

HEALTH & HUMAN SERVICES COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE

MINUTES

A meeting of the Health and Human Services 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 Thursday, February 26, 2009.

Members Present:

Legislator Kate Browning - Chairperson
Legislator John Kennedy - Vice-Chair
Legislator DuWayne Gregory
Legislator Tom Barraga
Legislator Jack Eddington

Also In Attendance:

George Nolan - Counsel to the Legislature
Barbara LoMoriello - Deputy Clerk of the Legislature
Craig Freas - Budget Review Office
Linda Bay - Aide to Minority Caucus
Janet D'Amarzo - Commissioner of Social Services
Dr. Humayun Chaudhry - Commission of the Department of Health
Ben Zwirn - Deputy County Executive
Linda O'Donohoe - Assistant to the Commissioner of Social Services
Debra Alloncius - AME
Christopher Destio - John J. Foley Nursing Home
Aaron Levine - NYPIRG
Laura Weinberg - Great Neck Breast Cancer Coalition
William Zhou - Great Neck Breast Cancer Coalition
Helene Aronson - Child Care Council of Suffolk
Stephen Rosario - American Chemistry Council
Dr. Steven Hentges - American Chemistry Council
Dr. William Hoyle - NAMPA
Lorin Alusic - Grocery Manufacturing Association
Tehreem Rehman - HBCAC
Zachary Rotter - HBCAC
Tim Ryan
Karen Joy Miller
All Other Interested Parties

Minutes Taken By:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 2:12 P.M.*)

CHAIRPERSON BROWNING:

Good afternoon. We will start the health and Human Services Meeting. It's ten after two already. Please stand for the Pledge of Allegiance led by Legislator Gregory.

SALUTATION

And if we could please stand, please, for a moment of silence for Officer Glen Ciano who was buried today.

MOMENT OF SILENCE

CHAIRPERSON BROWNING:

Thank you. I think we only have two cards. Do we have more cards? Okay. First one is Aaron Levine. Do we have Aaron Levine. Okay. Aaron, you have three minutes. You can stand here at the podium. Make sure the mike is on. And you have a contingent with you, huh?

MR. LEVINE:

I do. Good afternoon. My name is Aaron Levine, and I am a project leader at Nassau Community College, one of the New York Public Interest Research Group's Long Island chapters. We appreciate the opportunity to present this statement in support of this important legislation.

The New York Public Research Interest Group or NYPIRG is New York State's largest student-directed consumer protection, environmental preservation and social justice advocacy organization. With 20 chapters across the state, through our work to protect children from environmental and product hazards, we have learned of the dangers of Bisphenol A, particularly for infants and young children and are here today to voice our support for the Toxin Free Toddlers and Babies Act.

Bisphenol A known as BPA is a chemical used in the manufacture of polycarbonate plastics and epoxy resins. It can be found in a wide variety of hard plastic products ranging from plastic cups to eyeglasses. It's also used as a liner in food cans and jars, including those used for infant food. Exposure to BPA occurs when it leaches out of plastic and metal food cans and is ingested. The potential dangers of BPA have been known since the 1930's, however, it wasn't until recent decades that the potential harm from low-level BPA exposure became clear.

In 1997, studies showed that low dose exposure to BPA had adverse affects on animals. In 2008, the National Toxicology Program reported some concern for affects on brain, behavior and prostate gland in fetuses, infants and children at current human exposures to Bisphenol A. The chemical has been shown to be most harmful to infants and children because they are at critical developmental stages in their life.

Since this information came to light, Canada has banned the sale of baby bottles that contain Bisphenol A. Many large companies such as Nalgene, Wal-Mart and Babies-R-U's have voluntarily removed BPA from their products and shelves in order to ensure the safety of their customers. Many hard plastic consumer products now contain BPA Free labels touting that the product does not pose the risk associated with this compound.

NYPA believes that consumers have the right to be protected from dangerous products. We believe it is necessary to act to protect human health, particularly of infants and children, when credible evidence of hazards come to light. There is sufficient evidence demonstrating the dangers of BPA exposure. While there's a growing realization of the importance of protection -- of protecting children from this dangerous chemical, the Food and Drug Administration recently announced that BPA in plastics are not a health hazard.

In a carefully worded release, the FDA said that current levels of exposure to BPA through food

packaging do not pose an immediate health risk to the general population, including infants and babies. This finding is particularly troubling given the FDA only considered industry funded studies and ignored those that were independently generated. Of the more than 100 independently funded experiments on BPA about 90% have found evidence of adverse health affects at levels similar to typical human exposure. In contrast, every single industry funded study ever conducted, 14 in all has found no such affects.

CHAIRPERSON BROWNING:

Your time it up. Please wrap it up.

MR. LEVINE:

Sure. We commend the sponsor for introducing this important piece of legislation and Suffolk County Legislature for conducting public hearings on the issue. It is our hope that local Legislators, lawmakers in Albany and other State Capitals and Congress will follow Suffolk County's lead. NYPIRG supports this bill and urges its speedy adoption. Thank you for the opportunity to present our views. If you have any questions, I can relay them to our program staff who will respond as soon as possible.

CHAIRPERSON BROWNING:

Thank you. Next up is Chris Destio.

MR. DESTIO:

Good afternoon, Madam Chair, and good afternoon to the Legislators of the Health Care Committee. My name is Christopher Destio, and I'm here to speak on the John J. Foley Nursing Home. During these times that we're facing in Suffolk County, it's very difficult for our Legislators to go back to the public and say, "We must raise taxes." The public doesn't want to hear it. Raising our taxes in Suffolk County would put us in a spiraling direction and we would surely crash. So the \$64,000 Question here is what do we do with this controversial issue concerning the John J. Foley Nursing Home.

I was going to touch on a couple of subjects concerning what was in the Operating Budget that was put out there by the Budget Review Office under the title "Options" concerning the nursing home. It was mentioned that putting a surcharge on private nursing homes that are located in Suffolk County, it would not affect our taxpayers at all, and it could generate between one to one and a half a million dollars of revenue for our facility. And that means less money we would need to subsidize our nursing home. This would need State and Federal approval.

I was also going to discuss on the all monies that's being saved from our new director of the nursing home and what a fabulous job he's doing. And I was also going to discuss on how our facility is a safety net for nursing home residents who otherwise would fall through the cracks of society if we weren't there to help them. But I feel to discuss any of these issues with you today if futile at this point.

Our Legislators here have fully extended themselves to keep our facility running last year -- between last year and the other half of the year before that. County Executive Steve Levy still has to answer to the taxpayers now more than ever. And we the staff have done our jobs protecting our residents from being taken over from a private entity or even closure. And we do not want to lose our jobs at any price. We want to remain County employees. We want to continue providing care to the most needy residents of Suffolk County. But we cannot do this if our leadership does not sit down with our Legislators and our County Executive and come to some sort of agreement.

This must be done now, not in three months from now. We do not want to be the sacrificial lamb for the County. We do understand that there will be a need for some give-backs here. And to say anything different in these extremely difficult times is either being selfish, self-servant or being totally out of the touch with what's going on in our society.

We're in a checkmate status now, and if we don't make this happen soon, we will definitely have no tomorrow at John J. Foley. All I'm asking here today is that all the parties; the Legislators, the County Exec's Office and our Union have an open-door policy and start putting these issues on the table and work it out.

We, the employees and the residents of John J. Foley, would like to have this happen. And I thank Legislators always for their dedication to this issue. Thank you.

CHAIRPERSON BROWNING:

Thank you, Chris. Next is Laura Weinberg. Could we have Laura Weinberg? I guess last call for Laura Weinberg.

MS. WEINBERG:

Sorry about that. I was speaking to your Health Commissioner and also to the press, and things just got a little crazy. Thank you.

CHAIRPERSON BROWNING:

You have three minutes.

MS. WEINBERG:

It is worth noting that Bisphenol A, a component of polycarbonate plastic, was first discovered in the 1930's as being a synthetic estrogen and had been considered at that time for use a pharmaceutical. According to researchers worldwide lifetime our lifetime exposure to estrogen, including synthetic estrogen increases our risk of getting breast cancer and other hormonal cancers.

Researchers worldwide also now agree that early life exposures to estrogen mimicking chemicals such as BPA especially increase the risk of being diagnose with breast cancer later on in life. There is a wealth of scientific evidence that shows that low doses of BPA during critical windows of vulnerability such as during fetal development and early childhood can cause adverse health affects such as the formation of mammary tumors.

Regarding low doses of exposure to BPA, a report by Professor Fred Vom Saal and Claudes Hughes in the 2005 edition of the journal Environmental Health Perspective states that, quote, none of the 11 funded studies by industry reported adverse at low levels, whereas 94 of 104 government-funded study found affects. These many studies were conducted in academic laboratories in Japan, the US and Europe, end quote.

The overall weight of scientific evidence is compelling regarding the adverse health affects of exposure to BPA. Just to highlight some of the hundreds of studies and still growing, number one, while it was mentioned at the last Suffolk County Legislative Meeting on February 3rd that BPA doesn't remain in the body but gets excreted quickly, two studies have recently emerged with different findings. The first study from researchers at the University of Rochester called Bisphenol A, Data in NHANES Suggest Longer Than Expected Half Life concluded that, quote, Though the measured BPA levels in urine samples shrank appreciably in the first eight hours, significant levels of BPA remained in the urine of people who fasted for even up to 24 hours.

Another recent study from researchers at the University of Guelph, Canada, reported in the November 2008 issue of Environmental Health Perspective shows that BPA lingers far longer in the bodies of babies who ingest it than in adults because they lack crucial liver enzyme needed to break it down. As a result of these findings, the author of the study. Professor Len Ritter, recommends governments need to move quickly to reduce or eliminate exposure as much possible, especially in the very young and industry needs to find a replacement for BPA.

A federally funded study by the NCI and the National Institute of Environmental Health reported in January of 2009 by researchers at the Fox Chase Cancer Center of Philadelphia and the University of Alabama concluded that maternal

exposure to BPA during lactation increases mammary carcinogenesis. Researchers from Tufts University School of Medicine state that their studies support that environmental exposure to synthetic estrogen such as BPA during fetal life contributed to the well documented increased incidents of breast cancer observed over the past five decades.

Thirty-eight of the world's leading scientific experts on BPA have warned policymakers of potential adverse health effects of exposure to the widespread plastic. Their consensus statement published in August, 2007, concluded that average levels in people are above those that can cause harm to animals in laboratory experiments. These 38 scientific experts cited over 700 public studies which link BPA with adverse health effects including diabetes, cardiovascular disease, neurological damage, obesity, prostate and breast cancer.

CHAIRPERSON BROWNING:

Can you wrap up? Your three minutes is up.

MS. WEINBERG:

It's up? Okay. Well, I just want to thank you for hearing my testimony. And I look forward to the passage of this bill. And my written testimony in full has been submitted.

CHAIRPERSON BROWNING:

You can give it to the Clerk. Thank you. Tehreem Rehman. And after Tehreem is William Zhou.

MS. REHMAN:

Good afternoon, everyone. My name is Tehreem Rehman, and I am currently a high school senior at Walt Whitman High School. I'm here presenting the Huntington Breast Cancer Action Coalition, the Great Neck Breast Cancer Action Coalition and the Long Island Teen Environmental Activist Group.

As some of you may recall, I had given testimony at the last Legislative Meeting on this issue. And me and a couple of other teenagers behind me are only a few of the vast number of teenagers on Long Island who are realizing that we can no longer wait and must actively support this pioneering bill to protect the most vulnerable among us; babies, from developing a risk of getting cancer or other serious illnesses.

I would like to reiterate some of the main points I had mentioned to you previously. Now, as you may know by now, over 90% of government funded studies have demonstrated that BPA low levels can adversely affect human health and that 93% of all Americans have been indicated to have some level of BPA in their bodies. Every parent with whom I've shared this information with had initially reacted with shock, "Can this be true?" to fear, "Oh, my God, were my children also exposed to BPA in their baby bottles? If so, how much," to ultimately anger, "there's so evidence indicating even the possibility of BPA contributing to human health problems ranging from breast cancer Attention Deficit Hyperactivity Disorder, how come the government has not taken sufficient steps yet to protect me and my children."

For far too long the EPA and other government agencies have adhered to the innocent-until-proven-guilty approach towards removing deleterious contaminants from consumer products. They justify this by claiming that the supposed arbitrary removal of suspected environmental toxins will unnecessarily hurt production of various goods. With the current state of the economy, this rationale has become increasingly popular among the opponents of this particular legislation and similar ones like it.

However, as history has consistently shown, cyclical fluctuations in the economy are inevitable and that every time there's a recession, and an expansionary period in the economy soon ensues. Yet the damage that these chemicals are inflicting upon our health and bodies is irrevocable. Furthermore, we cannot simply sit back and leave the burden on consumers to purchase safe products. American consumers have for so long felt secure in the assumption that all products available to them on the market are completely safe and should have the right to continue

to do so. Yet, with manufacture refusing to take on the responsibility of ensuring that the products are all safe, the quality of American lives are suffering.

Just because a particular chemical has been used in the production of goods for a long time, does not justify its continued use when an increasing body of scientific evidence demonstrates that it adversely affects human health. This is particularly dumbfounding when other safer alternatives to the chemical are easily available. An adamant approach towards maintaining the incorporation of deleterious compounds precludes necessary research in finding even more alternatives that can possibly even be cheaper. Thank you.

CHAIRPERSON BROWNING:

Thank you. William Zhou. Go ahead, William.

MR. ZHOU:

Good afternoon, everybody. My name is William Zhou, and I am a freshman at Paul D. Schreiber High School in Port Washington. I travel with the Great Neck Breast Cancer Coalition today to this Health Committee Meeting in order to support the passage of a very important bill banning BPA.

The Suffolk County Legislature should ban BPA because it personally affects all of us, but especially babies and young children. Although BPA is deemed safe by the FDA, there have been cases in the past where the FDA has deemed obviously harmful drugs as safe. The 2001, the FDA did not approve Ketek, an antibiotic with the generic name telithromycin, citing the horrible liver damage that it causes.

In response to this, the company that manufactured Ketek launched a study that included fabricated data in order to get this passed. Even after arrests were made and prison sentences were given out for this fake data, the FDA still approved Ketek. There is no way that we can be expected to trust their judgement.

BPA is a chemical that is used in polycarbonate plastics such as the ones used in the hard see-thru plastic cups, baby bottles and reusable water bottles. It imitates estrogen once in the body and can seriously affect puberty and ovulation cycles as well as increase the risk of obesity, heart disease and cancer. Another study sheds light on the horrible truth of the affect of BPA on babies. There's 11 times the amount of BPA in a regular baby than that in the average adult. Scientists have concluded that this is the result of a baby's liver performing only 5% of the enzymatic activity that than in an adult's liver can in eliminating BPA from the body.

A study published only a week ago stated that lab rats injected with BPA of levels only slightly than what is considered safe for humans show a radical decrease in the production of luteinizing hormone or LH. LH is necessary for rats to ovulate and for women to menstruate. And it also the rats to show early signs of puberty.

Another study concerning BPA, scientists found that when a lactating mother rat was exposed to BPA, her breastfeeding daughters had an increased chance to get breast cancer. Although considered harmless for a very long time, recent research findings challenge this assumption about BPA. A large number of animal studies have consistently found that extremely minute amounts of BPA can adversely affect the reproductive and nervous systems. In this study, mother rats were fed BPA so that their nursing young would be exposed to their breast milk. The concentrations of BPA used, 25 to 250 micrograms of BPA per kilogram of bodyweight per day, are similar to the -- to that of the estimated BPA exposure to preschool children.

Another myth about BPA has also been recently debunked. Because it was previously believed that BPA could only be ingested through food that was stored in BPA-containing containers, researchers believed that it would be excreted quickly and pose little harm or none to the human health. However in a study conducted by Dr. Stahlhut of the University of Rochester's Environmental Health Centers -- Health Center using data from the US Center for Disease Control and Prevention, it was

found that the drop in BPA levels over a 24 hour period of time was eight times slower than expected for these individuals.

The study goes on to state there are two possible reasons for this. The first being that BPA is found in other sources, such as house dust and tap water. In fact -- I want to thank the Legislature.

CHAIRPERSON BROWNING:

Your time is up, but what grade are you in?

MR. ZHOU:

I'm a freshman.

CHAIRPERSON BROWNING:

You are amazing, I have to tell you. You know, I'm thinking our Health Commissioner needs to worry about you. You might want to take his job. You want to wrap up? Are you almost done?

MR. ZHOU:

Not really, but that's okay. I just want to thank you all for your time.

CHAIRPERSON BROWNING:

Thank you. Next is Karen Joy Miller.

MS. MILLER:

Thank you, Ms, Browning, for the opportunity to speak in front of the Health Committee. As you see here, we've got students -- and I want to sort of underscore that the testimony that they're providing to you today is not what we've provided to them to speak. They have done their own research, they have done their own investigation. And this is the generation that we are -- that we are responsible for their health and their offspring.

