

JOHN J. FOLEY SKILLED NURSING FACILITY

OVERSIGHT COMMITTEE

AUGUST 24, 2012

Verbatim Transcript

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 Friday, August 24, 2012.

MEMBERS PRESENT:

Dr. James Tomarken, Chairman/Commissioner-Dept of Health Services
Terry Pearsall, Presiding Officer Lindsay's Representative
Kathleen Reeves, John J. Foley Skilled Nursing Facility Representative

ALSO IN ATTENDANCE:

Legislator Kate M. Browning, 3rd Legislative District
Legislator John M. Kennedy, Jr., 12th Legislative District
Legislator Thomas Cilmi, 10th Legislative District
Leslie Kennedy, Aide to Legislator Kennedy
Craig Freas, Budget Review Office/SC Legislature
Kevin Carey, Administrator/John J. Foley Skilled Nursing Facility
Raymond Bingham
Nanci Dallaire
Rick Brand, Newsday

MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 10:06 AM

COMMISSIONER TOMARKEN:

Okay. I think we'll get started. We'll open the floor for public speakers. Mr. Bingham, do you want to speak?

PUBLIC PORTION

MR. BINGHAM:

I just want to say good morning to each and everyone that's here, right, and it's good to see you all. Myself, I'd like to say since I been working at Foley since its inception from the first day, right, the fourth floor to the second floor was not filled up, but it took us two-and-a-half months, right, and we have from the fourth floor to the second floor was filled up. Initially after that, we went to the fifth floor, right, which was an AIDS wing. It took us a little bit more time because what happened is the fifth floor when we opened it up at first, right, and the AIDS patients start coming in, I mean, they were dropping dead like flies, right, you know their life span. We had even -- my biggest disappointment as far as the fifth floor goes, we had a nine-year old kid that came in on the fifth floor, I remember, right. And that AID virus in a sense took over that kid so badly because the mother, she came in also after that because -- from a transfusion, the kid got the virus from her, right. I seen those nurses hold that kid's hand so much, right, just to comfort that kid.

I don't know if anybody up there, right, ever see somebody die from AIDS. It's not a good sight even to see, right. I can tell you firsthand because I've seen it. I have the luxury of seeing each and every resident in Foley every single day because I'm the person that deliver the food, right, to every resident, right. You see what happened is I remember this one morning since I'm starting from the fifth floor right now, I went to this room to deliver the food to this one guy, right, he has AIDS. He had aneurysm, right. It would be equivalent to somebody taking a grenade and put it into that kid's -- that man's -- because he really was only 18-years-old, put it in his mouth. His whole entire, without being graphic, head exploded, right. I remember the nurses coming inside and the aides and we all were crying. Because you build up such a relationship with these residents, right.

We have residents at Foley that's been there since -- well, slash infirmary since 1964. I don't know about the new owners, how long they will have residents from their facility. But I can tell you, right, Foley is a place, not just safe for the residents as it is, right, but it's an institution. I can say that because I've been around nursing home all my life, since 1969, since I start working, right, I've been around nursing home, right. I seen the good ones, the bad ones, right. And I can tell you for the last 23 years that I've been with the County at Foley, right, I can tell you that place -- that's why I like to spend my time, work all my life and finish out in Foley, right.

I'm just asking for you guys to give it a chance because it can work. The department that I work in, I can tell you over the last year, we have saved the County more than \$35,000, right, in executing things that make it more efficient to work, right. We have eliminated all the waste that were there, right. Foley is not the problem per se, right. It's the way it was being run before. I said that to Mr. Carey this past week, right, there was only one other administrator that comes inside that place, that really and truly wanted that place to work, Ellen {Crowe}, right. She was the only one other than Mr. Carey who really -- that seemed to have the interest that to make this thing work.

And I guarantee if you take Mr. Carey right now and give him another year of Foley and they even halfway implement the plan that I have for that place -- because I think if you go into a -- enter into a partnership with the employees right now, where you want to make it a non-profit corporation or something like that, figure the employees would contribute into a fund so as to help the County tie over this thing, right. Give us a chance to market this place, right.

I live in a senior citizen complex out here in Long Island for the past ten years, right. My two complex that I work in -- that I live in, right, it consist of the largest influx of people between the age -- because to live inside that place, you have to be 55, right. So between 55 and older -- eldest resident we have is 92-years-old, right. I've seen these people come day in, day out when the dementia starts setting in. And they would come to me and say, "Ray, can I take my family to Foley?" I say, "Listen, the things we're going through right now, right, is hard to say, right." They would call Foley and told that there's no beds available. And this is facts, right.

I live in Conifer and Pinehurst, the two largest, like I say, senior citizen complex out here, right. I'm around senior citizens at least 20 hours a day, between Foley and -- where I live at, my residence. Right? So I can tell you how senior citizens operate, right. I've seen it firsthand. When you move them around or bring in different people right now, right, people like Eleanor {Ruse} been at Foley/Infirmary since 1964. It's hard for them to adapt to that sort of stuff, right. You figure Mary Grace been there since 1960, right. If you was to take her and bring new people coming in, it's like a shock to these people, right.

Like I said before, I can tell you about each and every resident because I know them with my heart firsthand, because they trust me and I trust them, right. Myself, I figured I'm just one step from maybe Foley. For this reason, I'm a four time a day insulin diabetic, right. Beside that, I take six pills for high blood pressure, right. I take three pills a day for my -- in fact, I'm just diagnosed with stage one -- well, cancer in that sense, right. But I figure still just the same, right, I can knock anything at all with the feeling that I have, that I get from these residents because I don't think I would have been available to manage my diabetes had I not been around these people. Because my brother, he was in the service 37 years, right. And what happened is he's been to the war twice. And that didn't take his life, right. I see him come back from overseas and diabetes sets in. They amputate both his legs. They put him in a home, right, and it was all downhill after that. I seen it happen, right.

So I figure the same thing -- in Foley right now we have 53 people who are diabetic right now, right. We have right now as it stands 61 people who have hypertension. I relate to these people and these people relate to me. They know when I'm having a good day or a bad day as far as health goes, right. I can walk down the hallway, each and every one of them know me by face and name, right. Foley to me is a life-style and it's also the same thing for these residents.

All I'm asking for you guys to do is give Foley a chance. It can work, right. I've seen other nursing home work. I've seen the kosher ones come from the bottom and come to the top. I've seen the non-kosher ones do the same thing. If you give Foley one year, like I said, with Mr. Carey at the helm, right, and the present employees that we have there, right, give us a chance to market this place -- Brookhaven does the same thing. They bombard you on the TV every single day at least ten times an hour sometimes, right, trying to market themselves, right. Why couldn't we do the same thing? The County could reach out. They have all the resources, right. Foley is not a scapegoat. It shouldn't be made so, right. All we ask for is a chance, right. Thanks, ladies and gentlemen, for your time.

LEG. BROWNING:

Mr. Bingham -- I'm sorry -- I just want to go back to -- you said that you know people who have tried to get into John J. Foley and then been denied access because they were told there was no beds available?

MR. BINGHAM:

Yes.

LEG. BROWNING:

Is that most -- is that recently? And exactly how many people do you know of?

MR. BINGHAM:

Okay. What happened is my fiance and myself we run the bingo at Conifer, right. So what happen is we see these people three times a week. We see them on Monday, we see them on Wednesday and we see them on Friday, since we have bingo those three nights. Okay. What happened is the family comes in along with the residents or the people who are living there, right. And what happened is once they get to the state where, like I said, the Alzheimer's starts setting in, they fall a lot of times because they're in their apartment by themselves. So what will happen is the family try to get access -- they'll ask, "Ray, are you still over by Foley?" I say, "Yeah". They say, "What's the situation? The paper says that the place is being closed or being sold. I'd love to get my mom in there. I'd love to get my dad in there," right. In fact, this past week one of the ladies, right, figure she's 81-years-old. She passed on because she fell in the bathtub at, you know, being in the apartment by herself.

My roommate daughter asked me the same thing, "Can I get her in there?" I said, "Listen, I can't tell you to put her in there right now in the sense because she might only be in there for two months or three months or four months, because they talking about a September 15th or 13th deadline when this place is going to be so-called sold, right. So if you approach that, you might only be able to put her in there for maybe three or four months and then they'll ship her out." Because my feelings right now as it stand, right, these new buyers, their place is equivalent to our place in terms of the amount of residents.

I think what they're going to do, right, seeing that they're leasing their building and stuff like that, they're going to come in and they're going to slowly ship every one of those people out of there. And the influx of the residents they have from the Pinehurst and ship them right in. I've seen it happen before, and that's exactly what's going to happen. Because Foley will be theirs. They don't have to pay that high percentage of rent or lease on the other building. They have the staffing from the other place that they have. They'll move them right in. There are people in my department alone; Ricky 31 years, Roy 32 years, right, Ann, right. 33 years, right. And it goes on and on and on, right. We have all these people. They're not yet 55, right. They're 51, 52, 53 and stuff like that in a sense, right. They put all this time into the County and yet still they'll be shipped out along with myself.

LEG. BROWNING:

How many years are you working at John J. Foley?

MR. BINGHAM:

Twenty-three years.

LEG. BROWNING:

Twenty-three years.

MR. BINGHAM:

Right.

LEG. BROWNING:

Okay. So you'll be eligible for retirement in two years.

MR. BINGHAM:

Yeah.

LEG. BROWNING:

Okay.

MR. BINGHAM:

If I get two years, right?

LEG. BROWNING:

If you got two years.

MR. BINGHAM:

Okay.

LEG. BROWNING:

Thank you.

MR. BINGHAM:

All right. Thanks, Kate.

LEG. KENNEDY:

Mr. Bingham, I have a question, too. Ray?

MR. BINGHAM:

Yeah.

LEG. KENNEDY:

First of all, thank you for coming here today to talk with us. Thank you for being out in Riverhead on Tuesday to speak with us. I heard you talk then about the fact that folks have been turned away, and I'm hearing you say it again today. When we get into the regular deliberations, Doctor, I want to speak about that because I heard our Chief Deputy say on Tuesday out in Riverhead that there was no directive not to admit. So as we've said regarding Foley so many times before, some place, somewhere there's a disconnect here as far as the information goes.

But more importantly, I want you to tell me, you mentioned something about saving \$35,000 from maybe the food budget or meal prep? What's the efficiency that you suggested to Mr. Carey and that you've been able to do this year.

MR. BINGHAM:

Okay. Number one, we had the luxury of having soda every meal three times a day, right. We eliminate the sodas down to only if it's necessary for the people who are having like liquids, right. Okay. We used to have salad twice a day, right. We eliminated those. You know, it's not a necessity to have salad two meals, lunch and dinner, right. So we eliminate that also, right.

There's a lot of cutbacks that we do that still the residents are still happy. Because I know each and every resident there, what their likes and dislikes are, right. So I make suggestions as I go along. And Steve, who is the acting food supervisor right now, he's receptive to the things that you tell him. Because firsthand I'm the person out there almost in the forefront with these residents. I'm there 5:30 in the morning, right. Like I said before, I haven't called in sick at Foley since 19 -- well, you figure, well, you look at 2004 is the last time I called in sick. So that mean I'm there five days a week, right. A lot of the times I'm there from 5:30 in the morning until 8:00 at night, right.

