

HEALTH COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE

Verbatim Transcript

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, April 18, 2013 at 2:30 p.m.

Members Present:

Legislator William Spencer - Chair
Legislator Kate Browning - Vice-Chair
Legislator Rob Calarco
Legislator Ricardo Montano
Legislator John Kennedy

Also In Attendance:

D.P.O. Wayne Horsley - District #14
Legislator DuWayne Gregory - District #15
George Nolan - Counsel to the Legislature
Sarah Simpson - Counsel's Office/Suffolk County Legislature
Renee Ortiz - Chief Deputy Clerk/Suffolk County Legislature
Craig Freas - Budget Analyst/Legislative Budget Review Office
Lora Gellerstein - Aide to Legislator Spencer
Paul Perillie - Aide to Legislator Gregory
Michael Pitcher - Aide to Presiding Officer Lindsay
Ali Nazir - Aide to Legislator Kennedy
Leslie Kennedy - Aide to Legislator Kennedy
Tom Vaughn - County Executive Assistant
Dr. James Tomarken - Commissioner/SC Department of Health Services
J. Ronald Gaudreault - Suffolk County Board of Health
Craig Northacker - Vets-Help.org.
Kathleen Reeves - John J. Foley Employee
Matt Prawicka - Former Access Employee
All Other Interested Parties

Minutes Taken By:

Lucia Braaten - Court Reporter

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*(*The following was taken and transcribed
By Lucia Braaten - Court Reporter*)*

(THE MEETING WAS CALLED TO ORDER AT 2:35 P.M.)

CHAIRMAN SPENCER:

If everyone could please stand, we're going to begin our committee. We're going to have a salute to the flag, to be led by Legislator Browning.

*(*Salutation*)*

Before you're seated, if we could have a moment of silence for those who are fighting around the world, for our country, and also for those victims of the tragedy in Boston and the explosion in Texas.

*(*Moment of Silence*)*

Okay. You may be seated. Good afternoon, and welcome to the Health Committee. Today we have no formal presentations, but we do have some cards that I have. The first one is Craig Northacker. Craig, if you could come to the podium and just press the button on the mic, it will stay on. And you have three minutes to -- the floor is yours. You could tell us about anything that you want.

MR. NORTHACKER:

Three minutes? That's a tough one for me.

LEG. KENNEDY:

How about if he sits at the table?

MR. NORTHACKER:

No, this is fine, I'm good.

CHAIRMAN SPENCER:

Craig, would you like to sit at the table?

MR. NORTHACKER:

No, I'm good, but thank you for asking, though.

CHAIRMAN SPENCER:

Oh, absolutely.

MR. NORTHACKER:

All right. First, I'm Craig Northacker. I'm a retired CPA, a disabled vet, and I run a group called Vets Help. We're a 501(c)(3), doing a lot of things, including being partners with the White House on a number of programs.

I was looking at the -- looking at the Foley situation, and being a good CPA by trade, and having worked with lots of clients that were selling business or buying businesses, one of the things I found is you need to have complete access to all the records that you possibly could get, and that seems not to be the case right here, and that's my understanding talking to some of the members of the committee.

So I'm going to read you very quickly some of the observations that I sent to Kate Browning before, and you'll have copies of these distributed to you.

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First, Suffolk County seems to pay all the bills, and they incur an undisclosed monthly admin fee for its troubles.

Second, there's no comparison as to how well the program runs compared to other similar County-run programs in the U.S., or for privately run programs. No occupancy rates, derivative business sales, etcetera, which must all figure prominently in any sale price, the natural observation being that the County has a fiduciary obligation to maximize the value of the asset being sold, and without this critical performance evaluation comparison, any figure discussed is premature and inappropriate, and constitutes a fiduciary violation on the part of the appropriate elected officials to approve any such premature and inappropriate sale.

Third, does the sale contemplate who's assuming the liabilities, including the pension liabilities, bonds, and all kinds of other different things that are on the balance sheet? And I passed out the 2010 and 11 audited financial statements, so that's all there. I didn't get the 2012; I'm not sure where that is.

Fourth, why would a commercial operator pay so much money for an operation that's floundering? There is apparently quite a bit more in value than has been disclosed to the public, a major and most inappropriate violation of transparency and public trust.

Fifth, significant costs can be mitigated through the use of veterans and their federally allocated and funded dollars that they bring with them.

Sixth, and, by the way, \$871,000 was subsidized in Suffolk County in 2010 and nothing in 2011, which does not jive with the 12 million dollars that we're hearing. There is a substantial drop in service revenue, a drop in payroll, but increases in benefits and supplies that are not explained.

Finally, the disabled in the home are being unnecessarily victimized by the publicity surrounding and its accountability with correct reporting and interpretation. Does this constitute a violation of the Americans with Disabilities Act with respect to the residents who have already been victimized through whatever circumstances brings them there. If this is deemed to be victimizing victims again, then this may be a Title II violation under the Americans with Disabilities Act. Therefore, the New York State Attorney General and the Department of Justice on the Federal side should then both be apprised of this to ask for their assistance in representing the victims.

These items are the ones that jumped right out at me fairly quickly, but there are enough for us to be able to say, "Hey, wait a minute, what's going on here," because as taxpayers we can't afford to throw away assets if it's simply a quick fix, and it's not an appropriate use of taxpayer assets.

Thank you very much.

CHAIRMAN SPENCER:

Thank you, Northacker. I have some questions from my colleagues. So, usually --

MR. NORTHACKER:

Sure.

CHAIRMAN SPENCER:

-- even though your introduction is three minutes, it usually goes on a bit longer. Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Mr. Northacker, thank you very much for coming and speaking with us. And, first of all, thank you for your service. And it's refreshing to hear you raise some of the

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questions that many of us have had for quite some time, particularly with somebody, you know, with your background and expertise as an accountant.

I do want you to know that as recently as probably five to six months ago, we had about 55 to 60 either veterans and/or spouses of veterans in the facility, and that it has -- many of us have had the opportunity to meet residents out there, Korean War Vets, Vietnam War Vets. As a matter of fact, just recently, you might have seen on News 12, I thought it was particularly a low point of our County when we basically exited out a Vietnam Vet.

But one of the things you had spoken about in your analysis was opportunities associated with delivery of service for veterans. How might -- to the best of my knowledge, in all the investigatory work that I've done, and I'm admitted to the Court of Appeals for Veterans Claims, I've not seen particular things that we've been able to do there. Can you tell us some of what we can be doing?

MR. NORTHACKER:

Certainly. For instance, under the Vocational Rehabilitation Program, which is available for all veterans who qualify on this, and almost all do based upon the -- what our folks are doing within the VA -- is this on?

LEG. KENNEDY:

Yes, it is.

MR. NORTHACKER:

Okay.

LEG. KENNEDY:

Yes.

MR. NORTHACKER:

So the ability for us to be able to say, okay, we can introduce people to do, for instance, maintenance contracts, we can bring in people to do different types of service work, it can be medical service work. I'm working with a program with Governor Cuomo right now to be able to take the 25,000 medics coming out of the military this year and putting them through the North Shore system and perhaps the Stony Brook system to get them certified with current civilian certifications to be able to say, "Okay, we can do this." And with all of those, there are significant tax credits that may not apply here, but there are significant veteran dollars that come in. So, for instance, the first 50% of the -- first nine months of salary can come back from the VA reimbursed to the facility to be able to have veterans work there.

LEG. KENNEDY:

Is that right?

MR. NORTHACKER:

So there's all kinds -- and anything else associated with maintenance and whatnot, using programs that are using these veterans in the voc. rehab, which helps them get skills and trades, which, obviously, is a positive step, also reduces the cost or the burden of the cost on the taxpayers, because if we have private people that are getting an \$8,000 tax credit, plus they're getting 50% of the first nine months back of the salary, they can afford to go a lot lower on the beds.

LEG. KENNEDY:

Well, it's interesting you would bring that up about the tax credits, too, because unlike anything that's ever been talked about with Foley heretofore, there was a mention in this contract about an IDA abatement for all property taxes. And it kind of defied logic, where it had been marketed as being something that was going to be returned to the tax roll, and yet, in fact, there's nothing to that effect at all.

MR. NORTHACKER:

Well, these are separate tax credits. These are Federal income tax credits coming off the corporate tax returns, so -- as opposed to the IDA.

LEG. KENNEDY:

I see. Obviously, I think there's more to look at when it comes to the financial aspects of what's going on with the facility. I appreciate your willingness to go ahead and come forward to talk with us about this. And I very much would like to get some of the specifics, because if we have the opportunity to bring our returning vets in, be it as CNAs, or as RNs, or in any other medical capacity, absolutely, positively we should be doing that.

MR. NORTHACKER:

It's a win-win-win for everyone.

LEG. KENNEDY:

Okay. Well, thank you very much, sir. I appreciate you being here and coming to the microphone. Thank you.

MR. NORTHACKER:

Thank you.

CHAIRMAN SPENCER:

Legislator Browning.

LEG. BROWNING:

Good afternoon. The first thing that you talked about is about all the bills it incurs and an undisclosed monthly administration fee for its troubles. And I think that I'm trying to find out where you saw that. And maybe --

MR. NORTHACKER:

That was in the financial statement -- whoops, sorry. That was in the financial statements. Let me see if I can find that for you.

LEG. BROWNING:

That was the online one, okay.

MR. NORTHACKER:

Always hide everything in the statements, in the notes.

LEG. BROWNING:

I think it's pretty amazing, you know.

LEG. MONTANO:

I have a question. I'm sorry, Kate.

LEG. BROWNING:

Yeah. Just that, you know, I know that I had the Comptroller forward you all the information that you requested, and in a very quick time you were able to respond back with some very interesting comments. And, clearly, didn't take you very long to see that there was issues, yet, we had -- last meeting we had a Performance Management Team that I said, it's really a shame they didn't go in, because I think if they had been in there, they would have been able to see something and be able to turn things around a lot quicker.