So with that, I'll begin my testimony and I'll also speak very rapidly. Getting BPA-based products off the shelf protects everybody. Prudent avoidance is the key word here. With the passing of Local Law 1017-2009, Suffolk County once again can lead economic green development and promote sustainable -- and promote a sustainable economy.

It's important that all baby bottle, sippy-cups are safe and that they are toxic, chemical free and that all companies that sell these products meet that requirement. The major retailers and manufacturers in the United States and around the world are already phasing out Bisphenol A in favor of safer products. These new market trends should be reinforced by County, State and Federal legislation, not the other way. Let's start out of in our community.

Giving the growing scientific evidence demonstrating the health hazards Bisphenol A poses, I strongly urge you to take a better-safe-than-sorry approach to protect the health of the most vulnerable of our population, our children, by passing this legislation to phase out Bisphenol A. BPA-free products promotes greener jobs and boosts. Due to rising consumer awareness, there is an economic growth from the market that's rejecting BPA through the growth of safer free BPA alternatives.

I'm actually an advisor to the Pollution Prevention Institute that has -- based in Rochester that is looking at these alternatives. Eastmen Chemical, a manufacturer of BPA alternatives, has stated the company is excited by the significant market potential to bring to the market a safer BPA-free alternative. On February 2nd, organizations and students came together to Suffolk County to present our support of the Toxin Free Toddlers and Babies Act. Once word got out in the airwaves and in all print, eyes are on us in Suffolk County.

Many our of partners across the country since that February 2nd responded. Scientists, medical professionals, health advocates are all urging us to pass this as a local law. Most importantly,

Suffolk County's Toxin Free Toddlers and Babies Act has the attention of our young students. They see this as their call to action. This generation has come into a world of high-tech and high-speed communication. They, unlike us, don't have the ability to be naive any more. And what is more encouraging, they have taken the responsibility to voice their concerns with confidence, for after all it will be their world.

Mia Davis is the coauthor of a reports, *Baby's Toxic Bottle* and coleader of the National Workgroup for Safe Markets. She's a former resident of Suffolk County while her father, step mother, sister and two brothers are still part of our County. Her focus has been to get toxic chemicals out of consumer products starting with those our most -- that are most hazardous for our children.

CHAIRPERSON BROWNING:

Karen, time is up. Can you wrap up?

MS. MILLER:

Banning the use of BPA will reduce the risk of breast cancer in our daughter and in generations to come. It's time to halt this toxic hand me down chemical and to move to safer alternatives. Suffolk County has an important opportunity to raise the bar for protecting children's health. It's our children at risk or banning BPA. It's a no-brainer. It's really in your hands to step up to the plate and do it. I'm counting on the Legislature to be the third part of this triangle.

The researchers have shown evidence, you've got groups all over the country and children. And now we don't want excuses about enforcement or anything else, we need really you to set this Local Law in place. Thank you very much, Mr. Browning.

CHAIRPERSON BROWNING:

Helene Aronson.

MS. ARONSON:

Hi. Helene Aronson. I'm a health -- pediatric nurse and health consultant care for the Child Care Council of Suffolk. Because our agency directly works directly with the licensed and registered childcare providers here in Suffolk County, Legislator Steve Stern's projected ban of Bisphenol A or BPA is very important to the agency and the providers and children that we advocate for.

It's hard to ignore all the scientific research done even by the young researchers here today, which suggest that the dangers of the exposure to Bisphenol A, especially to our most vulnerable population; our infants young children, the scientific research has shown BPA to cause everything from breast cancer to obesity, autism and diabetes, just to name a few. The Child Care Council of Suffolk wholeheartedly supports the Toxin Free Toddlers and Babies Act to protect the health and safety of all children and our children's children. Thank you.

CHAIRPERSON BROWNING:

Thank you. Tim Ryan. Somehow I don't think this is about BPA.

MR. RYAN:

No, but I would support it. First of all, thank you very much for allowing me the time to come and speak with you, and also, my apologies, because my voice is not very good today. I'm a perfect example of suffering from something that we all did many years ago, and that's smoking. In the last five days -- I have cancer of the lungs, and at this point, it's kind of a moot issue as to what can be done. If anything, child, boy, man whatever you want to call it for what we should have done when we were younger is thrown those damn things away. I had my son last night, I took his cigarettes, threw them in the trash can, it almost caused a riot.

Anyway, what I'm here today is to talk to you about contract, if you will, that was just recently let out to a company called Serviss Air to to handle the transportation requests of the Medicaid patients in the County of Suffolk. It's not working. It's a little bit ironic that within the last two hours before

this meeting, I received several phone calls that now we're going to have meeting with the vendors, the providers of service. My answer is, well, it's pretty good, we've locked the barn after the horse got out.

Once again, the time for the meetings was before the contract was signed and the company was put in place to take over the arrangements for the sick and elderly of this County. That was not done. I received a letter on January 20th by fax at 4:35 in the afternoon stating that this company would be taking over on February 2nd, giving us a total of eight full working days to figure out what is going wrong with this.

There was no meetings with any vendors, i.e. the people that provide that transportation. No meetings with any dialysis units, the people arranging for the transportation on long term. There was no meetings. How in the name of God can you open up a corporation, provide a service, don't talk to the people who are actually providing the service and just go right ahead? The morning of February 2nd, when they took over, I received an 11 -- I'm sorry, going forward to February 10th, eight days after that company was in place, at 11:05 I received a manifest from my company, the authority to transport people. Well, that's pretty good, because the first six people should have been into the doctors or hospital's office by 11 o'clock. They didn't get there. Why? Because we didn't have authority.

CHAIRPERSON BROWNING:

What time did you get the manifest?

MR. RYAN:

11:05 a.m.

CHAIRPERSON BROWNING:

And they were to be at the doctor by 9:00?

MR. RYAN:

The first patient was to be picked up at 7:00 a.m.

CHAIRPERSON BROWNING:

Okay.

MR. RYAN:

When you call Serviss Air, you can't get through. I have a 94 year old client, lives in the Town of Riverhead, who three hours ago was on the phone crying to me because she can't get through to get a doctor's appointment.

I have two alternatives. I'm not a rich man, and most of you up there know me. I'm somebody that's going to sit by and let the sick, elderly and indigent in this County be thrown into the sand by anybody. What's going on is wrong. This poor lady has been trying to make arrangements for five days. The answer from Social Services when I got through to somebody was, "Well, you know a number to call. You can call us." It's not my obligation to call. It's illegal for me to call for a client to make arrangements under Medicaid Law.

CHAIRPERSON BROWNING:

Okay. Serviss Air?

MR. RYAN:

Serviss Air. They did a lousy job servicing the planes in the airport, they've now moved on to see how they can screw up the medical clientele.

CHAIRPERSON BROWNING:

Okay.

MR. RYAN:

There was an RFP that was put out many months ago, nobody seems to know who signed the contract. The contract is in place. I will very briefly, if you will allow me one extra minute, read to you a letter that I sent to the Commissioner of Social Services on February 11th, nine days after this cost saving process was started.

"Please be aware that the contract with an outside vendor is not working. We, as a license ambulette service are unable to service our client base because Serviss Air is not available nor are they receptive to the obvious faults in their system. Since February 2nd, our clients have been unable to get through the company now designated to serve them. I received transport request authorities at 11:00 a.m. on a day that needed a 7:00 and eight o'clock pick up of multiple clients, thereby causing us to cancel for lack of authority numbers."

"This causing the sick and indigent to not be able to seek or receive medical help. I think it is a disgrace that Suffolk County is now turning its back on its most fragile of its citizens. There was no prior notification of the projected demise of the Suffolk County Medical Transportation Unit and no meetings with the local vendors that that might have had special needs or might simply have been informative of a constructive nature to complete the transition to Serviss Air if that was at all necessary. I respectfully request a meeting with the management of the County or the unit that handles Serviss Air."

That was February 11th. Two hours before this meeting, I received a phone call that said, "We're going to have meetings." What do we need the meetings now for? The horse is out of the barn. Are we going to look the door now?

CHAIRPERSON BROWNING:

Legislator Kennedy has a question for you.

MR. RYAN:

Yes, Mr. Kennedy.

CHAIRPERSON BROWNING:

Thank you for coming forward. And I know that you've been involved in this transportation function for many years and have done it quite well. Prior to Serviss Air, who did you interface with or who did this function?

MR. RYAN:

The function was completed by Suffolk County's own employees in the Department of Transportation of Social Services, who, as some of you know, I have never been afraid to stand up and say negative about anybody, but I want to tell you something. The ladies and the gentlemen that were in that organization, in that section, were the finest employees this County ever had. And where they sent them, I have no idea. Wherever they went on to different classifications, the County and the Supervisor who received them is certainly going to be very well served by them. They were individuals who were on the employee -- as Suffolk County employees and were transferred to other quote, unquote jobs.

LEG. KENNEDY:

It's important that we hear some more from you, John (sic), about this. I think we have a couple of more cards, but are we going invite the Commissioner up, Madam Chair?

CHAIRPERSON BROWNING:

Actually, yeah. I'm trying to understand what this is and what it's about. I think we will ask the Commissioner to come up and question it. So if you want to stick around?

MR. RYAN:

Absolutely. I stand ready to meet at any meeting with any one of you to help you. If this has to go forward with Serviss Air then so be it. But let's talk and figure out where the pitfalls are. We've got people out there that are very sick.

LEG. KENNEDY:

I agree with you. And we're going to have the Commissioner and we'll have the County Attorney's Office up too, because if they're nonperforming, then that's not a valid contract. Thank you.

MR. RYAN:

Thank you very much for your time. And if there's any questions, I'd be more than happy to answer them.

CHAIRPERSON BROWNING:

Stick around, close by. Next is Stephen Rosario.

MR. ROSARIO:

Good afternoon, Madam Chair, Members of the Committee, Presiding Officer Lindsay. For the record, my name is Steve Rosario. I'm Director of the Northeast Regional Office for the American Chemistry Council.

We appreciate the opportunity to speak here today. I'm not testifying per se, rather, I'm here to apprise the committee of several factors. My colleague, Dr. Steven Hentges, will be testifying on behalf of the ACC regarding the science of BPA along with other colleagues representing other segments of the industry.

First, a small group of us did meet with Legislator Stern earlier this week to understand his concerns and to education him and his staff regarding the status of the science of BPA and what other countries are doing. He was most gracious in meeting with us. We do appreciate the sincerity of Legislator Stern's concerns with the introduction of his proposal. Actually, they are same concerns we have regarding the safety of our products.

In a spirit of reciprocity, I hope the committee and the public can appreciate the seriousness we take in making our products safe for all citizens especially children. At the meeting, he did state he amended the bill, which he did share with us. Even though Legislator Stern has argued that his proposal is limited in focus and impact, we respectfully disagree with that assessment and why others are here to explain their concern.

As I often attempt to do to give my ground level view of our industry which is composed of everyday citizens just like you and me, we're concerned about everyday life issues, whether it's holding a -- holding on to a job in a tough economy, paying medical expenses, taking care of our parents or ensuring the safety of our children. Just two weeks ago we had the pleasure of a visit by Assemblyman Steve Englebright and Senator John Flanagan who met with about 60 of our employees, your neighbors, in a facility less than ten miles from this building. Both Legislators were able to hear firsthand the concerns and pressures their constituents are living and working in in Suffolk County.

Therefore on that front, we do -- we are on the same page. Where we part is on public policy such as Intro 1017. Public policy that seeks to ban a that seeks to ban a product is a very drastic step. It is an admission that there is no alternative but to ban. Such steps should be taken rarely. And when undertaken, should be based on sound scientific information. Much has been said about BPA, however, the weight of the current available evidence and the consensus among the experts charged with investigating this issue agree on one basic principle; that BPA is safe.

I think if we ignore the weight of the evidence we do so at our peril, because there are always consequences that cannot be determined today but will show up in the future. Your job is not an easy one, but if you decide to take up the very difficult task which our Federal Government and the

government of other nations that spend hundreds of millions of dollars to research, then it must be done with care, with the time to understand the intricacies of the issue and a rational and emotional way and without a rush to judgment.

That's why we ask this committee to move judiciously and carefully today to continue its own investigation into the voluminous information that is available and to vote to hold the bill in committee today. Thank you very much.

CHAIRPERSON BROWNING:

Time is up, however, Legislator Eddington has a question for you.

LEG. EDDINGTON:

We've heard testimony about looking for a safer alternative to BPA, and you're saying that the research says that it's safe; is that correct?

MR. ROSARIO:

That is correct. But Legislator, if I may have Dr. Hentges answer that question, I think he would be better able than I, since he actually works on the BPA matters every day.

LEG. EDDINGTON:

Oh, will he be testifying?

CHAIRPERSON BROWNING:

Yes, he is. He's next.

MR. ROSARIO:

Yes.

LEG. EDDINGTON:

Okay. All right, then I'll save the question for him. Thank you.

MR. ROSARIO:

Thank you.

LEG. BARRAGA:

I have a question.

CHAIRPERSON BROWNING:

Thank you. Okay, Legislator Barraga has question for you. Mr. Rosario?

MR. ROSARIO:

Yes?

CHAIRPERSON BROWNING:

Legislator Barraga has a question.

LEG. BARRAGA:

Yeah, just one question.

MR. ROSARIO:

Yes.

LEG. BARRAGA:

Obviously there's a disconnect between what some have testified and citing certain studies with reference to BPA and the official position of some nationwide and world-wide renowned organizations like the FDA, the European Food Safety Authority, the World Health Organization and a number of

others who indicate that BPA is safe. My question is if there's any doubt, what is the down side? Why can't you remove it, just take it out? Is it prohibited in Canada right now?

MR. ROSARIO:

To my knowledge it's not. But again, I think Dr. Hentges who has spent time in Canada --

LEG. BARRAGA:

All right. Is there an economic problem if you remove BPA from the product?

MR. ROSARIO:

I think it comes down to more so a health problem in many applications.

LEG. BARRAGA:

All right. If you remove BPA, there's a -- tell me the kind of health problem you run into; is it a question of preservation of food, or what's the problem if it's taken out?

MR. ROSARIO:

Again, I apologize, Legislator Barraga.

LEG. BARRAGA:

Well, you represent the industry?

MR. ROSARIO:

I am a representative of the industry, yes, but I'm not the technical person --

LEG. BARRAGA:

Well, is there an economic consideration here, is that the problem? I mean, you represent the industry, so no one's ever asked you what happens if you take BPA out? I mean, is there an economic problem, that's why the industry doesn't want to do it, you don't have an alternative? Does it effect negatively the food, the preservation of the food; can you answer any of that?

MR. ROSARIO:

Again, if I may, because those are more technical questions, if Dr. Hentges and Dr. Hoyle --

LEG. BARRAGA:

Is he here today? Is he here today?

CHAIRPERSON BROWNING:

Yeah, he is.

LEG. BARRAGA:

Yeah, he is. He's next.

LEG. BARRAGA:

Okay, I'll ask him. Thank you.

CHAIRPERSON BROWNING:

We'll have him come up.

MR. ROSARIO:

Yes.

CHAIRPERSON BROWNING:

Dr. Steven Hentges, you're next.

MR. ROSARIO:

Thank you.

CHAIRPERSON BROWNING:

Thank you.

DR. HENTGES:

So I guess I've been introduced already. Madam Chair, Members of the Committee, thank you for the few minutes I have today to speak to you. I am Dr. Steve Hentges and I am with the American Chemistry Council. And just to clarify my role, I've spent about the last nine years being intimately involved with the science on Bisphenol-A. So that's --

LEG. EDDINGTON:

Could you speak to the microphone, please?

CHAIRPERSON BROWNING:

He's tall.

DR. HENTGES:

Sorry. So that's why I'm here today, really to focus more on the non details of science, there's no time for that.

But you've heard that Bisphenol-A is primarily used to make polycarbonate plastic and epoxy resins. These are not new materials, they've both been used for -- safely used for about -- actually more than 50 years now, and they're used today in a very wide array of products, everything from eyeglass lenses to sports safety equipment to most any electronic equipment you can think of to products such as baby bottles and food containers. Epoxy-resins are almost universally used as the coating in most food and beverage cans. And in that application, it provides the -- it helps to protect the safety and integrity of our food supply.

Bisphenol-A has become one of the best tested of all substances and we now have a very rich scientific database on which we can assess the safety of Bisphenol-A. And there's no time today to talk about any details of the science, I'd be happy to do that with you at any length you would like off-line, but no time in three minutes. But the important thing, I think, for you to know is that science has comprehensively reviewed by government bodies, by regulatory agencies around the world, in particular in the last couple of years. And there is now a consensus amongst regulatory bodies world-wide that Bisphenol-A, these very low levels of Bisphenol-A that we may contact are not a risk to human health.

Europe is perhaps the best example because Europe has adopted what is called the precautionary principle, and you heard it referred to earlier by a more understandable term which is better safe than sorry. In Europe, they have to apply that when they assess the safety of things like Bisphenol-A. Nevertheless, Europe, in the last year, has issued two comprehensive reports on the safety of Bisphenol-A and after assessing -- after evaluating the science and applying the precautionary principle, Europe has still found no reason to take any action on Bisphenol-A. Products containing Bisphenol-A are considered as safe for use and are widely used in Europe with no restrictions.

In Canada, the Canadian Government released their report last year and I'll just give you a bottom-line quote the way they describe their conclusions. "The current research tells us the general public need not be concerned. In general, most Canadians are exposed to very low levels of Bisphenol-A, therefore it does not pose a health risk." And in Canada, they have not actually banned anything, they have proposed, they are considering, as you are, a ban on polycarbonate baby bottles. But also important to keep in mind, that they have also made it very clear that they have no concerns with any other products, any other cups or bottles or containers or tableware or anything like that made from polycarbonate plastic.

The U.S. Food & Drug Administration, which is our Federal regulator for products such as baby bottles or anything that contacts food, has a safety assessment of Bisphenol-A under way right now; they've not completed it, so strictly speaking we can't say we know what they're going to conclude, it's under way right now.

There are many myths and much misinformation on Bisphenol-A, and you heard some of those myths and misinformation in earlier testimony; there's no time to clarify all that right now. But one thing that I can assure you is that the science has been comprehensively reviewed by these government bodies around the world and every one has come to basically the same conclusion.

So finally, one further comment on alternatives. Considering the extent that Bisphenol-A has been tested and considering the number of times that the safety of Bisphenol-A has been vetted by government agencies around the world, there are no alternatives that have been tested nearly as well. You hear quite a bit about safer alternatives, but there is no scientific basis to say that any alternatives are safer than products made from Bisphenol-A.

So finally, just in conclusion, I would encourage you to consider the views of the government bodies around the world that have reviewed the science on Bisphenol-A, seriously consider their views, there is a consensus on their views. And also I would encourage you to give FDA the time to complete their assessment; they're our Federal regulator, give them the chance to complete their assessment in particular now that we have a new Federal administration and give them a chance to complete their review and take appropriate actions based on their findings. Thank you.

LEG. EDDINGTON:

I've got a question for him.

ACTING CHAIRMAN KENNEDY:

Thank you, Doctor. We actually have a couple of questions from the panel here. Legislator Eddington has a question for you.

LEG. EDDINGTON:

Thank you. Did you state that you've been working intimately for nine years on this issue?

DR. HENTGES:

Yes, I have.

LEG. EDDINGTON:

Okay, so that we actually have an expert here, not somebody reading from other reports.

DR. HENTGES:

Well, I will not claim that I'm an expert, but yes, I have been intimately involved, that is my full-time job for the last nine years.

LEG. EDDINGTON:

Okay. Then I feel confident that I can ask you a couple of questions. Yeah, I had said to the other person that I hear about a safer alternative and you've pretty much now, I think, said that there -- that first of all, we don't need a safer alternative because this has been proven safe. And the second part of that is I guess that there is no alternative that can be proven safer; is that what you're saying?

DR. HENTGES:

That's correct. Yeah, based on the views of the government bodies world-wide who have reviewed the science, they all have a consensus view that there is not a risk to human health, that these products are safe.

LEG. EDDINGTON:

Okay. And then the only place that -- I want to make sure I'm clear. Canada banned it, but -- or is considering banning it, but it's more on the lines of to play it safe.

DR. HENTGES:

That's correct; their scientific report, that was the quote that I gave you before. They didn't find any risks to human health, not even from use of products such as baby bottles. The way they've described it is that using an abundance of caution, they are proposing to ban poly-carbonate baby bottles only, and they've not even proceeded with that yet. But they've also, again, made it very clear that they have no concerns with other products.

LEG. EDDINGTON:

Okay. So now, I mean, I happen to know that plastic bottles came in probably -- just about when my children were finished with glass bottles, so that we would have a large group of people that are probably now 30 or somewhere. How many people have been adversely affected by this PBA (sic)?

DR. HENTGES:

Well, there are really no studies on humans that have identified anyone that has actually been harmed from exposure to these low levels of Bisphenol-A from consumer products. So there's no one that you could point to and say that person or these people have been harmed.

LEG. EDDINGTON:

Okay. So I guess I'm questioning why all the noise about PBA (sic)?

DR. HENTGES:

That's probably a very complicated question, why all the noise, but there is a lot of research that's been conducted. The research leads government agencies to review it, but all of that generates interest in it. So it's a popular subject, that doesn't necessarily mean, in fact, it doesn't mean that Bisphenol-A is harmful; the science really doesn't support that conclusion at all.

LEG. EDDINGTON:

Right. But that does often effect the Suffolk County Legislature, so.

DR. HENTGES:

Right, because you hear about it as well. Right.

LEG. EDDINGTON:

Yeah. All right, thank you very much, sir.

LEG. BARRAGA:

Go ahead, John. You want to go?

LEG. KENNEDY:

Okay, just a quick question. Thank you, Madam Chair. Doctor, we're asked to go ahead and evaluate things that certainly are far beyond me when it comes to science. But I don't know if you are familiar with this, I have a piece of material that was handed to us by the sponsor and it's from -- by a Dr. Maida Galvez from Mt. Sinai Children's Environmental Health Center; are you familiar with Dr. Galvez' work?

DR. HENTGES:

I know the name, I'm not sure if I can link her name with a specific piece of research.

LEG. KENNEDY:

All right, if I can read to you just for a second, and I'll be happy to hand this to you so you can take a look at it as well.

Dr. Galvez says that, "Many studies in animals show an association or exposure to BPA, even in small amounts, to adverse health effects including neurobehavioral disorders including hyperactive behavior, learning, obesity, altered insulin sensitivity, cancers of the breast, prostate and uterus. The human studies have been limited." My experience is that often times when science is trying to assess what the negatives may be -- or any impacts, not necessarily negative -- any impacts that begin with animal studies; correct?

DR. HENTGES:

Correct. Correct.

LEG. KENNEDY:

Okay. So -- and if there's an incident in whether it's mice or monkeys or things like that, ultimately you may go into some human studies and then you try to assess from there. This is telling me that there are a number of animal studies that bear out, I guess, negative consequences associated with this drug. But are you saying that we should discount them?

DR. HENTGES:

No, I'm not saying discount them. There are probably thousands of studies on Bisphenol-A, certainly many hundreds of studies. And again, these studies have all been comprehensively reviewed by the government bodies world-wide. And what they do when they have that many studies -- and particular studies that conflict, that give different results, and that's the situation that we actually face here -- what they do is they weigh the evidence. They don't pick out one study or another, they take all of the relevant evidence. And what they're looking for is repeatability which is a hallmark of science; studies have to be repeatable for us to rely on them for any purpose. They're looking for consistency from study to study and looking for coherence across that whole set of data. And what you find or what they find when they review the data is that studies are not repeatable, they're not consistent, they're not coherent. So we have a lot of studies, yes, but we have no coherent conclusion that comes out of it. And so that's really the basis for why in every case what they found is they don't see a risk to human health.

LEG. KENNEDY:

Then I'm --

DR. HENTGES:

Now, I do -- one more comment, if you'll allow me.

LEG. KENNEDY:

Of course, please.

DR. HENTGES:

-- in regard to animal studies versus humans. Yes, we rely on animal studies because we can do that, we can't literally test people, we can't test toxicity on people; you can't do that kind of an experiment. But we do know quite a bit about differences between animals and people. For example, we know a lot about how animals and people process Bisphenol-A in the body; they're quite different. And so we do know that when you have -- it's rodents, usually rats and mice that are tested most commonly, we do know that rodents are quite different from humans on how they metabolize and excrete Bisphenol-A. And that information tells us -- what it tells us is that people are better at processing Bisphenol-A and it tells us that we have to be very careful about extrapolating from studies on rodents to people.

LEG. KENNEDY:

I don't want to monopolize this, and I think Legislator Barraga's line of questioning is equally important, so I'm going to yield, but I'm still confused as to what would it draw from this. I'll yield.

LEG. BARRAGA:

Good afternoon. Much of what you have said I am also reading here in terms of World Wide

Organizations who have found BPA to be safe. And as you've pointed out, these organizations have done extensive studies on this subject.

I guess the question that I have, though, is that when we talk about the studies, most of the studies generally indicate typical use conditions, the potential migration of BPA into food is extremely low, and they specifically talk about baby bottles. Now, each of the studies conducted by the governmental agencies included or focused entirely on baby bottles. In most cases, new baby bottles were studied under well characterized lead conditions. Migration was measured into infant formula, fruit juice or a range of solvents to simulate food. In each case, migration of BPA for new baby bottles, when detected, was less than five parts per billion; five parts per billion. To me, that's relevantly insignificant. But the question is, is BPA absolutely necessary in the manufacture of that bottle?

DR. HENTGES:

Well, let's go back to where I started. BPA is used to do two things; it's used to make polycarbonate plastic and it's used to make epoxy resins. So you don't actually come into contact with any significant level of BPA, it's only a trace level of impurity in any consumer product.

LEG. BARRAGA:

But it's in the bottle. It's in the makeup of the bottle, right?

DR. HENTGES:

Right, it's used to make the plastic, yeah.

LEG. BARRAGA:

All right. I guess my question is, I'm not a chemist, can that be taken out and still have a baby bottle?

DR. HENTGES:

Well, if you don't have Bisphenol-A, you wouldn't have polycarbonate plastic and you wouldn't have epoxy resins because it's a critical raw material for both of those materials. So I guess the answer is no, if you don't have Bisphenol-A, you wouldn't have either of those. So what does that mean? Well, polycarbonate plastic is a clear, light-weight, highly shatter-resistant plastic, that's why it's used in such a wide array of products. So without it, you would have to replace those attributes.

LEG. BARRAGA:

Okay, so let me take it a step further. Let's say Canada proceeds and eliminate BPA in baby bottles in Canada. What are you telling me; the industry can no longer supply a bottle that a baby can --

DR. HENTGES:

No, no, no. No, in that case, there have always been alternatives to products such as baby bottles, they have always been on the market, and there are probably more alternatives available now than ever before. They use a variety of different plastics; we can't say that they're safer, they've available, however. They may not be as functional, they may not have the shatter-resistance or the clarity or some other attribute. In many cases, they're also more expensive. Most of the plastics used to replace polycarbonate are more costly, in some cases a lot more costly than polycarbonate.

LEG. BARRAGA:

Because I think most of us have concerns. Obviously I think we'd be the first County. What, in this nation? You didn't mention any other countries that have banned this.

DR. HENTGES:

No, no one has.

LEG. BARRAGA:

But I think when you listen to some of the recent studies, you wonder where the FDA is and some of

these other organizations. Have they taken these studies into consideration, are they reevaluating this whole concept of BPA and plastics?

DR. HENTGES:

Yeah. Again, the other countries world-wide, Europe and Japan and Canada, their evaluations have all been released just in the last one to two years. FDA is in the midst of an evaluation now, so yes, they're very up-to-date, their review comprehensively --

LEG. BARRAGA:

But in those other countries, those conclusions still remain the same, that they regard BPA as safe.

DR. HENTGES:

Correct. And in Europe, their reviews came out just last year, so they're quite up-to-date. In fact, one of them actually made two further updates along the way, just in response to recent studies.

LEG. BARRAGA:

Yeah, I've just been handed a release that the FDA I guess is in the process of reconsidering plastic bottle risk?

DR. HENTGES:

Well, it's not reconsidering. They're in the middle of a safety assessment that they started last year, they haven't finished it yet. Remember, this is -- there's a huge scientific database, it's quite complex, it takes a while to do it, it's their mid-stream.

LEG. BARRAGA:

Not that you would know, how long do these evaluations take, this reevaluation by the FDA? I mean, based on your experience and background, what are we talking, six months, a year, two years?

DR. HENTGES:

Well, just -- yeah, to give you some background. In Europe, those evaluations typically could go as long as a couple of years, just because of the complexity of the issue and the amount of science. Now, FDA started some time middle of last year, I don't know exactly when, and they are well along in their evaluation, they released a draft report in August of last year and they are now addressing recommendations to improve that. I don't have a timeline on when they will complete, so I can't say; it's not likely to be a month from now, but it's not years away, I don't think.

LEG. BARRAGA:

So we don't have one scientific report done by any of these world-renowned organizations indicating that BPA is not safe.

DR. HENTGES:

No, they've all reviewed the science and they have a consensus view about the safety of Bisphenol-A; they all find that there's not a risk to human health.

LEG. BARRAGA:

Okay. Thank you.

CHAIRPERSON BROWNING:

Legislator Stern, do you have a question, comments?

LEG. STERN:

You know, I just have a -- Dr. Hentges, how are you? Because I just want to follow up on Legislator Barraga's line of questioning, it really just goes to the studies that are -- that are cited, and Legislator Barraga makes a long list of very important and seemingly independent organizations that have done studies. So I just want to throw a couple of things out, and maybe, Dr. Hentges, get

your comments. But the A.M.A. published last month that it finds a significant relationship between BPA and health problems, after having done large scale study on BPA and the human population. The University of Rochester Medical Center found, not just in food but in bottles and other products. They had a significant study published in the Environment Health Properties Journal. The CDC says that approximately 93% of Americans have detectable amount in our bodies. Research at the University of Alabama Birmingham says that low level of BPA caused tumors and genetic changes consistent with early stage cancer. The Journal Center did a large scale study review of 258 research papers. A large majority showed that harm can come from even limited doses of BPA, and those that didn't were paid for by the industry. Proceedings of the National Academy of Health Sciences Report that they did at the Yale School Medical School Study. Primate model, lower levels over a 28-day period, supported by the NIH.

So, I throw that out to you, because -- just go to the comment that all of these seemingly independent studies done by these worldwide bodies have all come back saying that there is essentially no problem, but this is a pretty lengthy list and it can go on and on saying the exact opposite. So I just wanted to get your comments on some of those studies, if you're familiar with them, and also what you think of my contention, that, although listening to you, it might sound like, you know, every single study out there says that there's no problem. There is a pretty lengthy list here of also very worthy independent organizations that say just the opposite.

DR. HENTGES:

Well, I want to start with the one that you mentioned that's a little bit different than the others and that's the study from the USCDC that measured Bisphenol A in people, and I think the number you mentioned was 93% of people, something like that. But what you didn't mention is probably the most important thing is what level was detected. It's not the frequency of detection that matters, it's the amount. And what CDC found is that the level of Bisphenol A typically found in people is approximately 1000 times below, lower than the safe level, the safe intake level of Bisphenol A recently established in Europe by the European Food Safety Authority based on their review of the science. So you have to have the full story there. CDC has not reported that anyone is harmed or could be harmed, they simply reported the values. You have to go further.

LEG. STERN:

I have a specific question on that, Doctor. Who establishes the minimal acceptable level amount in the United States?

DR. HENTGES:

In the U.S., that would be -- well, it depends on what kind of chemical and product. It could be either FDA or EPA. In this case, it probably more appropriately is FDA, and they're in midstream review right now.

LEG. STERN:

Do you know whether or not that level has been established by the EPA?

DR. HENTGES:

It has, but I don't think anyone would argue that EPA's assessment is up today. It's kind of an interesting situation. It is outdated. I don't think even they would say it's not outdated. But it turns out that the value that they established quite a few years ago is actually exactly the same value recently established in Europe based on the most recent science, so but EPA's is out of date. I think that's -- you can't argue that.

Now, just to -- I'd be happy to spend more time with you on every study you want to talk about, but that -- I don't know if that's productive to try to do right now. But to come back to the way the government bodies review the science --

LEG. STERN:

No, no. In fact, Doctor, I'm sorry to interrupt. My question really wasn't going to the specific studies, and, yes, we can talk about the studies all day long, I find it fascinating, but I guess my question to you is isn't it true that there are several independent studies that raise a question as to whether or not even low levels of BPA are safe? I ask you that question because, in hearing your testimony and following Legislator Barraga's questioning, it just makes it sound that all of these governmental agencies have taken a look at all these studies and everything looks good and we should just proceed rather than take a precautionary approach. But, in fact, there are numerous studies out there that say the opposite of the studies that you've cited here.

DR. HENTGES:

Well, again, Bisphenol A is one of the best tested of all substances. There are literally thousands of studies. And so, again, what the government bodies do is they look at all of that evidence, not just one study in isolation, but they're looking at all of it. And when they do that, when they weigh the evidence, that's how they get to their conclusion. We have to keep in mind that studies vary vastly in size, scope, quality and so on. And so what the government agencies are doing is they're looking at all of these different parameters. They're weighing the entire set of data to reach their conclusions. So nothing is excluded, but you can't look at studies in isolation. You're not going to get very far with that.

LEG. STERN:

Thank you.

CHAIRPERSON BROWNING:

Thank you. Okay. Doctor William Hoyle.