So I see these people and I know what their likes are so I make suggestions. And that's what you save. You can go back and you look at the books for the things that we save. The formulas that we make are for the tube feeders, right, which is pretty expensive. Even though we get subsidy on those things, right, we were able to streamline that stuff down to where we don't have no waste, right, so we save a lot of money right there, right. And, like I said, we have saved so far, I figure, in excess of \$35,000 so far.

LEG. KENNEDY:

Well, that's terrific. We thank you very much. And, again, I appreciate -- obviously this is more than just a job to you. And I appreciate your commitment.

The last thing I want to ask you is you spoke about two age 55 complexes. Pinehurst and what's the other one, is it Leisure Village or what's the name of the facility.

MR. BINGHAM:

No. Pinehurst and Conifer. That's the one I live in presently, Conifer.

LEG. KENNEDY:

Okay.

MR. BINGHAM:

Right.

LEG. KENNEDY:

Okay. And so it's just a natural within the age 55 or over complexes for folks, as you describe, they begin to lose their ability to ambulate.

MR. BINGHAM:

Exactly.

LEG. KENNEDY:

Prepare meals on their own.

MR. BINGHAM:

Right.

LEG. KENNEDY:

They know that there should be some kind of a transition moving into a facility and Foley still has that quality name out there for care, right?

MR. BINGHAM:

Exactly so. Right? And now like I said before, I walk down that hallway and every single person inside that building know I work in a nursing home because I'm always in white, right? So they says, "Here's the guy." Right. They know exactly in the sense and they ask. Because it's always in Newsday, right, the place is being closed.

LEG. KENNEDY:

Yes.

MR. BINGHAM:

The place is being sold.

LEG. KENNEDY:

Well, thank you for being a good ambassador for us. I appreciate it. Thank you.

MR. BINGHAM:

Okay.

COMMISSIONER TOMARKEN:

Nanci Dallaire.

MS. DALLAIRE:

Thank you. My first concern would have to be the fact that the State required upgrades and improvements went without being remedied for five years. Since 2007, this facility has needed to comply with these State regulations but were ignored. This concerns me. Regardless of the previous County Executive's intent for this County facility, he should have been obligated to keep it up to code. Now the County's concerned with the safety of our residents? No. They're rushing to complete these compliances to make a quick sale. How do you sell a facility that does not meet State requirements? A waiver? We cannot sell our home without passing the inspection or safety guidelines.

These upgrades should have begun in 2007. Funds should have been assigned this project. Why would I hear that a State grant awarded to John J. Foley in 2012 would be used to pay these improvements? I cannot agree with using this grant to cover up old problems caused by the negligence of the previous County Executive. Mr. Levy mishandled the State grant given to John J. Foley for that EMR system, which is still not fully functioning. And now this County Executive is changing this grant awarded to restructure John J. Foley and the health services of Suffolk County?

I'm concerned that this abuse with the use of this grant would jeopardize future grants. I suspect that this is not the first time funds intended for Foley, Enterprise Fund 632, have been funneled elsewhere. We have begun this three-year plan to upgrade the facility, but the facility may be sold by December 31st as we will continue to pay for these improvements while the Shermans make their profit? This should be a crime.

John J. Foley is not even going to the highest bidder. That's insulting. The sale of this institution will only reduce that daunting deficit a tiny bit. We're willing to risk this facility and these vital services for that small amount? Seems to me that the Rosenberg deal was scrutinized a bit more. What has changed since then besides John J. Foley showing improvement? Mr. Rosenberg was held to more assurances and was required to purchase additional land in order to put in his own driveway.

I cannot agree with the secret deals that lead to more questions than solutions. And I hope this Committee will continue to raise many -- the many unanswered questions that plague this deal. I hear the Department of Social Services has suffered from a shortfall and requires funds to be transferred to cover the shortfall and that safety net, will that be the next department abolished? And where will it end?

This is the function of our government, to ensure the vital health, human and social services. The County must stop acting as if this is a burden to our society. A special fund is set up for the sewer system, but we are willing to sacrifice our health care system? And I hope the Legislators heard now for the second time why these private operators are successful and why John J. Foley struggles. The Shermans themselves recognize that the daycare program was full a year-and-a-half ago. They will be prospering in six months with that program. They repeated many times the importance of proper documentation and training to receive the proper reimbursements. And that EMR System will be in operation in no time if the Shermans take over. Even bad publicity does not seem to hurt the for-profit nursing homes, but it has crippled our facility. Thank you.

LEG. BROWNING:

Question, Nanci. Just curious, how long have you been working at John J. Foley?

MS. DALLAIRE:

Six years.

LEG. BROWNING:

Okay. Thank you.

COMMISSIONER TOMARKEN:

Is there anyone else in the audience who would like to speak? Seeing no one else speaking -- wanting to speak, we'll close the public session and move to a review of the minutes of July 27, 2012, which were sent out electronically. Any additions, corrections?

MS. REEVES:

On page four my name is spelled wrong. It's spelled with a "C" instead of a "K". That was the only --

COMMISSIONER TOMARKEN:

Can I have a motion to approve the minutes?

MR. CAREY:

Motion.

LEG. KENNEDY:

I would second it.

COMMISSIONER TOMARKEN:

All in favor? Opposed? Abstentions? Minutes are accepted. And we'll move on to number two, the update from Mr. Carey.

MR. CAREY:

Currently our census is 190 residents in-house with six in the hospital for long-term. For the adult daycare, our adult daycare census is 45, zero admissions, zero discharges for this month. The average monthly census was 20. The Monday to Friday average was 21.4. Saturday average was 11. And the adult daycare was closed on July 4th.

Capital Projects: The electricians are still working on upgrading the electric. They anticipate being done by the first or second week in October. And we submitted our Plan of Correction for the annual survey that we just recently had. We are waiting for the Plan of Correction to be accepted. Other than that, I'm just -- I'm good.

LEG. KENNEDY:

Question on the two -- let's start with the two Capital projects first. So, the electrical upgrade is that redundancy that has been something that's been a vio that we've carried -- when was that first identified?

MR. CAREY:

2007 State survey.

LEG. KENNEDY:

Was 2007, and we went back and forth with the State. Did we dispute it as far as the legitimacy of the vio? Our contention was that the building when it was built in 1994 was built to code, and that this was an imposition after the fact and we should have been grandfathered.

MR. CAREY:

Correct. That was the argument, I believe, from 2007 through 2009 or 10.

LEG. KENNEDY:

Okay. Still we went back and forth. Ultimately, the State prevailed. They said put it in, it's supposed to be there. It's for the benefit and safety of the residents.

MR. CAREY:

(Shaking head in the affirmative)

LEG. KENNEDY:

Okay. It's about a \$600,000 cost, I believe, between labor and equipment?

MR. CAREY:

I believe it's between 5 and 600,000 for the electric and the fire stop insulation.

LEG. KENNEDY:

Okie doke. And regardless of the HEAL grant, we started this process, actually, I don't know, three, four, five months ago. So we were working against our regular conventional Capital Budget appropriation in 2012. Actually that's a question for Craig.

MR. FREAS:

That's pretty much correct. We put this -- we put these funds in last year in a Capital Project. Public Works used different funds from different Capital Projects for last year's -- one of their general fix-it projects. But what you said is substantially correct.

LEG. KENNEDY:

Okay. So, you know, I may dovetail for a second into the HEAL Grant with this, but it's important that the Capital items for compliance, I think, that we identify first. Let's -- so that's the electrical upgrade. And once this is completed, then, I guess we invite the State in to look at it, they concur that it's been addressed, and that's eliminated as a standing violation for us; is that correct?

MR. CAREY:

Correct.

LEG. KENNEDY:

Okay. Good. So then let's go to the fire stop next. My recollection with the fire stop was that also was identified in 2007. We did the same thing as far as back and forth. Whenever it was, '09, '10, State DOH said, "We don't care what code was in 2004 or '94. We're telling you this is the upgrade we've implemented or adopted. And you, in order to have a compliant facility, are going to go ahead and make that improvement and an upgrade."

MR. CAREY:

Correct.

LEG. KENNEDY:

Okay. And so what they then did is, is they worked out with us a timeline for moving through the facility for the five floors regarding actually conducting the work.

MR. CAREY:

Correct.

LEG. KENNEDY:

Okay. So my recollection by and through our regular Capital Project was that we had to complete the basement and the first floor in 2012 in order to adhere to the mutually adopted schedule that State DOH allowed us to enter.

MR. CAREY:

Correct.

LEG. KENNEDY:

Okay. So, we have a contractor now that it's in place and they're starting to do that work?

MR. CAREY:

Well, they haven't physically started yet, but I'm told by DPW that, yes, they have one assigned and they are just waiting to schedule a start date.

LEG. KENNEDY:

Okay. So somewhere between us moving forward against the Capital Project and where we are today, we're now doing all five floors and a basement?

MR. CAREY:

That was -- I discussed that with DPW. I did not get a final answer. I was assured that the basement and the first floor would be done no matter what to adhere to the schedule. As to whether or not they were going to manage to do all the floors this year, that was still pending from the person in DPW I speaking to.

LEG. KENNEDY:

Okay. Thank you for your understanding on the implementation side. Let me ask Craig what's going on with the money.

MR. FREAS:

Again, the original Capital Project -- I pulled up some of these -- the correspondence I had with Legislator Browning last year regarding this because we put money in specifically for it, and it started in 1710. It looks like it's about 350,000 this year, originally scheduled, 175,000 in 2013. And then 580,000, again, give or take, in 2014. And that would have covered both projects, both -- as far as I know, the conduiting and the fire spray stuff.

DPW this year -- the main reason we know this is DPW did it a different way. I would really have -- almost have to refer you to Commissioner Anderson or one of his guys. They used -- they had -- in the Capital Budget that was presented to us and that we adopted the funds were -- were cleared out in one of the years in 1710. But they -- but, as Kevin just said, they've already started the work and they're using it from a different capital project. So, again, I would refer you to Commissioner Anderson or -- who's his -- whoever his point of contact is for this particular building. I can reach out to him as well, but --

LEG. KENNEDY:

I'll call Gil Anderson today. Look, here's my point: There's a couple of --

MR. FREAS:

As far as we know, they're doing the work. I mean -- and they plan -- I would assume they plan to get the work done maybe ahead of schedule just because they found the money and it's been a deficiency for five years.

LEG. KENNEDY:

Right. We're in the 2012 Capital Budget. So that means last June in 2011 we were identifying that these upgrades needed to be addressed and we adopted a budget that would allow for that over these next three years.

MR. FREAS:

Correct.

LEG. KENNEDY:

The HEAL Grant wasn't anywhere on the horizon --

MR. FREAS:

No.

LEG. KENNEDY:

-- and, quite frankly, is something that's being thrown about at this point after the fact.

