BUDGET AND FINANCE COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

MINUTES

A meeting of the Budget and Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on Tuesday, September 4, 2012.

Members Present:
Legislator Lou D'Amaro - Chairman
Legislator Jay Schneiderman - Vice-Chair
Legislator Lynne Nowick
Legislator Tom Muratore
Legislator Wayne Horsley

Also In Attendance:
Legislator John Kennedy - 12th Legislative District
Legislator Tom Cilmi - 10th Legislative District
George Nolan - Counsel to the Legislature
Barbara LoMoriello - Deputy Clerk
Justin Littell - Aide to Legislator D'Amaro
Michael Pitcher - Aide to Presiding Officer Lindsay
Paul Perillie - Aide to Legislator Gregory
Kevin LaValle - Aide to Legislator Muratore
Greg Moran - Aide to Legislator Nowick
Ali Nazir - Aide to Legislator Kennedy
Maria Barbara - Aide to Legislator Tom Cilmi
Gail Vizzini - Director Budget Review Office
Robert Lipp - Deputy Director - Budget Review Office
Craig Freas - Budget Review Office.
Ben Zwirn - County Executive's Office
Tom Vaughn - County Executive's Office
Rick Brand - Newsday
All Other Interested Parties

Minutes Taken By:
Alison Mahoney - Court Stenographer

Minutes Transcribed By:
Alison Mahoney and Gabrielle Skolom - Court Stenographers

(***The meeting was called to order at 10:10 A.M.***)

CHAIRMAN D'AMARO:
Good morning, ladies and gentlemen. Welcome to the Budget Committee of the Suffolk County Legislature. Please rise and join the Committee with the Pledge of Allegiance, led by Deputy Presiding Officer Legislator Horsley.

(***Salutation)***

Note for the record that the Committee did receive correspondence last week. The correspondence is from Legislator Barraga. It's dated August 23rd, 2012, addressed to myself with a copy to each of the Committee members concerning a resolution that's pending in the Committee, resolution number 1443. If you did not get a copy of the correspondence, we will be happy to make it available to you.
Okay. Are there any cards this morning?

MS. LOMORIELLO:
No.

CHAIRMAN D'AMARO:
Anyone here who would like to address the Committee? Okay. For the record, there's no response.

The next item on the agenda are presentations. This morning, as we always are, we're joined by the Budget Review Office. We've asked the Office to come in to make a presentation and present the Article 9 report that was issued last week. Pursuant to Article 9 of the Administrative Code, the Budget Review Office is required to certify whether privatization or the sale of the Foley facility will result in a 10% savings to the County over each of the next five years. That's as measured against the cost of continuing to operate the facility. This particular report concludes that the sale proposed to the Sherman Organization would result in that 10 percent savings, minimum required 10 percent savings. So for the purpose of meeting a condition precedent to the sale and the Article 9 requirement, the report removes another obstacle to approving the sale at the nursing home.

However, I would like to explore this morning the report's conclusion with respect to estimated savings to the County or the estimated subsidy or deficit of the facility, should it be sold. The County Executive's Office had a higher savings, or net savings, to the County should the facility be sold as opposed to continued operation as compared to the conclusions reached in the Article 9 report of the Budget Review Office.

So, first, I would like to look at the memo that was recently issued and examine the underlying assumptions of both the revenue and expenditure estimates, and I do realize that they are only projections, but nonetheless, there are certain assumptions that are made in this particular report, and I would like to explore those this morning, and after we do that, I would like to compare this memo to a similar memo issued by the Budget Review Office on July 23, 2010, when making the same Article 9 inquiry with respect to the proposed sale of the facility to Ken Rosenberg. That memo also projected the savings to the County should the facility be sold, but it concluded that the savings would be much higher for the same years covered by the 2012 memo, and I would just like to understand and explore why those conclusions differ between those two reports. So with that said, I'd like to ask the Budget Review Office to go ahead, and if you would like to present your report, we do appreciate you being here this morning.

MS. VIZZINI:
Thank you, Mr. Chairman. Before we get to the specifics of your very specific questions, I would just, with the Committee's indulgence, walk you through a couple of pages of the report, why we do it, what it is, what other charts show and the charts do show the projected General Fund subsidy and how the proposed sale, similar to the previous proposed sale, does, in fact, meet the 10 percent threshold. I gave Justin copies in the event that the Committee wishes to refer to it. If you have your computers up, it's on the webpage.

CHAIRMAN D'AMARO:
Okay. Thank you.

MS. VIZZINI:
At any rate, as you indicated, this report is required when the County seeks to privatize certain Health Department services; the Budget Review Office is required to certify that such a privatization would, in fact, save 10 percent in each of the -- in each of five years following that sale. In this case, this proposed sale would do that. It doesn't examine the merits of the sale or the protocols of the sale or anything like that. It's based on assumptions as far as expenditure and revenue. For the purposes of our expenditure assumptions, they are itemized on page three of the report but Craig will respond to your direct questions.

We basically went back and saw how we had run the facility in the past. Generally speaking, we had -- we were able to garner a certain percentage of revenue and reimbursement somewhere in the neighborhood of 84 percent over the past five years. So we followed using certain assumptions in expenditures akin to what it -- what it took us to run the facility in the past. We do not include 2012 in our five-year projection. We begin with 2013. We specifically address that 2012 in and of itself is a bit of an anomaly because of the way the budget structured the continued operation of the nursing home. It was intended that the number of staff be reduced midyear -- all those positions are interim -- and that the number of beds be reduced to accommodate an anticipated private public partnership, thereby making room for the private to come in and operate some sort of other health delivery service.

Unfortunately, the private public partnership has not materialized; neither has the $7 million in revenue related to that. The -- although the numbers of staff are being reduced by attrition, they have not been downsized in accordance with what was intended, so the facility itself has incurred about another $3 million in expenditures, so the loss of $7 million in revenue and the additional $3 million in expenditures is roughly going to require an additional $10 million subsidy from the General Fund in 2012.

(*Legislator Stern entered the meeting at 10:06 a.m.*)

It will either end up as another hole in the General Fund or the nursing home fund itself will end in a deficit of that magnitude.

It's my understanding from the discussions at the Foley Oversight Committee that moneys are being transferred from any available surpluses in the nursing home to the personnel lines to allow for the continuation of the facility, and the personnel lines are one of the only lines that the financial system will allow to go in the red until appropriations are transferred in.

If you look at page four of your report, you see that we've estimated the expenditure of the nursing home for 2013 through 2017 to be in the range of 34 to $40 million. We've incorporated in our assumptions certain increases in salaries, certain increases in the cost of delivering the healthcare. We have minused the anticipated revenue. One of the areas where we differ with the County Executive's presentation is the County Executive does not include the IGT revenue. What we do is we find that this particular revenue -- although it varies, we may get two years' worth in one year or we may get one year or we might not get any, and then we'll get two years. For the purposes of this exercise, we smoothed it out and we do have the IGT revenue in there on an annual basis.

So when you have your -- if we take the first line, 2013, you have your 34 million in expenditures less your Medicare and other related revenue, less your IGT, the transfer from the General Fund would be in the area of 3.6 million. It would be more or less depending on what actually happened with revenue and expenditure. We do this report from both the budget perspective -- we do it from the budget perspective because we're always talking about budget shortfall, and we use the budget numbers and the history from the budget numbers to give you the budget perspective. The County Executive and the Health Department prefer to use the financial statements which candidly do present a little bit more dire picture for a number of reasons but so that the numbers are not that different raising issues on that regard, we show it both ways.

So if you look on page five, using the same methodology but taking the expenditure and revenue from the financial statements, the deficit would be somewhat larger. It would be $4.5 million for that same year and exceed $7 million in 2017. Annually, there is roughly five -- five point something million dollars deficit in operating the nursing home. Interestingly enough, the value of that deficit we estimate to be probably equivalent to the 50 or 60 beds of those people who are hard to place, those people who it would be -- they have a lower level of acuity; therefore, their reimbursement is less, and they might be less desirable and more challenging to place elsewhere.

Looking at the final conclusions in terms of what percentage of expenditures the proposed sale would give us is depicted on page eight and there you see that -- now, on this we have certain legacy costs which are primarily the health insurance for retirees, for County employees who worked at the nursing home. What we did was on a budget basis, there are the two tables here: one on the budget basis and one on the financial basis. If the shortfall in 2013 was $3.6 million, there are still certain legacy costs. As I stated, the health insurance for retirees, they have to be paid. Whether we have a nursing home or we don't have a nursing home fund, the General Fund will pay this expense, so if we take out the legacy costs, we still have a savings based on the sale, and that is 39 percent of the net expenditure.

