

**JOHN J. FOLEY SKILLED NURSING FACILITY**  
**OVERSIGHT COMMITTEE**

A regular meeting of the John J. Foley Skilled Nursing Facility Oversight Committee was held in the Rose Y. Caracappa Auditorium of the William H. Rogers Legislative Building, 725 Veterans Memorial Highway, Smithtown, New York, on Wednesday, July 20th, 2011, at 10:00 a.m.

**Members Present:**

Len Marchese - Chairman/Director of Management-Dept of Health Services  
Terrence Pearsall - Representing Presiding Officer Lindsay  
Kim Brandeau - County Executive's Budget Office  
Chris Destio - Staff/John J. Foley Skilled Nursing Facility

**Also In Attendance:**

Legislator John Kennedy - Legislative District #12  
Dr. James Tomarken - Commissioner/Department of Health Services  
Kevin Carey - Administrator/John J. Foley Skilled Nursing Facility  
Craig Freas - Legislative Budget Review Office  
Josh Slaughter - Aide to Legislator Browning  
Kara Hahn - Director of Communications/Presiding Officer's Office  
Mary Finnin - Co-Chair/Suffolk County Health Center Advisory Council

**Verbatim Transcript Taken By:**

Lucia Braaten - Court Reporter

*(\*The Meeting Was Called to Order at 10:08 a.m. \*)*

**MR. MARCHESE:**

All right. Welcome, everybody. I'd like to start the John J. Foley Skilled Nursing Facility Oversight Committee. This committee meets once a month to discuss issues regarding the nursing home. And I guess we can get right to the agenda. I guess we'll go through just a roll call to see who's here and what role they're in, and then we can go from there.

I'm Len Marchese and I'm with the Health Department, and I'm, I guess, the Acting Chair or the Chairman of this committee.

**MS. BRANDEAU:**

I'm Kim Brandeau from County Executive Office of Budget and Management. I'm County Executive appointment to this committee.

**MR. DESTIO:**

I'm Chris Destio, John J. Foley staff.

**MR. PEARSALL:**

Terry Pearsall, representing the Presiding Officer of the Legislature.

**DR. TOMARKEN:**

I'm Dr. Tomarken, Commissioner of Health.

**MR. CAREY:**

Kevin Carey, Administrator, John J. Foley Skilled Nursing Facility.

**MR. FREAS:**

Craig Freas, Legislative Budget Review.

**MR. MARCHESE:**

Okay. So why don't we just get started. Unless anybody else has any comments, I'll just get right to the agenda. Is there any others?

**MR. PEARSALL:**

No.

**MR. MARCHESE:**

Okay. So let's get -- why don't you give us a facility update, Kevin, and we'll go from there.

**MR. CAREY:**

All right. I recently met with Catherine Morris from Stony Brook University to increase our working together to increase the census at John J. It was a very productive meeting. We discussed what's called a 30-day turnaround. Recent changes in Medicare makes it very difficult for the hospitals to bill if residents are discharged from the hospital and then returned within 30 days. So that's one of the things all the hospitals are now tracking. If the hospitals discharge to a

nursing home, the hospitals are tracking the return rate. We discussed that, and I had a meeting with the Medical Director. We're not -- you know, by no means are we not going to send somebody to the hospital because of those statistics, but what we do is watch very carefully for unnecessary -- you know, a mild fever is no reason to go back to the hospital when it can be treated in-house. So we're going to monitor that very closely.

We also discussed standardizing some forms to make it more cooperative going back and forth between Stony Brook and the nursing home. We're going to change one of those forms, and we -- she brought up the possibility of leasing beds at Stony Brook. I said I believe we're wide open to all new ideas, and she said that they would be pursuing something like that, without going into details.

**MR. MARCHESE:**

What does that mean, leasing beds?

**MR. CAREY:**

Basically, she brought up that Stony Brook has several beds occupied by illegal aliens, which they get no money for, at a loss of six or seven hundred dollars a day, and that they would want to look into something where they would pay us to take their illegal aliens at our rate of 300 to 380 a day.

**MR. MARCHESE:**

Let's set that up, if we can set that up.

**MR. PEARSALL:**

These are nursing home patients?

**MR. CAREY:**

Yeah. Well, they're hospital patients that were admitted as illegal aliens that, for whatever reason, if they're a quad, they can't be discharged anywhere else.

**MR. PEARSALL:**

They would be leasing our beds.

**MR. CAREY:**

Right.

**MR. MARCHESE:**

Yeah, Kevin, let's do that. Let's schedule a meeting for next week; get me involved with that. We've had problems with illegal aliens in our own facility in the past, but we were not getting paid anything. As long as we can get paid what we normally would get paid for Medicaid, I don't see that -- I think that's a win/win for us, as long as we have empty beds. So let's set up another meeting for furtherance of that discussion, and then we can get into an MUA with them and move that along.

**MR. CAREY:**

Great. Okay.

**MS. BRANDEAU:**

You might want to involve the County Attorney in those discussions. I don't know if there's any other, you know, issues related to taking people in that fashion.

There might not be, but you might want to include some legal there.

**MR. CAREY:**

Yeah. I definitely left the meeting where she was consulting with her attorneys and I would consult with the Oversight Committee and then move forward. But it would definitely be there, the lawyers involved. Basically, you know, if they're losing seven or eight hundred dollars a day, they would rather pay us \$380 a day. Okay. We'll follow-up on that.

Current census is 209; that's up from last month. We had 15 admits in June, 14 discharges in June, currently running at 76%. For marketing, we've gone to the --

**MS. BRANDEAU:**

I'm sorry, Kevin, could you repeat those numbers?

**MR. CAREY:**

As of yesterday, we had five in the hospital, and the census was 209.

**DR. TOMARKEN:**

So it's 209, plus five.

**MR. CAREY:**

Correct, 209, plus five.

**MS. BRANDEAU:**

You said you had 15 admits in June?

**MR. CAREY:**

Yeah, June we had 15 admits and 14 discharges. Our average for June was 203, and running at 76% for June. For marketing, we attended two picnics, the Town of Brookhaven senior picnic on the 13th, and the Office of the Aging picnic yesterday, on the 19th. We have an open house scheduled for later on today, this date, between 2 and 4 and 7 and 8:30. We're also going to the Patchogue Health Expo on September 17th, we've rented a table.

A slight setback in marketing. We were training a new marketer, one of the LPNs. Unfortunately, she's hospitalized, so we'll see what happens with how long she's going to be out and whether or not we're going to train a new marketer.

Recent changes: We've actually changed the MDS system. We used to have three MDS RNs. We've taken two of the MDS RNs and put them on the floor, so that each one of our units now has a unit manager. We've moved the MDS process to each unit. We kept one MDS coordinator to oversee the entire system.

**DR. TOMARKEN:**

You want to explain what MDS is just briefly?

**MR. CAREY:**

Yeah. The MDS is a 28-page booklet required by the CMS that basically -- it's a picture of the resident. Every possible detail of the resident must be documented quarterly, and significant -- upon admit, quarterly, and a significant change. We used to have three RNs on the side and that was their entire assignment, to go from floor to floor and to fill out the books. I thought that was inefficient. The

nurses are on the floor, the nurses know the resident. We moved the books to the floor. The nurses on the unit, managers will do the floor. And my last two units that we required a nurse for, that we were going hire a nurse for, we don't need to do that now, the two MDS coordinators are on the floor. I think it will work very well.

**MR. FREAS:**

Kevin, what's your current staff?

**MR. CAREY:**

Hold on one second. I don't have the total numbers, but I can get back to you with that.

**MR. FREAS:**

Thank you.

**MR. CAREY:**

I have the list, but I just don't have it totaled.

**MR. MARCHESE:**

It hasn't really decreased since last time.

**MR. FREAS:**

Okay.

**MR. CAREY:**

No.

**MR. MARCHESE:**

We haven't lost anybody else?

**MR. CAREY:**

No. Recent purchases: We had a purchase of \$4,500 for new I.D. badge printer. It's expensive because it opens the magnetic locks on all the doors in the units.

**MS. BRANDEAU:**

What was that?

**MR. CAREY:**

Four thousand five hundred. For rehab, our Med A's were 11 out of the 15, were ultra high. I think that's the most we've ever had since I've been there. Current Medicaid is seven. We recently had a teleconference with the State and Department of Social Services and our transportation for the Adult Day Care. September 1st, our current rate of \$67 a day per registrant expires, and that was actually higher than the State average. So we were very concerned that when that expired the State might lower that. We're currently losing about \$3,000 a month on average on transportation, on Medicaid reimbursement, on transportation for the adult day care. And September 1st, if they lowered that, the losses could be really significant.

So we held a teleconference basically exploring what's called Method 2. Method 2 is the State paying the vendor directly and taking us out of the loop on transportation. The State would then lower our rate for adult day care, but pay the

transporter directly. Since our transportation costs are probably near the highest for the State, that would be beneficial to us.

We had a lot of questions. The teleconference ended with no set resolution, but the State did realize that lowering it -- at the end the conversation, the State realized that lowering our rate September 31st would be catastrophic for day care, and the State actually left open the possibility of increasing our rate now instead of lowering our rate. And they did concede, though, by January 1st, though, that we should look for other methods of transportation, because this is so inefficient compared to other adult day care.

Most adult day cares on Long Island do a fee for pickup for each registrant. If they pick up ten registrants today, they charge -- the transportation company charges for picking up just 10 registrants. We don't do that. We lease buses or rent buses on a daily basis. If that bus has one registrant, the bus costs us 6,500 a month. If that bus, for whatever reason, only has two registrants on it that month, we're paying \$6,500 for the bus, even though it only has two. If the bus -- like say next month the bus became full and then we added one registrant, we would have to add another bus at \$6,500 for that extra registrant. So the whole bus system really is not efficient at all and it's very expensive.

**MR. DESTIO:**

Kevin, someone brought to my attention, can they use an ambulette for that; is that cheaper?

**MR. CAREY:**

Well, we have a mix. We have some adult day cares that could actually sit in the bus, we have some that are in a wheelchair, and some that -- you know, so it goes back and forth. The buses can handle both, but ambulettes could handle them all.

**MR. DESTIO:**

And that could be cheaper, a lot cheaper, right?

**MR. CAREY:**

Yes, if we put it out for our ambulette company to charge us per registrant for pickup. If the registrant didn't come or was sick that day, and the registrant calls up and says, "I'm sick today" or "I'm sick tomorrow and I won't be coming," then they don't charge us.

**MR. DESTIO:**

Okay. So that's another avenue for us to look for as cost savings if they -- we can try to get an ambulette in there, right?

**MR. CAREY:**

Right, for the adult day care for next year.

**MR. DESTIO:**

Okay.

**MS. BRANDEAU:**

Kevin, did you say that the rate expires on September 1st or the 31st?

**MR. CAREY:**

Our current rate of \$67 per day per registrant expires September 1st.

**MS. BRANDEAU:**

September 1st, and then --

**MR. CAREY:**

September 1st. Our current contract with our transportation bus company is good until December 31st.

**MS. BRANDEAU:**

We -- you're saying after your conversation with the State, you didn't see them changing that, but they could just cut us to what, any idea?

**MR. CAREY:**

The lowest in the State is \$44.50 per day for transportation.

**MS. BRANDEAU:**

I don't -- the way that the State has been acting with different things related to health services in the County, I don't see the State maintaining a \$67 rate if they don't have to, or if they've already told us it's expiring.

**MR. CAREY:**

Right. Well, that's exactly what I told them on the teleconference, that was the whole point of us wanting Method 2. The State -- actually, her name was Heidi, Heidi L., I believe her name is, told me that, "That doesn't necessarily mean I'm cutting your rate September 1st." I said, "Okay." So she goes, she's going to look at it and get back to us.

**MS. BRANDEAU:**

Did she tell you when?

**MR. CAREY:**

No. I will definitely be calling her back.

**MR. MARCHESE:**

All right, Kevin. So when you get back, why don't we start the process of an RFP to develop a fee for service pick up, whether it's ambulette or mini bus, or whatever it is; we'll give options. But let's put together an RFP on the street. You work with Barbara, she knows how to do that. And we'll try to get that advertised and returned to us by September or October, and then we can award, so that that contract, at a minimum, would start January 1st. And even if the rate was changed in September, at least we would minimize the -- whatever affect that would be, okay? So we'll do that, and then we'll also continue to, hopefully, have the State give us more money.

**MR. CAREY:**

Right.

**MS. BRANDEAU:**

Kevin, when you talked about census, you didn't give the ADC census. What's the ADC census right now?

**MR. CAREY:**

I was getting to that. Adult day care is averaging 24 a day; registrants is 44.

**MS. BRANDEAU:**

And how many of those do we transport?

**MR. CAREY:**

All of them.

**MS. BRANDEAU:**

Thank you.

**MR. CAREY:**

You're welcome. All right. Staffing: It's summertime and we're struggling, but we're managing. We still have 15 people out on workers comp, and, at the same time, we're accommodating all the summer vacations. Increase in agency staff is up.

**MR. DESTIO:**

Could I say something? And maybe I'm putting the cart before the horse, but you brought up agency staff. We have CNA agency in the facility now, right?

**MR. CAREY:**

Correct.

**MR. DESTIO:**

Okay. Past practice, we had LPNs and RN agency in the facility, so you could say we get that as past practice. But CNA agency is relatively pretty new in the facility. My understanding, we haven't had that in our facility ever, agency. And part of the bargaining agreement -- I know we're talking union, but part of the bargaining agreement here, it says that we cannot have that, especially that we, as elected officials in County government says that we -- as part of the contract, you can't do that. And we're still sucking an agency into the facility here, and even though the union's not addressing it, but it's also in violation of that agreement. And I think, as we keep doing that, I think we need to look at that, unless I'm wrong, you know, if I stand to be corrected here, but we never had CNAs in here. And I know that no SCINs have been released and all this other stuff, but that still doesn't make it right that we're putting an agency in here and somehow that needs to be looked at.

**MS. BRANDEAU:**

I had been under the impression that CNA agency staff had been there at some point and that --

**MR. DESTIO:**

No.

**MS. BRANDEAU:**

-- the contracts that we had for the outside agencies always had a CNA rate, so I thought we had used them.

**MR. DESTIO:**

No. My understanding, like I said, if I'm -- I could always stand to be corrected. It was standard practice, so you could go say, "Oh, LPNs, we did it, RNs, we did it,"

but my understanding, I never remember ever having seen the agency in there. My understanding, too, we have a kitchen agency. And I know the SCINs aren't being released for many reasons, but, you know, this contract was voted on by Legislators and approved by the County Executive, and because -- if the union doesn't do anything, that's one thing, but we need, as County officials and elected officials, to abide by a legal binding contract.

**MR. MARCHESE:**

Kevin, you want to continue?

**MR. CAREY:**

Okay. I am -- I am still, though, currently looking for the SCINs for certain key positions such as head of dietary, head of adult day care.

**MR. MARCHESE:**

Kevin, we can go into -- there's a -- the issue of the SCINs and everything, I'll handle. I'm going to give a budgetary overview and I'll just go over that. That's a larger issue that's not related to this. You just go over the operations, that would be fine.

**MR. CAREY:**

Okay. I do feel that we've made a lot of progress in the last couple of months as far as organizing the building, being proactive instead of reactive. Day-to-day problems are definitely down, I would say 50% on my day-to-day handling of problems. It's much more organized. And overtime, every two weeks, the overtime is coming down every single two weeks, and I'm going to constantly keep working on reducing that. And that would be about it.

**MR. MARCHESE:**

Okay. Thanks, Kevin. I forwarded you some -- an E-mail that Legislator Kennedy gave to me regarding the pool, I guess it's the temporary labor pool, and then Colleen was supposed to look into that. What happened with that?

**MR. CAREY:**

She contacted the three aides that were on the list. One of them sent her a resume. There seems to be a communication between Colleen and HR in Hauppauge. Colleen was under the impression that we weren't going to -- we weren't hiring, so she just contacted the aides, got one resume, but didn't pursue it further. I asked her yesterday to pursue it.

**LEG. KENNEDY:**

Towards that end, as a matter of fact, Leslie just told me when I was coming over, she has three or four more resumes from the folks over in Saint Catherine's for CNA per diem folks. So I'll ask her to get a hold of you, I guess, or you want her to go to you, Kevin? What do you want me to do? We'll get them to both of you.

**MR. CAREY:**

Okay. I believe --

**LEG. KENNEDY:**

I'll get the set of names to both of you, but -- so, from your guys' side, from the operational side, the message is there, that these names are coming in. Are people that are going to be included and were going -- I mean, are you -- since we

last met, have you had any additional folks that are coming out of the per diem pool who were able to fill slots as opposed to having to go agency?

**MR. CAREY:**

No, not -- coming out of the per diem pool?

**LEG. KENNEDY:**

Yeah.

**MR. CAREY:**

No.

**LEG. KENNEDY:**

Okay.

**MR. CAREY:**

I only have like four in the per diem pool.

**LEG. KENNEDY:**

We have four folks right now?

**MR. CAREY:**

Hold on one second.

**LEG. KENNEDY:**

And we have two different pools, we got a CNA pool, and we have, what, a LPN or an RN pool, or both?

**MR. CAREY:**

Yeah, the LPN pool, I currently have four in it, and the CNA pool, I have six in it, six aides and four LPNs in the pools.

**LEG. KENNEDY:**

Okay. And out of the last 30 days where we had a need to go into an overtime, and the ordinary protocol would be to call agency, we have not had any of those per diems who have been able to pick up a shift?

**MR. CAREY:**

Oh, no, they've been picking up shifts.

**MR. MARCHESE:**

No, we're using them on shifts to the maximum. You only can use them 17 1/2 hours. We're using them as much as we can.

**LEG. KENNEDY:**

Okay. All right. So, if we succeed in getting these additional names, then we'll be able to go ahead and, hopefully, continue to lower what's going on with the agencies.

**MR. MARCHESE:**

Yeah. Yes, that's correct. What we need to do is the more resumes you can get us, the quicker we'll put them on. And there's no reason we can't put them on, but they're limited in the amount of time that they can work for us, that's the only

issue.

**LEG. KENNEDY:**

Fine. And as we've said, many of those folks that are coming out of Saint Catherine's and coming out of Stony Brook are people who had positions elsewhere, and they're interested in just picking up a shift or two, as folks often do, which is fine. They don't need the bennies, they're not looking for anything then, just, you know, salary and hours. So capping them at 17 1/2, no problem at all. We'll have -- I think she said she has three or four names. As soon as I walk back across the street, we'll make sure we get them over to both of you.

**MR. CAREY:**

Very well.

**MR. PEARSALL:**

Len, refresh my mind. Why are we limited to 17 1/2 hours?

**MR. MARCHESE:**

The 17 1/2 hours is I guess either a labor rule or a IRS rule, because otherwise, if they go over that, they're considered -- they're entitled to full-time benefits or something. It's some --

**MR. FREAS:**

I believe it's an IRS rule.

**MR. MARCHESE:**

Some rule --

**MR. FREAS:**

Yeah.

**MR. MARCHESE:**

-- that's not controlled by us at the County, it's a higher rule somewhere, I don't know. All right. Kevin, do you have anything else?

**MR. CAREY:**

No, I believe that's it.

**MR. DESTIO:**

I got one more thing. I believe, especially with agency and contract people, I believe, in my opinion, that all agency and contract, I don't know if they do it now, should be part of the Chronos system, should punch in. Everyone should be accountable for their time. I don't know if that's the case, but I believe everyone should be, just like County employees should be. I mean, we're looking for transparency in the County, especially the nursing home. I think that should be addressed. If it is addressed, then I stand to be corrected. And also, I believe what -- agencies in the facility should be in-service thoroughly just as much as we're in-service. All the County employees in Foley know all the policies of Foley and everything else, and I think that should be also looked at, too.

So, you know, I mean, you could compare agency to a County worker. A lot of them feel that they don't have to, you know, go as far as we have to go, but I think they should do their full mandatories when they walk in that building so they know

all our policies and procedures pertaining to Foley, and they're just as accountable as all the County employees also at Foley.

**MR. CAREY:**

Colleen Trucchio from HR has started putting all the agency people into the Chronos. And in the past -- our current system is that the in-service packet goes to the agency, the agency does it, but we are going to supplement that in the upcoming weeks, now that we've got the education class going. We are going to supplement with our own in-house education, too.

**MR. DESTIO:**

Thank you.

**MR. MARCHESE:**

Okay. I guess I'd just like to go to the next item, then we're going -- I'll give a current budgetary synopsis, or at least this is how we see it from the department.

There was a resolution -- and you guys can help. Craig, give me some guidance, give us some guidance. There is a resolution to extend funding of the facility through the end of the year, it was passed by the Legislature. My understanding is it was vetoed. Wherein we currently are like out of money in our appropriations, we have not enough funding to pay for medical supplies, laundry. You know, you go through the list of our day-to-day purchases. We are on credit hold with a lot of vendors. We informed the County Executive's Office of this, and they're going to be working to try to move money around. But I think the issue is larger than that because there's only so much money you can move around within the fund. That's my understanding, but, again, I'm not, you know, the whole budget person here, so I need help from outside to tell us where we would go to get the funding. I know we're currently working to try to secure funding through the end of the month, try to get us through August, but that again is just moving money within our own lines that are very limited right now, and so it's very difficult for us to continue.

With regard to the overall jobs, the fact that we are using agencies for everything is because we don't have any jobs, the jobs were abolished in the budget. So as positions -- normally, you would have vacancies and you can ask for a SCIN to be released. There's not even that ability for us to do, because there's no job, a job number, or whatever, for me to -- even if it was to be released, it's not -- there's not a job for me to submit, because there's nothing created in the budget. So that's something that we would need guidance on how to do.

So, you know, we have a lot of -- a lot of issues operationally that are beyond our control in terms of the structure of the budget, and the structure of the positions, and whatnot. So our utilization of agencies, and whatever else we have to do at this point, is in an effort to maintain operations as best we can with the patient's safety and health as our foremost concern, and then we work on policies and the politics of everything second. So we're maintaining operations, that's our key. And so, you know, until we can get out of this situation where we can operate, I guess, in a more regular mode, it's on a day-to-day basis, and just to try to meet the demands of a day-to-day business.

**MR. DESTIO:**

Lenny, could we ask you a question? The funding for the agency, that comes out

of a certain pool from the budget?

**MR. MARCHESE:**

Yeah. It comes out of a line, a 456 line.

**MR. DESTIO:**

Okay. So, out of that line, now positions are created by the Budget Review if they need the positions to fund it and stuff like that?

**MR. MARCHESE:**

No, no, no.

**MR. FREAS:**

No.

**MR. MARCHESE:**

That's the -- Craig, you can -- it's a complicated process that, you know, maybe you can chime in on.

**MR. FREAS:**

When the budget passed the way that it did last year, all the positions at John J. Foley were abolished. But we had the ongoing litigation, and the continuing -- so we kept operating, right? Budget -- the budget passed, right? So, as Len said, every time somebody leaves, whether they retire or they get tired of playing with us, or whatever the deal is, that position is automatically abolished, right, so it disappears, whether we need it or not. And I know that there are positions that we need from a care standpoint, but within the -- first of all, the SCINs aren't being released because of the larger budget crisis in the County. But even if they were, within a week or two, they drop off, position control. The number disappears, there's no -- so like if you left, Chris, do they need an assistant -- the assistant housekeeper? Absolutely, but your position's gone, there's no one to hire. So they would have -- but they have -- it's not even a matter where the money is at this point. There's some funds in 456. The fee for service stuff, that's a lot more flexible, so they can get an agency, or they can get a contractor, or some kind of vendor in to do the service on a temporary basis. This is where -- this is fire fighting at this point.

Our understanding, from the County Executive's Office, was that they would keep paying the bills so that we would not -- we did not require the Special Meeting to examine the veto, and that the veto will be on the -- the veto of the budget resolution will be on the agenda on the 2nd of August meeting of the Legislature.

**MR. DESTIO:**

Does that -- this is the last question; I won't harp on it anymore. Does that also apply to all the other units in Suffolk County, when a position -- a person leaves that position, are they abolished, or is it just Foley?

**MR. FREAS:**

It does not apply to anybody else. But again, because we abolished all the positions at Foley, any position that was at Foley that was -- any position that existed at John J. Foley and was vacant in another department, or elsewhere in the Health Department more likely, was abolished in the budget as well, which has caused additional problems, especially for the Health Department budget, because

we have a Local Law that requires us that if we're going to lay people off, which the budget would have done, to abolish all these positions. Now there's been some foot-dragging on some of this and we've earmarked some positions against position -- created some -- there was some other things to try and minimize the impact, but there have been problems created in the budget because of -- with respect to hiring because of the loss of the positions. The loss of the vacant positions, when we -- when the budget passed and closed John J. Foley. So did I answer your question?

**MR. DESTIO:**

Pretty much. Thank you.

**MR. MARCHESE:**

Made it more confusing for me.

**MR. DESTIO:**

Well, if it's difficult for me to say, it's more difficult for me to understand.

**MR. MARCHESE:**

Okay. Anyway, so the issue with the budget is definitely something that we think about every day, and it's something that we have to manage in the Health Department, and it's just one issue that we're dealing with in the Health Department these days. There seems to be a lot going with that.

**LEG. KENNEDY:**

Can we stay on the budget for just a second? And this is a request I'm going to make actually for all three of you gentlemen. Faced with the prospect that, as you just said, technically we have no positions that actually exist at this point as positions in the facility, the resolution passed in order to fund through the end of the year. I know the County Executive vetoed. I have every reason to believe that we're going to override the veto and that we're going to continue to fund -- continue to operate through the balance of the year.

Looking forward into 2012, we do have the RFP that's going out for public/private partnership. We may anticipate a variety of different things that are occurring. Nevertheless, I don't think it's too early to start to look at operations in January as it exists at this point now. Having said that, you know, it's reasonable to say from your perspective, from an operations perspective, what do you need recreated, because that's going to have to be done in the budget process. And that's going to have to be a bit of dialogue here, because, as you know, we're facing a 2012 budget process that's got, you know, huge holes and gaps in it. But nevertheless, we should be factoring now as early as possible the recreation for at least a basic functional structure with supervision and sufficient staffing by floor for our operational folks. So, if you can put at least a skeleton or framework together of what we would need going forward, I would appreciate that.

**MR. MARCHESE:**

Yeah, we understand that. We actually presented our budget request for 2012 based upon a census of 210 for a full year.

**LEG. KENNEDY:**

Okay.

**MR. MARCHESE:**

So it included about 20 jobs that we wanted filled. We were still going to utilize the agency model, but it was -- we felt that what we submitted would be sufficient to run operations at about 210 filled beds and accommodate us through the year.

**LEG. KENNEDY:**

Okay, good.

**MR. MARCHESE:**

Okay.

**MR. FREAS:**

We had not initially received a budget request for Foley from the department, partly because it's so fluid that they were continuing to work on it. I've typically -- it's typically been a couple of weeks late. And I spoke to the Budget Office, I said, "Look, I suspect that you guys will do the same thing." I suspect that the Budget Office will not include Foley, although, obviously, we still need the information for -- to give the Legislature some options, and the Health Department's been very cooperative and they submitted a request. I have the request for it and it's okay.

**LEG. KENNEDY:**

So you know what that range of positions is that they brought forward?

**MR. FREAS:**

Yes, sir. And bear in mind, we also included in the amending resolutions some positions for.

**LEG. KENNEDY:**

Yes.

**MR. FREAS:**

To run -- which would actually create positions and would then allow us -- some of the SCINs would be signed, which is a big assumption. But, still, the positions -- the positions would be created and then would flow forward.

**LEG. KENNEDY:**

Right.

**MR. FREAS:**

-- again into the next year.

**LEG. KENNEDY:**

All right. What I want to avoid is, is, you know, getting into next year and still being in this kind of quasi operational, you know, long-term as opposed to, you know, day-to-day triage. And, you know, we need at least an administrative structure in there. I mean, you know, you guys have been doing a commendable job. And I hear that, you know, you've made some internal movement with some of the nurses there, which actually I think probably makes some sense. Because, you know, you have people in there that have, you know, long-term careers and skills, and the guidance and direction on the floors I think is important. But I would like to see that kind of posture continue into the beginning of next year and you need the slots to do that.

**MS. BRANDEAU:**

Craig, you said you have an amending resolution adding positions; what is that?

**MR. FREAS:**

The amending resolution that continued operations for the facility, the one that was vetoed, had some positions in it that were added. That's the resolution I'm talking about, it's not a separate resolution.

**LEG. KENNEDY:**

Didn't we have five or six slots in there?

**MR. FREAS:**

It's in there.

**MS. BRANDEAU:**

This is --

**MR. MARCHESE:**

Craig, the one that I'm looking at doesn't have positions.

**MS. BRANDEAU:**

Yeah. Resolution 324, which was I.R. 1369, is that the one you're talking about?

**LEG. KENNEDY:**

No, that's the short-term.

**MR. FREAS:**

No, that's the short-term one. 1369 is the short-term. It's the other one.

**LEG. KENNEDY:**

The six-month one that the Exec just vetoed had about five or six positions that were identified in it.

**MR. FREAS:**

And those positions were generated out of this committee meeting.

**MR. MARCHESE:**

Yeah, we've identified 10, 12 positions that we feel critical to go forward if we were going to -- and it's not a secret on the jobs that we need. There's 12 of them, and then it's also -- that also assumes that we're going to continue the model that we're using now, which is utilizing agencies where we need to fill in, and that's just how we would have to do it.

**MR. DESTIO:**

Can I just say one last thing with this, with the positions? We talked about this last time. I don't believe this actually has to do with the union issue, I think it's budgetary with the part-timers. I still believe that you can form part-time positions without the approval of the -- without the union or anything. Why can't this still be looked into? I'm still totally lost with this. We've had this once before, it was created. It's actually cost effective to do this. I don't understand why we can't start looking back into this part-time issue with prorated benefits or -- I mean,

you save on overtime, you save -- I just -- you know, I'm not a numbers guy, but I still think you guys have an avenue to do this, but we just really need to look at this. Why can't we do this? And I don't believe it's the union blocking us for this either. I think we can accomplish this. I mean, unless I'm wrong, I really think there's an avenue for this. I just --

**MR. MARCHESE:**

But the fact is the part-timers is what this per diem pool is, okay?

**MR. DESTIO:**

No, no, no.

**MR. MARCHESE:**

So --

**MR. DESTIO:**

Part-time County workers.

**MR. MARCHESE:**

No. Well, a per diem worker is a County worker. They get a W-2, they get a paycheck, so it's the same concept. The problem, when you start talking about benefits or part-time benefits, we have actually a law in the County that doesn't allow us to provide benefits to anybody over 60% or 50% of their -- they have to be over a 50% commitment, or something like that; there is a number. And we shy away from that because the problem with the lower salaries as it is, is that the benefits are way out of whack with regard to what you're paying them. So once you get into a benefit where you have to add, now that CNA salary today that's already -- the salary is okay, but the benefits are so much larger than the salary warrants that it totally skews the equation when you run the numbers. But to the extent that there are CNAs, RNs, LPNs that are looking for part-time work, we certainly can look for that. We have them in the salary and classifications field, and we would definitely look to hire them, if they're available.

**MR. DESTIO:**

So there's -- actually, we can start looking at this, because per diem and part-time is totally different. Part-timers is prorated benefits, right?

**MR. MARCHESE:**

No, no, no, no.

**MR. FREAS:**

No, no, no, no. You can't prorate a health benefit, Chris. You got -- you know, you either get that, you know, under our -- under the civil list, you either get health benefits or you don't, and that's a huge chunk of -- the health -- the cost of the health benefits at the nursing facility is 5 million dollars a year.

**MR. DESTIO:**

Okay. So it's not cost effective to do this, bottom line.

**MR. FREAS:**

It's not cost effective to have permanent part-time staff who would receive benefits. Then I'd be paying -- let's say it's seventeen-five and it's a CNA, so they're making like -- let's say it's \$15,000 a year and I'm paying \$14,000 a year for their family

health benefits. That's the number that you use -- like if you have a family, it's 13, \$14,000 a year, that is it's part of your compensation package. I'm not going to go into any of the other stuff that's going on, but part of your compensation package is at \$14,000 worth of health care for you and your family. Well, if you're a CNA -- so I'm paying, not including any pension qualification that you might get to, which is another separate issue, or benefit fund issues, but so your -- the Health Department uses a term called fringe rec, right, and the fringe rec overall I think is probably 56, 57% right now in general. But for that particular employee, a part-timer who was permanent and we had to offer health benefits, was making \$15,000 a year, 14 over 15 is --

**MR. MARCHESE:**

A hundred percent.

**MR. FREAS:**

-- what, 95%? As a practical matter, it's more than 100%, more than 100% worth of benefits.

**MR. DESTIO:**

Okay. I just wanted to make sure.

**MR. FREAS:**

That's why it's a problem.

**MR. DESTIO:**

Sorry. We'll leave this a dead issue. I was -- just wanted to make sure that this is not a good thing for the -- I thought it was a good thing for the nursing home. I just want to make sure we don't have to visit it again, but not cost effective.

**MR. FREAS:**

The temp pool is a good thing. If we could fill that temp pool, it's great, because as you know, the agencies cost -- the only advantage to using the agencies is eventually I don't -- those people aren't going to retire and I don't have to pay health benefits for them. But their cost as an employee is about the same, but I can stop. We -- you know, I think Len has said this, they would much rather use the temp pool, if they could fill them.

**MR. DESTIO:**

And that's a continual cost with part-timers.

**MR. FREAS:**

Right.

**MR. DESTIO:**

Okay. That's all I need. Thank you.

**MR. MARCHESE:**

Okay. So moving on, I just want to give an update on the RFP. I also, I guess, in other -- I'll get to that. But the RFP right now, there were currently two RFP's under development. There's one from the County Executive's Office, and one is being developed on behalf of the Legislature. I'm not quite sure where the Legislature RFP is. Craig, maybe you can give an update. But as far as the County Executive's RFP, I think it's about ready to be sent to purchasing for them

to now schedule advertisements, etcetera, and do whatever. So that's within another couple of weeks, so that would be that one. Craig, can you comment on the Legislative RFP?

**MR. FREAS:**

Yes. We met earlier in the week with Mr. Kennedy, and Ms. Browning, and the Presiding Officer's Office. We had initially intended to release the second RFP, or as an RFEI. We're now going to release -- try and release it as an RFP to sort of expedite the whole process and to see what we get. I think that -- and the only reason is for -- that we would -- we're going to try and do it as an RFP is to see if we can have -- get some ideas in more quickly. I would expect that out as a -- in a week or so. Yeah, I know.

**MS. BRANDEAU:**

Have you -- the reason we were looking RFEI as opposed to RFP, just so the rest of the committee understands, is that the scoring of the proposals is very difficult if you're getting a wide range of proposals. And the way that it was structured, according to the Legislative resolutions, was to ask for all kinds of ideas.

**MR. FREAS:**

We're aware of that.

**MS. BRANDEAU:**

And when you're looking at all kinds of ideas and you have to put them side by side and to score them, it's very difficult. So the idea was to do a two-part, where you have an RFEI that would narrow things down.

**MR. FREAS:**

We're aware of that.

**MS. BRANDEAU:**

So have you been able to reconcile how you're going to score?

**MR. MARCHESE:**

Okay.

**MS. BRANDEAU:**

If you're still working on it, that's fine.

**MR. MARCHESE:**

Okay. Let's just --

**MS. BRANDEAU:**

I just wanted to know if you reconciled that, because we worked --

**MR. MARCHESE:**

I got to say --

**MS. BRANDEAU:**

We worked on that and we couldn't come --

**MR. MARCHESE:**

From outside -- the only comment that I would make is that from the outside, from

a vendor's perspective, there's going to be two RFP's on the street and there are going to be a lot of questions. And I know we at the Department are going to have to answer --

**MR. FREAS:**

I still think we're going to be a little at least behind, but that's --

**MR. MARCHESE:**

So we'll be getting a lot of questions, so I know that that's going to be a challenge for us. That's the only thing I could say.

**MS. FINNIN:**

Could I ask a question? Is RFP for sale or for a lease, or for what?

**MR. MARCHESE:**

The County Executive's is for a sale, lease, or actually other options as well, so it has a couple of variable options. The final version of the Legislative one, I'm not sure what it is.

**MR. FREAS:**

It's for -- it's for a lease or public/private partnerships that are -- that intend to maintain the asset within the County. That's probably the major difference between the two proposals, is one doesn't address that and the other one has that as a constraint on the vendors.

**MS. FINNIN:**

Like public/private.

**MR. FREAS:**

Well, the main difference is that the Legislative RFP would have as a constraint maintenance of the facility --

**MS. FINNIN:**

Okay.

**MR. FREAS:**

-- within -- maintenance of the asset. In other words, we would keep the asset.

**MS. FINNIN:**

Okay.

**MR. MARCHESE:**

Okay. All right. So, moving on. If there's no other comments on the RFP thing, I'll move to other. Just an update. There was legal actions as far as because their budget was -- budgetarily closed the facility, and then there were some lawsuits, and there was some restraining orders and back and forth, and TROs. I'm not really sure of the whole legal thing, but, basically, my understanding now, as I've been informed, is that the restraining orders have been rescinded or overridden. The case was decided and that is up to the County if they chose to close. There's no legal impediment if so chosen. So that's where we stand today as far as the legal aspect of it. I am sure there's a more detailed legal analysis that the County Attorney can provide. But from just my perspective, there was the restraining orders and stuff that were in place that forbade us from closing are no longer in

place.

**LEG. KENNEDY:**

If I can just add to that, and I'm not going to pretend to be able to go ahead and lay out all of the iterations that have occurred on the legal side. There has been an appeal to the Appellate Division of Judge Baisley's order where he dismissed the summary judgment, and in effect, the Appellate Division's stay was lifted on their own motion back in April. The plaintiffs appealed to the Appellate Division. The attorney for the County, Mr. Macy, replied and that was July 14th. The plaintiff sought reinstating the preliminary injunction, and it's expected that the Appellate Division is going to give some order on that, probably as early as the latter part of this week.

And different than what has gone on previously, this appeal is now being heard by a four-justice panel, and the arguments, for all intent and purposes, are pretty much similar on both sides. The essences complies with Hibberd. There is a new argument that's been brought forward by Mr. Macy characterizing this as no more than a political argument and, therefore, not justiciable. But there should be something coming from the courts shortly.

I think, more importantly, though, what you're looking at is, is the policy-making entity has basically exercised our intention to operate through the end of the year by virtue of adoption of a long-range funding reso. So notwithstanding what the Exec could or could not do vis-a-vis closure, the funding has been brought to bear. Yes, there has been a veto. As I said, with the majority that we had that passed the resolution in the first instance, I have every reason to believe on August 2nd we're going to override the veto. So the lawsuit notwithstanding, the policy act on the part of the Leg. is to continue throughout the balance of the year.

**MR. MARCHESE:**

Okay, very good. I don't think we've been intending to close, I just was laying it out.

**LEG. KENNEDY:**

Okay.

**MR. MARCHESE:**

The whole process is -- of closure is a whole --

**LEG. KENNEDY:**

Complicated.

**MR. MARCHESE:**

It's not something you do every day. It's just -- so I'm open for anybody else that has any other comments, concerns, whatever.

**LEG. KENNEDY:**

Today is an open house, which is a good thing. Now I understand that we have another one scheduled for next month as well?

**MS. BRANDEAU:**

(Nodded yes).

**LEG. KENNEDY:**

Great. One thing that I heard, which was a little troubling to me on a number of levels, the -- one of the nurse recruiters that was brought in had some medical issues herself. As a matter of fact, she was hospitalized and she was quite ill. And she is now a patient at the facility?

**MR. CAREY:**

Correct, Jennifer Hays. But she actually went out to Brookhaven Hospital this morning with chest pain.

**LEG. KENNEDY:**

Oh, she did? No kidding. Well, hopefully, you know, she recovers and that she's better. But again, the question I have is, and it's a rhetorical question, I was going to say, "Okay, so who replaced Jennifer as far as doing the roadwork?" I mean, it's like pulling teeth to get anybody filled. Do we have anybody else out at the hospitals?

**MR. CAREY:**

The nurse manager, Savi, is actually part-time in the house and part-time out.

**LEG. KENNEDY:**

Okay. All right.

**MR. CAREY:**

We are evaluating other staff, other LPNs, or other social workers in the house to see if we can pull from them --

**LEG. KENNEDY:**

Okay.

**MR. CAREY:**

Put them on the -- on, you know, marketing.

**LEG. KENNEDY:**

Okay.

**MR. CAREY:**

But we're looking right now.

**LEG. KENNEDY:**

Good, good. You know, we hit 210 over the weekend, which is -- to me, you know, that's a significant mark, you know, we're moving back in the other direction. And, you know, we're hopeful that today, you know, is a positive and a productive, you know, opportunity. So I just -- I don't want to have that recruiting function, you know, lag.

**MR. CAREY:**

I am exploring one possibility. One of the social workers has expressed an interest in doing it. I'm going to start interviewing some agency social workers to backfill and possibly put that one social worker out marketing.

**LEG. KENNEDY:**

Okay. Did the crew from Stony Brook come out? I know -- I thought I heard last time Ms. Morris was coming with a couple of her folks. How did that go?

**MR. CAREY:**

Yeah, it went well. I brought it up in the beginning of the meeting. We discussed some of the, you know, difficulties, one of them being that all hospitals now track 30-day -- what they call 30-day turnaround for Medicare patients; that if a Medicare patient is readmitted to any hospital within 30 days, it's -- the cost goes up for the hospital if one of their patients comes back within 30 days.

**LEG. KENNEDY:**

Oh, I see. Okay.

**MR. CAREY:**

So that's one of the things all hospitals track and we won't -- we didn't have a good record in the past. Out of the 22 patients we admitted from Stony Brook over the last three months, nine of them went back within 30 days for one reason or another. We are now tracking it very carefully. And then the last two or three weeks, we've only had two that have gone back within 30 days to any hospital. We're going to track that and we're going to work on that. They also brought up standardizing discharge forms for their emergency room force. We're changing our discharge forms to work with them.

**LEG. KENNEDY:**

That would be great.

**MR. CAREY:**

And then she also brought up, I brought up in the beginning of the meeting, that Stony Brook currently has a great deal of illegal aliens with no payment source whatsoever, costing them a great deal more money than it would cost us to maintain them. So they wanted to explore their lawyers, and the County Attorneys, exploring them either leasing or renting beds from us. So if they're losing 700 a day on a patient, pay us 380 a day. It's still a loss, but it's better than 700 a day.

**LEG. KENNEDY:**

Well, and if their primary responsibility is to go ahead and deliver care in the first instance -- I mean, it sounds opportune, but then again I guess we've got to think about proper use of a County facility, and whether or not we're able to contractually go ahead and go beyond what we would ordinarily be stepping away from. I mean, in essence, we're dealing with that right now with our health clinics about getting individuals, you know, documented and payment methodology and streams, and such as that. So it sounds interesting, but I guess that's not, you know, the silver bullet.

**MR. MARCHESI:**

Yeah. I think we were going to get the details of it and we'll probably bring it back to this committee after we hammer it out. And then it is a -- it's going to be a policy decision, because even if you bring somebody in at 350 or 380 a day, it's costing us more than that by virtue of us having a deficit of running the facility. So it is County tax dollars that are then supplementing the balance, so it's going to have to be a policy decision on whether or not we want to supplant these patients.

**MS. BRANDEAU:**

I also suggested they have Legal involved in it, because I didn't know all the legal ramifications of and agreement like that, and we want to make sure covered on all the ends.

**MR. DESTIO:**

Didn't we have at one point in the nursing facility a couple of illegal immigrants and all that was resolved at one point?

**MR. MARCHESE:**

Yeah, we did, but it was resolved by us getting them flipped over to Medicaid. It wasn't resolved by us just continuing to maintain them.

**MR. DESTIO:**

But, at that point, though, they weren't receiving -- we were receiving nothing; am I correct? Weren't we just absolutely getting zero on them? But now we -- the bottom line is we are getting revenue in for them, one or two, whatever it might be?

**MR. MARCHESE:**

I think we have one, Kevin, right? Yeah, there's only one in the facility and we're currently being paid.

**MR. DESTIO:**

Thank you.

**MR. MARCHESE:**

Okay. Is there any other comments, questions? When would you want to schedule the next meeting? August is kind of tough if we -- if you guys like, you want to skip August? Do you want to come back in August? What do you think?

**LEG. KENNEDY:**

For me, I would say that I --

**MR. MARCHESE:**

Off the record.

*(\*Discussion Was Held Off The Record\*)*

**MR. MARCHESE:**

The next meeting will be August 22nd at 10 a.m., I guess, here. Okay. With that and no other comments, the meeting's adjourned. Thank you.

*(\*The Meeting Was Adjourned at 11:06 a.m. \*)*