MR. NORTHACKER:

Okay. It's actually in Note Number 1, under Organization, and on line one, two, three, four, five, but starting on Line 4, it says, "As indicated in Note 3, the County subsidized the facility's expenditure deficiencies and processes substantially all cash disbursements on behalf of the facility." There was another point which says they do it for a fee.

LEG. BROWNING:

Okay.

MR. NORTHACKER:

Which is actually standard in any kind of government or educational process where they take an admin fee for running the process.

LEG. BROWNING:

Okay. So I guess --

MR. NORTHACKER:

And that could be anywhere from 20% to 50%.

LEG. BROWNING:

So, Craig, are you familiar with this? I mean, I don't want us to be going back and forth. I didn't know, Mr. Chair, if you --

MR. FREAS:

Well, I believe that the fee that Mr. Northacker referred to would probably be in -- you know, I'm much more familiar with the budget than the audit and financial statements, obviously, but that that fee is accounted for budgetarily through the transfer from Foley to the General Fund. I don't know if you were provided with the budget for the facility.

Also, I assume you're aware that it's run as an enterprise fund, it's not a public benefit corporation?

MR. NORTHACKER:

I saw that, yes.

MR. FREAS:

Okay.

MR. NORTHACKER:

Okay. But regardless of what it's called and how it's termed, the numbers should be disclosed essentially in their hold, so there's nothing that is being not properly disclosed. There's a lack of transparency with knowing how much is it costing me to pay for somebody to buy new staplers. And, you know, am I being charged 50% for the privilege of letting the State buy that, or am I being charged 10% for that? And that makes a very substantial difference in what the expenditures and, therefore, what the deficits are.

And with all due respect, in financial accounting, my original accounting professor, way back when, talked about the three accountants that came in for a job, asked the first one, "How much is two plus two?" The first one said, "Four." Asked the second one, "How much is two plus two?" And he pulled out his little calculator as a financial whiz and came up with 3.79. The third one looked around, looked under the desk, looked behind him and said, "How much do you want it to be?"

*(*Laughter*)*

So, with respect to financial statements and not stating that anybody's deliberately doing anything wrong, however, I've been a CPA for a mighty long time and I know what use of the estimates and

reserves can do. And I'm here as a taxpayer, I'm here as an advocate, I'm here as a disabled vet, because I can't take the continued real estate tax increases that keep jacking my rates up that are going to force me to move someplace if the proper disclosure is not being made for what we're paying everybody to do. And I'm only one of 300-plus-thousand veterans that are here on Long Island that have the same issues.

LEG. BROWNING:

And, you know, like I say, you know, this was a real quick turnaround --

MR. NORTHACKER:

Absolutely.

LEG. BROWNING:

-- from you. And, you know, we did have a conversation, and I think not only -- you're not just a CPA, but I don't think you explained some of your background, what you've done as far as working with other governments and finding deficiencies.

MR. NORTHACKER:

Yes. We're partners with the White House in several programs. One of the things that we work with is developing the opportunities to bring Federal dollars into play. We're involved right now with the creation of the first independent or Individual Development Account, which is a method for people who are in low income brackets to be able to save money in specific accounts for their children for education, and they're matched by sponsors. We're creating that for the veterans, as well as the military. But we also represent and are working with the 55 million disabled Americans. So our constituency, between disabled -- between veterans, disabled veterans and the disabled population alone is close to 80 million. Multiply that times three, which is the official government factor, you're talking about 240 million people that we actually represent.

Indy 500 just asked for us to be featured there. The NFL called me last night; they want to work with us in different areas. And it's about developing jobs, developing opportunities for people that don't have opportunities otherwise, and to help do redevelopment in areas that seriously need redevelopment, and we're doing that by using veterans in those vocational rehab programs, because that gives us an opportunity to diminish the costs, and thereby make it affordable for agencies and for governments to be able to get things done.

LEG. BROWNING:

So my question for you is, is based on -- just based on what you're seeing so far, do you see an opportunity that if John J. Foley was to stay in the hands of the County, that there is definitely an opportunity to get it to the black, or bring in revenue? I mean, what --

MR. NORTHACKER:

Yes, absolutely. I go back to why would anybody spend 23 million dollars to privately buy something that's not working? And with the values associated with that, with all the different types of dollars that could be raised in separate types of revenue-raising methods, there to me, with the shortage of homes that there are for people who are disabled, and adult disabled children, or adult disabled folks, to have a shortage of homes and not be able to make money on this thing, when I know that in Chicago people are paying -- the Federal Government is paying between three and four thousand dollars a month for substandard studios with -- that the doors are not wide enough for wheelchairs to be brought into their own apartments. So you have wheelchairs that are in the hallway, and they're also above the four-story limit that they need to be for fire emergency.

But the big issue to me as well goes back to what is happening. These residents are being terrorized because they're being told they've got to move out. And if this is your home and you've been victimized in one way or another or you're disabled, there is a very real issue with violation of the terms of the American With Disabilities Act. And I bring those same terms up in Congress when

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I speak to them, when I talk about different agencies and different programs that they have, so that doesn't change.

LEG. BROWNING:

Okay. Well, I appreciate it. I don't think I have anymore questions for you. I'm going to continue to talk to you. And that concern has actually been brought to the attention of some individuals, and I think they are looking into that.

MR. NORTHACKER:

Okay, great.

LEG. BROWNING:

Thank you.

MR. NORTHACKER:

Well, thank you for -- everyone, for doing what you're doing.

CHAIRMAN SPENCER:

We're not finished with you yet.

MR. NORTHACKER:

Oh, I'm good to go. Let me roll up the sleeves. Well, never mind.

*(*Laughter*)*

CHAIRMAN SPENCER:

Legislator Montano has a question for you.

MR. NORTHACKER:

Sure.

LEG. MONTANO:

Hi, Craig. Craig, your presentation, I gather your presentation was reading from your memo of April 16th, 2013; is that correct?

MR. NORTHACKER:

That is correct.

LEG. MONTANO:

All right. And, again, what is the number of the sale, is it 23 million?

MR. NORTHACKER:

That's what I've seen in the paper is 23 million.

LEG. MONTANO:

Okay, yeah. Just let me preface this by saying that my understanding is that we can anticipate a C of N with respect to the Foley Nursing Home, I guess depending on the vote tomorrow. And the question that I have is -- relates to -- and I don't want to go into a long dialogue, this should be -- dialog. This should be done, you know, probably at the appropriate time. But in Number 4, Point Number 4, you say, "Why would a commercial operator pay so much money for an operation that is floundering? There is apparently quite a bit more in value than has been disclosed to the public, a major and most inappropriate violation of transparency and public trust."

Now as -- and I've got to preface this by saying, number one, I have not been privy to any documents, or any discussions, or any information relative to this anticipated lease-purchase

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agreement, lease agreement, whatever is coming forward. No one's shown me a copy and no one's called me to advise me of what is coming, so I'm sort of in the blind on that.

But in reading the newspapers, the claim is made that the nursing home costs the taxpayers a million dollars a year.

MR. NORTHACKER:

A million a month.

LEG. MONTANO:

I mean, a month. I'm sorry, a million a month. And I assume that part of that has to do with the financials in terms of the employees that are on staff, the number of beds that are filled.

Now, what I'm trying to figure out is that if the agreement, as I understand it, calls for an 18-month freeze on existing salaries for the County employees, then how do you -- it seems to me, without looking at numbers, that the business or the nursing home would still operate, all things being equal, at a million dollars a month loss. And if that agreement stands for a period of 18 months, that's what, a million, 1.8 million dollars?

MR. NORTHACKER:

You're talking about a 41 million dollar total investment on their part, then.

LEG. MONTANO:

I'm sorry?

MR. NORTHACKER:

You're talking about a 41 million dollar total investment, the 23 million purchase price, plus the million-dollar-a-month deficit that they're making up. So that if you're --

LEG. MONTANO:

That's what I'm saying.

MR. NORTHACKER:

That's now a 41 million dollar purchase, which is not --

LEG. MONTANO:

So the deficit is 12 million plus six million, 18 million dollars.

MR. NORTHACKER:

Right, if that's the deficit.

LEG. MONTANO:

Does that make sense to you? I'm trying to figure that out.

MR. NORTHACKER:

Absolutely not. The numbers make no sense to me, and I'm saying that not as somebody who's been privy to all the financials, or the general ledgers, or the policies that are behind the scenes. But one thing I learned a long time ago is you got to trust your nose, and I've spent a lot of time as a forensic CPA, and when I see people throwing numbers out there and the numbers don't make sense, they don't make sense for a reason, and that's usually they don't make sense.

LEG. MONTANO:

Right. Well, I heard your comment, you know, a little while ago about how you can get two plus two equals 3.7, or --

MR. NORTHACKER:

Right, right.

LEG. MONTANO:

-- or something. But I have my own saying, and I say that math is an exact science. Two and two is four. If you got five, you got it wrong. So the question here is, could you, and not now, but it just doesn't make sense that if we're operating at a million dollar a month loss, and we're fixing the costs for an 18-month period, then you have to add the 18 million to the 23 million to determine the cost of the property, unless something else is in the equation that I don't know about. Am I -- you know, I'm not a CPA, but I'm a lawyer, and, you know, I --

MR. NORTHACKER:

You're directly on target.

LEG. MONTANO:

Okay.

MR. NORTHACKER:

That's exactly the -- again, it's the sniff test. You don't have to be a CPA, you don't have to be a lawyer, you don't have to be a bookkeeper, all you have to do is have common sense.

LEG. MONTANO:

Know how to count. Thank you very much.

MR. NORTHACKER:

Thank you.

CHAIRMAN SPENCER:

Thank you, Mr. Northacker, I appreciate your time.

MR. NORTHACKER:

Thank you all very much.

CHAIRMAN SPENCER:

It's nice seeing you again, Craig.

MR. NORTHACKER:

Good luck. Let me know if you need help.