CHAIRMAN D'AMARO:
Okay. Thank you, and I had a couple of questions and then I would like to turn it over to any Committee member that has questions. Thank you for presenting the report, and I do realize that the purpose of this particular report is to meet the requirements under Article 9-6 of the Administrative Code to determine whether or not that 10 percent threshold has been met so that the sale can go forward, if that's the choice of this body. But, nonetheless, it does make certain conclusions with respect to savings to the County, and I'd like to explore that a little bit here this morning.

The first thing, Gail, is you talk about the budget basis and we talk about the financial basis, and when you look at those tables there are substantial differences between the conclusion with respect to the expenditures, the next expenditures, and I do see in the report the difference, the primary difference, is that the financial method I believe takes into account depreciation, bad debts, and other post-employment benefits, and they can add up to some substantial amount. Allowance for bad debts, in your report, says it adds another 1.7 million annually. And I'm -- can you explain why that is not included in the budget method? If a bad debt is a bad debt and needs to be covered by the General Fund, why wouldn't that be included? Why is there the difference? Just before we get into the actual questions we might have, I'm trying to get a handle on what's more reliable for us when we're doing our budget and meeting the subsidy amount for the nursing home. Should we be looking more to the financial method or should we be looking more to the budget basis? It's complicated, huh?

MR. FREAS:
At the nursing home, the budget basis is -- it's basically cash. It allows for some accruals like -- it's a modified accrual, but it basically allows for -- the money that we get is the money that we get. The financial basis -- I don't know how -- I'm trying to search how to phrase this.

CHAIRMAN D'AMARO:
Well, let me --

MR. FREAS:
-- with respect to the bad debt.

CHAIRMAN D'AMARO:
Right.

MR. FREAS:
The budget is not accurate, but basically it lags reality. Okay?
We bill like any other service. We bill. We wait for a little while. The people are -- our payers pay us, hopefully, and we collect that money. The budget accounts for that. The financial statements account for people who are not going to pay us. The other thing that the financial statements have historically accounted for is if there is a rate change that we know is going to happen but has not yet happened, the fund -- excuse me, the financial statements account for that as well. That happened in the 2009-2010 year. The budget accounts for it by not getting the money that we budgeted for. The financial -- on a financial basis, we account for it at the same time.

CHAIRMAN D'AMARO:
The financial basis or method is really an accrual method.

MR. FREAS:
Correct.

CHAIRMAN D'AMARO:
Okay. So the point I would like to make, and I would like you to respond to, just so that I know which method to feel more comfortable using, is when you have allowance for bad debt or accounting for other post-employment benefits, for example, that can go into the millions of dollars, in the budget model -- although we're not accounting for them in the budget model; in the financial model, we are -- and they are ultimately real obligations of the County and a cost to keeping the nursing home operating. Is that accurate?

MR. FREAS:
Yeah. There are costs to keep -- with respect to the other post-employment benefits, there are costs to keeping the County operating.

CHAIRMAN D'AMARO:
Right. So you may just not --

MR. FREAS:
I think cost is an inaccurate term. It's a liability that we have.

CHAIRMAN D'AMARO:
Well, a liability that ultimately has to be met by the County.

MR. FREAS:
Right, but we don't -- it's actuarially derived, and while the actuaries make assumptions that are as accurate as possible, they're not reality until that person retires, so -- yeah.

CHAIRMAN D'AMARO:
Okay. But what we're talking about here, it's in the context of whether or not the facility remains opening -- open or whether it is sold and so we're talking about what would be the cost if we continue, and I think, it seems to me, that the financial method might be a more valid basis for us to look at in this context because although you may not be immediately incurring those expenses, it is still, nonetheless, an obligation of the County, and ultimately someone is going to have to pay those bills so that -- it seems -- I did notice, Gail, what you had said at the beginning, that the financial method seems to have a higher subsidy required because it's accounting for, in the year that they occur, the bad debt and the other items which ultimately are an expense to the County. So it just seemed to me that when we're looking at the purpose of analyzing is, well, what is the subsidy for the facility, I would think that financial method is more appropriate in this context. Would you agree with that or disagree with that?

MS. VIZZINI:
Well, that's why we do it both ways, so it's no --

CHAIRMAN D'AMARO:
Okay.

MS. VIZZINI:
Although, Craig does have one comment.

CHAIRMAN D'AMARO:
Go ahead, please. Sure.

MR. FREAS:
We subsidize the County based on the -- on the budget. The General Fund subsidy that ultimately gets paid is based on the budget. We make the budget numbers. We don't make the budget numbers, and then the general funds subsidy is whatever that difference is.

CHAIRMAN D'AMARO:
Uh-huh.

MR. FREAS:
So, again, that's why we do it both ways.

CHAIRMAN D'AMARO:
All right. I appreciate that, and not to belabor it, but just in my own mind when deciding whether it makes financial sense, from a financial perspective, to continue operations, I want to include all of our obligations whether they're accrued this year and realized this year or whether they're accrued down the road because, ultimately, someone's got to pay that bill. A couple of other questions I had --

MR. LIPP:
Could I add one thing?

CHAIRMAN D'AMARO:
Sure. Go ahead, please.

MR. LIPP:
You are clearly correct, but from a bigger picture point of view when we look at our budgets year in and year out for all service provision, we tend to focus -- we do focus on the budget as opposed to the financials that we give to the State, so really from a broader point of view, the argument being made here, which is a good argument, is we, you know, should try to merge the two more so to look at just one issue only from a financial point of view and everything else looking at it from a budget point of view is, you know, is sort of like, you know, very limited.

CHAIRMAN D'AMARO:
Okay. All right. Another area I wanted to look at was -- and, Gail, you had mentioned in this in your opening remarks, and I just want to explore this a little further, is leaving out in the baseline the 2012 budget. You had mentioned it was an anomaly in the sense that the budget that we passed that the County has for 2012 anticipated a public/private partnership, which would realize revenue and then a downsizing which would decrease expenses, neither of which occurred. I think you said it was about $7 million on the revenue side for the public private partnership and about $3 million for the downsizing. The report does conclude itself that the Foley subsidy for 2012 is going to be approximately 14.1 million.

Now, we used -- you used the word in the report -- it's an anomaly -- but what I want to try and explore here this morning is whether or not it's an anomaly for purposes of determining a baseline for this report or is it an anomaly that, going forward, if we do not sell the facility or close the facility that we're not going to realize the same subsidy, the 14.1 million. Because -- in my way of thinking is that if we operate -- if we don't close or sell the facility and continue to operate it, just as we have been doing today, which means there's no public/private partnership and there is no downsizing, that really the subsidy from the County's perspective is about $14 million, but yet our baseline in this report doesn't include that, so can you explain that to me?

MR. LIPP:
We felt that the proper comparison -- we had spoken about this in-house -- was to say what would be the subsidy on behalf of the County if we ran it appropriately and we -- you know, relatively efficiently. That being said, and Craig could speak to it better than I, we did not assume full capacity, bed hold, all that kind of stuff, but rather what we felt was a really reasonable assumption. Now, are we capable of running it inefficiently and incurring $14 million shortfalls on an annual basis? Yes, we are capable, but we believe that the proper analysis is long-term if we do a decent job, not a perfect job, but a decent job, that that's the better benchmark to compare and for you to help to make a determination as to what the subsidy should be. There's no way we should make any assumption about we're going to run it into the ground or anything but rather that we will demand a reasonably efficient facility and that will be a better -- we believe that will be a better benchmark of comparison.

CHAIRMAN D'AMARO:
It seems to me that you only make assumptions when you don't have a reality to base something on, and here the reality is a $14 million subsidy required for this year, okay, and you want to make the assumption, and it's a good assumption, that going forward, it will be run somewhat more efficiently and we can debate that all day. What is efficiency? What standards do we want to meet? How much will that impact the subsidy? But we know in 2012, it's $14 million. So again, for the purposes of this report, when trying to determine what is the actual cost to the County, it would seem to me that it would be almost important to include that 2012 figure in the baseline because that's a reality. It's not based on an assumption.

MR. LIPP:
The reason why we chose not to was that what was presented to us in the previous budget -- us being the County -- was the assumption of closure and that what the Legislature in the recommended budget from the previous administration and what the adopted budget included was a almost hypothetical public/private partnership that because of how the RFPs were vetted out, it never really happened. It was sort of like we were set up almost for failure in hindsight, and that -- it seemed like that would not be a good benchmark to look at going forward.

CHAIRMAN D'AMARO:
Okay. And again, I understand where you're coming from. You were looking for benchmark. There were certain assumptions made in our budget this year that weren't true in prior years. But what I see is that if we don't have a public/private partnership and we don't downsize, the subsidy is 14 million a year, not the 3 million or 4 million that the report concludes.

