HEALTH & HUMAN SERVICES COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

A regular meeting of the Health and Human Services Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Thursday, July 29th, 2010, at 2 PM.

Members Present:
Legislator Kate Browning - Chairperson
Legislator Vivian Viloria-Fisher - Vice-Chair
Legislator John Kennedy
Legislator Jack Eddington
Legislator Tom Muratore

Also In Attendance:
Presiding Officer Bill Lindsay - District #8
George Nolan - Counsel to the Legislature
Renee Ortiz - Chief Deputy Clerk/Suffolk County Legislature
Kara Hahn - Director of Communications/PO Lindsay's Office
Josh Slaughter - Aide to Legislator Browning
Ginny Suhr - Aide to Deputy Presiding Officer Viloria-Fisher
Paul Perillie - Aide to Majority Leader Cooper
Linda Bay - Aide to Minority Leader Losquadro
Jack Caffey - Aide to Presiding Officer Lindsay
Gail Vizzini - Director/Budget Review Office
Lance Reinheimer - Assistant Director/Budget Review Office
Diane Dono - Budget Analyst/Budget Review Office
Craig Freas - Budget Analyst/Budget Review Office
Connie Corso - Director/County Executive's Budget Office
Ben Zwirn - County Executive's Office
Brendan Chamberlain - County Executive's Assistant
Steve Tricarico - County Executive's Assistant
Ed Hennessy - County Executive's Assistant
Dennis Brown - Bureau Chief/County Attorney's Office
Greg Blass - Commissioner/Department of Social Services
Ed Hernandez - Deputy Commissioner/Department of Social Services
Linda O'Donohoe - Asst. to the Commissioner/Dept of Social Services
Dr. James Tomarken - Commissioner/Department of Health Services
Margaret Bermel - Director of Health Administration/DHS
Len Marchese - Director of Management & Administrative Services/DHS
James Meyers - Division of Environmental Quality/SC DHS
Kimberly Staab - Acting Division Administrator-Housing, Employment & Children's Services/Department of Health Services
Michael Maraviglia - Environmental Analyst/SCDEE
Diana Tela - Representing self
Linda Ogno - John J. Foley Skilled Nursing Facility
All Other Interested Parties.

Verbatim Minutes Taken By:
Alison Mahoney & Diana Flesher - Court Reporter

(*The following testimony was taken & Transcribed by Alison Mahoney - Court Reporter*)

(*The meeting was called to order at 2:06 P.M.*)

CHAIRPERSON BROWNING:
Okay, good afternoon. We will start our Health & Human Services Committee with the Pledge of Allegiance led by Legislator Viloria-Fisher.

Salutation

Okay, good afternoon. I do only have one card, so I -- well, maybe I will hold off on that one, because we do have a briefing from BRO on John J. Foley and I see our speaker is here on behalf of -- speaking for John J. Foley, so maybe they might want to hear the briefing first. I guess after that, Dr. Tomarken, you can speak on the Suboxone?

Okay. With that, I guess, Gail, if you would like to go ahead and begin?

MS. VIZZINI:
Yes. Thank you, Madam Chair. The Budget Review Office released its Charter-required, pursuant to A96-H, Certification of Savings associated with the proposed privatization of the Skilled Nursing Facility. I would like to point out to the committee that this is purely a fiscal analysis. Last year you recall we did a rather extensive analysis of the policy implications and the operating of the Skilled Nursing Facility. If any of you should want to review that again or want it e-mailed to you, just let me know. But this is a Charter-required certification and we concentrated only on the fiscal.

The fact that we did certify that should the privatization move forward the County would save money -- in fact, we would save in excess of the 10% threshold -- does not necessarily make the policy decision, that is at the Legislature's discretion. We were required and we did find that there would be savings of at least 10% in the first five years.

Now, to arrive at the certification, we looked at the numbers two ways, as we explain in the report. We looked at the financial statements and we looked at the operating budget. We looked at the operating budget because that is really the reason why we have resorted to the sale of assets. It's part of an overall plan to mitigate the budget shortfall, the 2010-2011 budget shortfall.

(*Legislator Eddington entered the meeting at 2:10 P.M.*)

The summary of the numbers is best presented on page eight of nine. What we found is that on a budget basis alone, we've estimated that the transfer from the General Fund is likely to be -- it's going to range between 6.5 million in 2012 and eight million in 2015. However, there are certain costs that the County is currently paying and will have to continue to pay. If there is no Fund 632 Skilled Nursing Facility, more than likely, the General Fund or other appropriate fund will have to absorb these costs. These costs primarily are health insurance payments for retirees, which is a benefit. They constitute a significant portion of the Legacy costs.

The other -- there is less than a million dollars in these Legacy costs whereby we have assumed that -- you know, based on the backup in the resolution and discussions with the County Executive's Office, there will be a small number of employees who the County Executive, should his proposal move forward, will try to retain in the County. It's our contention that we probably would not be filling these positions with these individuals unless we were to sell the nursing home. Therefore, their salaries, no longer reimbursed at the 82% the nursing home is reimbursed, but we've assumed an aggregate rate of somewhere in the neighborhood of 28 to 36% reimbursement. We'll be

carrying these people, so they constitute several hundred thousand dollars in those Legacy costs.

So what these numbers show is if the 2012 transfer from the General Fund to subsidized operations is six-and-a-half million dollars, of that, a little more than three point one, three point two million are costs we're going to have to pay anyway. So our savings is roughly three point three eight million in 2012, which is 51% of that General Fund transfer. So that's how we're looking at it on a budget basis.

If you look at it from the financial statements, those of you who have the report in front of you can see that the numbers are just a little bit higher. On the financial statements which, again, require a different type of accounting, require you to carry certain liabilities, require you to show depreciation and other examples of the differences between the budget. The budget is only concerned with expenditures in revenue; the financial statements are concerned with post-employment benefits and other numbers. The short of it is the proposed transfer from the financial basis we estimate to be eight point five million in 2012, the Legacy costs are the same, therefore your net savings are a little bit higher than on a budget basis, they are five point three million. There are 62% of that transfer to the General Fund.

My staff and I are here should you have any questions. Our assumptions are, I think, very straight-forwardly laid out in the report in terms of what went into the analysis.

CHAIRPERSON BROWNING:
We have a question; Vivian?

D.P.O. VILORIA-FISHER:
Gail, thank you again for your always very efficient and timely work that you do helping us to make policy decisions, I appreciate it. Can you turn to page two? I'm trying to understand the impact of the note that you have at the bottom of that page which talks about the statements, "Indicated that the allowance for doubtful accounts, bad debt in 2009 would be about $3 million versus one point seven." Can you tell me how -- whether -- you had already done a lot of your calculations. Did those numbers have any impact?

MR. FREAS:
We ended up using the one point seven as our base-line figure. I spoke to the auditors and we also spoke to the -- we spoke to the independent auditors and to Audit & Control to see whether the $3 million was anomalous or whether that was going to be the new figure going forward. It turns out the three million was a requirement by the independent auditors to write down additional debt that we have probably been carrying too long, assuming we would be paid for it. So the 2009 final financial figures had a bad debt allowance of three million where usually it's in the one point six, $1.7 million range on the financial statements. We used one point seven million.

D.P.O. VILORIA-FISHER:
Thank you. Gail, when you began your presentation you said that we were looking at this because -- and as we all know, this has been stated -- because we're looking at shortfalls in 2010 and 2011. But when I look at the analysis, the sale won't give us relief in 2010 and 2011, enough to really warrant this kind of --

MS. VIZZINI:
Well, according to the backup, when we look at the budget shortfall we look at it through the budget model which is a two-year model. Some of it is carrying the shortfall in sales tax from 2009, which is equivalent to like $27 million, it just did not -- sales tax did not materialize the way we expected it to materialize in 2009. It involves projecting how we're going to end 2010 and those cost increases that we have discussed in previous committee meetings that will hit us in 2011.

The backup to the resolution, IR 1474, that proposes the sale and will be before you, I guess -- well, is before you -- uses December 31st, 2011, as the drop-dead date by which the deal would be consummated. It's my understanding, from our discussions with the County Executive's Budget Office, that they intend to show -- to give the 2011 budget the relief associated with the net -- the profit, so to speak, to the County from the sale. The report goes into, you know, the sale price is $36 million less the existing debt service, so fifteen point six million, less some other one-time expenses.

D.P.O. VILORIA-FISHER:
Gail, can I just stop you?

MS. VIZZINI:
Yes, sure.

D.P.O. VILORIA-FISHER:
Because I'm not a budget person and I'm really trying to wrap my head around this. If we're not consummating the sale until the end of 2011, how is that helping us to develop a cost savings in 2011? I mean, we need the money now.

MS. VIZZINI:
Well --

D.P.O. VILORIA-FISHER:
I mean, isn't 2011 supposed to be one of our worst years?

MS. VIZZINI:
The 2010 budget is done. We've already levied the property taxes for that. Any changes or modifications to 2010 is going to be taking from Peter to pay Paul, that kind of thing.

D.P.O. VILORIA-FISHER:
Right, right.

MS. VIZZINI:
If we sell something, if we sell the nursing home, that revenue is not plugged in to 2010, it will be plugged into 2011.

D.P.O. VILORIA-FISHER:
When are we consummating the sale?