CHAIRMAN SPENCER:

Absolutely.

MR. NORTHACKER:

Like I said, Airborne and Special Forces background. I like to sneak up from behind.

*(*Laughter*)*

LEG. MONTANO:

Are we going to see you Tuesday?

MR. NORTHACKER:

What's Tuesday?

LEG. MONTANO:

The Legislative meeting.

MR. NORTHACKER:

I have to fly down to North Carolina. We have a major program.

LEG. MONTANO:

Oh.

LEG. BROWNING:

Yeah.

MR. NORTHACKER:

Would you prefer me to be here on Thursday?

LEG. MONTANO:

No, it's not --

LEG. BROWNING:

It would be entirely your choice.

CHAIRMAN SPENCER:

But if you --

MR. NORTHACKER:

If you would prefer for me to be there, I would be happy to do that.

CHAIRMAN SPENCER:

It sounds like you have something very important that you're doing. If maybe you could be available to us by, you know, your cell, or something like that. Okay.

LEG. KENNEDY:

Craig, I'll also say to you that what you shared today, particularly about 25,000 veteran medics that are returning, is certainly brand new information for me. I'm aware that Stony Brook Hospital was looking for places to put residents and student nurses and folks like that. But now, when we add the layer of our returning veterans, and the nine-months salary opportunity --

MR. NORTHACKER:

Right, right.

LEG. KENNEDY:

-- through the Feds, that would be a game-changer for us.

MR. NORTHACKER:

There's so much that could be --

LEG. MONTANO:

You've got to get back on the mic.

MR. NORTHACKER:

There so much -- I can't lean over that way, sorry. They never told me that when I first started jumping out of the airplanes.

The concept of being able to take Federal dollars that are in programs that are already prescribed and that are already funded, not just allocated, but funded, is important. And I had to wander my way through the puzzle palace there that goes through Washington D.C. to come up with a path, and the path that I found eventually is becoming a partner with several White House programs, one

of which gives me my own representative in each of 14 secretaries' offices. Now some of them are good people and they work with us, and other people, you know, it is what it is. But the opportunities that we have and the information that I get right now is priceless in terms of being able to help put things together.

And the frustration I've had in the past, for instance, with previous administrations in New York, nobody did anything. And the current situation in the Assembly speaks for itself with diminishing numbers every day. But the idea of being able to take people and say, "You know what, this is what we can do," let's cut out all the BS, cut out all the politics, and let's say, "This is what we need to do." If we need to put 25,000 people back to work and we can do it, let's do it. If it doesn't cost us anything because we have the ability to bring in Federal programs that are budgeted, allocated and funded, then that makes it an even better day. And it also gives us the opportunity to make New York as a place where people want to come to stay, because they have opportunities here that other places have not yet generated. And that's one of the particularly important points, because I know in New York State they're looking to do a lot of the biological research here. And, in fact, we're looking at losing Plum Island. Okay?

The concept of us having the top people coming in who not only have studied this stuff, but have probably been sprayed and exposed to it, is without a doubt a waste of people if we're not able to bring them in, and there's no reason why we can't, and that's why the Governor is working with us to help push that.

LEG. KENNEDY:

I thank you for being here. And I'll say it again, it's certainly new and extremely pertinent and relevant information. And I don't want to interfere with your travel schedules, but I can guarantee you that my colleagues who aren't here today certainly would have an interest, a distinct interest in what you're sharing with us.

MR. NORTHACKER:

I'm at your service, folks.

LEG. MONTANO:

What I was going to say was that, no, I wasn't requesting that you be here on Tuesday if you're going to be away, but if you can figure out the question or the answer, or at least give me some insight as what we discussed with respect to Number 4, you can e-mail me that and that will be sufficient.

MR. NORTHACKER:

Thank you. Absolutely.

LEG. MONTANO:

Thank you.

CHAIRMAN SPENCER:

Thanks, Craig. Thank you.

MR. NORTHACKER:

I need to scoot out, but thank you so much, everyone.

CHAIRMAN SPENCER:

Take care.

MR. NORTHACKER:

You all have a good rest of the day.

LEG. BROWNING:

Thank you.

CHAIRMAN SPENCER:

Thank you. Next card is Matt Prawicka with YES/Prevention.

MR. PRAWICKA:

Good afternoon. How are you guys? I spoke at the last committee you guys had. My main concern and focus is about the opiate and heroin problem. I'm still just trying to find out, I guess, where certain of those recommendations have been going from that -- I think it was back in 2010 they did the committee for that, for heroin and opiates.

I work for YES, and I'm also a substance abuse counselor at night over at the Town of Babylon. So my direction, my entire focus for my social work career is going to be with heroin and opiates, and, you know, whatever I could do on Long Island.

I started doing heroin and painkiller prevention presentations. I did my first on Tuesday at Brentwood East Middle. I have 10 lined up until the beginning of June. And then on the 25th, I'm doing one with Senator Boyle's Office and the Sheriff's Department, and that's at West Islip Library.

So I guess my main concern again is about where some of those recommendations are, how could I find out information for it, who could I speak to. I sent an e-mail last time, but I didn't hear back from anyone. So that's the majority of my issues and concerns here.

CHAIRMAN SPENCER:

Matt, did your e-mail go to the office, or to an individual Legislator's office? Where did it -- or your inquiry? I just want to make sure that we follow up on it. In fact, I'll do you one better. Send it directly to me --

MR. PRAWICKA:

Okay.

CHAIRMAN SPENCER:

-- if you wouldn't mind, Lora will speak to you. She helps me out, and we'll make sure that we assist you in getting the information that you're looking for. Okay?

MR. PRAWICKA:

Thank you.

CHAIRMAN SPENCER:

Thank you. Thank you for your time.

I have a request, because one of our colleagues has a wake that he has to attend, and has asked if we could take one of the resolutions out of order. And I think that any time that we have that type of request, we try to honor them. So I'm going to ask for a motion to take ***I.R. 1255 out of order, and that's terminating the County's contract with CMS Compliance Corp.***

LEG. KENNEDY:

Motion.

LEG. SPENCER:

And may I have a second?

LEG. BROWNING:

Second.

LEG. SPENCER:

All those in favor? Opposed? Abstentions? We have it now before us.
I.R. 1255, what's your pleasure?

LEG. KENNEDY:

I'm going to offer a motion to discharge without recommendation. I believe that this resolution is quite important for everybody to hear, and I'll keep my comments to a minimum, you know, in deference to my colleagues. But I'll make that motion to discharge without recommendation.

CHAIRMAN SPENCER:

May I have a second?

LEG. BROWNING:

Second.

CHAIRMAN SPENCER:

Second on the motion. On the motion, I see we have Tom at the podium, and we also have Legislators that have comments. So, Tom, would you like to comment on this particular resolution?

MR. VAUGHN:

No. I'll gladly defer to the Legislators who have a comment, and then sit down and make a comment at the end. They do outrank me.

CHAIRMAN SPENCER:

Legislator Browning does have a question for you.

LEG. BROWNING:

Yeah. Well, I don't know if you can answer the question, but I know Dr. Tomarken is here. I kind of would like to know what the function of them? We're paying them \$205,000 to do the closure and to assist, I believe, residents to relocate. So what exactly is their function?

MR. VAUGHN:

I'll defer to Dr. Tomarken on that.

CHAIRMAN SPENCER:

It any other comments on the motion? Okay. Let Dr. Tomarken -- okay.

LEG. BROWNING:

I know -- I guess Rick has to go, but do we want to go ahead and just call the vote?

LEG. MONTANO:

I'll vote, yeah.

LEG. KENNEDY:

Let's vote and then we can hear from Dr. Tomarken. How's that?

*(*Laughter*)*

LEG. BROWNING:

Yeah, I don't want to hold up Rick.

CHAIRMAN SPENCER:

Tom, did you have something?

MR. VAUGHN:

If we are going to call the vote, I'd just like to make a real quick statement, and I promise I'll keep it brief.

CHAIRMAN SPENCER:

Fair enough. Go ahead, on the motion.

MR. VAUGHN:

Look, I would respectfully, and the Administration would respectfully, ask that this bill be tabled. But I can count, and as Kenny Rogers once said, "You got to know when to hold 'em and know when to fold 'em." So we can continue to talk about this at a time when we have more time in the future. I apologize to Legislator Montano.

Look, the one thing that I would say is that we've all seen a number of letters going around. There's been letters from the unions, there have been letters from many of the members of this Legislative body, and there have been letters from the County Executive. One of the things that they all agree on is that we have basically reached an end point to this place. They all think that we are left with now two options. The two options are either to close or to go to a lease. I understand that the members sitting on this committee probably disagree with that.

So that being said, those are the statements that I had to make. Legislator Montano, I certainly appreciate your indulgence.

LEG. MONTANO:

If I may. And, you know, I appreciate -- and I'm sorry to rush this, but I actually am on my way to two wakes in my district.

MR. VAUGHN:

My condolences.

LEG. MONTANO:

And I just want to say that I'm going to vote in favor of the discharge without recommendation primarily because I don't know enough about this and I'd like to hear more. But I'll just put on the record, simply because I vote to discharge it without recommendation is no indication that I support the bill or that I would vote for it on Tuesday when it comes up. It's simply so that these issues can be aired. It's not a commitment one way or the other, it's more a courtesy. And I just don't have the -- you know, because of these commitments, I don't think I have the full time to analyze my vote, and that's why I'm doing that.

CHAIRMAN SPENCER:

Thank you. With that, we'll call the question. All those in favor? Opposed? Abstentions? All right. The motion is discharged without recommendation. ***(Vote: Discharge Without Recommendation 5-0-0-0)***

LEG. MONTANO:

Thank you.

CHAIRMAN SPENCER:

Good luck.

LEG. BROWNING:

Okay. And I guess -- did we have one more speaker?

CHAIRMAN SPENCER:

We do.

LEG. BROWNING:

Oh, I'm sorry, Dr. Tomarken.

LEG. SPENCER:

Kathleen, I apologize for -- Dr. Tomarken, actually, I would like you to comment on a couple of other things. So, if I could finish my public comment with one last speaker, I appreciate your indulgence.

Kathleen Reeves, come forward.

MS. REEVES:

You all know me, I've been here before. I work at John J. Foley. My name is Kathleen Reeves.

In answer to one of those questions that came up, according to the agreement evidently between the union and the Shermans, the 17 million dollars is going to the Shermans. That being said, we have had a number of residents discharged, taken out by their families. We've also had in the last two, three -- two-and-a-half to three weeks five deaths. We have had two residents taken out of the facility screaming and crying and holding onto railings saying they don't want to go. We have residents that have been scared by the CMS group because they come and question them, and some of them are very good at it, some of them aren't. And I have one resident on my floor who's a paranoid schizophrenic who almost had to be sent out to CPEP because of it.

I don't doubt we'll have more deaths, I don't doubt we'll have more residents going out kicking and screaming. Many of them have lived their -- a good part of their lives here. We've had people here from the time they were 17 years old. We have one resident who is in Brookhaven Hospital, couldn't come back wouldn't agree to be a nonsmoker, who is still sitting in Brookhaven Hospital because no other facility will take her.

What we have been trying to tell the Legislature for five years is we take residents other facilities will not take. We have one resident on our floor who's mother has gone to, I don't know, at least 10, 12 places, won't take them. We have residents who -- we had a resident who was supposed to go to a facility the other day, sent over the -- faxed over the information, said, "No, they don't fit our criteria." This is what's happening, this is what we're running up against.

We don't want to close, we want to keep it safe. We had one resident that before she was six hours out of the facility fell and cracked her skull open in another facility. This is what you are doing to our residents. And if you think those lives are worth the almighty dollar, then I feel sorry for every one of you, every single one of you.

And, also, just to let you know, we are made of a body of roughly 160 some-odd people. We have a brain, we make up our own minds. We are not taking a vote tomorrow for or against because of anything that Kate Browning or John Kennedy said. We are doing it because of our residents. No, we don't want to lose our jobs, that's a given, but we do not want to lose our residents, and we don't want them taken care of by the Shermans, because we know the reputation the Shermans have. Yes, they have money, but their care for their residents sucks. And this we know from papers that we've read, different things that -- opinions of places they own. They do not take care of their residents, they take care of their pockets.

It will also have a profound effect on the community, because the residents have -- the Shermans have their own pharmacy, they have their own ambulances, they have their own transports. They have -- I know one of their, I guess you could say, affiliates, or whatever you want to call it, took over the Southampton Rehab. They opened an employment agency and all their staff came from there.

So, yeah, maybe they're going to take us for 18 months, but it also says in the clause that nobody

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will be terminated without cause. It says nowhere what "cause" it. It could be showing up one day without your I.D. badge, it could be showing up one day 10 days -- 10 minutes late. There is not a guarantee in that contract, and there's no signatures on that contract that I've seen.

The bottom line is we care about our residents. And if you all want to put a dollar value on human lives, then you go right ahead. But like I said, I feel sorry for every one of you because one day you'll have to answer for it. Thank you.

CHAIRMAN SPENCER:

Kathleen, we have a question for you. Would you mind coming back?

MS. REEVES:

Nope, not at all.

CHAIRMAN SPENCER:

Thank you. Legislator Browning would like to ask you a question, please.

LEG. BROWNING:

I did meet a gentleman last Saturday who told me he tried 30 nursing homes for his 55-year-old wife who has dementia.

MS. REEVES:

I don't doubt it.

LEG. BROWNING:

And that's very disturbing. And the individual you talk about, she sends me messages on Facebook. And the last place that, you know, she was telling me that no one wanted to take her, and I know -- and she's a problem, we all know that, we know her well. But at last call, she did let me know that the next -- the only nursing home that she was accepted to was in Massachusetts.

MS. REEVES:

Health Bridge.

LEG. BROWNING:

You're familiar with that?

MS. REEVES:

Yes.

LEG. BROWNING:

And I'm not going to mention her name, but this is one of the residents that I had concerns about, because under Rozenberg, they were trying to push her up there, too.

MS. REEVES:

Right.

LEG. BROWNING:

And --

MS. REEVES:

She has a son.

LEG. BROWNING:

She has --

MS. REEVES:

She does not want to go there.

LEG. BROWNING:

Right. She has a 12-year-old son who will not ever get to see her if you let her go to Massachusetts, and that's if you vote to give this place to Sherman, because he won't keep her either. I know what she's like. I know she's been a problem. She's a problem for the John J. Foley workers. Private nursing homes don't want problem residents. So let it be on your head, each and every one of you, who chose to send her to Massachusetts, because that's what you will do to her. You will be responsible for her to never see her child. Think about that as a parent, think about that as a grandparent. You guys are making a very, very sorry, sorry decision with these residents. To hear these people telling me -- I have a woman from Mastic Beach, can't get her a place for her husband, he's only in his sixties, thirty nursing homes. And the County Executive, I asked him, "Can you guarantee -- one of the meetings I had with him last week, "Can you guarantee to me that they will all stay in Suffolk County or even Nassau County?" He was pretty silent before he answered. And I can tell you that each and every one of them have tried multiple nursing homes, the ones who did get to leave, 13 nursing homes, 11 nursing homes, and couldn't find anywhere to put their family member.

You're putting these people's lives in jeopardy. And I'm just curious how many people have died over the past few years in comparison to what we've had in just a couple of weeks?

MS. REEVES:

I know we've had more deaths in the last three weeks than we've had in the last year.

LEG. BROWNING:

Thank you.

MS. REEVES:

I couldn't go over the last few years, but the last year.

LEG. BROWNING:

And CMS, they did an in-service with you guys about --

MS. REEVES:

Transfer trauma.

LEG. BROWNING:

Transfer trauma.

MS. REEVES:

There wasn't one employee --

LEG. BROWNING:

Would you like to tell me what that meeting was like?

MS. REEVES:

There wasn't one employee there that didn't want to punch him in the face, to tell you the truth. They read about people who were transferred and died to different places. I think they gave four or five examples, they were read. They were from letters that they had gotten. And their attitude at the end was, "Oh, well, people die." Well, yes, people do die, everybody's going to die, but that doesn't mean they have to die because of being moved. Even Richard Phillips, who has died, was in the hospital, he was supposed to come back. He was supposed to come back to the facility. He was told that John J. was closing and within two days he was dead. Yes, he had pneumonia, but he was resolving and he was due to come back. And within two days, he was dead.

And I also want to say that the -- when they had the meeting for the parents and the families of the residents, I was told this this morning by one of the mothers, they were basically told in these exact words, "Well, you better find someplace for your loved one or we will." Now that's not compassionate, that's not anything but cold, cruel and heartless. And to me, it sounds pretty much like what the County's doing right now.

(The following was taken by Lucia Braaten, Court Reporter, and transcribed by Kim Castiglione, Legislative Secretary)

LEG. BROWNING:

And the option is, there's more than two options, and that would be to open it and run it like the commitment that was made to you before the County Executive was elected, that he would do his best. He made a promise to me he would do his best and work with me. Nothing was done. Absolutely nothing.

MS. REEVES:

I have 18 copies of a letter that he sent out to the employees that he was looking forward to working with us. I have 18 copies. I can bring them in Tuesday.

LEG. BROWNING:

Thank you, Kathy. It's really a shame.

MS. REEVES:

It's pathetic.

CHAIRMAN SPENCER:

Thank you, Kathy. That's all the cards that I have. I am going to go to our Commissioner. I appreciate you being here. There was a question for the Commissioner about CMS from Legislator Browning.

DR. TOMARKEN:

Yes. I have the contract so I can -- if you'll indulge me I'll read the services that the CMS is supposed to provide. One is assist with implementation of the closure plan, including but not limited to providing inservice education, transfer trauma and abuse prohibition, monitoring the discharge process, monitoring compliance with quality of care and quality of life, regulatory requirements, and assisting with ensuring a safe and appropriate discharge of residents from the facility.

Number two, participate in meetings associated with the closure of the facility, which -- pardon me, which include meeting with County Administration related to implementation of the closure plan, meeting with County staff to review and assist as needed with paperwork associated with the closure of the facility.

Three, a meeting with the New York State DOH representatives as needed. Meeting with New York State Office of the Aging and Ombudsman Department to establish -- to establish a positive working relationship and identify the he scope of involvement from said development -- said department.

Five, meetings with department staff, Foley residents and Adult Daycare Program registrants and families and their legal representatives of the residents and registrants related to closure.

Three, assist in establishing a system for effective internal communication, progress reporting to the Suffolk County Executive and communication with external agencies, such as regulatory or other government representatives, media, other facilities, etcetera.

Four, assist in establishing effective lines of communication and monitoring of staffing agencies and other service providers. Five, provide on-site consultants for the duration of the closure to ensure successful execution of the closure plan. Number six, provide follow-up services with discharge residents and registrants upon request of the County. And seven, provide any additional services related to the closure of the facility upon request by the County.

LEG. BROWNING:

Can I ask a question?

CHAIRMAN SPENCER:

Legislator Browning.

LEG. BROWNING:

So my question says to assist with discharge. Is handing a list of 45 nursing homes to a family member and saying, "Find a place for your family member," is that considered assisting with discharge?

DR. TOMARKEN:

I think the -- I think the way that discharges have to be implemented is that people have the right and the obligation to pick from a list. We prepare the PRI and then they are given a list and they are -- have to decide which places they want their information sent to. And ultimately, they have to make the arrangement. We can't make the arrangement against their will. So you can interpret that as, you know, just sort of giving them a list and saying, "You're on your own," or this is a list of the local facilities, you have to choose from this list, those that we would send the information to, and then you would have to -- you or the legal guardian would have to make arrangements with this facility as to whether or not it was your choice, whether they can accept you, etcetera, etcetera.

LEG. BROWNING:

Is it appropriate for them to call family members and to speak with residents and say, "Well, if you don't find somewhere, we'll find something for you and you may not like it?"

DR. TOMARKEN:

I think -- I think there are ways to get that information across. I think, and I'm not defending if they said it improperly or unprofessionally then we need to know about it and we need to act on it. I think ultimately what they're saying is if at the end of the day this facility is closed and you haven't chosen or found one that -- to go to, then whether it be -- generally either the facility or the State will have to find a place, because this may no longer be a residential facility that you're allowed to stay in. That's the message. Now, how that's delivered, if it's delivered in an unprofessional manner, then I want to know about it.

LEG. BROWNING:

Well, now you are being informed, that there are a number of family members who have been called. Believe me, I get phone calls, being told, "Well, if you don't find somewhere we're going to find somewhere for you, but you may not like it". Also the treatment of the employees. I've had family members, Mrs. Benkenstein, who I know was on Channel 12, I met with her before her husband left and she told me that the CMS employees are very insulting and she said verbally are very abusive, not all of them, but quite a few of them. She's witnessed that -- she says that it's almost like they're treating the employees like the place is being closed because they're all abusive employees to the residents, which she says is by far what they are. So she was very upset with the treatment of the employees. So I think that's something that needs to be addressed, because they're getting a heck of a lot of money and not being paid to be abusive.

LEG. KENNEDY:

Mr. Chair, can I ask Dr. Tomarken a little bit about this, too?

CHAIRMAN SPENCER:

Legislator Kennedy.

LEG. KENNEDY:

Thank you. Thank you, Mr. Chair. How many residents do we have in the facility today, Doctor?

DR. TOMARKEN:

As of midnight last night it was 165.

LEG. KENNEDY:

Okay. And so how many residents have moved since this latest whatever you want to call it? You know, since CMS has been brought on and the Executive has indicated that it was his intention to go ahead and close the doors?

DR. TOMARKEN:

Since the closure plan's been implemented, 32.

LEG. KENNEDY:

Okay. So my recollection in going through all this is, is that nursing home beds, when you're under a closure process, get retired. They don't wind up sitting as a fungible commodity. One of the things that we've said all along is there's an inherent value to the license associated with each bed. Does that mean Suffolk County's license now stands at 165?

DR. TOMARKEN:

That's not my understanding --

LEG. KENNEDY:

Or 167?

DR. TOMARKEN:

That's not my understanding, because I think going back to the previous episode of attempted closure --

LEG. KENNEDY:

Yes.

DR. TOMARKEN:

I never ran across that. What happens is at the end of the day, when all the residents are transferred out, then you return the license to the State. So, to my knowledge, there isn't a gradual decrease in bed capabilities or bed allocations.

LEG. KENNEDY:

So, in other words, if there was a reversal of position by the County Executive or some change, we could run back up and we could run to the 264 we're licensed for.

DR. TOMARKEN:

I'm not the County Attorney, as you well know, but my impression is that we're still certified at, what is it, 264?

MR. FREAS:

Two sixty-two.

DR. TOMARKEN:

I thought it was --

LEG. KENNEDY:

Combined 264, 252 and 12.

DR. TOMARKEN:

Right.

MR. FREAS:

Two fifty-two and 12.

LEG. KENNEDY:

Okay. We've not forfeited any of the three licenses so far?

DR. TOMARKEN:

Not that I know of.

LEG. KENNEDY:

Okay. You know, like Legislator Browning, I'm extremely concerned with what's going on with the closure agent. Who is actually doing the PRI's now?

DR. TOMARKEN:

It's a combination of our staff and the consultant staff.

LEG. KENNEDY:

But PRI's have been done all along by our staff prior to when these people came in the door. Is there any reason why we -- it can't just be that we had to have them assist us with PRI's. We've got a PRI nurse right here; she's done it for five years.

DR. TOMARKEN:

It has to do with the volume, because everybody has to have a PRI, current PRI. So in normal circumstances when you're running a nursing home and you're not closing it, you would do PRI's on a prorated type basis, you do some today and some tomorrow.

LEG. KENNEDY:

Six month -- they've got a six month -- yeah.

DR. TOMARKEN:

Whenever they're term sort of came up.

LEG. KENNEDY:

All right. You know what? Listen, the rest of the questions I guess I need to bring to you individually, but I'll yield for now. That license conversation we need to go back to as well. I'll yield. Thank you.

CHAIRMAN SPENCER:

Hi there, Jim, thank you so much. Appreciate you being here. I've got a question I was wondering if you could address for me, because any time, you know, we're here we're on the record, and when I hear concerns that may be coming out of a particular process, it's always trying to figure out what is hearsay and what is actually occurring. And so, you know, again, as a Legislator, as a physician, always my primary concern is for really patients being treated fairly and humanely. So any time there's something like this that's going on, and I'm not saying that any statement is correct or incorrect or anything like that, and you have an outside organization, if there's a report of a patient that perhaps wasn't treated appropriately, and you have an outside consultant, is there an oversight mechanism that we have within the department, and how are these followed up? Because, you know, I get the reports and then, you know, you try to follow-up and sometimes some things are true and other things aren't true. So what do you do?

DR. TOMARKEN:

Every nursing home has ombudsman that are State representatives appointed by the State, that the patients and their families have access to and are there just for that kind of purpose, to have oversight. If there's a complaint to the State, State sends their investigators in. So -- and this has gone on since I've been here depending -- whenever there's a complaint. So if a resident or a family member makes a complaint to any of the staff, it should go up to the State and the State should send people in. As well they have the right to speak to the ombudsman who has the authority to get an investigation and look into the matter.

CHAIRMAN SPENCER:

To your knowledge, with regards to what's been going on, has there been complaints to the ombudsman or to the State?

DR. TOMARKEN:

I haven't heard of any, but unfortunately Mr. Carey wasn't available to come today, but I can check with him and get back to you on that.

CHAIRMAN SPENCER:

That would be very important, because again, my first and foremost concern is for the patient. And I definitely can appreciate the passion. I respect, again, the work, obviously that the employees are doing. And I really -- the patients and their families that with their pain and suffering I don't want to do anything to make that any worse in a difficult situation. So for me the most important thing would be to just follow-up on things that are egregious to make sure that, you know, what is folklore and hearsay and what are actually things that are occurring. It would be nice to be able to verify and make sure that we are doing all of our appropriate oversight.

DR. TOMARKEN:

Shall do.

CHAIRMAN SPENCER:

So with that --

LEG. KENNEDY:

Doctor, one more question for the Doctor. How did we get CMS?

DR. TOMARKEN:

It was -- they were referred to the Administration, and we had had conversations with them in the previous -- with the previous Administration when we were looking at closure. So we --

LEG. KENNEDY:

The one we used prior was Phyllis somebody. I whacked her too, right?

*(*Laughter*)*

All right. So this is somebody then who the Administration is aware of, knows about. You had the conversations and lo and behold they go by waiver. Okay. All right.

CHAIRMAN SPENCER:

Legislator Gregory.

LEG. GREGORY:

Thank you, Mr. Chair. And thank you, Commissioner, for being here. So as far as CMS, they are abiding by their agreement or contract with the County, right?

DR. TOMARKEN:

Yes. Just so you understand, we have phone conversations every other day with them, with the Administration, with the Health Department and with the Administration at the nursing home, including CMS. So we are in constant communication with them.

LEG. GREGORY:

Okay. So as far as the resolution that would discontinue their contract, say that were to pass, what happens?

DR. TOMARKEN:

It would make the closure process close to impossible, I would say.

LEG. GREGORY:

Why is that?

DR. TOMARKEN:

Because we don't have the amount of staff to do all the functions that I read to you. It would take -- it would take a very, very long period of time, it would take away from people doing their normal duties, because this is not part of the normal functioning of staff to go through a closure plan. And it would -- it's a central focus of organization that is required, and I think it would be very harmful in regards to the closure plan.

LEG. GREGORY:

So, to me, I don't think there has been a logical or reasonable or any substantive argument made that why we should cancel our contract with CMS. So could we -- say we did, couldn't we find another, like this Phyllis or whoever, I'm sure there are other agencies or organizations that do it, couldn't we find them and proceed with the closure?

DR. TOMARKEN:

Yes.

LEG. GREGORY:

But we would have to get the approval, I guess, from the State?

DR. TOMARKEN:

No. The closure consultant is someone we hire, so it's an internal process. So we would either go out to RFP or perhaps get a waiver like we did, and pick one and then contract with them.

LEG. GREGORY:

So all is not lost if the CMS contract were to be, you know, null and void.

DR. TOMARKEN:

I'm not that familiar with all the legislative part of it, but unless -- you know, if it's specific to that organization then --

LEG. GREGORY:

Right, it's specific to that organization, but not specific to the function. So -- and I don't think you can make it specific to the function if you have a State approval, I would think, for the closure.

LEG. KENNEDY:

To the Doctor.

LEG. GREGORY:

Right?

LEG. KENNEDY:

No.

LEG. GREGORY:

Did I say something incorrect?

LEG. KENNEDY:

As a matter of fact, just, if you will indulge, Doctor, for a second. As far as the closure, let's be very clear. The closure is something that we looked for. The County of Suffolk sought from the State Health Department. It is not a mandate imposed on us by them.

LEG. GREGORY:

Right. No, I understand that.

LEG. KENNEDY:

Right. And, in fact, with CMS they were retained by waiver, brought in, and the Doctor's own testimony has said that of the 30 some-odd residents that have gone so far, CMS has not actually facilitated a single one of them.

LEG. GREGORY:

It's not in their contract to do that.

LEG. KENNEDY:

I would disagree. As a matter of fact, what he just read to us was that they're supposed to assist and facilitate with discharge. They've not done a single one yet. They've done some PRI's, but you know that we have nurses in the facility that are trained, current and capable to do PRI's. So if what they're bringing to the table is that ability to actually do that, it would be a hell of a lot cheaper even if we went for, pardon me, I'm sorry, a heck of a lot cheaper, if we went for an agency nurse PRI certified. Not that I advocate agency, as you know. My point is, is at this point where we hear about a million dollars a month, which is nonsense, or \$240 million hole, why would we embrace 205,000 to an entity for all intent and purposes is superfluous. That's the motivation.

DR. TOMARKEN:

I would just say that I -- that the closure consultant not only does PRI's, but does a lot of liaisoning with the families, the other nursing facilities or wherever people are interested in going. So it's not purely just doing a PRI. There's a lot more function that goes on. And I think that a closure consultant, which from my understanding most, if not all, nursing homes do them if they're of a reasonable size, they hire them, isn't mandatory. It is in the closure plan that we --

LEG. GREGORY:

And that's what my question was, my questions was leaning to, although CMS is in the State approved plan, although it's not mandated from them that we close, but it is mandated that we use a CMS type agency or organization, from my understanding of the approval, and that's why I questioned could we use another agency that performs that function or does it have to be CMS specific and we have to start all over again. I wouldn't imagine it would be CMS specific.

DR. TOMARKEN:

I could envision us going to the State saying, "Look, this company", and perhaps at some point if we thought they weren't doing the job we could say, "We'd like to replace them with company Y", and I -- they would have to review it and decide if that was appropriate.

LEG. GREGORY:

Right. I'm sure there would be some type of amendment.

DR. TOMARKEN:

Right.

LEG. GREGORY:

So like I said not all is lost. But they're performing to the specifications of the contract as far as your --

DR. TOMARKEN:

At this point that's my understanding and that's my experience with them.

LEG. GREGORY:

Okay. I had another question I forgot, but I'll yield. Thank you.

CHAIRMAN SPENCER:

Legislator -- I'm sorry, Horsley, has a question.

D.P.O. HORSLEY:

That's okay. Doc, good afternoon. You know, I'm curious, and I know that we had our choices of who we'd use as a closure consultant. Are there standards for closure consultants? Do they have to be regulated by the State? Do they, you know, do they file with the State? Do they have to -- they have training, have any training expertise, or can you just hang out a shingle and say I'm a closure expert.

DR. TOMARKEN:

I can't give you the absolute answer as to exactly under what auspices they work, but they are -- their team consists of RN's and Social Workers. I'll have to get you that information if they are a licensed organization.

D.P.O. HORSLEY:

Okay. And so when -- let me just carry it further, then, and you can get back to me on that, that would be of interest. But clearly they just didn't take CMS out of, you know, some bottom drawer of a desk and say, "Oh, I like this guy. This guy is the kind of company that I'd like to hire". They had -- they went through the waiver procedure, they had professionals on the staff, they had the individuals within the corporation were licensed, as you're saying they're nurses and etcetera. There was a level of professionalism that would have had to have gone through and accepted by us for us to have had -- had accepting them.

DR. TOMARKEN:

First of all, we had dealt with them previously.

D.P.O. HORSLEY:

Okay. Well, tell me about their experience. How did we get them initially?

DR. TOMARKEN:

Well, we just had initial discussions with them, but the point is that they were -- we chose to talk with them because we had heard good things about them.

D.P.O. HORSLEY:

So they're known in the field?

DR. TOMARKEN:

Yes. And in fact, this time they were recommended to us by the Director of another nearby nursing home.

D.P.O. HORSLEY:

Okay. So there are recommendations, there were -- they've done work that you know about concerning closures. Are there any other things you could tell us about this because we weren't there on the Waiver Committee, you know, we didn't have the background in front of us. You know, maybe you could tell us a little bit about them that you knew about so that when this decision was made, that it wasn't just, as I said, pulled out of the bottom drawer of the desk.

DR. TOMARKEN:

It was a combination, and I wasn't -- I didn't make the decision, so I wasn't privy to all their presentations. But we knew them from before, our Administrator knew they had a CMS from previous experience. This company was recommended to us by the Director of a nearby nursing facility. So there was no reason to not think that they couldn't do the job and they've done this job in other facilities throughout the State.

D.P.O. HORSLEY:

Right. So once it was suspected they have been -- their credentials had been checked and we have, you know, we have looked in the internal workings of this particular corporation. You don't have to answer this right this second, you know, but that would be the assumption if they have a track record in the field, you know of them and people are recommending them that that would be the case and obviously went through our waiver procedure. You know, I just don't -- I just want to dispel any myth here that this is a fly by night corporation that we've hired here, and so I just -- you know, and you have testified today that you know of no complaints against them that you have been able to verify that they've done wrong or that they've mistreated patients or anything like that, is that true?

DR. TOMARKEN:

Nothing along those lines has been brought to my attention nor have I heard from the ombudsman.

D.P.O. HORSLEY:

And you would assume that you would have heard by now if that was the case? They've been on the job now how long?

DR. TOMARKEN:

Since March 19th.

D.P.O. HORSLEY:

Okay. Since March 19th. I'm not trying to say that they're all hunkey-dory. I'm just trying to see that there was a rationale behind hiring these peoples and if there were complaints against them, you would have heard about it.

DR. TOMARKEN:

I would make that assumption, yes, that we would have heard and I would assume the Director at the nursing home would have voiced those as well.

D.P.O. HORSLEY:

Okay. Is there anything that you would like to add to this argument of their qualifications, you know, of their performance? You know, it doesn't sound like you're ready to can them because they've done a poor job.

DR. TOMARKEN:

I have no thoughts in that direction. They've been doing everything that we've expected them to do and to the best of my knowledge in a professional manner. Either -- possibly people are saying things in a way that is not the most sensitive, that's always possible. I have yet to hear of that. They're an experienced team. They are doing the job to our satisfaction, and I had no concerns about terminating their contract.

D.P.O. HORSLEY:

Thank you for putting that on the record.

*(*The following was taken and transcribed by
Lucia Braaten - Court Reporter*)*

CHAIRMAN SPENCER:

I have quite a list. I have Legislator Gregory, and then Kennedy, then Browning. You know, I just -- I do see -- your hand is up because you wish to be acknowledged --

MS. REEVES:

Yes.

CHAIRMAN SPENCER:

-- in the audience? I don't think there's -- I apologize. The public portion is closed, but if you --

LEG. KENNEDY:

They're calling her a liar, though. I mean, come on, she stood at the podium.

CHAIRMAN SPENCER:

No, no, no. Legislator Kennedy, and again, I'm a relatively new Chair, as a Legislator, would you like to call her up to ask her a question?

LEG. KENNEDY:

Yes.

CHAIRMAN SPENCER:

You have that option to be able to do it, so --

LEG. KENNEDY:

Yes, absolutely.

CHAIRMAN SPENCER:

But Legislator Gregory does have the floor.

LEG. KENNEDY:

Thank you. Absolutely. Thank you.

LEG. GREGORY:

Thank you, Doctor. I don't personally believe you were calling anyone a liar, you said you would presume that if there were complaints, you would hear about it.

DR. TOMARKEN:

Correct. And if we -- if there are complaints, we do want to hear about them.

LEG. GREGORY:

Okay. Now to my question.

DR. TOMARKEN:

And we act on them.

LEG. GREGORY:

And I have one question. In the article in Newsday, you had -- not you. I'm sorry, I apologize. The article stated that CMS expected to close -- have their plan executed within two months; is that

still on schedule?

DR. TOMARKEN:

Yes, I think at the beginning, we were looking at 60 to 90 days as an average from previous experiences.

LEG. GREGORY:

So maybe June, I guess, end of June?

DR. TOMARKEN:

In that neighborhood, yes.

LEG. GREGORY:

Okay. Thank you, Mr. Chair.

CHAIRMAN SPENCER:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Doctor. With the permission of the Chair, I'd like to invite Ms. Reeves to, please, come back to the podium so I can speak with her.

CHAIRMAN SPENCER:

Ms. Reeves, would you, please, come back to the podium?

LEG. KENNEDY:

Thank you.

CHAIRMAN SPENCER:

Thank you. Legislator Kennedy, the floor is yours.

LEG. KENNEDY:

Thank you very much, Doctor. Okay. I didn't change the battery in my hearing aid today, so maybe I didn't hear before.

MS. REEVES:

No. What I wanted to say was CMS has not facilitated or taken part in one discharge out of the facility to date. The only residents that have gone have been taken by their families. They have not facilitated anything. Yes, they've done PRIs, they've done in-service. Some of them have talked to the residents and gotten the residents upset. Some of them have talked to the residents, other residents, and not gotten them upset. But they have not done anything to do with any discharge to date.

LEG. KENNEDY:

Okay.

MS. REEVES:

Thank you.

LEG. KENNEDY:

So -- well, don't go anywhere. Since I think it's -- now wait a minute. I forgot when you came up here. Are you a nurse?

MS. REEVES:

Thirty years.

LEG. KENNEDY:

Okay. Are you licensed through the State of New York?

MS. REEVES:

Thirty years.

LEG. KENNEDY:

Very good. Okay. What have you heard that CMS has said to residents or families?

MS. REEVES:

Well, like I said, we have one resident on my unit who's a paranoid schizophrenic, who the lady from CMS went in and talked to him. He came out, he was all upset. He was, you know, "Is this place going to close, and what's going to happen to me, and where am I going to go," and all this kind of stuff, and, you know, because, we tell him, you know, "You're going to be okay, you're going to safe." And then he's, "I don't want to go anyplace, I don't want to." And that was on -- I think it was Thursday of last week. Saturday they all but had to send him out to CPEP. And there's him and one other resident on my unit that they will not go in to see them unless I'm with them, plain, simple, end of story.

LEG. KENNEDY:

Okay. Are you telling us the truth today?

MS. REEVES:

I have no reason to lie.

LEG. KENNEDY:

Okay. Would you object to being put under oath?

MS. REEVES:

On who?

LEG. KENNEDY:

Oath.

MS. REEVES:

No.

LEG. KENNEDY:

Good. I didn't think so. I can't do it and I'm not going to do it, although the Clerk's Office could if I asked for it.

Doctor, let me ask you, did you just hear what Ms. Reeves had to say?

DR. TOMARKEN:

Yes.

LEG. KENNEDY:

Okay. Do you think that she's telling the truth?

DR. TOMARKEN:

I have no reason to doubt her. I think we need to look into the individual situation to know exactly what was going on.

LEG. KENNEDY:

Okay, I appreciate that. So I'd say, at this point, we at least have some credible objection to the performance of this contract entity that the County Executive's sought for this function; you agree?

DR. TOMARKEN:

I think it requires investigation.

LEG. KENNEDY:

Thank you.

D.P.O. HORSLEY:

Doc, may I just --

CHAIRMAN SPENCER:

I apologize. Legislator Browning is next.

D.P.O. HORSLEY:

Okay, I'm sorry.

CHAIRMAN SPENCER:

I have --

LEG. BROWNING:

I'll defer.

D.P.O. HORSLEY:

Is this where we yell "hearsay"?

CHAIRMAN SPENCER:

She defers. So, Legislator Horsley, she defers to you. She defers to you.

LEG. BROWNING:

Ask the question. You want to ask Kathy a question?

D.P.O. HORSLEY:

Yes, I do, Kathy. And I have a great deal of respect for you and all the work that you've performed over your 30 years, and I applaud you for your service to the County. I just wanted to -- you know, you have just told this -- what you've heard about what CMS has provoked this client, this patient.

MS. REEVES:

I'm sure it wasn't intentional.

D.P.O. HORSLEY:

I'm sure it -- okay. So it wasn't intentional.

MS. REEVES:

No, I'm sure it wasn't intentional.

D.P.O. HORSLEY:

Now, would you not agree --

MS. REEVES:

This is one of them.

D.P.O. HORSLEY:

Okay. And I think it's -- and I certainly understand your angst over the issue, because this is a very upsetting situation for anybody who's a patient in long-term care in a nursing home, that they are hearing, maybe for the first time, that the building is going to be closing down, and that, you know, whatever the particulars that they may have presented to the patient. Don't you -- do you feel that this reaction would be something that, even just hearing that, might have provoked it, that may not have been said in a tone that was inappropriate, or maybe, you know --

MS. REEVES:

No, I don't --

D.P.O. HORSLEY:

Because you didn't hear it, right?

MS. REEVES:

I don't think just hearing it would have, because --

D.P.O. HORSLEY:

The man --

MS. REEVES:

I'm sure he's heard it.

D.P.O. HORSLEY:

-- he's a schizophrenic, you were saying?

MS. REEVES:

A paranoid schizophrenic.

D.P.O. HORSLEY:

Paranoid schizophrenic, so --

MS. REEVES:

And I'm sure he's -- but I'm sure he's heard it. In fact, he was at the --

D.P.O. HORSLEY:

But his reaction could have been because of his illness, that -- the way he reacted?

MS. REEVES:

I can't -- I'm not a doctor, a psychiatrist.

D.P.O. HORSLEY:

Nor am I and I'm not trying to make a judgment. I'm just questioning the fact that it has been presented that this is -- one is causal to another, you know, that they went in and they mentioned it to him, that is the fault of them, and that's why they're doing a poor --

MS. REEVES:

I didn't say that. That's not what I said. What I said was -- in fact, the woman who went in and spoke to him, of all the ladies from CMS there, she's the nicest. The thing is he's scared.

D.P.O. HORSLEY:

He's scared, and I understand that.

MS. REEVES:

He has -- basically, he's led a horrible life, if you knew his history. This is the only place he's been able to call home.

D.P.O. HORSLEY:

So it is upsetting.

MS. REEVES:

To say the least.

D.P.O. HORSLEY:

Right. I understand that, and I understand the reason for his upsetment.

MS. REEVES:

You know?

D.P.O. HORSLEY:

Okay.

MS. REEVES:

And for somebody to just tell him the place is closing, you have a -- you know, "You're going to have to go someplace," and not -- and letting it go at that, how would you feel?

D.P.O. HORSLEY:

I would be upset.

MS. REEVES:

You know?

D.P.O. HORSLEY:

And I think that's -- it's a natural -- and it is. I think it's natural. But I think my point has been made, that it -- you know, that the man is not well, that's the reason why he's there, and that they had brought to him an unfortunate situation to his attention and he reacted to it, and that's --

MS. REEVES:

In all due respect, Legislator Horsley, none of the people that are there are well.

D.P.O. HORSLEY:

I know that, yeah.

MS. REEVES:

If they were well, they wouldn't be there.

D.P.O. HORSLEY:

Right. Oh, I understand that.

MS. REEVES:

And you don't realize what the affect it's having on them.

D.P.O. HORSLEY:

Yeah, I'm getting to. Thank you.

CHAIRMAN SPENCER:

Thank you. Thank you, Commissioner, we appreciate your time. And what I would hope is --

LEG. BROWNING:

I had questions I just wanted to --

CHAIRMAN SPENCER:

Oh, she deferred to Legislator -- oh, I apologize. Legislator Browning.

LEG. BROWNING:

I apologize. And I guess Craig left the room. I'm assuming Craig might come back, because I had a question for him.

You actually mentioned, because, obviously, for CMS, there's more than one company. No, not for you, Kathy, for Craig. There's more than one company can do closures. In fact, one of the companies called my office and said, you know, "That's something that we do." However, there was no RFP. There was an RFP waiver, again, to hire CMS.

Now you had mentioned that he came recommended. And I think there should be a full disclosure as to who recommended this company. I mean, he was recommended by -- was Mr. Carey familiar with CMS in the past?

DR. TOMARKEN:

I think he had known them, but he didn't -- it wasn't his recommendation.

LEG. BROWNING:

It wasn't his? And so, you know, again, I think there should be a full disclosure of the Legislators who recommended CMS.

DR. TOMARKEN:

His name came to us through -- not his, it's the company's name came to us through Mr. Scanga from the Veterans.

LEG. KENNEDY:

Gees.

LEG. BROWNING:

There you go, that explains everything. Okay, thank you. I appreciate that information.

And, again, Craig, this million dollars a month story that we get every time we look at the paper, you know, it could be a short answer, it could be a quick -- a long answer. The bottom line is, BRO did a report, and basically your report, I guess, running --

MR. FREAS:

Three.

LEG. BROWNING:

Three?

MR. FREAS:

Two A9-6s, and a report in 2008/2009 on the operations of the facility.

LEG. BROWNING:

Okay. So, basically, if we were to run the place with no major changes, it was going to be a three to five million dollar subsidy that we would have to provide?

MR. FREAS:

I believe it's -- I'd say it's more like five to seven, but, yeah, it's in that -- it's in that range.

LEG. BROWNING:

Okay.

MR. FREAS:

That being said, that includes the upper payment limit, Intergovernmental Transfer Program, as a cost mitigator. The facility, on a straight operational basis, costs more than the five to seven million dollars, it's more in the nine to twelve million dollars a year.

LEG. BROWNING:

And because our Medicaid, the number of Medicaid beds that we have are much higher. And, obviously, for a long time we haven't had bed hold, which certainly doesn't help. So when we keep hearing the million dollars a month, is that, what I want to say, a self-inflicted million dollars a month because there are empty beds? I think you could just make that a yes or no answer.

MR. FREAS:

I wish I could.

LEG. BROWNING:

Okay.

MR. FREAS:

If you're looking at the straight operations of the facility, a million dollars a month, given the fact that we are obviously not bringing in as much revenue because we have fewer patients, and many of our costs are fixed, it's a reasonable budgetary assumption, let me put it that way. If we had more patients, given the fact that as we have less, we still have to feed everybody, and clean the hallways, and make sure the boiler works, and those are costs that don't change, whether -- don't change much --

LEG. BROWNING:

Right.

MR. FREAS:

-- if we have 160 or 260 patients. Obviously, if we have more patients in the facility, the net cost of the facility is less.

I'm going to point out also that BRO's position on this consistently for the last five years is that given our -- given the patient load, the fact that we have higher numbers of Medicaid patients than typical facility -- than not-for-profit or for-profit facilities in this market, the County, again, is what we consider the market to be, and given the fact that we also take Day One Medicaid at a much, much higher rate than anybody in the County, that we don't believe that ultimately the facility would be cost-neutral. We believe that there would -- that the historical --

LEG. BROWNING:

But that would be without any changes. Let's say the Union was to come forward and say, "We're willing to renegotiate our contract," to have it more of a working -- a nursing home type contract, that would reduce costs?

MR. FREAS:

It may reduce costs, yes. But, yes, that's correct, our assumptions were that the pension plan would stay as a defined benefit plan, that the health insurance would stay as a no-employee-contribution, and so forth.

LEG. BROWNING:

And so, you know, obviously, we -- with the pending closure, or lease, or sale of the facility, we will still have some recurring costs. But let me ask you, let's say we just -- you know, the nursing home is closed tomorrow, what is the benefits and what is the negatives towards closing it, financially?

MR. FREAS:

The legacy costs at this point are basically the costs for the retired employees who are carried in Fund 632, the Nursing Home fund; it's about two million dollars a year, give or take. The other costs that would theoretically be a legacy cost would be the debt service on the facility. However, HEAL 21 -- HEAL 21, is that what we're up to now?

DR. TOMARKEN:

(Nodded yes).

MR. FREAS:

HEAL 21 apparently allows us to establish the sinking fund and defease that debt, so there's no -- that's a State grant, so that that cost does not carry forward. That cost, it's covered, it's defeased.

LEG. BROWNING:

Even with the closure, we're going to be allowed to use the HEAL 21?

MR. FREAS:

That I do not know.

LEG. BROWNING:

Doctor, do you have an answer?

