

**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, May 31, 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:**

*Deputy Presiding Officer Wayne Horsley - District #14*  
George Nolan - 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  
Paul Perillie - Aide to Legislator Gregory  
Bill Schilling - Aide to Legislator Anker  
Tom Vaughn - County Executive Assistant  
Ryan Bliss - County Executive Assistant  
Dr. James Tomarken - Commissioner/SC Department of Health Services  
Margaret Bermel - Director of Health Administration/DHS  
Richard Meyer - AME  
Susan Kennedy - Director/Tobacco Action Coalition of Long Island  
Ellen Mooney - Student/SUNY Stony Brook University  
Alice Butkos - Nurse Practitioner/Jail Medical Unit  
Amy Malave - Nurse Practitioner/Jail Medical Unit  
Owen Durney - Division of Preventive Medicine/Dept of Health Services  
Other Interested Parties

**Minutes Taken By:**

Alison Mahoney - Court Reporter

*(\*The meeting was called to order at 2:36 P.M. \*)*

**CHAIRMAN SPENCER:**

We're going to begin the Health Committee. I'm going to ask if we could please stand for the Pledge of Allegiance which will be led by Legislator Kennedy.

***Salutation***

So we do have cards I'd like to get into, but before we do that, just addressing correspondence. There's been a lot of e-mails that have been sent to this committee just with regards to a variety of issues in the Department of Health and the proposed budget cuts and layoffs and different programs and we've received those e-mails. We take each and every one of them to heart. I try to read as many as I can personally and will make an effort to respond to each and every one. I do appreciate the members of this committee just for a quick update and we'll get into a lot of these issues as we get further into the meeting.

There has been a variety of different proposals with regards to the Department of Health and how we address that department moving forward to make sure that we have a Health Department that is able to carry out its functions and responsibility in a responsible manner, and yet how do we respond to the current fiscal crisis. So we know that there's been a variety of legislation and budget amendments, there's been a lot of meetings, there's been a lot of cooperation with the Administration and the Department of Health. And I'm very pleased that we've been able to find some common ground to address some issues, but yet I do remain very much just concerned always that those who are the most vulnerable. I don't want them to ever have to suffer unnecessarily. If there's anything that we can do as public servants to be able to take care of them. So we'll continue to work together in a bipartisan fashion in this committee as much as we can to address these particular issues.

So with that brief comment, I will turn to our cards. I have two cards. If there's anyone else that would like to speak also if you would come up and fill out a card with Barbara and we'll give you an opportunity to speak. But the first one I have is Susan Kennedy who is from the Tobacco Coalition of Long Island. Hello, Susan. How are you?

**MS. KENNEDY:**

Hi.

**CHAIRMAN SPENCER:**

Push the button and you can say anything you would like for three minutes.

**MS. KENNEDY:**

I'm going to be quick. My name is Susan Kennedy, I'm the Director of the Tobacco Action Coalition of Long Island. I'm here today to see if I can peak some new interest in proposing a law to ban the sale of tobacco products in pharmacies. I had been working with Legislator Vivian Fisher last year, she actually had proposed a bill which was sent over, I guess, to check the legalities of it and it never went any further. And as you all know, she's termed out, so I'm back to see if there might be someone else who would be interested in working with us.

Just to give you some quick background, the United States is still one of the only countries in the world that sells tobacco products in pharmacies which, when you think about it, it's just absurd. The conflict is obvious in terms of health care products. What's become more insidious is that a lot of our chain pharmacies, like CVS, are now conducting mini-clinics where they're actually giving flu shots, collecting Medicare payments and such as if they're mini-clinics and yet they're selling tobacco products; you would never see that in a doctor's office.

The reality is that most of the independent pharmacies have given this up years ago. They realized it was a conflict of interest. We're really just talking about the chain pharmacies that are still selling tobacco products. Last year in our survey, 70% of Suffolk County residents support banning the sale of tobacco products, and I suspect our new survey which is being conducted this month will probably show a higher form of that.

On the back of the basic facts that I gave you it shows all the health organizations that have signed on. What's really kind of frustrating for us is that even in the pharmacist society, the pharmacy schools have all called on the chains to voluntarily stop selling and yet they refuse to. They even tell their students not to train in pharmacies where tobaccos are sold. So there's a real conflict of interest. And since they're not willing to do the right thing, I'm asking that Suffolk County consider legislation.

And final note, just to let you know that Albany County has proposed a bill that has a public hearing next week. There's discussions currently in Schenectady and St. Lawrence Counties, and Manhattan is beginning to take a look at this as well. So this is the wave of the future. There's already 15 municipalities in Massachusetts that have proposed this without any pushback from the tobacco industry. So it just seems like the right time to take a look at this, and that's what I'm here for.

**CHAIRMAN SPENCER:**

Well, thank you. It's a very important topic. I appreciate you kind of advancing the education on this issue, and thank you for your remarks.

**MS. KENNEDY:**

Thank you.

**CHAIRMAN SPENCER:**

Any comments from my colleagues? Our next speaker is Amy Malave from.

**MS. MALAVE:**

Malave.

**CHAIRMAN SPENCER:**

Malave, I apologize. Malave, representing the Jail Medical Unit. And she did have correspondence that will be distributed to the members of the committee.

**MS. MALAVE:**

I didn't know if I should speak first or hand it out, so. My name is Amy Malave, I'm a Nurse Practitioner at the Jail Medical Unit. I want to thank you for your support of the Suffolk County, non-uniformed employees. I've been a Nurse Practitioner, employee of Suffolk County Department of Health starting in December of 1994 at John J. Foley. I've been in the Jail Medical Unit for 13 years and have had the wonderful good fortune to share an office with a nurse practitioner, Alice Butkos for six years. Her desk will be vacant at the end of the month secondary to the layoffs. Down two doors, Rena Walker, Nurse practitioner, will also be gone; she's been abolished. She is sharp as a tack and is certainly not the County's dead wood. These two Nurse Practitioners are true master professionals, hard-working and knowledgeable. We provide New York State mandated services that prevent hospitalizations which cost the County dearly and provide many other services that protect the County; for example, in screening for sexually transmitted diseases and communicable diseases. Our mission is the health and welfare of the community of Suffolk County.

It has come to my attention just a few days ago that 18 nurses were being hired by the Department of Health at 17 hours biweekly so to avoid having to pay benefits. Our charge nurse Marjorie is training her replacement, so that's two to replace her, who is very experienced. These nurses are inexperienced and expected to perform at a level they will not be capable of in two weeks. In turn,

inexperience with as many times manipulating, highly litigious, mentally and physically sick population will have the County Department of Health reputation and pockets at risk. This is not an easy population to deal with. This is not a situation where we should be having a revolving door of part-time nurses.

They will have no affinity to the County and cost dearly in training. Most of these part-timers will gain enough experience to move on to a stable, full-time position. Some of these nurses have just come out of nursing school. Okay? I mean, everybody deserves a shot, a start, but you have to go through intense training if you're going to work in the ICU. These are personalities. This is the jail, okay? This is a dangerous place. I don't carry mace, I don't have a bat, I was never given any training and I'm touching these people, these inmates, some of them murderers, some of them made just bad choices. That's creating the new next wave of temps and problems. I'll try to be quick.

**CHAIRMAN SPENCER:**

I have to be fair to everyone, I have to wrap up. But you can continue if a Legislator asks you a question; I think Legislator Browning has a question.

**LEG. BROWNING:**

Yeah. You're talking about these 17 employees; is this similar to what John J. Foley has, agency nurses that are being trained?

**MS. MALAVE:**

They may be pulled in with them, I'm really not quite sure. But I know that the nurses were told that these nurses were coming on board. I'd like to really read the rest really fast and I won't stop or deviate, if I may.

**LEG. BROWNING:**

Okay. What else would you like to tell us?

*(\*Laughter\*)*

**MS. MALAVE:**

Currently we have an agency Nurse Practitioner that works in our unit. Are we to expect more of this? Is this a back-door way of privatization; agency, non-negotiable workers? I'm frightened that Mr. Bellone is on track to deregulate the County. Please, Mr. Romaine and other Legislators, do not allow this to happen. Let the good people of Suffolk County serve. If the jobs are given to private industry or non-union workers, it will cost Long Islanders dearly in the long run. Industry is faithful only to itself and there is a risk for corruption. Non-union workers will be akin to illegal immigrants that work with no rights and with no hope of a decent retirement.

This County has been a great place to live, but then look how fast deregulation of the banks has turned this world upside down. It's unfair that the non-uniformed, hard-working people of the County are bearing the brunt of this issue.

I took my career path half my lifetime ago to be a civil servant. I started at Stony Brook. I followed my father's footsteps as a civil servant as the promise of less pay gave way to security of a decent, not rich, pension with medical benefits so that I can grow old gracefully, independently and with dignity. I'm hoping for myself and my constituents that we will still be able to do this. It's too late for me to apply to the Police Academy. Who knew that with a high school diploma, I could have made twice my salary with some overtime. I guess the dress does not make the man. I was duped into thinking character counts more. Perhaps overtime should not be allowed to be counted towards retirement. I myself am not entitled to it. I get straight comp time even if I work ten hours on Christmas.

In all seriousness, I appreciate your championing our cause. It's hard not to have a stomach ache when you're living in this whirlpool, you swallow a lot of water. Please reinstate our Nurse Practitioner Alice Butkos and our two nurses. Please stop the dissolution of the Department of Health and the hiring of agency, non-union workers. Keep this County with its checks and balances; no agency, non-union workers.

**LEG. ROMAINE:**

Doctor, quick question.

**CHAIRMAN SPENCER:**

Legislator Romaine.

**LEG. ROMAINE:**

A quick question to Amy, who happens to be a constituent of mine living in the wonderful Hamlet of Laurel. What you're contending is that they're firing full-time nurses and that they're going to be hiring either part-time or full-time, what we would call agency nurses from private agencies?

**MS. MALAVE:**

That seems to be the case. That's what we are seeing.

**LEG. ROMAINE:**

Now, I'm not sure of the reimbursement rate. So I see Margaret Bermel back there and I also see the Commissioner who is probably outside at this point. What I'm going to ask them or a representative of our County Executive -- and I see this gentleman, I believe his name is Ryan, sitting right there -- is I'd like to know the reimbursement rates for these agency nurses. Because it is my understanding, at least at the nursing home, and I understand you don't work at the nursing home, this is a totally different situation, but where they have agency nurses, their expenses are at least twice of that of the civil servant public nurses or the nurses that they have assigned to their staff.

So I'm trying to understand where the savings is and how they're intending to save. Because what they're saying is that you're going, but we're having private agency nurses come in to help, so what they're saying is this is an aide that has to be serviced. So even if we fire you, we're going to hire others, and because they're privately hired, I'd like to know the reimbursement rate. Because I think at the end of the day, we may actually end up spending more money, not less, and I question the financial underpinnings of this type of shell game. But that's just my personal opinion.

So I am asking the Health Department and/or the Executive's Office to provide me with the per diem expense of these nurses and at what rate will they be substituted for the ones that are being let go and fired. That's what I want to know. Thank you.

**MS. MALAVE:**

And I have to say the productivity is poor when you're training two new agency people all the time. People are constantly being asked to do what they can't do.

**LEG. ROMAINE:**

Well, you know what? In the scheme of things, we have a government to run. What you said by your testimony today, what you've said is that these services are so necessary that, in fact, even when people are let go, other people will be hired; they just won't be County employees, but they'll be private employees. My concern is is that going to cost us more or less, and does this make sense in the end? Does this make more sense in the end than not? I think it's a fair question for a Legislator who has concerns about how this government operates and how decisions are made to question the expenses involved, to create all of this disruption. Is there, in fact, a savings?

So now that our Health Commissioner's walking in the room, he can answer that question by e-mail to me and by giving me the reimbursement rates and where the savings is; and/or the Executive's representative can take it back to Ms. Corso in our Budget Office or whoever else would answer those questions. I want to understand the financial underpinnings of these decisions. Thank you.

**MS. MALAVE:**

Thank you for your time, Legislators.

**CHAIRMAN SPENCER:**

Legislator Kennedy.

**LEG. KENNEDY:**

Yes. Relative to what Ms. Malave has brought to us, I have a question for BRO.

**CHAIRMAN SPENCER:**

We're done with -- oh, BRO, okay.

**LEG. KENNEDY:**

I may need to bring her back up, Doctor, but let me talk to Mr. Freas first. You know, in light of the press release today where apparently I'm spending like a drunken sailor.

*(\*Laughter\*)*

Let's talk about the specifics associated with the budget line that would underwrite agency personnel as opposed to the employees we have in Jail Medical right now. Explain to me how something like this can occur, or if you've even gotten any awareness of it yet.

**MR. FREAS:**

I know that we have, over the years, used agency nurses and agency personnel at the Jail Medical Unit, typically to fill the shortages.

We don't have a 113 law and a temporary salary line as we do at the Skilled Nursing Facility or elsewhere in Patient Care Services in the appropriation where we could use temporary medical staff. Theoretically, they could use it from Patient Care, but those -- that appropriation is typically used elsewhere in the Patient Care Division.

**LEG. KENNEDY:**

So then if you --

**MR. FREAS:**

There's a separate appropriation in the Jail Medical Unit which is a fee-for-service line, fee-for-service object of -- it was adopted at \$900,000 in the 2012 budget. I'm looking at it right now, it looks like there's 521,000 encumbered, although not -- and then some -- a little bit more has been paid. So close to \$600,000 of this line has been used.

What will happen -- as you know, the jail is a mandated service; we have to provide adequate medical care to prisoners, and it's not typically reimbursed. There's some small State aid to municipalities that's very small, a very small percentage of their work is claimable under that, but it's typically completely unreimbursed. The substantial expense in the Jail Medical Unit is hospitalization and the more that we can treat patients up front, obviously there's a savings associated with that.

**LEG. KENNEDY:**

Now it's my understanding -- and can I ask Ms. Malave to come back up, please? Because I think it's important, Doctor, that we find out to what extent our employee NP's are providing that care to

our inmates as opposed to going to Peconic; is that where they would be hospitalized?

**MR. FREAS:**

Yeah, we're still using Peconic for most of our inmate hospitalization.

**LEG. KENNEDY:**

Okay. With the other two NP's -- so let me make sure I understand now. Is there three of you together at this point that are NP's that are in the jail medical? How many do we have altogether?

**MS. MALAVE:**

Are you speaking of before the layoff and abolishment or after?

**LEG. KENNEDY:**

Today.

**MS. MALAVE:**

Today right now we currently have four Nurse Practitioners, one Physician Assistant, one Physician who is a contracted physician who is working for Peconic Bay Medical Center.

**LEG. KENNEDY:**

Okay.

**MS. MALAVE:**

And then we have one Medical Director.

**LEG. KENNEDY:**

Is that a physician or is that a civilian?

**MS. MALAVE:**

A physician.

**LEG. KENNEDY:**

That's a physician who's a County employee?

**MS. MALAVE:**

That's correct.

**LEG. KENNEDY:**

And does that Medical Director see patients as well?

**MS. MALAVE:**

He does see patients when needed, yes.

**LEG. KENNEDY:**

Okay. The jail operates 24 by 7 by 365. So with this compliment of five folks that are our employees and one person contracted, how often do we have one of our employees there in the facility that could see a patient, see an inmate?

**MS. MALAVE:**

There is a medical provider as a Physician Assistant, Nurse Practitioner or medical doctor from -- anywhere from eight o'clock in the morning until eleven o'clock at night, many a times because the inmates come in late, sometimes they may stay a little bit later than that.

**LEG. KENNEDY:**

And do you deal with regular types of care? You prescribe medications, You deal with --

**MS. MALAVE:**

Oh, you mean as far as my job description?

**LEG. KENNEDY:**

Yes.

**MS. MALAVE:**

We provide physicals, we order tests, we evaluate the tests, we send people to the hospitals, I prescribe narcotics.

**LEG. KENNEDY:**

Okay. The agency nurses that you've heard that are coming in, are they Nurse Practitioners as well?

**MS. MALAVE:**

The agency nurses I was speaking of were the RN's and LPN's which act as Jail Medical Attendants. We have one Nurse Practitioner who comes in, I'm not sure how many hours a week, I'm not sure of his schedule. He comes in -- he originally came in last year when we had an employee that was out on leave for sick leave and then he's been here since.

**LEG. KENNEDY:**

Okay. I am not a medical person, I just want to make sure, let's get this on the record. I'm married to an RN and I'm the father of an RN; neither of them under New York State Law can prescribe, only an NP with a collaboration agreement with a physician can prescribe.

**MS. MALAVE:**

Well, I work side by side with the doctor. The PA works -- I work in collaboration and the PA is supposed to work underneath the physician.

**LEG. KENNEDY:**

Okay.

**MS. MALAVE:**

And I have a Post Master's Degree.

**LEG. KENNEDY:**

Okay. So then if we have an RN or a PN on staff and an inmate who needs something in the way of medication and no NP who can prescribe, the only recourse we have is to send somebody to the hospital.

**MS. MALAVE:**

Not necessarily. They can call Dr. Geraci and he can give a telephone order. That can only be done by an RN. If a situation comes where you can't make a proper assessment, the only thing you can do is send the person to the hospital. These people who come in, they're withdrawing from drugs and alcohol, they've been in altercations where they need x-rays, some of them come in, they're stuporous, they require a lot of attention. We have diabetics that are completely out of control, they they're in diabetic ketoacidosis. Sometimes, you know, they become hypoglycemic because they're not being followed and they take too much insulin. There's a lot of different scenarios; I mean, I could write you a whole page. It's -- they're sick people, they don't take care of themselves.

**LEG. KENNEDY:**

Do you have any special training associated with dealing with an incarcerated population?

**MS. MALAVE:**

Personally I have experience at Stony Brook University Hospital in working in acute situations with diabetics, I was a diabetic educator.

**LEG. KENNEDY:**

Okay.

**MS. MALAVE:**

I do not have a particular certificate in jail medical speciality, there is one available.

**LEG. KENNEDY:**

Okay.

**MS. MALAVE:**

I am Board Certified by the American Nurses Credentialing Center.