MS. VIZZINI:
No later than December 31st, 2011. From an accounting point of view, if you consummate -- if you sell the asset by the end of the fiscal year, that particular date, you can credit 2011 with that revenue.

D.P.O. VILORIA-FISHER:
Because we know up-front how much we're selling it for and so we can credit it up-front.

MS. VIZZINI:
And the reason that you have that outside date is the rather protracted State approval process.

D.P.O. VILORIA-FISHER:
Right. Okay, yeah, I saw that in your report. And what is the net savings that we would realize, that we could upload at the beginning of 2011 if we were to consummate the sale?

MS. VIZZINI:
Regardless of how it's treated in the budget, the net revenue infusion would be, based on our analysis, fifteen point six million. What that is is the sale price, the 36, and just like when you sell your home you have to pay the mortgage off.

D.P.O. VILORIA-FISHER:
That's right.

MS. VIZZINI:
So we have $15.9 million, both budget offices agree on that number, that we need to place in escrow for the remaining debt service. The remaining debt service is a little bit more than that number, actually, but while that money sits there it will accrue interest to pay off --

D.P.O. VILORIA-FISHER:
What page are we on?

MS. VIZZINI:
Actually, this is -- it's in the report, but it's right on --

D.P.O. VILORIA-FISHER:
On the front? I knew I read it somewhere.

MS. VIZZINI:
I put it in the Memo of Transmittal, so it's really -- it's the last couple of sentences.

D.P.O. VILORIA-FISHER:
Got it.

MS. VIZZINI:
And what we did in our analysis was identify at least $3.5 million in one-time costs associated with the sale. Now, those are basically the payout of those employees who are terminated or who retire, we had to make some assumptions about that, unemployment, commission.

D.P.O. VILORIA-FISHER:
And the fee for the person --

MS. VIZZINI:
Excuse me?

D.P.O. VILORIA-FISHER:
And the fee for the --

MS. VIZZINI:
Yes, the consultant has --

D.P.O. VILORIA-FISHER:
That consultant.

MS. VIZZINI:
-- guided the County through, you know, from the inception of the RFP process, and should the deal be consummated there is a provision for a two and a half percent commission of the sale price. So those are your one-time costs associated with selling the house, or liquidated the asset.

D.P.O. VILORIA-FISHER:
Okay. So we'll have -- you're saying that the net that we would be getting that would be an infusion into our budget would be $15.6 million.

MS. VIZZINI:
Based on our analysis, yes.

D.P.O. VILORIA-FISHER:
And what's our shortfall for 2011? I know we have all sorts of numbers floating around, in the many, many millions.

MS. VIZZINI:
Well, when we presented our budget model to Budget & Finance in March, the General Fund shortfall over the two-year period was $231 million. The Budget Office did not really break theirs into General Fund versus Police District, but, you know, our was -- I think the number was 291, we were generally in agreement, but of that, 231 was the General Fund.

Since then, such measures as the proposed short-term savings associated with the early retirement, the reserve funds which, you know, based on my checking this morning, there's $26 million reserved in General Fund expenditures; the money is in the budget but we are not going to spend it. I don't know to what extent the Budget Office has other alternatives, you know, how we're mitigating that larger number, but we're not spending, we're doing very little hiring, things of that nature. We have yet to update our model, we typically do that in preparation of our analysis of the upcoming operating budget, and we are back into trying to project sales tax. I don't have a number for you. I would actually -- if there are people from the County Executive's Office, I would have to defer to them on where they see it now.

D.P.O. VILORIA-FISHER:
When's the next quarterly report on sales tax; is that coming up soon?

MS. VIZZINI:
We just completed the second quarter, and I believe we're in a growth range of about four and a quarter. However, unemployment, consumer confidence, housing, they're still concerns. So we need to look at some things in order to make a forecast. The Deputy Director's initial e-mail to me indicated that we would need significant growth of over 9% for the rest of the year to come in with what we budgeted for, and a good portion of that is because we can't make up the fact that we lost $27 million in 2009. But we are in the process of updating that forecast.

D.P.O. VILORIA-FISHER:
Thank you, Gail. Thank you, Madam Chair.

CHAIRPERSON BROWNING:
Anyone else, questions? None at all, okay. And, you know, I did question because I know we're still looking at this 36 million sale, and I guess we're still waiting. Shortly we'll have a response on our appraisal to see if ours matches up.

Gail, why is it that your numbers are different than the County Executive's budget? I mean, his numbers are definitely very much different. Why are they different? And I see Connie is here; you're more than welcome to come up and respond. If you have any disagreements, I'd like to hear yours. Why is it we have our Budget Review says one thing and you say something else?

MR. MARCHESE:
I think we're saying the same thing.

CHAIRPERSON BROWNING:
There's maybe about a $5 million difference.

MR. MARCHESE:
We've actually reviewed the numbers, obviously. But in general, I don't think we're that far off. I mean, when you look at their estimates and you look at our estimates, the totals are not all that far off.

We feel that when you look at -- on a budget basis, it's somewhat misleading to the extent that there are a lot of costs that you have to accrue for on a financial statement basis, and that's why we use the financial statements as our actuals because they are legitimate charges that catch up with you at given times. Where on a budget basis -- and you're going to see that, actually, in this year's budget if this was a standalone. There are times that revenues come in or don't come in when they should and you don't account for them properly, and the same with expenses. So -- and that's why in the accounting profession, you generally use full-blown accrual accounting which means you try to match revenues and expenditures as best you can, it's not cash accounting. So when we look at it on an accounting basis, we feel that we're pretty close with their estimates when we look at it on that basis.

The other major thing was although -- you know, you have to look at this in two parts. There's the one-shot, which is the sale, and then there's the recurring savings. The one-shot, I think we're pretty much right on the mark with that. We feel that there's a little bit more than what BRO says because they haven't mentioned the future collection of receivables that we've accumulated in the fund, and that number is about $9 million net after we've set aside stuff. So when you add that along with the liquidated numbers, I think we're really close with what we thought was the one-shot.

(*Presiding Officer Lindsay entered the meeting at 2:26 P.M.*)

There's also some things that we've included in our revenues or expenses that we've not included in the sales proceeds per se, but we've kind of have budgeted for them in other areas of the budget. So they are in other areas so it's a matter of where did you look at them; they might be in different buckets. That's on the one-shot portion.

On the ongoing savings portion, we realize that there's this Legacy cost of the insurance and the pension payments for our employees that are out there that has to be continued to be paid. The fact is -- and we agree with that. The one number that we don't agree on of ongoing costs, or we feel that of the people that would be displaced, we actually are looking to move them into other positions and, in fact, the County does experience normal growth that we would need to move those positions into regular positions in the County so that we wouldn't account for that as another cost, we would just see those positions as going to be filled in other areas. And Connie might want to speak about that, you know, a little bit more, but that's one other area. But in general, you know, I don't think there's that much of a difference.

Oh, the one other thing is the Loeb & Tropa contract which was our consultant. They are getting paid a percentage; Gail is right, it's two and a half percent, but then it drops as the price increases so it's kind of a tiered contract. In addition to that, they have been paid a fixed price up to the point where they've -- up to now. So that they -- that has to come off, because we've already budgeted that, we've already paid that fee through the transaction. So when you actually look at the final transaction, it's going to be a lot less because there will be a credit of the money we've already paid them.

CHAIRPERSON BROWNING:
So you're saying sale or no sale, they're getting --

MR. MARCHESE:
Yeah, they were our consultant and they got paid a consulting fee throughout the whole process, and then they get on top of that -- or that gets credited towards the 2%; that's how their contract reads.

CHAIRPERSON BROWNING:
Okay, so how much are they getting? I mean, how much -- okay, if the place sells, what would their -- their percentage would be close to a million dollars, or is it more?

MR. MARCHESE:
No, no, no. The way the contract reads, and everybody has the contract, is on the first 20 million they would get two and a half percent of 500,000; on anything above 20 million they get 2%, so that would be 320,000, so the total of that is 820. However, they were also paid a fee-for-service basis while they were getting us through this process, so we've already paid them 200 of the 820. So now if the sale closes, we owe them 620; that's the number.

CHAIRPERSON BROWNING:
Nice chunk of change.

D.P.O. VILORIA-FISHER:
Gail, you had 800,000 in your report.

CHAIRPERSON BROWNING:
Gail?

MS. VIZZINI:
Yeah, Len's number is 820, ours is 800. The point is there are one-time expenses associated with liquidating the asset, so they're included in our analysis.

CHAIRPERSON BROWNING:
Did you have a question, Bill?

P.O. LINDSAY:
No.

CHAIRPERSON BROWNING:
You know, Budget Review talks about the retirees and the people that we are going to continue to have to pay for for retirements, health benefits. I mean, how many people do you think you're actually going to be taking out of John J. Foley and moving them into the County as County employees? What titles are they, what types of jobs?

MR. MARCHESE:
Okay. Well, let me just talk about that, too. With the pension -- with the retirement -- I know they were working with -- you know, they wrote this report a little while ago, but we actually have current pension incentive numbers. So our numbers are much higher in terms of the staff that's out there that want to retire now. So while I think, what did you use, 30 positions? We have to date when we -- we have 40 positions as of yesterday and we have another 60 eligible that we -- they have until the close of business tomorrow to put their paperwork in. So we're not sure what that retirement number is going to be, but it's certainly going to be more than 40.

P.O. LINDSAY:
Yeah, now I've got a question.