Okay. Let me move on because I know there are other questions. Two more things I want to ask you. The memo assumes, Rob, and I know it states this specifically: It assumes regular growth rates for revenues and expenditures, but the reality is, at least in my experience, is that revenues are going down substantially, especially state aid, which your report even mentions is so unpredictable, and while expenditures are going up exponentially, pension costs -- we talk about it here all the time -- the cost of healthcare is going up exponentially as well. The State aid, as I mentioned, is unpredictable. So to go ahead -- and even, I think, Medicaid reimbursements are uncertain at this point and where they're going and the direction that they're moving and to assume increases of all of these items for the purposes of throwing a number out, what's the justification for doing that as opposed to making an assumption which I would have made that revenues are going down and expenditures are doing nothing but going up as opposed to assuming growth in both. Why would you do that?

MR. FREAS:
The issue with the -- let's talk about the revenues first. The issue with the revenues first is the movement in New York State -- and it's earned revenue, it's not State aid, I think, just to make that distinction -- is the difference -- the issue with the revenue is the movement towards regional pricing for long-term care services in the Medicaid reimbursements. We had assumed originally, and I think we stuck with this because we actually felt it was more conservative, that we'd get our two percent trend factor over the five-year period. In the course of the research, the nursing home association that we belong to, which is called LeadingAge New York, has developed the impact of regional pricing. They actually did it by nursing home and we found that there was actually a slightly larger, at the end of the five-year period, we ended up, actually, with a little more than 2.3 percent averaged over the five years in increases in reimbursement. Is that enough to keep up with the increases in expenditures? No.

The other -- I think the biggest difference between the 2010 report and the current report is the fact that the -- the nursing home has really done a good job in controlling expenditures despite the controversy surrounding the facility over the last three years. Part of it is simply because, well, we're spending less money because we have less patients, but that's not the whole story. You have to remember from 2009 to the fall of 2010, we were -- we were at over 90 percent in bed capacity, which I believe is above average for homes in this market, the County as a market, for the time period and -- but we had also at the same time been able to reduce staff, reduce full-time staff, probably by I'm going to say 20 percent in that -- that's a significant savings for us in the pension and benefits side including healthcare benefits.

The other thing is healthcare benefits have been less than the -- healthcare benefits have cost less over that time period, at least in the nursing home; and lastly, I'm going to bounce back to revenues for a minute. Even though we used a more generic bad debt number that's a little bit higher, bad debt's actually been lower at the facility over the last three years. I don't believe our revenues are significantly different than those at the nursing facility or significantly different looking at the 2010 report and the current report. The revenues are not significantly different. Our baseline for the original expenditures is actually less, and I think that's probably where most of the change -- the reduction on our part in what we believe it would cost going forward is. Now --

CHAIRMAN D'AMARO:
Well, let me just get into that a little bit, expenditures-wise.
How many empty beds are in the facility right now?

MR. FREAS:
At current, I believe we're at about 192 beds filled. We have a potential for 220 some-odd. We actually had one wing -- four south is completely closed.

CHAIRMAN D'AMARO:
See, the report -- and it's the last point I'm going to get to in a few moments. The report talks about running this facility in the most productive and efficient manner maximizing occupancy and minimizing costs. Now when you talk about pension costs going down and healthcare costs going down --

MR. FREAS:
I didn't talk about -- only relative to the amount of personnel. The assumption is that pension costs are going up. And actually, the assumption we made with respect to pension costs is we just brought 2013 forward which is -- in other words, there would be that magnitude of increase every year.

CHAIRMAN D'AMARO:
Right, and I understand your report. It's about personnel. Generally speaking, these costs are going up, but even talking about personnel, if we're going to assume operating at a reasonable level of efficiency and maximizing occupancy, aren't we then talking about hiring more employees?

MR. FREAS:
Not necessarily. We're talking about having more FTEs present at the facility. Most nursing home facilities, including most publicly-owned facilities -- but let's talk about publicly-owned facilities. Most of them operate with about 80 percent full-time employees. In other words, if you have 250 employees or 250 patients, you probably have 200 full-time employees who are on the books. The other 50 employees, who are probably your nursing staff, some of support staff, like cooks and things like that, are either part-timers or agency staff or temporary staff and so forth. It's a lower-cost model, obviously, because you are not paying benefits to those 50 employees, or 50 full-time equivalent employees. Let me put it that way.

CHAIRMAN D'AMARO:
So you're saying that even if we filled more beds that the salary and benefits cost are not going to go up?

MR. FREAS:
I'm saying that the salary and benefit costs would not go up the way -- they will not go up necessarily because we're going to hire one whole person. The nursing home -- a full-time employee at a nursing home, a Suffolk County employee, let's say they costs $75,000 a year. Now that's not all salary. About 30,000 of that is benefits because nursing home employees don't typically make a lot in salary. If we use a part-time employee or even if we use three part-time employees to fill that one person's job, I'm not paying that $30,000 in benefits so they don't cost me $75,000.

CHAIRMAN D'AMARO:
I understand that.

MR. FREAS:
Right.

CHAIRMAN D'AMARO:
I understand that. I'm not sure that we could do that or we would do that.

MR. FREAS:
But we're doing it now.

CHAIRMAN D'AMARO:
Okay. I understand that, but we're talking assumptions here. Going forward, should we not sell or close the facility and, you know, again, I just want to make sure that we're thinking through this in the right manner should we ultimately make that policy decision to continue with operations. I just want to look at revenue very quickly. It's unpredictable with respect to the State. Your own report says the State is delaying and decreasing the upper payment limit supplemental payment, decreasing Medicaid payments, implementing a regional pricing system, reducing reimbursement for AIDS beds, redesignating some beds as assisted living to reduce reimbursement, and retroactively lowering rates based upon case mix. It sure sounds to me like the State of New York is not our friend when it comes to reimbursement at the nursing home. (Laughter)

MR. FREAS:
Mr. D'Amaro, I would not argue that the -- that New York State is our friend when it comes to reimbursement. I would, argue, however that historically and I -- there would be some small revenue increase over five years.

CHAIRMAN D'AMARO:
Based on what you have seen in the past.

MR. FREAS:
Based on what has happened previously. Is it going up in a way that -- again, to keep up with our expenses? No.

CHAIRMAN D'AMARO:
No. Okay. Right. It certainly would not keep pace with the expenses.

MR. FREAS:
No, and our position since I've been doing this --

CHAIRMAN D'AMARO:
Right.

MR. FREAS:
-- has been that the facility cannot run without a General Fund subsidy.

CHAIRMAN D'AMARO:
Right, and I understand that, and I'm just trying to understand the assumptions. I'm not saying you are wrong in using them, but I need to understand why they're being used. I don't want you to feel like I'm questioning you from that angle.

MR. FREAS:
No, no, no.

CHAIRMAN D'AMARO:
Okay. But, nonetheless, in my mind, just my opinion, is that, again, when making a policy decision of whether or not to go forward, looking at what the actual subsidy would be, and of course we rely on the Budget Review Office to tell us that, it seems to me that given all that uncertainty and given the fact that expenses are outpacing revenue and revenue is not keeping pace with expenses, and expenses are growing rapidly, and we'd have to hire or somehow cover for more beds being filled if we want to run it more efficiently, which is what the report assumes, given the unpredictability of reimbursement weighs heavily on my decision, and it makes me wonder had we made assumptions in the other direction, where we say, okay, you know -- every day with the State of New York, we're breaking new ground as to what's getting reimbursed and what's not.

The fact is, if you remember two years ago, I think it was, Gail, Article 6 funding for the health centers, one day, everything, we pass budget, we were good; and next day, you know, we were all sitting around huddling, wondering where do we find $20 million and what facilities are being closed. So again, with that uncertainty, I know what your job is is very difficult because we don't really know how to predict the future. We can't do that, but when I have to do it, I'm going to assume, in this economy and given the historical fact that the State has been pulling back and not trying to help us with this facility in particular, that I wouldn't anticipate the revenue picture getting much rosier over time.

We did talk briefly about -- the report talks about a serious attempt --
Rob, I know you addressed this before -- to operate the facility in the most productive and efficient manner, maximizing occupancy and minimizing costs. At one point, I think we had 90 percent occupancy, if I'm not mistaken.

MR. FREAS:
Over 90 percent.

CHAIRMAN D'AMARO:
Over 90 percent.

MR. FREAS:
In the course of preparation of this report and also in some --

CHAIRMAN D'AMARO:
Right.

MR. FREAS:
-- of the work I do for the Oversight Committee, we're over 90 percent, I want to say, from April 2009 to the fall of 2009.