**LEG. KENNEDY:**

So but you have a familiarity just by virtue of the fact that you're there.

**MS. MALAVE:**

My experience there has taught me how to protect myself, how to take care of people, yes. The people there, obviously, they don't always tell the truth. And if you're a good assessor, an interviewer and a good nurse, you can find out what's real and what's not real. And inexperienced nurses can't do that, they put themselves in danger, they put the patient in danger. And this is one of the risk factors for the County, because if something goes wrong, the County is going to pay. This is why it's not a good idea to have two per diem nurses taking over one experienced nurse's job. It's important that we have experience there. I'm telling you, it is a dangerous place. We have no training to protect ourselves. The only thing that we can do to protect ourselves is to use our brains and to use our experience.

**LEG. KENNEDY:**

Okay. I appreciate that. I think there's a whole host of issues there that might deal with the Taylor Law, too. I just have one more question for BRO, if we can then; and I don't know if Craig has this at his fingertips. What does it cost us to put an inmate in the facility in Peconic; how do we bill that?

**MR. FREAS:**

Just a second, I can give you the whole -- the number as a whole. I mean, obviously it's going to depend on what his or her problem is.

**CHAIRMAN SPENCER:**

I did --

**MR. FREAS:**

I think it's about a million, one point six million annually. We cut -- we cut it substantially last year in anticipation of opening the new facility and being able to keep some patients at the as-yet unopened new facility.

**LEG. KENNEDY:**

Right.

**MR. FREAS:**

But we actually felt in the budget that the cut made in the recommended budget was too severe, because you're still going to have people who have been injured or beaten so badly that they're going to need hospitalization and that the overnight observation is just not going to be adequate at the new facility. So there's a possibility that that line may not be adequate and we would have to find appropriations elsewhere for it.

**LEG. KENNEDY:**

Okay.

**MR. FREAS:**

But it's about a million and a half.

**LEG. KENNEDY:**

I'll yield. I appreciate you coming out to speak on this issue. I think it's just another incident of where it appears there's employment decisions that are being made that are going to be extremely costly, overly costly in the future. So I appreciate it. Thank you.

**MS. MALAVE:**

I thank you for your time again.

**CHAIRMAN SPENCER:**

Thanks, Ms. Malave. I appreciate it.

There's one more speaker, Owen Durney; I would like to invite him up at this time.

**MR. DURNEY:**

Hi. I always come to these things intending to be an observer and then feel a compulsion to speak. I do want to thank -- I know that there's a flurry of resolutions to restore positions, and I know that one of them is the ten Public Health Nurses in the Bureau of Public Health Nursing and I just want to thank the Legislature for that consideration and hopefully you'll do that.

There was a lot of discussion earlier. I'm not going to revamp everything that you guys have been talking about in terms of, I think, quick-to-judgment decisions without fully understanding or looking into the impact of the decisions that you're making. And that resolution that you approved on the 24th of April with the C of N, I think is a good example of that rush to judgment. I remember Legislator Nowick had asked for -- that these decisions go through the committee cycle so that you could learn a little bit more about what it is that we do and the impacts that we have.

The one thing I'm going to ask is that you consider the revenue side of the budget. I haven't heard -- I've been to a number of these meetings and I have heard absolutely no discussion as far as the revenue impacts of the budget. You're laying off potentially, I know that you're restoring them, ten Public Health Nurses who bill for services. By billing for services, when you lay those people off, they're not going to be billing for services anymore or, you know, their visits are not going to be billable anymore because that revenue is not -- those visits won't happen which means that revenue is not coming into the County.

We're looking at the -- at laying off a number of account Clerk Typists in the revenue unit in the Health Department. They bill millions of dollars a year, millions that brings revenue into this County. And I don't know if we've discussed or decided or you've discussed how you're going to make up for that revenue. All of that is going to fall on to the deficit. The reason why you approved that C of N was because the County Exec's Office said because those positions were going to add to the deficit if we didn't lay them off. Well, by laying them off and not having that revenue

coming in, you're still adding to the deficit.

So my question is -- and the Health Department bore the brunt of the layoffs; 125. I know that you also restored the water -- the Well Drillers Unit, which I appreciate as well. One hundred and twenty-five of us are being laid off, more than any other department. And I don't think there was any consideration in that process as far as the cost of public -- to public health and public health protection, nor was there any thought on the part of the revenue side, what you're going to lose by not bringing revenue into the County because you're laying people off that either bill for services or provide services that are billable.

So as you consider these resolutions that are coming through, and I know everybody -- I know there's a lot of resolutions out there, please consider it. Yes, the grant-funded positions are one thing, but also the money that is going to be lost because you're not billing for services, or you're not providing services that are billable.

Thank you.

**CHAIRMAN SPENCER:**

Thank you. Legislator Romaine has a question for you.

**LEG. ROMAINE:**

Thank you very much. That is a question I asked in an e-mail to the Executive's Office; since they had calculated in the budget, how much they would be saving by the layoffs, did they calculate how much revenue they would be losing? Because many of the positions -- certainly not all of them, but certainly some of them -- do provide revenue on the basis of receiving outside revenue for services from Federal and State aid. So I've asked that.

Now, I have a resolution for those who are 100% funded, but I know that there's people at lower levels that are funded 80, 70, 60, 50, whatever, that are funded throughout the budget by Federal or State aid. Now, when those positions are left, are lost, obviously the revenue connected with those positions are going to be lost, but I haven't seen the estimates.

So now, since I haven't got a response from the Executive, unfortunately, Craig, I'm going to ask you to ask Gail to make an estimate -- and I understand it will be an estimate, it won't be an exact number, it may not be able to be an exact number -- of how much revenue will be lost by people being laid off. Because some of these people do get partial State and Federal funding, some of these people do generate grants or work on grants. How much revenue will be lost? Because I don't think -- as a Legislature, we've looked at the expense side but not the revenue loss side that will occur, and I want to have a better handle on that. And obviously this is a lot of work, so maybe a calculation, a guesstimate or a rough estimate could be ready by our June 5th meeting, which would be Tuesday, if not. Certainly some time thereafter so we would have a better understanding of what we will lose. Thank you very much.

**CHAIRMAN SPENCER:**

Thank you. Is there any other speakers today? Actually, I didn't plan any formal presentations, although there are a lot of presentations that we need to have before this committee, because this is the topic that I wanted to discuss and just kind of see if we could have some consensus out of this committee where we're going and order of plan is. I would like to invite Dr. Tomarken, if he would come up, if he would, and join us at the head table here. I'm going to make a few remarks and I'd like to invite the Commissioner and my colleagues to -- and also BRO. Craig, you have a statement?

**MR. FREAS:**

Just to clarify Legislator Kennedy's question about the hospitalization of a jail inmate. The 2012 budget adopted \$850,000 in that -- in the line that is typically used for the hospitalization of jail

inmates. According to the reporting that we have, the 2011 expense for hospitalization of jail inmates was 1.8 million, in 2010 it was about 1.6 and it typically runs in the \$1.6 million range. So you could assume that that line will have to be augmented by other -- from other appropriations if it runs as it historically does.

**LEG. KENNEDY:**

Okay. I'm going to yield to Dr. Spencer, but I think that's clearly one of the items that we have to look at, because that's even with the current staff that the nurse just laid out to me. If we're dumping staff and we've only half-funded for the hospital, we're going to be burning money on both sides that we don't have.

**CHAIRMAN SPENCER:**

Thank you. So the -- what I wanted to address was the Department of Health as a whole. And since the last meeting, and also listening to the remarks of just really all the professionals who, on a day-to-day basis, really give their all to make what we do, to make the mission possible. So one of the things that I see is that we have different Legislators from different districts who are getting different constituent calls who are taking bits and pieces and we're trying to address this problem. I wanted to try to see if there was a comprehensive way that we could do it with the Legislature, the Department of Health and the Administration, and even also looking with whatever mandates that we may have from the State and getting directions from there also.

So what we've been able to accomplish to date was, one, I asked for kind of a comprehensive overview of the Department of Health. And the Department of Health, as we know it right now, has nine different subsections. And this -- I did an analysis asking for information from the Commissioner, but then a more in-depth analysis was done by the Administration, the Performance Management Team, and I really appreciate their cooperation.

As I see it, the issues are what do we have to do by law? What are we mandated to do? What services do we have an obligation to provide that are essential, and then what services are optional? But there's nothing when you talk about health, when you look at either education or preventative care, optional is not what I feel is an appropriate word, everything is important. So, but I mean optional from the standpoint of where if we had to triage and make decisions, and so how do we look at this? Well, we have to look at, one, the cost; two, we have to look at outside aid; three, the number of people that are served; and then four, not just the number of people that are served, but just how critical is that -- vulnerable is that population? We did have the concern that after the layoff list was passed, that there did seem to be a disproportionate number in the Department of Health and I think I appreciate the Administration sharing this concern and the Commissioner sharing this concern.

So I do appreciate Legislators Romaine and Kennedy, they've really worked tirelessly on this issue also and they've brought some items to be able. But what we were able to do, working with the Administration and Commissioner, was to identify, first of all, 100% funded positions, positions that if we cut them we don't save anything. And whether -- and not to lose any revenue because of laying off a position prematurely, and even those that were 80 or 90% funded, but fully understanding that impact.

