JOHN J. FOLEY SKILLED NURSING FACILITY

OVERSIGHT COMMITTEE

Verbatim Minutes

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, December 21, 2011.

MEMBERS PRESENT:
Dr. James Tomarken - Commissioner of the Health Department
Kevin Carey - Administrator of John J. Foley
Terry Pearsall - Chief of Staff - Presiding Officer Lindsay's Office
Robert Lipp - Budget Review Office
Legislator Kate Browning - 3rd Legislative District
Kim Brandeau - County Executive's Budget Office

ALSO IN ATTENDANCE:
Leslie Kennedy - Aide to Legislator Kennedy
Kathleen Reeves - John J. Foley Skilled Nursing Facility

TRANSCRIPT TAKEN BY:
Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:20 A.M.*)

DR. TOMARKEN:
We will begin the meeting. I didn't print an agenda in the interest of saving paper. But we will start -- I would start with the minutes, but I haven't received minutes from the previous meeting yet, so we'll have to defer those to the next meeting. We will have a facility update from Kevin.

MR. CAREY:
Kevin Carey, Administrator, John J. Foley. All right. A common census today is 201 beds. We're actually expecting two admits today, so we should have 203, 13 patients in the hospital. Last two months, November, we had 11 admissions. So far this month, we have 16 admissions. We expect two today for 18. And we still have another week to go, so we should have quite an increase in admissions for December. I'm attributing that to the newly assigned RN to Stony Brook Hospital. It's working very well. Adult daycare census is 47, two new admits, two discharges.

MS. BRANDEAU:
Say that again.

MR. CAREY:
Adult daycare, the census is 47. It's pretty flat. We had two admissions and two discharges. The average monthly census is 23. Monday through Friday average census is 25, Saturday average census is 11.

DR. TOMARKEN:
Is that a daily census?

MR. CAREY:
Yes. They close for Thanksgiving, which is normal. Total staffing, as of right now, our total staffing is 208 assigned to nursing home staff, one assigned to tech, eight assigned to daycare for a total of 217 employees. We have 28 per diem employees, which we recently hired, and it's working very well. That should reduce agency staff considerably. We have 18 employees out on medical leave, Workman's Comp or suspension.

Building projects, I believe the requisition for the new WanderGuard System has been approved bu the County Exec. The Purchasing Department now has it. They should put it out to bid, and they advise me it will be a quick turnaround for the WanderGuard System. The fire stop installation and the upgrade to the electrical system, those funds are contained in {CPW} (sic) 1710, Capital. {CPW} has it. I believe the Legislature will probably get it in February for a resolution.

DR. TOMARKEN:
What's the price or estimated price on that, ballpark?

MR. CAREY:
It was 300,000 for the first year. That's going to include the basement and the first floor for fire stop installation. And 118,000 for upgrading the electrical system -- about 125,000 it was to upgrade the electrical system totally with a new backup circuit breaker boxes on each floor for emergency. Then it was about 150,000 a year for the next year and the year after for fire stop installation on floors two and three and then four and five.

As for our plan of correction from 2007-2008, it states that by 2012 -- December 31st, 2012, the electrical system will be upgraded and the fire stop installation will be reapplied to the basement and the first floor. We are on target for that if there's no hiccups along the way.

I believe the total cost I think was 125,000 for the electrical system for this year. And the total cost for all three years, I believe, was 450 for the fire stop installation for all three years for the whole building. The last one, since we are on the building, I met with Brian Formhals, he's our DPW guy assigned to the building. And we discussed in previous meetings the 500 to 600,000 to upgrade the heating system. I'm not an engineer, but I think we can hold off doing that to the following year. Brian has done a fantastic job of, you know, holding it altogether. And while he's holding it together, he's learning -- you know, he's been there about a year with me, and he's learning about every inch of the building. So I think if we hold off on that, we'll a much better grasp next year on do we need to spend that -- all that money.

DR. TOMARKEN:
Well, the Capital Budget is starting to be prepared.

MR. CAREY:
Oh, okay. Well, I guess ultimately, it's DPW's decision, but...

LEG. BROWNING:
I was asking Terry, because we do our capital in June, so, you know, if we can have an answer by then, at least when the Legislature is putting their budget together --

MS. BRANDEAU:
The capital call letter to the departments usually goes out in January, towards the beginning of January. So right now, the Budget Office is waiting for the new administration to come in and decide what they want the perimeters of the Capital Budget to be. The call letter normally contains the priorities and the goals; such as it has to be zero percent, it has to be less than last year's adopted Capital Budget. Those perimeters aren't known yet, so at this point, the call letter isn't out. But it should be -- you know, it's on the top of the list of things for the new people to do when they come in.

LEG. BROWNING:
Okay.

MR. CAREY:
Okay, drug destruction, we have a new system. Basically, we had a problem with following the State regulations for drug destruction and finding it to be more environmentally following the Legislators (sic) not to flush. We came up with a system where the State's actually mandating us -- you have two ways to get rid of your drugs; flush or give it to the police. The system we came up with is when the Police Department does their monthly or bimonthly destruction of their illegal drugs, we are going to join their convoy to the incinerator and destroy our drugs with them at the incinerator. It works out very well, because it's no cost. The Suffolk County Police Department don't come near -- us adding 20 pounds does not add single dime on to the cost when they're destroying a couple of hundred pounds.

MS. BRANDEAU:
You've already worked that out with the Police Department?

MR. CAREY:
Yes. Lieutenant Liz {Youngling} from the Property division in the Suffolk County PD is going to give us a call us when she has a schedule on narcotics destruction, and we will then call up the State and schedule our destruction for that that exact same time and date, and then just meet them out in front of our building, join their convoy to the incinerator and destroy our drugs with theirs in the incinerator.

MS. BRANDEAU:
Does that mean the drugs are going to pile up somewhere? Is there going to be a problem with them getting bigger?

MR. CAREY:
If they go every two months or three months, we can handle it. If it's more than that, then it's a problem, but the two month to three month period, we can handle storing the narcotics.

DR. TOMARKEN:
That's a bigger issue, and I was talking to the State about it the other day; the ability to get rid of controlled substances. The problem is that nursing homes fall into a special category called 3-A facilities. They have only basically two options from a the State's perspective; either flushing, which is not acceptable for us, or taking it by police escort or under police control to a designated DEC incinerator. And the police either have to be helpful and either volunteer to do it or make a contract with them, whatever. But it's a problem. And the State is waiting for the Federal Government to pass new legislation that would allow -- hopefully would allow facilities like nursing homes to contract with what's called a reverse distributor; a company comes in, takes it away and disposes of it.

But right now, this unique part of the law doesn't permit nursing homes or any facility like that that doesn't have its own in-house pharmacy from disposing of it in the way we thought they could. I've mentioned this to the Presiding Officer, and we're going to have to review this. We may just need a temporary thing -- temporary sort of stay of implementing the legislation, the County legislation. The problem is the State has said, you know, they've been waiting, and there's no definite timeframe. But they're hoping -- the Feds seem to know that they're trying to get away from the flushing for everybody, but they haven't yet enabled the State to change their policy.

Every nursing facility or every facility has to get approval from the State to approve their plan. And the State is trying to be as flexible as they can, but they do have their own rules and regulations. So we're sort of caught in this with both. We are going to have to address this somehow for the next six months to a year.

LEG. BROWNING:
What about the issue with the jail? Because I know it's been discussed that the jail has a pharmacy -- Yaphank Jail will have its own pharmacy -- and working with them, because I know rather than destroying the medication, just getting what you need on a daily or, you know, weekly basis, is there not a way -- because wouldn't that -- that would save us a lot of money.

DR. TOMARKEN:
Here's the problem. When you don't have a pharmacy in your facility, those medications are under the control of the patient, they're the patient's medications, they're not the facility's. And you cannot transfer patient medication to anybody else. That's why they can't be bought back or taken back.

LEG. BROWNING:
Right. But having the jail pharmacy, it's right there. Basically what I'm saying is you are not ordering a month's worth of medication. You would be able to receive it on a weekly basis or a daily basis or however you need.

DR. TOMARKEN:
I think we do that now. We don't order tons of medication. What happens is people leave and people pass away, so there maybe, you know, a week's supply or two-week supply. We addressed the issue of ordering much more than we needed, but again, the problem is the way the law reads,

that's a personal individual's medication, and the facility can't deal with it like if it were in a pharmacy, because it has their name on it. That's why we can't send it back to the distributors.

MS. BRANDEAU:
I remember we had looked at that one point previously. Len has looked at it with Lowell -- and we can go back in our notes -- I know there was something about the control of the jail not being able to dispense out of it; something with the way that the jail -- the rules and regulations that a jail pharmacy operates under wasn't allowing them to dispense to other facilities, something like that. We did look at it, because we were trying to get a cheaper rate with the jail, and then we weren't able to do it. So let me go back and take a look and see if I can find the paperwork on that. It's a good idea. Kevin, is all the medicine blister-packed with the patient's name on it now?

MR. CAREY:
Yes.

DR. TOMARKEN:
Remember, we have two -- we have our own nursing home, then you have 30 or 40 others throughout the County. So that solution for Foley may not be applicable to all the others.

MR. CAREY:
All right. Followup, we have Suffolk County interns from their diet-tech -- diet-tech's will be coming to John J. Foley for five Fridays in a row, February 1st through March 5th. They will spend basically 9:00 a.m. to 3:00 p.m. in our building. And we have one student assigned to John J. Foley that would come every Monday and Thursday from 9:00 a.m. to 3:00 p.m. starting the first week in February.

DR. TOMARKEN:
What will they do there?

MR. CAREY:
Mostly diet-tech, meaning they're involved in reviewing the patient's diet, going over the patient's diet, making corrections to the patient's diet if they have any changes. And they're also -- since some of them are learning taking dietary management, they can actually do anything in the kitchen, because they're learning dietary management.

MR. PEARSALL:
Our Community College?

MR. CAREY:
Yes. Yes. We are still waiting for the Culinary Program for cooks though. We are trying to work on getting a couple of cooks from the Culinary Program, interns.

I believe there's an inquiry as far as respite; whether or not we can do respite. I spoke to the State, basically it called Respite One or Respite Two, whether you want to use one or two beds set aside for respite. It's a long-term decision, because even though it's one or two beds, we have to do the certificate of need, the full application over several months. So it's something we can do, it's just -- it's a long-term decision.

DR. TOMARKEN:
What's the financial implications of doing it or not doing it?

MR. CAREY:
It's not a money game at all. It's very little money. It's a little bit of an advertisement thing. If

the patient's at home and you give the family -- the most common respite would be somebody taking care of an Alzheimer's or dementia patient at home want. They want to go on vacation, they want to take their grand kids to Disneyland, they need a week's break from taking care of their loved one at home. If they can get a week's break by putting them in a nursing home in a bed and they can safely go away on vacation and just get a mental break, that's what the respite is designed for. You know, they would pay the private rate, which would --

DR. TOMARKEN:
Would we make money or lose money?

MR. CAREY:
We would break even on respite. But everything is a small advertising thing, because if somebody comes to us on respite every year while the family is on vacation, if it reaches the point where their loved one needs a long-term care facility, they would probably end up coming to us.

DR. TOMARKEN:
And you're only allowed one or two beds in respite?

MR. CAREY:
Yeah, one or two beds, that's it. And it would take about six months to get a certificate of need to go ahead with it.

MS. BRANDEAU:
Do most nursing homes around us have that?

MR. CAREY:
No, very few do. I don't know of any that -- Brookhaven used to have two, and I don't think they have them any more. So I don't really know of any nursing homes that actually do it right now. We could check with our financial consultants, HHM, {Joe Montello}, and he may have some more information on the financial aspect of it. I can do that.

LEG. BROWNING:
I think Leslie is familiar with some.

MS. KENNEDY:
If I'm correct -- I'll check today -- Nesconset, I know they had it, I think they still have it.