MR. FREAS:

Well, I think -- I think the -- my understanding from what the Deputy County Executive said at Health Committee and conversations I've had with various members of Commissioner's Tomarken Department, is they're sort of looking at it globally. They -- first of all, the HEAL Grant is \$17 million and this is, you know, \$1.1 million worth of work. The remainder of the funds, again, I have some correspondence that was forwarded to me from Mrs. Bermel, the Director of Finance Administration at the Health Department, correspondence she had with New York State that says, yeah, we're going to be able to use the HEAL Grant to defease the debt. But there is no -- as you mentioned on the record at Health Committee, and Deputy Commissioner Calcaterra didn't seem to be able to substantiate that there was a -- there was a writing or a Letter of Agreement or anything that said that we could do it the way that we are apparently are. And maybe it's going to be done differently. I don't know, but there's sufficient funds in the HEAL Grant to both -- reimburse whichever -- to cover the cost of the -- of the work that needs to be done to bring the building up to code and to defease the debt.

LEG. KENNEDY:

Okay. We let the bonds, we paid for it and we paid for it through our regular conventional bonding. Now we're after the fact we're going through this process that drags HEAL into for this, that and the other thing. That's my point. I just wanted to make sure that where we're at today was something that wasn't -- something that this body ignored, did not give credence to 14, 15 months ago. And thank you. I appreciate the specifics on where it's going, because ultimately we should have a safe facility.

Let's talk about the count, Kevin. Let's talk about the count and where we're at, you know, on board the inhouse. And, you know, what Mr. Bingham just shared today, what we heard on Tuesday out in Riverhead and in particular this -- these statements that people are being turned away. What's going on? Where are we at today?

MR. CAREY:

We're not turning people away. We are admitting people all the time.

LEG. KENNEDY:

Okay. Well, so then help me out again because your the professional here. I'm just the ignorant elected. As I understand it, and I've heard from time to time, Jennifer -- Jennifer Tay has come and spoken to us extensively. Previously she had been going to the hospitals. Go to Stony Brook. Go to Brookhaven. Gone over to St. Catherine's. Gone to all of them, doing the same thing that many -- actually what the Shermans talked about, that they have employees who go to sit with the discharge planners from the hospitals looking at the PRIs; is that it?

MR. CAREY:

Correct.

LEG. KENNEDY:

Okay. Is that happening today? Do we have anybody doing that today?

MR. CAREY:

I have one County LPN who currently has an illness who goes out sporadically. She's chronic

illness. She comes to work sporadically. And I have an agency nurse part-time sporadically going out to the hospitals.

LEG. KENNEDY:

When was the last time that we had a sustained effort?

MR. CAREY:

I would say approximately two months ago for Jennifer Tay.

LEG. KENNEDY:

Okay. And she was doing pretty well. She was pretty successful at it, right?

MR. CAREY:

Yes, she was.

LEG. KENNEDY:

Yeah. So, you know, we've kind of gone back and forth about this, you know, idea about where the census is and, you know, every one of us that sits around here and comes each month knows, you know, you make money from the dollar and cents side by having a person in the bed. And it seems that there are individuals that could be admitted into the facility who have need for our care. But this issue of us effectively working within the network here -- we've had people that have come from Nassau, even as far as Queens, I believe, right?

MR. CAREY:

Correct.

LEG. KENNEDY:

Yeah. But that doesn't seem to be working too well right now.

MR. CAREY:

No. Marketing, no, it doesn't work very efficiently right now, no.

LEG. KENNEDY:

Okay. So, you know, we can get into a much broader discussion on it right now. I mean, that's the reason why we are at where we're at with the count right now. Doctor, you heard some of the statements that, you know, the Chief Deputy made, that the County Executive's Office has never said that we should be turning patients away. What do you make of this? You got a statement there. We got a count of 190. And, you know, you got the devil and the deep blue sea in between. What's going on?

COMMISSIONER TOMARKEN:

I've never seen any directive regarding admissions, number one. Number two, we've always been working on the budget restraints that we had to downsize staff and patients for the second half of this year. And this was in the budget. And we all agreed -- initially we looked at a number of 150 and then we said 184 made more sense. So we've been hovering around that area since because, frankly, as I understand it from BRO, which has stated this in several of these meetings, that we have no money beyond September 1st for the facility.

LEG. KENNEDY:

You kind of anticipated where I was going to go next. And I was going to ask Craig to talk a little bit about -- and let's make sure that we're doing apples to apples, Doctor. One eighty-four for our patient census or for our employee roster?

COMMISSIONER TOMARKEN:

That would be patients.

LEG. KENNEDY:

Okay. So -- and we agree that we relatively run roughly one to one ratio between staff and patients.

DR. TOMARKEN:

I think our staff is about 202. It's a little bit higher.

MR. FREAS:

Yeah. It actually runs a little -- it's more like 1.1 staff per. And that's a general. One point -- we used to be a little higher. The industry standard's like 1.1. I know it doesn't sound like it's a big difference, but, you know, it's ten -- you know, 10% more people, probably 9%, but it's more people, yeah.

LEG. KENNEDY:

All right. So walk me through -- I mean, you know, better than anybody, Craig. I mean the first half closed last December. And, you know, we had adopted the budget for 2012. And then we talked about, okay, what's going to happen because the Foley employees, like many other residents, were half year funded or whatever. But we took another look at that and then we -- we tried to figure where the appropriation for payroll and salary actually would take us.

MR. FREAS:

We believed -- now, remember we adopted a budget that assumed a public/private partnership and that we would get some one-shots and that we would get some recurring revenue from it as well. Just as the Recommended Budget was sent to us with a sale that was not in evidence either, so to speak, and that revenue would not have been realized either. The decision was made to continue to run the facility. We didn't -- neither -- you know, by February it became apparent that neither the sale contemplated in the Recommended Budget nor the public/private partnership contemplated in the Adopted Budget were going to occur.

There was a restructuring of the facility anticipating a loss of personnel because of the public/private partnership. And, again, that didn't occur. They would have gone too low on personnel given the patient load if we had followed that plan as we did in many other places in Health Services, especially. And, as I've said on the record, we're going to have a problem. We're going to have to in some way adopt a -- we're going to have to amend the Budget, I believe, for the -- for Fund 632 in order to -- to -- to have sufficient appropriations to make it through the year.

Now we can pay 110s in the deficit, personnel cost. We can pay personnel cost in the deficient. Some of the other costs we can move things around here and there. And the current deficit will be \$10 million more in the facility than was anticipated in the Budget, because we're running the place versus the public/private partnership. We didn't sell pieces of it, which the public/private partnership anticipated.

So, there should at least to get through the end of the year -- whether or not the sale is completed or not, a budget amending resolution should probably be executed for the facility because there will be difficulties in purchasing supplies, food, etcetera since there are insufficient appropriations in -- in the --

LEG. KENNEDY:

Okay. Do you have an idea yet -- I mean, there's a reason I'm trying to go to this because the next cycle, I believe, is the last cycle that we as Legislators can amend the Budget.

MR. FREAS:

I believe that's correct also.

LEG. KENNEDY:

Okay. So do you have an idea yet what would be needed -- obviously, look, I don't know what my colleagues are going to do. We just had the opportunity to start with this dialogue with this perspective purchaser. I'm opposed to it. Everybody knows I'm opposed to it, but ultimately somebody's going to make a decision. Regardless of whether the Shermans or anybody else walked through the door and there was a resolution to approve to sell to them, it is -- there will be no transfer of responsibility and the obligation to operate before December 31st of this year.

MR. FREAS:

I think that's probably correct.

LEG. KENNEDY:

Okay.

MR. FREAS:

I don't think there's sufficient time -- I would defer to the Commissioner, you know, with regard to what New York State is going to let us do with regard to transfer responsibility, employees. Assuming that -- again, we're making two assumptions. One, that the sale's approved and that everything goes smoothly, that, you know -- that a transfer -- a transfer by December 31st would be everybody moving very expeditiously.

LEG. KENNEDY:

Mr. Shermans not buying a box of crackers for that place before January 1st.

MR. FREAS:

No.

LEG. KENNEDY:

So that being the case, we have to have some idea -- like he just said, how are we going to feed the residents, how are we going to go ahead and pay for, you know, the four by fours and everything else, how are we going to keep in the house what we need in the house for the people that we have in the house? That dollar and cent amount we need to know. I would like to know before my deadline to file a resolution to be laid on the table for December 13th.

MR. FREAS:

Mr. Vonatski, the Director of Finance, has sent me an estimate of what he expects the Budget to be for this year. It's about \$32 million in total in operating expenditures. We can certainly base -- we can certainly look at it, see where we have to move things around and -- here's the problem. You know, as we all know, in order for us to do a -- to amend the appropriations, the expenditure line, we have to have offsetting revenues or offsets somewhere else. I would assume that in some way -- well, I don't -- I won't make any assumptions. But in order for us to amend the Budget on this side, anyway, we need -- we need offsetting -- either offsetting appropriations or revenues that can be --

LEG. KENNEDY:

I understand that.

MR. FREAS:

-- legally increased.

LEG. KENNEDY:

Right. I'll talk with you about that. I mean, there are some other assumptions that we might make. Legislator Browning and I talked a little bit about it. You know, we may in that budget amending resolution move our, you know, facility maintenance people back over to Public Works. They had been there once before; maybe we'll move them back there again. And so if we're needing to identify what we don't have to begin with as far as funding to operate through the end of the year while we sort out what we're doing with the rest of it, there are a couple of these other steps that we may put forward that will take some of the personnel there who have a natural aggregation with other County departments and administratively move them over there and see whether or not we have a greater ability to go ahead and absorb them and operate within those other departments. So -- but I'm going to make the request through the Chair that I'd like to see some estimation of what we're going to need to move so that it can go into a resolution form for filing to be laid on the table for September 13th.

MR. FREAS:

Is it your intention for us to write the resolution or if the resolution to come from the County Executive?

LEG. KENNEDY:

No, I'm asking you as a Legislator. I'll be the sponsor.

MR. FREAS:

Very well.

LEG. KENNEDY:

I don't know what the County Executive's going to do. All I hear is, is what happens when they stand at the podiums at meetings. No, I'm going to -- I'll sponsor it. I may have other Legislators who join me.

LEG. BROWNING:

Gee, I wonder who that might be. Question. You know, when you talk about the filling of the beds, I had a former John J. Foley employee who, while I was away, called my office to say that a friend of his had a family member with dementia, tried to get that family member into John J. Foley, and was told there was no beds available. I know that we have one floor closed, so, you know -- Jennifer was here. She talked about, you know, 8 to 13 people who were denied access to the Nursing Home. I got a call from my -- to my office from a former employee saying a friend of his was denied. You know, clearly there's something wrong when we're -- we have not -- you know, the only way to make this place more valuable is to have more filled beds. Obviously if the place was full and to capacity the sale price would probably be a lot more than 23 million. And when I find out that people are being denied and then I'm being told, no, they're not, who do I believe? That's the hard part.

So, I know that I did miss the last meeting because of my family issue. There was an issue that came up at a previous meeting with the seven veterans who are in the home and the Aid and Attendance. I may not -- I don't know if that came up at the last meeting, but have we found out if the Aid and Attendance is being paid? And if not, has the paperwork been done? Do you remember the -- I think it was the meeting before last.

LEG. KENNEDY:

We had some conversation, Kevin and I. I don't recall specifically about the veterans benefits. Actually, I was supposed to go to the facility on Wednesday, but, you know, based on whatever, you know, the aliens that invaded me here, I was not in the greatest shape. But the Aid and Attendance is a benefit that's available also. My question, and I just -- I'm going to have to -- I'll try with the VA's office this afternoon. I don't know whether the benefit runs to the individual or if

it runs to the facility. There are different categories. Fred Sganga, in their facility, receive Aid and Attendance assistance that goes directly to offset and support the operation of the Nursing Home.

For those veterans that reside in non-veterans' facilities, my recollection is that the benefit goes to the veteran, and not necessarily to the facility. But it may, in fact, be a bifurcated benefit. It is not as high. For the veterans' facilities directly, it's about 500 bucks per veteran, lump sum to the facility. I believe it's somewhere in the neighborhood of a hundred and change. And I just don't know whether that's spread between the facility and the veteran or just to the veteran themselves. I'll try to get -- see what I can get on that, Kate.

LEG. BROWNING:

Okay. And another question. Because there -- there was a question that I asked of the Shermans about skilled care versus long-term care; long-term custodial care. And he seemed to imply that -- he talked a lot about skilled care. Never spoke about long-term custodial. And then at one point he said, "Well, we wouldn't be encouraged," if I'm not mistaken, and I think, Kathy, you were here and you could correct me if I'm wrong, but he did say that "Well, no, the State wouldn't encourage them or enforce them to take someone who's long-term custodial."

MS. REEVES:

Correct.

LEG. BROWNING:

I know I have three or four people sitting here on this panel who could explain to me what the difference is as far as money. And just curiosity, how many residents do we currently have who are long-term custodial? Because my concern is as -- when he's saying they really don't take the long-term custodial, yet I know we have long-term custodial in John J. Foley, what might his plan be for those long-term custodials if he takes over the Nursing Home? And I -- you know, we all know Chris Barns, and I know Chris Barns is long-term custodial. I believe there's few more that we know of. You know, I have a good friend and Pauline has no objection to me mentioning her name. I think she may be another one, being an MS patient.

So, could someone explain to me how the -- the difference in billing for them and, you know, skilled care versus long-term care, which one can you get more revenue from?

MS. REEVES:

You get -- you get more for skilled care. Pauline, because of her disease, she is considered skilled for life. But somebody like Chris Barns is not. And the only way to make someone like that skilled care is they have to get a stage three or four decubitus ulcer, multiple stage twos. They have to get a UTI, pneumonia. They have to get some kind of a disease or what have you that does actually require skilled care as opposed to just being fed, being changed, being cleaned, like that.

LEG. BROWNING:

Right. He just needs 24/7 care.

MS. REEVES:

Right.

LEG. BROWNING:

He doesn't have --

MS. REEVES:

But he does not need --

LEG. BROWNING:

-- a serious health issue.

MS. REEVES:

No, not at this time.

LEG. BROWNING:

Right. Okay.

MS. REEVES:

That's the difference.

LEG. BROWNING:

Do you know how many there are right now? Kevin, do you know how many long-term custodial? Can we get that number if you don't have it right now?

MR. CAREY:

Well, I can get that number. You should realize, though, that we don't bill individually. They're skilled care versus, as you're saying, custodial care? It's an average for the building. But I don't get a separate rate for Barns versus Pauline. We get -- it goes into the CMI average --

LEG. BROWNING:

Right.

MR. CAREY:

-- which gives me my average for the building.

LEG. BROWNING:

However, if one has -- example, Electronic Medical Records, when you're issuing, when you put in what you do for that resident every time based on what they need is how you'll get billed.

MR. CAREY:

Yes.

LEG. BROWNING:

So, you'll actually have a skilled care resident that you can get more money for because of what you're doing for them, where, you know, the long-term custodial, you know, there's not as much.

MR. CAREY:

Right. Correct.

LEG. BROWNING:

Well, I'm just curious. That's my concern is the long-term custodials generally wind up in John J. Foley because nobody really wants them; they're not revenue-generators. That sounds terrible when you're talking about people. But, you know, they're not -- excuse me -- they're not revenue generators. That's -- that's what my concern is when a private operator -- in fact, I have one more question to ask but just -- my neighbor works at a local nursing home and she happens to be Christ Barns' Godmother and I wasn't aware. And the nursing home that she's been working in for many, many years, she told me she tried to get him into the nursing home where she worked being the Godmother. They wouldn't take him. And that's as close to home for his parent as John J. Foley. So that's where my concern is when I hear the private operator versus the public.

Easter Seals. I know that maybe John or Terry can fill me in on this because I know that Easter Seals were supposed to be provided with the financials of the Nursing Home, obviously, to make a determination as to what they want to do with the Nursing Home and whether they wanted to come

in. Now, it's my understanding that when they received the financials, they came back with something like a \$17 million deficit rather than ten million. But it's -- am I correct in saying that up until the accounts receivables they did not receive any of that, which obviously inflates the deficit?

LEG. KENNEDY:

My conversations with John McGrath, he did indicated that the receivables weren't included, I guess, in what he wound up being provided. You know, and even with the financials, the way they were structured, at no time did they say that they were not interested in partnering or collaborating with us. As a matter of fact, you know, you were there, they were quite excited. They were quite eager about coming forward. They had indicated that they were going to give us a white paper that basically laid out what we all expected or anticipated to be something in the neighborhood of about a 24 to 30 month transition for them to come in, partner with us, a start operations -- they were looking to begin operations immediately with the daycare program. It's ironic how many people focus on that, the Shermans, Easter Seal, everybody. That's no aspersion against you, Kevin, but I think it's, again, a reflection of you can only do what you can do with the tools that you have provided to you.

And quite frankly, you know, I've said it for a long time, you don't have the -- you don't have the folks that you need in order to go ahead and be able to provide the range of care. You may have, you know, agency social workers, this, that or the other thing, but, you know, you don't need a MSW to be able to go visit Pinehurst or some of the other places and talk to them about a great program. Or for that matter, to talk to parish outreaches. Or for that matter, to talk to Brookhaven Senior Citizens Program or Southampton Town's or Riverhead Town's. Those are all natural, basic, you know, types of functions that happen. It's like anything else in life. You know, you get visited every other day out there by the guy that's looking to sell medication. The detail man's there all the time to remind you of what he's got and the versions it's in and how this one and that one is going to be better for your patients. It's no different than anything else in life.

So, I was not a part of that meeting that the County Executive, the teleconference that the County Executive elected to have with Easter Seals. I'm told, it's just hearsay, but basically what was related to them is, is how much are you going to pay for this place and how soon are you going to put it on the table? And that was never the premise for asking them to come forward, nor did they ever represent that they would be doing it. Quite frankly, I was embarrassed. I called them up just to apologize. John McGrath indicated that if this doesn't transpire with the Shermans, they're still interested. There's other people interested. I told you, Brookhaven. Brookhaven and Woodhaven. The last bona fide legitimate bidder to acquire Foley is still interested, but they've never been contacted.

LEG. BROWNING:

Okay. So, you know, I know there's nobody here from the Budget Office, from the County Executive's Budget Office to respond, but I certainly would like to know what they gave to -- what their comments are and what they gave. Because clearly if they're not -- if Easter Seals didn't receive the accounts receivables, certainly, then, the deficit is going to be inflated. It's going to be much higher than what it really is. So, that's a little disturbing.

And, again, I think in the midst of us having discussions with Easter Seals, there was clearly something else going on on the other side that we were absolutely not aware of. And that's the shame of it.

MR. PEARSALL:

I was part of that conference call for Easter Seals and the County Executive's Office. The County Executive's people made it very clear that they wanted to sell it; not any other arrangement.

LEG. KENNEDY:

Well, that's not what they had indicated -- that's not what they had indicated to us earlier. As a matter of fact, going all the way back to March and for each visit, we had representatives from the County Executive's Office that was there. Fred Pollert was there. Jon Schneider was there. At no time was there anything ever -- any representation from them previously that they would not entertain, would not consider, would not embrace that. And, you know, I'm surprised that they decided to -- actually, you know, I shouldn't say surprised, no. I said I was embarrassed. And I called up Easter Seals to apologize because I think it was a lousy way to treat a national organization who responded to us to ask about making our services better. That's what I really feel.

COMMISSIONER TOMARKEN:

Legislator Cilmi.

LEG. CILMI:

Yes, thank you. This is my first time here. And I appreciate the opportunity to ask some questions. I have a variety of questions. And I'd like to first say to the Committee please don't misconstrue my questions as being critical. I have -- there's no hidden agenda. I have this burning desire to get to the truth. It's a problem I have and it's why I have been so interested in the budget deficit numbers as they've changed throughout the first seven months of this year. So, as I said, these questions are varied and they'll be all over the map, but we'll start with the question of the denials that has been raised here and at our public meetings.

In any of these cases where we've heard about people being denied entrance to the -- acceptance to the facility, has anyone ever followed up each of these denials to see if they are, in fact, you know, accurate and why they've been denied if they have been denied or -- Mr. Carey, this is the first time we're meeting, you know. Has anyone ever reached out to you to explore these things?

MR. CAREY:

No. This -- besides the other day -- there have been approximately in the last year, to my knowledge, about five or six times, I didn't keep track of it, when our dementia unit was full, and we might have had a POI or an application from the hospital for one more. Now, to me to reopen the closed unit, which is Four South, if I took that one today, I would have to come up with eight staff to go around the clock to take care of that one.

There were isolated instances of that where I had that one. I turned that one down today and then I didn't have another application for the dementia unit for two or three weeks. And then maybe three weeks later I had another one. And at that time the other unit was full and I might have had to turn one down; simply because if I said yes to that, I would have to hire eight staff just for the one person.

Had there been a pattern of daily -- like three or four a week, anything even close to that, then, I would have, you know, started making phone calls and said, you know, "Let's hire the eight staff and reopen the unit." But the only thing I had was sporadic, once every couple of weeks, where the unit -- the other unit -- the two units on the dementia floor, or the other unit was full, and an actual application came in. To my knowledge that only happened about six times.

LEG. CILMI:

Okay. So there have been a handful of times where people have been denied.

MR. CAREY:

Yes.

LEG. CILMI:

Is that -- Legislator Browning or Legislator Kennedy, the instances that you heard or maybe some

others who are from the facility, the instances that they've heard where folks have been denied entrance, could those -- could that be an explanation for those cases? Or are they -- is it something else? Or, you know, has either of you reached out to Mr. Carey to ask him in those specific cases if that was the case?

LEG. KENNEDY:

Well, first of all, no, I don't know about specific denials that they're talking about as far as dementia. My sense is a broader sense as far as what I spoke with regarding normal discharge from facilities, from hospitals for the full range, whether it's a short-term 90 day acute care or whether it's the basic long-term care or that subpopulation within long-term care for those that have Alzheimer's or dementia. I do know that we are one of the few units, if not the only unit, throughout Suffolk County that in essence is a secure unit for dementia care. And what that means in layman's terms is, is basically we have folks that have -- or can be severely impaired. They may require, you know, some one-on-one staffing, but nevertheless no other facility is going to take them in.

And you've heard some of the speakers others, Jennifer Tay and few of the others that were here, they work -- they meaning our employees, work very expeditiously with the patients and giving a decent quality of life. I did hear Mr. Bingham talk about last Tuesday, and what he just spoke again about today, which is, you know -- that's the first that I'm hearing that residents from a seniors complex are basically being told either that their resident can't come in or more importantly, they're saying "We read in the paper that the facility is closing. We'd love to have our mother, father, brother or whatever go there, but we don't know if it's going to be open next week." It's a self-fulfilling prophecy which we've looked at previously. You don't have to go back too far to when you'll find, your predecessor was there, and we actually had it at 252 folks.

I don't think there's an issue at this time, Legislator Cilmi, about individuals that could or would go in there. Kevin, I didn't know that we needed necessarily some kind of a representation of a stream of referrals week by week. There's a conversation you and I should have about psychiatry over at Stony Brook where they've specifically asked about the ability to transition from acute down to -- like an intermediate phase and they would be very interested in a block of beds.

MR. CAREY:

(Shaking head in the affirmative)

LEG. CILMI:

So, I may continue, the -- again, all of the hearsay is, you know, is important, but, you know, somebody's got to be able to follow these things up to see whether or not they are, in fact, true. Clearly there's a marketing challenge that the facility has as a result of years of discussion about closing it. Nobody can deny that. So this committee meets monthly?

LEG. KENNEDY:

Yes.

LEG. CILMI:

Maybe it's appropriate and, you know, recognizing that we're, you know, at a point where something may happen with this facility soon, but it probably would have been a good idea and maybe it still is and maybe you have, to have a report from the Administrator, whoever that may have been, every month as to what the denials were and why they were denied. This way that could sort of be addressed as it happened.

Let's talk about for a moment this marketing issue and the fact that we have a floor that's closed down completely and how that may impact whether or not we can -- whether or not we can, you know, future denials as a result of -- you know, recognizing that you can't open up a floor just for one resident. The -- if we had that floor full, we'd have 250 some-odd, 260 some-odd residents; is

that more or less correct?

MR. CAREY:

Right, yeah, 264, correct.

LEG. CILMI:

Two sixty-four. If we had a full complement, if we had that floor full, is it -- is it plausible to think that the -- I mean, clearly we'd be making more money.

MR. CAREY:

Correct.

LEG. CILMI:

Okay. How much more money would be -- what's the -- what's the PNA look like in terms of that -- if we had that floor open? If we had that floor open and full, let's say, year-round, and we had adult daycare working year round and that was marketed properly, in your experience as an administrator, and maybe you could just summarize for me what that experience is, how would that impact the bottom line? And if you could speak in somewhat specific terms. I mean clearly it would impact the bottom line positively. But does it get us to a point where we're close to break even or not or what?

MR. CAREY:

It's -- I actually do not have access to all of our financials. I don't do all of that. So it's my --

MR. FREAS:

It's about 100,000 for every patient that's there for the whole year on the Medicaid rate. It's about \$100,000 a year.

LEG. CILMI:

Of revenue.

MR. FREAS:

Of revenue.

LEG. CILMI:

Now -- so what would be the cost? Assuming that you have to have, roughly, 1.1 employees, as you said, for every resident.

MR. FREAS:

So -- well, it depends on the employees. But assuming -- 2010 is -- I'm preparing the A9-6 -- the A9-6 report, or rather updating it, since we did one two years ago for this -- presently. The best year we've had recently with -- given the changes in the operating environment for long-term care in New York State, was probably 2010. And that includes about three months in 2010 where the bottom dropped out of the facility because we looked to sell it in 2010 as well. Because revenues lag in -- at least -- at least in the County by about a quarter, we had some -- 2009 the facility was for all intents and purposes full. We were about 95 percent capacity.

We were -- that year with -- in 2010 we lost about \$5 million. Our -- let me put it this way: The operating deficit was \$5 million. The General Funds supplement was about \$5 million. We also didn't get a -- an IGT that year. With an IGT, going forward we're looking at probably, depends on how well -- how fully we're staffed and how much our staff cost, how much our -- and how full the beds are. We're probably looking at -- \$5 million is probably a good baseline; a good lower unit, 5 to \$7 million operating deficit moving forward. And that's on a budget basis. It's little more on the financial basis because of the way that -- because there are differences in the way that the financial

basis calculates the expenditures and the revenues.

LEG. CILMI:

So -- but that \$5 million number, is that -- you said that's inclusive of an average IGT?

MR. FREAS:

That's inclusive of an IGT. You know what the IGT is?

LEG. CILMI:

Yes.

MR. FREAS:

Okay.

LEG. CILMI:

And the IGT is varied in amounts, year -- to some extent?

MR. FREAS:

Well, what happens is -- and this is a point of disagreement between BRO and the Budget Office. The IGT is -- we get the IGT. Theoretically we're supposed to get it every year but typically New York State pays it every two to three years because of their own budget problems. And they had some trouble with the Federal government for a while, since -- it's -- it's basically pass through money. Many of those problems have been resolved, but New York State holds onto them a little longer for, again, their own financial reasons. So the Budget Office doesn't believe we should count the IGT against the operating deficit. It's actually recorded in the financials just below the line revenue, which is reasonable and we agree with that. But we think that on a budget basis since it's -- it's regular, although not perfectly regular revenue, it counts against the facility. So you have -- so with -- the deficit's lumpy. It might be ten years one year and then 3 million -- or --

LEG. CILMI:

I understand. So I appreciate all of that detail, but to get back to my first question. If you -- if we had a facility which was full and assuming an IGT, in keeping with what's traditionally been our IGT --

MR. FREAS:

I think \$5 million in General Fund supplement to the facility is probably not unreasonable. It might be less, it might be a little more.

LEG. CILMI:

Okay. So even with the full facility, your opinion based on your experience is we'd still be at an operating deficit of five or a subsidy from the General Fund of \$5 million, roughly, give or take.

MR. FREAS:

I believe so. I think there are probably some opportunities if we ran the facility with fewer full-time employees. We are -- we have been unique, and I've mentioned this on the record before. Even among publicly-owned facilities, to have about -- over 95%, we might be less now, full-time employees, that's very unusual in the industry as a whole. The industry as a whole, it's more like 60, 70% in most of the publically-owned. In terms of New York State it's about 80%; in other words, only about 80% of the people who work there are full-time employees.

LEG. CILMI:

What's the potentials -- what's the potential cost implications there?

MR. FREAS:

Um, it's probably another million. Well, let's see. The average -- we're at about 200 employees

right now, but could we get down to, you know, reasonably and -- we'd still have expenses for temporary employees and -- or for agency staff in that scenario.

LEG. CILMI:

Okay. So let me ask Mr. --

MR. FREAS:

So it's maybe another half a million dollars, and then in a good year, you know -- let's be very optimistic since we are just sort of spitballing here and so let's be -- we brought it down to \$4 million. There's a couple of permanent problems with a municipal home -- and, again, we're talking purely budgetarily and not problematically.

LEG. CILMI:

Sure.

MR. FREAS:

The facility carries its own pension costs. Next year that's going to about \$1.8 million. Now, remember that the deficit next year, it'll be lower and it will depending on how, again -- it's up to the Budget Office how they carry the extra loss this year and so forth. But in a typical year where the facilities runs at, you know, full -- full load, full capacity and the efficiencies and productivity were good, we'd still have this \$5 million cost; a million and a half, close to \$2 million. And again, that doesn't get any smaller. Going forward of that \$5 million could arguably be a -- soon to be a pension cost.

Another way to look at it and we've looked at it, and this would be how we did it the last time, even this time, is about -- let's say -- let's say 50 -- let's even go lower. Let's say 40 of the patients right now would be very, very difficult to place anywhere else. Now, that's only 20, 25% of the patients. In other words, they didn't quite fit in another nursing home. They might go to another public -- where they would most likely end up is another publically owned facility, whether in New York City or Upstate or in Holly Patterson if it was available. And it's not because they're medically difficult, but because they have various conditions that make them not necessarily the most attractive patient to another facility. It doesn't mean they wouldn't take them. As a matter of fact, for-profits are probably more likely to take them than not-for-profits, the way that the industry works. But they're not -- they are patients who would be difficult to place. Those, let's say, 40 patients are \$100,000 apiece. They're all Medicaid. All right? So that's \$4 million. You're getting that, but they're keeping you from getting either Medicare rates or higher value in a financial sense, not in a human being sense, Medicaid patients.

LEG. CILMI:

Right. Why would for-profit facilities be more likely to take those residents than not --

MR. FREAS:

I know that's correct because for-profit patients -- when you look at the industry as a whole and you look at quality of care, publically owned homes are in the middle. For-profit homes -- and again, I'm speaking very generally. And I don't -- I'm waiting for the list of the Sherman's homes so I can look at them with -- for Mr. Kennedy. Publically-owned homes in the middle, not-for-profits tend to have the best quality of care, whether it's because they have -- they pick -- because of the patient load or not -- but not-for-profits will take patients that in some places probably they would have gone to publically owned homes or -- they don't take as many, but they'll take some. Suffolk County looks more like the rest of the country with regard to their percentages of not-for-profits. They have one publically-owned home and for-profits. Most of the -- most us in the state have lots of non-profits, not so many for-profits. We're more like the rest country. And not-for-profits will take more difficult patients. They just won't take as many of them.

LEG. CILMI:

Okay. Mr. Carey, how long have you -- what's your experience in the industry, just roughly? You know, summarize for me real quick, if you don't mind.

MR. CAREY:

I was actually -- I'm a retired New York City Police Captain. I went back to school and got my Administrative License. I did two years in Avalon Gardens as the Assistant Administrator; then one year as Administrator in the Hampton Center and back at Avalon Gardens again. They're owned by the same association. And then I came here, and I've been here for 18 months.

LEG. CILMI:

Okay. So your experience is very limited and you've been praised by some of the employees. Okay, well, then --

LEG. BROWNING:

Tom, do you mind, can I chime in? Because I know when he's talking about the deficit, one of the things that we don't have up and operating is the electronic medical records, which we have talked about, that electronic medical records can increase our revenue. So I think that we could potentially drop that \$5 million with electronic medical records. There was another component which when this Committee was first formed, there was a number of requests made of the union. And basically there was no response back from --

LEG. CILMI:

When was this Committee formed?

LEG. BROWNING:

Oh, when did Bill put this together.

MR. FREAS:

Late 2008, early 2009.

LEG. BROWNING:

Thank you. And, you know, the former union leadership did not come back with responses on the requests that were made by the Administration. I believe that this union leadership recognizes the issues, and one of it being their contract. You have a nursing home with County workers who are not -- you know, you have nursing homes where the employees -- I'm probably going get beat up for saying this, but, you know, the employees are not operating on a nursing home contract. And I know Leslie's worked in nursing homes and she's familiar with how the contracts work. And they always talk about 1199, you know, they have a nursing home contract and how they operate, which would bring significant savings. And I know that -- I think 70% of the members signed a petition a couple of years ago. I can't remember, Nanci, but they were willing to make concessions. So that would be another opportunity to save more money. There would be a significant savings, too, on that.

LEG. CILMI:

How much would you expect do you think?

LEG. BROWNING:

Leslie, did you figure out that number?

MS. KENNEDY:

Yeah, I have it back at the office. I don't recall exactly --

LEG. CILMI:

Is it a couple of million dollars?

MS. KENNEDY:

More.

LEG. CILMI:

More than a couple of million dollars.

MS. KENNEDY:

I think we came up with 1.8 just for two or three little changes.

LEG. CILMI:

Craig, have you had an opportunity to review this issue at all to see if your analysis bears that out?

MR. FREAS:

We haven't compared 1199 to the County in probably three or four years. I probably have some older stuff that has that. I don't recall what the potential savings were. Our position has been that while we could reduce the deficit, I don't think we could eliminate it entirely.

LEG. CILMI:

Okay. Well, that's fair enough.

MR. FREAS:

There is no publicly-owned nursing home in New York State that does not have an operating deficit.

LEG. CILMI:

I understand. So is there a legal mechanism by which the employees at the facility could remain AME employees but have a different set of, you know, a different set of standards?

LEG. BROWNING:

Separate bargaining unit. They could create a separate bargaining unit. I mean -- actually, when I was with the school busses we were a -- we went from being AME under the public -- public union. A private company came in, brought us over and we continued to be AME. So they can be -- even as a County facility, they could be a separate bargaining unit.

LEG. CILMI:

What has to happen in order for that to take place?

LEG. BROWNING:

Well, that would be up to the union and the Administration, the County Executive.

LEG. CILMI:

Literally what has to happen? Who has to agree? What documents have to -- you know, what has to happen from a labor point of view?

LEG. KENNEDY:

My understanding would be under the Taylor Law that AME, which is the sole bargaining entity on the behalf of the employees, would have to agree with management, the County Executive, who is the sole individual authorized to bargain on behalf of the County of Suffolk, to agree to allow the employees and the particular categories associated with the Nursing Home to move from the current collective bargaining agreement that's in place that governs salary, compensation, terms and conditions for all AME employees out from underneath that writing and, in fact, be governed by a separate set of conditions, terms and agreements that would reflect hours, compensation, past days

and the balance.

LEG. CILMI:

And would that have to be ratified by the group of employees that work within the Nursing Home or all of the AME employees?

LEG. KENNEDY:

Presumably it would be -- well, that's a good question, as a matter of fact. And I've been talking to Danny Farrell a lot about this. I don't think existing AME employees have to vote affirmatively to allow people out because, quite frankly, they didn't do that when the Probation Officers established their own CBA. But those members that would be affected by a separate new agreement do, in fact, you need to have a majority of them to go ahead and approve whatever winds up being put in place. That is true. So it would probably be a simple majority of the affected employees in John J. Foley that would ultimately -- A, you'd have to agree to allow them to come out from under the current CBA that's in place, and then B, vote positively or the majority in order to go ahead and operate under a new bargaining agreement.

LEG. CILMI:

So, Dr. Tomarken, in your history -- in your position here with the County, recognizing now you've been through two County Executives, and acquiescing that this probably never took place during the previous County Executive's Administration, in our new Administration, has that ever been addressed? Has that ever been an option?

COMMISSIONER TOMARKEN:

Not --

LEG. CILMI:

Understanding also that the new President just took the helm at AME recently. Is it something that the County Executive in your opinion has recently explored or will recently -- or will explore or do you think that's off the table for some reason or another?

COMMISSIONER TOMARKEN:

I'm not -- I've had no discussions about it, so I don't know what their position on it is. They've not said anything to me about it one way or the other.

LEG. BROWNING:

Tom, I can tell you that I have mentioned it to the County Executive, but to the best of my knowledge, you know, with the former leadership, there has been no discussion on doing it now. I believe the board took a position not to do anything, but when the 70% of the members signed that petition, but I think with the new leadership, I think they would be more open to it. And I believe -- for example, the Community College, I believe, is a separate bargaining unit now. So AME does have another separate bargaining unit.

LEG. CILMI:

But being open to it rhetorically is one thing. Actually getting it done is something else as we all know.

LEG. BROWNING:

Well, I think it would depend on whether the sale goes through or not. If the sale doesn't go through, then certainly it would be -- I think it would behoove the Administration to certainly look at what can we do to now operate the Nursing Home. You're not going to be able to close it in --

LEG. CILMI:

I would suggest --

LEG. BROWNING:

-- a day, so it would make sense to say, okay, here we are, we've got 190-something people as residents and X amount of employees that may be we should start looking to operate it better. And negotiating with the union might be one of those initiatives.

LEG. CILMI:

Well, I would suggest to the Administration, and I'm sure you would agree, that it would be more prudent to explore that option prior to even, you know, going forward with something. I mean, it's -- it would be unfortunate if that wasn't explored already.

LEG. BROWNING:

Well, that's what I said because when they have their, you know -- I'm drawing blank on the name of the Performance Management Team, that being a place that's supposedly generating so much of a deficit, wouldn't you think that would be one of the first places that they would consider looking at, but they didn't. So here we are. I think I mentioned that at the last Health Committee Meeting, that shouldn't they have done that, shouldn't they have talked to the union, but none of that was done.

LEG. CILMI:

So that brings up probably my last question and it relates to the operations and the finances in the facility -- for the facility. When was the last time the County had any -- any party that's unaffiliated look at, you know, the operations of JJ Foley from a financial point of view, from an operations point of view?

MR. FREAS:

In 2008.

LEG. CILMI:

2008?

MR. FREAS:

We had HMM, we had Horan, Marelo and Marrone. I think they were retained as consultants to the facility. They did a pretty lengthy report. Their estimate of the deficits -- again, this was before the IGT issue was actually resolved, too. So, I mean, you really had -- you had the last -- they had, you know, 2004 to 2008, 2006 -- this year we're going to have the largest deficit ever because of the -- what happened basically in the budget last year. The previous largest deficit was 2006. We had not been receiving IGT and we were still running with, I think, over 300 employees out there, which I believe Kevin said he couldn't imagine where we'd put them all at this point.

LEG. KENNEDY:

They weren't there. Trust me. (Laughter)

MR. FREAS:

But anyway -- but, really, they did -- they did say some good things in the report about being more aggressive about collections and different billing things. The report's available. Our office may have a copy; if not, I'm sure the County Executive's got one or Health Services has them, too.

LEG. CILMI:

You reviewed the report?

MR. FREAS:

Yes.

LEG. CILMI:

Did you find it to be fair?

MR. FREAS:

It was fair. As Legislator Browning mentioned, it was perfectly willing to sell the facility as many of the -- it was perfectly willing to do what the County Executive -- the previous County Executive wanted to do.

LEG. CILMI:

Is that a commentary on -- so is that a commentary on how fair it was or --

MR. FREAS:

It was -- I believe the observations in the report were accurate. The conclusions -- I don't want to say biased.

LEG. KENNEDY:

They were self-serving.

LEG. BROWNING:

Oh, come on, let's say it like it is.

MR. FREAS:

Yeah, it was. But the recommendation was that we divest ourselves of the facility.

LEG. CILMI:

Okay, but --

MR. FREAS:

And it was -- and I have to say it was not an operational assessment. It was a financial assessment.

LEG. CILMI:

Okay.

MR. FREAS:

So, again, what we have not done, as far as I know ever, is discuss a needs, you know programmatic needs assessment for long-term care of the County. We haven't done that.

LEG. CILMI:

Interesting. Yeah, I mean, I had this conversation with somebody yesterday. And it's probably naive to think that we'd ever get somebody to do that sort of analysis, that one side or the other wouldn't say, you know, from a perception point of view is skewed in some way or designed to reach some conclusion. You know, the pro-sale or the pro-close people would say if it came out don't sell it, would say, well, it was purposefully done that way other. And the other side would say the same about the other conclusion, so.

MR. FREAS:

I will say that Berger -- the Berger Commission made no recommendation either way with respect to John J. Foley.

LEG. CILMI:

And I would suspect that some people would have like some political --

MR. FREAS:

Would argue that Berger was biased, absolutely, they would. But they also didn't -- they also made no -- they also recommended that the number of beds, and this is five -- five years ago now, a number of beds in Suffolk remain the same. The Center for Governmental Research, which is --

LEG. CILMI:

Remain the same being 260?

MR. FREAS:

No, no, no. Beds as a whole in the County, which is just -- which is over 8,000.

LEG. CILMI:

I see.

MR. FREAS:

The Center for Governmental Research, which is affiliated with the University of Rochester Think Tank, did a nursing home paper. Now, they did theirs for NYSAC and for the County Nursing Home Association, but while they said that -- they said what I just said, that County nursing homes aren't going to make any money, they also said they do fulfill a certain role in the nursing home market because they take these patients that are very difficult to place and would otherwise cost -- in a way they cost for-profits and non-profits more than they're worth in -- financially. The Public Administration Review did a paper called a Smart Seller challenge about three or four years ago. And their conclusion looking at all of -- they did it on a national level, looking at the -- the primary reason that municipalities divest themselves of their publicly run nursing home is financial. It has nothing to do with it programmatically, good, bad or indifferent, but it's almost entirely financial that they're -- you know, that they're assets that people are willing to buy and the counties -- for example, Suffolk County, get themselves in trouble and they divest themselves of them.

LEG. CILMI:

I appreciate --

MS. REEVES:

Can I just say something?

LEG. CILMI:

Sure.

MS. REEVES:

The Berger Report that came out, I'm not sure just what year it was, but it had the recommendations for the New York area as far as nursing homes and beds and things like that. And it did mention some part of St. Charles closing, closing part of their facilities, things like that. There was no such recommendation to close John J. Foley or to even alter our bed status.

MR. FREAS:

That's -- that's was I just said. There was no -- there was no recommendation for Foley and a recommendation that the number of beds in the County -- generally speaking in New York the long-term care market is the health district, the County.

LEG. KENNEDY:

One other piece that you should be aware of, you may know this or not, St. Catherine's is de-bedding. They're actually dropping 80 beds. As a matter of fact, Mr. Verzi, Dennis Verzi, told us that they have voluntarily gone forward and they are applying with Council, I guess, to -- whatever they have to do. What do you do, Kevin, if you're going to give up beds? You're going to apply to Public Health Council and say I want to convert. They're going from long-term

care to psychiatric; inpatient psychiatric. So they are pulling that, you know, universe of beds that Craig's talking about, is shrinking actually just by action of one of the hospitals here in Smithtown.

LEG. CILMI:

All right. So -- listen, I appreciate the Committee's indulgence to my questions. And, I guess, the last question I have, we've talked about or heard about, you know, the fact that the type of resident that we have in terms of the long-term nature and the severity of their challenges, would be difficult for a private operator to deal with. And so -- because they are quote unquote for-profit operations, they have this profit motive, which, you know, I think is good, quite frankly. But my question is if we had a different mix of patients or -- I hate the term patients in this context -- if we had a different mix of residents in the facility, would that lend itself to a different financial picture in our facility?

LEG. KENNEDY:

Absolutely. Absolutely.

LEG. CILMI:

Well, let me ask our Administrator, Dr. Tomarken and Mr. Freas.

MR. CAREY:

Well, just recently we've actually increased our CMI score, just through efficiencies, not through changing the residents. And that'll probably net close to a million dollars next year.

LEG. CILMI:

CMI score, which is what?

MR. CAREY:

It's an average of -- it's an average score of much care you give to your residents. You have to document all the care you give to every resident.

LEG. CILMI:

Okay.

MR. CAREY:

And that gives you a score and that gives you an average for the entire building. And that average is what Medicaid will then pay me per resident per day, on an average. It's not -- they don't -- it's not an individual bill *for Mr. Smith, I'm going to pay you this much*. They'll give you a score for Medicaid and say, all right, well, I'm going to give you \$300 per day, per night, per resident. And that's whether I do a thousand things for resident A and nothing for resident B, I get my average score for residents. So by increasing your score, you get a higher rate of return.

LEG. CILMI:

So, if we're taking advantage of or correctly reporting what's going on in the facility, it would stand to reason, then, that the more challenging our residents are in terms of the depth of care that they need, the more revenue we will receive in reimbursement from the various sources that we get reimbursement. Is that correct?

MR. CAREY:

Correct, but with exception.

LEG. CILMI:

Go ahead; what's the exception?

MR. CAREY:

This is -- some of the -- a lot of the residents we have -- there could be a resident that doesn't need skilled care; doesn't need the nurses and the doctors every single day, like a Traumatic Brain Injury. Or once every two or three days acts out and hits somebody. That resident has to go on a one-to-one. So I actually -- that resident is lowering my CMI score for the building, but at the same time it's costing me \$100,000 to keep an aide next to him 24/7.

MR. FREAS:

That's what I was talking about. That kind of problem. And that's the kind of problem that -- that for-profit and not-for-profit homes really try to avoid.

LEG. CILMI:

How pervasive is that problem here at JJ Foley?

MR. FREAS:

At publically owned-homes it's more likely than at not -- than at other homes.

LEG. CILMI:

And how pervasive is it at Foley?

MR. CAREY:

Right now -- right this minute I have two patients on a one-to-one with an aide side-by-side with them. We have a lot more. We are aggressively working with Activities Department and the nurses and the aides to break the habit; break whatever bad behavior they have that puts them on a one-to-one. But it's an unpredictable thing. We also have five Huntington's Diseases in our building. That's another one most nursing homes would rather not admit. They're very susceptible to falling. And you -- you spend a lot of time or half the day with an aide by their side, which costs the facility a lot of money. And they also score a low score for your reimbursement --

MR. FREAS:

I want to follow-up with what Kevin is saying. It's something to understand about, you know, about quality scores. It's why if you don't know who the patients are, just looking at the quality scores and then, for example, let's say you were to do it by averaging the facilities of a certain -- operated together and saying well, that's the score, that's not -- it's not really the best way to do it. Because if you don't -- we have quite a few wheelchair-bound patients as well. Well, they're more susceptible to bed sores because they can't get up all the time. You know, as much as our aides and our LPNs work diligently to prevent them, they're much more likely to have that as a problem. That's an event that is -- that's reportable all the time. It's a big quality indicator score.

So, let's say -- so if you look at, you know, John J. Foley and John J has a hundred -- if you're looking for quality scores, you know, when you're comparing where your loved one might go, and you say they have 100 patients and they had, you know 10% bedsores -- I'm making numbers up -- well, you don't know that they have 30 wheelchair-bound individuals or 40 wheelchair-bound individuals. Where you go to another place and where they only have -- they only have eight bedsores, they only have eight percent bedsores, but they don't have any wheelchair-bound individuals. So who's better?

You know, that's -- that's the kind of thing that you don't know just by looking at those scores and aggregating their scores, where -- you know, I've looked at -- you know, you look at Foley's -- they say this is Federally required report, it's called the minimum data set, that you can look at on the State and national level, and I can look at Foley because I can ask Kevin, say *Kevin, send me your MDS data for this month*. And it'll tell you how many patients are on psychotropic medications. It'll tell you how many patients -- not just the quality of scores, but who the patients are on it and it really gives you a much better indicator of why some facilities have problems and some not.

Now, I haven't seen it for the buyers. I didn't see it for the previous buyers, but it's the kind of thing that comparing quality and -- imagine the difficulty in placing these patients if the facility, if we divest ourselves of the facility. Those are the issues that programatically they'll look at, not just well, geez, the Shermans are a whole Medicare service -- Center for Medicare Services star better than us therefore they must be better and it'll all be fine and wonderful. I don't know if it's true or not, but that's not the best way to look at it.

LEG. CILMI:

Am I correct in assuming that all nursing homes public, private, not-for-profit are operating on the same CMI system?

MR. CAREY:

Correct, yes.

LEG. CILMI:

Okay. Again, thanks everybody for your indulgence. I recognize I've taken up a lot of time and I really do appreciate it.

LEG. BROWNING:

Actually I'd like to say thank you for coming, because I think we have a tough decision to make, and the fact that you're here to learn more and understand when we talk about the residents and the needs of the residents, it's a bit more complicated. It's not just about the dollars and cents. And there was another thing that I did want to say, and it's no reflection on our Health Commissioner, but I think having the nursing home run independent of the Health Department, I think, is something else that we should seriously consider.

And I wanted to ask Craig one quick question, is you had mentioned about 40 residents who are -- would be hard -- considered hard to place, where the private nursing homes wouldn't go -- you know, wouldn't probably accept them. They could potentially wind up in another public nursing home, say somewhere Upstate or like the ones that we know that went to Massachusetts. If we send them out of state or to -- I'm not sure if it really -- if matters so much if they're still within the State of New York, but if they wind up going to a nursing home out of state, are we still responsible for their payment?

MR. FREAS:

No. I don't believe so, no. Payment? What do you mean for their payment?

LEG. BROWNING:

Medicaid payment.

MR. FREAS:

Oh, oh, if they're Suffolk County residents?

LEG. BROWNING:

Yes.

MR. FREAS:

Yes. If they're Suffolk County residents, yes.

LEG. BROWNING:

Okay. That's --

MR. FREAS:

That's 10% moving down our local share. Long-term care is 10%, but it's capped so it's not -- it's less than 10% now. But, yes, if they're Suffolk County residents, we would be.

LEG. BROWNING:

Okay. So what you're saying, just out of curiosity, you said about 40 of them at \$100,000 a year, so we're still responsible for that bill no matter what.

MR. FREAS:

How much?

LEG. BROWNING:

You said there's about 40 of them at \$100,000 a year, ballpark.

MR. FREAS:

At \$100,000 a year, so we'd be responsible whether they're with us or not. If they -- you know --

LEG. BROWNING:

Right.

MR. FREAS:

If they, you know, if they went to go to one, we'd be -- the County -- the County is, you know, yes. It doesn't matter where they go. If they're in long-term care, you know, that's how much it is. It might be less in another facility. That's what our rate is.

LEG. BROWNING:

Even with -- okay. But even within the State of New York, if they go up to Rensselaer or Erie --

MR. FREAS:

Well, right. But it might not be that much. It might be more, it might be less, depends on what the facility's rate is. It's 20% -- I'm sorry, 10% capped at X on a gross basis. But, you know, if it's \$100 for Chautauqua County's Public Home, then, you know, it'd be less than \$100,000.

LEG. CILMI:

Are you saying that -- are you saying that we have 40 residents who -- let's say it's \$100,000, let's just say, which is \$4 million if my math is correct. So are you saying that it conceivably could cost the County \$4 million annually? And for how long would that be?

MR. FREAS:

No, no, no. It's the -- okay. What Kate -- you, know, Medicaid -- okay. Medicaid is half -- half Federal, half State. New York State -- in New York State it's half State, half municipal, right. But it's capped, right. The growth rate's capped. So if the growth rate is 6% but we're capped at 3, we don't pay that extra 3% of a cost a year, the State picks it up. So eventually what'll happen is the local share will diminish. For long-term care it's 90%. With the half that's -- the half that's New York State's so it's not even \$100,000. So it's \$50,000 down to \$5,000. Because remember, it's \$100,000 a year. Feds pick up half, give or take, and we pick up -- so that's \$50,000 State. But then it goes down to 10% for your municipal piece, so it's really \$5,000 from us right now if they're Suffolk County residents. And it's less depending on what it -- it's cost based. It's not -- and the rates aren't uniform throughout the State.

COMMISSIONER TOMARKEN:

Okay. And if there's no further discussion on this topic, we'll move on the agenda to the financial statement for the first two quarters of 2012, which was distributed by e-mail.

LEG. KENNEDY:

I just got a quick look at them last night, and so I don't even know the full range of questions to ask yet. But how about if I do this? How about I ask you, Craig, to tell me, you know, why -- yeah, I'm a little concerned about somebody at first glance who'd take a look at this and see such a startling slice, I guess, between liabilities of and assets --

MR. FREAS:

Okay.

LEG. KENNEDY:

You know, what? Let me stop mumbling. Help explain this a little bit to me what we're looking at.

MR. FREAS:

Okay, there are a couple things to keep in mind about this -- you have hard copies? I can print one, too. Assuming I can print one. It'll take a minute to warm up. These are unaudited --

MS. FLESHER:

I have to step out of the room for a second.

(RECESS)

MR. FREAS:

On the balance sheet, there are a couple of things you have to -- there's a number called the D -- if you look on the -- if you look on the liability section on the balance sheet, where it says due to County of Suffolk, okay, that is the accumulated General Fund contribution since the last time the General Fund contribution was zeroed out, which I think is 2008, maybe. Maybe even further back. Okay. That's what that is. So it's not -- the nursing home fund is supposed to pay the General Fund back. Just -- and that's true of every fund that borrows money from another fund, just so you know. But because of the way the cost accrual works, it has to be on there so that's what that is. Okay.

LEG. KENNEDY:

Well, okay. So then let me just make sure that I understand it. In 12 -- 2011 we show 24,063,465 due the County of Suffolk.

MR. FREAS:

Correct.

LEG. KENNEDY:

Okay. And now on June 30th, six months later, we're showing 17,509,858.

MR. FREAS:

Right. And part of that is because of IGT and UPL, I wish Gary was here sometimes, but basically it's -- since the County -- since the General Fund theoretically was paid part of that by the IGT -- it's generally the way that -- I know it's the way Len used to do it, sort of, you know, and he directed Gary to do it that way. That's why it was down. But next year -- if they close -- if they zero out the fund this year, it will go by \$13 million. So that 17 could be \$40 million by the end of the -- I'm sorry, \$30 million by the end of the year.

LEG. KENNEDY:

Okay, but -- so then stay with me. I'm not even going to go yet as to what's the deciding factor if we go to zero on that.

MR. FREAS:

The best way to crosswalk between the budget and the finances is to completely ignore the balance sheet and look at the statement of revenues, expenses.

LEG. KENNEDY:

Okay.

MR. FREAS:

Okay, so let's go to that page because --

LEG. KENNEDY:

That one's easy. That shows --

MR. FREAS:

Yes.

LEG. KENNEDY:

-- that we did 2000 patient days less this year than last year.

MR. FREAS:

Yes. But if you notice there's another -- look in the Retired Group Health Insurance. That's actually the GASB 45. That is not -- it's actuarially derived. It's not a -- it's an unfunded liability that we're required to report, we're required to report it on all our financial statements. If you look on the consolidated annual financial report it shows up for all the funds in each one. But it's not required. The actual payments for the retirees in the fund are actually in Employee Benefits and not in -- not in the retiree group health insurance.

LEG. KENNEDY:

I'm not an accountant.

MR. FREAS:

No, I'm not an accountant either but I -- I --

LEG. KENNEDY:

Well, let me help you out here --

MR. FREAS:

-- I speak their language limitedly.

LEG. KENNEDY:

-- because this is an important point --

MR. FREAS:

Yes.

LEG. KENNEDY:

-- for us to go ahead. And everybody around the horse shoe needs to know this, especially Legislator Browning and Legislator Cilmi and I. What you're telling me then is, is that John J. Foley, which is an Enterprise Fund, Fund 632, carries this GASB requirement regarding our retirees?

MR. FREAS:

Correct.

LEG. KENNEDY:

Which is separate and apart from all of the other retirees of the County of Suffolk, which are carried by the General Fund?

MR. FREAS:

I believe the Police Fund carries its own retirees as well.

LEG. KENNEDY:

Okay. So then I should rephrase and say non-uniform.

MR. FREAS:

Yeah, I don't think 259 carries their own. I would have to check with Robert Doering about that.

LEG. KENNEDY:

Okay. Good. Got you. So as long as we all know what we're -- you know, on the same playing field here, and part of what everybody waves around is this purported ten million or 17 million or yada yada millions of losses is a -- I don't know if I want to call it an idiosyncrasy, but it is a financial reporting requirement because we are an Enterprise Fund that compels us to have to carry this cost for retirees there.

MR. FREAS:

The Enterprise Fund carries its own pension costs. Like I said, this is probably going to be 1.8 million bucks next year. It's required to be a scheduled 45 reporting. And actually this is -- right, it does GASB 45 reporting, which is actually going down. I guess that's a good thing, but because we have fewer retirees age out of the -- we carry our own retiree health insurance in 632 as well, or 632 carries its own retirement; it's own retirement health care costs. They're not carried in the General Fund. They were moved to the General Fund just because they retired.

(The following was taken by Lucia Braaten, Court Stenographer, and transcribed by Diana Flesher, Court Stenographer)

LEG. KENNEDY:

Do these three sheets reflect on it billing for the provision of care that they're doing in the building up and through when? That's what our receivable, would be, isn't it?

MR. FREAS:

I would say yes, they accrue. They accrue. There's an allowance for bad debt so they accrue. It's not cash. It's an accrual on that -- in the -- on the statement of revenue, expenses.

LEG. KENNEDY:

Okay. But our bad debt should be relatively minimal. We only have three or four individuals there that we still have Medicaid pending on or -- actually we have some form of stream of revenue for every individual in that building, right?

MR. CAREY:

It's constantly changing as we're constantly admitting people.

LEG. KENNEDY:

Yes.

MR. CAREY:

We might admit them on Medicare or we might admit them with an HMO for the first two months. And they might decide or their condition worsens and they become long-term, we have to do a Medicaid conversion. Right now at this minute, I believe it's 16.

LEG. KENNEDY:

Sixteen that are Med pending?

MR. CAREY:

Yes. And three or four of them are difficult long-term cases that we've been working on. Two of them we've been on for years. But the rest of them are just ones that might be a couple of weeks or a month. We're going to get paid for them, it's just the Medicaid application might take one month or two months longer. And when Medicaid approves them, Medicaid goes back and pays us from the date they admitted the application. But currently right now there are 17 inhouse waiting for the Medicaid to be approved.

LEG. KENNEDY:

Do you find out when they convert and when we actually get paid or do you just --

MR. CAREY:

Yes. No, they'll send us a letter telling us that *you are effective as of such and such date*, which we go back two months or three months when we put the application in.

LEG. KENNEDY:

Okay. Do you have your guardians in place for the four residents that you need guardians for?

MR. CAREY:

One I got confirmation that we got guardianship. The other one I'm told is pending any day to get guardian, but the other two are in the works.

LEG. KENNEDY:

So the County Attorney's Office has been working in concert with you to make that happen?

MR. CAREY:

Yes.

LEG. KENNEDY:

Excellent. Good. I don't know. I'm going to have to review the data some more, but I guess -- when will we see another slice like this? You got this, Doctor, from our accountants? Where did it come, Craig?

MR. FREAS:

Again, this is internal reporting documents unaudited. This is from Gary Vonatski, the -- I guess that's where you guys get. Yeah, sometimes Gary sends this stuff directly. It's from Gary, who's the Director of Finance out at Foley.

LEG. KENNEDY:

Do you guys see this each month? Do you get a slice on this each month or does it come every three months? How do you get it?

DR. TOMARKEN:

We get these two quarters at a time. Now, the finance people may get something more frequent, but I don't see this except every two quarters.

LEG. KENNEDY:

Because it occurs to me that the -- you know, we can try to cipher this and Craig is going to walk us through it, but I'll go back to --

MR. FREAS:

This doesn't (inaudible) 11's on it, this particular one.

LEG. KENNEDY:

So is this going to help us at all in knowing what we have to come up with to continue to operate for the balance of the year?

MR. FREAS:

Yeah.

LEG. KENNEDY:

Okay.

MR. FREAS:

And I have an estimate from them. And I'll request another estimate from Barbara and Gary through me and I will send them an e-mail.

LEG. KENNEDY:

I would be -- yes.

MR. FREAS:

Their estimate they're going to need about 32 million to get through the year in appropriations.

LEG. KENNEDY:

Well, then we'll wait. Wait, wait, wait.

MR. FREAS:

That's gross. We already have some of that appropriated.

LEG. KENNEDY:

Right. Because when somebody hears 32 million, that's when people go around and out the door with their pants on fire.

MR. FREAS:

We already have some it appropriated.

LEG. KENNEDY:

Hold on. We should have that shortly, and as soon as we do, we'll make sure that we get that to you. No, I mean shortly -- I mean like within the next 3 to 10 days because I'm drafting for the resolution to go ahead and authorize it.

LEG. BROWNING:

You know, one thing that I -- Kevin, you had mentioned that you don't get a lot of this information. It boggles me, what Administrator in any nursing home does not get the financial information? How do you work as an Administrator when you don't see all of the financials on a regular basis?

MS. KENNEDY:

It cripples them.

LEG. BROWNING:

I think it makes it very, very -- yeah, you said it. It cripples our Administrator's ability to run a nursing home effectively when he is not being provided with all of the information that he needs to do his job.

LEG. KENNEDY:

But who's finances, is it our health people or is the Budget Office on the 12th floor? I don't understand.

LEG. BROWNING:

Our Commissioner's just saying he doesn't get all of this.

LEG. KENNEDY:

You don't get it?

DR. TOMARKEN:

I don't get it as a routine. If I ask for it, I could get it, but I think it's looked at by our finance people. I don't know exactly how often they review it.

MR. FREAS:

I usually get this stuff from Margaret and/or Gary and/or Barbara Russo, who also works out there on the finances.

LEG. KENNEDY:

So we'll talk to those three.

MR. CAREY:

Yeah. When I said I didn't access to it all, I meant the -- what goes on with the IGT, when it's counted --

LEG. KENNEDY:

That's all right, I know. No, we're on the outside trying to figure how we can help for having an integrated picture. It's not necessarily that anybody's not, you know, intentionally not doing something and talking to somebody. But having spent ten years inside the Department, the perceptions and the tasks and the day-to-day are different than what somebody who stands outside of a Department would see and ask for, and sometimes you don't even know to ask when you're in, that, you know, some of the outsiders saying how can you not have this? So we'll deal with that. Okay. Thanks, Doc.

DR. TOMARKEN:

Any further suggestions on the financial issues?

LEG. BROWNING:

No.

DR. TOMARKEN:

Any old business?

LEG. BROWNING:

I think we did all that.

MS. KENNEDY:

I just want to clarify two things that were said at the Legislative meeting. First one I want to ask Dr. Tomarken. Suffolk, County Department of Health, as far as I know, the waste treatment is under the jurisdiction of the Department of Health for a nursing home, for a private nursing home. The waste treatment of the private nursing home is under your jurisdiction, the Department of Health, sanitarians' jurisdiction. What else is under Suffolk County Department of Health's jurisdiction with a private nursing home?

DR. TOMARKEN:

I'd have to check on that. I don't know that right now.

MS. KENNEDY:

I don't think it's anything else. So the discussion of you coming in to evaluate a private nursing home during the Leg meeting --

DR. TOMARKEN:

Do mean about the patients?

MS. KENNEDY:

Yes.

DR. TOMARKEN:

Oh, well, that's --

MS. KENNEDY:

It's the State, isn't it?

DR. TOMARKEN:

Nursing homes are under the control of the State. And for -- and if this became a private enterprise, the ability for any Commissioner, any person in that Department of Health to have any authority over them is questionable. It's open for debate. I mean, there are other ways to do the function that -- I think, what Legislator Barraga was talking about. But it's -- at first blush there's legal issues that would have to be dealt with.

MS. KENNEDY:

You have no authority, it's the State. One more question. They were talking about how wonderful it is, the self reporting that's done. And I want to ask Mr. Carey, and you, and you, and you and myself. Isn't it mandatory when there's an incident in a hospital or a nursing home that any health care professional -- it's mandatory for them to self report the incident?

MR. CAREY:

Correct.

MS. KENNEDY:

Yep. So that's not true either, what was said at the Leg.

MR. CAREY:

I'm a little confused. I don't understand what your question is.

MS. KENNEDY:

They were making a statement how -- not, magnanimous, how wonderful it is that the potential -- one of the potential new owners voluntarily reports incidents that happen at his nursing home. Well, you're required by law to do it.

MR. CAREY:

Yes, correct, it's required by law.

MR. FREAS:

Right. The licensed self professionals are required to report incidents by law, right, right.

MS. KENNEDY:

It's not voluntary.

MR. FREAS:

No, no. Yeah, yeah.

DR. TOMARKEN:

Any further business? Can we set the next meeting date, please? We've generally been keeping these Fridays. They seem to be the easiest.

LEG. BROWNING:

You know, I have to say something on the record because I think that all of these meetings that we've had, and I feel that we have tried to come up with solutions. And I hate say the word sabotage, but the former administration, that's basically what's been happening with our nursing home. And I wondered before I came whether it's even worth our while to continue to meet. But in light of whether -- whether it sells or not, I think maybe this committee, even if it sells, should continue to meet and make sure that what's being done is correct. And there was a lot of promises and guarantees that I have no faith in those promises or guarantees.

So with that, we'll go ahead and continue to meet.

DR. TOMARKEN:

I think we're mandated by legislation.

LEG. BROWNING:

Yeah, I guess, until it's sold. If it's sold.

MR. PEARSALL:

Yeah.

MS. KENNEDY:

Afterwards you have no authority.

LEG. BROWNING:

Exactly, exactly.

DR. TOMARKEN:

Does September 28th, Friday, at ten a.m. work for --

MR. PEARSALL:

Perfect.

DR. TOMARKEN:

And at this location?

LEG. BROWNING:

Uh-huh, I think so. We have a caucus at 1:00. At what time?

DR. TOMARKEN:

Ten. We can change it.

LEG. BROWNING:

Ten o'clock.

DR. TOMARKEN:

September 28th, here in the Legislature. Can I get a motion to adjourn?

LEG. BROWNING:

Motion.

LEG. KENNEDY:

Second.

DR. TOMARKEN:

All in favor? Opposed? Abstentions? Thank you. The meeting is adjourned.

**THE MEETING CONCLUDED AT 12:12 PM
{ } DENOTES SPELLED PHONETICALLY**