

HEALTH COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Health 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, March 22, 2012 at 2:00 p.m.

Members Present:

Legislator William Spencer - Chair
Legislator Kate Browning - Vice-Chair
Legislator Edward Romaine
Legislator John Kennedy
Legislator Sarah Anker

Also In Attendance:

George Nolan - Counsel to the Legislature
Sarah Simpson - Assistant Counsel to the Legislature
Barbara LoMoriello - Deputy Clerk/Suffolk County Legislature
Craig Freas - Budget Analyst/Legislative Budget Review Office
Lora Gellerstein - Aide to Legislator Spencer
Michael Pitcher - Aide to Presiding Officer Lindsay
Leslie Kennedy - Aide to Legislator Kennedy
Ali Nazir - Aide to Legislator Kennedy
Bill Schilling - Aide to Legislator Anker
Chris DeLuca - Aide to Legislator Anker
Ben Zwirn - Deputy County Executive
Tom Vaughn - County Executive Assistant
Gina Kommer - County Executive's Office
Matt McDonough - County Executive's Office
Dennis Brown - Bureau Chief/County Attorney's Office
Dr. James Tomarken - Commissioner/SC Department of Health Services
Margaret Bermel - Director of Health Administration/DHS
Walter Dawydiak - Acting Director/Environmental Quality Division -DHS
Walter Hilbert - Chief/Wastewater Management Division-DHS
Richard Meyer - Legislative Liaison/AME
Elaine Economopoloulos - The Quality Consortium
Laura Schreiner - Special Assistant/New York State Senate
Patricia Bishop-Kelly - Former Director of Public Information & Education/SC Health Education
Bob Policastro - Angela's House/Supporting Long-Term Pediatric Care
Facility on Long Island
Karen Serva - Supporting Pediatric Long-Term Care Facility on Long Island
Agnes Cummings - Supporting Pediatric Long-Term Care Facility on Long Island
All Other Interested Parties

Minutes Taken By:

Alison Mahoney - Court Reporter

*(*The meeting was called to order at 2:25 P.M. *)*

CHAIRMAN SPENCER:

I'm going to ask if Legislator Anker would lead us in the Pledge of Allegiance.

Salutation

Could we have a moment of silence for those who are serving and fighting for this country and around the world.

Moment of Silence Observed

Thank you. You may be seated.

The first item on the agenda is correspondence. I have no correspondence.

We're going to move right to public comments. I have five cards, the first card is from --

LEG. ROMAINE:

Mr. Chairman? I do believe I sent a letter to every member of this committee. I e-mailed a letter to every member of this committee regarding long-term pediatric care, a letter that I received that was written on behalf of a young child by his aunt and uncle.

CHAIRMAN SPENCER:

I apologize, we do have that.

LEG. ROMAINE:

I had scanned that in.

CHAIRMAN SPENCER:

I -- what we will do is --

LEG. ROMAINE:

You may want to read that into the --

CHAIRMAN SPENCER:

I plan to incorporate that into the presentation. I apologize, Legislator Romaine.

LEG. ROMAINE:

Right. At some point you may want to read that into the record. I think it's a very moving story and it's very typical of parents that have children with long-term care needs and I think it would be beneficial at some point to be part of our record. So if not now, maybe during the presentation that could be read into the record or provided to the Clerk. Thank you.

CHAIRMAN SPENCER:

Absolutely. Absolutely. Thank you. Our first speaker, Patricia Bishop-Kelly, the topic of the health education budget.

MS. BISHOP-KELLY:

Thank you, Dr. Spencer. Good afternoon. My name is Patricia Bishop-Kelly. Formerly, and I'm now retired from the Office of Health Education, I served as the Director of Public Information & Education for the Office of Health Education, and prior to that I was Director of Advocacy & Government Relations for the American Cancer Society. Today, though, I stand before you as an advocate on behalf of the Office of Health Education and at the request of Dr. Spencer, and I ask

that you reconsider the reinstatement of the contract with Eastern-Suffolk BOCES that was recently canceled.

For the past ten years, Suffolk County Department of Health Services' Office of Health Education has established and cultivated a professional relationship with Eastern-Suffolk BOCES to assist with the development and the implementation of an innovative comprehensive health education program, now in almost every school in Suffolk County. Now, I'm not going to engage in chastising or try to shame anyone for making the initial decision to terminate the working contract. Everyone knows that Suffolk County is in trouble, big trouble. However, trying to make fiscal decisions going forward that make sense and accomplish necessary and needed work is a daunting task for all of you. Few envy your responsibilities, especially when the impact in our collective communities will be great and the impact will be felt for years.

I am, however, going to tell you what we will lose since this contract has not been reinstated. Most of you are aware that disease prevention is the key to a well society. For the past ten years, Suffolk County Office of Health Education, in conjunction with Eastern-Suffolk BOCES, has this Comprehensive Health Education Program for Grades K-12 consistent with the Centers for Disease Control and Prevention Standards. This was funded originally by the Master Settlement Agreement, but is not just now focusing on tobacco control.

The program addresses six core areas of risky health behaviors; tobacco use, alcohol and other drug use, dietary patterns that contribute to disease, insufficient physical activity and sexual behaviors that result in HIV, STD, unintentional pregnancy behaviors that result in unintentional and intentional injury, as identified by the Centers for Disease Control. I want to focus on the words in that title, *disease control and prevention*. Their standards have been our gold standards for the foundation of those programs. At this juncture, 51 school districts, 2,400 teachers, eight BOCES sites and five private schools have been trained in the *Health Smart* curriculum. As of now, 50,000 students in Suffolk County are receiving these life-saving *Health Smart* lessons. Without the help of BOCES, this will all cease. With limited staff and resources, fewer and fewer students will reap the benefits of these necessary programs. We all know that as children grow, so do their challenges. Now more than ever programs are vital to helping children deal with their ever-increasing problems of bullying, eating disorders, tobacco, alcohol and drug use, Internet safety, distracted driving to name but a few.

Obesity now effects 17% of all children. It is triple, triple the rate from one generation ago. Research has shown that this increases the risks of cardiovascular disease, Type II Diabetes, cancer, stroke and hypertension.

Youth empowerment programs on bullying, skin cancer prevention, team mentoring programs that have been held in the past which have been scheduled for this Spring have all had to be canceled. Prevention is the key here and the math is simple. Do we pay now for a program that will educate children early on with good, sound, healthy choices for daily living, or do we wait; wait until we're faced with treating these preventable diseases with future publicly-funded health care?

To quote one area of concern, according to the Campaign for Tobacco-Free Kids, in New York State about 12.6% of high school students smoke. Kids under 18 who become new daily smokers number about 22,500. The cost in dollars and human lives is staggering. In New York, the annual cost to treat tobacco-caused diseases is 8.17 billion; that's with a B. This portion was covered by Medicaid and it's 5.4 billion. Bringing it down to the household level, each household in New York State at this particular point pays \$884 as its State and Federal tax burden for treating tobacco-caused diseases; in the future, that will rise if we don't turn the tide back. The loss in productivity is 6.05 billion. One-third of these kids will die in adulthood from tobacco-caused diseases if we don't continue with prevention.

While tobacco is just one of these critical *Health Smart* lessons, you get the picture that prevention is the key to holding the line on future runaway spending on health care for diseases that could have been totally prevented.

As a taxpayer and someone who has been working there in the field of prevention, I urge you to see what I see. See the wisdom and fiscal benefit of preventive health education. Decisions to cut health education and health care spending are never easy. However, I urge you, strongly urge you to reconsider what has been done and reevaluate the impact that this will have on our children moving forward. Suffolk County has been a leader in health care prevention. *Health Smart* is working.

CHAIRMAN SPENCER:

I apologize to interrupt you. I have to, out of fairness to everyone, stop you there.

MS. BISHOP-KELLY:

I'll wrap it up.

CHAIRMAN SPENCER:

But let me -- okay, I'll give you ten seconds to wrap.

MS. BISHOP-KELLY:

Health care is working, the future is in your hands.

CHAIRMAN SPENCER:

Thank you.

LEG. ROMAINE:

Mr. Chairman, question?

CHAIRMAN SPENCER:

Absolutely; Mr. Romaine.