Now, is it possible that other people could be put in those positions, or are those people so highly specially trained that this wouldn't really be an option? We would literally lose the revenue because we wouldn't have anyone with the qualifications. And then after the 100% funded, then looking at positions that were just absolutely essential, things such as Water Quality, STD, WIC Nurses, and I just throw out a few that some of them are 100% funded, some are not.

So I was very pleased that the Administration, they did give kind of an expanded organizational chart, and I did ask these very difficult questions. There are difficult questions that are out there, because this is what we have to do as Legislators. That everything that you do is important, and realizing that in a dire fiscal crisis, we're making choices between having the entire Suffolk County government fail or making the fiscally responsible decisions, but at the same time not jeopardizing someone's life or health, and it's a very fine line that you have to walk in order to be able to do these things. And I am happy that we have made some headway and some of that has been -- has been bipartisan, but there have been some positions that will be restored, we have found some compromises. But still at the end of day, I think that -- that there still will be some dissatisfaction that will be out there.

So the first question that I heard that came from both Legislators Kennedy and Romaine was the situation where positions seem to be cut and they are sent out to contract agencies. Do we spend more money by hiring people that may be less experienced and would cost us more in the long run? And I think that some of the responses that I've heard is that in certain situations where the cost of the contract agency is significantly less because of perhaps the benefits that may be associated with the full-time position. Again, I'm not saying that that is the answer or that it is correct, but that is some of the information that we have to really be able to choose carefully.

And I'll stop my comment after this. Last but not least, the other issue is that there are people there are depending on these services every day, and if we were to just kind of cut them off quickly, there needs to be some period of transition to allow these agencies that provide these services to people where they give them a chance to be placed or to have a different direction.

So with that being said, I think I've laid the groundwork for our discussion. I do know of positions that have been restored, but the other two parts of what I'm proposing and one of the things that we're going to do is to, one, look at the revenue side. And the way we're going to look at the revenue side, there's a lot of rumors in terms of that billing is being done, it's not being done appropriately; well, we need to decide what revenue is out there and how much revenue are we taking advantage of. So I'm formally asking for an audit with the Comptroller's Office where they will take a look at the revenues that are being generated from the Department of Health and just what we've been able to collect and to make sure that where we look at the Foley, the public health centers, the Public Health Nurses, are we getting the revenue that we deserve. So that's one piece of the puzzle.

So with that, Commissioner Tomarken, do you have any comments? I'd like to let Legislator Kennedy and Romaine, if you would like to ask any particular questions that we could maybe have some discussion about your particular concerns at this time. Legislator Kennedy.

**LEG. KENNEDY:**

Doctor, thank you. And I appreciate all the work that you've done.

I know that as you had said, many of us have been interacting with the department. We've been trying to sit through and cipher the rational. There are a whole host of resolutions that, you know, are now out there public that I actually put in looking to go ahead and bring back some of the function, specifically to try to look at not only what we have to do as far as a department, but a real, sincere and earnest concern on the revenue side, but I think we'll be able to talk about that in each of the units.

Doctor, let's start with what we just heard from the speaker about the jail and the Jail Medical. For me, and I think for all of us, that is a sincere concern that we will be bringing in agency people, replacing career civil servants with a specific skill-set and expertise.

**COMMISSIONER TOMARKEN:**

Let me clarify; those 16 people are not agency nurses, they are per diem staff. It's a pool, similar to the pool we use at Foley. So they were brought on for two reasons; one, because we have had so much overtime that our staff was so burnt out that they don't even want to do overtime and get the revenue and time that they're due for that kind of work. Because so many patients -- sorry, prisoners are being brought late at night, so that our staff is staying till 12, one o'clock in the morning to process them, and only RN's can process them. As well, we're trying to deal with the census that the jail has had, an unusually high census for the last six months. So we hired six RN's, and this went on -- this started several months ago, it had nothing to do with the layoffs. We also asked for this pool because we're under staffed there. So the pool of the 16 that you're referring to, number one, are not contracted nurses, and they were brought on to supplement and help our current staff because of the amount of overtime and the census in the jail.

**LEG. KENNEDY:**

Well, look, the facility is unique, as are John J. Foley, in that, you know, it's not a 9 to 5, Monday through Friday operation who have personnel that are working, you know, in these off hours and evenings, nights and things like that. But, you know, having spent some time as an employee in facilities, there's always a difference in the way that someone who was an interim or a per diem functions for a particular shift or with a particular group of folks as opposed to a regular full-time employee. And I don't care if it's a therapy aid or a physician; you go through the full continuum, you get to know your patients.

**COMMISSIONER TOMARKEN:**

I couldn't agree more. But because we don't know the status of the jail and the new jail unit, whether it's going to be run by the County or some private enterprise, no SCINS were being approved to hire full-time staff, so this was the only option we had.

**LEG. KENNEDY:**

Well, that's almost like counterintuitive, though, Doctor, when you think about it. Because we brought on six RN's a time ago and then we just created a pool, but you offered two NP's to become laid off.

**COMMISSIONER TOMARKEN:**

That's a phenomena of the bump and retreat phenomena. They were not targeted, so to speak, it's a result of bump and retreat.

**LEG. KENNEDY:**

Uh --

**COMMISSIONER TOMARKEN:**

Just like Foley has some staff being lost.

**LEG. KENNEDY:**

Well, yes. No, I know, that's another issue that we're going to have to talk about. I don't want to monopolize this, but my understanding was that the two jail NP's were actually on the revised list that was adopted on April 24th.

**COMMISSIONER TOMARKEN:**

I'd have to look at the list. But the ultimate result of who actually is laid off is a result of a bump and retreat mechanism.

**LEG. KENNEDY:**

I understand the seniority and the bump and retreat within the department, that's correct. But again, so if we're looking at the end of this process, what's supposed to be some kind of savings, but

we're bringing on professionals that don't have the set of credentials or the full skill-set for the NP's that we have that are being separated, have you tried to revisit that discussion?

**COMMISSIONER TOMARKEN:**

Yes. I mean, we have the same scenario at the Foley, we have the same scenario at the health centers where there will be people laid off and, if we're allowed, will have to be replaced by temporary per diem or sometimes contract agencies. I mean, this has been going on at Foley for -- since I've been here. There have been, and I have the numbers but I don't have them in front of me, hundreds of hours a week served by contract nurses, even up to the level of nurse supervisors who, number one, can come in whenever they want -- if they don't want to work a day, they don't have to -- who there's a very high turnover rate, because they may get a better or a permanent job. We've been living with this for years, this is nothing new.

**LEG. KENNEDY:**

Doctor, look, you have to balance a wide set of responsibilities. I'd prefer to hold Foley separate. Legislator Browning and I, as a matter of fact, will be out there tomorrow morning, and hopefully we're going to have something positive, if it hasn't been managed to be blown up in Newsday again, despite our request for some anonymity.

Separate to this, I think that there's another set of discussion that should be able to be had regarding your need to have the unit staffed, but the reality that we're losing two employees with prescriptive ability and they're being replaced with nurses who do all the things that nurses legally can do, but they don't have that ability to, you know, go to the level that the NP's do.

**COMMISSIONER TOMARKEN:**

Well, that's -- that can be compensated for by a backup physician or a backup NP. But I think the point you're making, and it's the point I agree with, is having continuity of care, people who understand and know and are familiar with the surroundings they're working in. I spent 12 years in emergency departments working with staff, many part-time, and I know the consequences. I agree with you; if we had our choice, I'd go with full-time staff any day.

**LEG. KENNEDY:**

Yeah. I understand. Let me turn it over to my colleagues, because I know many of them have other questions. I don't want to monopolize this. Who else? I've got the mic; who am I going to yield to?

**CHAIRMAN SPENCER:**

Legislator Browning.

**LEG. BROWNING:**

I kind of wanted to go on to a different issue. And I know the lady, Annie, I believe, that made a comment about the layoff and the vote on the cn. The reason for the vote was because of your union contract and, you know, I was pretty confident that there was layoffs there that we would need to restore, your union contract forces us -- there's no money come July 1st, and the union contract forces us to make sure that we do it before a certain period of time.

But again, now with the jail nurses and the medical staff at the jail, how much funding is there for each of those employees from -- is there any State funding for them and how much?

**COMMISSIONER TOMARKEN:**

None to my knowledge, I'll double check.

**LEG. BROWNING:**

None?

**COMMISSIONER TOMARKEN:**

No, this is all County money.

**LEG. BROWNING:**

Oh, okay. So it's another unfunded mandate, huh?

**COMMISSIONER TOMARKEN:**

Exactly.

**LEG. BROWNING:**

I love them (*laughter*). Add that; I think that might be on our \$770 million list.

So I did want to ask another question about -- because we've been receiving many, many calls about the EMS department. And an employee who basically is the person who works on the vouchers for EMS, it's my understanding that the vouchers that she brings in come to about \$100,000. She doesn't make near that. I have had many, many calls from our ambulance companies, local ambulance companies about her position that she's basically --

**LEG. ROMAINE:**

Regina.

**LEG. BROWNING:**

-- I didn't want to mention her name.

**LEG. ROMAINE:**

That's okay, she's the only one.

**LEG. BROWNING:**

Actually it's Regan. But at the same time, the concern is is that if she's gone, who's going to funnel the calls, who's going to take the calls and answer the questions to the ambulance companies when they call?

**COMMISSIONER TOMARKEN:**

She's not laid off. She was --

**LEG. BROWNING:**

No, I know she wasn't laid off, but she's been sent to the Medical Examiner's Office.

**COMMISSIONER TOMARKEN:**

Well, that's what we're trying to sort out with Labor in terms of do people actually have to go from point A to point B, wherever they were retreated to, or can they go into that slot but still do that function, and we're trying to sort that out.

**LEG. ROMAINE:**

If I may, Legislator Browning?

**LEG. BROWNING:**

Sure.

**LEG. ROMAINE:**

Myself, and I believe it's Legislator Muratore, I'm sponsoring a resolution that would restore her position and the funding for that position that will be laid on the table on the 5th of June. Along with Legislator Muratore, I'm also funding, restoring a position for the training that takes place at the Fire Academy. Both of those will have the near unanimous support of every fire department,

every Board of Fire Commissioners and every EMS Department in this County.

So I certainly would welcome you as a cosponsor, I'm sure the ambulance companies in your district and the fire companies in your district would welcome you to join. I'm happy to forward you that information right now, if you have your laptop up, and you could see --

**LEG. BROWNING:**

No, I don't have it on.

**LEG. ROMAINE:**

Oh, okay. I'd be happy to forward it to your office and invite you to examine it and think about becoming a cosponsor.

**LEG. BROWNING:**

Okay. Well, curiosity of where the offset's from, being that we have no money. So where are we finding offsets?

**LEG. ROMAINE:**

The offsets would be, as you know, there is a million and a half dollars budgeted for the purchase of cars in the Operating Budget, which we are now not going to purchase those Police cars because our County Executive changed that and decided, as part of his Budget Mitigation Plan, that he would take that million and a half and bond it out. So there's a million and a half, absent the money that he might exclude because of the fiscal emergency, he's allowed to move or impound 10% of any account. So absent that 10%, that money is still in the Operating Budget unexpended, so that's where the offsets will come from.

**LEG. BROWNING:**

Okay. I'd like to see that, because I know that --

**LEG. ROMAINE:**

It's coming.

**LEG. BROWNING:**

-- at the Public Safety meeting this morning, there was a lot of conversation about the need for cars also.

**LEG. ROMAINE:**

I believe our County Executive is bonding it out. I believe you and I joined in voting for his Budget Mitigation Plan which called for bonding that money out, which left him money in the Operating Budget uncommitted.

**LEG. BROWNING:**

Okay. Can we confirm that, Craig; can you get that information for me?

**MR. FREAS:**

Well --

**LEG. BROWNING:**

And with that, I guess -- well, I'd like to ask further. So if Regan leaves and goes to the ME's Office, who's going to do her job?

**COMMISSIONER TOMARKEN:**

We'd have to move someone into that position.

**LEG. BROWNING:**

Okay. And from what I hear, I don't know who there is to move into that position, that's my concern.

**COMMISSIONER TOMARKEN:**

At this point, someone would have to be trained to do that job. It would be just as if she decided to leave for her own personal reasons.

**LEG. BROWNING:**

Okay. Well, I'd like to look into that a little bit more. Thank you. Craig?

**MR. FREAS:**

The position in EMS is actually offset by a transfer from the small balance -- one is transferred from one of the -- a small balance that was remaining in the Suffolk Health Plan, so it's actually even -- I would argue that it's a more -- it's funds that are available and not -- not held in reserve.

**LEG. BROWNING:**

But I could be wrong on the Civil Service issue, but even if we put the money in place for her to restore her position, are we going to have --

**MR. FREAS:**

She's the original bump. She's on the list, so to speak.

**LEG. BROWNING:**

Okay.

**MR. FREAS:**

Okay? And yes, we've had -- one of the problems that we've had, as various Legislators have requested us to look at this, is that you have to restore the position that is either abolished in the budget or abolished in Resolution 271. You can't -- you can't abolish the -- you can't restore the person who's actually going out the door because that doesn't help; all it does is mean somebody else is going to go out the door so you have to restore the original position.

The Principal Clerk in the Emergency Medical Services Division was one of the people who was going out the door, in either 271 or in the budget, I don't recall which one. And the legislation that Legislator Romaine is referring to restores her using a small portion of that, that remaining balance that just freed up this year in Suffolk Health Plan.

**LEG. BROWNING:**

Okay, thank you.

**CHAIRMAN SPENCER:**

I'd like to acknowledge that one of our health centers that works with the County that relies in terms of some of the subsidies it would provide, Terry Smith, the Administrator is here in the audience today. And Terry, I'd like to invite you -- if you would, because moving forward, after we get through this hurdle, we still have to address the major structural deficit that we have. And we're really going to be looking at creative ways moving forward in terms of how can we meet the needs of our constituents within the County and do it in a way that's -- that is economically efficient but allows us to still provide the most services. And so one of the things that Terry Smith at the Dolan has been able to do, they have a model, each of the health centers have -- they're run, some are strictly by the County, but there's -- the Dolan is a collaboration and it kind of runs separately. So I'd be curious to find out more, if you could share that model with us. Because after we finish the layoffs and the budget amendments, we go right into budget season where we're going to look at the Operating Budget for the following year. And so issues that we do have to address are our

health care centers, our Foley Nursing Home, our Jail Medical Unit, our Public Health Nurses, and we're going to be looking for as much direction as possible.

There was one last card, although we ended the public portion, none of my colleagues have asked to make any other remarks. So I wanted to give Alice -- is it Bukos, Butkos -- a chance to come forward. And she will be the last speaker, we'll move on to the agenda.

**MS. BUTKOS:**

Thank you for having me today.

**CHAIRMAN SPENCER:**

Thank you.

**MS. BUTKOS:**

I'm a Nurse Practitioner at the Jail Medical Unit in Riverhead. I just wanted to clarify a couple of points. My colleague, Rena Walker, she's an evening Nurse Practitioner, her job is being abolished; she works 3-11 shift. My job is being eliminated by a bump and retreat. My job -- I'm an Adult Nurse Practitioner, and my job was being abolished -- it's not being abolished, it's being eliminated by a Nurse Practitioner who is a Psychiatric Nurse Practitioner who, in the State of New York, cannot do my job. And I'm not -- I don't believe in Civil Service Law that person can actually sit and do -- take my place, being that she can't do my job in the State of New York. She doesn't have the -- she doesn't have the job description or, you know, she just can't do it.

I also wanted to take this time to state that although the inmates do come in late, I work evening shift and so does Rena, I can count on the number of times on my hand where people have stayed past eleven o'clock. It's rare. You know, I know Dave White who is a nurse -- I'm sorry, a Registered Nurse, he stays till one o'clock; in the past six months, it's been less than maybe four times, not more than that.

And they do come in late sometimes, but it's usually before -- we're finished before eleven. And you know, we can always see them the next day if they need be.

Also, the nurses, as far as the nurses are concerned, the County nurses are the contracted employees. The County is underpaying nurses, they're paying them at a lower rate of pay, they're 17 hour nurses. They're going to be -- they're contracted for six months. And what concerns me is that they're all new nurses. What's going on in the field of health care right now, every hospital will not accept a nurse without experience. There are an excessive amount of Registered Nurses, so they can't get jobs, so now the County is hiring nurses without any experience. They're straight out of school, no experience, and they're going to be working at the jail. They'll get their six months pay, we will train them and then they will leave, they will get jobs elsewhere. What concerns me is that it puts our inmates or our patients at risk, it puts us at risk for liability concerns, and we have a very litigious environment in the jail. Some of our inmates make -- that's what they do, that's how they get by in life is just lawsuit to lawsuit to lawsuit and that's what they do.

I have 20 years experience, Rena Walker has 30 years experience in the private sector. Before we came to work here, most of our experience was in hospitals and in private practice working as Nurse Practitioners. And the evening shift is going to be filled with unexperienced Registered Nurses and that's a concern, and it should be a concern to you as well; if it's not, it should be. And that -- those are just some points that I just wanted to make to you.

**CHAIRMAN SPENCER:**

Thank you. And that is a very valid issue that you've brought up and that I have had some conversations with the Commissioner when you talk about bump and retreat that -- in the Department of Health where you look at whether or not it's Public Health Nurses or within the Skilled Nursing Facility, that a nurse is not a nurse which is not a nurse. You know, I always give the

example that I'm a doctor but I can't do cardiology.

**MS. BUTKOS:**

Right.

**CHAIRMAN SPENCER:**

So we have had those discussions where we're looking at the bump and retreat. And to be sure that in a position that is vital, that that position is either preserved or that there has to be someone that can adequately bump into that position with the proper background and training. So that is a concern that we share and your words are not falling on deaf ears. So thank you.

**MR. FREAS:**

The nurse practitioner issue is a significant problem. We've addressed it a couple of times in the review. It's happened, I want to say probably the last three years, at least the last two; I think the last three because it happened as a result of the ERIP. The Civil Service title in Suffolk County is Nurse Practitioner, it's not Psych Nurse Practitioner, it's not Family Practice Nurse Practitioner, it's not Peds Nurse Practitioner.

While you have to have -- if you look at the job description, you have to have qualifications necessary for the title, I believe. So like you can't -- if we -- we're flexible enough in our care environment in general, with the exception of the difference between the Psych Nurse Practitioner and the Family Practice and Peds and so forth, that we kind of shoot ourselves in the foot with this. We lost several Psych Practitioners in the 2010 ERIP, we expected to be able to fill them, they were abolished. And then during last year, with the possibility of the layoffs and everything, we simply couldn't have been able to -- they wouldn't have either been able to be filled or they -- because the bumping people wouldn't have been qualified, as was just mentioned, or -- that's basically it. It's a significant problem that is not addressed in Civil Service Law and it's a problem with the way that we have written our specifications for Nurse Practitioners.

**COMMISSIONER TOMARKEN:**

Can I clarify two points? One, we haven't hired the 16 people, so we don't know their level of experience yet, number one. And number two, they would not all be used in the evening shift, it would be spread out throughout so that we would have a mix of various levels of experience.

**CHAIRMAN SPENCER:**

Okay. Thank you. So currently the Department of Health has 1,241 positions and there are 313 that are interim positions that are just budgeted through the -- to the end of 2012. The adopted expenditures is \$352 million and the adopted revenues are 256 million, so the County roughly supplies about \$100 million in addition to what the outside revenues that we receive.

There are nine departments, Public Health, Patient Care, Preventive Medicine, Environmental Quality, EMS, Medical Examiner, Children with Special Needs, Mental Hygiene and the Skilled Nursing Facility. Out of these, most of them are discretionary that we take on the responsibility, except for the Department of Children with Special Needs with only -- that's 97% mandated. So that's the 50,000 foot overview, which you can see how complex with nine different departments and everything from water to sewers to direct health care to public health education. So this is not something that we can take lightly at all and so we have made headway, there are a lot of people that are engaged in this process and so all of you who have taken the time to come out and express your concerns and have written letters, you know, you haven't wasted your time. And so thank you.

With that, I'm going to move on to our agenda.

**LEG. KENNEDY:**

Doctor, can I just ask one more question before we wrap up?

**CHAIRMAN SPENCER:**

Absolutely.

**LEG. KENNEDY:**

And again, trying to stay on more of that macro perspective. The -- I'm trying to quantify where we were at with the total number of people that were set to separate from the department on the April 24th list and where we're at now. How many have been restored back as a result of Dr. Spencer's work and some of the agreement? I know there was a press release regarding the groundwater monitoring folks and things like that. Where were we at, how many restored and how many still left that will be separated?

**COMMISSIONER TOMARKEN:**

The official layoff was 124.

**LEG. KENNEDY:**

That's where we were on April 24th or we're now at 124?

**COMMISSIONER TOMARKEN:**

No, we were at 124.

**LEG. KENNEDY:**

Okay, we were at 124.

**COMMISSIONER TOMARKEN:**

Now we restored six WIC positions, 10 Public Health Nurse positions, one MD, and I think it's about 10 Environmental Quality, I may be one or two off there.

**LEG. KENNEDY:**

Twenty-six, 27; about 27?

**CHAIRMAN SPENCER:**

We're about 33 total that we have nurse and typists and different ones that are in there, but I think that the number was about 33 that we have some consensus to --

**LEG. KENNEDY:**

Okay.

**COMMISSIONER TOMARKEN:**

Thirty-three is the number of combined, fully-funded and some of these.

**LEG. KENNEDY:**

Okay. One last question. Do we still have the separate Minority Health Unit, Doctor?

**COMMISSIONER TOMARKEN:**

Yes.

**LEG. KENNEDY:**

Okay. And that's, at this point, still with, I think it's four or five staff?

**COMMISSIONER TOMARKEN:**

Correct.

**LEG. KENNEDY:**

A Physician, an NP, a Health Analyst and a Clerk Typist?

**COMMISSIONER TOMARKEN:**

Approximately, yes, something like that.

**LEG. KENNEDY:**

Good. Thank you. Okay.

**CHAIRMAN SPENCER:**

Thank you. Moving on to our agenda.

**Tabled Resolutions**

The first one 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)***. Motion to table. And may I have a second?

**LEG. ANKER:**

(Raised hand).

**CHAIRMAN SPENCER:**

Second by Legislator Anker. All those in favor? Opposed?

**LEG. ROMAINE:**

Opposed.

**CHAIRMAN SPENCER:**

Abstentions? One opposed (***Tabled - VOTE: 4/1/0/0 - Opposed: Legislator Romaine***). ***Ir 1200-12 - To accelerate the evaluation and remediation of Brownfields in Suffolk County (Cilmi)***. Motion?

**LEG. ANKER:**

Motion to table.

**LEG. BROWNING:**

Second.

**CHAIRMAN SPENCER:**

Motion to table by Legislator Anker. Seconded by Legislator Browning. All those in favor? Opposed? Abstentions?

**LEG. ROMAINE:**

Opposed.

**CHAIRMAN SPENCER:**

Opposed, Legislator Kennedy. IR 1232 --

**MR. NOLAN:**

Legislator Romaine.

**CHAIRMAN SPENCER:**

Yes. I apologize, Legislator Romaine. I apologize. (***Tabled - VOTE: 4/1/0/0 - Opposed: Legislator Romaine***).

***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?

**LEG. ROMAINE:**

Yep.

**LEG. KENNEDY:**

Opposed on that one.

**CHAIRMAN SPENCER:**

Two opposed, two opposed. Okay. ***(Tabled - VOTE: 3/2/0/0 - Opposed: Legislators Romaine & Kennedy).***

***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).*** I'm going to table this subject to call, and my reason for this is that it definitely is a good idea to prevent in-house theft of medications and things of that sort. But after meeting with the professionals in the industry, that if narcotics are secured in a situation where there is a robbery, that could jeopardize the lives of those who are working if they're not able to get access. And we're not turning our back, I know there were some that came out in support of this legislation, and we're looking at smarter legislation to have the same effect. So I'm going to make a motion to table this subject to call.

**LEG. ANKER:**

Second.

**CHAIRMAN SPENCER:**

Seconded by Legislator Anker. All those in favor? Opposed? Abstentions? Motion carries. ***(Tabled subject to call - VOTE: 5/0/0/0).***

***Introductory Resolutions***

IR 1363-12 - Approving appointment of Albert J. Rizzi to the Suffolk County Disabilities Advisory Board. Is Mr. Rizzi here today?

**MR. NOLAN:**

He wasn't on the agenda.

**LEG. BROWNING:**

You have an old agenda?

**CHAIRMAN SPENCER:**

Is this -- well, I have a Chairman's agenda, which maybe it was -- hang on, I'm going to consult with my chief and find out why.

*(\*Side bar conversation with Lora Gellerstein\*)*

I apologize, it was a cut and paste error.

***(\*Laughter\*)***

Someone has embarrassed me on the record.

**MS. GELLERSTEIN:**  
(Raised hand).

(\*Laughter\*)

That's funny.

**LEG. ROMAINE:**  
Get used to it.

(\*Laughter\*)

**CHAIRMAN SPENCER:**  
Okay.

*IR 1387-12 - Adopting Local Law No. -2012, A Local Law to protect public health at hookah bars by requiring the installation of carbon monoxide detectors (Spencer).*  
I'd like to make a motion to approve.

**LEG. BROWNING:**  
Second.

**CHAIRMAN SPENCER:**  
Second. All those in favor? Opposed? Abstentions? Thank you. *Approved*  
(*VOTE: 5/0/0/0*).

The next resolution, *IR 1395-12 - Adopting Local Law No. -2012, A Local Law to clarify coal tar sealer prohibition (Presiding Officer Lindsay).*

**LEG. ANKER:**  
Motion to approve.

**CHAIRMAN SPENCER:**  
Motion to approve by Legislator Anker.

**LEG. BROWNING:**  
I'll second it.

**CHAIRMAN SPENCER:**  
And seconded by Legislator Browning. All those in favor? Opposed? Abstentions? Okay, motion carries. *Approved (VOTE: 5/0/0/0)*.

*IR 1448-12 - Authorizing the drilling of wells on County parkland for firefighting purposes (Romaine).*

**LEG. ROMAINE:**  
Motion.

**CHAIRMAN SPENCER:**  
Motion. Second on the motion?

**LEG. KENNEDY:**  
Where are we at?

**LEG. ROMAINE:**

Fire fighting.

**LEG. KENNEDY:**

Yeah, second.

**CHAIRMAN SPENCER:**

Second.

**LEG. BROWNING:**

Can I ask? I mean, what are we doing? Is this directing them to do it or just saying you can do it if you want to?

**LEG. ROMAINE:**

No, it's only saying you can do it if you need to do that, it's authorization to allow them to drill fire wells on this. The resolution, I believe, provides coordination with FRES and others to determine whether these fire wells, where these fire wells should be located in the Pine Barrens.

Right now -- and we saw this in the recent fire, and most of the Pine Barrens, as many people know, are in my district. Right now what happens is when you had a fire like we had in Manorville and Ridge, they have to wait until the fire comes to the road and then they pump from their pumper trucks, because there's no public water mains anywhere near that location or anywhere in the fire-- in the Pine Barrens. So what happens is they wait for it to come to the road.

If we dug four or five wells at key locations in the middle of the Pine barrens, then those wells could be used when a fire broke out. Instead of waiting for the fire to come to the road, they could go into the woods, into the Pine Barrens with a brush truck and a generator and hook it up to the well and the well could help them fight the fires. We're talking not about a lot of these things, but we're talking about four or five; all this does, it gives authorization.

Now, I know that -- I think our Planning Director was going to speak about, "Well, this may have to go to the Pine Barrens Commission." I've already gone to the Pine Barrens Commission members and they said, "No, this is not development." You know, it's not -- you're not building anything. This is for public safety and it would not need the review of the Pine Barrens Commission. But this is something that I'm interested in promoting, because it would give us another tool in the box of fighting these fires, which at times could get out of hand.

If you have a strong wind -- and, Kate, if you were up there, you know, obviously I was up there with many of the fire departments during that crisis. This gives us another tool and this only authorizes this to be done.

I do believe that the Town of Riverhead and the Town of Brookhaven, and if need be the Town of Southampton, will introduce resolutions to allow -- also to allow fire wells on town property, this is to allow them on County-owned property in the Pine Barrens. And those selections would not be made by this resolution, but this resolution authorizes FRES to determine where they should be.

**LEG. BROWNING:**

No, I just -- because that's what I was wondering. As soon as you touched the Pine Barrens, is it going to be a problem with the Pine Barrens Commission?

**LEG. ROMAINE:**

It would be if it was development, but they don't view this -- when I spoke to several of the members they said they don't view this as development, they view this as public safety, and obviously what you're doing is you're putting in a fire well that would only be used if there was a brush fire that needed to be fought.

**LEG. BROWNING:**

Okay. So what I would like is if we could get something in writing from the Pine Barrens Commission to say that they do not object to this.

**LEG. ROMAINE:**

Well, what we would have to do is pass this resolution to authorize its installation, and then what I can do is ask for a formal review by the Pine Barrens Commission, which I would do if this passed. Obviously the County's not going to do anything without the Pine Barrens formerly reviewing this. My conversations with the members were informal. I said, "Do you think this constitutes development, putting in a well," and they said, "No, not for a fire well," because that's to fight, you know, fires, it's a public safety thing. You're certainly not developing the Pine Barrens. And I said, "Absolutely not, nor would we be using that well, that well may sit unused for the next five or ten years if a fire doesn't burn in that vicinity." And that's why FRES is directed to select the locations, and we're talking about a handful, about four to five wells strategically located to give them a better opportunity to fight these fires rather than waiting for it to come to the road.

I mean, Riverhead actually considered expanding public water mains, but it's cost prohibitive, they can't do it. Because water was a key problem with the fire. In many cases they did not have access to water, they had to draft from ponds. But if you don't have a pond nearby or a lake to draft from, you don't have a source of water except for the pumper trucks, and you've got to wait for that fire to burn to the road to even use the pumper trucks and at that point it might be too late.

**CHAIRMAN SPENCER:**

I would like to invite Director Lansdale, if she would come forward, please. Thank you. I wanted to see if you could give us any from the Planning perspective, just some insight on this particular legislation.

**MS. LANSDALE:**

Sure. I appreciate the opportunity to come before members of this committee. Planning feels that this is an issue that definitely warrants further exploration. At this time we would request that you table that and the reasons being is that we're actually coordinating a meeting to look at the locations of where these wells could be and we're coordinating that meeting with FRES, with the Department of Health, with DPW and staff to the Pine Barrens Commission so that we can look at things holistically and comprehensively, look at the centers of population, look at land use, look at the depth-to-groundwater, available surface water and other factors that would influence where these wells should be constructed. And this would be part of a larger coordinated effort, building off of the 1999 Wild Fire Comprehensive Plan that was produced by the Pine Barrens Commission as a starting point to identify those suitable locations and water sources for sufficient fire suppression.

**LEG. BROWNING:**

Okay. I --

**LEG. ROMAINE:**

Mr. Chair? Chairperson?

**LEG. BROWNING:**

Well, I -- I was going to ask her a question.

**CHAIRMAN SPENCER:**

Legislator Browning and then Legislator Romaine. I apologize, she asked first.

**LEG. BROWNING:**

You know, the bill is basically authorizing, it's not directing. And I think what you're doing and having the comprehensive plan would certainly be something. If

it said "directing", then I would say I could sport a tabling motion because it's kind of forcing you to do something you're not ready to do yet. This is just kind of giving you the authority to do it if and when that time comes. Do you get what I'm saying?

**MS. LANSDALE:**

I do. We would still recommend tabling it to look at -- to look at things comprehensively. And I don't think Planning is identified in this bill as well. We would love to lend our resources to this effort.

**CHAIRMAN SPENCER:**

Does the language in the resolution give us -- I would like to ask Counsel, if you could just comment on if we were to pass this out of committee, does that inhibit the Planning Department from doing the analysis that they're seeking to do?

**MR. NOLAN:**

Well, I don't think it would inhibit them from doing their planning. But the resolution does use the term "*authorize, empowered and directed to drill fire wells on County Park property, State firefighters.*" So it does use the term "*directing*".

**LEG. BROWNING:**

Is there a time line on it?

**MR. NOLAN:**

No, it's really open-ended.

**LEG. ROMAINE:**

Could I add to that?

**CHAIRMAN SPENCER:**

Okay, I apologize. Legislator Romaine.

**LEG. ROMAINE:**

Yeah, I don't disagree with anything the Planning Commissioner said. And I don't see that my resolution is exclusive of her request to do that type of thing. Because what Counsel read you was the first RESOLVED, let me read the second RESOLVED; "RESOLVED, that the Department of Health Services is further directed to work collaboratively with the Department of Parks, Recreation & Conservation, Department of Fire, Rescue & Emergency Services to identify specific locations for the fire wells within County Parkland."

The third RESOLVED, "RESOLVED, that the Health Department is further authorized to, at its discretion," at its discretion, "To install fire wells on land owned by other municipalities or private with their written consent." All this does is say we want to take a serious look at fire wells, we think that this is a tool. We don't specify when they should be installed, we don't specify how they should be installed or the locations that they're to be installed, this just authorizes this to be done. The study that our Planning Director -- I know she's trying to get some points from the gallery there but --

*(\*Laughter\*)*

What our Planning Director has said is certainly worthwhile, I endorse that, but I don't think it's mutually exclusive. I think you passed this, she does her study, then as a result of this resolution, the Health Department, FRES and Parks get together, figure out where those wells should be located at their discretion, where they should be located, and there's no time deadline on this.

You would hope, considering our County Executive's commitment to the fire fighters and his work with them at the last wildfire, that obviously, if my resolution passed, it would be -- you know, even though it's open-ended, you know, there would be some feeling that they would have to address this at some point, you know, certainly by next -- within the next year or so you would hope that they would make recommendations. In fact, I'd be happy to do a second resolution to direct the Planning Department and everyone else, when their studies are done, to submit their recommendations to this Legislature so that you know what's going to happen. Because mine is an open-ended, but it's a good idea. I think what it would say to our firefighters is we're going to give you the tools you need. We're going to give you the tools you need whether that fire burns in Rocky point, the RCA property, or that fire burns in Manorville or that fire burns in Southampton, anywhere along that line, we're going to give you the tools, and they're directed and authorized to take a look at where these should go. I think it makes a lot of sense.

**CHAIRMAN SPENCER:**

Thank you. Legislator Anker.

**LEG. ANKER:**

I think the idea is a good idea, but I think, like you had just said, this is too open-ended. And what's happening is, as far as what I read, it's authorizing the County to go in to, you know, even private property, with written consent, it looks like in this resolution.

**LEG. ROMAINE:**

And you have to have a municipal agreement.

**LEG. ANKER:**

Okay. But it's authorizing the drilling of the wells. And it just sounds like with the Planning Commissioner, she has concerns. I'm wondering -- you know, again, this is very important, we need to do this. I have -- you know, the RCA property is on my district, you brought that up, but that's State property. There's town property, there's other properties. There's a lot that we need to make sure that we're coordinating before we authorize, you know, this to happen.

You know, again, I have concerns with legal and even financial. I don't know if the Health Commissioner can comment on the cost of this which, again, I think it's very important, but we've got to make sure this is realistic and practical before we approve a resolution, and it's just something that I need to make sure I'm comfortable with.

**COMMISSIONER TOMARKEN:**

I can't give you a number, but there have been two meetings already with the Health Department and FRES and the approach is that the -- there would be some expense in the actual -- not the drilling, but to securing the well, you have to put some sort of support structure down there. Not a huge amount, but something to be considered, but I didn't think it was -- it was presented as if it would not be a large amount of money, but there is some expense.

**LEG. ANKER:**

So --

**CHAIRMAN SPENCER:**

Well -- oh, I'm sorry, I apologize.

**LEG. ANKER:**

So in doing so, and I'll ask legal about this, would it be more appropriate to clarify some of those open-ended questions before we approve the legislation?

**MR. NOLAN:**

Yeah, that's -- you know, it's not really a legal question, you know. It's a choice for this Legislature to make; do they want more specificity in the resolution, or do you think it's better to leave it more open-ended and let the departments, you know, collaborate in coming up with the details. That really is a Legislative call. You know, I don't know that I should express an opinion on that.

**LEG. ANKER:**

So if the Legislature -- if the departments, they basically will have the ability to make decisions and then the Legislature could not -- could they participate in those decisions being made? Or through this legislation right now, basically we're giving our departments the authorization of going and drilling these wells, again, not able -- with them not able to come back to the Legislature to get additional information.

**MR. NOLAN:**

Yeah. Right, I think we've given in the resolution that latitude to the departments to come up with those locations. When they come up with the locations, no, I don't think they would have to come back to us for further approvals.

**CHAIRMAN SPENCER:**

Okay. All right, with that, I appreciate any time the Planning Director comes and has a particular concern. I always want to make sure that we address that, but I also appreciate my colleague's, Ed Romaine's bill. And really, when you look at the bravery of those men and women that fought the wild fires, the idea that we would delay in any way giving them every tool that they need, and I think that there is enough latitude there that would permit our Planning Department, who still has to go to the General Meeting, to be able to give us more information, then I think we're in a position to vote. There's a motion to approve on the floor. It's seconded by Legislator Kennedy. All those in favor? Opposed?

**LEG. ANKER:**

Just one more quick comment on the motion?

**MR. NOLAN:**

It's the vote.

**CHAIRMAN SPENCER:**

I'm sorry, we're in -- once I start the vote, can --

**MR. NOLAN:**

Let's get the vote in.

**LEG. BROWNING:**

It comes back on Tuesday.

**CHAIRMAN SPENCER:**

It comes back on Tuesday. But we're in the middle of the vote and then you can make your comment. All those in favor? Opposed? Abstentions? Motion carries. **Approved**  
**(VOTE: 5/0/0/0).**

Legislator Anker, you have a comment.

**LEG. ANKER:**

Again, you know, I absolutely support -- the drilling of the wells are a way to stop the forest fires when they started. I almost had a family member, a horse was almost killed in the last horse fire. My concern as a Legislator is just to make sure that this is done the proper way. I'm concerned,

again, with the fact that we may go on to private property and our department, not a Legislature, the departments will have the ability to make the decision to drill. I just want to make sure that, you know, it's done properly.

**CHAIRMAN SPENCER:**

I think it's only on County.

**LEG. ROMAINE:**

I would let Legislator Anker know, and I appreciate your concern, we do that every day. Are you aware of that? We do that every day. That's what our Well Drilling Unit does. We go on to various properties that are not County-owned to look for plumes or things of that nature. All over Calverton we drilled. All over Calverton we drilled and we found these huge plume coming from the Navy that was threatening to contaminate the Peconic River and the entire marsh system around there from a plume. We went all over private property drilling, we do that every day, that's what we do. That's what our well drillers do; they look for contamination and they go on to properties all the time with the approval or permission of the property owner. That's what we do as a County every single day. That's what our Well Drilling Unit does. But if you have an additional concern, I'm happy if you would forward to me any amendments that you think would strengthen or improve this bill. I'm happy to take a look at that and I certainly can incorporate that and I'd consider that carefully, if you'd be happy to do that.

Now, I will say this, and this is not a reflection on our Health Department. And our County Attorney's Office isn't here, so I can't lambast them, and it really would be unfair because we have a new County Attorney. But this County is owed over a quarter of a million dollars by the United States Navy for the work of our well drillers, that the County Attorney's Office, and I've been pushing them since 2009 to process that. If we're looking for revenue, how about billing the Navy? The Navy said, "We can't pay you because you never sent us a bill." And I started with the last County Attorney and I'm about to start with Mr. Cohen, he doesn't realize that this is another problem unfortunately he may have inherited, but there's money owed us from that because they admit it was their plume and they're actually working to remediate that, but only because of the good work of our well drillers. I want to point that out.

**CHAIRMAN SPENCER:**

Legislator Romaine, congratulations, it passed.

*(\*Laughter\*)*

Legislator Anker.

**LEG. ANKER:**

And just one quick comment. Again, I think this with your ideas as far as -- I think there needs to be additional discussion with the other levels of government, especially with the State since the State owns over 5,000 acres. And again, the Federal and even town, there's quite a bit of open space. So again, I think there's a lot -- there's more work to do on this particular resolution.

**LEG. ROMAINE:**

I'm working with Councilman Bonner and Council -- Councilwoman Bonner.

**LEG. ANKER:**

But again, I think we need to continue to work and keep an open dialogue, because unless we don't have -- unless we have an open dialogue, mistakes can be made, and I just don't want to get caught up in litigation or issues. But again, we need --

**LEG. ROMAINE:**

Well, welcome to the County. The County makes mistakes every single day to deal with.

**LEG. ANKER:**

That's why --

**LEG. ROMAINE:**

But obviously we want to mitigate that.

**CHAIRMAN SPENCER:**

Okay. All right, thank you. We've gotten into a little open discussion. But the good news is one last Introductory Resolution, a *Local Law, IR 1480, establishing registration requirement for Health Department expeditors (Browning)*.

**LEG. BROWNING:**

Motion to table for a public hearing.

**COMMISSIONER TOMARKEN:**

Can I make a comment?

**CHAIRMAN SPENCER:**

Motion to table for a public hearing. Comment by our -- oh, you still want to make a comment? Are you okay with it being tabled for a public hearing?

**COMMISSIONER TOMARKEN:**

Well, at some point I want to make a comment. I might as well make it now.

**CHAIRMAN SPENCER:**

Okay.

**COMMISSIONER TOMARKEN:**

I have two brief issues. One, generally licensing of professionals is done by the Consumer Affairs group. The other question I have is a legal one. In Section 7 it talks about, "*Commissioner shall have powers to impose a civil fine, not to exceed or revoke,*" blah, blah, blah, "*Number one, fraud, deceit, misrepresentation or bribery.*" We're in no position to determine if someone is perpetrating a fraud. We're not law enforcement, and I think these are law enforcement kinds of issues. And it might be something you want to amend this to say if there's malfeasance suspected, that it be turned over to the District Attorney, but it's not -- we are not empowered to accuse and prove things like bribery and fraud, those are legal issues.

**LEG. BROWNING:**

But that would just be on an application, that question would be on there. And I have to tell you, this is based on a \$2200 payment to an expeditor who failed to do the job and -- with the Health Department. And I think -- and I can tell you, I've had three others who came to me with expeditor issues with the Town of Brookhaven, so.

**COMMISSIONER TOMARKEN:**

I think the intent of this is right. The question is if they've done something illegal -- you know, it's one thing -- we can handle somebody not conforming to a law like sanitation or whatever, but if somebody lies to us on an application or doesn't fulfill their contract, in pride contract --

**LEG. BROWNING:**

Uh-huh.

**COMMISSIONER TOMARKEN:**

We're not a legal authority to now go back and say to them, "*We think you've*" -- "*We're accusing you of bribery or fraud or some legal issue.*"

**LEG. BROWNING:**

Okay. I think I'll let George answer. You know, basically anyone who comes in and fills out an application, if you lie on the application, at some point you're going to get caught. Go ahead, George.

**MR. NOLAN:**

Yeah, that's -- the language the Commissioner has cited has to do with whether a person, in securing the registration, you know, lied or made a misrepresentation or something along those lines. And if the department finds out that you were given false information, you just have the authority to revoke their registration. They're not going to be able to do business with the department any longer.

**COMMISSIONER TOMARKEN:**

But what if they come back and say, "*Oh, it was a mistake. My assistant put that information. I meant to put*" -- "*It should have been this and not that.*"

**MR. NOLAN:**

Well, the department would have to make a determination if they want to accept that explanation or not. And if you ruled against them and said, "No, no good. We're revoking your registration," they'd have the right to bring an Article 78 proceeding and bring it to a court to determine their rights.

The language that's used in the Statute is pretty standard language throughout our code in terms of -- you're right, most of the times the registration professions is with the Consumer Affairs Department. This language is used in connection with the Department of Consumer Affairs, they have the right to pull licenses and registrations when people have misled the department in seeking a license or a registration.

**CHAIRMAN SPENCER:**

I'm going to ask that the three of you work out the amendments that we need. And at this time, I'm just going to take the Chairman's prerogative for a motion to adjourn.

**MR. NOLAN:**

We haven't tabled it yet.

**LEG. BROWNING:**

We didn't do the vote.

**CHAIRMAN SPENCER:**

Oh, we've got to vote, okay. Motion to -- so on the motion --

**LEG. BROWNING:**

I made the motion.

**CHAIRMAN SPENCER:**

Motion to table. Seconded by me. All those in favor? Opposed? Abstentions? ***The motion is tabled (VOTE: 5/0/0/0).***

There's no further business before this committee today. Motion to adjourn. We are adjourned. Thank you. ***(\*The meeting was adjourned at 4:16 PM\*)***