CHAIRPERSON BROWNING:
Okay. Go ahead, Bill.

P.O. LINDSAY:
There's been a great deal of talk about including these people in the retirement program, about some kind of sweetener to help the ones transition either to the private sector or whatever. And there was one other incentive that you guys had talked that you would take -- oh, that you would find jobs for many of the employees within the County workforce. Have you discussed that with the employees at all yet?

MS. CORSO:
I don't think --

MR. MARCHESE:
We have to work through the union. We can't talk directly to an employee, we have to work through the collective bargaining process. And the union, quite frankly, has not wanted to come to the table with us on this. So when we get to that point, which will happen soon --

P.O. LINDSAY:
But how are you going to get to the point? The window for the retirement closes tomorrow. I mean, somebody better get their act together as far as informing the employees of where they're at because they have no idea. They have no idea.

MR. MARCHESE:
Well, right now we've informed all the employees of the impending sale. We will also inform them of, like all the rest of the County employees, about our retirement incentive. They've consistently --

P.O. LINDSAY:
But have you put anything on paper about --

MS. CORSO:
Yes.

P.O. LINDSAY:
-- this position, this position, this position, this position will be transferred to the workforce within the County, and the ones that aren't we're putting $2 million on the table that will be split up this way? Have you put any proposal forward in writing that they can see? Because what the fear is is if it does sell on the 17th it's gone, it's gone, it's in the wind, you guys are going to give them nothing.

MS. CORSO:
Okay, I came here today because I do have a little bit of an update on that. And I'm really willing to take your input on how you want me to notify, but what would happen is you would have to have the official, obviously, bump and retreat analysis from Civil Service in order to see, you know, what bucket each person is actually going to land in.

Just so you know, we meet with our departments -- I happen to meet with my departments bi-weekly or semi-weekly -- and I ask them, I give them a list of the Foley positions and I say, "Please get creative. Where could we absorb these people, can we maximize any aid, what can we do?" And just so you know, I got a proposal this week from the Department of Social Services for a new program that would be in the Department of Social Services that could absorb up to 30 of the positions that are in Social Services, and I do plan on giving this to you in writing.

P.O. LINDSAY:
But Connie, it isn't me you have to satisfy and it isn't your department people, it's the people that are affected out there that are worrying every day that the place that's been their workplace for, some of them, 20 or 30 years is going to disappear and there's nobody or nothing that's going to help them. They're the people that you have to reach to say we're trying to do this, this and this. Not that I can promise you something particularly, but we're going to move 80 people from this facility into other jobs within the County. We're going to put up $2 million," or whatever number you're talking about to help with the assimilation into the private sector. You know, we're going to -- there's going to be a hundred people that can retire, that you should put your papers in pending the sale. They should be in. You know, for 60 out of a hundred not to have their papers in is like criminal.

MS. CORSO:
But I will tell you that I believe that Jeff Tempera has spoken to Cheryl about the nursing home. What went on in those conversations and what the union transferred to the employees I can't say, but I can only say what we've offered up, I can't say -- we're precluded with certain Labor Laws speaking directly to the employees.

P.O. LINDSAY:
I don't think -- well, I don't know. I mean, you'd have to probably ask your Counsel this, but I don't think you're precluded from saying, "Here's the program we're laying on the table. Here's the program we're laying on the table." I mean, it would be great if you gave it to us, too, but we're not --

MS. CORSO:
Well, I was going to give you that.

P.O. LINDSAY:
We're not the people that you have -- you know, that you have to reach. There's people that are in genuine distress out there worrying about their job.

MS. CORSO:
And I assure you, I'm working with every department to try and mitigate that circumstance.

CHAIRPERSON BROWNING:
Okay. I mean, I'm looking at people who are workers, CNA's and RN's, LPN's; you're not going to put them in DPW. You're not going to put them --

MS. CORSO:
No.

CHAIRPERSON BROWNING:
Where are they going?

MS. CORSO:
But I could -- what I did was I took the titles and wherever possible, I mean, we do run health centers, we do have medical services intake in Department of Social Services. I'm reaching out to every single Department, Labor, anywhere where I could absorb some of these people at -- this happens to be a hundred percent State cost. So that would eliminate a lot, 30 people on those Legacy costs.

MR. MARCHESE:
And one of the things which is difficult to plan is -- and Legislator Lindsay is correct, if the hundred put in their papers, you have to know who's putting in their papers before you can plan on what jobs. So it's like you almost have to wait -- every department is in the same situation right now because we're all trying to reorganize now, too; not only Foley, but like department-wide. You have to see who puts their papers in first and then you come back and you have to kind of come up with a reorganization plan. It's a little bit different with Foley because we can't start to place people or come up with a plan, although we know on a high level what we want to do, we can't come up with specific titles until you tell me of the 90 CNA's, 30 are going to retire and I need -- I have 60 that I have to worry about, or of the RN's, I have 15 of them, five are retiring and I need to place ten of them. I don't know those numbers quite yet, but we have a good idea with some of the professional titles and we have a plan for that, but we won't be able to finalize the plan until all of the pension unknowns are known.

CHAIRPERSON BROWNING:
But I think most of the employees know if they're eligible, if they were eligible for the retirement, that they know who they are.

Gail, maybe you can -- I think we went through that one time where you guys gave us a ballpark figure what you thought, how many John J. Foley employees would be eligible to take the early retirement, you know, and I want to know how many actual retirement papers you've actually received.

MS. CORSO:
I think we received four -- I'm sorry, I don't mean to answer for her, but we received about -- we've sent letters to every single person who is eligible with and without penalty and I think we received about 40; 40 have submitted their papers.

CHAIRPERSON BROWNING:
And how many are eligible, a hundred?

MR. REINHEIMER:
A hundred, yeah.

MS. VIZZINI:
Is that correct:

MR. FREAS:
I think we had -- he says a hundred, sure. We had 85 when we looked at it, but we didn't include it in our original analysis because it wasn't a sure thing yet. We had just assumed that that would be -- we assumed that a high percentage of the people who might typically -- who would be eligible for retirement would retire primarily to maintain their health care benefits.

CHAIRPERSON BROWNING:
Yeah. But, see, they're getting the mixed message that they're not allowed to retire.

MR. MARCHESE:
No, no, no.

MR. FREAS:
No.

CHAIRPERSON BROWNING:
You know, unless we hire cops, you're not getting --

MR. MARCHESE:
No, no, no. They're not getting a mixed message from us.

MS. CORSO:
No, no.

MR. MARCHESE:
We've been very clear. And we've been sitting with every individual, our HR Department out at the facility, Colleen has been sitting with everybody on an as-needed basis and spending the time explaining exactly what their options are, and we've been spending an enormous amount of HR time with all of the staff at the facility.

CHAIRPERSON BROWNING:
Okay. I think there are some John J. Foley employees here, so at some point we'll ask them. Gail?

MS. VIZZINI:
Just one comment, and that is although there is some question regarding the Legacy costs, the Legacy costs consist of retiree health insurance. So although we want to on one hand encourage individuals to retire, our Legacy costs will then increase, you know, commensurate with, I think our health insurance premium is about twelve thousand something, twelve five. So, you know, although they're pointing out that there may be some savings, there actually will be some costs.

CHAIRPERSON BROWNING:
Jack? Eddington?

LEG. KENNEDY:
He had to go.

CHAIRPERSON BROWNING:
The other Jack, this Jack, whichever.

LEG. KENNEDY:
Thank you, Madam Chair. I wanted to talk to Gail a little bit, but I also -- while we have the administration at the table, I would pose, I guess, just a couple of questions to them.

I had a conversation in the last committee with Counsel and I'm a little concerned still with the way the early retirement bill is -- reso is constructed, 1726. Because it is not a resolution that's definite within the four corners of the reso, it is only operational dependent upon some external condition. And the reason I talk about that is is because I think that's why you may have some ambiguity with the employees out there in the facility. You're asking them do they intend to retire, do they have an interest in the early retirement, but we don't have anything specific as far as whether the early retirement is going to happen or not.

I don't think I even want to ask what we're going to do should the sale be approved, because as we all know, it would probably take many, many, many months before the license would be put into place, and I don't know what the owner would intend or wouldn't intend to do. It's not as if, let's say the resolution was approved on August 17th or whenever, that all our County employees are going to exit the next day. Rozenberg is not going to put his people in immediately following that, and I know we've talk about the offer, this, that and all the other stuff.

What's my point? My point is I think that it should be no surprise that you have this element of confusion that's out there regarding whether or not people are going to go in. They don't have anything definitive before them at all.

MS. CORSO:
I --

LEG. KENNEDY:
Notwithstanding what the Presiding Officer spoke about, they don't even have anything definitive as to whether or not they're going to be in there.

And my other point is year after year after year we have talked about the ability to fill positions; we've talked about Social Service, we've talked about Health. And short of resolutions that are threatening, you know, suspension or termination or things like that, positions don't get filled. The accounting unit in DSS, we spent 18 months before we got a couple of accountants in there. How are we going to adopt or embrace this posture all of a sudden as an administration? That what takes almost an act of God to sign a SCIN, now all of a sudden the floodgates are going to open and 30, 40, 50 people -- oh, wait a minute, I misspeak. Thirty, 40, 50 people are going to go into all these other areas that have vacant SCINS; how or why?

