

**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 2nd, 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:

George Nolan - Counsel to the Legislature

Sarah Simpson - Counsel's Office/Suffolk County Legislature

Alicia Howard - Legislative Aide/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

Jon Schneider - Deputy County Executive

Tom Vaughn - County Executive Assistant

Mary Barbone - County Executive Assistant

Dr. James Tomarken - Commissioner/SC Department of Health Services

Margaret Bermel - Director of Health Administration/DHS

Jen Culp - Assistant to the Commissioner/DHS

Any Juchatz - Environmental Toxicologist/DHS

Kevin Cary - Administrator/John J. Foley Skilled Nursing Facility

Basia Braddish - Assistant County Attorney for Suffolk County

Phyllis Seidman - Deputy Bureau Chief/Suffolk County Attorney's Office

Robert I. Ross - Vice-President/Southampton Hospital

Linda McGreggor - RN/Suffolk County Department of Health

Danny Towle - Riverhead Health Center/SC Department of Health Services

Diane Towle - Riverhead Health Center/SC Department of Health Services

Mary Finnin - Representing Public Health Nurses

Dan Farrell - President/Association of Municipal Employees

Don Dailey - 4th Vice-President/Association of Municipal Employees

All Other Interested Parties

Minutes Taken By:

Alison Mahoney - Court Reporter

*(*The meeting was called to order at 2:40 P.M. *)*

CHAIRMAN SPENCER:

Welcome to the Health Committee meeting. And we're going to stand and have a pledge to the flag to be led by Legislator Montano.

Salutation

Before being seated, if we could just have a moment of silence for those who continue in service around this country, and still for those victims who are still recovering from the Boston Marathon bombings.

Moment of Silence Observed

You may be seated. We are going to have a deviation from our normal agenda, just because we have some representatives who are on various timetables on an important issue that we have to discuss. So I do have the cards for the public portion and we will get to those in a few moments. But we are -- we have members from the Executive's Office and the Department of Health, and there is a resolution that we want to take out of order to discuss. And I'm going to ask for a motion to take -- what's the number? IR 1365 out of order. May I have a second?

LEG. KENNEDY:

Second.

CHAIRMAN SPENCER:

All right. All those in favor? Opposed? Abstentions? We have this matter before us.

1365-13 - Amending the 2013 Capital Budget and Program, and appropriating funds in connection with improvements and modifications to Health Centers (CP 4082)(County Executive).

I'm going to ask if Commissioner Tomarken would come forward at this time. And this is in connection with modifications and improvements to our health centers, and it relates to just with regards to funding sources that are expiring and a plan. So I'll ask the Commissioner if he would kind of lay out the issue for us, and then we also have representatives from Southampton who are with us and others from the Administration that will debate this issue. So Dr. Tomarken, thank you.

COMMISSIONER TOMARKEN:

Thank you and good afternoon. I'd like to provide an overview of the vision for the Suffolk County Health Center Network. The health centers were started approximately 40 years ago as a safety net for those uninsured and under insured County residents. At that time, there were few, if any, other alternatives to health care services in the County. The network since then has consisted of nine health centers for which the County holds the operating certificate. The Dolan Health Center receives a subsidy from the County and has its own operating certificate. Last year the operation of the Elsie Owens Health Center at Coram was transferred to HRHCare, an FQHC non-profit organization, reducing the network to eight health centers. During the settlement talks with the New York State Department of Health, during the summer of 2011, the State expressed that given the changing face of health care, the County should not be in the direct health care business.

Another way the State has been sending us this message is that they have dropped the aid we receive on our health centers from \$30.4 million in 2008 to \$16.3 million last year.

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In the face of our conversations with New York State Department of Health, the reality of our declining aid and the budget challenges facing Suffolk County, the current Administration is seeking opportunities to continue to pursue the FQHC model which offers a number of benefits to Suffolk County residents. FQHC pursues the same mission as Suffolk County. For instance, the mission statement of HRHCare is to, quote, "To increase access to comprehensive, primary and preventive health care and to improve the health status of our community, especially for the underserved and vulnerable."

The FQHC model will achieve the goals of enhancing services for Suffolk County residents at a reduced cost while releasing Suffolk County from its medical malpractice liability. The current introductory resolution proposes to use HEAL 6 funds originally designated for the South Shore Regional Health Center to be used for capital improvement projects for the proposed consolidated East Hampton and Southampton Health Centers on the Southampton Hospital Campus, and also for other health centers within the network. The State approved repurposing these funds because the projected project is in line with the stated objective of the HEAL 6 Grant which is to enhance primary care services in Suffolk County for underserved populations.

The following is a timetable of events leading up to this period of time and how we have evolved from the proposed South Shore Region Health Center to the multi-phased capital improvement projects for several of the health centers. Going back to February 25th, 2009, an RFP was issued to build-to-suit center. Responses were evaluated between June and August of '09 and were rejected on September 24th, 2009, due in part to high cost that is 34 to \$47 per square foot which would have resulted in an estimated and additional \$1 million in rent. Again, September 24th, 2009, the Space Committee also voted to pursue possible negotiations with the Brentwood Health Center landlord for a possible lease extension and for renovations to the facility using the HEAL 6 funds.

It's important to note that there is an existing lease at Brentwood Health Center through March 21st of 2014. At this point, the plan changed from a new build to renovation/expansion of existing health centers. In December of 2009, the Central Islip Health Center, in need of extensive repair, was closed and patients were largely absorbed into the Brentwood Health Center. In February of 2010, the Space Committee voted to keep the Brentwood Health Center at its current facility. Also, the Suffolk County Health Department submitted a request to the New York State DOH for a no-cost two-year time extension for the HEAL Grant, HEAL 6 Grant, through September 30th, 2012. On October 18th, 2010, only a one-year extension through September 30th, 2011, was approved by the New York State Department of Health.

In April, 2011, planning was completed for the renovation and expansion of the Brentwood Health Center. On April 28th, 2011, the Health Department, Suffolk County Health Department received a letter from DPW indicating a project completion date of December 10, 2012, if the bids went out on or about May 5th, 2011. This was beyond the date of the New York State Department of Health extension of September 30th, 2011. This would put the County at risk for any cost incurred after September 30th, 2011.

Also in this letter was a concern regarding IR 1265-2011, establishing a commission to deal with the proposed \$20 million cut in expenditures from the 2011 operating budget. On April 29th, 2011, Suffolk County Health Department submitted a request to the New York State Department of Health for an additional 18-month no cost time extension of the HEAL Grant through March 31, 2013. New York State granted a one-year extension through September 30th, 2012. At that time, negotiations with the landlord were continuing.

On May 3rd, 2011, the Health Department received a letter from DPW indicating continued negotiations with the landlord, but expressing concern that signing a lease extension which would increase the County's obligations to the landlord before the recommendations of the above commission may not be prudent.

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During the summer of 2011, there were negotiations with the State regarding reimbursement of public health services in Suffolk County. As a result, the health center budgets were reduced mid-year. The Brentwood Health Center budget was reduced by \$1 million. Because of the uncertainty surrounding the future of the health centers, it was counter-intuitive to continue the expansion of the health centers while simultaneously reducing services and staff levels. At the end of 2011, it was decided to do defer the decision on how to move forward with the health center network to the new Administration.

In May of 2012, as mentioned earlier, the Elsie Owens Health Center of Coram was transitioned to HRHCare. On June 21st, 2012, an RFP waiver was approved to enter into negotiations with HRHCare for the administrative, management and primary care services at the four County run health centers. September 19th, 2012, Suffolk County Health Department requested the use of the HEAL 6 funds for costs incurred for the proposed transition to an FQHC for HRHCare public private partnership for the four County run health centers. The State indicated that HEAL 6 funds were to be expended on capital and not operating expenses. September 25th, 2012, Suffolk County Department of Health services requested the extension of the HEAL 6 through December 31, 2013, and this request was granted.

December 10th, 2012, Suffolk County Health Department requested HEAL 6 funds to be used for capital improvements to four of the County-run health centers. On January 2nd, 2013, New York State Department of Health verbally approved the December 10, 2012 request. January 3rd of 2013, the budget and work plan for the proposed consolidation of East Hampton and Southampton Health Centers into a new facility on the Southampton Campus and renovation to Riverhead and Tri-Community Health centers was submitted to the State and approved January 4th, 2013. Suffolk County Department of Health services also secured the ability to move forward with planning funds for a Capital Project with Brookhaven Memorial Hospital Medical Center.

The use of HEAL 6 funds has been a long and complicated process faced with many obstacles. The State has confirmed that these funds must be spent on work which occurs by December 31, 2013. There will be no -- there will not be any more extensions. There is a sense of urgency because the construction needs to start so all funds are expended by the end of the year. Any funds not spent by December 31, 2013, will need to be returned to the State. Any work done after that date will not be reimbursable.

As you know, Brentwood is the County's largest health center and in 2012 saw more than 12,000 unduplicated patients. As we seek to make the best use of the expiring funds, County Executive Bellone wants to make sure that Suffolk County maintains a strong commitment to the Brentwood/Central Islip community, and those who utilize the Brentwood Health Center. That is why he is introducing a resolution to amend the 2013 Capital Program to put aside \$4.7 million in projects which would not move forward this year and dedicate those funds to serve the Brentwood community going forward. And unlike the HEAL Grant, these funds will not expire. Representatives of HRHCare are in attendance to provide further details on the consolidation and we will have the opportunity to discuss the consolidation in greater detail during the A-96 process, and in a subsequent resolution to be laid on the table. However, it is important to note that the proposed consolidation will provide improved health services to south fork residents, result in an initial estimated five-year savings of \$3.8 million, relieve Suffolk County of malpractice liability and will result in no layoffs. This is why this consolidation has strong support of Legislator Schneiderman and I strongly urge its passage. Thank you.

CHAIRMAN SPENCER:

Thank you, Commissioner. I'm sure there's going to be a lot of questions. One issue, I took this resolution out of order, but we do have to hear from the public and I have four cards that relate to this issue, and their testimony should be heard before we debate this issue. So what I'm going to do, because my colleagues are going to have questions, but we have to have the public have a

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chance to have their three minutes to speak and then we'll take up this issue because we have it before us. But all of the cards are on this particular resolution, so I'm going to go through the cards. Commissioner, stay with us. But the first speaker is Linda McGreggor and who is -- wants to speak about this resolution. Welcome, Linda.

MS. MCGREGGOR:

Thank you for the opportunity to speak. I have some --

MS. ORTIZ:

Just tap it once.

MS. MCGREGGOR:

Oh. I have some information and packets I would like to pass out to all of you, and Commissioner Tomarken as well.

I understand that the bill you're discussing today is about funding and money and the Capital Budget as opposed to the Operating Budget and the HEAL 6 grants, but it contains information regarding the privatization and sale of the health centers. The information I'm going to speak on is in the packet that I'm handing to you, and I would like to go down to the section where it says Suffolk County Health Centers. I would just like to get some facts on record, a narrative of the services that we've provided all these years, and why we're -- some of the factors why we're not making a profit.

County Administration signed a contract years ago with Suffolk Health Plan limiting Medicaid HMO's accepted to only one of a dozen Suffolk Health Plan. Patients with Health First, Affinity, Fidelis and United Health Care Medicaid HMO's turned away on a daily basis leaning to loss in patients and revenue. As of memo dated April 26th, Health First now accepted, but we still need to accept the others. Services reduced over the years by County Administration, specialists, laboratory, radiology and dental, mandate to charge \$75 in extra fees for other services for any uninsured patient that doesn't apply for Medicaid or applies for Medicaid and is denied due to no Social Security number is discriminatory and has resulted in patients leaving or not returning for care with serious health issues. It used to be that fees were based on income. These untreated and unmonitored serious health issues put us all at risk and increases hospital ER visits and admissions.

I've been with the Department of Health Services as a Registered Nurse for 15 years. I've been on the front lines with the patients. I've gone through the changes with them, I've seen their reactions. In 2000 -- in May of 2011 when we instituted that \$75 fee and we eliminated laboratory services, patients left and never came back. Hudson River Health Care, the not-for-profit, earmarked in the contract to take over some of the clinics, doesn't provide free services for public health issues of tuberculosis and sexually transmitted diseases and doesn't have providers on staff for HIV/AIDS patients and a gyn specialist. Patients with tuberculosis infection disease have been sent out of the Coram Health Center taken over by HRHC. And uninsured Greenport HOR/HC patients continually try to get in to see the County GYN specialists with their referrals from HRHC, but they are not patients of the County clinic and cannot be accepted.

There's at least one patient a month that I talk to from Greenport; Hudson River Health care explaining why she can't see our gynecologist. Hudson -- HRHC is getting millions from Federal, State and County in the form of grants and subsidies and their CEO is making over \$530,000 a year in salary, benefits and compensation. The CEO of Brookhaven Hospital gets over 750 grand a year. The CEO of Southside Hospital North Shore LIJ gets more than 3.2 million a year. The Southside Hospital Executive Director gets over \$945,000 a year and the CEO of Southampton Hospital makes over 655,000 a year. And I've contained all the Form 990's in the packet. When you think -- it was an eye opener for me. When you think not-for-profit, you don't expect people to be making over a half a million a year.

County Nurse Practitioner Carol Lunt procured grants from the Centering Health Institute and now Centering is instituted in Southampton and Riverhead Health Centers. We treat patients as a group. The research shows it improves patient outcomes, it's decreased the rates of premature delivery and greater patient satisfaction. The United States of America has the third highest rate of infant mortality amongst 35 developed/industrialized nations studied, according to the Organization of Economic Cooperation and Development.

Misinformation to the public that County centers don't provide dental care. Stony Brook Dental Van comes to the clinic, on-site County dentists provides dental care to HIV and AIDS patients and uninsured pregnant patients.

CHAIRMAN SPENCER:

Linda, I apologize. I'm going to need you to wrap it up because your three minutes is up.

MS. MCGREGGOR:

Okay. I'm just going to go to the end of that paragraph and I'm done. And uninsured patients refer to the FREE Dental Clinic at Briarcliffe College in Patchogue. Patients with insurance usually go to community dentists that accept their insurance. Clinics have closed, like Commissioner Tomarken has mentioned, Central Islip and Bay Shore. We receive those patients into Brentwood -- I used to work at Brentwood Family Health Center. Patients were very upset when Bay Shore closed, and Central Islip.

I just wanted to get some facts about the really good care we do provide. Case in point; Tuesday, April 30th, we started a new prenatal centering group. The women loved it, we had half a dozen women smiling, happy, they loved it. Yesterday, May 1st, one of the women came back for their nutritionist appointment, couldn't be seen; united Health Care as of May 1st. We need to accept more insurances. And we do provide excellent care, so I disagree that care can be improved because we are giving great care already and we really care about our patients. Thank you.

CHAIRMAN SPENCER:

Thank you, Linda. Next speaker is Mary J. Finnin who also wants to address this resolution.

MS. FINNIN:

Good afternoon. Once again, I'm here to oppose the privatization of any of the County health care services; John J. Foley, drug abuse, health centers, any of our programs.

Right now the County Exec is pushing to privatize all of the health services in Suffolk County. We have a mission to provide, in the Charter of the County, certain health services which are not differentiated in some of these proposals. I want to say that your budget reflects your values, and to eliminate health care services in Suffolk County to any residents, rich or poor, reflects the value system that is pervasive out of the County Exec's Office.

Now, the proposals that are before us, you know, there have been no public hearings. It proposes to use HEAL Grant money that have been solicited and obtained for the use in our County public health centers. We all know that the County Exec wants to sell, rent or give away our County health centers, our John J. Foley. Therefore, I'm saying that it's inappropriate to use any of this money to expand or fund or build new health centers, rented health centers, or even existing health centers, when you know that in two, three months the agenda is to sell it to a private company. Why should our tax money here in Suffolk County be used to fund an out-of-County company that's coming in here to provide services and on a selected basis. You heard Linda tell -- on one -- we have one center under HRH that the services are not provided. So what is left is those that are still public sector, which in the end, if this goes through, will be Stony Brook. That will be the dumping ground for Suffolk County. I'm opposed to that kind of a position. It doesn't give access to care, it doesn't provide for the needs of patients which infectious diseases or people with limited income to

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travel around. When you look at even the wording in this, well, they close -- they closed Bay Shore and Central Islip and they want to relocate, to I don't know where, Brentwood and Central Islip Health Center to provide for the Bay Shore catchment area. Well, you know, I don't know what that means. Are they going to build a new center? Are they going to put a few million dollars into the rental space and, you know, give more money to that landlord?

I can -- the only thing in here that could make some sense to me is to go forward with that small HEAL Grant in Shirley where they were going to put some additional space for mental health services. We desperately need the mental health services in this County, and that is a County-owned building. Riverhead and Tri-Community are County-owned buildings, the others are not.

Also, it doesn't impact, you know, the big savings to solve the budget issues of the County. Most of the employees in our health centers are not County employees, so it doesn't impact your State pension plan, it don't impact your health plan. So, you know, all of these information, they're giving bits and pieces, but we don't have the facts and the figures. I didn't know that on such and such a date they had already negotiated some kind of a grant; who knew that? It's not public. I don't think you have the right to approve it without public input and for us to have all the information as residents and taxpayers.
Thank you.

CHAIRMAN SPENCER:

Thank you, Mary. We have Dan Farrell from our AME, and I appreciate you being here, Dan. I understand that you are discussing our resolution also.

MR. FARRELL:

Yes. Thank you and good afternoon.

CHAIRMAN SPENCER:

Good afternoon.

MR. FARRELL:

I'm opposed to IR 1365. We represent, AME represents the employees at the East Hampton and Southampton clinics, the consolidation or even the closure or sale of any of the these clinics. And is it not the function of government to protect the health and safety of its citizens? Is that not the function, or am I missing something? Because I don't really get it. You think the citizens are in better hands with the private company who we've heard through testimony is going to not do testing, cut corners, not give the level of care? I mean, this goes beyond even travel issues for some of the people who are going to have to travel extra distances to get to the other facility. But the level of care, the testing that is done through the clinics now is not going to be done through private, it's just not. And when we talk about privatization, I'd rather use the term outsourcing. That's what it is, it's outsourcing, that's what you're doing. You're taking the residents' hands and you're giving it to some company who wants to make a profit and giving everything away and it's a one-shot deal for the County and it doesn't really benefit in the long-term. For the short term it may be nice, it may plug a hole, but overall it doesn't do any good for them.

You know, this outsourcing bit, there has been in the past some politicians getting lambasted for outsourcing jobs, but that's exactly what we're doing here now and it's ridiculous. And we have people here, we have private companies that don't even reside here in the County. Let's keep everything local, keep everything in the County. Keep our employees working, and I object to IR 1365 and oppose this. Thank you. I hope you do, too.

CHAIRMAN SPENCER:

Thank you, Dan. The last card I have is from Danny Toule? Danny, please come forward. Towle? Towle, sorry I misrepresented your name.

MR. TOWLE:

I've been dealing with that all my life.

CHAIRMAN SPENCER:

(Laughter). Thank you.

MR. TOWLE:

Thank you. As everyone knows now, my name is Danny J. Towle. For the last 21 years I've had the pleasure of working for the Suffolk County Department of Health. I'm here today to speak on bill 1365. I'm very concerned that history is repeating itself. Here we are with, you know, more of our Health Department being privatized, another CN with no RFP process, another grant being handed over to a new operator, County employees left in the dark, you know, wondering if they're going to have jobs or not.

I heard the Health Commissioner state that no one was going to be laid off; hopefully that's the case. I don't know exactly what he means by that. You know, I'm offered a similar job at a similar salary and I have less benefits and I'm not employed by the County and I don't have a retirement, you know, you could paint whatever picture you want to paint, I'm being laid off. You know? Hopefully these workers will be transferred to other portions of the Health Department. You know, and if we're going to be handing over Southampton and East Hampton. I'm concerned what's going to happen to Riverhead and Tri-Community next year or the year after. You know? They're most likely next.

I was at the last Legislative Meeting when we had a bill in front of the Legislature in reference to John J. Foley and one of your colleagues had said that there was so much rumor going back and forth that he couldn't tell what the truth was and this one was saying that and this one's saying this; that's exactly what the employees are feeling now. We've been feeling that for months. I think somebody should be honest with us and tell us the truth. Our union hasn't been involved in this process, the County Executive hasn't reached out to the union and brought them in on it; you know, that's not right.

And another one of your colleagues also said at the last meeting that all of the Legislature and the County Executive was to blame for what happened at Foley, and I'd like to say that I don't necessarily agree with him a hundred percent. I think a lot of the Legislators and the County Executive were to blame, but I strongly don't feel that Kate Browning was to blame, and I think it was despicable the way that Legislator spoke to her at that meeting. Thank you.

CHAIRMAN SPENCER:

Thank you.

That's the last card that I have. Is there anyone else that wishes to be heard from the public on this matter? Sir, please come forward. And if you would, we're going to ask you to fill out one of those yellow cards. But for the record, if you could state your name and who you're representing, and you have three minutes.

MR. DAILY:

Good afternoon. I don't need three minutes. My name is Don Daily, I'm with AME. I'm speaking against this resolution. We have a job protection clause, whether the memo that Dr. Tomarken sent out said that there wouldn't be anybody laid off or not. As far as this privatization thing goes, there's also part of our contract that has to do with people not in the unit being assigned unit work.

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So we're opposed to this, we want more transparency in what's going on.

I've also been following the situation with the methadone clinics. There was an RFP that was on the website for a while and then it disappeared. There was -- it was nowhere to be found. I made a couple of phone calls, and while I was not able to find out the status and then we later found out that there was deals made behind closed doors with --

MS. FINNIN:

Westchester.

MR. DAILY:

Westchester? Okay, with the Westchester -- and we want to know why it's not -- why we're not having these public meetings and why there isn't any kind of transparency. Why is it that we constantly have to throw money at legal issues? We're throwing money at the anger issue as opposed to throwing money at solving the problem. All we're doing is throwing money at the fight. So why can't we communicate and why can't we work on both sides to try to resolve these things and not have a bunch of lawyers fighting this out? Thank you.

CHAIRMAN SPENCER:

Thank you. Is there anyone else that wishes to be heard? With that, the public portion is closed. Mary wants to speak again, but you only get one bite at the apple. I'm sorry.

With that, we're going to resume our discussion. I do have also correspondence that relates to this that's also appropriate. It's a brief correspondence, it went to -- "*Dear Mr. Bellone and Dr. Spencer, Following the collaboration with Suffolk County and Hudson River Health Care to enhance services rendered to patients at Elsie Owens, the hospital is pleased to endorse and collaborate again with the County of Suffolk and Hudson River to build a community health center with our new partner, Southampton, on its campus. Stony Brook University will be providing the faculty to teach and train the medical residents and dental residents that train at this site. The medical students in training, when the health center is fully enrolled, will number 15 by the end of the second year of operation. Stony Brook University Hospital is very supportive of this innovative program to create a comprehensive, Federally qualified teaching health center serving the most vulnerable residents of Southampton, East Hampton and surrounding communities. Retaining these physicians in Suffolk County is an important*" -- "*and as important in community health centers is vitally important to the well-being and welfare of our community. We have been very impressed with the design and plans by the Hudson River Health Care, the County of Suffolk, Southampton Hospital to expand its access to primary care services, continue vital public services and train and teach the next generation of practitioners. We are impressed with the leadership and confidence of Hudson River Health team, counting our successful previous work at Elsie Owens as the fore bearer of what to be expected in another very successful effort. We are very excited to be a part of this unique program. Sincerely, Lou Rubin Pastor Neck, Chief Executive Officer, Stony Brook University Hospitals.*"

So to the Clerk, this matter has been -- the letter I'll give to you for the public record.

So with that, we've completed our public portion and correspondence and we're back to this resolution. The Commissioner gave us an introduction. I did want to ask if we -- as we continue to debate on this issue, are there any representatives from Hudson River who are here? If you could come up. And then also from Southampton, we have Dr. Fred Weinbaum and Mr. Ross, if you would join us at the front. And we have Deputy County Executive Jon Schneider who is also here.

So my colleagues have a lot of questions and I do have a speakers list. The first is Rick Montano.

LEG. MONTANO:

Yeah, if I may. Who's coming forward?

CHAIRMAN SPENCER:

We have representatives from Hudson River, also from Southampton Hospital, Department of Health, and also you have the County Executive.

LEG. MONTANO:

All right. First of all, I think maybe we're going to ask for a brief recess of the committee to discuss some legal issues. Our Counsel is not here, so there are a couple of issues that I think maybe we as a committee could talk about. But before we do that, we're on bill 1365, am I correct?

CHAIRMAN SPENCER:

Yes.

LEG. MONTANO:

Why is Hudson Valley -- what does Hudson Valley have to do with this bill?

MS. FINNIN:

They got the contract for everything.

LEG. MONTANO:

Mary, I can't hear you because you have to be on the record. If you'd like to come forward.

CHAIRMAN SPENCER:

Commissioner?

LEG. MONTANO:

Commissioner, what do they have to do with 1365?

COMMISSIONER TOMARKEN:

Hudson River is one of the partners in this project.

LEG. MONTANO:

What project?

COMMISSIONER TOMARKEN:

The consolidation of East Hampton and Southampton on a new center on the Southampton campus. So HRH is the FQHC --

LEG. MONTANO:

Is there a contract in place with Hudson River?

COMMISSIONER TOMARKEN:

No.

LEG. MONTANO:

All right. So my understanding of this bill is to move money from a Capital Project into the Southampton and to consolidate, but I'm not so sure where Hudson Valley fits into that at this point. Because my understanding is that the waiver that was issued -- and I believe it was on June 8th of 2012, allows the County to, I guess, negotiate, but there's no contract in place; am I correct?

COMMISSIONER TOMARKEN:

Right, but there is --

LEG. MONTANO:

So what are they going --

COMMISSIONER TOMARKEN:

There is an MOU and we've been --

LEG. MONTANO:

There's an MOU?

COMMISSIONER TOMARKEN:

Yes.

CHAIRMAN SPENCER:

Has anybody seen the MOU? I'm not talking -- I'm asking anyone on the committee; has anyone seen this MOU?

LEG. KENNEDY:

No.

LEG. MONTANO:

Do you have this MOU? Could you -- and I did have some questions, but I guess before I ask for the recess; John, you want to just say something?

LEG. KENNEDY:

Well, I've asked for the recess. And Mr. Chair, I'm going to --

LEG. MONTANO:

Well, before you do that.

LEG. KENNEDY:

-- we won't do long, but I will go to one general point, Doctor.
First of all, I'm going to ask you for a copy of what you read to from us.

LEG. MONTANO:

Uh-huh, I was just getting to that.

LEG. KENNEDY:

Because you did a chronology in quite thorough detail, some of the actions precede the current administration. Some of the resolutions that you reference this body, at least I did, and I know many of my colleagues cast their vote when it came to modifications for health center operations predicated on representations that there were going to be leases executed for significant duration. And quite frankly, Doctor, you know, some of the representations that you've talked about and the back and forth with State Health, brand new news to me today, Doctor. You know, it's somewhat unconscionable. And I'm going to go back to an even more basic thing that I've said to you. And no disrespect to the folks from Hudson River, I know you travel far, but by now you have heard me say this a number of times. In my mind, Coram was a test case. And that before we entertained any expansion with Hudson River whatsoever, we were going to get some type of a summary or an analysis back to us as to how successful the transition had been, the numbers of patients being seen, the bundles of services, what was then and what is now. And here we are being told that Hudson River is joining and operating another clinic. I don't know, maybe I wasn't clear; I thought I was.

COMMISSIONER TOMARKEN:

They do owe us a report and they're available to either give information today or as a formal at the next Health Committee.

LEG. KENNEDY:

You know what, Doctor? Listen, maybe it's just I've been at this now in my third committee, and the older I grow the shorter my patience gets. But I try to study this stuff and understand it before I act. And to begin to get litanies of numbers regarding where we're at and ranges of services. I've said it many, many times before, Doctor; I'm just a simple dirt lawyer. I'm not a doctor, I'm not a medical person, but I know medical care is critical. I've got the good fortune to be married to a nurse, a father of a doctor and father of a nurse, and what they do I value. But I want to see it so that I can understand it and not just have it heaved over the bow here. I'm sorry, I think -- I think you're overreaching, Doctor; how's that?

LEG. MONTANO:

I have --

CHAIRMAN SPENCER:

I have Counsel who had an emergency.

LEG. KENNEDY:

Can we go see him?

CHAIRMAN SPENCER:

No, he's not here.

LEG. MONTANO:

No, John is not going to be here.

LEG. BROWNING:

Can I ask a question?

LEG. MONTANO:

Wait, wait.

CHAIRMAN SPENCER:

I guess the --

LEG. MONTANO:

Let me --

CHAIRMAN SPENCER:

I apologize. With regards to the recess, with regards to the recess, what's the basis of the recess?

LEG. MONTANO:

Well, we haven't asked for it yet.

CHAIRMAN SPENCER:

Okay.

LEG. MONTANO:

All right? We're going to ask for it. So why don't we finish this and then ask for a recess?

CHAIRMAN SPENCER:

Okay. All right, I have Counsel. Counsel's available, they're on speaker phone right now, they've available. He had an emergency.

LEG. MONTANO:

No, we understand that. We understand.

CHAIRMAN SPENCER:

All right. So we do have Counsel that's here.

LEG. MONTANO:

Well, I'll make this quick so we can get to Counsel. One thing, I just looked at 1365, Doctor. Hudson Valley is not -- I mean Hudson River is not even mentioned in the resolution. So this is a complete shock to me that we would be here because that's not what I understood this resolution to be about. And I will put on the record that we had an extensive conference call between yourself, I believe Margaret Bremel (sic) from your office, Jon Schneider, the County Attorney; John, what was her name, Basia --

MR. PERILLIE:

Braddish.

LEG. MONTANO:

Braddish? Myself, my Legislative Aide discussed this, I think the conference call lasted about an hour-and-a-half. So Hudson River, and I don't mean to be disrespectful, but I'm just not quite sure why you're here on this particular bill. I want to focus my attention to 1365. And in all due honesty, I thought we had reached agreement on 1365 and the issues that I -- you know, that confronted me as the Legislator from Brentwood, and I will get to that.

First of all, Doctor, let me -- just so I'm clear; when did you become Health Commissioner? When did you start?

COMMISSIONER TOMARKEN:

April, 2010.

LEG. MONTANO:

2010, okay. So you were not here during the history, I don't think; were you? You weren't working for the County. So a lot of what has gone on with respect to the Regional Health Center predated you, and I understand that. And your information and what you've read kind of glossed over a lot of the -- what I call the back story, which I don't want to get into right now. We were prepared to get into it, you can see the file right there, plus what I have in front of me, but I don't think we need to do that today because I think we have an accord on where we're going to go with 1365. And, you know, I'm assuming that that's not going to change after our conference.

Mr. Kennedy, Legislator Kennedy asked you if we could have a copy of what you read into the record, and I was going to ask the same thing. It is in the record, I just don't want to bother the stenographer with having to go through an expedited process. So could we be provided with a copy of that.

COMMISSIONER TOMARKEN:

Yes.

LEG. MONTANO:

All right. My Aide will get it and we'll make the copies and distribute that.

LEG. CALARCO:

They could e-mail it, too.

LEG. MONTANO:

Okay, either e-mail, copy, whichever way you want to go. As long as I could read it.

And I think we do need to speak to Counsel on a technical issue, and you'll have to bear with us. But one comment that I think you made in the record, and I just want to be clear, you referenced the resolution -- Jon, you may want to hear this. Jon, I know you're busy, you may want to hear this. I want to make sure I heard this correctly. The resolution that we discussed yesterday which was given to me that's going to be laid on the table on Tuesday, it doesn't have a number but the one that's amending the Capital Project to restore the \$4.7 million for the Brentwood Health Center. I think you said, Dr. Tomarken, that this money was not to be used in this year's budget; is that what you said?

COMMISSIONER TOMARKEN:

Correct.

LEG. MONTANO:

Well, I don't see that anywhere in the bill. And I'm not sure I quite understand that, because it is going into the 2013 Capital Budget and we are in 2013. So what are we doing here? Because in the same breath that you said we weren't going to use it in this year's Capital Budget, I'm very well aware that the lease -- and I'm going to get into this later, but the lease for the Brentwood Health Center, the present lease that we're working under, expires March 31st of 2014. So if we're going to make improvements to Brentwood, or the existing Brentwood Health Center, we're going to have to do something this year. I'm not prepared to wait until March 31st of 2014 to decide what to do with the Brentwood Health Center, that's not the intent, as I understood, on this bill. Jon, is that something that leaked out or is that a misstatement?

MR. SCHNEIDER:

You're talking about the Capital?

LEG. MONTANO:

The one that's going to be introduced on Tuesday.

MR. SCHNEIDER:

Right. So the purpose of that, right now there is an RFP out, as is known and as we discussed --

LEG. MONTANO:

Right.

MR. SCHNEIDER:

-- related to the future operations at the Brentwood Health Center.

So the purpose of the capital reallocation is to essentially set aside \$4.7 million, essentially the amount of the grant that's before us today, and make that money available, if you will, for the community, essentially whatever the disposition is, whether it involves extending the lease, whether it involves, you know, some sort of new facility in our --

LEG. MONTANO:

Right. Okay.

MR. SCHNEIDER:

-- in our further discussions to make that -- those funds available for the community.

LEG. MONTANO:

And that's what we discussed.

MR. SCHNEIDER:

Correct.

LEG. MONTANO:

But that's not what Dr. Tomarken said. What Dr. Tomarken said was that this money is not going to be used in this year, and that's at odds -- and that's a very -- you know, don't forget, these Capital Projects take a long time, so. Go ahead, you're pointing; what is it, Doctor?

COMMISSIONER TOMARKEN:

I need my document back.

LEG. MONTANO:

Bob, give him back his document (*laughter*).

MR. MARTINEZ:

Sorry, Doc.

COMMISSIONER TOMARKEN:

That's all right.

LEG. MONTANO:

Why don't we do this, Doctor. Would you bear with us? There is a technical issue that two of our Legislators would like to discuss with Counsel. So if it's permissible with the committee, could we take a recess? Is there anyone opposed to a recess? We're going to go back there in conference. We should only be -- and meanwhile, you can find your spot there. Thank you.

CHAIRMAN SPENCER:

We're going to take a recess. Here's some of the discussion, just so the public can understand what the reason the Chair of the committee is back and forth. I've been communicating with Counsel and the discussion is whether or not this Legislative action, does it, in effect, create privatization, which is what the debate is. And if it does, does there need to be -- are the Mary Hibberd Laws being followed, or is this just a budgetary issue? If it's just a budgetary issue, what's the net effect? So Counsels on their way back to join the meeting.

Normally, for all Health Committee meetings, any committee meeting, there's two members of Counsel. And we have special circumstances; we know that we congratulate Sarah Simpson on her wedding, she's on her honeymoon; and George, with a very rare set of circumstances, had a personal matter that he needed to take care of. So he is on his way back.

I am going to speak with my colleagues. So we're going to take about a ten minute recess. I apologize for those of you who are waiting. And I know that there's also someone who -- Amy Juchatz who was going to speak on the public health assessments. So I do appreciate everyone's time. This is an extremely important matter. We know that there's a lot of passion around it. So we just want to make sure that we get it right. So ten minute recess, we'll resume at 3:35. So I appreciate everyone's indulgence and thank you.

(*Brief Recess Taken: 3:29 P.M.- 3:41 P.M.*)

CHAIRMAN SPENCER:

Thank you. We're going to go back into session. We appreciate it.

We were pretty close. Any time a Legislator says they're going into recess for ten minutes, it usually means a half an hour, so not bad.

COMMISSIONER TOMARKEN:

Mr. Chairman?

CHAIRMAN SPENCER:

So we're going to continue with the discussion, but some of the issues that we were discussing is whether or not this is a resolution that by the action that we're taking, does that commit us to a process of where we are changing hands or ownership, but that would require another resolution. This is the first step of a process, so Counsel agreed with that. But there's also the issue with some of our colleagues on the committee that are being involved in pending litigation matters that we're just exploring potential conflicts and where they stood. So I think that we have a direction.

I have the Commissioner who wants to make a remark. And I think some of our concerns, after listening to the Commissioner's statement and having Hudson River here where it looked as if there was a Memorandum of Understanding that may have kind of preceded the action that we were -- may be premature for the action that we're taking. So I think that we've discussed it. I hope that clarifies a little bit. Commissioner Tomarken, I see that you're very anxiously waiting to speak.

COMMISSIONER TOMARKEN:

Well, I just want to put on the record a couple of things. Regarding Legislator Kennedy's issue of HRH, they did give a report on October 4th of last year, an update at that time to the Health Committee.

CHAIRMAN SPENCER:

They did, yes.

COMMISSIONER TOMARKEN:

Right. And number two, regarding Legislator Montano's --

LEG. MONTANO:

What page are you on?

COMMISSIONER TOMARKEN:

Three, bottom, last sentence. Where it says, "Four point seven million in projects which would not move forward," that refers to the offsets, not the funds themselves.

LEG. MONTANO:

Wait a minute. You know, I'm generally pretty good at this. Can somebody explain that to me?

MR. SCHNEIDER:

Yes. So it's actually, Legislator, what we're saying is we're amending the 2013 Capital Budget to move money out of accounts that would not have -- so the other funds would not have moved forward this year. That's why we're --

LEG. MONTANO:

Oh, the other fund.

MR. SCHNEIDER:

Correct.

LEG. MONTANO:

Not the -- the ones that we're moving them from.

MR. SCHNEIDER:

Correct.

LEG. MONTANO:

-- not the ones that we're moving it into.

MR. SCHNEIDER:

Right. That's funding that's available --

LEG. MONTANO:

Okay.

MR. SCHNEIDER:

That's available this year, and the reason we are able to use it as an offset is because we were not intending on executing on it this year.

LEG. MONTANO:

Okay. And I appreciate, that's a very important distinction.

Now, Jon, with respect to the bill that is going to be laid on the table Tuesday and, you know, just by background, what 1365 deals with to me is moving money that was appropriated first for the Regional Health Center, which was never built. You weren't here at the time, this was not laid at your feet, and there were reasons for that, I won't torture you with, you know, the tortured history of it. Then the grant, which was originally issued for a specific purpose being the establishment, the construction of a Regional Health Center, a new facility, that's why the money was granted, it wasn't granted for any other reason. It was subsequently amended by the prior administration to be used for the reconstruction or the renovation of the Brentwood Health Center where it's currently located when the decision was made against my -- over my objection, to close the CI satellite office, merge it with the Brentwood existing center, and then do renovations.

Now, the history of that, very clearly, is that in 2010, when this was done, the existing lease at the Brentwood Health Center expires March 31st, 2014, as I indicated earlier; that's approximately eleven months from today. In 2010, a new lease extending the term of the existing lease was apparently negotiated, drafted, written up and presented to the Legislature. It was approved by the Legislature unanimously. It -- the bill was signed by the County Executive, Mr. Levy at the time. And I just learned this week that that contract, or that lease extension which was to take the health center at its existing location into the year 2022, it was a 12-year extension, that was never executed. So we find ourselves in the position that we have a health center that legally, as we sit here today, has a life expectancy at that location, theoretically, of eleven months. So that has to be resolved, Jon, within the eleven month period.

Because it's conceivable that come April 1st of next year, the landlord could turn around and say since you don't have a valid lease and you never signed the extension, and at some point we're going to get into the reasons why -- and also, you know, I had a conversation with Counsel as to the legal effect of the resolution, because we did approve the lease. So why it wasn't signed or how we got to this point, we're not going to deal with today, it would take too long. But that's why it's important that this issue with the money and the renovations and what we're doing with Brentwood be resolved within this year. So I'm glad you clarified that point.

Moving beyond that, the resolution, 1365, you know, I understand that the State has said that if we don't spend the money by the end of the year, it goes back to the State, we lose it; I'm not going to allow that to happen. The bill that's going to be laid on the table, and I expect that the votes will be there to approve this because we're going on the expectation that we're working in good faith, Jon.

MR. SCHNEIDER:

Well, I can never promise anyone's vote, but we'll certainly do our best.

LEG. MONTANO:

Well, you know the conversation we had yesterday. I told you, I said I wanted to step on concrete, I didn't want to step in the mud.

MR. SCHNEIDER:

I think you're --

LEG. MONTANO:

And if you're telling me that the --

MR. SCHNEIDER:

I know there are a lot of support out there. I don't think there are any of your colleagues that do not want to see us have a very strong commitment to the Brentwood community.

LEG. MONTANO:

Well, I hope that -- you know, look. If you're asking me to vote on this, you're asking me to take a leap of faith, and that's a very hard thing to do. I hear --

LEG. BROWNING:

(Inaudible).

LEG. MONTANO:

You know, I don't really have a lot of faith left in a lot of stuff; not from you guys, just, you know, I've been here ten years. But I gave my commitment that we would resolve this issue because if this does not go through, I can promise you that the ramifications are going to reverberate around the State. I've already spoken to my Assemblyman this morning. I haven't spoken to my State Senators, but this is State money that we're dealing with. So this issue has to be resolved.

Now, with respect to Hudson River, I don't know anything about an MOU. It's news to me that there's some kind of agreement out there. I do know that there was a waiver. I do know that it, you, know allowed you to discuss things. But from the County Attorney -- where's the County Attorney? Basia? How are you?

MS. SEIDMAN:

Phyllis.

LEG. MONTANO:

Oh, I'm sorry. How are you?

MS. SEIDMAN:

Good. How are you?

LEG. MONTANO:

What I want to be clear on is the question, if anything is -- I don't know what the MOU says, but if, in fact, we are going to divest, at some point in the future, the health care centers to Hudson River or any other entity, must that -- must a resolution be presented to this Legislature for approval?

MS. SEIDMAN:

Yes, and that's the point.

LEG. MONTANO:

Okay, that is the point, that is on the record. That can -- whatever you plan to do can only be done with the approval of this Legislature. Am I firm on that, am I clear?

MS. SEIDMAN:

Yes.

LEG. MONTANO:

Okay. John, you got that?

MS. SEIDMAN:

The MOU is among the parties --

LEG. MONTANO:

I'm sorry, I can't hear you.

MS. SEIDMAN:

The MOU is among the parties to really memorialize our intention to move forward for the purpose that we've expressed in the resolution.

LEG. MONTANO:

Who are the parties, though?

MS. SEIDMAN:

Well, it's Southampton, Hudson River and the County. You know, we're talking about this center in Southampton, so we didn't want to come here basically floating on a cloud without any foundation.

LEG. MONTANO:

Right, but how could the County --

MS. SEIDMAN:

So it really just expresses a desire to work together.

LEG. MONTANO:

All right, but let me ask you a technical question. How could the County -- the County be part of an MOU if, in fact, you can't do anything without the Legislature approving it and we haven't seen the MOU? It doesn't -- you know, it's sort of like why are you a party to something that you don't have approval to do in the first instance?

MS. SEIDMAN:

It's really more of a letter of intent.

CHAIRMAN SPENCER:

I apologize, but could you state your name for the -- just for the transcript.

MS. SEIDMAN:

Yes, I'm sorry. It's Phyllis Seidman from the County Attorney's office.

CHAIRMAN SPENCER:

Thank you, Phyllis.

MS. SEIDMAN:

It really is a statement of the party's intent that we'll work together. We didn't want to come here and put something forward and tell you that we're going to use this money for something that we had no clear indication that it was going to be used for. So --

LEG. MONTANO:

But correct me if I'm wrong; aren't generally Memorandums of Understanding legally enforceable?

MS. SEIDMAN:

Right, and the --

LEG. MONTANO:

So how could you be a party to something that's enforceable when you don't have the approval of the Legislature? Do you see where I'm going with this?

MS. SEIDMAN:

I see where you're going. And whether or not --

LEG. MONTANO:

So take me to the end.

MS. SEIDMAN:

Whether it's enforceable or whether it's binding, as I stated, it's more or less an agreement among the parties to work towards something that, as we discussed earlier, will need to be approved formally by the Legislature. And, you know, we will be asking for -- for authorization to execute any agreements in the future to move forward with any of the transaction.

LEG. MONTANO:

We've gone -- we've gone far afield from 1365. But since we're there --

MS. SEIDMAN:

Well, that wasn't our intention. Because as was stated --

LEG. MONTANO:

Well, I'm not the one that said it, it was said by your side. Actually, it was opened up in your -- you know, Dr. Tomarken, you're the one that opened the door, we're simply walking -- you know, that's a legal phrase. We're just walking -- we're bursting through it.

LEG. KENNEDY:

(Laughter).

LEG. MONTANO:

Let me ask you, where is the MOU?

LEG. KENNEDY:

We're taking the door off the hinges *(laughter)*.

LEG. MONTANO:

(Laughter).

MS. SEIDMAN:

Dr. Tomarken has a copy of the MOU.

LEG. MONTANO:

You have a copy? Could I steal that from you again and make copies? My staff will do that. All right, I'm not going to belabor this. Here's my position. I was opposed to this resolution. We had a conference call. We had subsequent -- I had subsequent conversations with Mr. Schneider, who I respect, on behalf of the County Executive's Office. We've reached what I believe is an accord. They've asked me to take a leap of good faith and to vote this bill out of committee. There is some resistance to this bill because of where we think it might lead, but we have a very clear indication from the County Attorney that nothing's going to happen -- you want to --

LEG. BROWNING:

No, go ahead, finish up.

LEG. MONTANO:

Nothing's going to happen unless it comes to this Legislature for a vote, so we're clear on that.

Jon, I'm relying on the County Executive's Office and I'm going to rely on my colleagues to pass and restore the \$4.7 million that was intended for Brentwood. I'm going to ask, Dr. Tomarken, that your office report back to this committee on a monthly basis, whenever we meet, as to what the heck is going on with the Brentwood Health Center, with the lease, where negotiations are, why they were stalled, why the contract was never executed, is it going to be executed, are we going to use the money for renovations? And I know that there was an RFP that was issued to sort of privatize the Brentwood Health Center also.

Now, Counsel, that also would have to come before this Legislature for approval; am I correct in that? I'll take either.

MS. SEIDMAN:

Yes.

LEG. MONTANO:

Just put it on the record.

MS. FINNIN:

No public hearing.

MR. SCHNEIDER:

Yes. I'll say yes.

LEG. MONTANO:

So we're working on parallel -- see, the problem is we're working on parallel tracks here. But the bottom line is that it's going to come back before the Legislature, and the other problem is that we're running up against the clock. I don't want to be hero -- I'm running for reelection -- oh, the Memorandum of Agreement is dated today?

MR. MARTINEZ:

Yes, sir.

MS. FINNIN:

That's cute. What about other --

CHAIRMAN SPENCER:

Legislator Montano, will you yield while you review that? If I can get to --

LEG. MONTANO:

Oh, I'm done, actually. Jon, I'm going to support the resolution, but I'm only supporting what's on the face of the resolution, which means that we're simply moving the money from the HEAL Grant to this other purpose. Whatever you're going to do over there is going to come back to us, and you're going to introduce this other resolution and you're going to make sure that it gets the ten votes to pass. You got -- we're clear?

MR. SCHNEIDER:

Clear.

LEG. MONTANO:

Thanks, guy. I yield, go ahead.

CHAIRMAN SPENCER:

Okay. Just those requests that Legislator Montano, through the -- the Chair does acknowledge those, if the Commissioner could comply with that, it would be greatly appreciated. Legislator Browning and then Legislator Kennedy.

LEG. BROWNING:

Yeah, I think I can make it much shorter.

LEG. MONTANO:

(Laughter).

LEG. BROWNING:

There's an MOU between HRH and Southampton, but I'm -- you know, again, it's which comes first, the chicken or the egg. And you have this 1365 -- I can't see, yeah. And I wonder, well, if the Legislature doesn't vote in support of the merger with Southampton and the HRH to privatize the East End nursing homes -- gee, what's in my mind -- health centers, then this 1365 would have to be modified and changed, because now you're not going to do what you want to do on the East End. Do you get what I'm saying?

MR. SCHNEIDER:

Yeah. I mean, I think what I would say is a couple of things. So I think -- I mean, I think the net result of what you're saying, which is at some point in time, if the Legislature doesn't move forward with the East End project, I think a couple of things.

I mean, first of all, the odds are then that that would be, just in terms of capital funds, money that we would, you know, end up returning to the State of New York. And, you know, perhaps, you know, given that this is sort of a first step on a -- you know, towards, you know, a much larger journey, what I would say beyond that is, quite frankly, I think we'd be losing a heck of a good opportunity to expand and enhance health services in that community.

I mean, I think, you know, one of the reasons we're looking to go forward here is you have money that is use-it-or-lose it, so there's obviously a desire to go forward and find worthy projects that can move forward and be expended before the end of the year; I believe we've done that. And I believe as the Legislature learns more about the project in Southampton, you know, we're certainly hopeful, given that it will result in expanded service as well as savings, that it will have support.

LEG. BROWNING:

So the bottom line is, you know, this bill is basically saying we're going to merge two East End clinics that are now publicly owned and you're going to privatize them.

MR. SCHNEIDER:

This bill is moving money, if you will, from point A to point B.

LEG. BROWNING:

With the intention at some point to privatize.

MR. SCHNEIDER:

The intention of some portion of these funds is to move forward with the merged clinic in Southampton.

LEG. BROWNING:

To privatize; yes or no? It will not be publicly-owned and operated, it will now be in the hands of Southampton --

MR. SCHNEIDER:

Correct, it would be in the hands of --

LEG. BROWNING:

-- and HRH and it will no longer be public employees, it will never be County run.

And the other part that I ask is, again, let's look at the geography of the East End of Long Island. And you look at Southampton and you look at East Hampton, and what about -- there are poor people out on the East End, and as far out as Montauk. And I'm curious, I mean, maybe Craig, if you could help us out here? Because, you know, we have health centers on the West End that could possibly be merged. When you're talking about transportation and location, why weren't you looking on the West End before you went to the East End? Because the geography on the East End certainly makes it a lot more difficult for the residents out there.

MR. SCHNEIDER:

I think the folks -- actually, I think the folks from Southampton Hospital can -- you know, again, could speak to -- I think that's going to be more the issue we go to eventually. But I think they could speak to their thoughts on what has been built into this -- what's being built into that project to account for needs for East End residents. And I think one of the things that's important to note is, you know, one of the reasons that Legislator Schneiderman is supportive of this resolution is that a lot of thought was put in. You know, you really have the premier health players in that area who have come together and I believe put together a thoughtful program that meets the needs of East End residents, takes those travel issues into consideration. So I think Southampton Hospital could probably give you a pretty good sense.

LEG. BROWNING:

Well, I did ask Craig, if you would like to chime in a little bit because I know you're very familiar with all of our health centers. You know, contrary to what my colleague on the East End says, you know, he voted to sell a nursing home, which I don't think is right either. So it doesn't mean that because he's made the decision that we all necessarily should agree.

MR. FREAS:

I know several -- one of the issues earlier -- and again, this is setting aside the transportation problem. One of the issues with closing the East Hampton Center earlier, we had discussed it during the Article 6 negotiations, it was one of the ideas that was put forth at that time, was the fact that there's a significant -- unless you're out there, you don't realize really quite how far it is from Southampton to Montauk or Amagansett or where other folks live. You know, we had initially looked at -- even before then when we had looked at a consolidation out there, we had looked at moving Southampton East, but obviously, because of the real estate costs out there, that was not practicable.

Did you want me to address west end consolidations as well? Has that been looked at or --

LEG. BROWNING:

No. But actually, that's something that I'd like you to look at, from east to west. If we're going to do it on the East End, why aren't we doing it on the west end, too? So, you know, they're not all publicly-owned health centers, but I think that's something I think should be looked into it.

COMMISSIONER TOMARKEN:

Just for the record, there is a transportation component in the plan, so that has not been neglected.

LEG. BROWNING:

Explain the transportation component. You're going to provide buses or public transportation, or what -- I mean, if I -- I'm trying to understand what the transportation is.

LEG. MONTANO:

Read the press release (*laughter*).

LEG. BROWNING:

Oh, that one, okay.

COMMISSIONER TOMARKEN:

I mean, all the details will come forward as we move with the next resolutions regarding the plan.

LEG. BROWNING:

Okay. But we're being asked to spend money -- and I know it's HEAL Grant money, which we have to have spent. But again, we're being asked to use this money to improve infrastructure on the East End for health centers, but we don't have all the information. And I think this is a typical example of how government does such a good job. You know, I was just saying to Doctor -- Doc Spencer how, you know, in the military they spend tons of money to fix up military bases and then they close them. So, you know, this is what it looks like to me. This is what this is looking like to me, is that we're going to spend money on something that we're no longer going to own, and we're -- and we don't have the real information on the transportation. So what about the people from Montauk? I don't want to support spending money on something and then find out later on that the transportation issue really hasn't been resolved. And I know you're saying that there has been something put in place, but I think that's something that we should be getting now and it shouldn't be something we're getting later.

MR. SCHNEIDER:

I mean, if I could. Again, I think the important thing to note here is that we are not so much spending money today, is essentially moving it from point A to point B into things that we believe that, with Legislative concurrence, can move forward this year. And the issues that you're talking about, I think we're going to certainly discuss.

LEG. BROWNING:

Okay. But again, on the west end. Transportation is much more accessible, much easier than on the East End. So why wouldn't you have started on the west end when you have so many centers on the west end.

MR. SCHNEIDER:

Well, I think that we agree that there could be a place for other consolidations and I think those -- I think we're open to those talks.

LEG. BROWNING:

Well, you know, I hate to say it, I understand what you're trying to do. But again, let's really get down to the nitty gritty; it's about privatization and I think you know where I stand on that issue anyway.

COMMISSIONER TOMARKEN:

It is a very unique plan with very good partners, Stony Brook, Southampton, HRH. I think it's a very unique situation that we should try to take advantage of, if we can, for multiple of reasons, one of which is obviously the money will go away. But this is a very solid program and it merges two health centers into a larger center on a campus of a hospital where patients can come, they can be seen by their health care providers, they can get their x-ray, they can get their lab test done all in one location. So it's really, from a strictly service component, an excellent plan with very good partners.

LEG. BROWNING:

Again, we have Brookhaven Hospital was looking to build a state-of-the-art facility right next to them. So, you know, this is -- we're looking to take in privately-owned and operated health centers and transforming them into public -- private operations, when we have so many private operations like Brookhaven Hospital that we'd like to help them to build that state-of-the-art health center. Why aren't we working with the private facilities first before we go to the public one?

MR. SCHNEIDER:

I believe we are working with Brookhaven Memorial Hospital.

LEG. BROWNING:

To a limited amount at this time. And like I said, this is a conversation we have had for well over a year. We have west end facilities that are privately owned.

LEG. CALARCO:

Put me on the list.

LEG. BROWNING:

Let's work on the private ones, make those happen before you take away the public ones. Because I do think there is a need for the public facilities, because we will have a population. And maybe, Craig, you can respond to this, because I know that we'll have -- the public facilities will take a population of people that are not always being serviced in the private.

COMMISSIONER TOMARKEN:

But you have to remember, these are FQHC's and they have to follow strict Federal guidelines and they cannot discriminate against people for no -- with no income or low income.

MS. FINNIN:

But they do.

COMMISSIONER TOMARKEN:

So I think that they're not -- should not be lumped together with private, for-profit insurance organizations.

LEG. BROWNING:

Maybe, Craig, do you agree, disagree? Do you think --

MR. FREAS:

I've had this discussion with several members of the Legislature and I believe with Dr. Tomarken, that I think -- I think the risk, if we're not careful, is creating two systems the way that you have in

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New York. New York City, where the FQHC see working class and working poor patients and don't -- and people with what we would call public health problems ended up -- end up -- are more likely to end up in a health and mental hygiene clinic or in a health and hospital corporation diagnostic treatment center or in an emergency room. And there are solutions to this, contracting long-term with the -- with the FQHC to provide the services for that patient. And right now, we do that with, for example, the Dolan Center because we have a piece of the action.

FQHC's certainly provide excellent care and expanded services compared to what our health centers do now. Their cost structure is a little different so their rates are a little different, whether they're more expensive or less expensive, the patient's is difficult -- I don't want to say until it becomes time to say so in an A-96 report, probably the summer, I guess. But I think one of the risks, again, if we're not careful, is creating those two systems where we have -- where we're going to have remainder clinics that are County-run clinics and we're going to have the FQHCs taken care of. The people that they can take care of but then there will still be that remaining cost to Suffolk County.

And remember, these organizations are compelled to expand services. We just opened the dental clinic at Coram and they have a sliding scale that is a Federal sliding scale. So they have to be responsive to the needs of their population.

LEG. BROWNING:

But what we have seen is -- and hearing from -- and again, I'm planning a trip up to the Coram Health Center at some point soon, towards the end of the month. But one of the concerns was that there are people, because of the increased fees, the test fees, there's been an increase that there are people that are not necessarily going that would have gone in the past, because of the costs that they're experiencing.

COMMISSIONER TOMARKEN:

Right. I have Mr. Sinkoff from HRHCare who could address that issue, if that would be helpful.

CHAIRMAN SPENCER:

Well, no. Actually, what I'd like to do, I just want to redirect. I do have Legislators Kennedy and Calarco. We just want to get us back on focus. We have this resolution before us, which we're debating. There is a greater issue which we've already established that they do have to come back in order for us to move forward with any agreements, and I want us debating the benefits of Hudson River and those things. I know that's part of this debate, but I think we've gotten a little off track, so I'm just going to refocus us. I'm going to ask if Legislator Kennedy, if you would kind of stay to the issue at hand.

LEG. KENNEDY:

I will, Doctor. As a matter of fact, I'll try to stay to 1365. I guess I'll start with, Jon, either you and/or Phyllis. So, but for 1365, where would the money be? Where would the money go? What would happen?

MR. SCHNEIDER:

But for this resolution?

LEG. KENNEDY:

But for this resolution.

MR. SCHNEIDER:

In all probability, we will end up returning it to the State of New York.

LEG. KENNEDY:

Okay.

MR. SCHNEIDER:

And the reason I say that is because these are funds which have to be expended by the end of the year.

LEG. KENNEDY:

Well, HEAL has, what, is it a 60-month cycle, is that it, Doctor? I mean, HEAL has a one-year cycle?

MR. SCHNEIDER:

The program expires on December 31st of this year.

LEG. KENNEDY:

The authorization of the New York State Health Law does, yes. But there have been 21 or 22 offerings. This gentlemen here from Hudson River knows it, maybe he can answer our question. Could you please, sir; and you are who?

MR. SINKOFF:

Jim Sinkoff from Hudson River. The genesis of the HEAL Program came out of the Pataki Administration.

LEG. KENNEDY:

Sure.

MR. SINKOFF:

And that money that actually came from the Federal government was repurposed through the State for several HEAL iterations, there was HEAL 5, HEAL 10 and --

LEG. KENNEDY:

Sure; it goes all the way back to the Berger Report.

MR. SINKOFF:

Exactly right.

LEG. KENNEDY:

Right.

MR. SINKOFF:

That money is now expired in -- once and for all, by the end of this year, all HEAL monies --

LEG. KENNEDY:

So no matter whether it was HEAL 1 or HEAL 21, win, lose and draw, got to be done by December 31st.

MR. SINKOFF:

Yes, and New York State has repurposed some HEAL dollars, which they now call the Vital Access Program, and if those are not expended, they, too, will be forfeited and returned to the Federal government.

LEG. KENNEDY:

Okay. So that's the element of time?

MS. BERMEL:

Legislator Kennedy, if I may?

LEG. KENNEDY:

Sure, Margaret.

MS. BERMEL:

Margaret Bermel from the Health Department. In 2006, it was the Centers for Medicaid and Medicare that authorized New York State's participation in the HEAL Program, under what was called an FSHRP Program; it was Federal State Health Reform Partnership.

LEG. KENNEDY:

Right.

MS. BERMEL:

And those funds -- that waiver expires in the State and all counties have to have their funds expended by 12/31/2013; that is the final date. There have been extensions in the past, there have been various HEAL programs in the past. The program sunsets on that date, and were it not for this resolution, these funds would not be available at all, they would die.

LEG. KENNEDY:

I understand that.

MS. BERMEL:

In fact, they were to have died last September 30th of 2012, were it not for the fact that the department had requested an extension to see if we might repurpose the funds and use them for another purpose which was approved by New York State.

LEG. KENNEDY:

Again, I -- part of my concern here, and I do not want to have you educate me because I will tell you, in all likelihood I'm probably going to recuse on this. But I -- so I am keeping my questioning or my discussion, if you will, broad in nature.

My concern goes to the decision process, then, that came to this, and I guess now I have to talk to Dr. Tomarken. So it's your sense, then, from looking at the whole array of all remaining health clinic delivery points, that cognisant of the fact that we had 4.7 million that was evaporating in eight months, you and the Administration feel the best place to apply it was to what's going on out there on the south fork.

COMMISSIONER TOMARKEN:

Yes.

LEG. KENNEDY:

Okay. And that was because of time?

COMMISSIONER TOMARKEN:

A combination of a unique plan that was presented to us.

LEG. KENNEDY:

Okay.

COMMISSIONER TOMARKEN:

Time.

LEG. KENNEDY:

Okay. So let's go back, then, to the planned piece. And I am a little curious for the gentleman from Southampton; at what point did they approach the Administration and start discussing this

alternative to the current clinic situation that we have out there?

COMMISSIONER TOMARKEN:

Let me just clarify one thing; not all of this money will go for the East Southampton. There's approximately 2.5 million that will be used at other health centers, so it's not all going to South and East Hampton -- this project in South and East Hampton.

LEG. KENNEDY:

Oh, you're killing me (*laughter*). You're killing me. All right, he just said not all the money is going to East and Southampton. Okay.

MS. BERMEL:

That's correct. If I could clarify?

LEG. KENNEDY:

Please, I'm begging you.

MS. BERMEL:

Okay.

LEG. KENNEDY:

Clarify.

MS. BERMEL:

Okay. It was a \$5 million grant.

LEG. KENNEDY:

Okay.

MS. BERMEL:

Two hundred and sixty-three thousand, nine sixty-four was spent on Brentwood planning.

LEG. KENNEDY:

Okay.

MS. BERMEL:

Okay. That leaves a balance of 4,736,036, which is the amount of money being set up in this Capital Project, in this resolution. Two point two million dollars is scheduled for the Southampton proposed health center on the campus of Southampton Hospital.

LEG. KENNEDY:

Okay.

MS. BERMEL:

One million dollars is proposed for planning for Brookhaven Hospital; 236,036 is proposed for planning for improvements to Riverhead and Tri-Community; 1.3 million is proposed for construction for Riverhead and Tri-Community and any other health center in the network which requires any renovations, and that accounts for all the funds. So it's spreads the funds across the health center network across Suffolk County.

LEG. KENNEDY:

Okay. Do I have that in this resolution; what you just read to me?

MS. BERMEL:

The breakout is not in that resolution.

LEG. KENNEDY:

Okay. So but for me just asking that question, I would have never known that. Well, maybe I would have, maybe at some point you might have told me, and I don't have it now.

MS. BERMEL:

The resolution --

MR. SCHNEIDER:

All you had to do is ask.

LEG. KENNEDY:

Well, there I am, Jon. You see, that's kind of how these things go sometimes, you know? You never know what door you're going to stumble through when you try to open it and ask a question.

MS. BERMEL:

The capital presentation that's required in the resolution, the format doesn't lend itself to this level of detail, but it certainly is summarized in the resolution, Legislator Kennedy.

LEG. KENNEDY:

Well, you know, Margaret, listen, you and I have been reading resolutions for a long time, me probably longer than you. And, you know, you can infer a few things, but there's no way you can tell me that this resolution would lead me to understand that there's money for Tri-Community, for Brookhaven and for all the other elements that you just identified. I'm sorry, Margaret, that's too far to go.

MS. BERMEL:

It does mention Brookhaven Hospital and it also mentions the County-operated health centers, of which Riverhead, Tri-Community and Southampton and East Hampton are County-operated health centers.

LEG. MONTANO:

It's vague.

LEG. KENNEDY:

You know what, Margaret? Okay, look, I don't want to argue, you know, the small points because there's a broader point I'm trying to get to here. The discussion that we're talking about is for what for us is a significant change in the way that we presently meet our constituents' health care needs on the south fork. Right now they're in those two satellite clinics, those satellite clinics operate out of the primary clinic in Riverhead, I believe; right, Doctor?

COMMISSIONER TOMARKEN:

Well, they each have their own operating certificate. I know some people refer to them as satellite clinics, but they are truly independent on their own but they do work in coordination with Riverhead.

LEG. KENNEDY:

But that's an important point you just brought up, too, and I appreciate you reminding me of that. Because the operating certificates then will be retired for these two sites, and what will then reflect what happens there at Southampton, at the hospital?

COMMISSIONER TOMARKEN:

It will be just like Coram. We transferred our operating certificate to HRHCare for the Coram Center and we would do the same for these two centers.

LEG. KENNEDY:

So we're really -- 1365 -- and in deference to the Chair, 1365 just talks about moving some money. But for all intent and purposes, we've discussed almost every step that takes us from our County nurses and other folks who treat patients to people that work for Southampton Hospital, and have Southampton paychecks. Is that about where it's at?

COMMISSIONER TOMARKEN:

I'm not following the Southampton part of your statement.

LEG. KENNEDY:

Well, Southampton is going to operate the clinic.

COMMISSIONER TOMARKEN:

No.

LEG. KENNEDY:

No? Who's going to operate the clinic?

COMMISSIONER TOMARKEN:

Hudson River, HRH.

LEG. KENNEDY:

Oh, I'm sorry, Hudson River. But it's on Southampton's grounds.

COMMISSIONER TOMARKEN:

(Nodded head yes).

LEG. KENNEDY:

Is there a set of plans, gentlemen, for the clinics?

UNKNOWN AUDIENCE MEMBER:

Yes.

LEG. KENNEDY:

You've got plans, you know what the footprint's going to look like? You pretty much have it all laid out? You've gotten some approvals and things like that. Okay.

Now based on the advice of Counsel, I'm going to recuse, because it's my firm belief that we have gone way beyond A-96. We have a plan that's set out, we have a course of action for delivery of health services, we've had no assessment of the cost benefit analysis beforehand. And as everybody knows, I'm a plaintiff in the suit right now, so I'll stop now.

Applause

MS. FINNIN:

You left out MLK.

CHAIRMAN SPENCER:

Legislator Calarco. Thanks, Legislator Kennedy.

LEG. CALARCO:

Thank you. I just have a few questions as we move forward. First, I know there's been a lot of debate on whether the merger on the East End makes sense or not. From a logistical standpoint for the residents of the East End, I know the Legislator who represents the area is supportive of that merger, so just as I would want people to respect my opinion on what's best for the residents of my district, I'm going to respect his opinion on his district.

This bill does provide resources for other health centers, I know one of them being Brookhaven. And to that, the Patchogue Center, which is operated by Brookhaven Memorial Hospital right now, is in a location where our lease expires in a couple of years, the location is right on our Main Street in East Patchogue and we're looking to relocate that off of Main Street preferably closer to the hospital where I think there's a lot of benefits for it to be placed there where it will continue to have access to public transportation and something that I've been trying to push along for a while. So the money is duly needed there. I'd hate to see us lose this money. In all deference to my colleague, because I understand that we should have been doing things in Brentwood a long time ago, we really don't want to lose this money on that.

But here's my question to the Administration; and I don't know if, Jon, you probably want to answer this than the doctor. We've already heard from the attorney that the follow-up to this in terms of whether or not we turn over operation of the East End centers to Hudson River is going to have to come back to this body for a vote; correct?

MR. SCHNEIDER:

Correct.

LEG. CALARCO:

What is the Administration's plans if this body decides that we do not want to privatize those centers and put them into the hands of Hudson River? Will we continue to operate the Southampton site as one merged center with the County's staff in cooperation with Southampton Hospital, or are we going to just close up shop and not provide any services to the residents of the East End?

MR. SCHNEIDER:

No one has put forward any proposal or hint that we're closing up shop. We're not closing up shop.

LEG. CALARCO:

So then if this body decides we do not want to transfer the operating license to Hudson River, which is a follow-up question that's going to come to us, then we'll continue to serve the needs of those residents and we'll serve the needs of those residents with County employees, as we do right now.

MR. SCHNEIDER:

We would serve -- if this body for some reason did not support that plan, then we would serve that community in much the same manner as we're serving them today.

LEG. CALARCO:

Okay. Thank you.

CHAIRMAN SPENCER:

Legislator Montano has a quick follow up.

LEG. MONTANO:

Yeah, this will be quick. You know, Ms. Bermel, I'm not looking to be argumentative, but I'll take issue, and it's a technical issue, with the statement that, you know, we've got to move the money because we're going to lose it. Technically that's correct, but that's not real.

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The reason that we have to move this money is because we didn't spend it for the reason that it was allocated, which was to build a regional health center, so we didn't do what we said we were going to do. Then we said, *"Well, we're not going to build a Regional Health Center, so we're going to use the money to extend the lease at the existing Brentwood Center and we're going to use the money for renovation,"* and we failed to do that also.

So it's not that the program expires, it's that we sat around and didn't do anything. And now we're in a situation that we don't have time to spend the money for its intended purpose which was to enhance services in a particular community. And because we don't have time to do what we should have done, now we run the risk of losing it. So technically you're correct, but that's not the reason we're moving the money. We're moving the money because we sat back and didn't execute -- and I don't mean you, I'm talking about -- those were policy decisions that were made, initially they were made by the -- with respect to yourself, Dr. Tomarken, they were made by the prior occupants of both the County Executive's Office and your department, and that's an unfortunate statement.

COMMISSIONER TOMARKEN:

I would correct that.

LEG. MONTANO:

Go ahead.

COMMISSIONER TOMARKEN:

This is a Space Committee issue. And I'm not trying to put -- but the Space Committee makes these decisions.

LEG. MONTANO:

Yeah, the Space -- well, I'm not going to go -- this is where I -- you want to open that door, we'll be here another hour. But the bottom line is, yes, technically you are correct. The Space Committee which was composed of certain people, after they submitted -- after the RFP was issued and after the submissions were received, simply turned around and said, "Whoops. Guess what? Never mind."

COMMISSIONER TOMARKEN:

No, I think there were recommendations and concerns raised by the Space Committee.

LEG. MONTANO:

Yes, there were. But the problem is that the bids were sent out -- we're going to get into an issue on this.

CHAIRMAN SPENCER:

I'd like to see if we can --

LEG. MONTANO:

I'll finish it, though.

CHAIRMAN SPENCER:

Okay. Thank you.

LEG. MONTANO:

The Space Committee, after the bids were submitted, decided not to go through that; the reasons for that, we can have the discussion outside. But the bottom line is that the money that was intended or that was allocated to Suffolk was for a specific purpose. We turned around unilaterally and said, *"We're not going to do that. We're not going to do A, we're going to do B."* We didn't do A, we didn't do B, and now we're stuck with, *"Oh, man, we've got to move this money real quick,*

otherwise we're going to lose it." So let's leave the reasons behind that, because there is a back story here and I don't know that you're really aware of everything that happened.

Jon, I'm going to support this as I said I would. I gave you my commitment yesterday, I will keep my commitment, and I expect that we will be able to resolve and restore the money back to its intended purpose. I don't want to wait until -- I don't like to do things at the last minute. I don't want to wait until the end of March next year to be saying, *"We need to do something about the Brentwood Health Center or, you know what? We're going to be out of look because we're going to have to close it,"* and that's something we're going to have to work on seriously.

And Jon, you know, my patience wears thin, especially when we're running up against the clock. I don't want these last minute, you know, emergency resolutions. This is something that has to be resolved soon. What's your timetable for reviewing the bids that were submitted; do you know?

MR. SCHNEIDER:

I do not know of that offhand. I'll find out.

LEG. MONTANO:

We'll talk about that Tuesday. Thanks.

CHAIRMAN SPENCER:

Thank you, everyone.

So with regards to this debate that we've had, and we've heard from the public, one -- some of the concerns here, as we look at this issue globally, we talk about privatization and the objection to privatization. And some of my concerns when we look at Hudson River and other organizations that approach us to do business, that when we are engaged that there may be a sense that they are competing or coming in to take away. And I'm concerned because as someone that's run a private practice in health care for the last 12 years, I realize how important it is to support our County employees and the sacrifices that they make and our unions and what they do and our patient health care, and I've taken an oath to do that.

One of the things that I understand when dealing with the Administration is that we're dealing with a bigger issue across the country. And I've seen it in my practice, I've seen it dealing with Medicare. And we're seeing a situation where New York State, with a \$120 billion budget, that we spend \$55 billion on health care. And most states, their number one priority or budget item is education, highway and public safety and then health care. But the -- in New York, we spend 40% of our budget on health care. And on a Federal basis, what we're seeing is that the State is not getting that money; the funds have been shifted, the playing field has been shifted. And it's a very painful discussion that we have and a lot of times I think that our employees feel that the Legislature is turning their back on them when we have these discussions and we look at this debate. And I want to make it abundantly clear that when we look at partnerships, there's a tendency to want to vilify. We see Hudson River, I've heard claims of reduced services, I've heard claims of higher cost, but -- and I've heard claims that there hasn't been the appropriate -- when we see the report when it comes to Coram. But they've come before this body in October to give a follow-up report and we had the person who founded Coram who came in and represented just really her support for the mission, and I don't want to take everyone that comes to us as we try to figure out a very difficult future. This isn't about, in my opinion, taking anything away from our County employees or changing our mission. But when we as a County see half the money coming through that we received in the past, we know that we have to plan for the future.