DR. HOYLE:

I'd like to start out with a little background. My PhD is in Analytical Chemistry, from there I went on to teach at Iowa State University and then on to Miami University. But between those two professorships, I actually ran the Hazardous Materials Program out of the Governor's Office for the State of Illinois. And beyond that, I joint industry and as -- worked my way from a bench chemist to VP of Corporate Technology.

So with that background, I'm here today --

LEG. BARRAGA:

Not the most recent Governor, I assume, in Illinois.

DR. HOYLE:

No, sir. I'm here today representing NAMPA, which is the North American metal Packaging Alliance. NAMPA is a non-for-profit association committed the safety of metal packaging and metal packaged foods. I'm pleased to be able to testify here. NAMPA is fully committed to the objective of delivering safe, wholesome and nutritious food to everyone, especially our children. We also believe it's imperative that any action that you take here at Suffolk county be based upon the sound science and to consider any unintended consequences that may result from that action.

Simply put, in its present form, this legislation has serious implications far beyond the simple elimination of a select group of products. First, the definition of a child's beverage container could be interpreted to include many additional products. But more importantly, the legislation incorrectly sends a message that Bisphenol-A is not safe. BPA is declared -- if BPA is declared not safe in infant bottle and cups, it's logical for mothers and others to assume that it is not safe in the food contained in metal and glass packaging using epoxy coatings.

This would have a significant adverse impact on the ability to obtain safe, wholesome and nutritious foods that are necessary for balanced diet. The legislation's impact on available food supply would be significant. A ban in the line of use of epoxy coatings not only will increase the risk of food-borne illness in food product, it will, in fact, impact the availability of a variety of food products due to the

fact that there are no alternatives for a variety of these epoxy resin coatings in both metal and glass food and beverage packaging.

Discussions about alternatives to BPA epoxy resin liners in metal packaging have been greatly oversimplified. The simple fact is that there no readily available suitable alternative to BPA-based can enclosure coatings that meets the essential safety and performance criteria for the broadest spectrum of the foods now packages in both metal and glass.

I'm going to skip a lot of this and skip to some of the things I heard, maybe some questions about -- I think it's important to know that epoxy coatings have enabled numerous technological advancements over the last 50 years yielding significant improvements in the safety of canned food products. For example, the use of epoxy coatings in metal packaging is the most effective way to protect food products and keep it safe for human consumption. Metal cans ensure food safety by enabling high temperature sterilization. If you think back 20 ago, you heard a lot about botulism and things like that. You just don't hear about that today. This enabling technology has allow us to do things that we couldn't do before and keep that product safe.

With that, food safety is a critical aspect of metal packaging and one that should not be taken lightly, especially when considered serious food contamination issues that have occurred in recent years in this country; you can talk be the spinach or the things with peanuts that you are going on.

Finally, I think that you ought to think about, you know, the legislation equally importance. It's essential for bringing nutritious wholesome food for people throughout the world, because if you don't use that, you dramatically reduce the shelf life. For example, if you get rid of epoxy coatings in certain things, I'll use salmon cans, you'll now -- it's reduced by about half. So you are going to have catch twice as much salmon, twice as many products.

CHAIRPERSON BROWNING:

Let me hold you up. Legislator Stern has a question.

LEG. STERN:

Thank you, Madam Chair. And welcome. And I appreciate all of your comments, particularly as it relates to the epoxy resin. I just wanted to ask the question -- you understand that this legislation does not have any impact on epoxy resin.

DR. HOYLE:

I know that, but what I'm saying is that tell that to the mother of an infant who you have now just banned their polycarbonate bottle because you said BPA wasn't safe in that bottle. And now I give them a can of infant formula that has the epoxy coatings. How do I tell -- how does that infant's digestive track know the BPA from polycarbonate is bad and BPA from epoxy is a good. It doesn't. It's exactly the same. So what you're doing us you're undermining -- you're making those people worry about the safety of that product, and therefore, they won't use it, and therefore, they won't have a very important source of nutrition for them.

In the State of New York last year, of the roughly 260,000 infants who were born, 48% of them are part of the WIC Program. That WIC Program depends upon infant formula based with coatings made out of epoxy. In this County alone, there were 5000 infants and 7000 children that were monthly fed through that WIC Program that depend upon those packages. Essentially, you'll be eliminating them.

CHAIRPERSON BROWNING:

Okay. Thank you.

DR. HOYLE:

May I state-- you were asking a lot of question about what I call industry funded studies. Maybe I'll make a comment about that to follow up on what I heard, if you would allow me to do that.

CHAIRPERSON BROWNING:

Actually, real quick. We do have one more speaker.

DR. HOYLE:

The fact is that there is probably over 1700 studies on Bisphenol-A over the last 20 or 30 years. And with that, many of them were looked at by all of these world bodies your asking about; Japan, Europe, United States, Canada, etcetera. Why weren't all of those used? Because some of them have inappropriate routes. One of the people you heard speak earlier talked be injecting it. If I was to inject you with potassium chloride, you would have a significant and rapid adverse affect. It's an inappropriate route.

So a lot of thing of these studies when they're looked at by these world experts are looked at not just what was delivered, but how it was delivered, whether those studies were appropriate, what their breath was. Part of the thing that I think that you hear people talk about two industry studies. There's been more than two that have been funded. By why industry paid for it? If you were going to put a material even replacement for epoxy or polycarbonate out there, the first thing that you have to have is FDA approval.

FDA, in order to do their safety assessment requires industry to fund a study. So you're always going to have industry funded studies. The different between an industry funded study is that it must be done under good laboratory practices. It must be peer reviewed. It must go through a review process. A number of these other studies, and about 700 of them that were rejected by FDA and Japan, did not go through that process or had inappropriate routes. So you have to think about the science, and I'll leave it at that.

CHAIRPERSON BROWNING:

Legislator Gregory had a question.

LEG. GREGORY:

My question is really more geared toward the sponsor of the bill, so if I may, Madam Chair. I know there has been some testimony that there's no alternative. Can you speak too that? I know there's other jurisdictions even in Canada that are looking at doing the ban. Are they struggling with the same obstacle, or?

LEG. STERN:

Through the Chair. There's no limitation to suitable alternatives. In fact, you know, we think -- I think that this is a very important and precautionary initiative that we can take to protect the health of the youngest within Suffolk County. But there are already large scale retailers that have already been making a move towards offering only BPA free products on their store shelves with many more signing on.

In fact, there are many businesses out there that advertise the fact that their product on their store shelves are BPA free and can ensure that parents and others who purchase these products for the young children are purchasing a safe product. They have voluntarily removed what are questionable products from their store shelves. So to say that there no viable alternatives to say that there are no cost effective alternatives, to say that there are no safe alternatives is disingenuous at best.

LEG. GREGORY:

So there are alternatives being presented already in the market?

LEG. STERN:

(Shaking head yes).

LEG. GREGORY:

Okay. That's all I had.

CHAIRPERSON BROWNING:

Okay. Legislator Kennedy, question for the speaker?

LEG. KENNEDY:

Yes. No, thank you, sir. And again, it kind of goes to some of the discussion about the alternatives and no viable alternatives. And I think it's very important that we're talking about the two different categories. And I understand that point that you were attempting to make about the resin, the poly-coated resin, I also note firsthand about the importance of the WIC Program.

But I'll also suggestion that one our speakers today, Ms. Miller, who was here with us two weeks ago give us a card, that list various type of plastic containers. And I have to be candid with you, I find myself obsessed now every time I'm in the store of flipping over the bottom of plastic containers telling my wife we can get something. And said I truly am over the edge now.

But it also -- there are four categories here that apparently are safer alternatives of plastic. And I can't begin to pretend to describe the chemical content, but they have been assessed as safe vessels, if you will, or containers. Unfortunately, the BPA falls under that seven category which raises this discussion we have had for the last two hours about whether we have valid science or not. So there's got to be some alternatives.

DR. HOYLE:

I can only speak for the epoxy coating side. And, yes, there are some alternatives out there that you'll here people like Eden's Food talk about, okay? What Eden's Food does is that's a small food packaging plant in Michigan, and they are actually out advertising that we have metal packaging that doesn't use epoxy coatings. But when you read the fine print through it, there is a few major exceptions. They only use for a few selective products. And what they're using is an oil resin technology that dates back into the '60's and '70's wherein most companies in the -- by the mid '70's actually got rid of that technology. Why? The oil resinous coatings that they are talking about actually require a metal catalyst. That metal catalyst of choice is manganese.

The metal catalyst of choice in that particular form was actually banned by Canada because it was not linked to but directly associated with cardiac arrest. Now tell me, precautionary principle or heart attack? It just doesn't make sense. When you go to that -- yes, there are alternatives out there. The newer alternatives need to be put through this same gruesome regulatory review process to see if they are safe.

And on the epoxy coatings side, the answer to that is there are some for very narrow selected things, but not for the broad range of products we're talking about, particularly I use meat products for the closures on baby food for that. If you don't put the epoxy coatings on there, the liner won't stick. If it doesn't stick, you don't get -- you do not get sterilization and you have a potential for botulism.

LEG. KENNEDY:

But is the concern then that you have -- if it's an industry certain being driven by the limitation on the epoxy resin which then governs what the external container selection is, is A driving B?

DR. HOYLE:

I'm not talking about plastic containers. I'm talking about metal food packaging that has a coating on the inside of it.

LEG. KENNEDY:

I heard you say that, and that's very important. Okay.

DR. HOYLE:

That's really where my expertise is on this subject.

LEG. KENNEDY:

So one of your colleagues, one of your predecessors then can speak to my obsession about the numbers here?

DR. HOYLE:

Steve, I don't know you want answer that or not.

LEG. KENNEDY:

Let me yield. I have to yield. As the sponsor had said, I guess we could do this stuff all day. I'll yield.

CHAIRPERSON BROWNING:

We do have one more. Lorin Alusic. I do want to apologize. I know you called my office, and I've had some week and I was not able to get back to you.

LEG. KENNEDY:

Me too.

MR. ALUSIC:

Thank you. Good afternoon. My name is Lorin Alusic. I'm here on behalf of the Grocery Manufacturer's Association. The Grocery Manufacturer's Association is an association of food, beverage and consumer products manufacturers. I'm going to speak from the manufacturer's standpoint relative to Legislator Stern's proposal to ban Bisphenol-A in baby bottles and sippy cups and so on and so forth.

The reason that we are concerned, we don't make baby bottles or sippy cups or at least our members do not, is that Bisphenol-A according to numerous food safety authorities, which we rely on very heavily for their guidance relative to what food contact materials we can use have said that Bisphenol-A is safe, continues to be safe. They are studying it, and we will follow their guidance as things go forward.

If Bisphenol-A is banned in single jurisdiction, as a former speaker said, there will be questions as to the safety of the products that our manufacturers make. We are very concerned by this. As we review the science ourselves, because we do need to do that, we have scientists at our companies, we have scientists at our associations -- our association, excuse me. We review the science, and we believe that the science says that Bisphenol-A is safe.

At this juncture, we would respectfully request that Legislator Stern's bill not be moved forward mostly because we continue to believe that Bisphenol-A is safe. I'll take any questions. I've submitted written comments. I have also submitted GMA's white paper on Bisphenol-A that speaks a lot to the studies that people are raising throughout the day. I will also let you know I'm not a technical expert. I'm here to just bring the point of view of GMA to the public record.

CHAIRPERSON BROWNING:

Legislator Stern.

LEG. STERN:

Thank you, Madam Chair. Welcome.

MS. ALUSIC:

Thank you.

LEG. STERN:

If the organization believes that BPA is safe, why are major US retailers such as Wal-Mart, CVS, Toys R Us, K-Mart, Safeway, Sears Wegman's Foods and Whole Foods all committing to phasing out

their BPA contaminated products?

MR. ALUSIC:

I cannot characterize their decisions. However, I can use -- present it from this perspective. If you have a product in which there is an organized PR campaign to bring down that product, if you're a business, what is your goal? Your goal is to sell products. Okay. So if you know that there area group of people out there that are trying to bring down a specific chemical in products that you carry, the first thing your going do is to try to figure out where they can move and where else they can go. So again, I won't characterize the goals of those companies, but from a business, in particular, that's something that you would want to do. You would say, "Where else can I go? Why would I want to get rid of this?"

LEG. STERN:

I would ask you that question. I mean, other than protecting the health and safety of our children and the other 93% of us that have some level of BPA in our bodies, what would those major retailers across the country have against a particular baby bottle?

MR. ALUSIC:

They don't have anything against it. They just have a concern that their consumers wouldn't want to buy something because there is a question. And the question is being brought forth from a perspective doesn't take into account the full body of science as these food safety authorities do take into account.

LEG. STERN:

Thank you.

CHAIRPERSON BROWNING:

Thank you. And I do apologize. I think Zach Rotter had a card. We misplaced you.

MR. ROTTER:

Good afternoon. My name is Zach Rotter, and I'm currently a junior at Walt Whitman high School in Huntington Station. To repeat a quote from the previous hearing, "We do not inherit the earth from our ancestors, we simply borrow it from our children." Now, why would we not elect to protect our future generations? The Toxin Free Toddlers and Babies Act seeks to protect the most vulnerable of our population from exposure to BPA, a chemical which is widely known to facilitate carcinogenic responses within the human body.

The greater scientific community stands behind this truth. The World Health Organization, despite previous testimony, has published press releases, which over the course of 2008 have repeatedly questioned the safety of BPA in infants, babies and toddlers. This stance has also been taken by two advisory committees to the United States Food and Drug Administration, including the United States National Toxicology Program, which has now caused and prompted a reevaluation of the FDA's stance on Bisphenol A.

Canada has recently passed a ban on BPA in products directed towards infants, citing that, quote, the gap between exposure and effect is not enough to consider if safe. I have conducted BPA research which was peer reviewed and presented before the director of the National Institute of Environmental Health Sciences. I concluded that BPA has an obvious adverse affect on the endocrine system, a saying which is supported by the weight of 130 scientifically reviewed and published reports regarding BPA's effects on the developing human body.

This number is in overwhelming contrast to the mere 100 reports which supports BPA's safety. These 11, maybe by coincidence, are all funded in part by, among others, the plastic and manufacturing industry. In accordance with these findings, we must exercise prudent avoidance when dealing with our future generations in relation to BPA.

Some opponents to the bills have brought up the fact that we're in the midst of an economic crisis and that many advisory committees or regulatory agencies throughout the world are so in the process of evaluating the safety of these products and BPA. Well for this, we, the proponents of this bill, have one answer. Yes, we're in an economic crisis which affects our everyday lives. Yes, the FDA is still evaluating the safety of BPA in its products. But in no way does this mean and qualify us to wait until such a ban on such a carcinogenic chemical from the most vulnerable population be instituted.

Toddlers do not wait to grow. BPA does not wait to unleash its effects on our body. Why should we? The fact is, the longer we wait, the more at risk our future becomes. Now more than any other time there's an opportunity to move forward with this legislation, and I urge this Legislature to take it. I know that I'll stand united with the people behind me for the -- against the use of BPA in products used by our future generations, and I surely hope that you do feel the same way. Thank you.

CHAIRPERSON BROWNING:

Thank you, Zach. And last but not least, Debra Alloncius.

LEG. STERN:

You know, before -- Madam chair, if I may just very quickly.

CHAIRPERSON BROWNING:

Sorry, Debbie. Zach, stay there.

LEG. STERN:

Zach, thanks for coming back. You always continue to enlighten. Can you just maybe talk about some of your experiences with some of the -- the more recent studies that you -- that you are aware of and what they seem to provide.

MR. ROTTER:

Sure. My research itself was conducted at Fox Chase Cancer Center in Philadelphia, Pennsylvania, under the Jose Russo Breast Cancer Research Laboratory. And I measured the effect of Bisphenol A on a prepubescent rat mammary gland. And my results were very conclusive to the fact that BPA has adverse effects on the development of these prepubescent rats.

Now, the amount of BPA that these rats received, which has come under many -- much scrutiny in accordance to how BPA works in terms of the chemistry within the body, these rats received in proportion the amount of BPA that would be considered to have the same effect on developing humans body. In accordance to this, the amount of dose, even in parts per billion, which was measured in this study, does not necessarily matter as much as the time which this dose is received. These rats were prepubescent. This act is aimed at prepubescent children and toddlers. And this is extremely important when moving forward with this legislation.

Now, when I presented my research to the National Institute of Environmental Health Sciences and to the Director of that, it was also part of many other research studies that have not yet been published, but have been peer reviewed. Now, one of these studies was the first of its kind. It was an epidemiological study, which surveys a broad population of the effect of BPA and a holistic approach to other environmental estrogens on a total population, in this case, of San Francisco. It was measured for over ten years. The results of the study, done by William {Zane} concluded that there's a statistically significant correlation between BPA and the rise in cancer rates in San Francisco at the time. So when many opponents of this act say that there's no evidence that it specifically affects humans, well, we still can't point out a specific human is affected, but we can take the holistic epidemiological approach to show the route for passing this legislation.

LEG. STERN:

Thank you

CHAIRPERSON BROWNING:

Thank you. I am very impressed with you guys coming and your testimony. You're very prepared. A good future they're going to have ahead of them.

MS. ALLONCIUS:

My name is Debra Alloncius. I'm the Legislative Director for the Suffolk County Association of Municipal Employees. I stand here on behalf of Cheryl Felice and the membership with regard to the DSS evening hours.

I just would hope that when we go to the General Meeting on Tuesday that you are aware of the costs that have been spent with regard to moving people around that are showing up to the centers at nine o'clock in the morning. And I do hope that you've been able to extrapolate the information that when you're closing those centers, the public does not have the access between 9:00 and 12:00, it's too detrimental to the public. It's also detrimental to the workers, because when you're opening that door at 12 o'clock and you've 200 people standing there, it's chaos.

And we understand the need the need for the hours. We do hope you look at all aspects of the cost to run if you're going to keep -- if you're going on with this, you know, 12:00 to 8:00. It's just not working. The numbers are being skewed. We're seeing one thing. The numbers you're getting from the County Exec's Office are different. You know, they're never going to meet.

CHAIRPERSON BROWNING:

Well, I know that we did sit down and talk with Ben and Greg to try and make this more amenable for everybody.

MS. ALLONCIUS:

We appreciate that. We appreciate that.

CHAIRPERSON BROWNING:

You know, the working poor need night-time hours. I think, John, you have a question?

LEG. KENNEDY:

Debra, thank you for coming to speak about AME's position on this. As Madam Chair mentioned, we did meet last Friday with Chief Deputy Commissioner and Mr. Zwirn about the intentions of the administration regarding night hours. And as you saw with the veto message, there was an indication from the County Executive's Office that they would agree to stagger hours to run a full 12-hour schedule. I have to speak with Social Services to further understand how that's going to manifest itself.

There's a commitment, I think, at this point for one center. How does the association view that? Is that something that will be more amicable for the membership? What's the view?

MS. ALLONCIUS:

We have had -- I have had no discussion with the Executive Board regarding that, and that's -- I've been away on vacation.

LEG. KENNEDY:

Okay.

MS. ALLONCIUS:

Came in Tuesday night, Wednesday -- I have not gotten to speak with Cheryl Felice on it at all. I do not know that she has been given all of that information regarding what was proposed, with the conversation that you're going to maybe do a crew in the morning, you're going to open the door at a normal hour. You're going to have your 8 to 12 and then --

LEG. KENNEDY:

Here's what I'm going to suggest. I have some correspondence that I received from the Commissioner actually dated today, I think it was today or yesterday, which speaks about the intention as far as staggering hours; I'll give you a copy of that. I'm going to ask you to please bring that back to your board and discuss that.

MS. ALLONCIUS:

Absolutely.

LEG. KENNEDY:

I think your input will, as will everybody's, be critical for what action we may take on Tuesday.

MS. ALLONCIUS:

My main concern for the Assistant Commissioner Blass, would be staffing again. You know, we have told you over and over and over again the problems with staffing, I can't imagine how they'll be able to do it.

LEG. KENNEDY:

Hopefully we're going to hear some of that very shortly, Debra.

CHAIRPERSON BROWNING:

Uh-huh.

LEG. KENNEDY:

Okay. Thank you.

CHAIRPERSON BROWNING:

Thank you. With that, there are no more cards, so we're on the agenda.

Tabled Resolutions

1886-08 - Adopting Local Law No. 2008, a Local Law to enact a grading policy for food establishments (Losquadro). I'll make a motion to table.

LEG. EDDINGTON:

Second.

CHAIRPERSON BROWNING:

Second Legislator Eddington. All in favor? Opposed? Abstentions? ***That's TABLED (VOTE: 5-0-0-0).***

2098-08. To maximize MI-HEAP Assistance Benefits (Presiding Officer Lindsay). I think we're pretty much on the same -- yeah, the sponsor wants it tabled. So I'll make a motion to table.

LEG. EDDINGTON:

Second.

LEG. GREGORY:

Second.

CHAIRPERSON BROWNING:

Second, Legislator Gregory. All in favor? Opposed? Abstentions? ***It's TABLED (VOTE: 5-0-0-0).***

CHAIRPERSON BROWNING:

IR 1017-09 - Adopting Local Law No. 2009, a Local Law establishing the Toxin-Free

Toddlers and Babies Act (Stern).

I know we've had a lot of testimony on it and I have to tell you, the high school students that are here today are very impressive in what they've done. I think there's a little bit of confusion here, I think amongst us. None of us are scientists, I don't think, but the Commissioner -- Commissioner Chaudhry, could you -- because obviously this is something you would have to enforce, and maybe you have more information you can give us. We're hearing testimony, how harmful it is, we're hearing other testimony that it's not harmful. You know, and I'm thinking to myself when my children were small and I had the plastic baby bottles and I would throw it in the microwave and heat it up and I'm thinking, "Oh, my God, did I do something terrible to my children?" You know, if you could shed some light on this.

COMMISSIONER CHAUDHRY:

Thank you, Madam Chair. Good afternoon, everyone. I certainly understand the intent of the resolution and do commend Legislator Stern for seeking to be proactive. We try to do that in the Health Department; it's always better to be proactive than reactive whenever possible.

I also share the desire to better understand the science which, while not yet absolutely definitive, more unequivocal is compelling in the studies done and currently under way. A significant challenge with this resolution is a peculiarity to the situation that is substantively different than what we dealt with when we banned trans-fats recently. Trans-fats are easily identifiable in the ingredients used to cook and bake food items; It's a different situation with bottles. Not only are bottles not required currently by Federal Law to label or indicate what they are made of, as my understanding is baby bottles are ubiquitous and are sold in multiple locations, including many that we as a County Health Department do not have any jurisdiction over such as super markets and department stores.

So yes, there are many unanswered questions. But the issue of how do we actually go forward with this is a practical concern above and beyond the philosophical and scientific issues raised. We certainly do not have the capacity nor the resources to test bottles for BPA within the Health Department but, you know, there are real challenges, I believe, in this well-intended resolution to move forward.

CHAIRPERSON BROWNING:

Well, that didn't help. Legislator Kennedy.

LEG. KENNEDY:

Thank you, Doctor. So let me see if I can try to sort out some of what you've said to us. Even if this resolution is to be passed, your ability, as the Commissioner for a department, to undertake enforcement is limited at best? Who would -- would it be Sanitarians; who would do this function out of the Health Department?

COMMISSIONER CHAUDHRY:

Well, the Health Department, I mean, we look at food establishments in those areas where which we do have jurisdiction. That's why we're saying -- that's one of the reasons I made the analogy with trans-fats in terms of where we traditionally go to look for these sorts of products and whether or not we know that, you know, things have that. It's a different situation with bottles, you can't just pick up a bottle and know for sure -- unless they explicitly say that they are BPA-free, one can't assume that the bottles that don't say that are containing BPA. There is no -- to my understanding, there is no requirement on the part of manufacturers at this time at the Federal level to label bottles as such.

LEG. KENNEDY:

Doctor, you're a physician, you have to be familiar with some of these studies that we've had presented to us. Mammary Cancer in rats, half-life with BPA for non-food exposure; have you read any of this science and do you have any opinion? We've heard from industry representatives, industry experts. You know, as a physician, as a medically-trained individual, what would you say to

me regarding the quantum of what's out there; is it dispositive?

COMMISSIONER CHAUDHRY:

I would say that it still is equivocal. Were it unequivocal, you know, the FDA and other Federal bodies would have definitively said so. So that suggests to me, not being a scientist however, that there are studies that are going on with mice and other animals, but then as we heard, one can't always equate results found in mice with humans, that is a known fact. Whether that applies to BPA is not for me to decide at this table, I don't have enough of the data. Even if I did, that's not my area of expertise, so I am relying on, as many of you are, on what has been published and what is out there.

There are no definitive human studies, certainly. And there are, as you've heard today in testimony which was very compelling on both sides, and I appreciate hearing the discussions and the well-intentions of everyone involved, I do not believe the science is definitive on this as of this time.

But having said that, there's enough to raise an awareness, I think, on the part of parents and guardians that this might be an issue down the road and that is already being done by many environmental activists and others.

The other thing I'll mention is, you know, I play a fairly active role on the County's Cancer Awareness Task Force Committee as well its Access to Care Committee. So I care, I'm compassionate about the issue as it relates to cancer and, you know, so I am interested in seeing how this will play out.

LEG. KENNEDY:

One last question then, Doctor. I mean, have you -- I admire the sponsor for bringing issue forward, but have you had this dialogue with him as to the legislation and some of your thinking?

LEG. STERN:

Dr. Chaudhry and I have not had the opportunity to discuss prior to today. We did have a conversation earlier today and Dr. Chaudhry -- well, I don't want to speak for the Doctor, but we did have a conversation prior to the hearing today.

CHAIRPERSON BROWNING:

Legislator Eddington.

LEG. EDDINGTON:

Yes. You know, you're saying unequivocal or not. From what I'm hearing, I'm trying to glean together all of this, is that all the World Health Organizations have been pretty clear that they've made an assessment that it's safe at this time. The ongoing testing and research doesn't nullify that, it's showing that they want to keep up with reassuring that fact or proving it to be, in fact, unhealthy; am I correct?

COMMISSIONER CHAUDHRY:

That's correct. Certainly, from the point of view of the County and from myself, I'm not doing these studies, you know, we don't have the wherewithal to do these studies here on the County level. So there are studies under way, and the current body of knowledge, as you indicate, there are studies going on and I'll be keen to look out for them and see if that changes the opinions of the regulatory authorities at the Federal level.

LEG. EDDINGTON:

Okay. Thank you, Doctor.

LEG. STERN:

Madam Chair, if I may?

CHAIRPERSON BROWNING:

Uh --

LEG. STERN:

Oh, I'm sorry. Legislator Gregory, sorry.

CHAIRPERSON BROWNING:

Okay. Legislator Gregory and then you're next.

LEG. GREGORY:

Doctor, my concern, at what point would you say the evidence is to the level where we should take action? I mean, the FDA to me is not -- not it. I mean, you know, their solution is to put a warning sign on it and you continue doing whatever it is that would cause the cancer. I don't have the greatest faith in them. Is there a specific institution or -- I mean, it is a certain amount of studies one way or the other? I mean, what's the -- guide me here.

COMMISSIONER CHAUDHRY:

I think the biggest challenge from the point of view of what we would like to do is look out for the residents of Suffolk County, which is what this legislation is about. The biggest challenge is that we don't know what products definitively have them or don't. So I think the first step is if the Federal Government recognizes that this is a concern and then requires manufacturers to at least -- or even before that decides to require manufacturers to list whether or not a product contains this or not, then you can try to move forward with trying to curtail that, if you feel that that's where you want to go; at this stage it's too preliminary. I'm not even sure how to proceed at this stage. The science is not final and there are some real concerns about how do you move forward, even if you wanted to at this stage.

LEG. GREGORY:

Okay. Thank you.

CHAIRPERSON BROWNING:

Steve.

LEG. STERN:

Yeah, thank you. Doctor, I think along the lines of what Legislator Gregory was asking, I think we all ask; where is the finish line? You know, when is that definitive study? How long does the process take, theoretically, and how long do we wait to be proactive? You know, I'm sure we could have had the same conversation about mercury, about lead, about tobacco, about DDT, studies were ongoing. You know, when ultimately was there that finish line that we as policy makers whose charge we all share with you, certainly, Doctor, making sure that we do everything that we possibly can to ensure the public's health, particularly among the youngest in our community.

As you know, we've always prided ourselves on being a proactive level of government. I don't know if we would ever have achieved many of the significant achievements that we have here if we all waited for a finish line, which during our tenure may never come.

COMMISSIONER CHAUDHRY:

It's not an easy question to answer. Each case is different, I would say, but part of my role as Health Commissioner is to judge based upon the prevailing evidence that is out there. And if there is still doubt on the part of Federal authorities, then that's something to look at and consider.

At the same time, all legislation may have unintended consequences. We saw some examples of that mentioned this afternoon as it relates to -- for instance, when we talked about this in terms of containers for babies that get food; what about infant formulas? I hadn't even thought of that until I heard the conversation this afternoon that containers of infant formula may have some of this as well. So where do you draw the line? You know, and then the impact potentially on WIC Programs,

etcetera. So there are some unintended consequences that you want to be absolutely careful about before you are the first anywhere. And I support many of our strides and accomplishments over the years in being proactive. And it's not an easy question to answer, but I don't believe in this particular case that there is consensus on the part of a majority, even, of the experts out there.

LEG. STERN:

And nobody was saying that there is. But you yourself, Doctor, said that, well, look, if there's a Federal regulatory agency that has a question or if it is questionable, then maybe it is appropriate to take some kind of action.

I don't know if you are familiar with what's been going on or not going on recently at the FDA, but the FDA had issued a study and they made a determination that it was safe, only weeks later is that determination called into serious question. This is a piece, you know, for the FDA to reconsider its determination, weeks after its own advisory board accused the FDA of failing to adequately consider its own research about the dangers, that they are going back and reconsidering the issue. So the FDA can't even agree with its own scientists as to the impact that BPA -- I mean, how long do we wait for the FDA to listen to its own scientists before we decide to do something here?

CHAIRPERSON BROWNING:

I think we're all kind of a little confused about this, and I'm very confused about which way I'd want to go with this. You know, one of my questions for you is can you enforce this?

COMMISSIONER CHAUDHRY:

I think there would be real significant challenges. That was part of my brief conversation with Legislator Stern this afternoon just before this meeting began, because we do not have jurisdiction, as I indicated, in every location that sells baby bottles. Even if we were to move forward with this, you know, in order to have a law like this, there is an expectation, it's written into the law, that the Commissioner is empowered to promulgate rules and regulations to implement this law. I think there are some real concerns.

CHAIRPERSON BROWNING:

And, you know, I'm not a big fan of banning anything; I think education is a good start. Personally, I think what would be nice is to maybe require that things are labeled, that when I go to a store and I look at something on the shelf, I can be told that, okay, there's BPA in that and allow me to have that choice as to whether I want to take it or not. And, you know, again, the enforcement part; how do we enforce it? And what's going to be starting -- you know, when do we start pulling all the stuff off the shelf? And if I go to the store and I want to buy a sippy-cup and I can't buy that sippy-cup because it's got BPA in it and, you know -- and I know there's a lot of people feeling like, "Let me make that choice," you know. Mr. Ryan was here talking about how he made a choice to smoke cigarettes. And again, like DuWayne had said, you know, the -- what was it you were saying earlier about, you know, the --

LEG. GREGORY:

It had too much BPA.

CHAIRPERSON BROWNING:

Yeah, and with the FDA, you know. The FDA one minute will say, you know, "This is good for you, this drug. Whatever it is, it's fine, it's safe," and then a couple of years down the road, "Oh, nope, take it off the shelf, it's not good for you." So again, like he said, they can't be trusted either to be sure that they know what they're doing.

You know, I don't know how we can enforce it. I don't think you can enforce it. And I would like us to not necessarily ban it immediately but to at least educate people and put it on the shelves that is a product that has BPA in it, you know, "Buy it at your" -- you know, at your, you know, concern, whether you want it or not. I respect that you're looking out for our kids. And I see there's some children here who are here saying, "This is my future. This is my children and we want you to

protect our kids," and I respect that they are here to do that.

Would anyone like to make a motion? Personally, I think I'd like to make a motion to discharge without recommendation.

LEG. EDDINGTON:

Motion to table.

CHAIRPERSON BROWNING:

At least let it get to the floor.

LEG. EDDINGTON:

Motion to table.

CHAIRPERSON BROWNING:

And there was a motion to table.

LEG. BARRAGA:

Second.

CHAIRPERSON BROWNING:

We have a second to table.

LEG. GREGORY:

I second your motion, Madam Chair.

CHAIRPERSON BROWNING:

Okay. So, okay, the tabling motion has precedence. So there was a motion to table by Legislator Eddington.

LEG. KENNEDY:

How about the sponsor?

CHAIRPERSON BROWNING:

Second by Legislator Barraga. You're not on the committee, right?

LEG. STERN:

I do not serve on this committee, Madam Chair, but on the motion.

CHAIRPERSON BROWNING:

Do you have -- on the motion, go ahead.

LEG. STERN:

If I may. Thank you. And I appreciate the motion to discharge without recommendation. There's an awful lot of information in front of everybody here around the horseshoe. It is detailed, it is scientific, it is not a language that any of us speak on a daily basis. So I thought that the questions that came from the committee were pertinent and those with questions should continue to have questions and speak with all parties on every side of the issue.

This is legislation that is proactive, precautionary approach to protect our children. It is purposely made very targeted so that it will have a desired result on a very limited set of produce that are currently on our store shelves throughout Suffolk County, but that many jurisdictions, even New York State Government has pending legislation, our Federal Government has pending legislation dealing with this very issue. And of course, it continues to be studied in other countries as well.

We are not going to get to that finish line. We are not going to get that definitive study that says one way or the other whether or not this rises to the level that every single one of us at all ages

need to be concerned with. But if you take a look at the evidence, and I love the fact that we have some of the best and the brightest within our own community and our young people here that have done their own independent research and spoke so eloquently, confidently, definitively on what they learned. But keep in mind that these are studies that go well beyond what those here have conducted themselves or have been a part of. These are studies that have been national and international in their scope.

It is a limited targeted effort. There are viable and cost effective alternatives already being used within our community and across the country. And I would once again direct my colleagues to the fact that Wal-Mart, CVS, Toys-R-Us, K-Mart, Safeway, Sears, Redmonds, Whole Foods have all committed to phase out BPA contaminated baby bottles. Additionally, baby bottle manufacturers themselves are phasing out BPA. Advent, Born-Free, Even Flow, Gerber, HandiCraft, Munchkin, Think Baby; these are companies that themselves recognize the issue. And so we're actually behind industry, not leading industry by the nose.

It's targeted, limited legislation that I think will have a very important impact on the health and safety for all of us, but particularly our children. And so I would urge my colleagues to support the motion to discharge without recommendation. Thank you.

CHAIRPERSON BROWNING:

Thank you. Legislator Eddington.

LEG. EDDINGTON:

Yes. First of all, I believe in the committee system and I think that -- I think passing the buck is not the way to go, and that's what I see often doing that when you pass it out of committee without a recommendation. I think that's why we have committees and I think it's our job to deal with it.

You know, I know that as soon as you put the words "safety for children" in legislation, it's like "Uh-oh." You know, how can you vote against it or want to stop it? And I think we have to do everything we can to protect all our citizens. I look at the young people that came and spoke today as probably the first generation that's had plastic bottles and they sounded pretty good to me. So I wouldn't use that as an example of a bad thing, they seem to be very healthy, intelligent and well-functioning.

I've heard from scientists today that you can't compare animal studies always with humans and yet that's what I keep hearing it being compared to, even with the young man. So I am confused. However, when all the health organizations say that it is safe and there's ongoing research to keep validating that, I feel comfortable. When we call our Health Commissioner up and he has concerns, I don't think we should just disregard. That's why I put in to table it, let's deal with the Health Commissioner's concerns, or else do away with the Health Commissioner because we don't need him then. Because I think if we're not going to listen to his recommendations, then why are we paying him that money? And we can get rid of his staff, too, then.

So I think tabling is the way to go so that we can address those concerns. And I believe it's passing the buck if we don't deal with it and I believe we need to deal with issues. I think the intent is great, but I think we have to deal with this issue and I'd like to deal with the concerns the Commissioner has. Thank you.

CHAIRPERSON BROWNING:

Legislator Barraga. And, you know, I do want to comment on that. I don't think a discharge without recommendation is necessarily passing the buck. There are 18 Legislators who do have an opportunity to vote for, against, abstain, whatever they choose to do. And I think that, you know, my position, I don't know that this is necessarily something I want to vote for right now; maybe when I read more about it by next Tuesday I may have a different opinion. And I think -- I just wanted to let other Legislators who are not here to have an opportunity to make that decision for themselves. For us to bottle it up in committee and maybe somebody that's not on this committee

may want to support it and I don't want to take that away from them either. Legislator Barraga.

LEG. BARRAGA:

The only reason I second the tabling is that, you know, I'm just not a big fan of voting something out without recommendation. You know, we sat here for a couple of hours, you've listened to all the testimony. If for no other reason, there are 12 members of this Legislature not here, and they look to the committee system for guidance. Often when I'm taking a look at the regular agenda, I want to see who voted for or against the bill because that may not necessarily persuade me in a major way, but it has an affect on me. When I see something like it was voted out without recommendation, it tells me nothing. It tells me absolutely nothing. So I really think that the purpose of the committee system, in the end, you take a vote, yes or no.

Now, the sponsor, in this particular case, he doesn't have a problem with it. But if the sponsor wasn't here, I'd be thinking of him. You know, I don't think it works to his advantage or her advantage, depending upon who the sponsor is, when something comes out with no recommendation. I've been sitting here since 2:30, I've been listening. You know, I can call the shot on this bill and I'll live with the results, but we should take an actual vote, either yes or no, up or down, not, you know, coming out of here and saying, "Well, with no recommendation. Let 12 other people hear it on Tuesday along with six others," and we hear the same testimony all over again.

CHAIRPERSON BROWNING:

Thank you. So I guess --

LEG. GREGORY:

I have a comment.

CHAIRPERSON BROWNING:

Okay, Legislator Gregory.

LEG. GREGORY:

I know we're going back and forth with the science, and I think what the sponsor had just stated, you have these, you know, national companies, Toys-R-Us and others that you delineated; I think that's the clear evidence in my mind that we need. I mean, these are businesses that are in business to make money and they're changing their business model for a reason, Because I would think that they see something in the science.

LEG. BARRAGA:

No. In all due respect. You hit it --

CHAIRPERSON BROWNING:

Okay, go; back and forth.

LEG. BARRAGA:

DuWayne, you hit it right on the head. They're changing their business model because it effects their bottom line. They're not interested in the science. They have a group of people, they sense there's a group of people out there that have a problem with this and it's going to have an effect on the bottom line at Wal-Mart and the others; that's the reason they're changing their marketing strategy.

LEG. GREGORY:

There you go. The people have spoken then, right? But there are alternatives other than that that you have spoken to and there was testimony from the, quote/unquote, industry experts that said well, there's no alternatives.

I think we should give the full body the opportunity to look at this. I'm not waiting for the FDA or

some particular international group. You know, we're the United States of America, we're Suffolk County, other countries and their residents come here to study medicine, we don't go there. We have the best scientists and people in the medical field, we'll get it right. I'm not waiting for the FDA, I'm tired of reading the studies on red wine; one year it's good, next year it's not. I mean, we have enough evidence to believe that there's something for concern here. Our children are at risk, we should take every precautionary step that we can and lets move this out of committee.

CHAIRPERSON BROWNING:

Okay. So, in fact, I heard two things about coffee this week; so do I drink it or do I not? Okay, did we -- we had a motion to table and a second. All in favor?

LEG. EDDINGTON:

Aye.

CHAIRPERSON BROWNING:

Opposed?

LEG. KENNEDY:

Opposed.

LEG. GREGORY:

Opposed.

CHAIRPERSON BROWNING:

Opposed. Abstentions? Okay, I guess the *tabling motion failed (VOTE: 2-3-0-0 In Favor: Legislators Eddington & Barraga)*.

Motion to discharge without recommendation. I believe -- did I make the motion? Who made the motion?

LEG. GREGORY:

You did, I think.

MS. ORTIZ:

You have a motion and a second.

CHAIRPERSON BROWNING:

I made the motion. And we had a second?

MS. ORTIZ:

Yes, Legislator Gregory.

CHAIRPERSON BROWNING:

Okay, second by Legislator Gregory. All in favor? Opposed?

LEG. EDDINGTON:

Opposed

LEG. BARRAGA:

I'm opposed.

CHAIRPERSON BROWNING:

Abstentions? Okay, two opposed and three in favor. So I guess it's *discharged without recommendation (VOTE: 3-2-0-0 Opposed: Legislators Eddington & Barraga)*. So I guess we'll hear more on Tuesday. So I think the students are sitting there going, "What's that mean?" It goes in front of the full Legislature next Tuesday, there's 18 of us. And you'll have the opportunity,

if you want to come back next Tuesday and speak on it and we welcome your testimony. Thank you.

Next is **1056-09. Requesting Legislative approval of a contract award for legal services for Medicaid Provider Compliance Reviews for the Department of Social Services (COUNTY EXEC).**

Motion to approve, Legislator Gregory. I'll second.

LEG. KENNEDY:

On the motion.

CHAIRPERSON BROWNING:

On the motion.

LEG. KENNEDY:

Can we get an explanation from Counsel or from the department what this is about? Is this on? Can we get an explanation, Madam Chair, as to what's involved with this?

CHAIRPERSON BROWNING:

Can we have the Commissioner on 1056?

MR. BLASS:

Good afternoon, everybody, Madam Chairman. This resolution is in furtherance of our Medicaid provider fraud investigative process. We are part of a pilot with several other counties in the State of New York. We had a involved process of putting this together to start doing audits not of Medicaid recipient fraud, which we've always done, but Medicaid provider fraud, which would pharmacies and doctors, practices and health HMOs and the like.

This has only been done on a pilot basis. We have had to put together a number of contracts with various agencies that are going to assist us in our special investigative unit in the Department of Social Services to carry out these audits. The reason we need a resolution for this particular contract is that this law firm is the only one that responded to the bid, to the RFP. And Professional Services, we have found them eminently qualified, and we will use them as a resource when and as needed. The audit process has already started. Of course, I won't go into details of what they are.

LEG. KENNEDY:

Just two questions. I don't have a fiscal impact statement with me, I should. How much is the contract for.

MR. BLASS:

The contract is going to be for legal services on an hourly basis. I believe there's a limit. I don't have that figure with me now, but I'll get.

MS. DONO:

No. That wasn't available to us, John, when we looked for the fiscal impact statement.

LEG. KENNEDY:

Do we have a fiscal impact statement on this resolution?

MS. DONO:

Yes.

LEG. KENNEDY:

We do?

MS. DONO:

Yes.

MR. BLASS:

I will get that to the Budget Review Office, that exact top-end figure. I'm sorry, I should have known this. The costs are 100% reimbursable by the Medicaid Program. There's no -- so there's no cost to the County.

LEG. KENNEDY:

Which is -- that's fine. The only other piece I'd ask you then is if this is towards possible -- we've had prosecution with Medicaid providers; as a matter of fact there was a pharmacy right over in my district not too long that purportedly vended over a million dollars worth of Ensure out of a little neighborhood local pharmacy. There was abundant fraud there.

But we're using a private firm, a private law firm, to do the evaluation in the first instance for a criminal matter?

MR. BLASS:

They are a resource to us for any legal issues that might come up in the audit, to guide us in any audit conferences that may go to end of the process. But if there's any prosecution, that would be handled by the State Attorney General's Office. And he might delegate it and turn to the District Attorney's Office.

LEG. KENNEDY:

And no other firm responded to this, huh?

MR. BLASS:

Nope, not one.

LEG. KENNEDY:

Okay. All right.

CHAIRPERSON BROWNING:

So we had a motion and a second. All in favor? Opposed? Abstentions? Motion to **APPROVED (VOTE: 5-0-0-0)**.

1057-2009. Accepting and appropriating \$104,947 in 100% grant funding from the New York Office of Temporary and Disability Assistance for Intensive Case Services for the continuation of the Intensive Case Services component of the Sanction Intervention Program in the Department of Social Services (COUNTY EXEC).

I make a -- motion to approve, Legislator Kennedy; second, Legislator Eddington, place on the Consent Calendar. All in favor? Opposed? Abstentions? It's carried. **APPROVED and placed on the CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1096-2009. Accepting and appropriating 100% State grant funds from the New York State Division of Criminal Justice Services to the Department of Health Services, division of Medical, Legal Investigations and Forensic Sciences for the Aid to Labs - Toxicology Lab Combo Grant, FY2008 (COUNTY EXEC).

Again, same motion, same second, same vote. **APPROVED and placed on the CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1097-2009. Accepting and appropriating 100% Federal Grant funds passed through the New York State Department of Health to the Suffolk County Department of Health Services for the Bathing Beach Water Quality Monitoring and Notification Program (COUNTY EXEC).

Same motion, same second on the Consent Calendar. **APPROVED and placed on the CONSENT CALENDAR (VOTE: 5-0-0-0).**

1098-2009. Amending the 2009 Adopted Operating Budget to reallocate funding within the Suffolk County Department of Health Services, Division of Patient Care Services for the Patient Navigator Program (COUNTY EXEC).

What is that? Can somebody tell us what that is?

MR. FREAS:

Ma'am, it's the Women's Health Partnership Program that helps patients with mammographies at -- it the adopted budget only funded one of the two agencies that execute the program. And the amendment changes the transfers, \$9000, to one of the agencies so that it's balanced correctly.

CHAIRPERSON BROWNING:

So I guess I'll make the motion, seconded by Legislator Gregory. All in favor? Opposed? Abstentions? Motion carries **APPROVED (VOTE: 5-0-0-0).**

Can we get someone to come up? Obviously, we have some questions about this transportation issue with Serviss Air. And also, I guess, if you can give us some comments on the evening hours.

LEG. KENNEDY:

If we can, how about if we just try something with the evening hours first. First of all, Commissioner, thank you for your letter. As you know, we've got an interest in seeing this go forward. I applaud you for the efforts that you made at the centers to effectuate it and to run this pilot. We've heard a lot about the statistics that have been gathered --

COMMISSIONER DEMARZO:

There's some going around now.

LEG. KENNEDY:

Do you have any sense, Commissioner, yet whether or not folks that otherwise would not have been served have been -- had their needs addressed? What's your sense so far?

COMMISSIONER DEMARZO:

Good afternoon. We also have brought Jeff Tempera here in case there are any issues regarding some of the scattered -- staggered start times and so forth.

The program is new. And the response was not an overwhelming response. But what we did see and what the chart -- what the chart will show you is that two of the programs we've always expected people to -- that working families would be able to access are HEAP and food stamps. Those are programs that more easy for working families to access. We have very few that are employed and on temporary assistance.

So the numbers show you that the HEAP, which is only two in the sites, which is in Southwest and Riverhead, the numbers were good for the evening hours. I mean, that's the whole day. We tried to do time to time, but we really looked at the three -- usually the center doors close at 3:00. So we looked at who entered after three o'clock. And we did see people entering after three o'clock at all the sites that would not have had access had we had the regular traditional hours.

The number that you would be interested in, you know, beyond HEAP and food stamps is that last column, which you'll -- the last row, which is the walk-in eligibility interviews. The numbers are small, but the process is there to help the working poor. That is for people that are coming in for the whole host; the maybe coming in for rent arrear, they may be coming for a LIPA arrear. Those are people that we have a structure set up. Right now, you can go all the way through the process.

We've tried to have no nighttime appointments scheduled so that if a working family came in or somebody that couldn't get to the center during the day because they were watching children for family members, that they would be able to go through the whole process and not have to make a return to the center.

Now, we didn't have a lot. We had one at the Coram Center and we had two at the Southwest Center. But it's relatively new. And those are three working families that went through the whole process. It's not a huge number. But we did see people that came in for HEAP and food stamps that did find it easier to access these evening hours -- these hours after 3:00.

LEG. KENNEDY:

One of the things, Commissioner, that I had an opportunity to see firsthand at the Smithtown site was the evening hours operation. I think it was last week. And I know from conversation with some of the Welfare to Work Commission folks and Parish Outreach folks that they did have constituents who went, they did get some assistance. In some cases, they were there for a while.

But the question that I have is my observation when I was there there was that there were a number of personnel that did necessarily seem to be engaged with dealing with folks that had come into the center. So then I go to that, you know, philosophical discussion as far as the department's perspective that you need to have all staff at a center during times open, but yet, if we don't have the walk-in folks, how do you justify that need? Maybe that goes to the staggering. And do you think the staggering is going to be something that work here?

COMMISSIONER DEMARZO:

I'll reserve judgment on the staggering. I mean, actually, even Greg and I don't share the same view on the staggering pro and cons. Do I reserve judgment. I think that there's a potential for it to work in that -- but there may be longer waits for morning clients. So --

LEG. KENNEDY:

But the longer waits for morning clients might be something that in the process -- we know from the Southwest Center that there were prearranged transports to another center for folks that would have been coming over there. So whether they're spending time in a longer trip via a van or a taxi or they wait maybe another 20 minutes or 30 minutes to engage for a service in a center, to me that doesn't seem to be that much of an issue or a concern.

COMMISSIONER DEMARZO:

Right. And that's what we want to see in this staggered hours, you know, pilot that we would be initiating.

LEG. KENNEDY:

I think from the correspondence -- and I apologize to the committee members, but the letter that we got today, we spoke about the fact and Commissioner Blass, Deputy Commissioner and I just spoke about the fact that you are looking at one center to stagger hours?

COMMISSIONER DEMARZO:

Correct, on a pilot basis. That's what was said in the veto message, and that's what our plans are, to continue -- one of the problems is there was significant dollars spent to notify the public to try to do this. There was, you know, there's -- as the Director of Labor Relations will tell you, there's notice requirements to tell employees, we have to provide ten day notice requirements.

So we're really looking at doing it at one center. And then, you know, before we make massive change to any notice provisions or employees' hours to really see what is the affect. And one of the things that I've even heard from individuals is are we really seeing -- and this was always a DSS perspective -- are we seeing the need for evening hours. So I think the first month is difficult to make full comprehensive decisions on whether or not there is a need for evening hours, whether the staggered hours, limited staff, you know, full staffing can be done. I think that more data would

make a better program model.

LEG. KENNEDY:

Just one other question, then I'll yield. We heard going back, I think it was at the last committee meeting or maybe it was the General Meeting, I forget, there are a number of employees, three, four, maybe five employees who came forward who spoke about constraints as far as an inability to be able to be physically present for a night out -- a night time period, be it child care or handicapped spouse concerns or things like that. Over these couple -- this four week period, have employees come to you? Have you made any accommodations? Have you found that to actually be something that's been a problem?

COMMISSIONER DEMARZO:

Well, I can answer part of the question. One individual did come forward to the Director of Personnel, and we are working with that individual on that situation.

LEG. KENNEDY:

Let me go one more with that.

COMMISSIONER DEMARZO:

I would really prefer not to speak about the details of that.

LEG. KENNEDY:

I don't need to speak about that particular individual. Will any employees bear any negative consequences if they come to you say, "We'd like to work an evening, but we can't. I've got to pick up child, I've got to take care of my aunt, my parent is sick and I'm the sole care provider"?

MR. TEMPERA:

I'll respond to that on behalf of the contract. Under the AME contract, shift changes are done by seniority. Shift changes are done equal across the board. And the most senior person gets the opportunity to pick the shift that they want to go to. So in a situation like this where you have someone who might be adversely affected, that -- if it can be accommodated with somebody else switching a shift with them, that's fine. But when you're dealing with a seniority situation, you typically are going to have somebody else who might be adversely affected, but they have more seniority so they say, "Listen, I'm not willing to make that change."

But we go by the rules under the contract. The department in anticipation of this move, I think we gave something like 45 days notice of the changes when contractually they've got to give ten business days. You're talking about a little over two weeks. So they put a lot of notice out there just so people could make accommodations and changes in their schedule. But it is something that is permitted by the Collective Bargaining Agreement.

LEG. KENNEDY:

What's the range under the CBA that we can go with staggered hours? Could we do a 10:00 a.m. to a 7:00 or 6:00 p.m. day? What can we do as far as our range goes?

MR. TEMPERA:

From the Collective Bargaining Agreement -- I won't talk about the operational concerns of the department -- but under the Collective Bargaining Agreement, as long as someone is working a schedule of five days on and two days off and they're working a seven hour day, because I think we're all talking about 35 hour employees here, and people are assigned to the shift on a seniority basis, if you have the staff, you could staff them on a staggered basis, and if you want to have somebody come in 8:30 and work 8:30 to 4:30, somebody work 9:00 to 5:00, 5:30 to 6:00, you know, you can -- you could stagger those hours under the Collective Bargaining Agreement as long as people are given proper notice; the ten business days and it's done on a seniority basis and it remains in affect.

The problem you have with something like that is the operational concerns that you typically have to have more staff available to deal with the same. You have to take into account time off, sick time, vacation time, holidays. And those sort of things always come into play with a staffing need.

LEG. KENNEDY:

I think I will have a follow-up conversation with you.

CHAIRPERSON BROWNING:

Tom.

LEG. BARRAGA:

As you pointed out, the program has only been in place one month. I want to make sure I understand what I'm looking at here, okay? So for example, if I was taking a look at February 13th in Coram, the total number of people who came in in the evening, I guess, after three o'clock, it totals 100?

COMMISSIONER DEMARZO:

No. What we did here was we looked at the full day. This is- - this is comparative data so that you see what we did at the four prior Wednesdays overall, how many people came in for that services, and then the highlighted day is the evening hours. And it's just showing where the distribution is to show you the total days. So it's the 12:00 to 8:00, it's not the three o'clock on.

LEG. BARRAGA:

So for example, if I take February 4th at the Coram Center, did 41 emergency needs. With the evening hours, you did an additional five, 46 in total for the day. Is that what I'm looking at?

COMMISSIONER DEMARZO:

In that day, yes. Yes.

MR. BLASS:

That was not an evening hours day, though.

COMMISSIONER DEMARZO:

The 41 wasn't, the 46 was. What the chart really show you is in the food stamps and HEAP, that's where you saw the biggest bump.

LEG. BARRAGA:

Okay. But again, emergency needs at Coram February 4th totaled 41. With the evening hours at Coram, emergency needs, February 11th, you did a total of 46. So five additional people came in the evening.

COMMISSIONER DEMARZO:

Correct.

LEG. BARRAGA:

It doesn't look like very many are coming in.

CHAIRPERSON BROWNING:

I'd like to jump in, because -- one of my questions was is we did this for working poor people that they can't get there during the day because they're working. I know -- I believe -- Greg, I think I asked you if you did, like, a survey of the people that were coming in and asking if they were working. Did you --

COMMISSIONER DEMARZO:

We tried to do a number of -- we did try to have -- we did ask the questions of a number of people. We asked how they got there, you know, because one of the issues was transportation. There was a

real concern that there was a bus late night hours issue. I don't have the data here. The chart wasn't as clean as we wanted the data. But there were number of people that indicated they were working. But we also don't have the comparison from the daytime data. That's what we realized. We really only collected from daytime. We had no daytime hours. So we can give you some of that. Not every window was as diligent as collecting the data as we would have wanted to.

CHAIRPERSON BROWNING:

February 13th it says there's 55.

COMMISSIONER DEMARZO:

February 13th in what center?

CHAIRPERSON BROWNING:

Coram. You went 41 on the 4th, 46 on the 11th, 55 on the 13th. The 13th was not a nighttime.

COMMISSIONER DEMARZO:

Right. What we want to capture was was there an impact on the day of evening hours that caused the day after to see significant spikes; were we seeing a real delay in meeting needs. And we didn't think that the day after really showed that. So that's what we were seeing. And there was a concern stated that a lot of people arrived in the morning at 8:00 a.m. and weren't served and that, you know, morning hours were better for them. So we wanted to just see if we had people coming the next day that had come 8:00 to 12:00, and could only come 8:00 to 12:00 and was it a problem, and we didn't see that.

LEG. BARRAGA:

If you take a look at Southwest, again, on February 4th comparing that to January 28th, you see a market reduction on February 4th. And that was your late night day, wasn't it?

COMMISSIONER DEMARZO:

Uh-huh.

LEG. BARRAGA:

Have you changed the approach to -- are you open at 8:30 in the morning or you're still transporting people around to another center that's open, the center opens at 12:00? What time do you open these centers now?

COMMISSIONER DEMARZO:

The people that we transport are -- there are individuals that are in shelter situations or placed in motels or in a homeless-status situation, and we transport them to the center because they have business to do at the center. Those are the people that we transport in the morning. Only that population.

LEG. BARRAGA:

But you're really not getting anybody in terms of the category of "working eligibility". I mean --

COMMISSIONER DEMARZO:

In the Southwest Center, you see those two individuals on the walk-in eligibility interview? Those were two working families that came in, and there was one in the Coram Center that went through the whole eligibility process.

LEG. BARRAGA:

I don't want to put you on the spot, but based on the first month, what's your feeling about this? Is this thing worth doing?

COMMISSIONER DEMARZO:

I think it's going to take awhile. I mean, I talk about the DMV model because it took everybody a

while to realize, hey, DMV is open at night, I can go at night, you know. So I think that the parish outreaches have expressed real interest in doing this. I think that it's going to take a while for people to feel comfortable with the knowledge. And then I think the controversy about whether or not it's on or off has created some uncertainty. I do believe if there is a need, it will take a while for those working individuals to know that it's open on Wednesday and get there. I think it's premature to make big decisions based upon one month's status.

LEG. BARRAGA:

Well, it's open one day a month at a given center.

COMMISSIONER DEMARZO:

But it's once a week. And most of the working families do have transportation.

LEG. BARRAGA:

It's once a week when you take all the centers. But at a given center, but if a person's used to going, I don't know, Smithtown, it's only once a month. And you're depending upon that person to become schooled in the fact that on that particular date once a month they can go there. I just don't think people grasp that, or, you know, would be able to think about, "oh, this is the day I can go and it's open until eight o'clock at night."

COMMISSIONER DEMARZO:

But most of the working families do not have an ongoing relationship with the Department of Social Services. So they would be -- they would be getting this information, a lot of them, the first time when they go to certain advocacy groups and support groups. And you know what? There may not be a need. There wasn't -- the department had expressed concern that the current poverty levels of programs that we administer that is set by Federal and State standards are really not reflective of need here on Long Island.

We are seeing people come into our center that are making \$60,000 a year with three people in the family that just really aren't eligible for ongoing assistance, but they're in need. And, you know -- so some of the things we've been able to do with them is give them other programs, talk to them about EITC. So it may -- you know, it may be a longer time, but there may be a benefit in just at least --

LEG. BARRAGA:

This idea was initiated by the Legislature?

COMMISSIONER DEMARZO:

The concept of evening hours was put forth by the Welfare to Work Committee to the Legislature.

LEG. BARRAGA:

All right. But then it became basically through us. And the only reason I make that comment, you know, we're kind of depending upon you. If this is a good idea, fine. If it isn't, just tell us. Don't feel you have to defend this. If it's not working, tell us it's not working. If it is and you think it has potential, so be it. And maybe in another month from now you're be able to be in a position to make a determination.

MR. BLASS:

That's exactly the point. We think that we need some more experience with it before we can come to a conclusion about it. But definitely, the first month has shown some interest, yet, is it -- are we able to -- with four centers having tried at once, they're a demonstrated need, no, it's not easy to do that now.

LEG. BARRAGA:

But in a month, if it proved to be unsuccessful, come on in and tell us. There's no point in this economic environment continuing a program that isn't working.

MR. BLASS:

Your point is well taken, and I think you'll see that from us.

LEG. BARRAGA:

Thank you.

CHAIRPERSON BROWNING:

Thank you. Any more questions on that? The transportation issue we're going to get to. Jeff.

MR. TEMPERA:

Just one more point on the evening hours. My understanding is the Legislature may be considering a vote on an override on this on Tuesday. I'd just like you to keep in mind, I spoke a little bit about shift change and notice and the seniority factors. You're meeting on Tuesday, they've got hours set up on Wednesday. We're talking over two weeks notice to the employees to get them onto these schedules. It will be the same sort of notice to get somebody off of these schedules. Even to do staggered hours is going to be notice to the employees of two weeks. So just keep that in mind, any vote that come up. There's going to be some sort of time factor that's going to have to be factored in as to whatever goes on.

CHAIRPERSON BROWNING:

You know, there's a couple of things; I know there's talk about staffing issues and how this is affecting your staffing issues. And I think it would be a really good idea to come back with this and let us know how you're doing this with your staff. And, you know, maybe next month we'll see some changes. But I did want to ask George, if this bill was overridden on Tuesday, does it take effect immediately or do we have a time period?

MR. NOLAN:

Well, the resolution, when the override is complete, if that's what happens, would take effect immediately. The resolution directs the Department of Social Services to rescind the plan that was set forth earlier, but I think you would read that resolution to do it as soon as practicable within the constraints you've just mentioned.

LEG. KENNEDY:

One other question I guess I have, and it goes to the adequacy of staffing levels. I believe the last time, Commissioner, we talked, there had been a number of SCINs that had been signed and people that are being brought on as a result of those resolutions from last November that authorized about 130 or 140 positions. How many people do we -- how many additional employee do we have in the door yet?

COMMISSIONER DEMARZO:

I don't have that detail with me today. I do know that -- which is probably a good segue -- that, you know, a number of Medicaid positions are waiting for the -- a new building that the Space Committee has been actively considering and will be brought forward to the Legislature soon. So a number of people have been hired. One of our constraints is capacity to fill -- the capacity, where we're going to put them. We don't have anymore space. So there is -- that is one of the limiting factors that we're dealing with. And there is movement by the Space Committee for a new building to be brought forward to the Legislature.

LEG. KENNEDY:

Any would any of those people be center-based folks that would be dealing with these services?

COMMISSIONER DEMARZO:

The positions that you put in the budget last year were for Medicaid and food stamps. In those two areas, those people would be dealing with those services.

LEG. KENNEDY:

Okay. All right.

COMMISSIONER DEMARZO:

And the only other concern I have, and I just want to put it out there, is we did over 20,000 postcards to individuals when we established this evening hours and did massive e-mails to advocacy group. My concern, and I'll just put it out, as well notice to the public -- to the personnel, is the notice to the public. And while there weren't a big number this time around, and I think they're been a lot of newspaper coverage on it, maybe no one will show up, I am concerned about those that show up after hours.

CHAIRPERSON BROWNING:

Thank you. Now, to get to the issue of transportation. Mr. Ryan came in to talk about Serviss Air being contracted, I believe, as of February 2nd. And I -- you know, I don't know about the rest of you, I think I need a little bit more information about what the purpose of Serviss Air is. I mean, he talked about Suffolk County employees were doing their function. Who are Serviss Air? What were they contracted to do? If you could kind of give us a little bit of background.

MR. BLASS:

Very briefly, Madam Chairman. The Serviss Air contract was the result of an RFP process that's been in the budget of Suffolk County's Operating Budget for two years. And I want to say at the outset that we are very disappointed in the actual implementation of their services these past two weeks. It has been far less than we have expected. We've made this known to them in writing and in meetings.

We -- and it has blind-sided the department as much as it's blind-sided the community. I would add to that that one of the problems with this, the implementation of a contract, is that there was a phone line set up that was tested very successfully for volume calls, the phone line that is utilized in this contract. And I'm not saying this in defense of what's happened, because the phone -- Verizon should have been prepared for it. But when -- and it's separate from Serviss Air. Verizon's phone line tested well for volume calls, but when the floodgates opened the phone line failed miserably. And we are now in the process of working with them and Serviss Air to get more phone lines in operation.

CHAIRPERSON BROWNING:

So basically Serviss Air is contracted to --

MR. BLASS:

To provide transportation for non-medical emergencies by such companies as ambulettes and others.

CHAIRPERSON BROWNING:

They are kind of like the dispatch company.

MR. BLASS:

Yes.

CHAIRPERSON BROWNING:

Right.

MR. BLASS:

That's what they would do. We have -- when they were selected, we would point that there was, as I said, the regular RFP process. It went through the screening and public notices and everything else. We had a number of bidders. We had them highly recommended by Nassau County for whom they provide Medicaid services. We've had good experience with them in our school transportation management contract, a separate contract we have had with them from the year before last, as well

as with the Suffolk County Health Department in services they provide for them.

They are making what we consider to be good-faith effort to fix this terrible problem, but it's taking far too long. And we have even talked internally of terminating the contract if they don't correct this situation very soon.

CHAIRPERSON BROWNING:

Mr. Ryan had mentioned that there was Suffolk County employees doing that before Serviss Air was contracted. So my question is where's the Suffolk County employees. I don't know if Jeff left. Is he still --

COMMISSIONER DEMARZO:

Well, there are -- there were eight individuals in a -- it's a prior authorization for Medicaid Transportation Unit. Those individuals with the growth of Medicaid are redeployed to other areas. No one was displaced in the process. They are -- actually, as of tomorrow, they will be sitting in Serviss Air to make sure that Serviss Air does it as well as they did it. They did do a great job. They are still within the Medicaid Unit. They are not specific transportation titles, they are examiner titles and CSW titles.

CHAIRPERSON BROWNING:

Go ahead, John.

LEG. KENNEDY:

This brings up a number of questions, I guess, as far as notwithstanding the RFP process, why, in fact, the administration would want to go forward to privatize a function that's a public function. But more importantly -- well, as important as that, what about the interaction with the actual ambulette providers. Mr. Ryan is here to talk about the clear breakdown and lack of communication with this one prior. There must be 20 or 30 ambulettes services that provide transportation for these Medicaid clients to their -- this is regularly schedule medical appointments; eye doctors, foot doctors, things like that?

MR. BLASS:

Regularly and sometimes non emergency requests for opening up an appointment, yes.

LEG. KENNEDY:

So what kind of interaction has gone on with the transportation provider community?

MR. BLASS:

The interaction was not what it should have been. We acknowledged that the communication that went to the providers was later than it should have been. We thought that the positive testing of the phone line by the phone company and the corrective measures that they have taken to meet RFP would have avoided the necessity of any earlier notice. In hindsight, certainly it should have been earlier than it was. No question about it. That was a mistake.

COMMISSIONER DEMARZO:

But lessons learned, while late. Serviss Air has set up meetings with all the variety of providers; there's day treatment groups, there's substantial abuse groups, there's ambulettes and taxi services. They have been efforting, you know, individual solutions, and now they're doing some ongoing structured meetings. We are disappointed. They had met -- Nassau gave them a great review; they do a great job. We don't know if it's the volume, if it's the staffing, but --

LEG. KENNEDY:

Commissioner, let me ask you a most basic question. Why did you do this? Why did the department do this?

COMMISSIONER DEMARZO:

The State of New York has advocated that counties go to this new system and brought people down and asked that we move forward as other counties have and that the efficiencies in cost -- in fact, at the recommendation of BRO, we put requirements in there that they save money over how we did it. Basically, we had a system where we had people counting grids on Hagstroms to determine rates. We didn't have the infrastructure. And the State had found that these transportation management companies were effective and they did a massive push to move counties towards the system.

LEG. KENNEDY:

How much is the contract?

CHAIRPERSON BROWNING:

BRO, do you know?

COMMISSIONER DEMARZO:

We can get that. You know, and I do not want the quotes to continue that it's 100% funded, but it is the State's wish that we went to a management transportation contract. And they do -- are the primary funder of the program.

LEG. KENNEDY:

But it's our responsibility to provide the services to our residents and our constituents notwithstanding what the State said. The State may say that this system is, you know, the best thing to come down the pike since, you know, sliced bread, but clearly, it's not working. Don't we have an equal responsibility to say to them, "When you get it right, maybe we'll think about it"?

COMMISSIONER DEMARZO:

And that's exactly why we are saying that we said, you know, if they can't fix it. They're running good programs. We do not know if this is -- we do see this in all their other performances. We did not -- Nassau County does not see problems, the Health Department has contracts with them, we had a contract with them to run our Homeless Education Program, we have not seen this. This may be bigger than they can handle. This may be a Verizon problem. This may be a staffing problem. This may just be a starter problem. But you're right to be angry. This has been frustrating. There have been moments you cannot get through for 19 minutes, you're on hold for 19 minutes where the contract says five minutes.

LEG. KENNEDY:

When you dump them and bring it back inhouse?

COMMISSIONER DEMARZO:

Excuse me?

LEG. KENNEDY:

When do you dump it and bring it back inhouse?

COMMISSIONER DEMARZO:

And that's really the balancing act; do you dump it and bring it back in or do you -- you know, do you -- do you work with them a little bit more. So we have -- we have had some very stern conversations and correspondence. I don't think there's an absolute date unless Greg has a stronger feeling than that.

CHAIRPERSON BROWNING:

You know, it's my understanding, Mr. Ryan said that, you know, he knew that Nassau County was having major problems with them, that they were not doing the service properly in Nassau County.

MR. BLASS:

That's not what we received. And I'm not saying --

CHAIRPERSON BROWNING:

Yeah. They're telling you, "Here, you can have them." It seems like that's what they did.

MR. BLASS:

Our interaction -- for the record, our interaction was very comprehensive with Nassau County Medicaid and the counterparts between Medicaid DSS Nassau and Medicaid DSS Suffolk.

CHAIRPERSON BROWNING:

And is Nassau County still using them?

MR. BLASS:

Yes. I want to point out, though, that one of the reasons that we're still waiting, not much longer, to reach the date that Legislator Kennedy has referred to is that they have now have performing in hours that go beyond what the contract provides until this is resolved, including Saturdays. They are adding operators, they are adding phone lines with the cooperation of Verizon. This has all been happening in the past five or six days. And that gives us the chance to hope for more improvement. And if the improvement is not forthcoming, then a drastic step will be taken, absolutely.

CHAIRPERSON BROWNING:

I think -- John, did you -- Mr. Ryan, if you wouldn't mind coming up, I think John might have a question for you. And another question, I see Jeff Tempera left. You know, you took -- I know Mr. Ryan has been doing this for many, many years. I only ask real quick, you know, as far as, you know, you have a Collective Bargaining Agreement, you've now privatized the function and -- was there -- you know, did you have to have some kind the memorandum of agreement with the union to change that? I know Jeff left.

COMMISSIONER DEMARZO:

I'd have to ask Jeff on that. I don't remember.

CHAIRPERSON BROWNING:

I guess we'll call Jeff and find out. But I see Debbie shaking her head saying there was no negotiations or discussions with them. So I can assume that there wasn't. Okay. Legislator Barraga.

LEG. BARRAGA:

Is there a time -- was there a timeframe given to this group to get their act together by a certain date? I mean, you say there's been some improvements recently. But do they have a timeframe? Did someone say, "Look, you know, you've got to get your act together by April 15th otherwise you're out"?

MR. BLASS:

If we don't see something in the next, something substantial, within the next ten business days, it's looks like we're going to give them that notice.

COMMISSIONER DEMARZO:

They only started on February 2nd.

MR. BLASS:

They started February 2nd. But we expected the startup to be far more capable than it's been. And I think that's fair to say. We haven't finalized this, but we're contemplating within ten business days, if there's not substantial improvement, that it's over.

LEG. BARRAGA:

They have no doubt unless they improve dramatically they get their walking papers.

MR. BLASS:

Right.

CHAIRPERSON BROWNING:

John, you have a question for Tim?

LEG. KENNEDY:

Yeah. Mr. Ryan, I appreciate you bringing this to us in the first instance. What, if anything, would you suggest? Now, you know, Serviss Air apparently has been dressed down and they have been told. Is there something that -- from your perspective, what's going to help, what's going to hurt, what would you recommend?

MR. RYAN:

First of all, I think there was a little misleading statement. To the time I walked in here, we have not had communications nor have any of the vendors -- let me back up a minute.

As some of you well know, the mom and pop vendors, the small companies that provide service in ambulette service out here in Suffolk County, that's who I'm speaking for. We've all had meetings, we've all had the same problems. Could they all come in here and do it? Yes. They feel that I can represent them much better, clearly delineate where the problems are.

Now we'll go to the second thing. I own the largest ambulette company that services strictly the East End from Sayville to Montauk, North Shore to South Shore. I have a total of 44 vehicles. And they are DOTed, they're all licensed under Medicaid, they bear the proper markings and insurance. As a matter of fact, my company -- an ambulette company is required to carry a million and a half insurance. My company carries \$5 million solely because it's tied in with a charter bus company that I own also under the same name. So I need \$5 million to go to -- I hate to say this -- the casino in Foxwoods because I go out-of-state. I do a lot of school charters also. These are not on school buses. They are custom mini buses we call them.

We have not, up until the time I walked in here, had any communication, definitive or otherwise, that Serviss Air was looking for a meeting with the vendors, ambulette companies, so that's not true. My main problem with this whole mess was before this came out was the time for the meetings, not after they took over, not after they started receiving or not receiving.

And in all fairness and truth to Mr. Blass who I have a lot of respect for, many, many years of public service, I'm also retired from the phone company as an engineer. If you're going to tell me that if Suffolk County fielded 5000 calls a day for the last five years, you set up a system that doesn't accept at least 7000 calls. That's a joke. That's looking for a fall guy, and I don't think I want to be part of the that.

I have spent 14 minutes, 19 minutes, negative. I have spent four and a half hours trying to reach Serviss Air, threw the phone up in the air and broke it and walked out the door. The system doesn't work. Now, the question Mr. Barraga -- and I have a lot of respect for you, sir -- when do you terminate it? When one person dies or ten persons (sic) dies? Maybe if it was your grandmother or your grandfather or your neighbor that couldn't get through and couldn't get to get a medical appointment. Who's more important? Is there an importance level here? I don't think so. I don't think anybody here wants to make that an issue. But when do you say the system is broken, people are suffering, do we give them ten more days to suffer?

I had a lady that was supposed to go for surgery, couldn't get through, two days. I couldn't get through. The answer I get from a representative was, "But, Tim, you knew you could have called me." It's not my business. It is illegal for me to call to make the arrangement for a person for Medicaid transport. That is clearly against the law. If the system is set up and was set up correctly -- and I have no case against Serviss Air, don't get me wrong. I certainly don't have a case against the individuals, either Mr. Blass or anybody else in the system.

I've already said that the people that were in that department were the best Suffolk County employees I'd ever seen in my life. They were responsive, they were intelligent, they knew their job, they did their job. And whoever did finally get them in their department should be very, very thankful, because if they continue with the proper decorum that they had, they'll never have a problem with them. They will be sterling employees. But what happens back here at the house? Do we go five days?

I understand the position they are in. But this should have been done before. There was no notice to anybody that this system was coming in. I have the papers right here. It was faxed to us at 4:50 in the afternoon giving us eight fiscal working days to figure out what the hell was going on, excuse me. Eight days, and we couldn't get through. And if they are going to fall back on the phone company, I'm not buying that one at all. You know, you are all intelligent people up there, you've been through contracts and labor negotiations. I'm not buying that at all having been in that field.

So going forward, what do I see happening? As was stated before, the people or some of the people at least from that department have to go back in, run the ship, so to speak, have the meetings, let them be in control. Now the problem comes in, do you pay Serviss Air for doing a job that they're really not doing? That's a legal issue that I'm going to leave up to the lawyers. There's plenty of you up there. But the system as it stands right now is not working. Now, the greatest one that I heard was now they're going to go to a three day notification. You can shake your head no, and I'll sit here and I'll tell you that I was told, when I finally did get through to them, "Well, if you're complaining so much, what are you going to do when we go to three days?"

CHAIRPERSON BROWNING:

How many days now?

COMMISSIONER DEMARZO:

I don't dispute -- yes, I don't dispute that they did say that, but they are not allowed to go to a three day notice. And we have told them that their contract does not allow for that.

CHAIRPERSON BROWNING:

Okay.

MR. RYAN:

First of all, the way it works is grandma has to go to the doctor. She calls the doctor, gets the appointment. She calls the transportation company that she uses making sure we have a van available for her. Then she calls the transportation -- or did call the transportation unit. They took all the pertinent information, and that night at four o'clock like clockwork we got a sheet saying all the confirmation numbers and all the information. We corresponded it to our computer from the initial call from Ms. Smith or whoever, and that was it. And it was done -- and it wasn't a problem. And if there was, there was such a minute problem, we called them the next morning and they worked with us.

We knew when we called at 8:02 somebody was going to answer the phone. "I've got a patient to be picked up at 8:30, do I have a number or not? The location is wrong." I, in all fairness, cannot legally take Ms. Smith to a doctor in Hauppauge when the okay was given to take her to a doctor in Riverhead. They have to authorize that. It doesn't do me any good at 11 o'clock in the morning to get a printout saying "oh, you can take these people," when the first seven people were supposed to be picked up before the printout got to me. Now, I understand they're working to resolve the problems. What are we going to do in the meantime?

COMMISSIONER DEMARZO:

Well, there's two things. One is that the two individuals that you are probably familiar with, Victoria and Tom, will be at Serviss Air starting tomorrow morning. They had been on-site fielding the calls.

And I understand that Victoria has worked with Mr. Ryan's ambulette company to deal with specific problems. And we were treating them as specific problems in hopes to resolve them. We have set up a number of makeshift solutions where when clients call we get -- we get through to Serviss Air and make Serviss Air call them back. We've done that through the Commissioner's Response Unit.

But the work around and the individual fixes are not the solution. The solution are a real fix by Serviss Air who we are disappointed in and are surprised by all the experience they have to do such a poor job, as Mr. Ryan says.

CHAIRPERSON BROWNING:

How many Suffolk County employees were doing this prior to Serviss Air?

COMMISSIONER DEMARZO:

I think there were eight. That's what I said earlier.

CHAIRPERSON BROWNING:

Eight. And how many people is Serviss Air using?

COMMISSIONER DEMARZO:

I don't have -- do you know?

LEG. KENNEDY:

Can I just jump in here and ask one other question? It's going to be a question for Mr. Brown. Dennis, you're familiar with these contracts most times. If it turns out, in fact, that they -- the department finds that it's, you know, a true level of nonperformance, how simple is it to go ahead and terminate?

MR. BROWN:

Well, at the simplest level, a contract could be terminated for convenience or for an emergency or in the event somebody -- if there was danger, it could be threatened -- I'm sorry, it could be cancelled very quickly. But the type of dispute that's really being aired is really a business or an operations dispute, and we have clauses in the contract that deal with cure periods. So really, I would think that the correct procedure to follow in this particular case would be to serve them with a notice to cure, follow the time provisions in the contract. And then if they don't cure in that period of time, then there's the right to cancel the contract.

LEG. KENNEDY:

Have they been put on notice yet?

MR. BROWN:

That I do not know. I don't think that decision has been made by the department.

LEG. KENNEDY:

Can I suggest that you notice them, I guess, under the contract? And then the only other question I have is if this was an RFP process that went into effect and it becomes apparent they can't perform, would you return it to our County employees or then would you look for the next bidder on the list there?

MR. BLASS:

We can answer that better when we talk to the State, because they've got all these strings attached. Definitely I'm an advocate for that notice going to them at the very earliest time. And I know that the Commissioner is in favor of that too.

LEG. KENNEDY:

Could you give us a copy of that notice then if you're going to send it?

MR. BLASS:

Sure.

LEG. KENNEDY:

So it's safe for us to assume you're going to paper them with that, right? Okay.

MR. BLASS:

One last point. I really -- the respect that Tom has referred to is quite mutual. He owns a company and has been the business person out East that I know has gone above and beyond in so many different cases that it would take forever to talk about just some of them. But I'm not trying to make the phone company a fall guy by any means. That difficulty with that line is not the reason this happened. It's just one of a perfect storm type of situations occurred. And they're doing their best to fix it; they've added phone lines to replace this one that broke down. But it's been a complication of a cumulative nature of a number of things not just the phone company by any means. But it did happen.

CHAIRPERSON BROWNING:

You mentioned that there's -- how much State funding is this? How much are we funded on this, reimbursed?

COMMISSIONER DEMARZO:

Six hundred and eighty thousand dollars over the life of the contract. And it is a Medicaid expense, which while we pay the cap amount, anything above the cap is 100% State and Federally reimbursed.

CHAIRPERSON BROWNING:

So it's 100%?

COMMISSIONER DEMARZO:

In essence, yes.

CHAIRPERSON BROWNING:

And how long is the contract?

COMMISSIONER DEMARZO:

One year with an option. And there are provisions that they're supposed to also, you know, have performance standards and so forth. So we have the year if the contract works out and then revisit it.

CHAIRPERSON BROWNING:

How many -- because you said there was an RFP. How many responders on the RFP?

COMMISSIONER DEMARZO:

Eleven.

CHAIRPERSON BROWNING:

Eleven? Okay. Was there any Suffolk County ones?

COMMISSIONER DEMARZO:

I don't know.

CHAIRPERSON BROWNING:

Okay. Anybody have any other questions? Okay. I mean, it's very clear. You know, Mr. Ryan is saying he's got clients, he's picking them up at 11 o'clock for a nine o'clock appointment. I mean, that's very serious. It's very hard. You know, do the doctors charge. You know, you don't show up

for your appointment, they're going to bill you. So is it going to wind up costing us more money? And I think also looking at -- I mean, is the State forcing you to go this route instead of using the County employees? I mean, are they going to pull the funding from you with the County employees?

COMMISSIONER DEMARZO:

I would have to go back and look at the State correspondence on the issue. They had strongly recommended it. I don't know if they've gotten to the point of pulling the funding. You know, we can provide you that. We will provide you with a copy of our notice to the company telling them that they have to cure the problems, and we will pull together the State correspondence on the issue.

CHAIRPERSON BROWNING:

Okay. Mr. Ryan, I want to thank you for bringing this to our attention. I would be interested in meeting with yourself and maybe some of the other ambulette companies to see what the issues are that they have. You know, either they have to resolve the issue or they are gone.

MR. RYAN:

To clarify something in regards to Serviss Air, they did get into the Nassau contract several years ago. I don't know the numbers, I don't know the figures, but I don't think their numbers are anything similar certainly to the dimension of Suffolk County as far as the mileage, etcetera, etcetera, etcetera.

But quite honestly and quite frankly sitting here, this is the reason I won't go to Nassau County. I have over \$5000 worth of bills from Nassau County that I can't get paid on, because Serviss Air just doesn't care. I'm sitting in there with \$5400 last year of bills that I did Nassau County patients in Suffolk County, so they have to be authorized through Serviss Air because they're Nassau County residents that are in Suffolk County for whatever reason until they're changed over to the Suffolk County Medicaid. I can't get paid.

I simply said to Nassau County, "Don't bother. I'm not doing it. Leave me alone. I can't afford you no more." So all we see now -- and I'm not the only company. A couple of the other smaller companies that I associate with have had the same negative feeling and won't do it either. Now, here we go again. Here's the one that's giving us all a hard time in Nassau County and they're out here. Well, we might as well just close up. If we do, you folks better authorize a lot of new vehicles.

CHAIRPERSON BROWNING:

We need to keep you. And maybe Jeff Tempera can get back to me on the Collective Bargaining Agreement and that issue. Okay.

MR. RYAN:

I thank you very much for your time and attention, everybody.

CHAIRPERSON BROWNING:

Thank you. Thank you. I'm sorry. It's five after 5:00. I guess motion to adjourn and seconded by Legislator Eddington. We are adjourned. Have a good night.

(*THE MEETING WAS ADJOURNED AT 5:08 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY