to the person.

LEG. NOWICK:

Christine, how long ago were the ethics -- the Legislature set the rules. How recently has that been revisited? Do you know?

MS. MALAFI:

I believe in the '90s, late 90's there was a -- there was a, I think, a change to it. I didn't bring it with me. I didn't know this topic was going to come up, so I didn't bring my folder.

LEG. NOWICK:

I was just curious, because I know -- while I've been here I don't remember it ever coming up, and I just wondered when it was last revisited.

MS. MALAFI:

It was definitely beyond 2004. I believe it was some time in the '90s, I just can't remember. I'm trying to picture the section in my head to see when it was amended, but I can't. I think it was in the '90s sometime.

LEG. NOWICK:

Thank you.

MS. MALAFI:

You're welcome.

CHAIRMAN GREGORY:

Anyone else? Legislator Lindsay.

P.O. LINDSAY:

I think what was troubling is the press conference that the County Executive had stating unequivocally that Legislator Romaine couldn't vote on the budget. And it led to confusion around here because we hadn't seen the opinion. I called Legislator Romaine and asked him if he would share it with our Counsel, because I didn't know how broad-based it would be, because we certainly have other spouses of Legislators that are here. And I didn't know if it applied to other relatives and I didn't know if there was other relatives. So, you know, from my perspective I have to identify how many Legislators we have that can vote. So Legislator Romaine after a couple of inquiries has given us the opinions for us to gauge where we are. But it is -- it is a problem.

MS. MALAFI:

Well, I understand that. I will say that prior to the County Executive's press conference, Legislator Romaine had filed a required recusal statement with the -- with your office, with the Ethics Commission, and it becomes a record of the Legislature, that's a public document. So I believe that some information was contained within that recusal statement.

P.O. LINDSAY:

But the recusal had to do with the issue directly of the nursing home, if I'm not mistaken, not his ability to vote or not vote on a budget.

MS. MALAFI:

Right. I believe that because of the fact that the County Executive had seen the Ethics opinion issued to myself and to my spouse, and it clearly delineates in there, there's a certain phrase that's used with respect to budget voting by an elected official when your spouse is employed by the County. So I'm assuming he was using that knowledge and his knowledge of the Code to make that statement. He did not, did not ask for, did not see, did not hear, nothing with respect to the contents of the opinion issued to Legislator Romaine.

CHAIRMAN GREGORY:

So that brings a question to my mind. If the Foley -- the nursing home were to be put in a separate amendment in the budget, apart from the budget, we can do that?

MS. MALAFI:

It's still a part of the County Executive's budget. That's all I'll say.

CHAIRMAN GREGORY:

He would be able to recuse himself from that one vote, but be able to vote --

MS. MALAFI:

You'd have to ask the Ethics Commission. No matter what I say to you, it would not bind the applicability of the Ethics Code. I can't answer that question. I don't know. You know, I -- I will also say that the Presiding Officer has the authority to ask the Ethics Commission for rulings on items when he is concerned about the ability of Legislators to vote on something.

CHAIRMAN GREGORY:

Legislator D'Amaro.

CHAIRMAN D'AMARO:

Thank you. Just to our Counsel. Mr. Nolan, if an Ethics opinion is issued to a Legislator, is that binding on any other elected official, any other Legislator, or any other elected official?

MR. NOLAN:

No. It would be specific to the particular individual, because every individual's circumstances are different.

CHAIRMAN D'AMARO:

Okay. Right.

MR. NOLAN:

You know, they may enunciate a principle or an idea that, you know, if you read it you might say that it has a broader application, but I think in most cases, you know, every individual that goes before the Ethics Commission has very specific circumstances, and that's -- that's how it's determined, that's who it applies to.

I just want to say one thing about this question about the budget and can you vote on the budget. I think an important thing to keep in mind is that the Legislature never really takes an up or down vote on the budget. We never take a vote on the whole budget. When the Legislature acts, it acts on proposed amendments. And then you have to look at each amendment, and every Legislator has to say -- determine is there a conflict for me to vote on this particular amendment.

CHAIRMAN GREGORY:

Legislator Barraga.

LEG. BARRAGA:

In answer to Mr. D'Amaro's question, I am not sure that even an Ethics opinion is actually binding on the given Legislator you've made the opinion for. I mean, he could go -- I mean, there may be political ramifications, but if you give an opinion to me and I choose not to go with that opinion as an elected official, I could move in a different direction.

MS. MALAFI:

It's not me giving the opinions, it's the Ethics Commission. And if you do -- if you violate what the Ethics opinion tells you you're required to do under the Ethics Law, it can be referred to the District Attorney and you could be charged with a misdemeanor.

LEG. BARRAGA:

All right. But let's say I request an opinion and I have a situation where I'm concerned about voting on the budget, and I have my doubts that it's applicable for me to actually cast a vote for these reasons, and I asked for an opinion from the Ethics Committee. They come back and they say, "Mr. Barraga, no, you are okay, you can go ahead and vote," but I still feel -- I still feel uneasy. I still have the right, all right, to go in and recuse myself from that vote.

MS. MALAFI:

Well, actually, the recusal procedure is that you would have to file the required written statement with the Presiding Officer before the vote. And he has the authority to accept or not accept your recusal. That's the procedure.

LEG. BARRAGA:

But I still have the -- I still make the ultimate decision. Like I said and you said, there are ramifications associated with going against an opinion, but, you know, I still, as an elected official, I

make the final decision on that.

MS. MALAFI:

Absolutely. But in your situation that you were talking about, you were being more cautious than the Ethics opinion allowed you to be.

That would be fine. It would just be if the Ethics opinion --

LEG. BARRAGA:

But it doesn't prevent me from being less cautious.

MS. MALAFI:

Correct. If they tell you, no, don't do something, and you do it, that would be a possible misdemeanor referred to the District Attorney's Office. If they tell you it's okay if you do X, Y or Z and you choose not to, you're okay.

LEG. BARRAGA:

But I guess the point I'm making, as an elected official, I call the final shot.

MS. MALAFI:

As long as it's not to violate the Code, yes, you do. You know, just in general, I do try to -- when I see something that might be a potential violation of the Ethics Code, I do try to talk to whoever it is first to say, listen, before you, you know, let me sign this contract or do X, Y, Z, you might want to go to the Ethics Commission. I give people that option. And I do try to be sort of a watchdog, but I can't know -- just like Presiding Officer Lindsay indicated, I can't know who is related to everyone that's an elected official or employee of the County, and I can't know who sits on what board of what not-for-profit. We try to, but I can't be -- I can't know everything, and I try to. So we do try to make sure that the elected officials -- from the County Attorney's perspective, that elected officials and employees of the County don't unknowingly violate the Ethics Code.

CHAIRMAN GREGORY:

Anyone else? Okay. Thank you. Next we have Mary Finnin.

MS. FINNIN:

Good morning and thank you. I'm here today representing myself. I have several questions on the budget. One is the narrative portion under health services where the County Exec has put in he wants to work collaboratively with the North Shore Long Island Jewish Health System and apply to the State for a Heal Project to build a regional center covering Bay Shore, Brentwood and Central Islip. I'm wondering why is he closing one facility that we own and providing services for, but he wants to build another. He wants to build another facility in conjunction with a Nassau County corporation. North Shore is a Nassau County corporation. We have our own health facilities here in Suffolk County. If the Suffolk County residents are paying for this, then these kinds of projects should be done with, I believe, with the Suffolk County corporations or health services that we have here in the County.

Talking of conflict of interest, I know that several of the staff out of Levy's office or his appointments came from Nassau County and is there some kind of a conflict of interest because of their previous ties with Nassau County. And, you know, I think those are the kinds of things we should look into. This is Suffolk County, we should use our money to protect the citizens of Suffolk County. I know that the North Shore has been trying to get their hand in our pockets for many, many years. They finally got their hand in through their contract with Southside Hospital, so know they have some -- they control the finances there and we contract with them to do services.

You know, I think that we have to really look at these contractual relationships and why we're spending the money. We displaced many people when they closed our services in Bay Shore. If you are now going to close Brentwood and Central Islip, largely Hispanic communities that are served in

those centers, then you are going to displace those people again because many of them don't have cars or transportation and they end up -- they move to live near the area where they can get the service.

So I think those are some of the other factors that need to be looked at. If any kind of a new facility is built and that it should also take into account that Suffolk residents are paying for this. It should be, you know, funded with and in conjunction with Suffolk facilities.

I think the other thing is under his statement to generate additional revenue for prenatal and ancillary services, you know, through this Neighborhood Health Program that they sold our Suffolk Health Plan to, there's in the Suffolk County Health Task Force Report that, you know, was done but was never reported to -- I mean, you got copies but we never had an opportunity to present this. I was a member of that Task Force and one of the things in terms of prenatal care, and even in I think the County Exec's budget is the recognition for increase and improving of prenatal care. In effect in the last year, our Prenatal Coordinators in Public Health have been moved out of two hospitals facilities that -- and these are the nurses that coordinate care for the high risk patients. One was stationed at Stony Brook and one was stationed at Southside. Because of the cuts in Public Health Nursing, these positions have been removed. I don't know who is covering those patients now.

The other thing is I'm concerned that while we do contract with private facilities like Brookhaven Hospital, we also continue to service our women in our prenatal care in the Brentwood and Shirley Health Centers. Brookhaven has now closed their prenatal service. I know there has been some kind of an alternative agreement with Stony Brook to have the mothers give birth there. I really think we need to look at the gap in services for prenatal care in the Patchogue/Shirley area and the burden this is placing on the poor women that have to travel across the County. You can't get across that County on a good day. They think, you know, maybe they can get across a little faster, but when you are fully dilated and giving birth or having a breech, and these are some of the things that have happened, you know, that is really putting that mother and baby in danger. I don't think it's fair to the patients and people that we serve. Thank you very much.

CHAIRMAN GREGORY:

Thank you. That does it for our cards. Is there anyone that hasn't filled out a card that would like to speak? No? Okay. Now we will have an overview from Gail in BRO, Gail Vizzini. Give us the good news first.

MS. VIZZINI:

Well, this is probably one of the more somber reviews of the Operating Budget that we've put together, although the themes are very, very common. First off, we have the economy. The uncertainties of the economy will definitely impact the 2009 Operating Budget. There is a downward trend in the growth of sales tax. We've got the continued decline in the receipt of property tax collections and we have the increase in the property tax delinquencies.

As far as sales tax is concerned, historically the economy most mirrors our experience in the late 1980's and the early 1990's. I'm sure if I were to pull a Budget Review Office Report from 1990 I could pretty much just copy and paste the major issues, but I didn't. We pretty much concur with the sales tax estimates for the 2008, which is a 1% growth rate, but we are more guarded in terms of 2009. As you know, each 1% change in sales tax is about \$11.2 million. In our opinion, based on the historical analysis, a more likely scenario is flat, a zero percent growth. In that case, we would have a \$22.4 million shortfall in 2009 in sales tax.

We also has the midcourse correction that's likely to occur in terms of the State Budget. We don't know whether the State will look to make those efficiencies from within themselves or it will spill over to the counties. That's a likely scenario as well. In our report we talk about 2010 being part of the problem. We estimate that there could be, although we don't know until the State makes their determinations, a potential loss in State aid, maybe ten million in 2009 and perhaps another ten million in 2010. So you have another 20 million there.

Despite the declining revenue, the recommended budget proposes no increase in property taxes, no remedy to build up the foundation that supports the General Fund or the Police District Fund. As you have read in Newsday, 11 out of 13 towns on Long Island are experiencing a fall-off in revenue. A lot of that revenue was the mortgage tax. It's related to the housing market. Unfortunately, the County Executive's budget does not go in that discretion nor does it access the Tax Stabilization Reserve Fund, which has an unprecedented amount of surplus, 130.1 million is indicated for 2009.

One of the major policy issues for you to wrestle with, as I indicate in my report you're not the first Legislature to wrestle with this, is the proposed closure of the Skilled Nursing Facility. The budget does provide appropriations to operate the facility for about a quarter of the year, but it does abolish 379 positions. We provided for you an interim report that gave you many, many options, including some remedial actions to increase current revenue and reduce current expenditures, some of which the Health Department is already taken the initiative for. However, if you were to restore the Nursing Facility, it is likely to increase the General Fund transfer approximately 4.5 million. We would be hopeful that with these efficiencies this would give us some cushion for 2010.

The Debt Service Reserve. Even though this Legislature adopted a 2008 budget that transferred all the proceeds in the Debt Reserve back to the General Fund, the 2009 budget shows that the Executive has determined that 6.1 million will be transferred from the General Fund to the debt service in 2008. This leaves 3.8 million in the debt reserve for 2009. The reason for this is to modify somewhat the targets which we adopted when we approved the securitization of the tobacco. This is a policy for you to wrestle with in terms of whether you concur or you do not.

The caps, the expenditure and the tax levy cap. The presentation is once again illogical. We have a \$51 million General Fund property tax which is presented as \$162 million in mandates offset by a negative of 111 in discretionary expenses. It's illogical, and it's illogical because over the years -- and things that have been classified as mandated or discretionary are no longer that. And it's particularly illogical when you consider we've reduced debt service, which is mandated. Both offices agreed to that. So here we have a presentation that shows the thrust of the property taxes is for our mandated services.

We have recommended -- we continue to recommend that the caps be replaced with something that's a little bit more logical and little bit more meaningful than the current calculations. Pay-as-you-go we really believe it might be time to reevaluate this particular law. We have waived it over the past several years. There is absolutely no provision for pay-as-you-go in the 2009 Operating Budget.

The total number of authorized positions has been reduced by 429. A big chunk of this is the nursing home, 379. We had the early retirement incentive. Fortunately 186 individuals participated and left County service. Behind them, 128 of their positions were abolished.

The good news is that 75 new 100% Medicaid funded positions were created for Medicaid. Unfortunately, there is no space to house these people so it's very likely that there will be an authorization for the Space Committee to look for space or to reconfigure some existing.

In the report we make numerous recommendations in terms of specific revenue items and specific expenditure items by department. I'm not going to go through those, although I do want to highlight a couple. The first is -- and these revenue and expenditure recommendations, we do have the benefit of two more months year to date experience than the Budget Office when they prepare. Unfortunately, we also have benefit of the -- what's going on in the economy. So our recommendations are up and down, depending.

In terms of police, sworn personnel has decreased by 101 if you look at January of this year versus September. In addition to that, 70 people, Police Officers, have already retired. Seventy sworn have already retired. We expect another 14 to retire in 2008. And then you have 2009 where the,

although we used to use 100 as the number in terms of retirement, more likely 80 will retire. So you have your sworn police numbers going down. Therefore, we would actually recommend we have a class. We had a class at the end of December 2007. There was no class as yet in 2008, nor is there one scheduled. We would recommend that 2009 be the year that we do have a class. The size, the timing, would be a policy decision. We are recommending 80 in 2009 starting in September.

We also recommend -- there are six vacant 911 Dispatchers. In light of the volume of work there and the conditions and the other factors, we are recommending that those six vacancies be filled as expeditiously as possible.

As Commissioner Katz mentioned, we do make recommendations in terms of increasing the Board of Elections by a million dollars. The Board of Elections is one of the few departments that can -- that has the authorization in law to spend whatever they need. So whether we or do not provide it in the budget, there will be a housekeeping resolution to provide them with whatever they need to run the election.

As far as Health Services, we're concerned about the Food Protection Unit. There is a long history of the County not having sufficient staffing in terms of the Public Health Sanitarians, and there is a combination effect who is contributing to that. But we recommend that we increase the number of Public Health Sanitarians by six.

Parks Police we are pretty much out of compliance in terms of our own legislation mandating a certain ratio of Park Police to the number of acres for open space. We are six short. We would recommend adding those positions.

Public Works. I just want to point out that based on our analysis, 18.6% of the Public Works positions are vacant. This is one of the factors that causes Public Works to rely so heavily on consultants. Based on information from the department, during the period of 2003-2007, Public Works awarded \$80 million in contracted services to 50 outside firms.

The Vanderbilt Museum. I just want to take the opportunity to bring to your attention that because of the volatility of the market, the endowment fund that supports them to the tune of about \$1.2 million annually is suffering. There is a minimum threshold by which once that is hit there will no longer be distributions. What we recommend is you may wish to legislature a reduction in that \$1.2 million distribution to give the fund time to recoup, time to build up. However, a plan will have to be formulated with the museum because that is a significant cut to their operating revenue.

And finally, contract agencies in the aggregate the numbers show that there is a reduction of \$3.4 million in 2009 compared to what we adopted for contracted services in the 2008. Of this, 1.5 million is related to the contract to the health clinics. If you have any specific questions, we will be happy to respond.

CHAIRMAN GREGORY:

Okay. How is it that you come up with your projections and calculations given the economic crisis, and I'll state it as that. Not just being Suffolk County specific, but nationally, but more specifically statewide, and we know that the State Legislature is going to go back I believe in mid-November and propose more cuts. We as of yet do not know what next year will bring for us. Are you in communication with some of the State agencies and are they kind of giving you a heads-up on what funds and things that they are going to be -- what State aid they are going to be cutting or looking to cut potentially?

MR. LIPP:

We really don't know what's going to happen there. You know, we've gotten some feedback, but we even say potential is the word we use in the write-up. The reason or the main objective for putting

that in there was just to give you a heads-up that this is something out there and just to put a number on it for discussion purposes. As a matter of fact, one difficulty is putting the recommended budget together was that's just a real head scratcher. You know, the recommended budget sizes things pretty well overall in terms of aid given, you know, what the existing landscape is, but that is changing fast. So it's just sort of like a heads-up and I think it is not a surprise to anybody. We just wanted to put a number on that just to give a general idea.

In terms of the sales tax, we look at the historical data, we do different projections, statistical models, and at the end of the day the conclusion we came up with is that we are most similar to the experience we did have in the beginning of the 1990's where there was a national recession, there was a housing slump. The type of climate that exists today is very similar to that. That doesn't mean to say that it's a carbon copy. Clearly there are differences and it is projection, but our best estimate and projection is that zero growth is probably a pretty reasonable target for sales tax.

CHAIRMAN GREGORY:

I guess the next question that I have and the last question I have right now is the Foley was funded for a quarter percent of the year. It's my understanding, and maybe this is more of a legal question than a budget question, but I will pose it to you anyway. How is it that they are able, they being the County Executive, able to recommend funding the Foley Skilled Nursing Facility for a quarter of the year when I believe State Law states that, or at least projections have stated that it will probably take nine months, up to a year, to place those clients in other facilities. We have to keep it open until those clients are placed.

MS. VIZZINI:

I'd actually probably have to defer to the County Executive's Office in terms of what their thinking was. But in terms of the mechanics, I presume that -- I mean, the first order of business is I would think that the Legislature has to take some action, either to concur or not to concur or to provide some other level of funding. If nothing is done I would guess that they County Executive's Office would create interim positions for as many positions as they would need to do the transition. As far as, you know, whether it's a 90 day turnaround or whether or it's nine or one year as HMM indicated in their consultant's report to us, we haven't had experience of this magnitude, the state has. I would have to defer to them in terms of why they did what they did.

CHAIRMAN GREGORY:

Okay. Legislator Barraga.

LEG. BARRAGA:

Just a few comments and then one or two questions. As all of you know, the New York State budget goes into effect as of April first. What happens during the course of the year, monies are distributed from Albany to local municipalities to school districts. So by the time, you know, an election takes place and you go back in the middle of November to take a look at where you can cut, what you are really down to is a few large pockets of dollars; education, health services, Social Services. I know that there are people out there who are indicating that under no circumstances are we going to cut education. Well, after November 4 often there is a different approach. I've seen this happen before.

As most of you know, roughly 70 cents of every dollar that goes that goes to Albany is distributed to school districts and municipalities throughout the state. And these cuts will be dramatic, if not draconian, with reference to what is going to happen with municipalities. So that has to be somehow anticipated as we go forward.

The other day, Gail, I attended a meeting in which a presentation was made keying in on 2010. And the individual giving the presentation laid out ten different areas where they expected problems. It came to a total budget problem of approximately \$176 million, less what they anticipated a 2% growth in sales tax and some property tax and maybe that is iffy at best. Now, how does that figure compare to the budget problem you anticipate for 2010? Do you have a figure on where you stand?

MS. VIZZINI:

Well, you are really talking about doing the 2010 model. So, we, you know, the focus of our report is on the 2009 Operating Budget. We, you know, opened the door to 2010 as a concern, but we do, you know, the \$67 million concern that we have right off the bat, sales tax, you know, State aid, and --

LEG. BARRAGA:

I guess the question -- as you're indicating --

MS. VIZZINI:

I didn't --

LEG. BARRAGA:

-- this should be put back or that should be put back. We should have a class here. I mean, that's not only fiscal ramification for 2009, that has affects as we move forward into 2010 as well.

MS. VIZZINI:

You are absolutely correct. But I did not answer the question where will we be in 2010. I can, but I didn't.

LEG. BARRAGA:

All right. And I need your opinion on something else, the Foley Nursing Home. The State of New York has the history, and Suffolk County does as well, of taking things off budget. What would happen if we took Foley off budget, went out and sold bonds to generate \$5 million. That's the figure I've been told to basically keep it going for another year. No one is saying it is going to be open for another year, but the monies would be there and it would be off budget.

For example, years ago, among a number of things that were done, a host of things, I remember selling, and I was part of it, we sold Attica Prison to the State Dormitory Authority. They generated the bonds and the State got the money. A couple of years ago I sat here and I think it was Jim Morgo and I had a discussion with reference to the funding associated with, which was in the budget, downtown revitalization. It was a million dollars. He came in and said look, you know, we are not going to take it pay-as-you-go any more, we are going to go out and bond this thing. You know, he and I had a rather lengthy discussion.

But if you took Foley off budget and looked at it as a separate issue and issue bonds, all right, to generate the five million to keep it going, you'd have more than adequate time to do a proper RFP, because that RFP is going to take time. I mean, by the time they sit down and figure out the specs and they mail it out and they get responses, this could be five, six, seven months.

What I am trying to avoid here is making two decisions I don't want to have to make; November 5th on the budget, and then if it goes over and it is put in and the County Executive vetoes it, then it comes back and he is going to look for six votes to sustain the veto. If it is taken offline and is held as a separate issue, I get to avoid that, and we get to maybe come down to a situation where we have a reasonable conclusion in terms of the disposition of Foley.

Because in discussion, you know, I have attended two meeting now where people from the private section have come in, and I think both, and some of my colleagues can correct me if I'm wrong, both basically indicated, look, you know, we have an interest in Foley and we have a union contract. We have a union contract say with 1199, and that contract is a good contract in terms of benefits, in terms of salary structure, because I know how Rivera and his influence has been in Albany. So if someone tells me that they've got a good pension plan and a good health plan, believe me, they do.

The difference has always been, not so much for the patients, but in the salary structure if you are Civil Service. It might be a 25, 30% difference between what I am making if I am working at Foley

as a County employee and what I will make if I am working for a private entity and their union. My feeling is that if we can get to a point where we can sell or lease it, the money generated to the County, some of that can be used to make up a wage supplement, a differential between what I'm making now and what I'll make with the union so that I will not be taking home any less money to my family than I am now. And if I'm vested with the State, I am vested with the State. But now I have a new pension plan and a new health plan.

The question I have here, can we do this? I don't see any reason why we couldn't just regard Foley as a separate off budget item, go out and do the bonding. We bond everybody else around here. You know, I saw last week we sat around here and went for 18 million for the Cabott property. It's okay for property but it is not okay in this particular case? I doubt that. I would hope that somebody would, if nothing else, pick up and call the bonding counsel for the County, and he'll tell you or she'll tell you how this can be done. But I think it puts us in a much better position at least time wise to come up with a better solution than just shutting the place down. Can we bond?

MS. VIZZINI:

You make some very good points, but the Finance Law does not really permit us to bond for operating expenses. We can bond for, you know, longer term items. We do already have, you know, debt service for which we have bonded for Foley. We have \$22 million in debt service we owe on Foley. I hear what you are saying, drop it off the Operating Budget and even if we did bond we would still have a responsibility, our debt service would go up commensurate with the extent to which we bonded.

LEG. BARRAGA:

But that's no big deal compared to what I've seen around here. I mean, you know, realistically.

MS. VIZZINI:

Yes, and, you know, if we could bond for operating costs we would have bonded --

LEG. BARRAGA:

I mean, if I bond five million and I have to pay three or four-hundred thousand in interest, I mean, that's -- I mean, every couple of weeks I sit here and I see what is going through in other areas. And, you know, it isn't as if we would be the first entity to do this. I mean, other levels of government have done this. I don't care what the Finance Law is with reference to the Operating Budget. There is a way of getting around this if we want to.

MS. VIZZINI:

Well, there are limitations on the County. There may be other entities we could make Foley into, but even, as you know, in Nassau County they have the Public Benefit Corporation that includes the hospital, the clinics, and A. Holly Patterson, but they are still subsidizing the hospital to the tune of over \$13 million annually in what they call a social responsibility, a historical social responsibility. And when the Nassau County Executive and Legislature did that, and I don't really know whether the Legislature was in existence at the time, but they decided that they would still require Mr. {Gemelli} to operate using the Civil Service workforce. So they have their own issues to deal with.

LEG. BARRAGA:

Yeah. Okay. But I remember a couple of years ago when Jim Morgo came in and he was explaining to us how he was going to take a million dollars that was currently in the Operating Budget for downtown revitalization and now move it over and bond it. I'm sure, I don't recall the rationale, if he was asked, maybe I did ask, maybe I didn't, but, you know, there's got to be somebody out there who can give me a rationale for doing what I am proposing.

MS. VIZZINI:

Well, the rationale is to take the burden -- to lessen burden on property taxes. The reason that we, you know, used to have a million dollars in cash for economic revitalization, downtown development, and then that million morphed over to the Capital because it was a reduction of a million dollars in

the Operating Budget to make up probably for things that were increasing.

LEG. BARRAGA:

What you are explaining, there's always a way of doing something. There's always a way. For example, if there is an authority out there right now at the County level that somehow could sell the bonds, you know, there's always a methodology if people sit down and come up with a rationale to do something. I guess the bottom line on this, then it gives us time. I think that is what everybody is looking for. Right now we're looking at, you know, having to make some rather difficult decisions in the next two or three weeks, and that RFP -- I have to have that information the RFP. I mean, everybody would want that, but it just takes time. In the interim, just take the thing off budget and work out a mechanism to fund it for a time period and that would be like a bonding. Even I'd vote for that.

MS. VIZZINI:

I mean, if there was a consensus, we would gladly work with the Executive Budget Office in terms of some sort of solution, but --

LEG. BARRAGA:

The three of you just think about it. It's like the old story, give me two lawyers and I get nowhere. Get me three lawyers and as soon as I get a majority that's what I'll grasp.

MS. VIZZINI:

Well, we would need Bond Counsel involved.

LEG. BARRAGA:

That's what I want you to do. If you could reach out to Bond Counsel -- whether you do it or the County Executive's Office does it, because they made the same pitch three or four days ago, all right. But I think it's an area we should really pursue actively at this point.

CHAIRMAN GREGORY:

Legislator Kennedy.

LEG. KENNEDY:

Thank you. I have a similar question, I guess, or an idea that kind of goes along with where my colleague's at in an effort to try and find a solution that gives us some more time going forward. But two things that I guess I'll ask you. One, just with the bonding, the Finance Law may prevent us from going multi-year as far as the bonding goes, but we just issued the DTANs and we issued the TANs as well. If really what we needed to do was go ahead and accomplish this less than 365 day type of period, couldn't we go on a TAN side?

MS. VIZZINI:

You know, this is the reason why we need to have our ducks in order before we put it in the budget. This was the reason for, you know --

LEG. KENNEDY:

I agree with you 100%, but unfortunately we are left responding to something that came from across the street that, as a matter of fact, many of us believe was void on it's face, notwithstanding this pronouncement about the hearings. And that's why previous Legislature's put those hearing requirements in place and it was flouted by the administration.

But, notwithstanding the TAN requirement, let's go to the other side of the equation and what if we go one other type of way with the Public Benefit Corporation so that again we accomplish something that takes us out from under what's continuing to be an evermore stressful type of a relationship, but nevertheless allows us to go ahead and preserve the function of that health care entity. We did it for tobacco. We did it relatively quickly for tobacco as far as creating a Public Benefit Corporation and vending what then was a stream of revenues into some kind of a bond form. Is that a

methodology we can employ?

MS. VIZZINI:

It's certainly worth pursuing, but I don't know if it's something that we could slap together by the time we have to adopt the Operating Budget.

LEG. KENNEDY:

Well, again, I guess I would ask you for at least a little bit more guidance or input and ultimately we're probably going to have to go ahead and put as much of it together as we can on our own. Maybe if you can just have that query when you have it with Bond Counsel, though, as far as going that route. Thank you.

CHAIRMAN GREGORY:

Legislator D'Amaro. Do you want to say something, Fred?

MR. POLLERT:

Just with respect to the nursing home. The County -- two weeks ago I had sent a letter to the Legislature offering to participate in the budget process with the Budget Review Office. Gail is right, this is the type of thing where a concert effort between the two offices, if there is a policy direction, can cover a lot of ground. We had been looking at a number of options to follow up on, Legislator Barraga's idea with respect to perhaps a loan from the General Fund. That's what a lot of other counties do. With respect to the creation of an LDC, something of that sort, it would ultimately require being backstopped with a full faith and credit. There are a variety of different options which are not attractive, such as issuing a budget note because that would infer that you've adopted a budget but had inadequate appropriations. So, yes, we are actively following up on your recommendation.

With respect to the budget coming across, when we prepared the budget, we really had very few degrees of freedom because under A96 the County Legislature had not scheduled a public hearing. So the only option available to us was the closure of the nursing home. We got an opinion from the Law Department that that did not violate A96.

With respect to what are we going to be doing with the employees, we had run that through the Civil Service Department. What has happened in the past when there had been layoffs is you abolish the position in the budget but the person remains paid until the layoff notice of the 60 days actually takes place. So, we have nailed down a lot of the loose ends that are being discussed here. We feel that we have a legal presentation with respect to the amount of time to actually close the County Nursing Home. HMM Report had indicated one year, we followed up with consultants. They felt that the patients could be placed within a six week timeframe.

So time is of the essence. We are more than happy to work with the Budget Review Office, explore a variety of different options. However, I just wanted to reiterate that the budget that we sent across with respect to the nursing home will stand by itself. So if it is adopted by the County Legislature we will be able to place those individuals, have adequate time with the notification with the State of New York, and actually effect the closing of the nursing home. It's not the best option that the County Executive was looking for. The budget narrative clearly said that he wanted to explore different types of options and we're more than happy to work with both the Legislature and the Budget Review Office to come up with the time necessary so that those options can be explored.

CHAIRMAN GREGORY:

I have a quick comment. My concern with this is -- I understand that, you know, the County Executive, he wants to close it, privatize it. He wants to do something other than the way its operating right now. He put in the CN for the RFP. My concern is with the budget process that we have and the timeframe that we have, there is not enough time to conduct an RFP. I was a Commissioner of General Services in charge of procurement. I mean, the timeframe that you guys were asking -- I mean, we would put out bids to offer pencils and office supplies and it would take

you two weeks, you know, and that's, in comparison, that's nothing to this.

You are asking, or the County Executive is asking probably one of the most significant portions of our budget. You're not giving us -- you are giving us three weeks basically. We have to approve the budget by November 5th. I would think in my mind any operator that would go in and have -- that would need the adequate time to review the operations it would take more than two weeks, three weeks. I would think it would probably take in the neighborhood of maybe at least six weeks to two months to do that. That leads us past our budget.

I think if there were more communication prior to his recommendation something could have been worked out so that we can kind of go down this path that he wants to go. But I think as of right now I think it's difficult to make that option, even to really consider it.

MR. POLLERT:

I would agree with you. Part of the reason that we had tried to schedule the hearings prior to the presentation of the budget is that we would have included funding for an adequate time to explore those options. That really wasn't available to us. The only option that we had was closure. That's part of the reason that there's a lot of, you know, to recommend the proposal chosen by Legislator Barraga, which is to -- to come up with alternatives that we can explore both privatization or the sale of the nursing home within the constraints of the budget. But as Gail had said, we are going to have to do that prior to the budget adoption process because the default condition is that the nursing home is going to close. So if there is no action on the part of the Legislature or if there's a veto, you are going to need 12 votes to do the override. That's going to result in the closure of the nursing home.

CHAIRMAN GREGORY:

I just think it is a wasted exercise where -- yeah, I understand that, you know, if we don't do anything, we adopt the budget as is, the nursing home will close. But on the other side of it we're looking at, and I haven't, you know, I don't think anyone has totally made up their mind yet, but you are asking us potentially to fund the operation of the Foley Nursing Home should we chose not to or should we say as a body that we don't have the necessary amount of information to make that decision at this time. Should we later decide to do that, you know, we're putting exercise and effort into something that could have been avoided.

MR. POLLERT:

That is part of the reason that we had done the HMM Report. The HMM Report gives you boundaries on what you can expect for both privatization, closure or the outright sale. So they had laid out six different options and they explored those three in detail. So with respect to the closure they talked about the value of the bed licenses. With respect to the sale of the nursing home they had talked about both the asset, the bed licenses, the patient base. With respect to privatization they had thrown in numbers there as well.

So you do have a good idea that was done by a consultant that specializes in health care that's an accounting firm that specializes is dealing with the numbers, that has numerous nursing homes that they contract with. It really is a fairly informed type of decision what it is going to cost you under those different types of scenarios. You can then add different caveats to it if you want to do things like a bridge of salary differential between the current AME contract and some other contract. Those are the tweaks which you can include in the Operating Budget, but you really do have a good idea on what is going to be saved with both privatization and/or the outright sale.

CHAIRMAN GREGORY:

Okay. Legislator D'Amaro.

CHAIRMAN D'AMARO:

Thank you. Fred, thanks for coming today. We appreciate it. And as long as you are up there I had a question for you and also to the Budget Review Office, which I have asked before. It is a question

that I would like to have answered in order to help me make a decision on the various options being discussed with respect to the Skilled Nursing Facility.

What I'd like to know is -- let me preface it by saying we can have the debate about how do we fund it for 2009, do we keep it open for 2009, at least to allow the potential sale information come in to see whether or not that's a viable option. I want to commend Legislator Barraga for thinking out of the box, taking it off budget, bonding for the facility off budget is quite, quite remarkable coming from Legislator Barraga to suggest bonding. It is kind of like Nixon going to China. It has an awful lot of credibility. So I appreciate that and I think we should look really carefully at that possible solution, at least to buy some time so we can get the information we need, and that's where I have been coming from throughout this entire debate.

My question is, and I've asked this of BRO also, I don't know if it's feasible to do. But can we project, assuming the 95% occupancy rate and the maximum efficiency by implementing some of the proposed measures for the faculty, can we approximate going into 2010 what the required subsidy would be for the facility? I asked that question at the Public Health Committee of BRO. I haven't received a response. I also -- Gail, when you emailed me the BRO Report, which is excellent and I commend the BRO Office for it, I responded by again asking whether or not we can make a projection as to what the subsidy may be. And, you know, whether or not that subsidy would be acceptable or not of course is something that goes into the mix, but is it possible to answer that question in the timeframe that we have here with this budget process.

MR. POLLERT:

With respect to the Budget Office, when we prepare the budget we prepared a multi-year forecast because clearly we were concerned about 2010. Because of retroactive IGT payments as well as retroactive rebasing revenues, the nursing home can be restored for a relatively modest amount of money during 2009. In 2010, however --

CHAIRMAN D'AMARO:

What is that amount, Fred, for 2009, your recommendation?

MR. POLLERT:

That was identified by the Budget Review office at about \$4.5 million.

CHAIRMAN D'AMARO:

Okay.

MR. POLLERT:

So, you know, using their numbers that's a reasonable estimate to include --

CHAIRMAN D'AMARO:

That's in addition to what was already funded in the proposed budget.

MR. POLLERT:

That's in addition to what was already included in the budget. The only caveat with that is if we're going to aggressively pursue privatization we're estimating that that is probably going to cost you somewhere in the neighborhood of about a million dollars. Hiring, you know, private firms to come in to provide professional management and not being able to displace the individuals currently preparing those types of functions probably was not included in the Budget Review Office estimates. So, you can do it for somewhere between four and a half to five and a half million dollars this year.

CHAIRMAN D'AMARO:

And how about looking into 2010?

MR. POLLERT:

2010, the problem will be because you have brought down what it cost to operate in 2009 using nonrecurring revenues, they disappear in 2010 and we go to a projected shortfall somewhere in the neighborhood of 10 to 12 to 15 million dollars, depending upon how many efficiencies you can get with the private firms to improve either the revenue generation, improve the patient type of mix.

What's important to bear in mind is that the HMM Report that did a multi-year forecast as well assumed a 1.24 patient mix, which is relatively high. It also assumed a 95% occupancy rate. So, you know, the bottom line is you can do it relatively inexpensively this year. By next year that shortfall is going to run its course, especially if you start to factor in staff increases, the EMHP health insurance costs, those types of things.

CHAIRMAN D'AMARO:

So you are basing that 2010 projection on the HMM Report; is that correct?

MR. POLLERT:

No, actually we did an independent model which actually looked at the cost to continue versus the cost of closure. So what we have is an independent model that does factor in things that HMM was not aware of, including the potential for salary increases, staff increases, health insurance cost increases, those types of things.

CHAIRMAN D'AMARO:

And, again, for the record, what was your independent projection for 2010 assuming the 95% efficiency and also some built in efficiencies from the proposals that have been made.

MR. POLLERT:

You would have a net shortfall somewhere in the neighborhood of 10 to 15 million dollars. We did factor in the higher IGT payment and we did include the rebasing number as well. The variable, again, deals with what type of efficiencies you can get out of the revenue side and by increasing the patient mix.

CHAIRMAN D'AMARO:

Just one more question. When you say variable you are giving me a range of 10 to 15 million as a subsidy of taxpayer funding in 2010. The low end of that, the ten million, short of let's say looking at factors that are not discretionary or that we just can't improve without taking further action, is there any way to get that number down?

MR. POLLERT:

No. In fact, the most likely number would probably be the point of the range about 12 to 13 million dollars.

LEG. D'AMARO:

Thank you. And, Gail, I just would like to ask you to chime in whether you agree with that, whether you think it is realistic to even make a projection given the variables, or do you have a number?

MS. VIZZINI:

In our interim report we projected to 2010 and we believe that with the 2009 General Fund transfer increased by the 4.5 we'll be -- in 2010 you would need nine million. It's a little more optimistic than the Budget Office, however, we also believe that there may be some surplus at the end of '09 if you are able to truly, you know, do more of a cost of continue in terms of staffing, reduced staffing, and generate the revenue that we are doing in terms of, you know, finally doing the Medicaid billing for the speciality areas, the PT, the OT, and what have you. And when we, you know, the closer we get to the end of '09 we'll have a better idea as to whether we are projecting any kind of surplus, and that surplus will be applied to reducing that nine million.

CHAIRMAN D'AMARO:

And the nine million also would assume funding at a level of 4.5 million in 2009.

MS. VIZZINI:

Yes.

CHAIRMAN D'AMARO:

Okay. So you're anticipating some of the funding from this year will carry over into 2010.

MS. VIZZINI:

If you can make those efficiencies, yes.

CHAIRMAN D'AMARO:

Right. So the 4.5 funding recommendation is just as a backstop in case none of the efficiencies really come to fruition in the short time period.

MS. VIZZINI:

Yes. I mean, you can probably restore the nursing home for less than 4.5 million, but you are making it more challenging for yourself come 2010.

CHAIRMAN D'AMARO:

Okay. All right. Well, that did answer my question. I very much appreciate it. Yes, Mr. Pollert.

MR. POLLERT:

Just one additional point. With respect to the HMM Report, the three major factors that was included in their cost analysis; the 95% occupancy rate, which we already talked about; the 1.24% patient mix; and they also assumed a reduction in staffing of 50 additional people. So one of the difficulties is, again, if you adopt the budget you are going to have to do so with the assumption, as Gail had said, that you are going to have extra salary money in there through either the reduction, you know, or the maintenance of a workforce at a reduced level.

CHAIRMAN D'AMARO:

Okay. Thank you, Mr. Chairman.

CHAIRMAN GREGORY:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Thank you, Mr. Chairman. I just want to get into a little more of what Legislator D'Amaro was just talking about because from everybody that I've been speaking to, you know, both Legislators, members of the union, people that work there, people in budget offices, people -- everybody that I have been speaking to, the general consensus, I think, if we can come to any, is that we need more time. That this decision couldn't be made, and I mean, I made the very argument last Tuesday that I don't have all the information in front of me to make a good decision.

So I understand -- we said four and a half million would allow us to lower the subsidy in 2010, but -- and while I would like to do everything possible to help 2010 and, in fact, that's also an argument that I have made, for this particular issue I just need to -- I need -- the only problem I think we can solve right now is getting us through '09 to allow the management company to get in there and do everything they can and hopefully miracles or beyond, and to allow us to gather more information about the facility. Making a decision in the next three weeks is impossible.

So my question is, four and a half million is the recommended, but if we just needed a number to put in the budget, if we forgot about 2010, to keep this facility open as it sits today, what is that number? I know what it says in the report. It says 1.5 million. Have I interpreted that correctly as if -- if I were somebody who was simply trying to get us to December 31st of 2009 so we can address this in 2009, is that the number that we're looking at?

MS. VIZZINI:

That's correct.

LEG. BEEDENBENDER:

Okay. And the reason that I ask that is simply because there are so many factors that exist right now, personality and every other thing that's involved, and I'm trying to eliminate as much of that as possible and just figure out how we can get ourselves through next year. Because I think we've gotten to the point where everybody realizes that something needs to happen, whether it is the management team coming in and doing what they can do to find every single efficiency possible and perhaps that they can do more than anybody anticipates, and that would be welcome. Or perhaps it's investigating some privatization of some, of part, or all.

But I just think if that's the number that can get us through, maybe we do a little more than that to try to adjust 2009 and if the management company doesn't do as well as we thought, but I think that we need to focus more on that because, I mean, we've had so many people come here today and they are going to come to all the other meetings and we have no money. I mean, under the most ambitious -- on the most ambitious we're \$60 million in the hole. Under the most, not ambitious, the glass half empty, it's over 100 million. So I'm just trying to figure out how -- I'm not trying to put the problem off. I'm just trying to figure out how I can solve this problem now, well, not solve the problem, I can keep it open so we can keep talking. Because under this current atmosphere, no global solution is going to come to fruition. I saw Bob put his hand up, I saw Fred put his hand up. So Bob, why don't you go first.

MR. LIPP:

Okay. Just so everything is clear here. In the recommended budget the transfer is recommended at three and a half million. The requested transfer would require another four and a half million.

Okay. Our recommendation was for the other four and a half million. What we did say in the report also is that it is possible it can be done for not the extra four and a half but an extra one and a half. That difference -- first of all, understand there are a lot of variables with the nursing home. There is an increase in reimbursement, which helps. There are efficiencies being done there with the new person that's running the place.

That being said, it is very difficult because it is hard to say what the announcement effect and all that would be, so that we felt most comfortable with the four and a half million. That being said, where the one and a half comes from basically is you take the current staffing levels, just over 280 people, and you just give people steps for '09. Then that's like a \$3 million difference between what the requested salaries are and what the salaries would be at this staffing level. That's three million dollars. The difference between four and a half what we're saying, to put it back to the requested, and that three million then would get to the one and a half that we were talking about. So the point to be made is will it actually happen at the of end of '09 if we keep it in there? That's difficult to say. Is that the conservative way of budgeting? No, but it is a plausible scenario. It does buy you time. We're not recommending it. We are recommending put in the four and a half.

LEG. BEEDENBENDER:

Just as a follow up, Bob, and just -- because not knowing where we are going to be able to come up with all of the money to put in the budget what is not there, the nursing home. If I said we'll split the difference, if this Legislature put three million additional dollars in the budget in addition to what's there, could we be confident that there is enough money to run that facility for 2009?

MR. LIPP:

Yes.

LEG. BEEDENBENDER:

Okay. Fred, you wanted to say something, too.

MR. POLLERT:

Clearly we would have to look at the numbers because even though they included the expenditure side we haven't really looked at what their assumptions are with respect to the revenue side on the budget. So, again, this is where the two of us I think need to sit down and, you know, compare the two models that we have with respect to the nursing home.

The Legislature has expressed a tremendous amount of enthusiasm with respect to hiring a consulting firm. Right now the bid is on the street. We've had the bidders conference. Consulting firms to come in to make recommendations don't necessarily come inexpensively. So if you want to redo the finance function, the individuals that you are talking about are not going to be coming at a normal County grade and step. You are going to be probably getting proposals back from a consulting firm that are going to be relatively expensive. So if you have too little money included in the budget, you are not going to be able to do what you want to do with respect to a management firm.

CHAIRMAN GREGORY:

Okay. I have a quick question before we go to Legislator Kennedy, then Viloría-Fisher. HMM, how long did they have to make their proposal for the RFP?

MR. POLLERT:

I would defer to the Health Department, but my recollection is they worked on it for probably six months.

CHAIRMAN GREGORY:

Okay. So you give a consultant six months to make a recommendation to -- to make a recommendation. I won't even say to close it, open it or whatever, but yet we have an RFP that is going out to run the management and we're not giving the same amount of time as someone who is given to make a recommendation. That, to me, is a problem.

MR. POLLERT:

Well, the HMM Report was presented to the Legislature probably four or five months ago, and HMM offered to come back. They did do a presentation. The report was distributed to all the Legislators, and that data was made available. It was the Legislature that wanted to do the management report. We will --

CHAIRMAN GREGORY:

No, no. Understand what I'm saying. You give someone six months to look at the operations, everything as a whole, to come back and make a recommendation, but yet you are not going to give a management company the same amount of time to run those operations. Because they are going to have to do their own independent evaluation and make efficiencies as they move along the process.

MR. POLLERT:

Well, that's a very good point. So just looking at the timelines, the RFP calls for a one year contract for a management consulting firm. Under the best of circumstances, if we fast track this, you probably are not going to have a management consulting firm in until March or April fully geared up. If you give them a year to come up with responses, depending upon what they are going to be doing, in all likelihood you are going to have to be funding the nursing home through 2010 as well by just by virtue of the fact that you are not even going to have a report until probably April or May of 2010. So the RFP requires quarterly reports, but there is a one year contract. So that's part of the reason you wouldn't have to look at the cost in 2010.

So if you go with a management firm, you are going to have to fund it for both 2009 and at a minimum for 2010. Then, if there is a six month extension, something of that sort, we're beginning the budget cycle for the 2011 budget year by July. By then we're hot and heavy into the 2011 Operating Budget. So, again, dealing with a management company, unless you can construct a contract to get out, if you go down the path of the management contract, it may be rather difficult to

say, gee, I want to also explore the options of doing privatization or the sale of the nursing home. Then are you going to have to void out the contract and say it's conditional upon the County deciding not to take a different action, which is to do the sale or the lease of the nursing home.

CHAIRMAN GREGORY:

Gail, did you want to make a comment?

MS. VIZZINI:

You know, the only summary comment I could offer is that we definitely need more time to review our options here. And if those options are going to include contracted management or they are going to include, you know, any privatization in part or in whole or the outright sale, one of the points we make in the report is unless you are going to have a very, very rapid turnaround, this operation is worth a lot more alive and well and operating than it is if you just shut it down. But, again, that is your policy determination.

CHAIRMAN GREGORY:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Fred, just a couple of comments and I guess maybe almost a plea, if you will. First of all, the scenario that you articulated and laid out omitted the fact that we passed a resolution in March to go ahead and to move a management company in. We've had almost seven or eight months now elapse and we're still going through the process of entertaining the bidders conferences. I had an opportunity to go out to the old infirmary for that conference whenever it was, Thursday or Friday.

You are an extremely intelligent financial officer, but what I will suggest to you is, the elements you articulate at this point, almost six months beyond when we adopted a resolution to put a management company in, speak to all of the reasons why we shouldn't be putting a management company in. But you had the opportunity to make those cases six months ago and we decided to adopt a resolution to put a management company in. So while we need to hear what you speak to us about, about a 24 or 36 month timeframe, we've still notwithstanding said we want a management company there.

We want a management company there to go ahead and do a number of things, to take advantage of looking at what's going to occur with the whole profound shift in reimbursement regarding Medicaid that you know is occurring starting in January. We want a management company in there to go ahead and to go ahead and take advantage of some of what's occurred, particularly in your PT area. I still disagree with the amount of the contract, but clearly we need to capture additional reimbursements. And that 500,000 or so of additional reimbursement that's coming will affect the numbers radically. The fact that Tricare has now been engaged to go ahead and provide John J as an insure and then seven, or eight or nine other health insures. None of that was in place associated with this HMM Report.

This is a fluid and moving type of a situation where all of us are struggling mightily as recently as Saturday morning to once again tell the CFO and the CEO for St. Catherine's that John J is open, it is viable, and it is functioning, and please continue to send patients. I look at the stats every day and I see them dropping. So as we do this in the public we are sending the wrong message out there that it is going to close and be shuttered, and it is a self-fulfilling prophecy. As we talk about it struggling and dwindling down folks become concerned to send people there. You speak of a 95% reimbursement rate. Let's commit to it, let's work to keep it up, and we will get the revenue streams that we need with the efficiencies. I welcome joining with you.

APPLAUSE

LEG. KENNEDY:

But I will rail every time against language that says that it is definitely going down a porcelain road. That I'm vehemently opposed to.

MR. POLLERT:

Just with respect to the RFP. From the time that the Legislature adopted the resolution we worked on that almost seven days a week and turned around a fairly complex RFP out of the Budget Management Office with the help of the Health Department in I think about two and a half weeks. There were delays down the line, but the delays were not on the part of the Executive Office. I'd really put in a tremendous amount of work to turnaround that RFP.

With respect to the occupancy rate, the current nursing home administrator has been told that one of his goals and objectives, and it is written in his contract, is he is being evaluated on keeping up the occupancy rate. Part of the reason there was a drop off is there was a number of patients that were discharged from the nursing home to hospitals. So part of looking at the day-to-day trends, you really need to contact either the Health Department or have an explanation from them what's going on.

We are requesting that we monitor that on a daily basis as well. I've got graphs and charts with respect to what's happening with the operations. You have a very proactive manager there, but no one has told him to do, you know, his goal and objective is to keep it as filled as possible and he has done an excellent job with respect to doing that. But there is going to be daily and weekly fluctuations.

LEG. KENNEDY:

We need to find a solution. I'll yield.

CHAIRMAN GREGORY:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair. Thank you for being here, Fred. I do have a couple of questions about the RFP. Actually that wasn't going to be my line of questioning, but your answers have prompted more questions. You mentioned that you wouldn't anticipate a management company to come in before March of 2009. You also said that -- that the County Executive's Office was very expeditious in preparing the RFP in two and a half weeks. I remember passing this a lot longer ago than two and a half weeks. Then you indicated that the delays were elsewhere.

So my question is where are the delays coming from, why will it take so long to begin the work of the management company, and I go back to the issue of self-fulfilling prophecies and foot dragging that will result in the failure of the economic viability of the nursing home. Sorry about that, I didn't turn that off. Fred?

MR. POLLERT:

Dealing with RFP's is a difficult process.

LEG. VILORIA-FISHER:

I know. I've had one for nine months that I've been waiting to be published.

MR. POLLERT:

The RFP was turned around relatively quickly by the Budget and Management Office. It was sent to the Presiding Officer for his comments, his changes. There were discussions back and forth. That introduced a little bit of a delay. It then goes to Purchasing Department. They had to advertise it and then there is --

LEG. VILORIA-FISHER:

How long was it in the Presiding Officer's Office?

MR. POLLERT:

I really can't recall offhand. I'd have to go and look at the timeline when it was sent across. The it goes to the Purchasing Department, it's advertised. Then you have to give a period of time for the vendors to be able to respond, to come up with a group of questions. The Health --

LEG. VILORIA-FISHER:

How long between the time that we approved of it and the day that it was published? Do you know?

MR. POLLERT:

I really don't. I'd be happy to come up with a timeline.

LEG. VILORIA-FISHER:

I would appreciate that, okay, because I am concerned about the time that it took from the passage of the resolution and the time of publication, because it did seem a long time.

MR. POLLERT:

I was just informed that it was published on 9/11. With respect to the length of time it is going to take to actually get someone on board, even if we start to expedite the process we have just had the bidders conference. We have to turn out the responses to the prospective bidders from the bidders conference. It's not just a question of choosing a vendor at that point in time. There is a due diligence process where you want to check on the credentials of the individuals, you want to probably interview them. The RFP process calls for a representative of the County Executive's Office, the Presiding Officer's Office and the Health Department. So bringing in the vendors, having a discussion with them, doing a due diligence with respect to their capabilities, and then having the Law Department execute a contract with them, and then being able to actually have people on place and hit the ground running, the March to April timeline appear to be a reasonable factor.

Just by the way of background, the closure of the Suffolk Health Plan, the sale of the Suffolk Health Plan, that entire process began with the adoption of the budget and then they closed on September 30th and we were expediting that as much as possible. So the process can be relatively complex, it can be relatively convoluted, but that March to April timeline appears to be a reasonable timeline to get someone onboard, properly vetted, and a contract executed.

LEG. VILORIA-FISHER:

Are you free to say how many bidders are involved in the process at this point?

MR. POLLERT:

Frankly, I don't know. I didn't go to the bidders conference.

LEG. VILORIA-FISHER:

Ms. Malafi, would you --

MS. MALAFI:

I don't know.

MR. POLLERT:

The bid proposal was sent out to about a page and a half of prospective people that would be able to bid.

LEG. VILORIA-FISHER:

Okay. Could you get that information to us?

MR. POLLERT:

Yes. Yes, I can get you that list.

LEG. VILORIA-FISHER:

I appreciate that. Okay. I have another question for either the Budget Office or Budget Review. I've asked this before, and I agree with the Chair who has said that we should give this a year, 2009, or until the contract of the new management company is up to determine what kind of economic future there is for the -- for the facility. But I have pointed out that along with the inability to attract new patients because of all of this publicity and all of the rhetoric associated with it, we have also not moved forward with some very critical HVAC efficiencies. I wish Joe Schroeder were here because he could give us more detail on that. But I believe there had been an evaluation or a grant for an evaluation of the HVAC systems, the energy systems, at the nursing home. I know that because it is a nursing home there is a great deal of hot water usage and steam, and that if we were to employ efficiencies they could really have a large bottom line affect on the running of the facility and those have not been able to move forward because of the specter of the closure.

So I wondered has that been taken into account by anybody vis-a-vis the bottom line and the net amount that would have to be expended if we were to incorporate some of the recommendations that might come out of the reports that have been done.

MR. POLLERT:

The Legislature I believe had adopted a resolution to look at cogeneration because of the 24 hour a day electric demand as well as the need for hot water. That was referred to the Department of Public Works. I don't know what they have done with it. I have lost track of that project. I would be happy to find out from the Department of Public Works if they have moved ahead with the project or not.

LEG. VILORIA-FISHER:

I don't think they have because of the specter of closure. Why put the efforts into a building that's going to be dismantled. Does Budget Review have any information on this?

MR. POLLERT:

Actually, from the County Executive's Office we would not have told them to do that. The decision to close or sell or privatize was something that only came about during the budget process. So that was a resolution that goes back prior to that.

LEG. VILORIA-FISHER:

But they do have priority lists and I'm assuming that if they have buildings that they know are going to be operating for the duration and they have a building that's under threat of closure, they are not going to move forward with the project there. Robert?

MR. LIPP:

Our understanding is that there -- that that's sort of on hold because this process needs to vet out what's going to happen with the nursing home, and should the nursing home continue under the County's auspices, then that process would move forward. What the actual savings might be from that I'm not sure of at this point.

LEG. VILORIA-FISHER:

Okay. And so I think that goes back to the self-fulfilling prophecy issue, which is that you can't implement cost savings, you can't attract patients, you can't do any of the type of due diligence that you need to do to have a viable facility as long as you have the specter of closure or sale hanging over your head. We need to have a year, 2009, which is free of this pressure in order to have a realistic, fair, open minded evaluation of what good management can do with regards to the future of this facility. We can't do that with the rhetoric that's out there in the media press conferences pushing for closure or sale. Thank you, Mr. Chair.

MR. POLLERT:

Just to clarify the point one more time. Clearly there's a lot of interest with respect to a management firm. By the time they are doing the 2010 Operating Budget, we're doing that in July

of 2009, you know, if you decide to move with a management firm you should really do so with the expectation that you are going to have to include funding for 2009 and 10 with respect to the nursing home. That again is the two year timeframe that both the Budget Review Office and myself were looking at in our budget models.

LEG. VILORIA-FISHER:

That's understood. It's unfortunate that when we began this conversation that efficiencies and better management were not the first route that we took, but at least now we're looking at that.

CHAIRMAN GREGORY:

Thank you. Legislator Barraga.

LEG. BARRAGA:

There has been a great deal of discussion and I just want to be brief. Fred, I just want to go over something you said, which I think is extremely important and it kind of supports my position on this issue, that you are looking for alternatives in terms of a revenue source. I think that's very important, especially between now and November 5th, because obviously if you can come up or something can come up with an alternative revenue source, that affects the dynamic associated with the vote on the budget. I'd like to see if that can be established, Foley then taken up as a stand alone, a separate issue off budget. This gives everybody the time needed to do the RFP and to do a proper evaluation on response.

And also the other day at our meeting I pointed out something which I think is important, otherwise I sense problems coming down in the future. When and if you get to a point where you are putting together the RFP there should be a specific committee with equal weight; some representative from the Executive Branch, the Legislative Branch and the union. When this was discussed the other day there was a comment, well, you know, we'll eventually work on this and we'll get input from these other groups. That is not adequate. Unless you find yourself in a situation where, you know, you're considered the lead group and the criticism is there because there wasn't adequate reach out. But once you have a representative from each one of those three areas, they all have input. They all have an imprint on this so that when it finally has to go public they are all on board and you avoid a lot of political criticism that I think would come about if you just had the Executive Branch or the Legislative Branch or some other group being the lead at the expense of the other two. Thank you.

CHAIRMAN GREGORY:

Thank you. Do you have any more comments, Fred?

MR. POLLERT:

No.

CHAIRMAN GREGORY:

Okay. That being said, I will make a motion to close. Second by Legislator D'Amaro. All in favor? Opposed? We stand adjourned.

(*THE MEETING WAS ADJOURNED AT 12:03 P.M.*).

{ } Denotes spelled phonetically