CHAIRMAN D'AMARO:
Okay. Well, it's important for me --

MR. FREAS:
And that's been the historic occupancy -- historic occupancy has been better than it has been since the announcement to divest the facility occurred.

CHAIRMAN D'AMARO:
I understand, and what is important for me to know here, though, is getting beyond the general statement. What assumptions are you making when you talk about the serious attempt to operate. Is it 90 percent, 95 percent, 80 percent? And, you know, so how much more in expenses did you include? How much more revenue would come in?

MR. FREAS:
I got it. I got it.

CHAIRMAN D'AMARO:
Again, I appreciate the statement that, you know, we're trying to run it seriously, and I think we do that all the time. We haven't been as successful as we might like to have been --

MR. FREAS:
My --

CHAIRMAN D'AMARO:
Just let me finish a moment.

MR. FREAS:
Okay.

CHAIRMAN D'AMARO:
As we would have liked to have been in the past, but it has been an up-and-down ride with respect to efficiency there, so I would just like to know a little more specifically what assumptions you are making with respect, at least, to occupancy revenue and expenditures. What's impacting your bottom line?

MR. FREAS:
We based it -- our baseline was 2,000 -- it was actually based on the revenue but -- and it was the 2009 through 2011 revenues.

CHAIRMAN D'AMARO:
I'm --

MR. FREAS:
Let me finish.

CHAIRMAN D'AMARO:
Hold on. No. I want to finish. I'm asking something a little different. I know we have a baseline. Those are figures. We can look at that. But the way I read the report, it seems to be saying but beyond those figures, we're going to assume a higher level of efficiency and because of that, we're going to adjust our numbers. Is that the case? Because, by the way, that statement was not in the 2008 report. You know, the 2008 report did not put this assumption in about running it more -- more serious attempt to run the facility more efficiently.

MR. FREAS:
No, and we did that because 2012 was such an unusual year for us and we didn't really feel like we could use 2012 for the reasons that the Director and the Deputy Director just delineated as part of the baseline. The things have never been -- although we point out in our report that 2012 is going to be the worst year, worst deficit we've ever experienced, and I believe that's probably going to be true even in constant dollars.

CHAIRMAN D'AMARO:
Okay.

MR. FREAS:
The assumption is not -- I believe it was characterized at some point as heroic. The -- we don't believe the assumption is heroic. The assumption assumes about an 87, 88 percent occupancy rate which is what, historically, the budget has been based on out there at the facility, and it's -- it's about and at a 90 percent Medicare -- I'm sorry, 90 percent Medicaid rate and with an IGT.

CHAIRMAN D'AMARO:
So closer to the baseline years that were used as opposed to the 2012 year.

MR. FREAS:
Indeed.

CHAIRMAN D'AMARO:
Okay. So when you talk about the serious attempts to operate the facility more productively and efficiently, you're really talking about not looking at 2012.

MR. FREAS:
Yes, not looking at 2012.

LEG. D'AMARO:
Okay. I understand that.

MR. FREAS:
And the other thing --

CHAIRMAN D'AMARO:
Although, it seems to me that 2012 is closest to us and closer to reality than all the years that came before it.

MR. FREAS:
I understand that but you know --

LEG. D'AMARO:
Okay. I don't want to belabor that. I have one more area. The 2010 memo I mentioned in my opening remarks also analyzed the sale of the facility, but it had much more significant savings to the County, and it had different estimated expenses, revenues, net expenses, for the same years. For the overlapping years between the 2012 report that you just issued and the 2010 report. For those same years, your reports have different numbers, different net expenses.

MR. FREAS:
Right because we change -- we didn't change the assumption so much as we changed the baseline and we -- we had found -- I think the most significant difference between our 2010 and 2012 report are our estimated expenditure. I'm looking at it now, and I'm seeing, you know, different takeoff points of probably 2, $2.5 million a year in the years, and most of that is due, as I mentioned a couple of minutes ago, to the fact that we found that in the baseline years, 9 through 11, the expenditure side has been less. Is it partly because over the last year and a half we've -- we've lost staff as we've downsized? Practically, yes, but remember, we were also running at full bore with significantly less staff than we had historically in prior to 2009. So we felt -- and I questioned that myself because I looked at, geez, the expenditures look less. I think the facility's done a decent job at controlling expenditures especially given that during that period where they were running at

above 90 percent capacity.

CHAIRMAN D'AMARO:
Right.

MR. FREAS:
Again, and we -- let me point out again, as the director did, that despite what I think you're characterizing as our assumptions being on the optimistic side versus perhaps the Budget Office's assumptions being on the pessimistic side, we still meet -- that the A-9-6 standard is still met and there's just no way around that.

CHAIRMAN D'AMARO:
Right, and I appreciate that, and I agree with you, and I know that's really the purpose of the report. But you're saying the difference between the 2010 conclusions and the 2012 conclusions are primarily due to lowering expenditures.

MR. FREAS:
Correct.

CHAIRMAN D'AMARO:
In the 2012 projections, for example, the 2012 memo says just looking at 2013 in both memos, it says expenses of $34.2 million. That's what you are telling us today, projected for 2013, but in 2010, you told us that you projected 38.7 million.

MR. FREAS:
Right. That's about the $2 million difference that I just mentioned, 2.5.

CHAIRMAN D'AMARO:
Right, but it's a $2 million difference in that projection for 2013 leaving out 2012.

MR. FREAS:
Sure.

CHAIRMAN D'AMARO:
But that's a significant number. Now, are you telling me -- are you saying that in those two years that conclusion has changed but you're telling me we're running the facility less efficiently because the report says we have to run it more efficiently.

MR. FREAS:
We do believe --

MS. VIZZINI:
You ready.

MR. FREAS:
Yeah, I think so.

MS. VIZZINI:
The actual expenditures at the facility have gone down.

CHAIRMAN D'AMARO:
Uh-huh.

MS. VIZZINI:
Hence, the $2 million difference.

LEG. D'AMARO:
Right, the expenditures have gone down, but so has -- the occupancy has gone down as well.

MS. VIZZINI:
Yes, and staffing.

CHAIRMAN D'AMARO:
Okay. Employee costs have gone down. All I'm saying is that the report is assuming, like we said before, not the 2012 scenario, but prior to that, which are higher occupancy, so if we're running it more efficiently, it would just seem to me that expenses would go up, you might increase revenue as well but expenses will go up.

MR. FREAS:
And they do.

MS. VIZZINI:
And they do. You know, these expenditure assumptions are referenced on page three where we provided for four percent increase in heat; you know, three and a half for supplies, contracted services; you know, those expenses are addressed, and we mentioned the changes, in terms of the State aid and the Medicare reimbursement, are sources on there. It's all implicit in our projections. It's not that we're ignoring these things --

CHAIRMAN D'AMARO:
I understand. Uh-huh.

MS. VIZZINI:
-- and then coming up with our own projections.

CHAIRMAN D'AMARO:
Well, I like to consider myself an optimistic person but going forward with respect to expenses at the facility and revenue at the facility, I don't think I'm as optimistic as perhaps you would have been or you are in your memo. But, nonetheless, I appreciate you answering my questions today. We did, as you stated, meet the requirement of the Article 9 of the Administrative Code where there is a 10 percent savings to the County over each of the next five years, and that's measured against the cost of continuing to operate the facility. So that condition now has been met under our Administrative Code. Are there any questions from Committee members? Lynne, I think you wanted to go. Legislator Nowick.

LEG. NOWICK:
You might have asked a lot of the questions, but just let me see. You know, Gail, you may or may not know this, but let's just assume the sale was approved in September. Do you actually think that this deal could be consummated and turnover could be by December 31, or do you think the County is going to wind up owning it? Say we sold it for another six months. Do you think that could be a fait accompli? I mean, government moves so slowly. What are you laughing at?

MS. VIZZINI:
No, we would -- you know, this basically is an asset conversion. We're taking an asset, and we are converting it to cash. We would expect that we would show that revenue in 2013. So the likelihood of -- I really can't comment. I don't know enough about the transaction. I suppose it's

plausible. I don't know -- I didn't read the documentation closely. I don't know if you did, Craig. Is there a December 31 deadline in it?

LEG. NOWICK:
Well, we're budgeted to, I thought, December 31, 2012, so everything would change if that didn't happen, right?

MR. FREAS:
Right, we are budgeted through then. You're -- typically, if we were closing it, it would certainly take six months to empty the facility, but we're not emptying the facility. We're just changing the license and the ownership. Apparently New York State -- New York State is -- finds the buyer acceptable and will allow the change, so at that point, where we put the revenue, I think that, as the director stated, one of the reasons why the Budget Office may have moved the end of year deficit for the facility into '13 is so that then they can then charge off with the revenue in the sale in the fund, so I think it would be more likely that we would book the sale in '13 not in '12.

LEG. NOWICK:
One of the reasons I asked is I see that the sale, of course, is 23 million, then you minus 3.5 million in deduction for the --

MR. FREAS:
Legacy costs and cost of sales and stuff like that.

LEG. NOWICK:
One time sales. Is it -- this was not a bid, right?

MR. FREAS:
It was a negotiated sale.

LEG. NOWICK:
This was a negotiated sale. Okay. Because on a bid, then, you wouldn't have to pay a finder's fee of $500,000, right?

MR. FREAS:
Well, yeah, I can't comment on that with respect to that, but I do know that we had a third party transactor during the previous sales who would have gotten, not a finder's fee, but a -- a -- they -- we actually called it a commission at that point. That was based on the sale -- the sale price.

LEG. NOWICK:
Okay. Just one last question. Let's just say that this deal did not go through and we did not realize what, I guess, you guys would call the onetime 18.9 million. The deal doesn't go through. We continue to own a nursing home, and because we continue to own the nursing home and there's no longer a threat of sale, possibly, the beds would all -- possibly, the beds would be filled. What do you think, ballpark, without going into a lot, what do you think it would cost the County? We know it's a deficit, but we'd own the nursing home, and the beds would be filled. What do you think it would cost the County per year in the loss? Would it be seven million, eight million? What do you think it would cost us if that never came to fruition?

MR. FREAS:
Our -- it's more or less in the report. It's -- I think five million is reasonable on the low side and seven million on the upside.

LEG. NOWICK:
So it would -- if we don't -- didn't sell --

MR. FREAS:
That's doing well. Again, that's doing well. The worse you run it, obviously, the more it's going to cost you, but I think 5 to $7 million, and, frankly, we haven't changed that. That's historically what it's cost at high occupancy. Even with the considerable personnel figures, the thing that's changed over the last 5 or 10 years, as you know, the nursing home carries its own pension costs and its own healthcare costs, and those have gone up pretty well, especially the pension costs over the last few years when we were carrying a significantly larger permanent workforce that it was a very heavy load for the facility to carry.

LEG. NOWICK:
So then it's safe to say it would cost between five and seven million but it might go up because pension costs could go up several times maybe in the next 10 years if we kept the nursing home.

MS. VIZZINI:
Yes, plus the conversion of the asset to cash. We would lose the 18, 20 million --

LEG. NOWICK:
The 18.9 million.

MS. VIZZINI:
Yeah.

LEG. NOWICK:
Okay, thank you. Thank you for your report.

CHAIRMAN D'AMARO:
All right, thank you, Legislator Nowick. Cutting right to the bottom line, as you always do. Legislator Stern.

LEG. STERN:
Thank you, Mr. Chairman. I thought it was interesting reading the report earlier and then having you touch on the idea that you can look to, at least in part, the annual deficit as being approximately the value of certain beds within the facility those that might be harder to place, those that might be reimbursed at a lower reimbursement rate, many of those difficult to treat, difficult to get reimbursed residents of the facility have been the subject matter for years of exactly the residents that we want to make sure are protected. So looking to that, then, I had a couple of questions about the numbers. The value, when you place a value on those beds, and you give arrange between 50 and 60, but the value of those beds is based on what? Is it based on Medicaid reimbursement rate?

MR. FREAS:
Medicaid.

LEG. STERN:
It's purely Medicaid reimbursement rate?

MR. FREAS:
Yeah. It's about $100,000 a bed, give or take depending on the year.

LEG. STERN:
Okay. I don't want to oversimplify, but can you -- you say it's about, in 2013, $5 million, and if you take the low end of your range, about 50 beds, that the cost there the -- because of the lower reimbursement rate, it costs us $100,000 per year per resident.

MR. FREAS:
Does it cost us $100,000 a year? It costs us close to $100,000 a year. Think about what the -- the way that the upper payment limit IGT is supposed to supplement the facility. The idea of that, recognizing that publicly-owned homes have different patients than profit, for-profit homes or not-for-profit homes, what it's based on is the difference -- the difference between our Medicare upper payment limit, which is, I think, about 535, $540 a bed per day, and what our Medicaid rate is, which is about $260 a day, $280 a day, and the number of beds that you have -- the percentage of the patients, and they do a formula and you come up and you're still short from the -- the idea is that -- that the IGT is supposed to true us up with respect to those types of patients. It doesn't 100 percent, and it's not going to. But it helps us. And in the years where we didn't get it where New York State was hashing out with the federal government, how they paid it, along with many other states and how they used the IGT, that seems to have been resolved, even though it's still not clear whether they're going to be paying us every two years. It's been in the New York State budget since, the way it is now, about $300 million total for the State. I'm bringing you that because that's significant for us. We don't believe that if the IGT went away that the facility would be at all -- then you're talking about the same deficits that you're talking about 9,
$8 million dollar deficits year after year after year, even more.

LEG. STERN:
The percentage of those residents that do receive the lower reimbursement rate, how is that percentage -- is there a set percentage, is there a standard percent that the facility tends to operate? It's just case by case and whatever the percentage is at the end of the month so be it?

MR. FREAS:
It's a case-by-case because publicly owned -- all right. You have to have a payment source for us to take you. We don't take you if you say, I've got nothing, or, I'm not eligible for Medicaid. We can't place you, generally. But, generally speaking, most people, generally speaking, we take many more first-day --excuse me -- Medicaid patients than a none-for-profit or a for-profit home does. In the 30 percent range -- 30 percent of our patients or more walk in and they're first source of payment is Medicaid.

Now, I know, Legislator Stern, you do considerable eldercare work. That's not typical in this County that there are no other assets where there is no, at least, Medicare for at least the first 60 to 90 days in a long-term care environment. With our patients, it is. Our patients tend to be younger. We have probably more -- this question might be better answered and asked in health, I would say, where we might be able to go into that some more, but, generally speaking, yes, the patients who we're talking about there bring our acuity rate down so they affect our rate. They -- they need our help or they need the care, I should say, and they're eligible for the care or they wouldn't be there in the first place. But they bring our acuity rate down, which the number -- our case mix index, they bring that down because they're not medically complicated, but they might be someone who's physically aggressive, and, therefore, they require one-on-one care from an aide, so they're costing us more because even if that's a full-time aide, we have to get a part-time aide to do something else. That's really where that paragraph is going.

LEG. STERN:
But there is, as far as the operation of the facility goes, there's no --

MR. FREAS:
There's no fixed percentage.

LEG. STERN:
-- set standard --

MR. FREAS:
No.

LEG. STERN:
-- that the administration or the admissions counselors seek to stick to; it is case by case?

MR. FREAS:
No, it's case by case. They're not saying, Hey, we're going to have 60 -- we're not going to have -- we haven't made a policy decision, say, we're going to take 25 percent of the people who we're going to get bad reimbursement for and are going to be very difficult to care for. We're not doing that, not to my knowledge.

LEG. STERN:
Okay, thank you. Thank you, Mr. Chairman.

CHAIRMAN D'AMARO:
Thank you. Legislator Horsley.

D.P.O. HORSLEY:
Hi, guys. Thank you very much for your report. I've got -- my gut tells me that I feel like we have two reports: one from the Budget Office that maybe took one extreme, and then I've got the rosey report, and you've delivered the rosy report. I don't know if that's true, but I do have a couple of questions. One is you mentioned that we -- that they have been running much more efficiently lately.

MR. FREAS:
More efficiently.

D.P.O. HORSLEY:
More efficiently. Okay. I don't want to overstate. I don't want to make it more rosier than it is. They're running more efficiently; and then you say that you take your report so -- at a bed level that is, because of their more efficiencies, they would have more beds filled. And then you tell me that they're running more efficiently but yet they seem to have -- you're saying that you don't need any more employees to handle the additional filled beds. So I'm wondering how efficient are they running if you could put on additional beds and you don't have to hire any more employees? I don't get it.

MR. FREAS:
I think that's not 100 percent accurate.

D.P.O. HORSLEY:
Okay. Correct me.

MR. FREAS:
I apologize if we weren't clearer. Again, our baseline combines three years, one of which has a higher employee point than now but not -- I think in 2009, we probably had 200 --

D.P.O. HORSLEY:
How many employees did you add on to fill those beds?

MR. FREAS:
I would say that we started with the 2009 number, and now we're at -- we've lost 20 or 25 people since then so -- and -- with full-time employees -- and it's really not so much the employees as it is the cost. Okay?.

D.P.O. HORSLEY:
And I understand you are going to be getting revenues and things like that.

MR. FREAS:
Right, but I think you really can't look at the amount of employees, full-time employees. You have to look at the cost of the employment.