MS. CORSO:
With all due respect, I think I've probably had 50 SCINS signed for DSS this month. Every time the Commissioner of Social Services and I meet, he gives me a priority list and I go in and those SCINS get signed. So I don't --

LEG. KENNEDY:
In Medicaid, in the 100% reimbursed.

MS. CORSO:
No, no, no, no, no. No, because I had accountants, I had IT people just in the last month. So the fact of the matter is on this, say I have -- I have nurses, I have RN's in the Health Department that retire every year.

LEG. KENNEDY:
Uh-huh.

MS. CORSO:
It's natural attrition. So are you saying that I'm never going to hire another RN? Of course we are. This is what happens in this line of business, people leave naturally, even without an early retirement. So why -- I mean, why is it unreasonable to think that we would not fill the RN?

LEG. KENNEDY:
Well, the RN's will come in. But at this point we're talking about out there in that building right now, County RN's probably are less than two hands, eight, nine nurses; the balance of them are all agency, CNA's. Unless I'm mistaken, and I could be, where else in our County facilities do we employ CNA's? Does that title exist anywhere else besides John J?

MS. CORSO:
Not today. But like I said, I'm trying to meet with every department to try and get them created. But the bottom line is do you think Rozenberg has a hundred CNA's waiting in the wings to work there?

LEG. KENNEDY:
Connie, I don't think anything about Rozenberg.

MS. CORSO:
So -- or anybody, or any --

LEG. KENNEDY:
As a matter of fact, I'm not interested in Rozenberg.

MS. CORSO:
Or any operator.

LEG. KENNEDY:
And yes, I do, and he'll bus them out from Brooklyn. And as a matter of fact, if you look at his other facilities, that's what he does.

MS. CORSO:
Well, that's not what's in his contract.

LEG. KENNEDY:
I'm no interested in talking about Rozenberg at all.

MS. CORSO:
That's not what's in his contract.

LEG. KENNEDY:
Because actually, that's a violation of the Taylor Law because we're not acting in good faith then. But I'm more interested in looking at the pragmatic aspect of what goes on with this.

Let me go -- turn to Gail for a second. The thing that I looked at in your report -- and we spoke a little bit about this, and I don't know whether it has a place in there or not -- is the inherent value of that structure. Forget about it being a nursing home, if it was a pen factory, Mr. Rozenberg said it would cost 60 million to rebuild that thing right now. Do you take into account what is actually, I believe, a disconnect with the way we value that facility as a municipal corporation, as an asset and what we're looking at with the sale right now?

MS. VIZZINI:
I asked George this morning, or maybe it was yesterday, what the status of the second appraisal was and it's not -- it wasn't available to us when we did this, so we went based on the other previous appraisal. And what you and I talked about was the differences between cost to replace the facility, which I think was Mr. Rozenberg's response to you.

LEG. KENNEDY:
Yeah.

MS. VIZZINI:
If he had to build this, you know. There is something, a concept called highest and best use; I don't know if that's going to be part of the second appraisal or not, but really what we looked at was expenditures and revenue. And from an appraisal point of view, the building was appraised, at least the first appraisal, what's it worth as a skilled nursing facility. So it really depends on what question you're asking, what number is going to come back, and I think that's reasonable. I don't think that the County is looking to -- I mean, certainly if we're going to resort to selling the asset, we would like to maximize what we're getting for it. But I don't know that we're that far ahead where we

want to turn it into a residential development or, you know, some other very, very different service, that wasn't part of our scope. As far as this A-96 certification, it just has to do with expenditures and revenue.

LEG. KENNEDY:
Okay. All right, I appreciate it. So perhaps we'll see something with this next appraisal that we get and that will help to add to some of the mix. Okay.

MS. VIZZINI:
You know, had the appraisal come back that the building was worth 45 million and we were selling it for a song because we needed the money, we would have made some sort of comment, but that was not the case.

LEG. KENNEDY:
Okay. Thank you. All right, I'll yield, Madam Chair.

CHAIRPERSON BROWNING:
Okay, the other Jack.

LEG. EDDINGTON:
Yes. I think my views on the Foley Center has been pretty clear, but I want to -- before I ask you a question, I just want you to know that I literally just left my office and I was sitting in John J. Foley's chair. I made a commitment to him when he asked me to run for his spot that the quality of care would be maintained at that center and that I would fight to not let it ever be sold unless there was a guarantee of better care for the citizens. So that's where I'm coming from. And unlike many people, my commitment doesn't end when the person ends; I'm going to stick with my commitment.

And what I'm seeing and hearing is a lot of information, and it seems to be a reluctance to trust that something will be really done right, and that's what I'm getting. And I'm not sure that I have everything straight so I'm going to ask you, I know you're talking about a plan or a program, or whatever we call it, and we don't have one is basically what I'm seeing. But what I'm -- what I hear over and over again is that, I mean, are the people going to be included in the retirement incentive? First they weren't, which sounded kind of punishing, and then I heard they would be, if we commit to the sale we can even get a Police class. So now there's like all of these tentacles and it just to me, it makes everything fuzzy, I can't keep it all clear in my head.
I think I want to know, are we going to include them in the possible retirement incentive? Are we talking about concrete job transfers, not "If you sell it, we'll try to find," because I just don't see people living up to their commitments. I want to know before I vote if that's going to happen.

Then Mr. Rozenberg has a history laying off 20% right off the bat, so that right away brings me right down to the quality of care. And then I heard about possible the County subsidizing the pay for a year. But you know what it is? I hear this and then I hear this and then I don't hear this anymore, now I hear this is tied to that. I'm not sure I've got all the facts, but yet I'm being asked to vote on things. And I would really like to see a plan that we all could get, that when we vote on this, this is what's going to happen, because then I could consider it in good conscience. But right now I don't know what I'm going to hear tomorrow. So, I mean, is there a plan that we're going to get to see?

MR. MARCHESE:
We can speak about different parts of the plan, and I'll talk about the retirement incentive first. Because the fact is, and I think Legislator Kennedy mentioned it, if 50, 60, 70 people retired, we would have a hard time running that place, very, very hard. So the fact --

LEG. EDDINGTON:
Yeah, but when you say -- but you don't want to run the place, we want to let somebody else run it, right?

MR. MARCHESE:
No, no, but the -- but we have to run it while we own it. But the fact is, though, the reason why we're tying the retirement incentive into the sale is because if we didn't sell it, if the vote failed and 60 people retired and we had to run this place, we would have to backfill 60 people. Okay? And that's against the regulations with the retirement incentive rules and stuff like that, so that would be a big issue. That's why those two are kind of connected a little bit. Although if we did sell it, we would come up to implement intermediate plans to get through to the transaction, that's something we can do because you can see the end of the tunnel. But if there wasn't, that's why we -- one has to come first, you can't do one. That's just with the retirement piece.

LEG. EDDINGTON:
Let me make sure I got it. You're saying that if the sale is off the table, we can't let the people from Foley that might want to retire retire as an incentive.

MR. MARCHESE:
Well, they can retire on their own no matter what. The fact is that if we had a mass exodus of staff out there, we would need a mass influx of staff as well, because you obviously couldn't run it without the staff.

LEG. EDDINGTON:
All right, let's just deal with that one issue then. If we said that we'll give you the incentive but you can't go til December 31st, wouldn't you now have six months to plan, to fill those spots?

Well, I mean, you know what it is, I come from a different background; you give me a problem, let's look at how we could solve it. When you give me five or six, I get a little screwed up there, that's why I'm trying to do it this way. I think there's a solution to all these problems, but when you throw them altogether it gets obfuscated.
You know, I mean, I can't really see it real clear, and I think maybe that's the intention, but I want to know it clearly.

MR. MARCHESE:
Well, I think -- no, no. But I think that if there was a clear indication that 50, 60 employees were going to retire and the sale was consummated, we can come up with an interim plan in order to continue to run the place in a safe manner, continue to provide quality care in the interim until the transaction took place. I think we're confident that that can happen.

LEG. EDDINGTON:
You know what, you just hit the same repeat button. Because if you take the sale out, couldn't you still do that? Couldn't you come up with a plan if you said they can't retire til December 31st? Couldn't you develop a plan in the next six months to replace those people? If we're going to sell it you will. Well, what if we don't, can't you still fill those positions?

MR. MARCHESE:
Well, no, not -- that's not the rule of the retirement. You have only a 20% backfill, and if I lose 60 people, I'm only going to be able to backfill 12, I think if my math is correct, and so I am short staff. I mean, I can't be short that staff.

LEG. EDDINGTON:
Okay, I see that. All right.

D.P.O. VILORIA-FISHER:
(Inaudible).

LEG. EDDINGTON:
I don't know, clarify that for me then. They can only -- what I'm hearing is they can only backfill 20% of the vacant positions?

MR. NOLAN:
That was the early retirement bill that was passed at our last Special Meeting.

D.P.O. VILORIA-FISHER:
But that was our own choice in Suffolk County.

MR. NOLAN:
That was our choice, we could have done 50 --

MS. CORSO:
Right. But even with the State, even with the State it's 50%, so 30 -- you can't replace 30 with -- you know, 60 people with 30 people.

D.P.O. VILORIA-FISHER:
I just wanted to clarify for Jack that in Suffolk County --

LEG. EDDINGTON:
Okay. Although we are doing that all over the County, aren't we?