LEG. ROMAINE:

Just to reiterate. This program, sometimes known as the *Health Smart* Program, this was a program that was adopted several years ago to replace the DARE Program which was abolished under the former County Executive and this replaced it. In the 2012 budget, in the 456 line, Fees-For-Services in the Health Department, there was money for this program put in. Last fall there was an RFP, a Request For Proposal done, because the contracting was being -- was expiring. There was a response, that RFP was won by Eastern-Suffolk BOCES. The County Attorney's Office last year then prepared a contract that they forwarded to Eastern-Suffolk BOCES that I believe -- and I'm not sure of this, but I'm pretty sure that was signed and sent back to the County and then waiting, of course, for the resolution to come over so the Legislature would adopt that.

For whatever reason, the Executive chose not to bring over that resolution and, therefore, there is no contract, even though there was a sum of money in the budget for this program. And I can only assume, and I'm sure there's someone from the Executive's Office will address this question at some point, that the reason they chose not to continue this contract was because of the extreme financial pressure on the County. I listened very carefully to what you say, but the County Legislature, the last time I looked, unfortunately does not have the power to command the Executive to send a contract or to spend money even though it's in the budget. That is a debate that has been going on for many years. And when issues like that come up, we do not currently have the authority to command the Executive to spend money that has been put in the budget. And I assume, and in defense of our Executive, I want to say that he's probably making this judgment or people around him are making this judgement based on the County's fiscal condition. But as a Legislature, we

can't compel the Executive, even though the money was technically put in the budget, to do that. And I'll end by saying did you know that, so there's a question.

*(*Laughter*)*

CHAIRMAN SPENCER:

All right. Thanks for that question, Mr. Romaine. I appreciate that. I did receive your letter and I'm moved by your presentation. And definitely, as a physician, I do recognize -- and this is a mistake that's made oftentimes where you cut this critical preventive services and it's -- the cost is immeasurable in terms of when you talk about things such as smoking. And I am going to have your letter here that you sent to me for the record, I will just -- I'll give it to the Clerk so that we can have your letter in the record.

But personally as a Legislator, I am supportive of the program, I am supportive of what you are recommending. And I do believe that Mr. Romaine is correct, that our ability to make budget amendment is limited as a Legislature. But I will work with the Executive Office to make sure that the importance of these programs is not missed. I do appreciate what you're doing. Thank you.

MS. BISHOP-KELLY:

Thank you very much. I think that all we're asking, at least from my perspective -- again, I'm not an employee any longer, but as a former employee, I would just ask that a discussion take place. That's all we can ask for. But again, an informed, educated discussion sometimes helps move the issue perhaps in a different direction.

CHAIRMAN SPENCER:

We can keep it on our committee agenda and so we will maybe take up an aspect of it at each of our committee meetings so we can keep it in the forefront of the discussion here. So thank you.

MS. BISHOP-KELLY:

Thank you.

CHAIRMAN SPENCER:

Our next speaker is Karen Serva on the topic of pediatric long-term care.

MS. SERVA:

Hello. My name is Karen Serva and I am here today on behalf of my daughter, Caroline Agnes Serva. I am the mother of four young children, ages five and under. My daughter Caroline is a 23-month old triplet. She is medically fragile, she suffers from chronic lung disease and she is on a ventilator. She is being cared for in a hospital in Westchester because there are no pediatric, specialized long-term care facilities or long-term care facilities period suitable for her on Long Island.

This is a critical issue on Long Island and it is wrong. Parents should not be separated from their children, especially sick children like my daughter. As a mother, I am asking for help to resolve this gap in our health care system on Long Island. We travel two hours each way to be with our daughter, to be with Caroline, just to hold her and kiss her and hug her. That is eight to twelve hours a week, that is over 40 hours a month in the car where we are not spending time with our three young children at home and we are not spending time with Caroline. A long-term care facility on Long Island is not merely desirable, it is necessary.

We need our daughter back home on Long Island. We are asking for your help to please make this a priority. Children such as Caroline who are chronically ill and on ventilators end up in pediatric intensive care units where it is more costly to the taxpayers to keep them there because there is no place for them to go. Children are also being sent out of state to facilities in New Jersey to be cared for and we think this is wrong. We are asking for your help.

CHAIRMAN SPENCER:

First of all, I appreciate your courage and I know it's very difficult and, you know, just your daughter and just your family are definitely in my thoughts personally. And with something that your Legislator Romaine had reached out for us to put on the agenda today, so I know we have a couple of other speakers who are going to give us some remarks and then we're going to have a formal presentation. But again, anything that we can try to do to support you and make your life a little bit easier, and we hope to find out what resources that we have that are available. And again, I know it's very difficult for you to stand up and to come before this Legislature, so thank you.

MS. SERVA:

Thank you.

CHAIRMAN SPENCER:

Thank you for doing that. And Legislator Browning would like to ask a question.

LEG. BROWNING:

Not so much of a question, but I can't believe what you're going through. It's heart-breaking. As a mother, to think that you're separated from your baby for so long, I'm sure that the well-being of your little one is very dependent on your presence. You know that as a Mom, you know, the nurturing, the care of the Mom with the child is so important, even when they're in the best of health. So I have to say, I'm so sorry for what you're going through.

I would definitely love to see what we can do. You know, here we go, we talk about our nursing home that everyone wants to close down. We have empty beds in the nursing home, a public nursing home, that there is no reason why we could not be looking at trying to do something like this with our public nursing home. And I'm just curious, in your experience, have you learned how many other parents are like you here, just in Suffolk County, even Suffolk and Nassau County?

MS. SERVA:

In my experience, I've learned that there are possibly 40 to 50 children on a waiting list for long-term care that are presently -- they could possibly even be being cared for at home, but due to their illness, perhaps it has become too difficult, the care, the specialized care. And then children on ventilators, I believe there is about 15 that are currently -- and again, to my awareness, there's absolutely no facility on Long Island, so they are either in Westchester, Albany or New Jersey.

LEG. ROMAINE:

Mr. Chairman?

LEG. BROWNING:

Well, my thoughts and prayers go out to you.

MS. SERVA:

Thank you.

LEG. BROWNING:

I would love to help, whatever I can do.

MS. SERVA:

And I appreciate what you said, because as a mother, it is vital that your child has you with her as much as possible, and as a father, for my husband as well, that we should be able to see her every day and be with our children every day. And even if a child does require long-term care, they still require their family to be surrounding them all the time at every possible moment; grandparents,

aunts and uncles. It shouldn't be a day trip that happens -- for us it happens multiple times a week, but for other family members it's more difficult. But thank you.

LEG. BROWNING:

Thank you.

CHAIRMAN SPENCER:

Legislator Romaine.

LEG. ROMAINE:

Yes. Those who have served in this Legislature for some time will remember Michael's Law. That was a law drafted for Michael Hubbard. It was a law outlaw -- outlawing certain liquid fire gels. That boy was burned over a great degree of his body and was without oxygen for eight minutes. He had to go up to Westchester. He is just one of many examples of long-term pediatric care.

Legislator Browning made note of the nursing home, there's certainly -- because of the efforts to sell the nursing home, the population dropped. I believe they have 264 beds, there's maybe 200 to 210 beds, they're getting patients in every day. But there's clearly a floor that could be made available, maybe with the public/private partnership which is another possibility; again, this is speculation.

What I would call for today, and it really doesn't cost this County any money, is for our County Executive to consider putting together a special task force on long-term pediatric care, and to reach out across the border to our sistering County in Nassau -- to Ed Mangano, the County Executive there -- to have a joint Nassau-Suffolk task force. Because we have no long-term pediatric care facility for many of these children, and if we can work on a solution, either within our County or with our neighboring County, and have a task force take a look at the options available to us, the cost involved. And understand, many of these children with long-term care, these are Medicaid patients and it costs when we have to transport them out-of-County, and that's an additional cost that we have to bear. I think that this deserves some examination. And I will call on our County Executive, who is today celebrating being a new father, the third child, to take a look at setting up a task force to explore a long-term care pediatric facility here in Suffolk County.

I think getting the facts, having an all-volunteer committee isn't going to cost this County money, and then we'd have the ability to examine some of the issues and make some determinations of exactly how much we can help these families, and that's I think something everyone around this horseshoe wants to do and I'm sure our County Executive does too. So I would call on him to work with us, this committee, to set up such a task force. Thank you very much, Mr. Chairman.

CHAIRMAN SPENCER:

Thank you, Mr. Romaine. Thank you, Ms. Serva. Thank you for your comments, and we're going to have more discussion on this formally in a few moments. Thank you.

MS. SERVA:

Thank you.

CHAIRMAN SPENCER:

I'm going to ask if Agnes Cummings, I have a card for her; would you like to speak at this time?

MS. CUMMINGS:

Yes, I am Agnes Cummings. I am the proud grandmother of Caroline Agnes Serva. I am just here with a heart-felt plea to help, please help our most treasured children. They can't speak for themselves and they have been forgotten for too long. We didn't know until this happened, and anybody I speak to didn't know that Nassau or Suffolk County had no place for them. We sincerely

thank Bob Policastro because he has dedicated 20 years of his life, but so far only, I believe, 16 children and now there'll be a house for eight more, a beautiful place. These are the most deserving, loving, perfect people in our world and they're neglected; not by our family, we want her. She needs us, but we need her more, and we won't stop until we've gotten her home on Long Island. We have rich -- I live in Nassau-Suffolk, this -- this is so important and I just beg you to help us. Oh, my daughter wrote a beautiful letter I was going to read, but I can't read it, but if anybody would like copies.

LEG. BROWNING:

We have it.

CHAIRMAN SPENCER:

We do have copies.

MS. CUMMINGS:

She sent it to many -- oh, okay.

CHAIRMAN SPENCER:

And we'll make sure that that letter is shared. And again, I see that your pain is just really intense and, you know, I am really so sorry for what you are going through. We hope to address this topic compassionately and put our minds together to try to see what we can do to help relieve your suffering. Thank you. Again, thank you for your courage.

MS. CUMMINGS:

Thank you.

CHAIRMAN SPENCER:

I'm going to ask if Bob Policastro would come forward, please.

MR. POLICASTRO:

My name is Bob Policastro. I think it was 22 years ago I stood right here talking about my own daughter who happened to be in Connecticut, my wife and I making the same type of travels and I came here pleading for people to help. I think -- I think it's sad that we still find ourselves in the same predicament. Obviously for those that know me, they know the impact that it had on me and my wife because we haven't stopped since. But, you know, we've seen some good in Suffolk County and I do want to stress that, but I think in expressing and showing some of that, I think it's important for people to see the full picture and how deep this goes.

We recently saw Stony Brook Hospital having a children's hospital and announcing that, which I still don't believe Suffolk County as a whole understands the importance of that and how tremendous that will be for us going into our future. The recent announcement of St. Charles, which my hopes, as Legislator Romaine mentioned, the boy from Riverhead also in Westchester, along with Caroline. How many kids are in Suffolk County? Once they're stabilized here in Suffolk County hospitals, how sad is it that their next place to go is Westchester as the closest place? But St. Charles is making a movement on that. It's another big void. We've been lucky, through advocating, to create two homes to help some of the medically frail kids, and shortly we'll see another home being done. But it still just touches the surface, we still need to see more.

I know, and it always seems cyclical, you know, when you're standing in front of government, when times are good and times are bad, and I know the reality of what's going on here. But let me take you back a little bit in history. The Surgeon General 30 years ago realized that medicine was having tremendous progress. It was amazing how lucky -- parents were being -- coming out of neonatal intensive care units and pediatric intensive care units. People that crossed that fine line of

having that healthy child that went home, and that small, small percentage of those kids, they weren't able to leave the hospital, and what was happening was they realized these kids began to live in the hospitals, at a tremendous cost to the states and Federal government. And they came up with a great way to say, you know what? Even middle class American kids, let's make sure these kids become eligible for Medicaid, and that's what they did, because eventually they all ended up being covered by Medicaid. What that did was allowed a lot of parents, if they were able to, it's not an easy task, to take some of their kids home, and the progress of that has been tremendous. But it doesn't negate the fact, the difficulty, if you can imagine, the year after year efforts of caring for some of these kids at home.

I bring up Medicaid, importantly, and take you back 30 years ago because I want you to understand that, you know, in a time when our budgets are literally a nightmare, I'm saying to you, this is a cost-neutral situation. You already have the Medicaid system built into these children. It will follow them whether they come home, whether they're stuck in hospitals or whether we find and have that long-term option for them. I feel that is such a key for me to be here in front of you today to emphasize, because I think it continues our responsibility to keep these kids as a priority knowing that they are being covered, and we have to come up with alternatives.

I know by talking to the Catholic health systems, along with other ideas that are being out there, but we need your support. We not only need the support within Suffolk County, we need you to help us talk to our local Assembly and State Senate. We need to let everybody know, it shouldn't be a reason why Nassau/Suffolk County has this void, and it's been existing too long. And I feel, again, having the resources to cover the cost of these kids is something that we're not asking you for. So I think that is a key point as you're -- as you look to resolve this potential issue for us here, and I do hope that it's taking it to a serious consideration as we try to move forward.

CHAIRMAN SPENCER:

Thank you. Legislator Kennedy.

LEG. KENNEDY:

Thank you, Dr. Spencer. Bob is -- I have the great privilege of having Bob as a constituent and we've had the opportunity to be at Angela's House. And, you know, we throw terms around many times about *tireless advocate* and *great champion* and many different things, but he truly, truly epitomizes, I guess, a man who is living a mission. And he does so much with Angela's House, not only to provide a local place for children with these maladies to actually have a quality of life, but he has Angela's House out there in so many different ways for us, through networking with events. And he's tireless in having it be something that it's a place that has the care addressed and the costs addressed without it being something that's just merely, you know, saying "*Do this, give me.*" He's the partner that everybody around this horseshoe would love to have for every issue. But I think he's very key in bringing to us that citizens can't do it on their own. And that even with all this effort over two decades, you have a waiting list, I guess, that's very significant. People call you all the time to have their children come to your facilities; isn't that true?

MR. POLICASTRO:

Sadly enough, it's very true. And I would also preface the thought on this. I mentioned 30 years ago and 20 years ago with myself and my wife, well, think about those kids that were able to go home. We actually have a crisis brewing right now with late teen-age and 20-year old kids that parents have lovingly and tiredly been trying to do this as they age, it's becoming increasingly more difficult and we need something to help those families. I mean, the home care programs that were set up were literally one of the greatest things I've ever seen government do. It was unbelievable. But we all know -- you know, I see myself with the gray hair every morning, we get older. We don't -- we're not as strong as we used to be to lift dead weight, it gets harder and harder.

I stress the thought that it's not out of lack of love; you can see that just listening to Karen. It's

not a lack of love. You know, the circumstances that are presented to a family are so overwhelming. She mentioned how many other kids she has at home. And, you know, this isn't -- please understand, it's never the lack of love. It's the love of at least wanting and deserving to have that child. And if you also understand, too, going back 20 years ago, Connecticut had their centers, New Jersey had their centers, the Pennsylvania area had their centers. We have been and had a shortfall. I have begged some of those to come here to Long Island. You know, I think we have families here in our own backyard, I've seen them flourish by having the kids and I've seen families saved. I've seen the stress taken off of them. This is what I see.

You know, we think if the kids -- let me stress something to you also. They touch people's lives in ways that is so hard for me to explain to you. But imagine, imagine that our community -- you know, I was recently at a funeral and I saw the few people that actually went there, and it was an adult. And I think to myself, you know, sometimes people actually live a life where it's sad, but they almost touch so few people. But on the other hand, I can tell you repeatedly when I go to some of these kids funerals throughout the community, throughout Long Island, I was recently at one in Moriches, there's lines out the door. The lesson that they leave us with is unbelievable. Everybody is touched by these kids, and I stress that because these are the kids that are broken. We want them with us.

LEG. KENNEDY:

Thank you.

CHAIRMAN SPENCER:

Thank you. Thank you again for what you've done for decades. And thanks for creating the awareness, I do appreciate it.

MR. POLICASTRO:

Thank you.

CHAIRMAN SPENCER:

I would just like to make a brief -- just a comment with regards to our agenda. And I think this is extremely important and I want to spend some time with the Commissioner giving us kind of a presentation in terms of what resources that we have available.

I was just speaking with our Counsel who indicated that so that we can have the opportunity to not rush the presentations, what I would like to do is just -- we have a brief agenda and I wanted to address those issues and then go to our presentations. So that should -- that way as time goes on, there are certain people that are in the audience here for a particular agenda item, then we can address that. So I'm going to move to our resolutions.

I do have -- the presentations, I do have Martha Kahan and also Commissioner Tomarken. The third item was we were going to speak about the permit process, but after just getting some direction from the Executive's Office, they actually have -- they're working on that particular issue and they've asked that we defer discussing that particular topic until they have a chance to complete their work.

Tabled Resolutions

So the first resolution is ***IR 1021-12 - Adopting Local Law No. -2012, A Charter Law to require Legislative approval of changes to the fee structure for review of septic, sewer and water systems (Cilmi).***

LEG. KENNEDY:

I'm going to make a motion to approve, Mr. Chair.

LEG. BROWNING:

Actually, I'd like to make a motion to table. And actually, that's something that I would like our -- I know the Commissioner is going to do a presentation. Maybe you want to wait until the presentation to discuss this one?

CHAIRMAN SPENCER:

Okay.

LEG. BROWNING:

It's up to you.

LEG. ROMAINE:

Pass over it.

CHAIRMAN SPENCER:

All right, so we'll pass over it.

IR 1172-12 - Establishing a Health Permit Process Review Committee to streamline the application process for sewer expansions and installations (Anker).

LEG. ANKER:

Motion to table.

CHAIRMAN SPENCER:

Motion to table by Legislator Anker. Second?

LEG. BROWNING:

I'll second.

CHAIRMAN SPENCER:

Second by Legislator Browning. All those in favor? Opposed? Abstentions? Motion carries to ***table (VOTE: 5-0-0-0).***

Introductory Resolutions

IR 1200-12 - To accelerate the evaluation and remediation of Brownfields in Suffolk County (Cilmi).

MR. ZWIRN:

Mr. Chairman, if I might? I've had an opportunity to speak with Legislator Cilmi, who's the sponsor of this legislation, on IR 1200 and 1232. We are trying to work within the County Exec's Office and try to -- and the County Attorney's Office. We just got these bills.

I told Legislator Cilmi that on behalf of the County Executive, if we can carve out some of the things that he's requesting in IR 1200 and 1232, that we would provide him with a Certificate of Necessity at Tuesday's meeting, and he said that would be agreeable to him. There are just some legal questions that we have to resolve and the County Attorney's Office asked for a little more time, but the things that we can agree on, Legislator Cilmi, we've agreed that we will do that on Tuesday. So

if we would table IR 1200 and 1232, we will continue working together to have something ready for Tuesday.

CHAIRMAN SPENCER:

The sponsor has also asked us, Legislator Cilmi did speak to us and asked us to table it also. So motion to table.

LEG. KENNEDY:

Second.

CHAIRMAN SPENCER:

Second, Legislator Kennedy. Opposed? I mean, all those in favor? Opposed? Abstentions? The motion to table carries. **Tabled (VOTE: 5-0-0-0).**

And also the same with ***IR 1232-12 - Amending the 2012 Capital Budget and appropriating funds in connection with Brownfields Site Rehabilitation (CP 8219) (Cilmi)***. Same motion, same second, same vote. **Tabled (VOTE: 5-0-0-0).**

Next, ***IR 1236-12 - Amending the 2012 Adopted Operating Budget to reallocate 100% State Aid from the New York State Office of Mental Health for Personalized Recovery Oriented Services (PROS) Providers (County Executive)***.

LEG. KENNEDY:

Just a question on it, Mr. Chair. Where is it going, Craig? From whom to whom?

MR. FREAS:

It's a general housekeeping resolution. I think there's six or seven different providers that are being moved or changed within the PROS. Yeah, it's a balancing resolution as the State passes their budget.

LEG. KENNEDY:

Thank you. I'll make a motion to approve, and I guess put on the Consent Calendar.

CHAIRMAN SPENCER:

Motion to approve and place on the Consent Calendar by Legislator Kennedy, and seconded by Legislator Anker. All those in favor? Opposed? Abstentions? Motion carries. **Approved and placed on Consent Calendar (VOTE: 5-0-0-0).**

IR 1267-12 - Accepting and appropriating 100% Federal grant funds from the United States Department of Justice to the Department of Health Services, Division of Medical, Legal Investigations and Forensic Sciences for the Paul Coverdell Forensic Sciences Improvement Grant, FY2011

(County Executive). Same motion, same second and same vote. **Approved and placed on the Consent Calendar (VOTE: 5-0-0-0).**

IR 1271-12 - Amending the 2012 Adopted Operating Budget to accept and appropriate 100% additional State Aid from the New York State Office of Mental Health to Skills Unlimited (County Executive). Same motion, same second and same vote. **Approved and placed on the Consent Calendar (VOTE: 5-0-0-0).**

And last is ***IR 1288-12 - Adopting Local Law No. -2012, A Local Law to ensure secure storage of controlled medications at pharmacies located in Suffolk County (Spencer).*** This has to be tabled for a public hearing. Motion to table.

LEG. KENNEDY:

Second.

CHAIRMAN SPENCER:

All those in favor? Opposed? Abstentions? The motion to table carries.
Tabled (VOTE: 5-0-0-0).

So thank you. That was our --

LEG. BROWNING:

We still have to go back to the first one.

CHAIRMAN SPENCER:

We still have to go back to the first Local Law. So I am going to ask the Commissioner to come forward at this time and join us at the table, or to sit at the head table here.

Hello, Commissioner Tomarken. Thank you for coming. Thank you for your time. So do we --

LEG. BROWNING:

Yeah, I'd like to ask a question. Because I know I sat on the Board of Health for the past couple of years and I believe that the approval of these fees would be something that would be done at the Board of Health, and in the past couple of years I've been there, we've never had to do that. I know Walter has been around a lot longer and I'm wondering when was the last time that the Board of Health has ever had to approve a fee structure? When was the last time that the Board of Health has ever done that?

COMMISSIONER TOMARKEN:

I don't know exactly, but it hasn't been in my two years. But what I can tell you -- because there are different fees that the Commissioner can do by his or herself and there are some that the Board of Health, and I think the ones that we're looking at -- it says in the Sanitary Code the Commissioner has the right to establish these fees.

We, number one, cannot establish -- raise fees above the cost of our services. Secondly, we would never -- at least my approach to it is we would never do this on our own. Usually when we raised other fees, it was done in the context of talking with the administration. I have no problem, and I encourage and look forward to working with and getting feedback from the Legislature, because everybody is affected and everybody needs to have their say and their opinions and evaluations appreciated and taken into account. But this would require a change to the Sanitary Code. And I think it does, as you mentioned last time, Legislator Browning, that this may put it in the political arena if we -- if the authority is taken away.

I -- maybe there's a way to say that -- as I said with -- I spoke with Legislator Cilmi, and regarding to the wording of the legislation I said maybe we can put a word like *"in consultation with the Legislature."* He was going to refer that on to the Legislative legal branch and see what they thought about it. But I think there's ways to move around that and to not necessarily completely give up the authority but to make it a joint or a triumvirate, if you will, with the administration.

LEG. BROWNING:

Basically you're -- you know, the fee structure and how you would increase it would not be in order to increase revenue, it's basically just to cover the exact cost.

COMMISSIONER TOMARKEN:

And we don't cover our costs. I mean, we're still --

LEG. BROWNING:

No, I know we don't now.

COMMISSIONER TOMARKEN:

Still in the deficit funding.

LEG. BROWNING:

Craig, do you have any information on when the last time fees were increased?

MR. FREAS:

During the course of the budget, because this was a year that we raised certain sewer, septic and water system fees. Walter would have more specific information. I believe prior to that was four or five years ago. Not much -- I'd guess four years, maybe.

And the way the Sanitary Code is written, it is the Board of Health's responsibility. And I think State law is written that way as well; you know, I would defer to Counsel on that. But I think that the way that the State Environmental Law gives the power to the Board of Health and to the local public health official, who is Dr. Tomarken, and it's one of the things where the Legislature is not necessarily part of it. I mean, we do have -- ultimately have power over this because we pass the budget, but it doesn't seem to me -- the other thing from the budget standpoint is, of course, that it's much simpler if it could be raised in the course of the budget process and we don't have to approve every one of them. We raised several fees this year that we created originally by Local Law and reserved the power to the Legislature to do so, but then we needed to increase revenues for these various fees, we also had to go through the Local Law process which meant we were sort of behind by the time -- in the amount of revenue that we increased because of the process.

CHAIRMAN SPENCER:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Doctor, I did speak with the sponsor and he did say that you two had had a conversation. The sense that he gave to me at the end of it was that he felt that he wanted to still go forward with the bill as it's constructed at this point and that's why I made the motion to approve and I'm going to reassert that motion. But I want to -- BRO brings up an issue as to legality, so let's see if we can go through all the points first, and let me go to Legislative Counsel first. Do we -- this bill, Legislator Cilmi's bill, as it's crafted, is it -- is it sound, is it legal? Do we have the authority to go ahead and do this as it's crafted?

MR. NOLAN:

There's not a lot of opinions out there, but there is an Attorney General opinion from 1982 which leads me to believe that, yes, it's legal. We can, by Charter Law, make the fees that they charge, even though it's in the Sanitary Code, can make it subject to Legislative approval.

LEG. KENNEDY:

Okay. All right, so we've got the soundness on the legal side. As to the cost aspect, Doctor, I agree with you 110% that there should be some sound of basis for what an applicant furnishes when it comes to processing. My problem is is that I've encountered this -- not with the Health Department, but with other departments -- where the notion of cost has this elastic type of notion to it; i.e., in the Department of Public Works where our sewer rents have the cost to operate, but then there's a remote cost associated with billers and clerks and other folks

that are out there in Yaphank.

So again, you know, Wastewater Ecology does an excellent job, I'm very familiar with them. And I don't -- I don't want this to be perceived as somehow wanting to micromanage, but on the other side I will say to you at the end of the day, when the rubber hits the road, my constituent doesn't want to hear about an appointee for the Board of Health or a person that works in the department, they want an answer from me as to why they had to pay or do something in that respect. So I feel comfortable with the motion to approve.

LEG. ANKER:

Can I just comment?

CHAIRMAN SPENCER:

Legislator Anker.

LEG. ANKER:

I think you brought up an important word regarding this particular legislation is micromanaging. I don't think it's a good idea for government to -- you know, government leadership to create more roles that might complicate government. And, you know, we have a department head who's accountable for the services and the billing required to provide those services. If there is an issue within the department, you know, that's under the County Executive, and also the Legislature has a voice to that. But again, in creating legislation that may complicate the government process, I don't think that will expedite decisions, services, and it may create more issues. And again, that's why I will support tabling this resolution.

CHAIRMAN SPENCER:

Legislator Romaine.

LEG. ROMAINE:

Someone once said that the power to tax is the power to destroy. Clearly, the power to set fees has to be a corollary to that axiom. And as a government, I know where I stood for election and that was to govern. Part of the role of governance is setting fees for various government agencies. And there's a debate; do we want our fees to reflect our costs? Do we want to lower those fees below our cost to encourage economic development? Do we want to do a whole host of things? Those are public policy questions. That's exactly why this Legislature was formed, those are exactly the type of issues this Legislature is supposed to be involved in, establishing public policy questions.

I have great respect for Dr. Tomarken, he's a health care professional. But in honesty, my constituents will ask when they talk about these fees, *"Who elected him? We elected you. We elected you to do this job."* For us to exercise review and approval of fees that Dr. Tomarken and his department would propose is not out of the realm of ordinary. It comes from the realm of expected duties, the policy making of this body. So I will second Legislator Kennedy's motion to approve.

CHAIRMAN SPENCER:

I have a motion to approve and a second, and a motion to table by Legislator Anker and a second by Legislator Browning. The motion to table goes first. Motion to table. All those in favor? Opposed?

LEG. KENNEDY:

Opposed.

LEG. ROMAINE:

Opposed to tabling

CHAIRMAN SPENCER:

Abstentions? All right, the motion to table carries. *Tabled (VOTE: 5-0-0-0)*. Thank you. Thanks, Dr. Tomarken.

I'm going to ask if you would give us kind of a presentation or an overview of what you've discovered with regards to pediatric long-term care in Suffolk County.

COMMISSIONER TOMARKEN:

Yes. Thank you, Mr. Chairman. I have spent several hours talking to a variety of people, some of who have been here today, regarding this subject, starting off with the Deputy Commissioner of Long-Term Care at the New York State Department of Health trying to establish what the need for this service is. Because if you're going to go forward with any plan, well, there's a need to know as much as we can obtain regarding what services are needed and how widespread they're needed. Unfortunately, at the State level they do not have any data to be able to give me. And when I approached them and said it looks like we would need to do a needs assessment or it would need to be done, they agreed but took it no farther. So what we're running into is at the beginning we need to know what the overall need is.

Now, having spoken to Jim O'Connor, who is the CEO of St. Charles Hospital, he advised me that, number one, he was opening up a 10-bed transition unit for children on ventilators. And a transition unit, just so you understand, the idea behind it is that the children, the patients come there and are transitioned hopefully back to home. Some may -- will make it back to home, some may end up in an institution, and some will go home but sometimes will repeat, they'll recur, they'll come back because they may develop an infection or something that needs to come back to a hospital for treatment. And these -- he's starting with ten beds for the very reason that he does not know the overall need, and this would be one way for him to evaluate and establish what he thinks the need is.

In addition to those ten beds, there is an institution called Our Lady of Constellation which is due to open up 20 beds of long-term care and both of these will hopefully be by this year. But as you all know, this is a State regulated service and facilities and it's up to the State to approve them.

So in talking to Bob Policastro, who you heard a few minutes ago, we've had discussions over the last several months, his estimate is there's somewhere between a need of 30 to 40 beds; but that's an estimate, and he certainly is one of the people who would have a pretty good idea. But I think an idea of a -- of what Suffolk County can do in conjunction with Nassau is to pursue the idea of putting together, as Legislator Romaine proposed, some sort of --

LEG. ROMAINE:

Commissioner?

COMMISSIONER TOMARKEN:

-- group task force, whatever you want to call it, to try to establish what the true need is. And we would work -- I would view it as we would work in consultation with Mr. O'Connor at St. Charles, Bob Policastro, the group at Our Lady of Constellation, because these are the people who are going to get the phone calls, who are going to get people knocking on their door saying, "Here's my child and this is what we need." They will give us -- be able to give us the information needed to go back to the State to get the proper authorization.

And the other thing I think to keep in mind is that if these two institutions can get support, not only from the community but financial, then they will potentially increase the number of beds there, which is much more efficient than looking for somewhere to build a new facility. First of all, to build a new facility is expensive, it's time-consuming. I will put my emphasis on trying to work with existing institutions who have made an initial start and seeing if we can help support them, if

needed, to expand the services. That would be the approach I would think is the best way to go at this point in time.

Recognizing that this is a whole group of children, and young adults as they get older, as Bob pointed out, who have a whole spectrum of needs. This is quite a different group than -- this is not just a housing unit, these are facilities that treat people, try to rehabilitate them so they can go potentially back into the community and back at home, and that's what the State's emphasize is, is to move as many individuals back in the home with the appropriate services. They don't want to build warehouses, they want to have facilities that help these children get back home. Obviously not all will make it and some will have a revolving door; they will come back periodically.

So it's a large spectrum of illnesses. You have children born with congenital problems, you have children who have traumatic injuries and have physical and psychological needs, and those on ventilators as well. So it's a very wide spectrum that encompasses this group of children. But I think if we can begin to develop information that we can go to the State, because it doesn't appear that the State is, at this time, willing or interested in doing it on their own. So we have an opportunity to give them information so that -- and help support those institutions that already have made a commitment to see, if we need to, to expand that commitment.

LEG. BROWNING:

Mr. Chair?

CHAIRMAN SPENCER:

Legislator Browning has a question.

LEG. ANKER:

I have a question.

LEG. BROWNING:

Like Ed said earlier, you know, we have a nursing home and we put out, you know, an RFP for public/private partnership. Clearly this is something that's in need, and not just in Suffolk County but Nassau and Suffolk. And like Legislator Romaine had said, reaching out to Nassau County to see if they would be willing to partner with us, for the likes of -- it wouldn't even take a full floor in the John J. Foley Nursing Home to accommodate all of the children from Nassau and Suffolk.

It just seems to make sense to me. You know, even -- you know, the facility in Westchester; how many children from Suffolk and Nassau do they currently have? Would they be interested in partnering with us to help the families with the travel? They're people who already have the expertise, they know what they're doing. And again, like you had said earlier, they're not just from the 23-month old, they become older. I'll give you an example. Good friends of mine, their daughter has Cerebral Palsy. They've taken care of her, she needs 24/7 care, but it got to the point where they're older, she's older and they just can't do it anymore like they used to. Thank God she's close to home but, you know, there's just -- I don't think there's enough for that. There always seems to be that constant need.

And I really do think that we have an opportunity to take advantage of the nursing home that we have and look at the opportunities to help these families bring their kids home so that they can be closer. And I think we need to have more conversation about taking advantage of our nursing home and doing what we need to do. We're talking about maximizing the use of it and doing more with it? Here's another doing more with a perfectly good, beautiful building and helping out Suffolk County residents.

CHAIRMAN SPENCER:

Thank you. Legislator Anker.

LEG. ANKER:

A couple of points I wanted to ask you about. Again, the issue here is trying to find out what the need is in Suffolk County. There's two areas maybe we might be able to check on.

The hospitals or the facilities that Suffolk County residents use, is that documented somewhere in the Health paperwork? And the other one is schools. You know, every school takes a note of how many kids are in the district. Could that be another opportunity to find out or establish the need for those kids?

COMMISSIONER TOMARKEN:

All hospital admissions are recorded at the State, all hospital admissions and discharges. What makes it difficult is because the variety of diagnoses that these children have, and whether or not they need -- what services they need once discharged is not usually data that's collected or very easily analyzed. But certainly we could -- what could be asked of these institutions is to -- somebody could develop a data collection tool for this type of condition and ask for that information.

LEG. ANKER:

Now, again, would that be a problem with the State in the legal sense to give that patient information to the County to find out the information?

COMMISSIONER TOMARKEN:

Well, yeah, I think it would -- the ideal in my mind would be that we work with the State. Because the State data is not freely accessible, and they would -- I think they would want this data and I think it would be best done in conjunction with them. Because ultimately they're the authority that will authorize or not this kind of service.

LEG. ANKER:

And, you know, when I was on the school board in Mt. Sinai and working with the school districts, the schools have to pay for children with disabilities that have to go out of State, out of the County, and it's extremely expensive, you know, the travel, everything involved. And I think we might want to include this in the estimate. Well, I guess there's different -- it varies, like you said, the needs, it could be severely handicapped or -- well, can you explain the different needs, the levels?

COMMISSIONER TOMARKEN:

Well, I mean, these institutions are generally for children that are going to be either residents there or long-term -- have a long-term stay there on their way hopefully back to their home. So their education, actually, would take place more often than not in these institutions. So how that works with funding I'm not able to comment on, but I think it's a cost that has to be accounted for.

LEG. ANKER:

Yeah. Again, the school districts, they are accountable for the children with the disabilities. So again, I don't know how accessible that information is, but just another route of trying to clarify the need of creating a facility. You know, the group that we recently spoke with, Hudson River; do they do any type of work that involves disabilities?

COMMISSIONER TOMARKEN:

Not in the sense of what we're looking at, because they don't really have in-patient services. If they -- if their patients require in-patient services, they contract to the Stony Brooks and other institutions.

LEG. ANKER:

All right. Thank you.

CHAIRMAN SPENCER:

Legislator Kennedy.

LEG. KENNEDY:

Doctor, thank you for being in front of us. We've had conversations before about the possibility of the use of John J. Foley, and I agree a hundred percent with Legislator Browning. And certainly the request that the speakers bring is, from a human perspective, something that obviously we would want to do everything that we can do.

And I'm pleased to hear that there are applications for facilities here in Suffolk County that are looking at exploring this. You and I have spoken about this before, and as a matter of fact you've made copies of this available for me. Your department does kind of like a grand-rounds, if you will, of health in Suffolk County biannually, or is it a 36-month look; what is it?

COMMISSIONER TOMARKEN:

Community Health Assessment.

LEG. KENNEDY:

Okay. And where are we in that process now?

COMMISSIONER TOMARKEN:

The report that's out now runs through '13, through 2013.

LEG. KENNEDY:

Okay. So is this pediatric long-term care identified in that report as an area of deficiency or of need?

COMMISSIONER TOMARKEN:

No.

LEG. KENNEDY:

It is not. So is it something that you think in the next one that the department prepares, you're prepared to identify as an unmet need here in Suffolk County?

COMMISSIONER TOMARKEN:

Yes, I think that's something we would incorporate in the next report. And hopefully by that time there might be -- it would be a need that's been satisfied, but it certainly is an area that needs to be included.

LEG. KENNEDY:

The other thing that we look at is -- and again, Legislator Romaine spoke about this. In the end, it seems that all matters of government are matters of money, and the Medicaid reimbursement associated with the care for these children must be something that is -- I don't want to characterize it as high or low, but it is something that would fit within the realm of the Medicaid reimbursement we get for care for residents in the nursing home now, I would imagine. It must be higher than what we receive now.

COMMISSIONER TOMARKEN:

Yes, it is. But, number one, the services obviously that these children need are much more expensive. But I haven't seen the new Medicaid, you know, reform fees that are -- that the State is going to implement, and whether or not they include this group. So I think before we can make any cost accounting analysis of this, we need to know if these fees are going to be changed. But

the funding -- the fundamental question is funding is an issue.

LEG. KENNEDY:

Yes, always. How soon do we anticipate what the schedule is going to be, the Medicaid schedule?

COMMISSIONER TOMARKEN:

We don't know.

LEG. KENNEDY:

Don't know.

MR. FREAS:

They'd be included when the State budget finally passes.

LEG. KENNEDY:

Oh, I see. Okay, so for April 1st.

MR. FREAS:

Right. They change slightly, whether they put a trend factor in or how that works. I think we could actually get some of this information.

I was thinking of in the course of our Foley analysis for the last four years, I think we could at least look at it from the perspective of the residential health care facilities, although I don't think the SPARCS data, which is the data set that Dr. Tomarken was referring to which is the hospital data set which would show the flow in to residential health care facilities. We could look at residential health care facility reporting, find the patients in the -- who are in those age cohorts that would be children and see some of the reimbursements Statewide. There are only nine long-term care facilities in the State, as far as I can tell off the quick look, that treat children. Most of them are downstate, the nearest one's in Queens and that one is 100% occupied, as you might expect.

LEG. KENNEDY:

I would welcome any of that information, I think it would be quite helpful for us. And if I can, just for a second, stay on Foley. I'd like to thank the Chair of the Health Committee, because it's my understanding that we now have basically full census in our HIV/AIDS unit, I think on the third floor. And I know there's been some ardent advocacy on Dr. Spencer's part, so thank you.

CHAIRMAN SPENCER:

Thank you. What I'm going to do, at the request of Legislator Romaine, I'm going to give a copy of the letter from Caroline, but he did request that it be read into the record --

LEG. ROMAINE:

Or submitted to the Clerk if time doesn't allow

CHAIRMAN SPENCER:

Okay, or submitted to the Clerk. I wanted to make a -- just a remark as a specialist and someone that has some familiarity with this particular field. And again, I just think it takes extreme courage and just to hear what Caroline's family has gone through, just to be with her and that, I think that's the role of one of the reasons I wanted to get involved, was to try to be able to make a difference in people's lives. And this is extremely important, it's extremely heart-wrenching. And so again, my support, my heart goes out to the family.

I think that one of the things that we have to look at, and I'll give you one other quick perspective, and I said, "Well, why is this a State issue?" It's not -- well, you know, we're part of the State, it is a Suffolk County issue. But in addition to needs, the other thing that we also have to address is

that it's not a matter of finding some space and hooking up some ventilators and bringing the children in. When I first started practice on Long Island, I was one of two pediatric ENT's on the entire Island. And one of the things that I -- during my training, I trained at University of Miami where we were one of these regional, long-term care facilities, and they had children that came in from all over the Caribbean, from different countries that were sent in with long-term injuries and, you know, I provided care. And these children, they would require pediatric infectious disease, pediatric otolaryngologist, pediatric neurologist, pediatric pulmonologist. And in addition to that care, one of the things that's important is that if we do this, we have to do it right, because you can't open the door and you have to have what we consider in medicine a critical mass. So the critical mass is we know that we have the need that's there. And even if we are able to find the resources, you also have to be able to have the professional services and maintain the professional services.

So one of the worst things that we could do if we -- we have to do this right. It has to be done right. Because if you have a child that is on a ventilator and in a long-term care facility, then you can't have the excuse that the pediatric neurologist has left or resigned, there's only one. You need to have -- there needs to be coverage, there needs to be backup coverage. And so what happens around the country? And this is a major issue. I came from the State of West Virginia and I trained at Boston, I trained at University of Miami, I trained all over the country, and it does tend to be a regional issue. And what's so frustrating about it, and that's why my heart goes out to the family, is that it's hard a lot of times -- and we're in a unique position because we have the population base and the experts here on Long Island. So we may be able to pull it off, but we do find this in the State of West Virginia, for instance, there's one, and sometimes you see gut-wrenching decisions where families have to not see their children for a period of weeks or months, or they have to get on a plane in order to be able to see their children.

So we're stuck with the issue of, if we have something that requires a critical mass of resources and people, that -- and it is a regional issue, and you take a region and you put a circle in that region and you put a dot, somebody's going to have to travel to get to that particular area. We're fortunate here in Suffolk County that we are -- that we do have a lot of those resources, and I think that we can do it, but I do want to make sure that we enter into it the right way. And so as we look at it from a standpoint of just providing government resources, we also have to make sure that we provide that specialty care and the backup that is needed to make sure that we do this the right way.

So I will do everything I can to offer my medical expertise, as someone that is a pediatric subspecialist that has had to -- that has been involved with care of children in this situation, and I will work with Legislator Romaine and my colleagues to see -- and the task force to see if we can provide relief to this family who is suffering so much. So thank you, Dr. Tomarken, and we will give a copy of this letter --

MS. LOMORIELLO:

I have it

CHAIRMAN SPENCER:

-- to be placed into the record. And once again, thank you to Caroline's family for being here today.

So I'm going to move on to my next presentation, if I may, which is regarding the BOCES funding and I have on the agenda a Martha Kahan?

LEG. ROMAINE:

Mr. Chairman?

CHAIRMAN SPENCER:

Yes, I apologize.

LEG. ROMAINE:

Before Dr. Tomarken leaves, at our last Health Committee meeting, there was a presentation on the effectiveness, or whatever, of Cromoglass

CHAIRMAN SPENCER:

Yes, yes.

LEG. ROMAINE:

And I read from the 2010 report that the Health Commission -- Health Department had issued some of the facts that seemed to undercut some of the presentation that was prevented -- presented. And I had asked at that time, and followed up with e-mail, if I could have the statistics for 2011 as well. I have not received it as of yet. I think that would be interesting, and I would hope that between now and the next Health Committee I could get those statistics for 2011. I have it for 2010 and maybe in 2009, and then we can take a look at what the findings were over a three-year period, possibly at our next committee meeting, if that's okay with Dr. Tomarken. I understand sometimes it takes time to assemble this information, but if you could have that to me in the next couple of weeks, because I had requested that two weeks ago and I had not gotten that information.

COMMISSIONER TOMARKEN:

And we did submit a letter to you indicating that we were in the process of preparing that information, which you responded to by e-mail acknowledging receipt of that. So we're in compliance with our regulations.

LEG. ROMAINE:

I wasn't looking at this from a legalistic point of view. You refer, of course, to the Davis Law. The Davis Law is a law for my colleagues that says if you make a request of a department head, they should be able to respond to it for information that they have on hand in five days. I did not make that request under the Davis Law, I simply requested the information --

COMMISSIONER TOMARKEN:

We will --

LEG. ROMAINE:

-- two weeks ago, and I know that information exists; I can't think it's that difficult to assemble. The reason I would like to see that information, because the information I did have, 2010, clearly undercut the statements that your department made about Cromoglass, your own statistics. And rather than base it on one year, I certainly would like to see three years of statistics, so 2009 and 2011.

So I'm going to renew that request again. If you'd like, I can invoke the Davis law. If you think you're in compliance by saying "We're working on it," that may get you one pass at this, but after that, I'm going to go to my colleagues in the Legislature. This is a basic request for governmental information. And perhaps you feel that because I'm a member of the minority party you can ignore that request, but I would tell you you do so at your own jeopardy, Sir.

COMMISSIONER TOMARKEN:

We are not ignoring the request. It takes more than the five days. We responded just to indicate that it was taking --

CHAIRMAN SPENCER:

I'm a member of the majority party and I also made the same request, and I did ask the Commissioner and he did indicate that he was doing his due diligence. So, Mr. Romaine, your points are well taken, and I'm anxious to see those numbers also.

LEG. ROMAINE:

I am, too.

CHAIRMAN SPENCER:

Thank you, Commissioner Tomarken. I appreciate it. Please come forward. Thank you.

Hello. Could you please just give us, again, your name just for the record.

MS. KAHAN:

Sure. My name is Martha Kahan --

CHAIRMAN SPENCER:

You have to press the button, I apologize.

MS. KAHAN:

It's okay. Oh, I see. Okay. Martha Kahan --

CHAIRMAN SPENCER:

It's for the record.

MS. KAHAN:

Yes. Martha Kahan, School Liaison with Eastern-Suffolk BOCES.

MS. LOMORIELLO:

Keep your finger on the button.

MS. KAHAN:

I see, yeah. Okay, thanks. For some of you, this may be a de ja vu feeling. I was here on Monday before the Human Services Committee. I appreciate the opportunity to come back. Thanks.

My agency, Eastern-Suffolk BOCES, is hired as the contract agency to fulfill the school-based component of the Department of Health Services Learn-to-be-Tobacco-Free Program. For the past ten years, Eastern-Suffolk BOCES and the Department of Health Services have worked hand-in-hand to provide comprehensive health education programs to Suffolk County schools, both public and private, at no cost to districts.

First a little history. When the Master Settlement Agreement between the State's Attorneys General and the tobacco industry was finalized, the U.S. Centers for Disease Control and Prevention created a template for governments to use so that in 25 years when the money ran out the public would not be faced with the same high Medicaid expenses resulting from tobacco-related diseases. The CDC recommended that in addition to offering adult smoking cessation programs, which the County has done admirably for the past ten years, that governments receiving this money should also provide prevention programs in schools to reduce smoking in future generations.

The CDC further recommended that schools not focus exclusively on tobacco education, rather, to be most effective, schools should provide comprehensive health education which would begin in Kindergarten and focus on all the risk behaviors that cause morbidity and mortality, tobacco, alcohol and other drug use, poor dietary habits, physical inactivity, intentional and unintentional injury and behaviors that result in HIV/AIDS/STD's and unintended pregnancy.

At the time we were awarded our first contract, we were fortunate to find a curriculum called *Health Smart*, which was research-based and addressed each of these risk behaviors, comprehensively and developmentally appropriately. Again, we followed CDC's Best Practices and provided teacher

training as a prerequisite to receiving the curriculum. In these ten years we've trained over 2500 teachers from 50 school districts, six private schools and various eastern and western Suffolk BOCES sites. Last year alone we reached approximately 50,000 children, Kindergarten through high school, with this part of our program alone. In 2007, the previous administration joined the Health and Police Departments to work cooperatively by creating the Police Smart Program. Police Smart was meant to enhance the lessons conducted in schools by classroom teachers using *Health Smart*.

In addition to *Health Smart*, our initiative offers peer education training and youth empowerment conferences. We train school personnel in smoking cessation programs, both voluntary and mandated, so that young people who either wish to stop smoking or are caught smoking on school grounds have an educational intervention and not a punitive one.

As a resident of Suffolk County, I've always been proud of the progressive stance our County has taken in the area of tobacco control. By passing clean indoor air laws offering smoking cessation for adults and by raising the age for legal purchase of tobacco products, Suffolk has been a leader. And now, when the national conversation is about prescription drugs, bullying, obesity and teen smoking, Suffolk County can be proud with the leadership it has shown by supporting the prevention programs, which are a model for other governments. The vast majority of school districts in our County have participated in at least one and often all aspects of this initiative. They have come to rely on the progressive stance our County has taken. It will be difficult for schools to address these issues without our initiative, given the 2% budget cap districts are facing.

And on a personal note, I was raised with the words *Tikkum Olam*, the notion that each of us has the responsibility to repair the world through our actions. *Tikkum Olam* means that each person has a hand in working towards the betterment of his or her own existence, as well as the lives of future generations. This has been the guiding principle for my entire professional career and has certainly been the principle guiding me for these past ten years. I've been honored and proud to do this work. Thank you for your time.

CHAIRMAN SPENCER:

Where's that expression, from what language is it from?

MS. KAHAN:

Hebrew.

CHAIRMAN SPENCER:

Hebrew. Oh, great. Legislator Romaine.

LEG. ROMAINE:

Yes, I'm glad that you were here earlier. Hopefully you heard a little of the dialogue I had with one of the speakers who spoke on this program.

The Legislature put the money in the budget for 2012, the Health Department budget in the 456 item, which is Fees-For-Services, it's there. The County, there was an RFP, Eastern-Suffolk BOCES won; the County Attorney drafted a contract, sent it to you guys. I assumed you signed it and sent it back. All I can tell you is that the Legislature doesn't execute, that's why we're different branches of government, that is the Executive. Apparently there was made a decision in the Executive without notifying the Legislature. And I have to tell you, I have great respect for Mr. Bellone. I hate to be blind-sided on something this significant that affects all of our districts, because we would better know. I am sympathetic to his point. And I'm assuming, because I haven't had correspondence regarding this -- although I've sent e-mails to the Executive on this matter -- that it is because of the fiscal crisis the County is facing. But the money -- we cannot compel him to enter into a contract or spend money in the budget, that right is reserved to him.

So the lobbying -- this Legislature really has no role at this moment in accomplishing this task. The lobbying would be with the Executive. But I would almost suppose that he would tell you that, because of the crisis, he doesn't want to spend this money, even though it's allocated, because of the looming deficits, and he has a very valid point. And I'm not being critical of him, I just wish I had known about this and about this decision, so when I started to get your e-mails and others, I could more intelligent -- it took me time to do research. Was it in the budget? What had happened? What had happened with the RFP? What had happened with the contract? I found out all that information, but then I realized there must have been an internal decision made at the Executive Branch. And the only thing that I would say to this Executive, we're all in this together. I understand his motivation. It would have been good, though, had he shared that information with the 18 members, because I'm sure other members got e-mails like I did, because this is a County-wide program that replaced the DARE Program.

So I would definitely attempt to have some type of dialogue with either our County Executive or his Chief Deputy County Executive or one of his County -- Deputy County Executives to see if there can be some dialogue on this. At this point, there's nothing really for us to do, the money is in the budget. I just wanted to get that out on the record. Thank you.

MS. KAHAN:

Thanks for your support.

CHAIRMAN SPENCER:

I have a couple of questions. One -- and again, as I said before, absolutely essential, has to happen, so we're going to try to figure out a way to work together to see if we can support you.

When I look at the funding and the programs that you're speaking of, and I'm just trying to maybe make some suggestions and we'll have to carry this discussion off of the record and just I'd like to set up a meeting where we can formally sit down.

MS. KAHAN:

Sure.

CHAIRMAN SPENCER:

But one of my questions is when we talk about especially the programs with regards to teen smoking and tobacco settlement funds and some of the other issues. I don't know, because I understood there's a separate board that manages the tobacco settlement money, and I'm just trying to find out if there are opportunities to look for State and Federal programs that we could help also seek funds.

And then the other issue is when we talk about the cost of initiating these programs, if it's the kind of thing where I as a Legislator can come to a school of children and speak to them off of a curriculum. Is there an opportunity for volunteerism, is there an opportunity for public/private partnerships or grants to help continue these programs? What can we do as Legislators while we are working on this funding crisis? Are any of these ideas viable?

MS. KAHAN:

To the MSA money, and I'm -- this is not my area of expertise. There are certainly people here who can better answer that question, but it's my understanding that the County securitized the MSA money, so there isn't any money from the MSA anymore. Everything is through the General Fund. If I'm wrong, hopefully one of my colleagues can correct that. Nobody is saying anything; okay, so I guess that's correct.

As far as public/private partnerships, my office is looking at -- we have a grant writer we use, actually the company that we have used in the past that wrote our RFP, because they're expert

writers. We're looking with them to see if there's other alternative money that we might use to continue this program. I'm not sure that we will be able to do that, but that's certainly something that we've discussed internally.

CHAIRMAN SPENCER:

The program expenses, do they go primarily for paying for building costs, lighting costs, literature costs, salary costs? Where are most of the fees? Is it -- if you could kind of -- but when you look at that budget.

MS. KAHAN:

Sure. Certainly there is a portion, I don't know off-hand, a portion for salaries. All of the, you know, rent and so forth has been absorbed by my office, that's not a separate cost out of this. So the money is for salaries and curriculum, trainings for teachers, other items that we purchase to support what we do.

For instance, in the area of skin cancer prevention, we have a program that we've been running for about seven years because we were asked by the -- and when I say we, I'm talking about the Health Department in partnership with Eastern-Suffolk BOCES; this is a Health Department initiative that we help them execute. But we were approached by the State Health Department some years ago as a pilot program and it was so successful and so -- so many districts were interested in this that we, in addition to what we purchased through our regular initiative, do a supplemental skin cancer prevention program where all the children are equipped with bucket hats, sunscreen, sunglasses, Kindergarten through 3rd Grade, and this is something that is a supplement to what we do. So that's an example of a large expenditure that comes out of our budget as well.

So there are many different -- and, you know, it's funny that you mention about speaking off the record, because normally what I do with elected officials when they are first newly elected and also, you know, subsequent to that, is to introduce myself to tell you about what we do with the school districts within your Legislative District. I didn't have a chance to congratulate you and say, you know, welcome to your new position, because that's something that I would typically do. I've met with either the Aides or the Legislators themselves to let you know specifically what we do in your own Legislative District. So I'd be happy to meet with you, fill you in on what we do in your Legislative District and then talk to you off the record about, you know, what we can do to pursue this.

And as far as, you know, Mr. Romaine's point about the County Executive, you know, clearly you as a Legislative body cannot compel the Executive Branch to, you know, spend this money. But I guess I just wanted to be clear to him, as a newly elected official, that this is a Health Department initiative. We are only the contract agency. So if you're just looking to slash funds, of course, you know, you can look at outside agencies, but it's really a Health Department initiative which is, you know, part of his Executive Branch. So, you know, I'm just hoping that he is aware of what it is that he's cutting. And what we've been doing. He may not be familiar with all the great work that, you know, I humbly say we've been doing for these ten years.

CHAIRMAN SPENCER:

I think he has ears in the room right now, I'm sure he'll be aware.

*(*Laughter*)*

Thank you.

MS. KAHAN:

Okay.

CHAIRMAN SPENCER:

Legislator Anker has a question or comment.

LEG. ANKER:

Yeah, just a comment. Hi, Martha. How are you? You know, I visited *Health Smart*, it was over in St. Joseph's College; is that one of the locations?

MS. KAHAN:

That was our Youth Empowerment Conference, yeah.

LEG. ANKER:

That was wonderful. You know, when I worked for Eastern-Suffolk BOCES, that was a really -- a foundation program for all -- for many school districts. How many school districts are involved?

MS. KAHAN:

At any given youth conference -- in fact, we had one scheduled for the end of the month on bullying for middle school students. We had 15 districts that we had to turn away; fifteen districts signed up that we had to tell them that it was cancelled.

LEG. ANKER:

Again, I want to commend you for your effort in trying to continue this program and the many programs that you are working with. And, you know, we will do what we can to try to encourage additional funding so you can continue. But thank you again for coming here

MS. KAHAN:

Thank you for your support.

CHAIRMAN SPENCER:

Thank you. Thanks for that presentation. So that completes our presentations and agenda. So I'm going to ask for a motion to adjourn.

LEG. ROMAINE:

Motion.

CHAIRMAN SPENCER:

And second. Okay, we're adjourned. Thank you.

*(*The meeting was adjourned at 3:59 P.M. *)*