D.P.O. HORSLEY:
Okay. So what's our number?

MR. FREAS:
Here's what we say. Let's say we stay at -- I think we're at about 200 or we might be below 200.

D.P.O. HORSLEY:
Yeah, that sounds about right.

MR. FREAS:
One of the reasons we didn't use 2012, because that would've brought expenses -- even though we're going to have this deficit this year, we're going to come in probably at about $32 million in expenses, which would have brought the expenditures down even more for operating the --

D.P.O. HORSLEY:
Rather than -- you're saying 34 -- you're saying it's possibly 32.

MR. FREAS:
In 2012, yeah.

D.P.O. HORSLEY:
Right. Okay.

MR. FREAS:
The estimate that I have from -- from the facility which is a couple of months old but still is 32 million, so that was another reason we didn't use 2012. But we have, '09, '10, and '11, fewer full-time employees, and the full-time employees, as I mentioned, are the big cost drivers. And we ran for half that time well over what we estimated as a bad piece, which is that 87, 88 percent occupancy rate, so I don't think we're overly optimistic with respect to that we can run the place with five people or anything like that. I know that's -- I'm overstating the case, but I think the assumption that we made with respect to personnel expenditures is reasonable. We also included increases that would be based on, you know, a possible contract settlement for AME, and their step increases so if that --

D.P.O. HORSLEY:
Did you factor in -- okay, contract settlement, would you base it on the PBA contract, or how did you figure that out?

MR. FREAS:
We used what they had been getting historically.

D.P.O. HORSLEY:
Historically, so two percent, three percent?

MR. FREAS:
And we're not -- you know we're not part of the contract negotiation team.

D.P.O. HORSLEY:
I know. I'm just checking in on how you got those figures.

MS. VIZZINI:
Just that AME, as most of the bargaining units, they're eligible for steps, so we had to factor -- you know, there's a percentage increase that we use for that, and we assume that at some point there would be some increase in base salary. We would rather not specifically discuss those percentages.

D.P.O. HORSLEY:
Because you're projecting, I understand.

MS. VIZZINI:
Exactly. I can tell you what we did for heat, supplies, equipment and stuff. And, you know, there's a reliance also on the part-time or agency employee that does not come with benefit package. There's more employees there, but there are not as many full-time County employees.

D.P.O. HORSLEY:
Right. Okay, so we're projecting that there are more employees but they are not full-time employees and that's why you came up with --

MR. FREAS:
We are projecting that we --

D.P.O. HORSLEY:
Smaller-dollar figure even though we're filling up more beds.

MR. FREAS:
We are projecting that we could run, because we have run it with fewer employees at a higher --

D.P.O. HORSLEY:
Even though we're doing it more efficiently, we could do it with less employees. All right. I don't want to get into that.

MR. FREAS:
Yeah. I think we're talking across each other at this point.

CHAIRMAN D'AMARO:
(Inaudible)

D.P.O. HORSLEY:
Okay, let's -- all right. I just -- I'm questioning, I guess, how you came up with your rosier look. Now, you had also mentioned, you know, that even at the best of circumstance, you know, what is the average -- you mentioned this to Lynne -- is going to be between -- the deficit is going to be between 5 and $7 million. That's pretty much what you came up with for 2015 and through 2017,

so you're projecting if this rosier look will be -- when it takes effect, it will be between 2015 and 2017; is that correct?

MR. FREAS:
The five to seven million, I'm averaging it in over the five-year period. Do you see what I'm saying?

D.P.O. HORSLEY:
I'm looking at that as the average between 2015 and 2017, not the average between 2013 and 2017.

MR. FREAS:
Well, 2013 to 2017, the total projected cost is $27 million point five on a budget basis; $5 million on the other basis. It's about $6 million dollars over the five years.

D.P.O. HORSLEY:
Okay. Okay, Craig, I understand. I think I have a better picture of where you got your dollars from. I just -- I'm just not sure they're real, you know (*laughter*). That's where my hang-up is, and I want us to have a full picture.

CHAIRMAN D'AMARO:
All right. Thank you, Legislator Horsley. Legislator Schneiderman.

LEG. SCHNEIDERMAN:
First to BRO, thank you for a thorough, as usual, report. I'm not sure I'd characterize it as rosy, as Legislator Horsley said; perhaps less bleak than the earlier report. You know, the County losing $5 million a year is still a significant amount of money to cover in operating laws. What I'm trying to understand -- you know, there's an assumption that we would be running it better than we're currently running it, that you said. One of the arguments for the County staying in the nursing home business has been that there's a certain portion of the patient base, that is this hard-to-place base. I assume that because they're not a profitable base, the reimbursement rates don't cover the costs. How many of these individuals are there? Is there -- is there 50 beds, 20 beds?

MR. FREAS:
Our estimate is 50 to 60 beds.

LEG. SCHNEIDERMAN:
All right, so let's --

MR. FREAS:
That's based on an analysis from the -- the Center of Governmental Research did a report, let's say -- I'm going to say post-Berger, so after 2000 -- so we -- it's been quoted by ourselves, by the Budget Office, and that's based on our having --

LEG. SCHNEIDERMAN:
Right.

MR. FREAS:
You know, is it 40 right now? I don't know.

LEG. SCHNEIDERMAN:
Okay. So let's just go with 50 for now. So let's assume the other patients, the private sector could handle, but the reason why the County would stay involved is for these 50 patients, so I'm assuming

if we sell it to someone else, you know, they're not going -- they don't want to lose $5 million a year, right? They got to carry now, on top of the operating costs, they're going to have to carry the debt service, assuming they're borrowing money to buy the place. So they're going to make some moves, and I guess they would probably eliminate those non-profitable patients, potentially do that. So the argument for us to stay in is, well, we want to continue to subsidize these individuals. $55 million, I guess, is the loss associated with having those extra 50 people, so that's $100,000 per bed of loss, right, something in that range?

MR. FREAS:
More or less. It would depend on what your rate was, but yeah. You could put it that way.

LEG. SCHNEIDERMAN:
Right, so --
MR. FREAS:
And it's --

LEG. SCHNEIDERMAN:
Is there anything else a private company would do to -- you know, what would they do differently? Why would you want to come in and pay, in this case, I think, $23 million to take over a place that's losing
$5 million? I mean, the best you can do is if you got rid of those beds, it sounds like if you break even, you still have to carry debt service. So what else are they going to do?

MS. VIZZINI:
Well, the private sector operates their labor pool differently than we do.

LEG. SCHNEIDERMAN:
All right. So we're going to get savings by less people --

MS. VIZZINI:
And over the years that we have discussed -- the salary and benefit package for County employees is certainly more enhanced than the private sector in this particular industry.

LEG. SCHNEIDERMAN:
Right. So basically those are the two areas, basically -- less employees or lower-paid employees --

MS. VIZZINI:
What we have observed in terms of the prospective buyers that have come forward is these individuals operate several facilities and they staff and service those facilities. Their business is such that they provide the food, the linens, what have you; so it's an all-around business.

LEG. SCHNEIDERMAN:
And they may have an economy of scale because they have multiple facilities that they can do some of the administrative work offsite, et cetera, Both purchasing powers and thing like that.

MS. VIZZINI:
Yeah. Now, though they may be unionized, it's specific to a 24/7 facility as opposed to the generic union agreement under which our employees operate for that facility.

LEG. SCHNEIDERMAN:
So at best, if the we run it as best as we possible can, we're looking at basically $5 million, and it's largely for those 50 people that the private sector won't accommodate. Is that a fair assumption?

MR. FREAS:
The private sector will take them. They won't take them altogether and they won't -- you know, we're basic -- we get the IGT as a publicly-owned home because of those types of patients. The -- I believe in, if not last year, in the previous years' review report, we mentioned that some of states, although apparently not municipalities, charge assessments to their long-term care facilities more or less to help supplement these types of patients in their publicly-owned homes in the states. Kansas does it; New Jersey does it; some other places in the Midwest. It's either done by bed or as a pilot on the facility, on the for-profit and non-for-profit facilities, and that also helps them get federal money as well.

There's certainly a need, and I mentioned to the Oversight Committee, probably that the for-profit homes, because they're more vertically and horizontally integrated, as bunches of homes are more able to take these patients than the not-for-profit sector, these types of patients, because they -- in a way, they lose less money because they're not necessarily making money from the nursing home. They are making money from doing the food or doing the linen or doing the personnel.

LEG. SCHNEIDERMAN:
Do we have a sense of the population? There's 50 at Foley. How many are there Countywide that fall into this? You know, I know at the nursing home, so let's say there's 200 other people that fall in -- its actually less than that. Well, we know in a population 1.5 million, there's got to be tens of thousands perhaps in nursing. Foley can't be accommodating all the County residents as a nursing facility, just a few hundred. In terms of this population of 50 hard-to-place individuals, are there hundreds of these individuals, or do we have all the entire population of these hard-to-place individuals?

MR. FREAS:
I could not say. I can tell you, generally, that we as a facility take care of a much younger population; a population that's more likely to need psychotropic drugs than is average for the market; that's more likely to be wheelchair-bound than the rest of this market; and it has different -- and, again, it's more likely to have problems that would make you more difficult to place. The biggest thing I think is probably the age of the patients relative to most of the nursing homes in the County and then the State.

LEG. SCHNEIDERMAN:
You also said, Craig, earlier that we didn't have a -- a specific amount, percentages of each category that we take, so you could end up with 100 of these individuals, right, if we're the only facility taking them?

MR. FREAS:
Indeed, you could.

LEG. SCHNEIDERMAN:
That would change -- that would --

MR. FREAS:
I don't think we're the only facility taking them. I wouldn't go that far.

LEG. SCHNEIDERMAN:
That would then double the loss.

MR. FREAS:
But it's like --

LEG. SCHNEIDERMAN:
It seems like the loss is largely associated with these individuals.

MR. FREAS:
I use that as a -- yes, you could certainly put it that way. It's -- it's -- it is -- it's illustrative.

LEG. SCHNEIDERMAN:
So we don't set a cap on how many of these individuals -- is there a waiting list?

MR. FREAS:
No.

LEG. SCHNEIDERMAN:
Is there a waiting list?

MR. FREAS:
No, not at Foley. We're at 72 percent occupancy even with the wing shut.

LEG. SCHNEIDERMAN:
In that category, are there people waiting to get in?

MR. FREAS:
I doubt it. They might be more difficult to place or they might end up in the hospital a little longer if they go to a hospital and they're looking for a long-term care facility. I would not speculate on that. There's -- I really wouldn't care to speculate on that.

LEG. SCHNEIDERMAN:
All right. Thanks.

CHAIRMAN D'AMARO:
Okay. Excuse me. Are there any other questions? Legislator Cilmi, good morning.

LEG. CILMI:
Good morning. Thanks, Mr. Chairman. Yeah, just a couple of questions. To just speak to and clarify what the Chairman asked earlier today with respect to the $14 million subsidy from the General Fund or cost, I guess, you could couch it as, if I heard Gail correctly, you said that seven million of that is a result of budgetary assumption, right? In other words, we were going to -- we were going to enter into this public/private partnership, and, therefore, we were going to see as a result of that partnership $7 million in revenue, and, therefore, because of that budgetary assumption, the, you know, projected loss for the facility this year is $14 million as opposed to what might be $7 million, correct?

MS. VIZZINI:
The budget assumed a $4 million transfer from the General Fund. We knew there was going to be the need for a subsidy. When the nursing home was -- the operation of the nursing home was restored, I think it -- was it closed?

MR. FREAS:
It was closed.

MS. VIZZINI:
It was closed in the 2012 budget. When we restored it, there were competing RFPs for sale and public/private partnership of sorts. So it was the direction of the sponsors of that resolution that we

assumed that one of those would materialize and there would be revenue from it, so that's where the $7 million in revenue comes from. Unfortunately, neither one of those RFPs resulted in an award or revenue of that magnitude.

LEG. CILMI:
Right. But by the same token, when the County Executive prepares and we amend or not, we adopt next year's budget, that issue could theoretically be solved, or they could make it worse. I mean, they could put in -- we could adopt a budget that includes $14 million of revenue from some sort of a partnership or arrangement, or we could say in this upcoming budget process that we don't anticipate any such partnership and therefore, you know, we don't count that revenue in the grand scheme of things, right? My point is that this is really a -- part of this number is of -- was caused by budgetary assumption.

(*Legislator Kennedy entered the meeting at 11:27 a.m.*)

MS. VIZZINI:
It was actually caused by the failure to get, you know, responses to --

LEG. CILMI:
Right.

MS. VIZZINI:
-- an RFP that were consistent with those budgetary assumptions.

LEG. CILMI:
Right. I just wanted to make that clear. What is the cost of our current full-time employees there in the aggregate? What's the total cost?

MR. FREAS:
Including benefits, not including benefits?

LEG. CILMI:
Including benefits.

MR. FREAS:
I'm sorry. I'm going to go off the top of my head. I say 19, $20 million. About $14 million in -- I'm sorry. Did you say full-time?

LEG. CILMI:
Full time, yes.

MR. FREAS:
Just full time. Yeah. I would say about 16, then.

LEG. CILMI:
$16 million.

MR. FREAS:
$16 million.

LEG. CILMI:
That's inclusive of benefits?

MR. FREAS:
Yes.

LEG. CILMI:
Now, when you add in County employees, because we have non-County workers there as well --

MR. FREAS:
No, I was not including the County. I would say 20 million including -- that's the personnel.

LEG. CILMI:
Okay.

MR. FREAS:
That's full time, overtime, agency staff, temp staff, and the number not including the healthcare and the pension, there's probably 14, $15 million.

LEG. CILMI:
Okay. So you're guessing roughly 16 million for full time, for full-time County employees there, which is inclusive of benefits, up to maybe 20 million or so inclusive of agency, staff, and part-timers and --

MR. FREAS:
Yes.

LEG. CILMI:
Okay. So if we come to the conclusion that the General Fund is subsidizing the facility to the tune of $5 million, annually, and that assumes a particular IGT, et cetera, so that's 25 percent of -- the $5 million subsidy is 25 percent roughly of the total cost of employment there, including benefits. So if somehow, and I recognize this is a very, very big somehow, but if somehow the cost of that employment was reduced by 25 percent, then essentially, we could, you know, eliminate the subsidy completely.

MR. FREAS:
I don't think you can eliminate the subsidy the -- I do not personally believe, based on having doing this for the last five years, that we can eliminate the subsidy.

LEG. CILMI:
But that's because you don't think we can reduce our payroll cost by 25 percent.

MR. FREAS:
Right, but the other thing -- we talked about this a little bit at Oversight the other day. Getting close to the pin is somewhat dependent on the IGT. The less -- if we -- if we broke even, we wouldn't get the IGT. It's this weird catch 22. If we were close enough to breaking even, we wouldn't get the IGT, so we wouldn't really be close enough to breaking even since we need the IGT to break even.

LEG. CILMI:
Which really gets me to my next question. Bizarre as that sounds, I understand it. The -- I know you talked at length earlier about the IGT in answer to Legislator Schneiderman's questions, but if you could just succinctly encapsulate for me the IGT. Where does it come from and how is that number, you know -- how do they get to that, whatever the subsidy is going to be?

MR. FREAS:
It's basically passed-through money from the federal government to the State and then to us. And it's based on -- it's based on the difference between our highest Medicaid rate and our -- I'm sorry, our highest Medicare rate and our Medicaid rate, and then you take that amount and the number of -- and you compare us to all the other homes in the County and because we have much -- we have -- because we have a higher population of Medicaid patients than a typical home in the County -- we're about 90 percent Medicaid; most homes are about 70 percent Medicaid total. That's total. That's not first day. That's total. That difference in bed days, they multiply that and whatever the pool -- it's been $300 million in the New York State for last three years -- we get whatever portion of that is available, and that's pretty much how it works.

LEG. CILMI:
So if we were to increase the number of Medicaid patients of residents or decrease the number of Medicaid residents, how does that impact the IGT?

MR. FREAS:
If we had more Medicare patients --

LEG. CILMI:
Medicare.

MR. FREAS:
-- we would have less Medicaid patients, and the IGT would go down.

LEG. CILMI:
Okay. Since we're already at 90 percent Medicaid residents --

MR. FREAS:
Percent, yes.

LEG. CILMI:
-- the upside potential in terms of increasing the IGT is relatively small.

MR. FREAS:
Correct. If our Medicaid rate goes up, okay, which has happened, not as a trend factor, but let's say we started taking patients that had significantly more acuity, okay, but they were still Medicaid patients, our IGT would go down because the difference between our upper payment limit and our Medicaid rate would be smaller. By the same token, if our Medicaid rate goes down or stays flat, the IGT theoretically goes up as that change occurs.

LEG. CILMI:
Okay, last question. In your report, you make reference to the fact that we have an enterprise fund that basically deals -- gets all, you know, all the finances go through this enterprise fund for the facility. Can you explain -- exactly why that is, what that is, and how that impacts -- and I think I know the answers, but I would like to hear you talk about them.

MR. FREAS:
There are two reasons to have an enterprise fund. One is you're doing something that is a business-like activity. Foley sort of falls under that category, but I would argue that it actually falls under the second argument. The ballpark is in an enterprise fund. The airport, Westhampton Airport is in an enterprise fund. The second reason that you create an enterprise fund for a program -- they're all programs. Second reason you do an enterprise fund is because you have

cost-reporting requirements that let you, in some way, either let you or require you to do, one, separate the cost of the particular facility and, two, it also let's you do accrual accounting for the enterprise.

LEG. CILMI:
Is it -- whether or not to make it an enterprise fund, is that a decision of the County's?

MR. FREAS:
I believe so. As far as I know, every publicly-owned home in the State is now in an enterprise fund. We were not always in an enterprise fund. The facility, at one time, was just part of the General Fund and under the Department of Health Services. The cost-reporting requirement, more or less, forces you into an enterprise fund for a facility like this.

LEG. CILMI:
Are there -- is there a financial impact that's exclusively related to the fact that this is an enterprise fund?

MR. FREAS:
The fund carries its own pension costs. It carries its own healthcare costs. It carries its own retiree healthcare costs. Once those persons, with respect to the healthcare retirees, those persons are not reabsorbed into the General Fund, they stay as a cost to the fund, and then, of course, they carry their other post-employment employment benefits, not as segregated from the General Funds.

LEG. CILMI:
Okay. And any idea what those costs are?

MR. FREAS:
The healthcare is -- if you look at the A-9-6 report, the legacy costs are substantially the healthcare retiree costs, so they're -- about $2.2 million a year. The retirees actually cost us a little more than the current employees for one reason or another. The pension cost is going up towards, I think it's about $1.8 million a year; and the healthcare costs, exclusive of the retirees, are another 2.8, $3 million a year every year.

LEG. CILMI:
Okay. So if I heard you correctly, the fact that Foley is an enterprise fund doesn't in and of itself change the cost or revenue structure, but it just changes the way the numbers are reported.

MR. FREAS:
Yes.

LEG. CILMI:
Okay. Thank you very much.

CHAIRMAN D'AMARO:
Okay. Thank you, Legislator Cilmi. Is there anyone else? Legislator Kennedy, please.

LEG. KENNEDY:
Mr. Chairman, yeah, I don't want to belabor this. As a matter of fact, we'll have a lot of discussion about Foley and things like that, but I just want to speak to Craig a little bit about that IGT and make sure that we all understand, that we go apples to apples, because I think one of the things that's important, Craig, for my colleagues to understand is that the Medicare rate that we speak about is a rate that's available for short-term rehab. That is something that I believe is 90 days or less, something that actually in the care venue is -- I don't want to call it lucrative, but it's

something that actually can throw reimbursement that goes as high as 400 or $500 per bed per day. Typically, our Medicaid long-term care reimbursement rate is now in the 280, 290, and maybe for a resident who's there for the majority of their life many, many years.

MR. FREAS:
Yes, your -- my understanding is basically the same as yours, that the Medicare rates typically only offered for 90 days, and we do have a larger -- because we have a younger population, the consequence of that is that we carry patients for longer than a typical nursing home would as well. Many come in for close to end-of-life care, or they come in for short-term rehabilitation services.

LEG. KENNEDY:
But I also think that goes to what may have been, then, the origins or recognition on the part of the federal government, that there's a need to do some accomodation or adjusting, if you will, for operations of County facilities, by and through the IGT, because they realize that the Medicaid rate per bed is significantly lower than what the Medicare rate per bed is, but nevertheless, there's a need for individuals that need that long-term care to be in a place such as Foley. When you look at the CMI, 90 percent here in Foley, 70 or lower throughout the rest of the County and/or the region, and that's one of the significant marks when you look at the whole premise and basis for us to be operating Foley. Thank you. Thank you, Mr. Chair.

CHAIRMAN D'AMARO:
All right. Thank you, Legislator Kennedy. If there are no other questions I want to thank all of you for presenting the report this morning. Certainly, I know I'm convinced that we have met the Article 9 required threshold of 10 percent savings as defined under the Administrative Code, and that was certainly the primary focus of the report. But I do remain unconvinced with respect to the figures that are presented, the conclusions made with respect to dollar amounts, and I know you can make a case for the subsidies and the assumptions in the report, and we discussed them at length here today. I think a stronger case could be made for much less optimistic figures, and I base that on the higher expense, the lowering of revenue, the uncertainty surrounding the State. In my view, this is just not a time for optimistic assumptions, especially when we're determining the subsidy for next year and we know this year the subsidy is $14.1 million. Nevertheless, the report meets the Article 9 requirement, and I, again, thank you for that, and thank you for being with us this morning.

All right we'll turn to the next section of our agenda, Tabled Resolutions.

I will call the first. The first is Resolution **1073-12 - Amending the 2012 Operating Budget to transfer funds from the Assessment Stabilization Reserve Fund (Fund 404) and amending the 2012 Capital Budget and appropriating funds for the Village of Northport for Wastewater Treatment Collection System Improvements (CP 8193)(Spencer)**

This, I believe, we're still waiting for the Sewer Infrastructure Committee findings and recommendations.

LEG. SCHNEIDERMAN:
Motion to table.

CHAIRMAN D'AMARO:
Motion to table by Legislator Schneiderman.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**

Resolution 1394-12 - Amending the 2012 Operating Budget to support the Fishers Island Senior Hotline (AHT1) (Romaine). I'll offer a motion to table.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Are there any opposed? Abstentions? Motion carries. The resolution is **tabled.**
(VOTE: 5-0-0-0)

1443-12 - Amending the 2012 Operating Budget to support the Islip Arts Council (Barraga). I had previously read into the record correspondence received by the sponsor, Legislator Barraga. Any motion on this?

LEG. SCHNEIDERMAN:
Motion to table.

CHAIRMAN D'AMARO:
Motion to table by Legislator Schneiderman.

LEG. MURATORE:
Motion to approve.

CHAIRMAN D'AMARO:
Motion to approve by Legislator Muratore. Is there a second on either motion?

LEG. NOWICK:
This is 1443?

CHAIRMAN D'AMARO:
Yes.

LEG. NOWICK:
Okay.

MR. NOLAN:
Second to approve?

LEG. NOWICK:
Yes.

D.P.O. HORSLEY:
I'll make the second on the tabling motion.

LEG. D'AMARO:
Okay. So there is a second on the motion to approve and there is a second also received on the motion to table. The motion to table takes precedence. I'll call that vote. All in favor of the tabling motion? Any opposed?

LEG. MURATORE:
Opposed to table.

LEG. NOWICK:
Opposed to table.

CHAIRMAN D'AMARO:
Two in opposition. Any abstentions? The motion carries. The resolution is **Tabled (VOTE: 3-2-0-0 - Opposed: Legislators Nowick & Muratore).**

1611-12 - Amending the 2012 Operating Budget to purchase Emergency Integrated Lifesaving Lanyard (EMILY) units (Romaine). I'll offer a motion to table. We've discussed this resolution in the past, especially now it's past the season and we'll consider this looking at the operating budget. Is there a second on that motion?

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0).**

Resolution **1073-12 - Amending the 2012 Operating Budget to transfer funds from the Assessment Stabilization Reserve Fund (Fund 404) and amending the 2012 Capital Budget and appropriating funds for the Village of Northport --** oh, we did that. I apologize. My fault. Okay. Scratch that.

1703-12 - Adopting Local Law No. -2012, A Charter Law to adopt tax policy prior to Election Day ("Taxpayer Awareness Act Part 1") (Cilmi). Requires a public hearing. I'll offer a motion to table.

LEG. SCHNEIDERMAN:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Schneiderman. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0).**

1704-12 - Adopting Local Law No. -2012, A Charter Law to require open deliberations in budget amendment process ("Taxpayer Awareness Act Part 2") (Cilmi). Also requires a continued public hearing. I'll offer a motion to table.

LEG. MURATORE:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Muratore. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0).**

1705-12 - Adopting Local Law No. -2012, A Charter Law to improve transparency and participation in setting spending priorities ("Taxpayer Awareness Act Part 3")(Cilmi).

LEG. MURATORE:
Table.

CHAIRMAN D'AMARO:
Motion to table by Legislator Muratore. I'll second. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0)**

And the last resolution on the new resolutions portion of the agenda, **1866-12 - To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 374 (County Executive).** I'll offer a motion to approve and place on the consent calendar.

LEG. NOWICK:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Nowick. All in favor? Opposed? Abstentions? Motion carries. **Approved and placed on the Consent Calendar (VOTE: 5-0-0-0)**

There being no further business before the Committee, we stand adjourned. Thank you for attending.

(*The meeting was adjourned at 11:46 AM*)