D.P.O. VILORIA-FISHER:
Well, in Suffolk County, Jack, in our bill it said 20%, but it's not -- Len kind of implied that that was a State mandate that we had to -- you know, that we could only do 20%; in fact, we could do 50%.

LEG. EDDINGTON:
Right; gotcha.

CHAIRPERSON BROWNING:
Okay, I want to --

MR. MARCHESE:
And just to keep in mind also, you exempted a lot of the positions that would have been in the same boat as Foley. All of those Public Safety positions where you knew you would have had to backfill, you've exempted them from the process.

LEG. KENNEDY:
We didn't, you did.

LEG. EDDINGTON:
I don't think we did.

CHAIRPERSON BROWNING:
Okay.

MR. MARCHESE:
Well, but you have to.

LEG. EDDINGTON:
Yeah, okay.

CHAIRPERSON BROWNING:
Gail, I think you have a comment, right?

MS. VIZZINI:
Just to add to the muck and the mara. That 20% is in the aggregate; however, the County Executive's Office is going to have to administer that. So what Len's example is, you know, if 60 people leave from the nursing home, they can only backfill 20% of that. But it is in the aggregate, so if you have 400 people leaving the County, it's the dollars, it's the dollars. So --

LEG. EDDINGTON:
Oh, So you mean they could put more -- they could concentrate on backfilling in the Foley Center more than maybe DPW or somewhere.

MS. VIZZINI:
The problem is those other --

LEG. EDDINGTON:
Isn't it amazing how you don't hear all of that all the time?

MS. VIZZINI:
Well, I didn't think that that was conveyed, that's why I wanted to add to it.

LEG. EDDINGTON:
Yeah, it definitely wasn't.

MS. VIZZINI:
However, if you give priority or have to give priority to staffing the nursing home because of the type of care that we render there and the State mandated savings, other departments will not be able to fill even at the 20% level. And, you know, to some extent we are so short- staffed in so many areas -- you know, public safety, what have you -- that's part of the contributing factor why the Executive will be -- you know, why they're going to be precluded from participating in this, because you have to backfill.

LEG. EDDINGTON:
Okay, thank you.

CHAIRPERSON BROWNING:
Vivian?

D.P.O. VILORIA-FISHER:
Jack, would you yield? Because --

LEG. EDDINGTON:
Absolutely. I'm confused enough right now, go right ahead.

(*Laughter*)

D.P.O. VILORIA-FISHER:
I'll confuse you a little more, because we do have a bill -- well, there was a bill before the Health Committee; I voted against it, by the way.

MR. PERILLIE:
The Labor Committee.

D.P.O. VILORIA-FISHER:
Labor Committee, right; this is Health, excuse me. But if we had a special resolution for an incentive for the people from John J. Foley, we could put in that resolution 50% rather than 20%, if we so chose. Because you said, if there's a problem, can we look for one answer to that; yeah, I think we can do that.

The other thing is that not every worker in John J. Foley is -- has to meet a mandated patient/worker ratio. According to the report from BRO, we're looking at 28 different titles. So we're not looking at, you know, 60 people who are all RN's or CNA's, some of them are doing laundry service, food service, custodial services, maybe even lawn service, who knows. So I just wanted to clarify that because you're asking for direct answers and I don't know if all of the answers are that direct or clear.

So, you know, it's a separate resolution, so we really have the latitude to make changes because we impose that 20% ourselves.

LEG. EDDINGTON:
Thank you.

CHAIRPERSON BROWNING:
Okay. Does BRO have another comment?

MR. FREAS:
Yes. I wanted to make clear that the 28 titles we refer to in the report are the titles common between the General Fund and 632, the Nursing Home. So that doesn't include the LPN's or the CNA's because they're not common between the two funds; the LPN's exist only in 632, as do Certified Nurses Aides.

D.P.O. VILORIA-FISHER:
So it's more than 28 tiles.

MR. FREAS:
It's however many tiles there would in aggregate be in 632, but there are common titles and those are the ones who would expect there to be transfers but not -- the other thing is New York State is relatively liberal in its definition of mandatory staffing in skilled nursing Facilities. You're basically required to have a Registered Nurse on each shift and a supervisor. There's no -- in some states there are mandatory staffing ratios by patient hour or patient day, and we've referred to optimum in some of our other reports as to what we should have and what we're relatively close to, but they're not mandatory in New York State. In New York State, the only thing you're required to is a charge nurse in each shift and then like a charge nurse for each and somebody, some supervisor who can actually be an LPN. So that we don't have any -- we don't have very stringent regulations with respect to mandatory staffing in New York State.

D.P.O. VILORIA-FISHER:
Wow, that's very disturbing. Because then if we have a profit-motive person running John J. Foley, they just have to have nurses or even an LPN running -- that's kind of scary.

MS. CORSO:
Well, you don't really have a lot of physicians now, I think you have two and three.

D.P.O. VILORIA-FISHER:
We're talking about ratios of nurses to persons. And what I -- if I'm hearing correctly, the State doesn't mandate those ratios, they just mandate the supervisory --

MS. CORSO:
Right, but with the RN's, I mean, you know as well as everybody, you know, the whole County has an RN shortfall. We have plenty of vacancies for RN's, I don't think that that's going to be a problem at all.

D.P.O. VILORIA-FISHER:
That's not what I'm talking about.

MR. MARCHESE:
I understand what you're talking about.

D.P.O. VILORIA-FISHER:
I'm talking about patient care.

MR. MARCHESE:
The fact is, though -- well, that comes down to the quality of care and when you have a survey, if you have deficiencies and whether or not those deficiencies have got to do with staffing or what have you; and you're correct, Legislator.

Fortunately, or unfortunately for us, our level has been somewhat suspect over the years and the long-term history of Mr. Rozenberg is higher in regard to quality care issues and his survey responses than ours. And we've gotten into some trouble over the past few years, I don't want to get into it in a public forum, but we have had our share of survey deficiencies, okay, and we're dealing them on a regular basis.

D.P.O. VILORIA-FISHER:
Due to staffing you're saying, Len?

MR. MARCHESE:
Excuse me?

D.P.O. VILORIA-FISHER:
Survey, poor survey results due to staffing numbers, is that what you're saying?

MR. MARCHESE:
Staffing numbers is not probably the right way to term it; it's probably got to do with following protocols and procedures and --

D.P.O. VILORIA-FISHER:
Okay, but we're just talking about staffing numbers here.

MR. MARCHESE:
Yeah, I mean, but that's all relates. There's things --

D.P.O. VILORIA-FISHER:
Okay, but you implied that the survey -- that these State surveys, in monitoring different nursing homes, have found us deficient because we haven't had the right ratio of nurses to patients.

MR. MARCHESE:
No.

D.P.O. VILORIA-FISHER:
I mean, that was the implication.

MR. MARCHESE:
No, no, no, that's not what I'm saying.

D.P.O. VILORIA-FISHER:
Okay.

MR. MARCHESE:
We've ben found to have deficiencies in certain areas of care --

D.P.O. VILORIA-FISHER:
Okay, but we're just talking about nurse/patient ratio.

MR. MARCHESE:
-- that are -- well, the bottom line is care, right? That's what we're talking about is care to the residents, and we've been found to be deficient in certain areas that may or may not be indicative of the staffing.

D.P.O. VILORIA-FISHER:
Okay, but that's moving us to another discussion and the discussion that I was having with Legislator Eddington which was that we're hearing about the people that have to be filled in and the number of nurses, etcetera, and I thought that there was a State-mandated, just as you see in child care or other areas or, you know, other Social Service areas, you see that there's a mandated ratio. So we're seeing here there's not a mandated ratio and that frightens me because a for-profit is going to come in and no matter -- his surveys notwithstanding, we don't know what he's going to do regarding patient/nurse ratio.

CHAIRPERSON BROWNING:
That's right.

D.P.O. VILORIA-FISHER:
That was my point. So that was kind of a red herring that was just thrown out regarding the surveys.

MR. MARCHESE:
Can I just make one other comment, then, to get back to Legislator Eddington? I think that you had a valid question with regard to laying out some of these options with regard to what -- if everybody was to take the incentive, what would they get. Those titles that were left, what would happen to them; of those that were still left after that, what might happen to them? I think we can lay out a what-if scenario and provide that and kind of give you some levels. It's not a set-in-stone thing because, again, it has to be agreed to by the union. We can't negotiate that for the, but we can lay out a high level, if we did this, this is what would happen; if we did that, this is what would happen, you know, kind of a pecking order.

LEG. EDDINGTON:
That would help me.

MR. MARCHESE:
And then you would see what --

LEG. EDDINGTON:
That would help me. You know why?

MR. MARCHESE:
Okay.

LEG. EDDINGTON:
Because I think a lot of times it's the anxiety of not knowing.

MR. MARCHESE:
You are right.

LEG. EDDINGTON:
So if you give them lots of options, at least people can start looking at, okay, maybe -- yeah, I'd appreciate that.

MR. MARCHESE:
Okay.

(*The following testimony was taken & Transcribed by Diana Flesher - Court Reporter*)

LEG. KENNEDY:
Madam Chair, just -- I don't want to get into a debate about the operation of the facility right now, but I do want to say, and this kind of goes to the essence of one of the reasons that I'm so adamantly opposed to this; first of all when we talk about the surveys, and I have one right here, Len, when you look at some of the citations, they have absolutely nothing to do with the direct quality of care that's being provided by the staff on the floors. When we had issues with the physicians properly issuing orders and things like that, that brings beyond what we have here. And it kind of gets at some of what this protracted assault on a facility has brought us to today.
As you know there's no medical director there right now. We're covering with the various medical directors coming from in Hauppauge. I understand that you're interviewing for a medical director, but we cannot put any facility under siege for this protracted period of time and not expect that you're going to have some minor types of errors there. They're dedicated staff. They're trying to provide the care, but these people in plain English have been under assault almost from the time that this County Executive took office. So let's not say that there's not some long-term consequence that's going to happen.

Secondly, and I'm going to even ask Dr. Tomarken to acknowledge this, we care for some of the hardest to care for in this County. So guess what? There is going to be some greater degree of need and challenge sometimes. Nobody else wants a lot of these patients. And I don't care what Rosenberg says; you're not taking a 40-year-old wheelchair bound paraplegic with a touch of psychiatric illness and putting them into some facility up in St. James or Smithtown with a 75-year-old card playing old lady. It's not going to happen; never going to happen.

So, you know, when you talk about the fact that there are some deficiencies here, A) let's look at the parameter deficiencies and really -- very little of this has to do with your direct care staff at all. B) you have a population that is a harder to manage population and defines public care. And C) you can't put them under siege for that long and not have some consequences. (Inaudible) And in spite of all of that, today the census is 256 patients. There's a place and a need for this facility.

And the administrator you brought in did an outstanding job. And I don't know why it didn't get renewed.

MR. MARCHESE:
Lowell -- Lowell decided to leave. We didn't --

LEG. KENNEDY:
Of course he decided to leave. You made it hell for him.

CHAIRPERSON BROWNING:
And I agree. Dr. Tomarken, did you want to say something? I know they dragged you up here. Good afternoon.

DR. TOMARKEN:
Good afternoon. All I would say is that in the last several weeks there's been some very serious and significant quality of care issues that have come to our attention requiring importing of physicians, review by the state and other issues that have come to our attention through a variety of sources that are very, very significant. If anybody wants a briefing on it, I'll be more than happy to brief them individually or in small group sessions.

LEG. KENNEDY:
Doctor, I think we're all concerned that throughout this turmoil and whatever the policy decision is, that the patients out there not be compromised. And whether we want to sell it or raffle it or put it for lotto, we still have a responsibility to provide not just care, but good care. So when we have tragedies that happen with physicians there, we need to move quickly to try to go ahead and fill shoes that were very big shoes. And when we have administrators who elect under real stress not to go ahead and renew, we need to bring it forward. I've offered some names of people that I know who would be excellent administrators. But we cannot fulfill the requirements, Doc -- listen, I'm not telling you anything you don't know. But locating people in there on a day by day basis is just not going to work.

DR. TOMARKEN:
We have a new full-time administrator that's starting on Saturday who is an experienced nursing home administrator. The other issue that I would just bring to your attention is that the issues that have come to my attention have not been related at all to the proposed sale or not sale of this institution. The quality of care issues that have come to my attention have been there. They're longstanding and have nothing to do with this particular issue that we're facing today.

LEG. KENNEDY:
Well, then we have great faith, doctor, that you're going to put a plan in place to go ahead and address them. But it doesn't necessarily involve signing a contract to off load it.

DR. TOMARKEN:
Yes, whether we sell it or not, we've made great improvements and have a plan for maintaining and improving the quality as needed.

LEG. KENNEDY:
Good.

CHAIRPERSON BROWNING:
Okay. We are going to have George check into --

D.P.O. VILORIA-FISHER:
I just asked Counsel if we could go into executive session to speak with Dr. Tomarken about the quality of care issues, but that would be at the end of the meeting, Madam Chair.

CHAIRPERSON BROWNING:
Yeah, we will hold it off until the end of the meeting because I know we still have speakers here. And we have some people that I don't want to hold them up any longer than they should be. Is there any other questions? Okay.

We do have some speakers. Dr. Tomarken, thanks for your patience. But I will let some speakers speak first. If you want to just stay because you're going to be talking on the Suboxone issue. I thank you. And I thank you, Budget Review, always.

And we have one card Diana Tela.

MS. TELA:
I want to thank everybody for allowing me to speak. I know you're all worried about the quality of care, but I've often pointed out that maybe you should look at some of the patient charts to see the increase in bed sores and the weight loss. You should also ask how a patient was able to leave the facility and not be noticed missing until ten o'clock bed check. So you all talk about this quality of care and you really wonder if it's there.

And I was at the June 22nd with the potential buyers. And they presented statistics or figures, I think it was percentages, sort of what their facility was making versus what John J. Foley was making. And there's was like ten or twenty while John J. Foley was like under one percent. So I'm not a CPA but I got the general impression that Foley's been mismanaged for quite a few years, that they never had a financial director who understood billing or maybe their nurses didn't know what an MDA was to know how to bill an insurance company. But how could a facility operate at such a loss for so many years?

I also know there are patients at John J facility that have never paid a bill. There are some there that can afford to pay a bill and haven't paid a bill. And I was told I should be really happy that the facility took in a patient that had a place some place else Upstate, but the parents didn't want to drive that far. I'm sorry. I'm not sympathetic. If another facility wanted him, the parents should drive. It's their son.

So, again I say all these nasty things about John J. Foley because you people really don't seem to get inside and look what's really going on in the facility. I have to hear it from other people, but I don't get listened to. And somebody who doesn't understand things like the state does not have mandated ratios, where have you been? Come on, some of you just don't know what a facility takes to operate.

Thank you. I'm not good at this stuff because I get so upset. Thank you for listening to me.

CHAIRPERSON BROWNING:
Thank you. And I do not have any other cards, but is there anyone else? I figured Linda Ogno, if you would like to come up and speak. And, Linda, I actually have a question for you when you're done.

MS. OGNO:
I don't know where this woman gets her information from, but this is Long Island, not Fantasy Island. And the kind of patients that we do have at Foley that she was speaking about are residents, if you've ever come out there, come and go all the time. We are not a prison. They get

on the SCAT bus, they go shopping. They bring stuff back to the facility. They go out to dinner, stuff like that; in their wheel chairs. The SCAT bus is three dollars. It's impossible with the staffing ratios that we have. And this woman is mistaken. There is no New York State ratio per patient per care, so.

And with Mr. Marchese here, 40 applications have been taken for retirement. We may have a 100. He's probably not going to get any more. We have one lady who's been with us for twenty something years. If she takes this incentive, she will lose out $200 dollars a month and just waiting one more year until she's 55. So even taking the incentive she loses big time. So that's about all the applications they're going to get. We may have a hundred can go. Only 40 are going. I'm eligible to retire. I'm not going.

But this lady is wrong about John J. Foley. John J. Foley with our bed sores and stuff, we have a young population. I spoke to an outside nurse about this. She says you do have a lot of breakdowns. We have young people that do not want to stay in bed. They have electric wheelchairs and stuff. They want to get up and they want to socialize. It's hard. If any of you have been in the nursing industry, to keep somebody up in a chair all day long, they need to have a break. But you cannot chain them to a bed. We do the best we can with what we have. And we do a damn good job out there.

Kate, you have a question for me?

CHAIRPERSON BROWNING:
Yeah, I do. Because I know Mr. Marchese had said that all of the employees have been approached and spoken to about the early retirement. Have you all been briefed?

MS. OGNO:
Yeah, they're pushing it. They're pushing everybody to take the incentive.

CHAIRPERSON BROWNING:
But the incentive is only if we sell.

MS. OGNO:
Right.

CHAIRPERSON BROWNING:
So if it doesn't sell, you don't get to retire.

MS. OGNO:
Right. That's what everybody says. It's only if we sell. So why are they pushing us so hard to take the incentive? You know, it's only based upon if they sell the facility.

CHAIRPERSON BROWNING:
Well, that's my concern. I mean I can't speak for -- I mean at the last committee meeting we had another bill that was up, I think, you were in the room at the time. And, you know, again, I can't speak for everybody in the room, if the votes go through that it does sell. You have a number of people who are entitled and have the ability to take that early retirement and go back to work for this guy as private employees. I mean that's why I'm kind of asking are they not -- they're not taking advantage of the opportunity just in case.

MS. OGNO:
And I don't think it's that they're not taking advantage of the opportunity. I mean we have a lot of people like are too young. We have a girl that's there. She's just 50 years old, but she has 32

years of service. You know, to take the incentive, she still takes a big hit.

CHAIRPERSON BROWNING:
Right.

MS. OGNO:
She's been working for the County for 32 years.

CHAIRPERSON BROWNING:
Yes. I think I know who you're talking about.

MS. OGNO:
Yes.

CHAIRPERSON BROWNING:
Okay. I appreciate it. Thank you, Linda.

And with that, we do not have any more cards. Do we have any more speakers?

Okay, no more speakers. And Dr. Tomarken, you're next. The Suboxone Program, it's about 90 days ago that we needed to -- sorry -- we're up to about our 90 days where we needed a report on the how the Suboxone Program is going. And if you could give us some information.

DR. TOMARKEN:
Sure. Thank you, Madam Chair. Suboxone to Abstinence Program otherwise known as Clean Connections started formally on July 1st of this year. The current status of the program is that we have filled the three positions we were allocated to drug counsellors and one registered nurse. Policies and procedures are in place. We have a delivery of our medication. We have -- a data collection tool has been developed to track the number of calls coming in. Referral show there's services that are made, services provided, length of stay, census and other pertinent information which I will give you in more detail.

We have endeavored to reach out -- do outreach to the community. And we've done that in a variety of ways. One, we've had a press release distributed on June 28th. We have put the program on our internet. We have videotaped a program for the cable show Something of Substance, which will air in August. We have sent out e-mail blasts to behavioral health providers. We have had a write up in the Long Island Counsel on alcoholism and drug dependents. This goes out to over 1,000 treatment professionals. We've had an article on the new service with the Long Islander Newspaper. It's expected to be published in the week of August 2nd. And in the fall of 2010 a letter will be sent to every school district superintendent on Long Island educating them as to the availability of the program.

We also have our meeting with Oasis, in which there was a combination of private providers as well as the County program. And we were given a great deal of positive input from that because we have 50 -- over 50 people were in attendance with 16 private physicians. So our ability to interact with the private side of the health care system was improved. And we had great feedback from the state on that.

Our current enrollment is one pending patient. And the reason for that is that in the summer there's a normal drop off in substance abuse enrollment. Young folks in this program, as you know, it's geared for 16 to 19 year olds. And they are under less supervision and less scrutiny during the summer; and, therefore, a lot of their substance problems go unnoticed. They're not in school. Teachers don't notice them. They don't have to do homework. They don't have a regular schedule

like they do during the fall so that they have -- they are less -- under less scrutiny and they are having a variety of activities that they can do that are often by themselves or with their friends and not under the auspicious of any adult.

So we are not surprised by that, but at the moment we have had five people inquire, two were disqualified because of age. One had a court order for an inpatient treatment so they weren't eligible for our program. One was looking for free medication because they're already on Suboxone. It was under the misunderstanding that we could provide free medication. And we have one that is currently being evaluated in which we are working with the individual and their parents, the family to enroll them in the program if they meet the criteria.

Our log or our substance abuse Suboxone monthly report, which I've sent to the Chairperson, includes the following factors that we will be tracking on a monthly basis. The number of telephone inquiries, the number referred to other providers, average number of days to assessment appointment, average number of days to first medication visit, number of beginning -- number of patients beginning at the beginning of the month, beginning treatment, the number admitted for treatment, the number of drop-outs, numbers that have been referred to a higher level of care, meaning that they were not appropriate for our program and needed more intensive treatment, the number that have successfully completed treatment, the average number of days enrolled in the program, the number of patients in the program at the end of the current month, the number of individual counseling visits, the number of adolescent group counseling visits, the number of family therapy visits and the number of parent group counseling visits.

That was our protocol. If anybody certainly has any particular parameter they'd like added, we're open and available to do that as well. So right now we have one pending patient.

CHAIRPERSON BROWNING:
Okay. Any questions? I knew you did. On a different topic or this is on the Suboxone program right now? Any questions on that? None. Okay. So with the school districts, notices have already gone out to the school districts?

DR. TOMARKEN:
No, that'll be in the fall.

CHAIRPERSON BROWNING:
Oh, it's in the fall.

DR. TOMARKEN:
Right, when school starts up again.

CHAIRPERSON BROWNING:
Okay. And we'll be offering. And you have only one pending right now? That's amazing.

DR. TOMARKEN:
Yeah, out of the five that applied.

CHAIRPERSON BROWNING:
I know Vivian walked in and I did see Vivian making a lot of notes on this program. Do you have any question?

D.P.O. VILORIA-FISHER:
No, I was just writing down notes.

CHAIRPERSON BROWNING:
Okay. I know you e-mailed me some information.

DR. TOMARKEN:
It's exactly this.

CHAIRPERSON BROWNING:
Okay. Can you provide -- I don't know if anyone else received it. Did you get it?

DR. TOMARKEN:
No, I only sent it to you.

CHAIRPERSON BROWNING:
Okay. Is there a possibility you can send it to all eighteen of us?

DR. TOMARKEN:
Sure, sure.

CHAIRPERSON BROWNING:
Okay, I appreciate it. And I guess on a separate note, Jack?

LEG. EDDINGTON:
Yeah, I just wanted to ask about mosquitos, how you're making out? We did find a couple of West Nile Virus?

DR. TOMARKEN:
Yes, we've had -- first of all Suffolk has had positive West Nile virus in mosquitos. We have no human cases. Nassau has one human case. We have had increased mosquito recoveries with virus early in the year. And generally they don't spray this early, but they felt that it was necessary. And so we have had several sprayings. So it appears that this is -- compared to previous years, it looks like it's going to be a bit worse. Now if the weather changes that could all change. But right now it's starting earlier than previous years.

LEG. EDDINGTON:
I know that you're doing spraying. I haven't heard any ads about emptying, you know, wading pools. And I know that Suffolk's done it in the past. Are you planning on increasing that?

DR. TOMARKEN:
In every announcement that goes out are the traditional advice about emptying stagnant water in tires and wearing repellant goes out with that. So every press release has had that associated with it.

LEG. EDDINGTON:
Okay, great. Thank you.

CHAIRPERSON BROWNING:
Thank you. Anyone else? Any other questions?

With that I do not believe we will need to go into an executive session. I think some of us were aware of some of the issues that were brought up. So I believe that --

D.P.O. VILORIA-FISHER:
Well, I just wanted to hear it directly from Dr. Tomarken because there's been a lot of rumor and innuendo. But if you don't mind staying a few minutes after the meeting and I'll speak with you. Thank you.

DR. TOMARKEN:
Thank you.

TABLED RESOLUTIONS

CHAIRPERSON BROWNING:
Okay. So I guess we'll go the agenda. Tabled resolutions. **1129-10, a Local Law to ensure the integrity of prescription labels in Suffolk County. (Cooper)** I'll make a motion to table, second Legislator Viloria-Fisher. All in favor? Opposed? Abstentions? It's tabled. **(VOTE: 5-0-0-0)**

1300-10, Maintaining a common sense policy for housing sex offenders that protects and safeguards public safety. (Stern) Motion to table, second Legislator Viloria Fisher. All in favor? Opposed? Abstentions? It's tabled. **(VOTE: 5-0-0-0)**

1337-10, Authorizing public hearings and a Legislative Office of Budget Review Analysis on a proposal to provide services at John J. Foley Skilled Nursing Facility through an entity other than Suffolk County Government (Co. Exec.)

LEG. KENNEDY:
Motion to table subject to call.

CHAIRPERSON BROWNING:
Okay, motion to table subject to call Legislator Kennedy, second Legislator Eddington. All in favor? Opposed? Abstentions? It's tabled subject to call. **(VOTE: 5-0-0-0)**

1474-10, Adopting Local Law No. -2010, A Local Law authorizing the County Executive to execute agreements for the sale of the John J. Foley Skilled Nursing Facility. (Co. Exec.)
Motion to table.

LEG. EDDINGTON:
Second.

CHAIRPERSON BROWNING:
Second Legislator Eddington.

LEG. KENNEDY:
On the motion, Madam Chair.

CHAIRPERSON BROWNING:
Yes.

LEG. KENNEDY:
I just want to ask Counsel for a moment, if I can, since this resolution has basically been the subject of the lion's share of our focus now for the better part of three months, there is some question about what it's actually going to take to have this thing passed if it is going to pass. George, what would be the majority requirement on this, do you know?

MR. NOLAN:
Well, it contains a surplus property declaration. And under New York County Law that's a two-thirds vote of the entire membership. So 12 votes would be required.

LEG. KENNEDY:
It is an actual 12 vote. And have you had any conversation with the County Attorney's Office and the administration? Are they of the same opinion? Do they concur?

MR. NOLAN:
I would -- county Attorney's here. We have talked about this issue, but let him speak for -- Dennis Brown speak for himself.

LEG. KENNEDY:
Madam Chair, if we could have County Attorney's Office.

CHAIRPERSON BROWNING:
Sure.

LEG. KENNEDY:
Thank you.

MR. BROWN:
Thank you. George is correct. The County law is section 215 subdivision four and five, it's a two-thirds vote when land is declared surplus by a governing body short of a formal opinion from a higher authority, a Court, Attorney General's Office or the Comptroller's Office. We've taken that position that the 12 two-third's vote requirement applies. And that, I think, we, also to be consistent, we took that position with Legacy Village as well.

LEG. KENNEDY:
And the resolution, it is one resolution but it contemplates two separate contracts, actually one for the facility and one for the land?

MR. BROWN:
It does.

LEG. KENNEDY:
I'm a little uncertain, Dennis, how we actually get to the land contract but I don't want to discuss that contract at length now. I mean that is a fixed improvement, but it's almost a little bit frictious (inaudible) that you separate the improvements from the dirt. Nevertheless we do have them in two separates writings. Just enlighten me, why did we take the position of two separate writings?

MR. BROWN:
There are two separate contracts. I actually was not involved with the contract negotiations. There were other attorneys involved with the County Executive's Office and the Health Department and Mr. Rosenberg. But you are dealing with two distinct assets; one is the license and the other is the real property. And it's appertinent fixtures.

LEG. KENNEDY:
Just -- so then did we have outside Counsel that drafted this?

MR. BROWN:
No. It was -- it was -- we did have outside Counsel but it was inhouse Counsel as well.

LEG. KENNEDY:
Well, okay. So I have an idea who the inhouse is. Who was the outside?

MR. BROWN:
Farrel, Fritz.

LEG. KENNEDY:
I'm sorry?

MR. BROWN:
Farrel, Fritz.

LEG. KENNEDY:
Oh, it was Farrell, Fritz.

MR. BROWN:
Yeah.

LEG. KENNEDY:
Okay. Thank you. I appreciate that. I'll yield.

CHAIRPERSON BROWNING:
Okay. And it was recessed in public hearing, so. Anyway, so I guess there was a motion to table and a second. All in favor? Opposed? Abstentions? It's tabled. **(VOTE: 5-0-0-0)**

1502-10, Directing the Department of Social Services to close the sex offender trailers. (Schneiderman) I Make a motion to table, second Legislator Eddington. All in favor? Opposed? Abstentions? It is tabled. **(VOTE: 5-0-0-0)**

1634-10, Establishing community safeguards from registered sex offenders placed in emergency housing (Schneiderman) This is the one to do with the ankle bracelets or something to that effect. I mean -- is there money in place to buy ankle bracelets? Okay. So I'm getting a no. So at this time I guess it's something we can't do if the money's not there right now.

D.P.O. VILORIA-FISHER:
And we can't make them wear --

CHAIRPERSON BROWNING:
No, I don't know. Westchester did it.

LEG. EDDINGTON:
Madam Chair?

D.P.O. VILORIA-FISHER:
No.

LEG. EDDINGTON:
I had put in legislation to require it.

CHAIRPERSON BROWNING:
Yeah.

LEG. EDDINGTON:
And it was against the law what we basically heard. I think this one is asking for them to comply willingly.

CHAIRPERSON BROWNING:
Yeah.

LEG. EDDINGTON:
But I don't know if we can still make -- ask them to do that. Do you know what I'm saying?

CHAIRPERSON BROWNING:
George?

MR. NOLAN:
The resolution states that if they don't willingly take a GPS bracelet that then the County will hire somebody to accompany that person when they leave a facility. Again, the issue you raise of the money being in place, yeah, right.

CHAIRPERSON BROWNING:
I'm thinking of all of the people that we're going to have from the early retirement, can we offer them a job.

LAUGHTER

Sorry. Okay, I guess there's a motion to table by Legislator Viloria-Fisher. I guess I'll second it. All in favor? Opposed? Abstentions? It is tabled. **(VOTE: 5-0-0-0)**

1654-10, Adopting Local Law No. -2010, A Local Law to ensure the safe transfer of fuel to boats and watercraft. (Schneiderman) Is there anybody in the room who could tell us something about this? I don't think so. So I guess -- you know what? I'm going to make a motion to table. Do I have a second? Because I don't know anything about it. Second Legislature Muratore. All in favor? Opposed? Abstentions? It is tabled. I guess I'll talk to the sponsor and find out what exactly it is. **(VOTE: 5-0-0-0)**

Next one, **1672-10, Mandating implementation of comprehensive plan to house homeless sex offenders (Schneiderman).** I will make a motion to approve.

D.P.O. VILORIA-FISHER:
Second.

CHAIRPERSON BROWNING:
Second Legislator Viloria-Fisher. All in favor? Opposed? Abstentions? It is approved. **(VOTE: 5-0-0-0)**

INTRODUCTORY RESOLUTIONS

1694-10, Amending the Consultant Services Procurement Policy for child day care center providers, group family day care home providers, and school age child care providers (Co. Exec.) I don't know what this is about. And I know that I did request if the Commissioner, if someone could explain what this is about. And I can see Ed Hernandez is coming up.

MR. HERNANDEZ:
Good afternoon. In 1995 legislation was passed that exempted certain categories of providers from the RFP RFQ process. This is just adding additional categories that are all licensed by the State of New York or regulated, the child care providers, the child care centers; they are all licensed by the higher authority. So we're asking for a waiver to have to go through the RFP RFQ process. Right now they undergo waivers every time services are provided. There are several categories of child care providers that were not -- it said foster care and family day-care providers, but it also excluded child care centers, group family day care, the other categories that are provided that are all licensed by New York State. So now this is just correcting it and adding those additional providers to the law that was passed in 1995.

CHAIRPERSON BROWNING:
And we can -- we had add that? It was a state law that was passed in 1995?

MR. HERNANDEZ:
No, it was a County law.

CHAIRPERSON BROWNING:
Oh, County law.

MR. HERNANDEZ:
But it only included foster care services and family day-care. It left out child chair centers so on and so forth.

CHAIRPERSON BROWNING:
Did you have a question, Vivian?

LEG. EDDINGTON:
I have a question. This is to add them to an exemption list; correct?

MR. HERNANDEZ:
That is correct.

LEG. EDDINGTON:
And why do you feel that they should be exempt?

MR. HERNANDEZ:
If we were to do -- first of all we get waivers every year. Second of all if we were to do an RFQ 60 out of the 70 points you need to pass the RFQ are already licensed by New York State. So almost all these providers would pass an RFQ regardless.

LEG. EDDINGTON:
Okay. So how would you get -- is there a list that they're on? Who would -- in other words, how would you pick somebody then if you don't go by an RFP?

MR. BROWN:
Legislator Eddington, I just wanted to mention that the original exemption, it goes back to 1995. And it was in the process of an RFP waiver request with respect to foster care services; that it was discussed -- that it was discussed that we would bring the department's need for these services that are already regulated by the state to make it consistent with the original 1995 exemption.

LEG. EDDINGTON:
You know what? Did you just clarify something for me? Because I thought that's what Ed had

said.

MR. BROWN:
When you asked for the need, why there was the need for the exemption, I just wanted to add that the original exemption goes back to 1995.

LEG. EDDINGTON:
Okay. So but isn't it a good deal to have -- it's another step to make sure that we have good day-care providers, isn't it?

MR. HERNANDEZ:
It's another step; but the fact that they're licensed and regulated by New York State, and that license is reviewed on a regular basis is a regulatory step. If we were to accept that, which we do in most other cases --

LEG. EDDINGTON:
I mean does it have anything to do with -- in other words, usually RFP's we try to get the cheapest provider. So if we don't have an RFP that's off, right? We just hire who we hear is really good? Is that what it would be?

MR. HERNANDEZ:
Again, these are mostly RFQ'd processes. These are qualified agencies where the rates will vary, yes. An RFP is the cheapest process. And if we do -- if we do implement programs that are competitive when looking for the lower rate, we continue with the RFP process. But a lot of people -- we just have a list of qualified providers's rates and the rate structure varies. So this is going to avoid having to go to a waiver every time we have to use one of those licensed providers for a particular service.

CHAIRPERSON BROWNING:
They all charge the same fees.

LEG. EDDINGTON:
Okay. Yeah. I guess I'm just -- I guess what I'm thinking is if there's a list of people and they just keep using the same list; but if you have an RFP, then it'll open up the list a little bit is what I'm -- I don't know. Maybe I'm just not getting it.

CHAIRPERSON BROWNING:
I apologize. I don't know your name and -- if you would like to explain it.

MS. STAAB:
Hi, I'm Kimberly Staab. I'm Acting Division Administrator of Housing, Employment and Children's Services. I just wanted to let you know that the Child Care Services is established by market rates. So any provider that comes to us that wants to care for our children we can -- they can be -- they can provide that service. We're not -- we don't need the contract in order for them to come to us and we can provide that service. So that's the reason why the waiver is so important because we do it anyway. The state mandates that we give them market rate. So there isn't any reason for the contract.

LEG. EDDINGTON:
Okay. All right. Thank you.

CHAIRPERSON BROWNING:
You still have a question?

D.P.O. VILORIA-FISHER:
I still have a question.

MS. STAAB:
Sure.

D.P.O. VILORIA-FISHER:
Because I know that the County contracts with child care providers, but I didn't realize that that was done through RFP. That's always done through an RFP?

MS. STAAB:
No, no. It would be an RFQ if we did the contract.

D.P.O. VILORIA-FISHER:
Okay. So when would there be an RFP? Because this refers to RFP and RFQ.

MS. STAAB:
There isn't a need for an RFP because we have market rates. RFP is the process that you would use, right, for competitive.

D.P.O. VILORIA-FISHER:
I know there are market rates by the state.

MS. STAAB:
Correct, you're absolutely right.

D.P.O. VILORIA-FISHER:
Okay, okay. So basically it's RFQ.

MS. STAAB:
Right, to get qualified individuals.

D.P.O. VILORIA-FISHER:
And that's duplicative because they have their state --

MS. STAAB:
The license, correct.

D.P.O. VILORIA-FISHER:
All right. That clarifies it. Thank you.

CHAIRPERSON BROWNING:
Okay, thank you. I think we all got it. So -- finally. So any way I don't think there was a motion. Does anybody want to make a motion? Motion Legislator Eddington, second Legislator Viloria-Fisher. All in favor? Opposed? Abstentions? It is approved. **(VOTE: 5-0-0-0)** Thank you for that.

1702-10, Appropriating additional funds for the Brownfields Program, Gabreski Airport APDD site (CP 8223). (Co. Exec.) I'll make a motion to approve and second Legislator Muratore. All in favor? Opposed? Abstentions? It is approved. **(VOTE: 5-0-0-0)**

With that there are no more bills. And I'll make a motion to adjourn. Second Legislator Eddington. We are adjourned

THE MEETING CONCLUDED AT 3:42 PM