DR. TOMARKEN:

That's my understanding.

LEG. BROWNING:

Okay, so -- but we'll still have a recurring cost. We're going to sell it for 23 million dollars, one-shot, which actually only 12 goes into the General Fund, correct?

MR. FREAS:

As of the '13 budget, yes. Obviously, the transfer will have to be smaller as the longer that we have to operate for the course of the year.

LEG. BROWNING:

Okay. But we will have a continuing recurring cost every year of about two million dollars?

MR. FREAS:

Until those employees age out of the health care system, one way or the other.

LEG. BROWNING:

Okay. Thank you. I don't think there's anything else. I know there was a Mr. Peckman who had reached out to me and sent a letter. I don't know if you would be willing to read it on the record.

CHAIRMAN SPENCER:

Legislator Browning has submitted, as correspondence to the Health Committee, a letter from a Bruce Peckman, and she's requested, it's a short letter, that it be read into the record.

Please let me introduce myself, I am Bruce Peckman. My Partners, Management Team and myself have applied for both Suffolk County's RFP for John Foley Nursing Home with a lease option. We were called in by Ms. Calcaterra to meet with her and senior people about buying John J. Foley.

At the meeting at the County office on Tuesday, we were asked if we could bid on the purchase by Monday. I requested a copy, which I received on Thursday. Ms. Calcaterra specifically stated that

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the County would not assist with zoning, but would provide any documents needed. Plus, there would not be a tax abatement, even though we asked for only a two-year deferment. We specifically indicated that all our facilities are 1199 and we can work with the union. We further indicated that an abatement would not make sense for the County.

Also, at this meeting I expressed that since the County would continue the liability of 4 to 4.5 million dollar pension retirement, selling the facility should not be an option. Instead, there should be management team in place to raise revenue and quality by increasing CMI, Rugs and admissions.

My team and I are interested in helping to buy the County -- the County turn around this facility, save jobs and keep its mission. We would entertain a management contract to get the County to the right place. Our turn-around expertise is well known and quality of care is established. Yours truly, Bruce Peckman.

So, as requested, that correspondence has been read into the record.

LEG. BROWNING:

Mr. Vaughn, I guess, obviously, you've not been privy to some of those meetings, but I'll give you a copy of this letter, and to date I haven't received. I believe the County Executive's Office have asked the question. I would like a response. Why would they choose someone, and from what I understand, was not one of the higher bidders? He bid actually when Rozenberg was chosen under the former Administration, and he was a higher bidder than Mr. Sherman.

It states in the letter that he didn't understand why it would be a 10-year tax abatement; he was only asking for two. I think the tax abatement works out at about \$400,000 a year. So why would --

MR. FREAS:

I believe it's about \$300,000.

LEG. BROWNING:

Three hundred thousand? So why would this Administration go ahead and sign a contract with a purchaser and give him a 10-year tax abatement when someone else says, "I can do it for two"?

And the statement that Mr. Sherman was union and that's why they chose him, Mr. Peckman said that he has 1199 representing all of his facilities.

And, also, he made an offer of a lease in the beginning and was rejected when he offered a lease. So why wouldn't we now consider him for a lease? And why not put out an RFP for a lease, being that we do know there are other individuals who were interested?

So if you could get back to me with an answer. I'm still -- like I said, I've asked the question and I've yet to hear it. And, again, here's a gentleman who said, "I can run it, I can get you a profit," and you wouldn't have to worry about that recurring cost with the retirees. So still waiting for an answer. I would appreciate it if you could see if you could get me one.

And, also, to say the one other question is that the zoning -- so, as Regina Calcaterra specifically stated, that the County would not assist with zoning, but would provide any documents needed. So could I get an answer as to why the County went to the Town of Brookhaven for the variance for the Shermans when they told everyone else they wouldn't? Is that good? You got that?

MR. VAUGHN:

Is that good?

(*Laughter*)

LEG. BROWNING:

I should maybe rephrase that, but you got all my questions? I'll give you the letter.

MR. VAUGHN:

I have a copy of the letter.

LEG. BROWNING:

Okay. Thank you.

CHAIRMAN SPENCER:

Thank you, everyone. I have no other speakers. And, Mr. Vaughn, did you have a statement, or did you want to speak?

MR. VAUGHN:

I actually have two questions that I'm hoping that maybe a member of the Committee would indulge me and have -- and possibly have answered. So I'm hoping that maybe, perhaps you, Mr. Chairman, would ask Mr. Reeves, I believe, two questions that I have, and the two questions are as follows:

One, I'm curious if the incident about the patient being made upset was actually witnessed or a statement that was referred to her by another party. So I understand that there was a conversation with the patient that made the patient upset, but what I want to know is if there was another individual in the room who actually witnessed that happen. So I would like that to provide greater context to the event. I think that would also be very helpful to Dr. Tomarken and fair.

The other question that I have for Ms. Reeves, and I would hope that somebody could ask this, and its just -- maybe its selfish for me to want to know this, or maybe it will provide some clarity, but I would like to know, if left with the following two choices, the residents staying or the workers working for the Shermans, which is more important, and which one is the answer? If you could only pick one, you could pick one, you could either work for the Shermans and all the residents don't stay, or whatever, or do you -- or, you know, the residents all stay and you don't have to work for the Shermans, which is it?

CHAIRMAN SPENCER:

What I'm going to do, Tom, and I understand, I think that as a Chair, you know, my second year into this, which is just nice, I think we've had -- but definitely --

MR. VAUGHN:

This has been very interesting because of you, sir.

CHAIRMAN SPENCER:

It's been a very interesting committee. And there's been a level where I've looked back and forth to try to guide the testimony, and we've kind of wandered a little bit. But I think that we're -- I do think that we can take that as far as I'm hoping the Administration, both from Department of Health, as well as your connection, that we can take those concerns. But to ferret that out in terms of a back and forth in this venue, I'm going to take a Chairman's prerogative and I think that we should probably not, it's inappropriate. And I'm just looking at Counsel for a little bit of guidance. But you do deserving answers to that, and it has been a one-sided, or maybe, conversation.

MR. VAUGHN:

And, Mr. Chairman, with the deepest respect, and I certainly -- with the absolute deepest respect for you as Chairman, but there have been a lot of questions that were asked and put on the record, and

just in fairness, I'm just asking for a fairness issue.

LEG. KENNEDY:

Prerogative of the Chair. Prerogative of the Chair.

LEG. HORSLEY:

Yeah, I agree with you, Doc.

CHAIRMAN SPENCER:

Absolutely, Tom, I do. But I think that the difference, in terms of, you're right, from a fairness point of view, where you would have a chance, and, again, that has nothing to do with our personal relationship. And what I'm being told by Counsel is that Legislators have that latitude as committee members, or they may, and I can't inhibit that line of inquiry. But when its coming from an outside source, although we're working in concert together --

MR. VAUGHN:

Sure, Mr. Chairman, and I certainly understand that, which is why I would hope that perhaps either you or one of the other members of the committee might ask -- might bear those two questions for me.

However, the hour is late, I understand. I do appreciate your indulgence. I appreciate -- I appreciate you allowing me the opportunity, as always, to get the Administration's point of view on the record. Thank you.

CHAIRMAN SPENCER:

Sure. I would actually, if the leadership has any sort of direction on this, but I think we're going to move on.

LEG. KENNEDY:

The Minority says move the agenda.

*(*Laughter*)*

CHAIRMAN SPENCER:

We're going to move the agenda. Tom, I appreciate it, and I --

LEG. BROWNING:

The Minority Leader.

CHAIRMAN SPENCER:

Okay. All right. So we're going to move on to our agenda. And I've been told that I am the leadership in this particular situation and we're going to move on to the agenda. But I do think that you asked very valid questions, and I am going to take it upon myself to get you answers to that. And we have a short cycle, so if there's someplace where the record has not been fair, then we'll have an opportunity to come back to that, Tom, but thank you.

INTRODUCTORY RESOLUTIONS

We're going to go the agenda. The first one is I.R. -- it's a short agenda. ***I.R. 1217 - Accepting and appropriating 100% Federal grant funds from the National Association of --***

LEG. CALARCO:

The tabled resolution.

MS. SIMPSON:

That was stricken.

CHAIRMAN SPENCER:

That table resolution was stricken, so there are no tabled resolutions. ***100% Federal grant funds from the National Association of County and City Health Officials (NACCHO) to the Department of Health Services for the implementation of Emergency Preparedness Strategies for Community-Dwelling of Older Adults (Co. Exec.)*** It's 100%.

I make a motion to approve and place on the Consent Calendar.

LEG. CALARCO:

Second.

CHAIRMAN SPENCER:

All those in favor? Opposed? Abstentions? And seconded by Legislator Calarco. ***(Vote: Approved 4-0-0-1; Not Present: Leg. Montano)***

I.R. 1251 - Amending the 2013 (Adopted) Operating Budget to transfer funding from Brentwood Union Free School District (UFSD) and the Town of Islip-ACCESS/ACCESSO programs to various agencies for the provision of chemical dependency services (Co. Exec.). I'll make a motion to approve.

LEG. CALARCO:

Second.

CHAIRMAN SPENCER:

Second by Legislator Browning. All those in favor? Opposed? Abstentions? ***(Vote: Approved 4-0-0-1; Not Present: Leg. Montano)***

We took I.R. 1255 out of order. I have no other business before this committee. It's a short cycle. I'll see you in two weeks. I thank you, everyone.

I know that -- again, let's keep in mind those families who are suffering with the situation in Boston, that we look at the deaths, the number of people who have been maimed and injured. There is a health care crisis and we are a Health Committee. We know that freedom was attacked this week, and we hope that we will continue to exercise the freedom, and this is part of it, that we could have this government process. So I thank you, and have a good evening. Motion to adjourn. Thank you.

LEG. KENNEDY:

Motion.

(*The meeting was adjourned at 4:11 p.m. *)