It's painful. It should be a transparent process. I could criticize the Administration at times with regards to the process, but at times I also understand that it's something that's coming very quickly and we're trying to adapt to that change. And I think that I needed to get that on the record and I

don't want anyone from any of our patients or our staff members to ever feel that I take their job for granted. And the reason that I take some of the positions that I do is because I get it, that if we don't plan today and be able to adapt to the change then we're going to be in an unsustainable position, and I think that long-term our system is going to suffer for it.

So I appreciate Hudson River being here and Southampton and representatives who came out for a very long protracted debate on this issue. So when we had the recess, we took this matter where we got advice from Counsel that will clarify some matters, and the advice of Counsel is that consideration for approval where some of the Legislators wanted a ruling on certain personal issues, that one of the positions that we could take was a discharge without recommendation. Which would still get this issue to the floor, get the members of this committee who did express a need for a ruling to be able to get their concerns answered with the conversations with Counsel. So because of that, and speaking with my colleagues, I'm going to make a motion to discharge this without recommendation. I'm looking for a second.

LEG. CALARCO:

I'll second it.

CHAIRMAN SPENCER:

Second. Without any further speakers on this matter, any --

LEG. BROWNING:

I will have to say for the same reasons that Legislator Kennedy said, I will have to recuse also.

LEG. KENNEDY:

Yeah, on the advice of Counsel, I'm recusing.

CHAIRMAN SPENCER:

So we have two recusals, so this vote has to be unanimous. On the discharge without recommendation, are there any other --

LEG. MONTANO:

Well, this is simply a vote to move money. This is not a vote to privatize or do anything like that, and I just want it to be very clear. It's just a very technical vote and to -- is Dan still here, Dan Farrell?

MR. FARRELL:

Yeah.

LEG. MONTANO:

Yeah. This does not mean that we are approving any kind of privatization, any kind of turnover. We are simply moving money over to another section and we're going to, you know, look at it, look at this issue and keep on it; you follow what I'm saying?

MR. FARRELL:

I disagree. Who's benefit is that going to be?

LEG. MONTANO:

If you want to come to the podium, Dan, I don't have a problem with that. If you want to put your position on there. I mean, you know, I don't want to make it protracted, but you do --

MR. FARRELL:

I disagree because I think the benefit is going to be to HRC if you're putting money into these and they're going to take them over. So who are you benefitting here?

LEG. MONTANO:

Well, the problem is -- just to be clear, Dan. It has to come back here. It is a Legislative decision, we've gotten Counsel to stay that. And for that reason, I just want to be clear that we're not supporting -- I'm not supporting the privatization by moving money and I want you -- you know, I want you to understand that position. Do you --

MR. FARRELL:

I hear you but I don't necessarily agree.

LEG. MONTANO:

All right. So we'll talk --

MR. FARRELL:

I agree to disagree.

LEG. MONTANO:

No, we'll sit down and talk and we'll --

MR. FARRELL:

I'd like to do that.

LEG. MONTANO:

We will. Thanks.

MR. FARRELL:

And we'll see how this plays out.

LEG. MONTANO:

Okay. Go ahead, call the vote.

CHAIRMAN SPENCER:

No other motion, so discharge without recommendation has been made and seconded. All those in favor? Opposed? And with two recusals, so the matter is ***discharged without recommendation (VOTE: 3-0-0-0-2 - Recused: Legislators Browning & Kennedy)***.

LEG. KENNEDY:

Doctor, a point of privilege, if I can now.

CHAIRMAN SPENCER:

Absolutely, Legislator.

LEG. KENNEDY:

Because part of it had to do with some of the dialogue before with Hudson River. And Dr. Tomarken, I do have the October 4th, 2012, minutes here now, and I need to correct myself. There was a general presentation by Ms. Nolan which I appreciate. I had been hoping for a little bit more specificity. And as I'm reading, I see Ms. Nolan made a comment about a report. Was there a separate writing? That I don't have in these minutes.

But in any event, if I can, through the Chair, to you and to Ms. Nolan, but what I'm looking for is something that gives a reflection of the numbers of patients, the range of services, where we're at as far as the cost spectrum goes. And also, Ms. Nolan, to the best of my knowledge, we still don't have the appointment of the Suffolk County representative to the board. I'll speak with you, I guess, off-line about that --

MS. NOLAN:

(Nodded head yes).

LEG. KENNEDY:

-- because a number of us, as Legislators, had a very strong recommendation as to who we thought was going to wind up with that appointment. So I would like to revisit that with you.

MS. NOLAN:

I'm happy to talk with you about that.

LEG. KENNEDY:

Okay. Thank you.

CHAIRMAN SPENCER:

So I appreciate Hudson River and Southampton being here. We're going to return back to our agenda. We don't -- there were two presentations and we did have Amy Juchatz here to discuss public health assessments, but she has graciously, with a side conversation, has agreed that she will allow us to reschedule, because I want her to have our full and undivided attention, and I think this was a very deep issue that I would be concerned that attention may not be focused on her issue with the time.

But before we get to our agenda, there was at the last General Meeting where a very difficult vote was taken with regards to closing the John J. Foley Nursing Home and there's been a lot of concerns with regards to the closure process from everything with regards to the CMS with the contract and how discussions are going with patients, physician interaction, placement and the New York State Ombudsman in terms of complaints and how those issues were being addressed. So I've asked Dr. Tomarken to be prepared if he would be able to give us kind of an update in terms of first just some of the statistics, people who have been placed at this particular point, and just with regards to complaints, and Legislator Browning has asked for this and she will ask very pointed questions. So, Commissioner?

COMMISSIONER TOMARKEN:

Okay. Our Census as of midnight last night is 133 with 61 discharges; 46 of those discharges are to other nursing facilities, one to an adult home, one to an assisted living and 13 individuals went home.

LEG. BROWNING:

Can you repeat that? One adult home, one assisted living?

COMMISSIONER TOMARKEN:

And 13 to their home.

LEG. BROWNING:

Thirteen back home.

COMMISSIONER TOMARKEN:

Yes.

LEG. BROWNING:

And the remainder in various nursing homes.

COMMISSIONER TOMARKEN:

Correct, that's 46.

LEG. BROWNING:

Where are the nursing homes; do you know, Nassau, Queens, Suffolk?

MR. CAREY:

Kevin Carey, Administrator of John J. Foley. They're all in Suffolk County except for anybody who requested, I believe one requested to go to Queens. We're in the process of two requesting to go to Florida. But everybody is in Suffolk except for anybody who requested to go to Nassau or Queens.

LEG. BROWNING:

Okay. And the Ombudsman is supposed to get a list of all of the residents that have moved out of the nursing home. And I'm just curious, has he received or have they received the lists of all the residents so they can check on them?

MR. CAREY:

We have the list available for him. I do not know if he picked it up yet.

LEG. BROWNING:

Okay. Well, the last time I spoke with him, I guess the last day that I was there, there was a number of them that were going to visit Avalon, and he had said that he didn't have a list at that point. So you do have it available.

MR. CAREY:

Yes, I do.

LEG. BROWNING:

Okay. One of my concerns was, because I think it was after one of our General Meetings here, I received a phone call, and without mentioning names, I know you know who some of them are, especially the ones that really upset me was the Spanish-speaking residents, I know two of them don't speak English. And the one who does speak English was told by the social worker -- he basically wanted to go in and offer his assistance because he could speak English, and he was told to leave the room, it was none of his business. However, I believe the social workers who were there did not speak English, so how are they going to communicate with a non-English speaking resident?

And the other issue was that there was a nurse was required, asked to fill out some discharge papers when they were only being told they were going to visit Avalon and that they weren't necessarily going to have to stay there, but if they liked it they could stay. Why -- is that a common practice, to go ahead and fill out discharge papers if they're only going to visit?

MR. CAREY:

No. Some of them were granted the opportunity if they wanted to at the end of their tour to stay. In which case we would have to do all the discharge paperwork before they left for their tour, and that was just an option given to them, that's all. At the conclusion of their tour, Avalon would offer them to simply stay there and we would send everything over. And if they wanted to take that option, then we'd have to do the paperwork before they went on the tour.

LEG. BROWNING:

Okay. And the one other individual that I met with who wants to do like an independent living, is that still moving forward for him?

MR. CAREY:

Yes, last time I've heard, yes. They're pursuing that.

LEG. BROWNING:

Okay. Because again, you know that the issue was he was -- he was one of the ones who called me

and said, *"They're sending me to Avalon tomorrow and I don't want to go there. I want to do independent living."*

So, you know, again with the language barriers, I know that there are those couple that have a language barrier. Who is providing the translation for them when they need a translator?

MR. CAREY:

We are now using the professional translating service. Any time we need a translator, there will be two staff members in the room with speaker phone using an outside translator service for all translating.

LEG. BROWNING:

Okay. But I know we have a couple of employees who speak the language. There's a couple of Spanish-speaking employees; are we paying these translators? Why wouldn't we use the ones that work there?

CHAIRMAN SPENCER:

I can address that. We already have the service that's contracted, and we run into this frequently. For instance, when I'm at the hospital and I am trying to get someone's consent for surgery, I'm not allowed to use a staff member that's there because, first of all, with translation there can be some subjective variances or nuances in terms of the explanation. So this is a very --

LEG. BROWNING:

Okay, got you.

CHAIRMAN SPENCER:

As you know, a very difficult process. And so what they want to do is to have -- so we're not spending extra money, but to have an objective translation that we have that would give a neutral position in terms of explaining what the issues are.

LEG. BROWNING:

Okay, I get that. And I know that there were a few of them that were very upset and felt that they were not being treated very well, and basically feeling threatened that, *"Well, if you don't go here."* You know, they told me that they were being told, *"Well, if you don't go to this nursing home, nobody else wants you. You know, you might wind up in the city, we're going to have to send you to the city."* So I know that based on some of those conversations, that have called the State hotline. I was called and told the State was coming down to visit; have they come down yet or will they be coming?

MR. CAREY:

No. I have no phone calls from them and I have no visits from them.

LEG. BROWNING:

Okay. So how are those --

MR. CAREY:

Correction; I did get one phone call over a PRI, which we handled over the phone. Besides that, no, no other phone calls and no visits.

LEG. BROWNING:

Okay. Because I know the two Spanish-speaking ones there that night made phone calls, so I'm just curious if there was a follow-up for them.

MR. CAREY:

Yeah, the head of social work has gone back and interviewed all of the Spanish-speaking people and put the translator on their complaint.

LEG. BROWNING:

Okay. Well, thank you.

CHAIRMAN SPENCER:

Thank you. I had a couple of questions. I know I've been in contact as I receive complaints with regards to issues that may have been passed on to me. That was one of the issues for our Spanish-speaking patients, was to make sure that they did have an objective translation to be available.

The other issue that came up that I wanted to put on the record was patients who were being transferred, there is the PRI, but there is also a physician's medical plan or a transfer plan. And I did want to state for the record that the medical plan must be signed off by the physician and that process is never circumvented, that if there's a physician that there's a medical issue that needs to be addressed that would prohibit or delay transfer, that the physician's medical -- the patient's medical needs would never be ignored and would never be done against the medical advice of a physician. Is that correct? That's what my understanding is.

MR. CAREY:

I'm not quite sure of your question.

CHAIRMAN SPENCER:

If there is a transfer that is being proposed and a nursing plan of action to do the transfer, there is also a medical, a physician's plan that a physician needs to sign off on that particular transfer. That process is never circumvented.

MR. CAREY:

No. The nurses do a discharge note and every doctor does a discharge note and signs off on them, on every patient.

CHAIRMAN SPENCER:

That's -- thank you. So some of the -- again, we understand that this is difficult, but what I want to make sure is that it is done professionally and humanly, and I've had several conversations with the Commissioner who is monitoring it very carefully. I appreciate you doing that, Dr. Tomarken. Thank you. But I will continue to -- as I receive individual concerns, to pass those on and ask that they be addressed.

One -- a couple of ideas were -- because we're dealing with a very emotional situation, was as far as when we look at this process, was perhaps having a third party observer that could be a social worker or from one of our community organizations was an idea that we were entertaining that would be a witness as far as conversations, because if there is claims of coercion or intimidation, then having another set of ears in the room was maybe appropriate. So that was something that we were hoping to discuss with CMS, but I didn't know if there was any particular follow-up on that issue.

COMMISSIONER TOMARKEN:

We discussed it with CMS and amongst ourselves and I'll let Mr. Carey give you his feedback as to that idea.

MR. CAREY:

A lot of times it is critical timing. Family might have been trying for three weeks to get a bed into Affinity Nursing Home. Affinity Nursing Home will call us up at two o'clock in the afternoon and say, *"You've been waiting two weeks, we have a bed now."* If not, we have to get the resident out of rehab or out of the dining room and start talking to the resident, that's a critical time issue thing, if we're going to offer that resident that bed right now and get the family on the phone. And these interviews go on all day long every single day. If we're going to set up a system where an outside person has to be there for that, then we're going to miss a lot of beds. I'm going to have to call a lot of families back up and say, *"I'm sorry, we have to pass on it."*

CHAIRMAN SPENCER:

I understand that. I think the issue came from the concern where you may have a staff member that is extremely frustrated or, you know, not happy about the closure, dealing with the patient that is concerned or someone that may be forever -- or an emotional issue or a schizophrenic or whatever, and then you have a CMS member that is discussing this transfer. Because, you know, there have been allegations of coercion and things of that sort. I don't know, we were looking for a way to kind of protect these interactions wherever possible. So it may even be just another staff member. I am concerned when there's just one-on-one conversations, or even yourself being involved wherever you can. So it doesn't have to be a formal setting, but maybe something that I'll just go on the record to encourage because to avoid as many oppositional conversations as to what the content of the conversation was. This person was rude, this person gave an ultimatum; no, there was another person in the room, this is what was said, I think would go a long way in terms of helping to alleviate some of these he said/she said situations.

MR. CAREY:

We've actually just a few days ago instituted that the social work department and the CMS people will always do a two-person approach to every resident and every discussion.

CHAIRMAN SPENCER:

That's what I was looking for. Perfect. Thank you.

COMMISSIONER TOMARKEN:

And I've also asked if the Ombudsman people could be -- give us as much time as possible at the center.

CHAIRMAN SPENCER:

That's helpful also. Yes?

MS. MCGREGGOR:

Hi. Linda McGreggor. I just think I wrote the numbers down wrong. I heard you say 41 patients went to other nursing facilities, one to an adult home, one to assisted living and 13 discharged home, which equals a total of 56, but I thought I heard you say 61 were discharged.

COMMISSIONER TOMARKEN:

Forty-six to other nursing facilities; four-six.

MS. MCGREGGOR:

Thank you. I'm sorry.

CHAIRMAN SPENCER:

Okay.

LEG. BROWNING:

One last question.

CHAIRMAN SPENCER:

Yes, Legislator Browning.

LEG. BROWNING:

If a family member -- because again, a roommate told me that her family member has a son who basically takes care of her, and she said that of course the resident -- again, another one who speaks English but not real well -- that is it appropriate for CMS or a social worker to go in and tell that person that they have to move out or, you know, what I understood was you have two weeks to leave. If the -- if there's a family member who's an advocate for them, is that not who they're supposed to be talking to or is it appropriate for them to be going in and speaking to the resident if they have a family advocate?

MR. CAREY:

Every single resident is treated independently and different. There are some that are completely alert and oriented and competent to make their own decisions who have specifically told our staff, "Do not deal with my wife, husband, son, you deal with me first." And then there were others in agreement with the resident, have agreed, "No, just deal with my family and let me know the results." So each and every one is different.

If I can just point out, what seems to be happening is the perception of the discharge day. That seems to be the reoccurring pattern right now. The resident might have been working with social work all week to do a transfer, the family might have been working with the social worker all week to do a transfer. That resident has lived with us for ten years, has family -- basically everybody's become family. The resident has agreed to leave, the family has worked on the discharge, the resident might leave the building crying, it's totally normal somebody moving would leave the building crying. Staff or other people might look at that and go, "How abusive is that? You're forcing that person to leave," but it's perfectly normal if they've agreed, social work has talked to them, they've agreed to go to the new facility, the family has worked and visited the new facility, everything is arranged, one person might look at it and go, "That's abusive, you're forcing that person out, she's leaving crying." Another person might look at her, the worst thing in the world at that point would be to encourage the resident to go back and stay for three more days and then go through this whole process again. And that's what's going on.

LEG. BROWNING:

Right.

MR. CAREY:

Its the perception in the hall of what's going on, that's really the issue.

LEG. BROWNING:

Right. And again, you have employees, I mean, I saw them crying. There was one who was getting wheeled out of the nursing home, and she was at the old infirmary, so she's been that long around, and not only is it breaking the hearts of the resident, but the employees because they are a family. And it's not -- Kevin, it's not you. We're not pointing fingers at you.

MR. CAREY:

That's all right.

LEG. BROWNING:

You're not the abuser. We know -- I know who is.

MS. FINNIN:

So do we.

LEG. BROWNING:

Because there is -- you know, it doesn't need to be closed. It doesn't need to be closed. There could have been a solution to this problem, but somebody chooses not to solve that problem.

Applause

And, you know, Kevin, I think you've tried your best. I'm never going to say that you haven't. You have tried your best while you were there, but you were not given the resources that you needed to make it a better place. So I just -- you know, I'm not pointing fingers at you, I'm not angry with you. I know why you were hired; you were hired to close the place and, you know, like I said, there's only one person we can blame for this.

MR. CAREY:

Well, I was really -- thank you for that, but I was really speaking for my social work department who might be encouraging the resident in the hallway while she's crying, "Go to your new nursing home, give it a shot. Don't go back to your room and cry for three days." And some people look at that social worker and say, "Oh, you're abusing the resident," and she's -- the social worker is just trying to do the best thing for the resident at that day, at that moment in the hall.

LEG. KENNEDY:

I have question.

CHAIRMAN SPENCER:

Legislator Kennedy has a question for Dr. Tomarken.

LEG. KENNEDY:

Yes, thank you. Hello, Kevin. How are you? And like Kate is saying, I mean, this has been no picnic at all.

My question goes to -- and obviously in this area, there's not a whole lot I can say at all, is there? But I can ask, why were the nurses on Monday afternoon told at three o'clock that they're being reassigned to a new location and that they cannot come back into the building unless they're escorted? I mean, we don't do that with any employee. That was less than, what, 12 hours notice? How'd that happen?

MR. CAREY:

Well, as far as the transfer, that's by the County. As far as not being allowed in the building, if I'm going to have possibly 50, 60 or 80 employees either laid off or transferred, coming back would be a real disruption. I was the one who actually instructed them, at least for now, please do not come back into the building.

LEG. KENNEDY:

Okay. I understand that with your concern with security and things like that, but the timeframe, Doctor, as far as they find out at three o'clock in the afternoon they're reporting to some other location at 8 AM the next morning?

COMMISSIONER TOMARKEN:

We have a new medical, Jail Medical Unit that's opening that needs to be -- we need to train people to work there.

LEG. KENNEDY:

Yes.

COMMISSIONER TOMARKEN:

I don't -- that's -- it's not unusual to move people on a very short notice. And --

LEG. KENNEDY:

You know what? Listen, I'm just, as I said before, a dirt lawyer and a simple Legislator. I don't pretend to understand all the aspects of the CBA, although I've read it before, and I know a little bit about Civil Service. If there are extenuating circumstances, yes, you're right, we, or you as management, can deploy staff as necessary to meet a specific need. All I'm saying here is, you know, less than 12 hours notice for folks that have been there for 10, 15 years is not the best management practice. How about if we leave it at that?

As to the balance of it, what is the timeline that you're looking at with the facility at this point, Doctor?

COMMISSIONER TOMARKEN:

As you know, it's not a linear equation and it will -- we're looking at about 60 days.

LEG. KENNEDY:

From today.

COMMISSIONER TOMARKEN:

Yes.

LEG. KENNEDY:

Your estimation is by July 2nd -- no, by Fourth of July weekend that you're going to have the facility completely emptied, closed, and that the license at that point will revert to the State.

COMMISSIONER TOMARKEN:

That's a reasonable estimate.

LEG. KENNEDY:

Okay. You concur, Kevin?

MR. CAREY:

Yeah. If it continues the way it's been, yeah, it should be right about that time frame.

LEG. KENNEDY:

Okay. The reverter of the license process, where are we as to how that actually happens? Does that occur when the very last resident is out of the building, or are we involved in that now?

COMMISSIONER TOMARKEN:

No, it happens when the last resident has left the building, and that's when you turn in your license.

LEG. KENNEDY:

Okay. What if we get down to 20, 30 or 40 people that we can't just place?

COMMISSIONER TOMARKEN:

The State has indicated they would help us. And they haven't given us very specific guidelines as to how they do it, but I suspect they would be looking at the list of where people would like to go and talking to the facilities. They haven't given us an exact plan as to how they would do that.

LEG. KENNEDY:

Okay. All right, I'll yield. Thank you.

CHAIRMAN SPENCER:

Thank you. Thank you, Commissioner Tomarken. I appreciate it.
Thank you so much. I appreciate you giving us an update on the closure.

MS. MCGREGGOR:

Linda McGreggor. In regards to Legislator Browning's comment, there's only one person to blame for this. I know the closure was activated because of no funding. The majority of the Suffolk County Legislature could approve to refund the facility and prevent the closure. So in addition to your comment that -- in response to your comment that there was one person to blame, a resolution could have been presented and approved by the majority to continue the funding. So there's more than one person to blame, to go around.

CHAIRMAN SPENCER:

Mr. Carey, thank you so much. Thanks for all your hard work.

With that, we are going to move on to our agenda. And we have our Clerk back at the table, we're in good shape.

Introductory Resolutions

IR 1268-13 - Amending the 2013 Adopted Operating Budget to accept and appropriate 100% additional State Aid from the New York State Office of Mental Health to Pederson Krag Center, Inc. (County Executive).

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

LEG. MONTANO:

Second.

CHAIRMAN SPENCER:

Second by Legislator Montano. All those in favor? Opposed? Abstentions? Motion carries ***(Approved & Placed on the Consent Calendar - VOTE: 5-0-0-0).***

IR 1317-13 - Declaring June 6th as "Transverse Myelitis Awareness Day" in Suffolk County (Spencer). Motion to approve.

LEG. BROWNING:

Second.

CHAIRMAN SPENCER:

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

IR 1333-13 - Authorizing the transfer of deer collars to Cornell University Cooperative Extension of Suffolk County (County Executive).

LEG. CALARCO:

Motion.

CHAIRMAN SPENCER:

Motion. A second. All those -- motion by Legislator Calarco, seconded by myself, Legislator Spencer. All those in favor? Opposed? Abstentions? Motion carries ***(Approved - VOTE: 5-0-0-0).***

1335-2013 - Amending the 2013 Adopted Operating Budget to accept and appropriate additional 100% Federal and State Aid from the New York State Office of Alcoholism and Substance Abuse Services (NYS OASAS) to the YMCA of Long Island, Inc. And the Town of Smithtown for Chemical Dependency Services (County Executive). Motion to approve and place on the Consent Calendar.

LEG. BROWNING:

Second.

CHAIRMAN SPENCER:

Second. All those in favor? Opposed? Abstentions? Motion carries **(Approved and placed on the Consent Calendar - VOTE: 5-0-0-0).**

IR 1344-2013 - Accepting and appropriating 100% Federal grant funds passed through the New York State Department of Health, Health Research Inc. To the Suffolk County Department of Health Services for the Falls Prevention for Older Adults Initiative (County Executive). Same motion, same second. All those in favor? Opposed? Abstentions? Motion carries **(Approved and placed on the Consent Calendar - VOTE: 5-0-0-0).**

IR 1346-13 - To appoint member to the Food Policy Council of Suffolk County (John T. Woods) (Hahn).

LEG. BROWNING:

I thought this was a reappointment.

CHAIRMAN SPENCER:

A reappointment to --

LEG. CALARCO:

(Inaudible).

LEG. BROWNING:

No, actually I talked to him and he said --

CHAIRMAN SPENCER:

I think it is a reappointment, otherwise they would have appeared. It is a reappointment, I'm pretty certain. It is a reappointment. Motion by Legislator Browning. Second by Legislator Calarco. All those in favor? Opposed? Abstentions? Motion carries **(Approved - VOTE: 5-0-0-0).**

1365 we've already addressed, it's discharged without recommendation.

That's all the business I have for us today. Two hours, two-and-a-half hours.

LEG. BROWNING:

That's all?

CHAIRMAN SPENCER:

Not bad for a Health Committee. Thank you so much. I appreciate it. We stand adjourned.

(*Banged Gavel*)

(*The meeting was adjourned at 5:05 P.M. *)