MR. PEARSALL:
Would that one or two beds have to be held permanently for respite, whether they were used or not?

MR. CAREY:
The first person I spoke to in the State told me no, but then the second person implied yes, so I'm actually finding that out for sure.

MR. PEARSALL:
Not unusual.

MR. LIPP:
I have a question about the census, if you go back for a second. You said that there were 18 projected admissions for this month, and we a total of 203, including two expected today. My question is that, A, is that a net 18; and, B, are we actually therefore increasing, and what are our expectations moving forward now that the, I guess, announcement effect is that we're going to stick

around as opposed to the previous announcement effect that we're going to close?

MR. CAREY:
No, it's not a net. Well, the month of November, we had 11 admissions and 11 discharges. The month of December, so far, we've had 18 admissions so far and 14 discharges. So we actually have an increase of four beds as of today.

MR. LIPP:
And expectations moving forward in terms of the census size?

MR. CAREY:
It's difficult to predict exactly. I think with the new marketer, the new RN I have assigned to Stony Brook there permanently, if this first month is any occasion, we're getting a huge increase. And there is no announcement that we are open. I think if we combine that with an announcement that we're open, we can anticipate a steady increase in census. I've also spoke to {Catherine Morris} again this week to just meet with her next week. She's the head of discharge planning for Stony Brook to go over that same issue.

MS. BRANDEAU:
Did the adopted budget as amended by the Legislature reduce the number of beds for at least half the year?

MR. CAREY:
That's my understanding.

MS. BRANDEAU:
How many beds, Robert, do you know?

MR. LIPP:
I can't remember off the top of my head, but I thought it was down from the -- the current capacity is what, 264? I'm guessing around 220ish, but I'm not sure. You are asking me, I'm not sure. My understanding is half through what we were going to do is -- halfway through the year, we were going to reduce the scale of the operation. And I do remember that we were going to have a net reduction in staff of about 36 staff members because of that reduction. But I don't remember the exact decrease in the census. I think a lot of that has to do clearly with the two RFPs that are out there, and I guess, haven't been vetted yet. In theory, one would have -- correct me if I'm wrong -- one would a public/private partnership. The other would potentially actually sell the facility or lease it. So it's up in the air. Is there any status on that?

MS. BRANDEAU:
I think we are going -- is that later in the agenda you were going to go over the RFPs? Yeah. I just wanted to state that, because I wasn't sure based on what was budget amendment, it didn't specify the number of beds, which you were probably were keeping it general. But there is some concern in terms of the amount of money that was budgeted for food and some of the other items that if the census stayed the same, that you might run out off appropriation sometime during the year. Say, for example, the RFP doesn't -- say you even award an RFP and you're able to implement it and you have to do a contract, go to the Legislature and get approval, you're really not looking at, you know, June 30th being able to maybe hit those marks. So there might be some concerns in terms of the appropriation side.

MR. LIPP:
Most definitely. But also, the obvious other concern is, for instance, with the census, if we can't get it up to "a capacity," whatever that is level, then we're risking an increase in the General Fund

transfer. We need to move as fast as possible on both fronts in terms of trying to increase the census and also trying to vet out the RFPs, and the sooner we do that, the better, because we have a lot of issues.

MR. CAREY:
We were discussing that I can use another nurse as a marketer out there, two marketers. It's not unheard of if I'm building my size of 256 to have two have two marketers out there. You know, once again, I will have to take a nurse off the floor and hire another agency nurse because of SCINs.

DR. TOMARKEN:
I wouldn't do anything right now until we've met with the new administration regarding just the issues of how big do we want to go, because public/private partnership, if that were to go, for instance, that would generally reduce our bed size. And so we're sort of in a holding pattern right now. So I would just carry on as you are doing right now unless anybody has a major objection.

LEG. BROWNING:
I just want to ask, the new admissions, are they long-term, short-term, you know?

MR. CAREY:
We're actually getting a mix, it's 50/50, they're getting both long term and short term.

LEG. BROWNING:
I think a lot of admissions, what's you're going to want to look for is getting more of the short terms, which will kind of help with the RFP.

MR. CAREY:
I think based on what we saw the last two weeks -- I plan on having a meeting next week with {Catherine Morris} from Stony Brook -- I can see a steady increase. It's actually going to be an issue that's going to come up maybe before the next meeting is I might have to make a decision to open up -- to start turning patients away or reopen 4 South that we closed this month. I don't know if you want to address it now, but I'm going to probably reach that point in a few weeks whether to turn away dementia patients.

DR. TOMARKEN:
At this point, I don't -- I don't think we should be turning people away, but we need to again -- by two weeks, I hope to have some discretion from the new County Executive Administration, so we'll deal with it then.

MS. BRANDEAU:
How did the closing of 4 South go? Were there any problems with the patients being unhappy to be moved or anything?

MR. CAREY:
There were some unhappy, but all the moves were appropriate, and there were no issues. There were some families that are used to the way things are. Some people resist change, but it went smoothly.

DR. TOMARKEN:
What about the donation? Where are we standing on that?

MR. CAREY:
Right now, we're waiting. Just to clarify, the Marriott in Ronkonkoma, the Marriott by Courtyard (sic). I believe one of the owners or the owner is Lee Browning. He is redoing the hotel. He is

redoing the hotel. He graciously offered to donate some or all of his furniture to John J. Foley. Myself and the head of housekeeping and maintenance looked. Most of our furniture in the building is original. So it's 16 years old, and it's in medium to poor condition our furniture. All the furniture in the hotel is ten years old, in excellent condition. It would be a big win for us to get basically one or two floors of the entire nursing home redone with nice furniture. I'm on hold right now with them. The last thing I relayed to him was that if it was an unconditional donation, then we probably would not need a resolution. In which case, my men -- we would get hold of a truck, six of my men from my building would show up and take it away. I have room right now on my fourth floor since it's closed to store it while we swap old furniture for new furniture.

DR. TOMARKEN:
Just to clarify, if it's unconditional, then all is needed is basically some sort of letter from the County Executive. And if it has restrictions in it, it requires a resolution. But we have been told that the new administration would help us in any way. So we need to get an answer from him if it's unconditional or conditional, and then we know which way to go in terms of legal reasons.

MR. CAREY:
I'm actually waiting for a call back. His name is Kevin Morgan, he's the manager of the hotel, he's discussing it with Lee Browning this week. They're working out their logistics, when their actual construction crew will show up. One of the things we want to make is easy as possible for them to donate it to us. So they're planning on tearing out ten rooms at a time. They want us to be able to show up with a truck and six guys. If they're going to do construction on January 10th, they want to know we're going to be there January 10th. They don't want ten rooms of furniture in their parking lot overnight.

DR. TOMARKEN:
I spoke with George Nolan, and thought if needed, a CN could be entertained at the first Legislative meeting. So just get us that information, and we will know what do to.

MR. CAREY:
As soon as I hear from Kevin Morgan from the hotel.

MS. BRANDEAU:
Didn't we get some furniture -- was it just for the 5th floor -- through the grant?

MR. CAREY:
Yes. The 5th floor furniture is in excellent condition. My goal would be -- if we got most or all of the furniture from the Marriott, my goal would be to redo the 2nd and 3rd floor, and then I would take the best of all of our old furniture from the 2nd and 3rd floor, put that on the 4th floor. So the 5th floor would have new furniture that's only a year or two old. The other two floors will have excellent furniture from the Marriott. The 4th floor will have the best of the remainder.

MS. BRANDEAU:
So it's just what, beds and dressers, or is it any common room-type stuff?

MR. CAREY:
Yeah, there are some. What I want are the dressers and the nightstands. They have pictures for the walls for my residents, they have mirrors. That's stuff I want. What's going to come with it is couches, probably -- depending on how many rooms they give me, it could be ten to 150 rooms. They're going to have couches, headboards -- it's not the beds, it's just the headboards. They attach to the wall. But the headboards is probably the only thing I have no use for. The coffee tables, I have a lot of common areas. Adult daycare could use the coffee tables, could use the couches, could use -- just about everything I could use except for the headboards. I really have no

use for the headboards.

DR. TOMARKEN:
There was a request from Legislator Montano for excess or unused equipment. Where are we with that?

MR. CAREY:
Right now, Fiscal has it. Building maintenance and housekeeping has made a list of -- and they're still working on the list right now. Fiscal has to compare that list to the master list. The building has like a 4000 line master list of everything that's in the building. They'll have to compare that to that, then I believe they called DPW to decertify it or do something with it. I'm not quite sure what they do. But they're making their list right now of everything that's in the building. And the two containers out back, we anticipate, will be empty before this starts.

DR. TOMARKEN:
Any questions for Kevin?

MR. CAREY:
That's about it.

DR. TOMARKEN:
Okay. The RFP update, the RFP Committee, the Legislative RFP, for private/public partnership and reviewed the submissions and basically decided we need more information. And questions will be submitted to the head of the RFP process, Kathleen Koppenhoefer, and they will be submitted to the people who have submitted bids, and then we will hopefully have a meeting and get some answers to these questions. So that's the status Legislative RFP.

The -- I'll call it the current County Executive's RFP is still waiting information back from the vendors who submitted information. So they're both sort of out awaiting information to be sent back to us. Any new business?

MR. PEARSALL:
I just want to point the wonderful Christmas party that you held. It really was moving. Everybody had a good time. The patients were so thrilled with what was going on. So you did a good job, Kevin.

MR. CAREY:
I have to credit Mike {Barone} from maintenance and Diane {Barone} from housekeeping. They were the ones to initiate bringing that tradition back. Thank you, though.

LEG. BROWNING:
I agree, I was there. And definitely the morale was way up. And I've talked to a lot of patients and employees who -- just the spirit was good. And I think with everything they've been through the past couple of years, it certainly made them feel much better. Thank you for what you did.

MR. CAREY:
Thank you.

LEG. BROWNING:
I believe I may be there on Friday. My son's orchestra is going to be there on Friday morning, so I'll probably come by. Is that tomorrow? No. So it's nice when the kids are coming in from the schools to entertain them. I think it's great. I used to do it when they were little with my church when my daughter was in school. So I wasn't sure that they were still doing all that. So it's kind

of nice to see they're back doing it.

MR. CAREY:
Thank you.

DR. TOMARKEN:
Any old business? Okay. Why don't we set, if we can, a time for the next meeting in January. Roughly about four weeks, the third or fourth week.

LEG. BROWNING:
I can tell you from the 9th to the 20th, I'm not going to be available.

MS. BRANDEAU:
I don't know if -- next year if I'm going to be the appointment to this committee, they might chose someone else from the new administration. So whatever date you pick, I will relate to them.

DR. TOMARKEN:
After the 20th I think is what we should be looking at. Are Wednesdays reasonable for people?

LEG. BROWNING:
Are we going to do it here or are we going to do it in the nursing home next time?

DR. TOMARKEN:
Was there a pattern, like every so often or?

LEG. BROWNING:
No. I know, like, on the 24th, I'm going to be here for a meeting at 11:00

MR. LIPP:
Even the last week, committee week, Craig will be attending. So that will be -- probably Thursday would be his committee meeting for Health and Human Services. So probably that week other than Thursday would be okay.

LEG. BROWNING:
We're not going to have any committee meetings in January at all. I think we only have our Organizational Meeting, don't we?

DR. TOMARKEN:
So ten o'clock the 25th here in the Leg.

LEG. BROWNING:
The 25th at ten o'clock.

DR. TOMARKEN:
How do we get the room reserved?

MR. PEARSALL:
I will reserve it right now. Any additional questions, issues people want to bring up? Can I get a motion to adjourn.

MR. PEARSALL:
Motion to adjourn.

MS. BRANDEAU:
Motion to adjourn.

DR. TOMARKEN:
All in favor? Opposed? Meeting adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 10:56 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY