(*THE FOLLOWING WAS TAKEN AND TRANSCRIBED BY LUCIA BRAATEN - COURT REPORTER*)

(*THE MEETING WAS CALLED TO ORDER AT 9:30 A.M.*)

D.P.O. HORSLEY:
Mr. Clerk, would you, please, take the roll?

(Roll Called by Mr. Laube, Clerk of the Legislature)

MR. LAUBE:
Good morning.

(*Roll Called by Mr. Laube, Clerk*)

LEG. ROMAINE:
Present.

LEG. SCHNEIDERMAN:
Here.

LEG. BROWNING:
Here.

LEG. MURATORE:
(Not Present)

LEG. HAHN:
Present.

LEG. ANKER:
Here.

LEG. CALARCO:
Present.

LEG. MONTANO:
(Not Present)

LEG. CILMI:
Here.

LEG. BARRAGA:
Here.

LEG. KENNEDY:
(Not Present)

LEG. NOWICK:
Here.
LEG. GREGORY:
Here.

LEG. STERN:
(Not Present)

LEG. D’AMARO:
Here.

LEG. SPENCER:
Here.

D.P.O. HORSLEY:
Here.

P.O. LINDSAY:
(Absent)

MR. LAUBE:
Thirteen.

LEG. STERN:
Tim, you got me?

MR. LAUBE:
Fourteen. (Not Present at Roll Call: Legs. Muratore, Montano, Kennedy/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
May we, please, stand for a salute to the flag, led by Legislator Kate Browning.

(*Salutation*)

May we also introduce the Clergy. The invocation will be given by Pastor Enrique Carbajal, Pastor of the Hispanic Church La Mision from Lighthouse Mission in Bellport, guest, of course, of Legislator Kate Browning.

CHAIRPERSON BROWNING:
Good morning. I am here to introduce Pastor Enrique Carbajal. Pastor Enrique is currently pastor of the Hispanic Church La Mision from the Lighthouse Mission in Bellport, where he serves as the Outreach Director of the Lighthouse Mission's mobile food pantry.

Pastor Enrique was born in Mexico in 1971 and came to the United States in 1999, first living in Mastic and now in Shirley. While in Mexico, he studied architecture at the University of Technology in Mexico, where he graduated in 1994. Pastor Enrique decided to give up -- to give his full life in full-time ministry. He attended bible school at the Zion Ministerial Institute in Waverly, New York, where he graduated in 2001.

As Street Outreach Coordinator with Lighthouse Mission, Pastor Enrique manages the warehouse and picks up food donations. He also manages the Mobile Food Pantry Program, which distributes food at nine locations in Suffolk County; Ronkonkoma, Coram, Central Islip, Wyandanch, Bellport, Shirley, Port Jefferson, Patchogue and Riverhead. He also ministers to the large Spanish-speaking population that attends the outreaches.
Pastor Enrique is married with his wife Laurie, and together they have a 12-year-old son. Pastor Enrique, thank you for coming today, and I'll pass the mic.

PASTOR ENRIQUE CARBAJAL:
Good morning, everyone. God bless you. It's a wonderful privilege and honor to be here, and I count this as a blessing to be here and be able to pray. So let's close our eyes for a minute and we'll put this session into prayer.

Thank you, Heavenly Father, because I know that you are here, oh, Lord. Thank you for the opportunity, oh, Lord, to come before you in this place. And I ask you for all the Legislators today, oh, Lord, that I know it's a difficult task that they have before them, oh, Lord; that you will give them and grant them wisdom, oh, Lord, to -- and all the things that they need to do the right things, oh, Lord. And I also ask you for the sick ones, William Lindsay, that your healing touch will be upon his life today, oh, Lord. And thank you for this opportunity that I can come here, oh, Lord, and be blessed by all the people, and that we will receive your blessing also from you. Thank you, Jesus. In your name we pray. Amen.

D.P.O. HORSLEY:
Thank you very much, Pastor, for your kind words, and we respect you being here today.

I would like to -- now I'll have us all continue standing for a moment of silence, particularly for Legislator Browning's mother, Phyllis Maguire, who passed away recently in Ireland after a lengthy illness.

And I'd also like to thank everybody who sent cards and condolences for my mom, Peitress Hammond, who was a former resident of Suffolk. And I would say -- the note here says spent her retirement years in Florida, but she was never retired. She was a dynamic person, and I appreciate those cards.

Let us also remember all those men and women in the military who put themselves in harm's way every day, both home and abroad.

(*Moment of Silence*)

Legislator Anker, will you be available to do your presentation? We apparently have a little change in the schedule. Legislator Anker will be giving a presentation to Operation Veronica. Not yet. Is there a switch, Sarah. Ah, there you go. Good help is hard to find.

LEG. ANKER:
So helpful, even today. Well, I just want to thank you, ladies, and men also in your organization, for being here today.

Operation Veronica, this has been a wonderful task that you've been doing. And, basically, you got together to create neck coolers for troops that were overseas in war. And no one, I don't think, can appreciate how much it's this caring type of activity, you know, mainly women, you know, creating and sewing these neck warmers. Excuse me. How how many women was that?

MS. GODFREY:
Seven years.

LEG. ANKER:
Seventy years?
MS. GODFREY:
Seven years.

LEG. ANKER:
Seven years. I'm like, that's a long time. Seven years you've been doing this for the men and women. And it's sort of like a different twist, because you think -- you know, when you think of warmth and loving care, you know, for our troops, but you're actually cooling them down and helping them survive. The heat has got to be so strenuous and just overwhelming for our troops overseas, and you've thought -- you've thought of a way to help as very practical, very productive, and it's helping our troops win this war, and we really have done much better, I'm sure, because of your services.

I met Janet Godfrey, at the -- I think it was the Strawberry Festival at the -- which church was that --

MS. GODFREY:
I think in Rocky Point, the Fish Church.

LEG. ANKER:
The Fish Church, the church. And I was so impressed with your booth because you showed pictures of the troops receiving your gifts and the care packages. Now, not only are you working with the neck warmers, you also are working with the backpacks, and, you know, helping the children of the troops with their school supplies.

MS. GODFREY:
The troops have set up schools for the children in Afghanistan, and we call it Operation Backpack.

LEG. ANKER:
Janet, okay, we can't hear you. I want you to come up here. I want you to say a few words on that, because you've been doing other activities. And again, as a Navy brat, you know, my dad was in the Navy for a number of years, he left full -- you know, full-time and went Reserves for, you know, 30 years of his life. And I know how proud he was, you know, when he'd come back home from the Reserves and from MacDill Air Force Base, and he'd be in his white suit and everything shined up. And it really -- I really felt very proud of him, and also, you know, for my cousins and uncles who were very active in the service. So, please, come and talk about some of your activities.

MS. GODFREY:
First, I'd like to thank Legislator Anker for all her support. We can't do this by ourselves, and we are always happy for anyone who wants to help us enforce that. "Support the Troops" is not a slogan, but a call to action.

We began quite a few years ago. We started out making neck coolers, as Legislator Anker said, because we were told that the temperatures are 135 in Iraq and Afghanistan, and that translates, we're told, to 150 inside the tank, so that's pretty hot. So we started out just making neck coolers. The temperatures then dropped down to below freezing, and, in fact, this year we had troops in three feet of snow in Northern Afghanistan. We were told by medics that it was shades of Korea, that fellas were presenting with frostbite. So then we do polar fleece gaiters, kind of like -- if you ski, you've seen people wear them, it would be pulled up over the face. That soon becomes blankets, that eventually leads to one word to another, what they need. We start making survival outlets out of 550 paracord, and that all quickly leads to Oreos, Right Guard, books, and all of -- whatever else they ask for.
We also have been honored to be included when our troops start their own charitable efforts overseas. We've sent hundreds of pairs of shoes for children at the request of our great American GIs. We've been involved in a charity that's started by the troops called Operation Backpack. They set up schools for the children of Afghanistan in 30-year-old UN tents. And nothing is more exciting than seeing a video of little girls getting school supplies that never would have been allowed to learn to read and write under the old regime. So, when people say our troops are not making a difference, we know that they are in a long-term, long-reaching difference.

It is our utter honor, and we feel humble to be given an award, because we're not the ones who deserve it. It is our honor to lend our small support to those standing between us and the evil in the world. We feel quite humbled by our ability to be in touch with them. So thank you so much.

(*Applause*)

LEG. ANKER:
Thank you for coming out. And it's my honor to give you this proclamation. And I wish you another -- you know, decades and decades more of what you're doing. And if anyone out there would like to contribute or become part of this group, please contact my office. And, again, thank you so much.

MS. GODFREY:
Thank you so much.

D.P.O. HORSLEY:
Thank you very much. On behalf of Suffolk County, we appreciate everything you do.

I'd like to, at this point in time, call up Legislator Cilmi, who will present a proclamation to Probation Officer Stephen Larsen.

(*Applause*)

LEG. CILMI:
Well, good morning. It's a pleasure again to be here to pay tribute to one of our fine probation officers in Suffolk County. Normally we hear about some specific heroic event that our probation officers do, but this morning we recognize one of our officers for his body of work.

Probation Officer Stephen Larsen has been with the Department since 2003. He is an expert in commuter -- on computer forensics, assigned to the Digital and Multi-Media Forensic Lab, which he created with our Department two years ago. It's the first of its kind in our country. He helps monitor illegal computer activity of our existing probationers, he works with the District Attorney as an expert witness in these issues, and his testimony has led to convictions of sex offenders, and drug dealers, and white-collar criminals. And he's just another fine example of our public safety team here in Suffolk County, and another fine example of the good work that our probation officers do.

So, Officer Larsen, I have this proclamation on behalf of all of us in the Legislature. Congratulations for everything that you've done, including starting a fine division within, I guess, the Department, this Digital and Multi-Media Forensic Lab, and we wish you all the success and safety in the future. God bless.

MR. LARSEN:
Thank you very much.
D.P.O. HORSLEY:
Thank you very much. I'd like to, at this point in time, take a moment of recognition. Deputy Clerk Barbara LoMoriello will be retiring in September. In 2000, Barbara was employed as a Legislative Aide in former Legislator Jon Cooper's Office, and with her time in the New York State Retirement System, she has 30 years in service. She doesn't look it. We congratulate Barbara on her retirement and wish her the best in all her future endeavors.

And if anyone would like to take a picture with Barbara, Steve, our photographer, says that he'll be done in one second, and we can go join in and take a picture with Barbara.

(*Applause*)

D.P.O. HORSLEY:
All right. We're going to begin. Can we have our Legislators, please, come to the horseshoe? While we are gathering our members, I'd like to introduce to you -- first of all, please turn to the agenda. I'm going to take this out of order. And what I'll do is I'll have a motion to take 1829, confirming appointment of County Commissioner of Suffolk County Department of Police. We want to get him back to work, and so we're going to take him out of order, Mr. Ed Webber.

LEG. SCHNEIDERMAN:
Motion.

LEG. STERN:
Second.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman, second by Legislator Stern. All those in favor? Opposed? So moved. Maybe what we'll do is have the Commissioner come on up.

MR. LAUBE:
Twelve. (Not Present: Legs. Muratore, Anker, Calarco, Montano, Kennedy/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
Thank you. Commissioner, why don't you come on up? Gang, could you give him maybe a seat there? Thanks. I'm sorry. I'll --

LEG. SCHNEIDERMAN:
Motion to approve.

D.P.O. HORSLEY:
Motion to approve by Legislator Schneiderman.

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Cilmi on the motion to approve. Are there any other motions? Thank you. Mr. Commissioner, it's always a pleasure.

ACTING COMMISSIONER WEBBER:
Thank you very much.

D.P.O. HORSLEY:
And I guess there will be some questions from our -- my colleagues, but, certainly, I wanted to welcome you on behalf of the full Legislature. And we know that you've been -- had trial by fire, and we appreciate your efforts in keeping our Department straight, and doing a wonderful job, and we welcome you here. Why don't you just give a little bit -- what you'd like to say, maybe you're policy.

ACTING COMMISSIONER WEBBER:
Okay. I'll mention what I mentioned to Public Safety last week. In addition to police expertise, I think I have a skill set that's needed at this particular time. I'm a C.P.A. with an MBA; have been completing the Capital and Operating Budgets since 1988. I think that my work ethic and ability has been recognized. I have been in an appointed rank for 24 years. I've been the Chief for 19 years, the longest in the history. I've served three County Executives and five Police Commissioners. I have an intimate knowledge, having been in County negotiations with the three collective bargaining agreements, so I have a knowledge of the contracts. I have worked with the Legislators individually, their staff, BRO, County Executive, County Executive’s staff and the Budget Office, and as well as Department Heads. So I think I bring an institutional knowledge that would be very difficult for someone coming from without the Department to come in.

D.P.O. HORSLEY:
Thank you very much, Commissioner. Let me ask you, when you did your C.P.A., did you take all the rigors of the tests that you had to go through to become a C.P.A.?

ACTING COMMISSIONER WEBBER:
Yes. I actually started -- I was a C.P.A. before I came on the Police Department. There's a requirement that you perform certain -- I was with one of the "Big Eight" at the time, it's the "Big Four" now, Peat Marwick at KPMG.

D.P.O. HORSLEY:
How did your parents feel about you changing gears in midstream like that?

ACTING COMMISSIONER WEBBER:
Surprised.

D.P.O. HORSLEY:
Surprised. I bet they did, because I know how difficult those tests are. Are there any questions from my fellow Legislators of the Commissioner? Legislator Barraga?

LEG. BARRAGA:
Good morning, Commissioner. I have one or two questions. I had hoped that maybe you would phone me or maybe come in and we'd have a conversation one-on-one in terms of you requesting this particular position.

You are more than well-qualified for the position of the Commissioner of Police, but I have one or two questions that I have to ask, because I want to make sure that I'm -- my vote goes to the right guy, that I'm really voting for a leader, because we've had, you know, Commissioners like yourself, with a tremendous amount of police experience, and we've had Commissioners with no police experience. Bottom line is that when you -- when I vote for someone, I want to make sure he's a leader, that he's going to lead that Department. Okay?

And my first question is that I was always in a bit of a quandary in terms of the appointment of the
Chief of Patrol. I just want to make sure that when I cast my vote, I'm casting a vote for a guy who's going to lead the Department, who's going to make the ultimate decision. I fully understand inputs from individuals, but I want to make sure in the end Chief -- Commissioner Webber is calling the shots in that Department. Am I on the right track with this?

**ACTING COMMISSIONER WEBBER:**
Definitely. It will be my decision.

**LEG. BARRAGA:**
Okay.

**ACTING COMMISSIONER WEBBER:**
Assuming I'm, obviously, confirmed.

**LEG. BARRAGA:**
All right. The other question, and I ask you to keep this in mind, and this is sort of unrelated. We're trying to evaluate a Police contract. It seems to be free-flowing and ongoing at this point. The one issue that I have is that, as part of the contract, the Suffolk County Police will go back on Sunrise and Long Island Expressway. That may happen, it may not happen. You know, I'm not too concerned about what happens in the courts, or what happens with PERB, or who's objecting to what, but it just seems to me on the face of it that if you're going to remove 50 or 55 Deputy Sheriffs in the end from Sunrise and the Expressway and put the Suffolk County Police over here, you almost immediately need a new class, because even without that change, there are people who will profess that we don't have enough Suffolk County Police persons and we need new recruits and new classes. But, certainly, if you remove the Deputy Sheriffs and you put the Suffolk County Police, I don't care where they're coming from, you're going to be short 55 individuals.

I'd like to make a suggestion and I'll throw it out. A number of years ago we had something in Albany called the "Capital Police." They had their own uniforms, I guess their own entity. In essence, Commissioner, they took care of the Capital itself, the Plaza, that type of thing. And then at some point they were assimilated as a whole body into New York State Police. On the face of it, if you go in and remove 50 Deputies and put back 50 Suffolk County Police, it would seem to me that the Sheriff has an excess of people. What about the feasibility of assimilating the 40 or 50 into the Suffolk County Police Department, maybe based on the seniority or similar criteria. This way, it takes the fiscal relief maybe off of us in terms of having to put one class after another to make up for the 50 or 55 Suffolk County Police who are going to go back on those roads, when we know, in essence, the Sheriff probably has an extra 40 or 50 people. If they could do it up there, I'm not so sure how difficult it may be to do it here. Certainly, these Deputy Sheriffs have similar training experience, they could be assimilated, and maybe save the taxpayers a great deal of money.

I don't want a comment from you, just kind of keep that in mind. Okay? And I wish you the very best. Good luck.

**ACTING COMMISSIONER WEBBER:**
Thank you very much.

**D.P.O. HORSLEY:**
Yes, Legislator Anker.

**LEG. ANKER:**
And thank you. You know, again, thank you for your service, your past service, your current and your future service. I just wanted to highlight a particular issue that, you know, of course, is a great concern and that is the addiction issue and the issue of, you know, drugs on our streets, and, of
course, gangs and guns, but particularly targeting our children. And I would love to work with you as the Chair of Higher Education to, you know, do more. If there's more we can do, if there's ideas we can tap from other municipalities, I would really like to focus on that. But, again, thank you again for your service.

**ACTING COMMISSIONER WEBBER:**
Thank you.

**D.P.O. HORSLEY:**
Legislator Muratore.

**LEG. MURATORE:**
Good morning, Commissioner. You know, as far as what I know about this young man before us today, looking to become our next Commissioner, there's no one on this body that knows him better than I do. We worked together for almost 35 years, as I said in Public Safety.

I congratulate the Commissioner for accepting the job, and I congratulate the County Executive for making probably the best choice, not to diminish other Commissioners, but to make the best choice for a Commissioner to lead our public safety. I told the Committee you're not going to find a man who's more dedicated to his job, who's proud of this job. And the most important thing we see in the Commissioner is the respect that he has for the men and women that work for him. So I urge, and I'm sure this is not going to be too big a problem, I urge my colleagues to vote unanimously to appoint Chief Webber as Commissioner of the Suffolk County Police Department. So congratulations, Commissioner, and, hopefully, welcome aboard. Thank you.

**ACTING COMMISSIONER WEBBER:**
Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. Legislator D'Amaro.

**LEG. D'AMARO:**
Yes. Good morning, Commissioner. Nice to see you again. We had the opportunity to have a discussion during the Public Safety Committee last week. And I want to start off by saying, similar to what my colleagues have said, given your wealth of experience -- excuse me -- with the Police Department, and especially your background, your financial ability, your ability to deal with budgets, and to balance the needs of budgets and taxpayers against the needs for policing and community safety. I think it's certainly the right person at the right time coming into this position. So I want to say, first of all, thank you for stepping forward to lead the Suffolk County Police Department, and I'm sure that you'll do a wonderful job, and I appreciate your dedication and your years of service.

During the Committee, I did have the opportunity to speak with you concerning what Legislator Barraga had on his mind with respect to Highway Patrol and the need for more police officers, because it seems from a layman's perspective, that if you're going to put 50 more police, Suffolk County police officers onto the highways, where are they going to come from? And, at that time, you assured me that you would be using the existing Highway Patrol, and that you would not be drawing uniform police officers from the precincts in order to cover the highway, should that occur. Is that still your position?

**ACTING COMMISSIONER WEBBER:**
Yes, it is. And you asked me some numbers. We're looking at 35 officers currently assigned to Highway Patrol; there will be no one coming from the precincts. We will be taking six returning -- we put extra people in the Marine Bureau during the summer months, and when they return, they
will be assigned to Highway, either they or someone who had worked previously in Highway. But there will be no diminution of services or taking of any patrol personnel.

**LEG. D'AMARO:**
And I think that's wonderful, and I think that highlights exactly why you're the right person to lead the force, especially at this time, because you are mindful of the fact that we're dealing with some very difficult budget matters. So what we're talking about is using the existing Highway Patrol, and in addition to that, some redeployment, but those are redeployments that would occur anyway, those are seasonal redeployments.

**ACTING COMMISSIONER WEBBER:**
That's correct.

**LEG. D'AMARO:**
Okay, very good. Well, I want to wish you the best of luck, and, again, I want to thank you for stepping forward. I'm sure, you know, we'll be able to work together, and I'm sure that the Police Force is going to have a very dedicated individual leading it into the foreseeable future, so thank you.

**ACTING COMMISSIONER WEBBER:**
Thank you very much.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. Legislator Spencer.

**LEG. SPENCER:**
Good morning, Commissioner. And I also had the privilege of speaking to you in detail in meeting, so I don't need to take up much time, except I did ask a question. And just to comment, that before that committee day had ended, you had the information sent to my office. And I really felt that made a very strong statement in terms of your attention to detail and follow-up, and you gave me the information that I was looking for.

I've also seen the appropriate tenor being set in terms of communications with us, as Legislators, with the different Inspectors. I was away and, you know, I routinely receive phone calls from the Inspector in my district, just with regard to things that are occurring in the community. So that open communication process is important because a lot of times we're out communicating with community leaders. And I hope that you'll continue that, but you have my full support. Thank you.

**ACTING COMMISSIONER WEBBER:**
Thank you very much.

**D.P.O. HORSLEY:**
Legislator Hahn.

**LEG. HAHN:**
Good morning. I, too, spoke during the Committee, and I'm very excited about this appointment and look forward to working with you. I thank you for the efforts already you've made in Port Jefferson Station and Port Jefferson to address some community concerns. And I just want to reiterate some things that had been said about continuing the efforts with NARCAN and keeping up with training for our officers as EMTs. I think that's extremely important. They're often the first on the scene, and in life and death situations, and we need to keep them up as -- keep them trained and make sure that training is timely.
In addition, I very much like your choice of Risco, Risco Lewis. Am I saying that right?

**ACTING COMMISSIONER WEBBER:**
Yes.

**LEG. HAHN:**
Okay. I'm very excited about the initiatives that she has going in terms of working on ending recidivism. And I look forward to working with her and in coordination with all of our other public safety divisions and departments, so that our whole County is working together to end recidivism.

And, once again, I just want to mention again how important I think School Resource Officers are. Having officers in our schools, especially our very large high schools, and we -- I think we do need more of them, but I am looking forward to working with you. And I don't think I need to say much more. Thank you.

**ACTING COMMISSIONER WEBBER:**
Thank you very much.

**D.P.O. HORSLEY:**
All righty. Everybody -- oh, Legislator Schneiderman.

**LEG. SCHNEIDERMAN:**
I also had an opportunity to speak with you. I just -- you know, as somebody who represents the East End, we have our police departments outside of Suffolk County Police District. But there are many shared services that you would be overseeing, such as MedEvac Helicopter, Homicide, Arson, all kinds of things. And I would just like to see it continued, actually, in strength and relationship with all of the police departments outside of Suffolk County Police District, so that they know what services are available and they're taking full advantage of those services. And I know you'll do that from my conversation, but I wanted to put that on the record as well.

**ACTING COMMISSIONER WEBBER:**
Very well.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. Okay. With that being the case, I don't see anyone else who would like to address the Commissioner. One thing I'd like to mention to you, Commissioner, that I'm going to be harassing you about Text-A-Tip, a program that I think that has been forgotten that we passed a couple of years ago, and I know we've discussed this before.

Okay. I believe -- is there anything else you'd like to add, Commissioner?

**ACTING COMMISSIONER WEBBER:**
No. No, thank you very much.

**D.P.O. HORSLEY:**
Okay. We have a motion to approve. All those in favor? Opposed? Abstentions? Congratulations.

(*Applause*)

**COMMISSIONER WEBBER:**
Thank you very much.
MS. ORTIZ:
Sixteen. (Not Present: Leg. Kennedy/Absent: P.O. Lindsay)

COMMISSIONER WEBBER:
Thank you. And I look forward to working with all of you. And as mentioned over here with the Doctor, that we tend to be very responsive. It wasn't always the case in the past, but we'll get the information as soon as possible, and transparent in our actions. Thank you very much.

D.P.O. HORSLEY:
Love to hear it. That's great stuff. All right. We're going to move to the public portion section of our agenda, and we have several cards here. And our first speaker will be -- again, they have three minutes to do the public portion each, and we have several cards. Okay. The first speaker is Bill Kirrane. Topic: Self. I like that.

MR. KIRRANE:
Good morning. I am Bill Kirrane, and I'm here today with my sister Maureen Kirrane Devlin. Since 1960, our family has owned a home at 163 Wild Wood Road in Noyack, just outside of Sag Harbor. Our house borders on the Noyack Golf Course. The members of the club are among the rich and powerful New Yorkers, including political figures. We are here today to ask the Legislature to repeal Resolution No. 428-2012, which was passed on May 8th of this year. The resolution transferred a parcel of land to the golf course, land that was previously Suffolk County parkland. The parkland was acquired by a tax deed in 2004. By acquiring this parcel, the Club gained access to acres of pristine woodland and wildlife habitats. They quickly proceeded to bulldoze these acres.

Last week I sent an e-mail to all the Legislators outlining our reasons for this resolution -- why this resolution should be repealed. I will briefly restate three of them.

One, the resolution was adopted without any notice to the people affected by it and without a public hearing.

Two, the erroneous rationale for the resolution was that the golf course might not have known of the tax liability. This reason is not relevant.

Section 922 of the Real Property Tax Law states, "The failure to mail any such statement, or the failure to the -- of the addressee to receive the same, shall not in any way affect the validity of the taxes or interest prescribed by law with respect thereto."

In addition, the Counsel of the New York State Board of Evaluations and Assessments in an opinion wrote that, "A property owner is not relieved of the responsibility for payment of taxes despite the fact that her name was not properly entered on the tax roll and no statement of taxes were received by her."

Number three, the State law -- New York State law requires that the State Legislature must approve all transfer and other alienations of parklands.

Although it is not part of this resolution, I want you to know that the club in 1993 entered into an Open Space Conservation Easement with the Peconic Land Trust. As a result of this easement, the club saves hundreds of thousands of dollars annually in real estate taxes. I estimate that in this tax year they’re saving $269,000.
The quid pro quo for the easement was that they would preserve the land in its natural environment. I have pictures here of how they are systematically destroying it with their bulldozers.

If the resolution stands, our family will file an Article 78 suit. There is no reason why we should be subjected to this expense.

Thank you for your time. Can I put the pictures in the record?

D.P.O. HORSLEY: Thank you very much. Cesar Malaga, and on deck Kathleen Raines (phonetic).

MR. MALAGA: Good morning, Legislators. I know I spoke several times, but I have to repeat once again. My name is Cesar Malaga, Hispanic American Association, West Babylon, that's where I live.

The sale of -- you have two items, the sale of John J. Foley Skilled Nursing Facility, I.R. 1811, the sale of vacant land at Yaphank, County Center, I.R. 1695. There are hundreds of pages of testimony concerning the sale of these two properties. We suggest to you you become familiar with this testimony. Those two properties should not be sold. We also have on the calendar to sell 28 properties that the County acquired under Local Law 16-1976, Items 1713 through 1748. I recommended three years ago that the County should not sell these properties to developers or contractors. Today some towns are building what we call affordable housing. We pay millions of dollars to house the homeless in motels and hotels. Why not use these properties to house the homeless or provide housing for our returning heros from Iraq and Afghanistan.

Let me now mention again about the 300-plus million hole in the budget of Suffolk County. We are facing an economic crisis in our country and this County. I recommended to you years ago that expenses should be capped, but it has not happened. We can start right here, right here in Suffolk County, Legislators. Close the district offices, saving $800,000 to the County. Eliminate your Aides. Nassau and Westchester do not have Aides nor district offices, savings of three million dollars. Cap the part-time salaries -- cap your part-time salaries you have and you'll still be making more than Nassau and Westchester Legislators, savings of $800,000 plus. Total savings to close -- capping salaries leaves about plus -- over five million dollars. We do not have to sell John J. Foley nor the vacant land.

As of Suffolk County Police, the best paid in the world, Suffolk County has a budget crisis and the PBA did not agree to any givebacks, but they are pressing for future pay increases. We have an economic crisis in this country and in this County. We should freeze the salary of the police -- PBA salaries. There should be no future increases. The present PBA should contribute 15 to 20% of their -- for their health benefits. The PBA should not be negotiating for future policemen, nor do not pay the salaries nor benefits. The County should set the salaries or benefits of future policemen. If they do not like --

D.P.O. HORSLEY: Cesar, you're going to have to wrap it up.

MR. MALAGA: They can get another job. Policemen should take their leftover vacation prior to the end of the year or lose it. If the PBA does not agree to any givebacks, we should dissolve the PBA, as President Reagan did, and hire the returning heros from Iraq and Afghanistan. The County's broke. Let's do something about it.

D.P.O. HORSLEY:
Okay.

**MR. MALAGA:**
Thank you very much.

(*Applause*)

**D.P.O. HORSLEY:**
Thank you very much. Okay. Kathleen --

**MR. MALAGA:**
Just give me a minute. Last --

**D.P.O. HORSLEY:**
No, no.

**MR. MALAGA:**
Last session -- no, no, this is very important.

**D.P.O. HORSLEY:**
They're all very important.

**MR. MALAGA:**
No, no. This has -- you ask -- many of you ask about the utility poles in -- in Hauppauge.

**D.P.O. HORSLEY:**
Mr. Malaga, just put it in writing. I'll be glad to distribute to everybody.

**MR. MALAGA:**
Have it your way.

**D.P.O. HORSLEY:**
Thank you very much.

**MR. MALAGA:**
Thank you very much.

(*Applause*)

**D.P.O. HORSLEY:**
Kathleen Raines (phonetic), and on deck is Miriam Garcia.

**MS. REEVES:**
Okay. Excuse me. For the record, my name is Kathleen Reeves. Okay. I'm here as -- and I'm a nurse and I work at John J. Foley, and I'm here requesting you not to pass I.R., Resolution -- I.R. 1813 whose the intention -- because the intention of the HEAL Grant is to consolidate the clinics into the John J. Foley Skilled Nursing Facility. The intention was not to use the -- use 17 million dollars to pay off the bond, which is the mortgage for the facility. You don't pay off a mortgage before you sell the facility, because the longer its in facility hands the less money has to be paid off because of Medicare and Medicaid reimbursements.

Okay. The sale of the HEAL Grant -- of the HEAL Grant has not yet been -- I'm sorry. The sale of the facility has not yet been vetted. It can wait another cycle. The Mary Hibberd Law has not even
been completed. The public -- two public hearings on the Legislative side have not taken place. The County has lost in excess of 4 million dollars since January because they've kept one-and-a-half floors of the facility closed.

Resolution, I.R. 1813 is a complete rip-off of the taxpayers' money, and regardless of how you word it, what you do, you can't make a silk purse out of a sow's ear. Thank you.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much. Miriam Garcia, and on deck is Michael Gendron.

MS. GARCIA:
Good morning. My name is Miriam Garcia. I am the Executive Director of Adelante of Suffolk County, and I am just here just to voice the concern that we have at Adelante and many other nonprofits as we have been cut. And we are unable to service many of the people who are suffering right now from unemployment, no health insurance, and, of course, these are the thousands of people which are seniors, youth, families and people with disabilities in our low income community. Agencies like Adelante, we are servicing people whose lives are so fragile. I ask to please consider that they are communities which are hurting very much. And, unfortunately, it will eventually cost the County much more money as nonprofits lose more funding. Thank you very much.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much. Michael Gendron. On deck is Don Dailey.

MR. GENDRON:
Good morning. I wish to thank the Legislature for allowing me the opportunity to speak this morning about Resolution 1622. I would also like to thank Legislator Jay Schneiderman for recognizing the problem of double poles in Suffolk County and introducing 1622, along with the cosponsors of this bill. This is not our first time before this Legislature to talk about Verizon's failure to properly maintain its outside plan. We came to you in 2006 and we got Verizon's word that they would make them a priority. We came in 2010 when that promise was broken. The problem had grown to close to 12,000 poles and you pass a law to try and fix the blight and the safety hazards that these poles created. Verizon again gave a commitment to remove the poles this time by 2014. When Verizon realized that this law would not be enforced, they temporarily transferred our techs to Buffalo, Brooklyn and Queens. They reduced our line techs from 180 down to 87 by 2012, and now they have started the process of permanently transferring 92 techs to Brooklyn. Why? They say we have no work in Suffolk. With 11,000 poles remaining, they would have to drive with their eyes closed to miss the proliferation of double poles that litter and endanger the very streets our children play on.

In 2005, the PSC relaxed enforcement of service standards and plant conditions, figuring competition would ensure them. Well, when your competition doesn't care, you end up competing to see who cares less. Well, guess what, Verizon won. When they don't care we all lose. Our utilities cannot just worry about profits. They have a responsibility to our community, our neighbors and our children to provide a certain level of service standards and plant conditions. They charge us plenty and make revenue in the billions. Verizon saw profits of 22 billion over the last four years, paid dollars in Federal taxes, and got a rebate of close to one billion. Somehow they scraped together enough to pay their top five executives 283 million dollars. All of that money can't just go in their pockets. It's signed that some of this money went back on the streets, our streets. If they won't take this responsibility seriously, then we have to find a way to make them. If you can't count
on Verizon and the other utilities to safeguard the well-being of our families and uphold the beauty of our neighborhoods, we have to come up with a way to make that happen and resolution 1622 does that. I strongly urge you all to pass 1622. Thank you.

(*Applause*)

D.P.O. HORSELEY: Thank you very much, Michael. Don Dailey, and on deck is Tara Bono.

MR. DAILEY: Good morning. Thank you for allowing me to speak today on behalf of the John J. Foley -- excuse me -- on behalf of the people that work for the John J. Foley Skilled Nursing Facility. I'm here today to speak out against the sale.

The RFP process was never carried out. It is unlawful for a physical therapist to act as an unlicensed agent in the sale of this facility. It's unethical for a physical therapist to seek half a million dollars in a finders fee for brokering a deal when his commission was based on having no other bidders in the process. It's ridiculous to try to push this deal through for a facility that will hurt its -- excuse me -- it's ridiculous to try to push this deal through for the sale of a facility when it will hurt countless workers, patients, and ultimately the taxpayers. This deal is for less money than the previous deal, and this deal includes 14 acres of additional land.

I'm also confused by the use of this HEAL Grant as a 17 million dollar coupon for the Sherman brothers who run facilities that are alleged to provide substandard care. This deal violates the Taylor Law. The AME is the exclusive bargaining agent for the workers of the John J. Foley Skilled Nursing Facility, and it is not the right of the County Executive to bring in the Sherman group or SEIU Local 1149 to come and take our members. The law is not a Chinese menu for the County Executive to choose one from column A or two from column B. The jobs you have as Legislators are unenviable, and the decision that you have is a difficult one.

We have the opportunity to do something good here, block this sale. You will be able to -- you will have been able to do the right thing for countless people and not have to look back in the future and say, "I was just following orders." Thank you.

(*Applause*)

D.P.O. HORSELEY: Thank you very much, Mr. Dailey. Tara Bono, and on deck is Nanci Dallaire.

MS. BONO: Good morning, Legislators. I'm Tara Bono. I'm the Program Coordinator of Citizens Campaign for the Environment, and I'm here to address an issue today about one of the most degraded waterways on Long Island, the Forge River, and one of CCE's favorite topics, sewage, specifically I.R. 1758, introduced by Legislator Browning.

As many of you know, the Forge River is -- has experienced poor water quality for over 20 years. Everything from septic systems, cesspools, polluted duck farms, population growth has contributed to the degradation of our waterway. According to the DEC, it is listed as a 303(d) list for impaired waterways, everything from pathogens, nitrogen, dissolved oxygen, and oxygen demand. Right now the waterway is everything but livable. Wildlife that used to be there can no longer survive in the waters, because that's how bad it has gotten.

This year we were able to review the long awaited 2011 Forge River Management Plan, and we
learned what we suspected, that one of the most contributing factors to the degradation of the water was nutrient pollution. We learned that the approximately 8100 existing on-site septic systems and cesspools still exist there. They are not working, they are failing, they're outdated and antiquated. Flows from these systems range from 20 gallons a day to 42,000 gallons a day, and the two watersheds that are most contributing are Wills Creek and Poospatuck Creek, which are on the western side of the river there. The area surrounding the river are in desperate need of sewering to prevent further pollution from entering the waterways, and the first step is through this legislation, providing a cost benefit analysis of current and future capacity demand and alternative solutions. This study must not only look at looking at the downtown area of Mastic, but must include the Forge River Watershed also. The legislation would allow this to go forward by amending the 2012 Capital Budget and allocating the $266,000 that's needed in Suffolk County bonds for this study.

When we met with the DEC -- I'm sorry, the EFC, we learned that right now the -- sewering the entire district would score an extremely high score of 86, which according to them was a sweet spot. We know sewering is never inexpensive, it’s never easy for anybody, but in this case, sewering the entire district would save the County money. According to the EFC, the sweet spot of 86 would guarantee or allow 2% financing for 30 years, something that we couldn't find anywhere else. Without including the Forge River Watershed in the sewer plan, the score would drop 24 to 26 points, all but dismissing the County for any availability to gain that critical financing. For the EFC and for CCE, this is all about water quality. For this reason, CCE strongly supports I.R. 1758, which would allow the first step toward restoring water quality in the Forge River. Thank you for this opportunity to comment.

D.P.O. HORSLEY:
Tara, thank you very much. And let me just express to you that this Legislature is also concerned about sewerage issues as well, it's one of our passions. Thank you.

MS. BONO:
Thank you.

D.P.O. HORSLEY:
Nanci Dallaire, and Linda Ogno on deck.

MS. DALLAIRE:
Good morning. How are we to enforce ethics? We can have a moral system of principles, but we cannot hold an individual to their moral obligations. We can try, but we cannot truly know their motives. They can and do tell us what we want to hear. We can assemble a board to overlook and ensure fairness, but what if that fails? We will make another attempt, establish a new Ethics Board with a different approach, only this Ethics Board needs more things to operate efficiently. I understand they are new, they must not be aware of the County's concept of doing more with less, or does that strictly apply to John J. Foley, because now this Ethics Board needs a secretary, which was not in the budget. They need an Executive Director, computers, an office, all these necessities to help them function effectively. John J. Foley is cut to the bone, but is expected to profit. And will spending $283,000 ensure ethics? Who can say.

I will applaud my Legislator, Mr. Tom Cilmi, for introducing Taxpayer Awareness Act and trying to operate a more transparent process, but how are we to enforce these practices? I do believe that we must preserve the public's right to participate, but I fear that this is in danger. A public hearing should require some public to be present.

At the last Legislative meeting, CN 1837, about the Ethics Board, was opened, but by that time most of the public had gone home. A public hearing was called, but I was not aware of the subject to comment. How are we to respond if we are not fully aware of details?
I also read late-starters number 1825, 1826 and 1827, authorizing the creation of three new teams for Suffolk County. And I must question if the small Ethics Board requires more to perform their duties, how much more would these teams cost us? Unless they're volunteers. If they're volunteers, I apologize and welcome the services, but if they're funded, is it any surprise that we can no longer support the John J. Foley Skilled Nursing Facility?

I read that those expenses for the red light cameras are affordable and acceptable. No one's complaining about the almost 10 million dollars to furnish and equip that brand new jail. There's no problem appropriating funds for the purchase of new heavy duty vehicles and heavy duty equipment for the Sheriff's Department, more for the Police Department, and even more for the County parks. Are these purchases appropriate at this time, equipment purchased as people suffer, approving the creation of new teams as we callously cut our existing vital services? I cannot make sense of this. These are the decisions I question, and these costly decisions continue, but John J Foley is to blame? That's a shame.

(*Applause*)

D.P.O. HORSLER:
Thank you very much, Nanci. Linda Ogno, and on deck is Dan Farrell.

MS. OGNO:
My name is Linda Ogno, I've worked for John J. Foley for 24 years, and I'm a proud union member. I don't think there's anything else for us to say about John J. Foley. We've been coming here for years to speak to you about it. This deal stinks all around.

I've sat here month after month watching the Legislators here. And Mr. Barraga, I have to say, you always listen to the public portion. I mean, things arise, but when public portion is here, I think this horseshoe should be sitting down and listening to the public.

(*Applause*)

I attend church every Sunday, and every Sunday they pray for our County Legislators, our people in charge, that you have so many lives in your hands. We at Foley have been fighting for a reason. It's not just because it's a job, it's because it's a life that we have there. We take care of people. If you did it right, if you just did it right, I'm not saying we'd make a lot of money, but we would just break even at least to do the job that we were put on this earth for, because I believe that. I believe I was here to take care of people, and that's why we're here fighting. I can do any job in the world. In fact, Mr. Levy, one of his people said to me, "You seem like a pretty smart person, you can probably do something else." I could, I could do something else. I'm probably one of the smartest people you'd ever want to come across, but I choose to serve. That's my job, to God and to the people of this earth. And I wish you would just listen to us and just do the job that we're asking you to do and listen to us. Thank you.

(*Applause*)

D.P.O. HORSLER:
Thank you Linda. Dan Farrell, and then on deck is Patrick Lespinasse.

MR. FARRELL:
Good morning. Thank you for allowing me to speak before you. My name is Dan Farrell, President of AME. I'm here to speak against the sale of J.J. Foley to Sherman.
County Executive has refused to meet with AME to discuss this sale. The County Executive has applied for a state HEAL Grant to pay off 17 million dollars in debt on the Skilled Nursing Facility, although the problem is the grant was based on the County continuing to operate the facility. No approval for changes or waiver to the grant has been given by the State, and we have been told the grant cannot be changed.

The deal is for 23 million dollars. This is 13 million dollars less than the last offer. Sounds like a great deal to me if I was buying it. No real bid was done for this sale. Also included in the sale is 14 acres of land, and how did the price go down if there's 14 acres of land involved in this deal? That's what I'd like to know.

We're concerned about the quality and the level of care the residents will receive from this new vendor. But let me make this clear. AME would support a public/private partnership for the John J. Foley Skilled Nursing Facility, but not with this vendor. We must protect the residents, we must protect your workers, and, finally, we must make sure the taxpayers get the best deal possible.

We are calling on you to table the HEAL Grant. We are calling you to vote no for this sale. We call on you to direct the County to put another bid and to work with us to secure the best deal possible for all parties. And I know some of you are committed to the sale of Foley, but not this deal. Shouldn't we get fair market value for this great asset? Thank you.

(*Applause*)

D.P.O. HORSLEY:
Thank you, Dan. Patrick Lespinasse, and Margaret Rosenka on deck.

MR. LESPINASSE:
Good morning, members of the Legislature. My name is Patrick Lespinasse and I'm with Verizon. I'm here this morning to voice Verizon's opposition to I.R. 1622, the proposed Local Law to further regulate utility poles on County road right-of-ways.

For the public comment record, I'd like to submit a letter from our general counsel detailing Verizon's opposition. In addition to that, I'd like to make the following comments:

As drafted, the legislation fails to address a number of practical issues that will have a detrimental, operational and financial impact on Verizon. If the County Legislature decides to pursue this issue, Verizon respectfully requests that it amend the proposed Local Law to address these following concerns. Under the proposed Local Law, a public utility would be subject up to $1,000 civil penalty per month for failure to remove a double pole within 90 days of receiving notification from the Department of Public Works. There are often a number of parties with facilities on a single pole, including electric, cable television, and telecommunications. The proposal does not take into consideration that there is an industry standard process for how poles should be removed.

Because Verizon's facility -- number two, because Verizon's facilities are located on the lowest usable space on a pole, Verizon is always the last utility to remove its facilities from a pole before a pole can be removed. Thus, as applied to any given utility or attacher, the clock on any notification period should begin to run only after all other parties with facilities located above them on the pole have removed their facilities.

Number three, in a number of circumstances, municipalities attach street light facilities to utility poles. Verizon cannot remove its facilities or a damaged pole until the transfer of the street light has been completely removed by the municipality. The proposed legislation fails to contemplate the
responsibility of non-utility parties to remove their facilities from a pole before a pole can be removed.

Verizon stands behind its public safety record in Suffolk County and has a very good working relationship with the County’s Department of Public Works, which can attest to the high level of attention and responsiveness afforded to the Department staff on public safety issues. Verizon remains committed to working with the Legislature to ensure that all issues and concerns around pole conditions in Suffolk County are fully addressed. Thank you.

(*Applause*)

**D.P.O. HORSLEY:**
Thank you very much, Patrick. Margaret Rosenka, as well on deck is -- I’m not sure about the first name, but Salvatore is last name.

**MS. ROSENKA:**
Good morning. My name is Margaret Rosenka, I’m a nurse at John J. Foley. We at John J. Foley have been fighting to keep our building open and County-run for a very long time. I’m hoping that by working together we could find a solution that could work for all involved. After much thought, I have come up with a few simple facts that I’d like to share with you. Please keep an open mind and consider the possibilities.

**D.P.O. HORSLEY:**
Excuse me. Get a little closer to the microphone. Thank you.

**MS. ROSENKA:**
Okay. Please keep an open mind and consider the possibilities. Has John J. Foley been grossly mismanaged in the past? Yes, it has. Have we made significant financial improvements in the last two years? Yes, we have. Do we have the potential to continue to do so in the future? Yes, we do. Do we provide an essential, very-much-needed service to our community? Yes, we do. Is our building, its contents, 14 acres of property and operating license being sold for a price so far under fair market value that we’re practically giving it away? Yes, it is. By doing so are we being fair to the taxpayers of Suffolk County? No, we are not. Is this contract an agreement to sell our facility even legal? Very questionable. If you decide to sell our building for 23 million dollars, do you really believe it will solve the County’s financial problems? To solve a problem, you need to fix it, not get rid of it. With continued proper management, we have the ability to fix our problems and eventually realize a profit, if not break even. All we need is the chance to do so. Thank you.

(*Applause*)

**D.P.O. HORSLEY:**
Thank you very much, Margaret. I think it's Ivan, but I'm not sure, Salvatore?

**MS. SALVATORE:**
It's not.

**D.P.O. HORSLEY:**
It's not, I gather not. I had trouble reading your name. And -- oh, is that Judy? I'm sorry, Judy. And Jennifer Abrams is on deck.

**MS. SALVATORE:**
Hi. Can you hear me good? Okay. My name is Judy Salvatore. I have worked for Suffolk County Health Services for the past 32 years, most of my adult life, currently working as an LPN at John J.
Foley. My start date was 1980. I'm here today regarding the potential sale of John J. Foley and what is at stake if this deal moves forward. I will discuss three issues, the people who live there, the home they live in and its meaning, and, most importantly to them, the dedication -- the dedicated caregivers whom they rely upon every day and know them well.

The people who live there are devastated at yet another proposal for the sale of their home. They have voiced that sentiment ever since it erupted again. I hear it from them every day, from one of them or groups of them. I can only be their voice here today at their request, yet it is County government who decides what happens to them. Just because someone is handicapped doesn't mean they are excluded from having a say in what happens to their home and to them. They are people with minds and ideas of what is best for them, yet no one is asking them. They are people with rights, too. Their families are taxpayers, and before most of them were debilitated, they were taxpayers, too. The more thought of -- the mere thought of a transition for these residents is already affecting them. I honestly feel that their health is at risk for decline because of this stressor after years of hard work to improve their quality of life by dedicated workers. Wouldn't anyone in this room want a dedicated steady worker taking care of one of their loved ones? I know I would.

The building itself has historical meaning dating back to the Depression. The old infirmary was a place to help others, help the people, and it lasted and still exists today at John J. Foley. John J. Foley himself fought as a dedicated Legislator to improve this value for the people, a safe, more-improved refuge for the most vulnerable, and needy and sick, that now -- that no other place would accept these people, the people of Suffolk County. There are residents for over 20 years ago -- from 20 years ago that I still take care of today and they are happier and doing well. What does this say about what we do? Despite the distortions of the media damaging our reputation, we have been and still are doing a great service to our residents of Suffolk County.

We need to stop using J.J. Foley as a scapegoat for the County's deficit problems. Surely John J. Foley cannot be the only solution to this problem. We need this place for -- we need it for other things. We've used it for hurricane evacuees, Adult Protective Services, many other things we could use it for, and to get rid of it would be devastating for the County.

So I say to you, is it right and just to put this scare into these residents about what will happen to them and who will take care of them again? Is it right and just that the residents' home is being sold for less than its appraised value? How is it right to put a price tag on people, including the workers? Is it right and just to mislead residents and staff, thinking that they will remain --

D.P.O. HORSLEY:
Judy, you're going to have to wrap it up, please.

MS. SALVATORE:
Okay. As for the workers, don't let us become part of the non-working force on Long Island. This will only decrease the number of consumers which decreased their revenue for Suffolk County and will drive people out of here. Don't increase unemployment rates. It is you who have the power to decide --

D.P.O. HORSLEY:
Judy.

MS. SALVATORE:
-- what is best for us? Please don't lose sight of what is really important, which is the people.

D.P.O. HORSLEY:
Thank you very much.
All right. Jennifer Abrams.

**MS. ABRAMS:**
Hi. Good morning. I'm here to represent John J. Foley and all the workers and our residents. Everything that everybody's saying is so true. There's an increase in behaviors when that letter went out about the potential sale. We had to settle everybody down. It seems like it would just be wrong.

I told you the last time I spoke that I have a unique opportunity of being in admissions from the months of November through May. And if you look back on last year in those months, we had a full census on our rehab floor. Our facility was making money. We were told the last time we made this fight, we were told that if we became more efficient and if we could run our facility to a break-even point, that we'd be safe, and we made moves for that. We are in that place, and yet you're continuing to sell us. It doesn't make sense that two weeks before I go into admissions you close Four South. Everyone here is aware of that. Are you aware that when I went to these facilities to look at very difficult to place patients I had to actually turn them away because we didn't have beds, yet we had 43 beds? Is everybody aware of that, that we turned difficult to place dementia patients away? And are you aware that our Dementia Unit is unlike any other Dementia Unit in your regular private nursing homes? Our case mix is a much higher level of care. I keep saying that, but I don't know if everybody's really grabbing it.

When we closed Four South, everybody moved over to North. Not only did you cut us off at the knees, you decreased the quality of life of our dementia patients, because wandering is their way of life. They wander from South to North, South to North. When we did that, when we closed those doors, it became a congested environment, an increase of behaviors, and again, we couldn't take admissions for that floor. So these people who, you know, family members, local families couldn't even place their loved ones locally. Who knows where they ended up.

I impress upon you that if the facility is sold to the Shermans, they will not take these patients. These patients will remain in the hospitals and ultimately will cost more. They don't need that high level of hospital care, they need our care. John J. Foley really isn't a nursing home, it's a complex family environment for people of many different young ages, some old, but many young people make their lives there. They won't be placed in the Sherman nursing home.

I urge you to give us a chance. We've come this far. I urge you to not approve this sale. Open Four South and let us do what we -- what we are here to do. We can turn a profit. If you -- if you even look back on last year and compare it, we've done our part, nursing has done their part, PT. If you just compare it to where we were five years ago, you'd see, there is a light at the end of the tunnel and we can stand on our own. I just urge that you would hear our plea.

**D.P.O. HORSLEY:**
Thank you very much, Ms. Abrams.

(*Applause*)

All right. That is my final card. Would anyone like to be heard?

**MR. STRAUSS:**
Good morning. Alex Strauss, 184 Radio Avenue, Miller Place, New York. First, I'd like to wish Bill Lindsay a quick and full recovery, and also Legislators Browning and Horsley, I'm very sorry about
your loss.

I'd like to talk about 1341, since I got a copy of it for the last meeting. It's amazing how somebody can just waive a magic wand and say, "Now I don't have to" -- "I don't have to listen to this law anymore because I'm determining that there is a fiscal crisis. Well, can you tell the people that had the bill sent to them, that send the bill in, can they waive a magic wand and tell people that they owe money, to that, "Listen, I can't pay you because there's a fiscal crisis in Suffolk County, so let me not pay you and I don't have to pay any interest on the money I owe you," because somebody said it's a fiscal crisis and that means that I should be -- don't have to pay anything either.

I don't understand how this goes. I don't understand how you can waive this magic wand. These people have payments that they have to make, they have people that work for them that have to be paid. They don't want to know anything about a physical crisis, they want to know that I did my work, I want to get paid, just like anybody else. If the County Legislator didn't get their pay on time because there's a physical crisis, I'm sure you wouldn't be too happy about that because you have bills to pay, too, just like everybody does. That takes care of that one.

John J. Foley. Yeah, one minute, I got a quickie. What happened? Did the building all of a sudden fall apart? Did the land turn bad? Is it a browning -- brown -- is the property bad now that all of a sudden the price went from 36 million down to 23 million? Is something wrong with the place? Is it -- do we not take care of the people that are sick because we can't afford to do that anymore? Well, yeah, we could afford to do a lot of things. We can't afford -- I can't afford to pay for other people's problems, but, you know what, we do because that's the right thing to do. We supplement a bus, we supplement retirees, we supplement our service people that served in the military, we supplement a lot of people and it's the right thing to do. To just get rid of this place because it costs us money, if that's the case, we might as well get rid of everything because it all costs us money. My time is up, I don't want to belabor the point.

D.P.O. HORSLEY:
Thank you very much. Your comments are always appreciated.

MR. STRAUSS:
So think about that.

(*Applause*)

D.P.O. HORSLEY:
Would anyone else like to be heard? Would anyone else like to be heard? If not, I'll take -- I'll entertain a motion to close the public hearing.

LEG. BARRAGA:
Motion.

D.P.O. HORSLEY:
Legislator Barraga makes that motion; I'll second it. All those in favor? Opposed? Abstentions? The public hearings are closed.

MR. LAUBE:
Sixteen.

MR. NOLAN:
Public portion.
D.P.O. HORSLEY:
Public portion, true.

MR. LAUBE:
Fifteen. (Not Present: Leg. Browning and Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
All right. Page 3, we have the Consent Calendar. I'll make a motion to approve the Consent Calendar, seconded by Legislator Barraga.

LEG. ROMAINE:
Second.

D.P.O. HORSLEY:
All right. We got that. Thank you, though. All those in favor? Opposed? Abstentions? The Consent Calendar has been approved.

MR. LAUBE:
Fifteen. (Not Present: Leg. Browning and Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
All right. If everyone would turn to Page 6, resolutions tabled to August 21st, 2012, we'll start with that. Everyone good? Okay.

**RESOLUTIONS TABLED TO AUGUST 21, 2012**

1210 - Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program, effective December 1, 2007 - Open Space component - for the Omni Ventures Inc. Property - Saw Mill Creek addition - (Town of Riverhead) (SCTM No. 0600-131.00-01.00-003.000) (Co. Exec.).

LEG. ROMAINE:
Motion to table.

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Motion to table by Legislator Romaine, seconded by Legislator Cilmi. Any other motions? Okay. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Sixteen. (Not Present: Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
The motion's been tabled. 1361 - To amend requirements and composition of Women's Advisory Commission (Stern).

LEG. STERN:
Motion to table.
D.P.O. HORSLEY:
Motion to table by Legislator are Legislator Stern, seconded by Legislator Gregory. All those in favor? Opposed? Abstentions? The motion -- the resolution has been tabled.

MR. LAUBE:
Sixteen. (Not Present: Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
1446 - A Charter Law to protect the County Legislature's deliberative lawmaking process (Montano). Legislator Montano is not --

LEG. STERN:
Motion to table.

D.P.O. HORSLEY:
Motion to table by Legislator Stern, seconded by -- who was the second? Legislator --

LEG. CALARCO:
I'll second.

D.P.O. HORSLEY:
Calarco. All in favor? Opposed? Abstentions?

MR. LAUBE:
Sixteen. (Not Present: Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
The motion -- the I.R. has been tabled.

1559 - Authorizing planning steps for the Acquisition of Development Rights under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 - February 2012 - Rosko Farms, Inc. Property - Town of Southampton (SCTM Nos. 0900-158.00-02.00-015.001 and 0900-158.00-02.00-028.001) (Co. Exec.).

LEG. SCHNEIDERMAN:
Motion to approve. We are awaiting on a letter of commitment from the Town and we are in receipt of it.

LEG. HAHN:
And I just sent that around to --

D.P.O. HORSLEY:
And we do have that, everyone's got it?

LEG. HAHN:
Legislators, in your e-mail.

D.P.O. HORSLEY:
In our e-mails. Okay. I need a second on the motion.

LEG. ROMAINE:
Second.
D.P.O. HORSLEY:
Second by Legislator Romaine. All those in -- are we ready? All those in favor? Opposed? Abstentions?

LEG. BARRAGA:
Opposed.

MR. LAUBE:
Fifteen. (Not Present: Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
It has been approved. 1586 - A Charter Law to ensure the independence and integrity of the County Ethics Process (Romaine).

LEG. ROMAINE:
Motion.

D.P.O. HORSLEY:
Motion to approve by Legislator Romaine. Is there a second on the motion?

LEG. MURATORE:
Second.

D.P.O. HORSLEY:
Second on the motion, Legislator D’Amaro? I had a -- yeah, second on the motion by Legislator D’Amaro. We’re good? All those in favor? Opposed? Abstentions? Motion has been approved.

MR. LAUBE:
Seventeen. (Absent: P.O. Lindsay)

LEG. HAHN:
Cosponsor.

LEG. BROWNING:
Cosponsor.

LEG. ANKER:
Cosponsor.

LEG. CALARCO:
Cosponsor.

LEG. GREGORY:
Cosponsor.

INTRODUCTORY RESOLUTIONS

BUDGET AND FINANCE

D.P.O. HORSLEY:
All right. We’re moving over to the agenda, Introductory Resolutions for August 21st meeting of the Suffolk County Legislature, Budget and Finance.
1587 - (Amending the 2012) Operating Budget to preserve critical environmental quality program.

LEG. ROMAINE:
Motion.

D.P.O. HORSLEY:
Motion to approve by Legislator Romaine. Is there a second on the motion?

LEG. MURATORE:
(Raised hand).

D.P.O. HORSLEY:
Second by Legislator Muratore.

LEG. GREGORY:
Motion to table.

D.P.O. HORSLEY:
Legislator Gregory, motion to table. Is there a second on the tabling motion? Second on the tabling motion?

LEG. ANKER:
(Raised hand).

D.P.O. HORSLEY:
Legislator Anker seconds the motion to table. Tabling motion comes first.

MR. ZWIRN:
Mr. Chairman.

D.P.O. HORSLEY:
On the motion, who --

MR. ZWIRN:
Hello.

D.P.O. HORSLEY:
Oh, I'm sorry.

MR. ZWIRN:
That's okay.

D.P.O. HORSLEY:
I didn't see you there.

MR. ZWIRN:
We have -- if we could pass over this, we have members from the Health Department that are coming to be able to speak to this issue.

LEG. HAHN:
Aren't they here?
MR. ZWIRN:
We didn't think you'd get there that quickly.

LEG. ROMAINE:
They're here.

D.P.O. HORSLEY:
Are they here?

LEG. ROMAINE:
Yes.

D.P.O. HORSLEY:
Oh, they're here. See, Johnny on the spot, glad to hear it.

MR. ZWIRN:
Pretty good.

D.P.O. HORSLEY:
You are good, Ben.

LEG. HAHN:
You would have had them waiting for hours in the back.

D.P.O. HORSLEY:
That's right. Twelve o'clock tonight you would have been called up otherwise. Good morning.

MR. PAUL:
Good morning, Legislators. My name is Barry Paul, Deputy Commissioner for Health Services. And accompanying me this morning, Walter Hilbert is the Head of the Office of Waste Water Management.

As it relates to this resolution, primarily, it's about the STP Inspection Program or the State Pollutant Discharge Elimination System, SPDES. As I previously testified to the Health Committee, DHSDEQ, Division of Environmental Quality Waste Water Management, continues to conduct the SPDES Program under the State Delegation. Two sanitarians and one engineer have been fully dedicated to the program while we've been negotiating with State DEC for a long-term improvement program.

Prior to the layoffs, we had two engineers, three sanitarians and one clerk supporting the program. We currently are supporting the program with two sanitarians and one engineer. In order to address this difference, we examined the ten-year-old work plan that's included in the SPDES delegation with the State to seek efficiencies where they were possible. To this end, we have successfully negotiated a proposed alternative work plan with State DEC based on STP performance. This is significantly more efficient than the current program, while still maintaining its effectiveness. The County, under this new performance-based program, will be able to perform the work plan with its existing staff, that being the two sanitarians and the one engineer. To go into detail about the performance-based work plan, Walter would be happy to address you.

LEG. SCHNEIDERMAN:
I just have some questions.
MR. PAUL:
Sure.

LEG. SCHNEIDERMAN:
You had --

D.P.O. HORSELY:
Yes, Legislator Schneiderman.

LEG. SCHNEIDERMAN:
You had referred to it as a proposed work plan. Has the State actually signed off on it yet?

MR. PAUL:
The State has verbally signed off. They have not put ink to paper. We wanted to go through this process and vet it completely before that took place.

LEG. SCHNEIDERMAN:
So, technically, we're still operating under the current work plan.

MR. PAUL:
That's correct.

LEG. SCHNEIDERMAN:
And you don't have adequate staff to meet the requirements of the current work plan.

MR. PAUL:
The current inefficient work plan, correct.

LEG. SCHNEIDERMAN:
But, still, the one that's -- the one that matters.

MR. PAUL:
Well, no. Let me just preface by saying, if you go through the MOU, it calls for an annual update of the work plan. So there is no assumption that existing work plans are the best work plans. It just so happens the County for the last ten years has never updated the work plan. But the intent of the MOU is to annually review the work plan and update it for efficiencies, and to make sure that the essence of the program is maintained.

LEG. SCHNEIDERMAN:
This is all well and good until we have a toxic plume under a sewage treatment plant, so --

MR. PAUL:
Well, I'll point out that --

LEG. SCHNEIDERMAN:
Raise my comfort level that this proposed work plan is going to adequately protect our drinking water --

MR. PAUL:
Well, I'll have Walter go through --

LEG. SCHNEIDERMAN:
-- quality.
MR. PAUL: -- the details of the performance-based process for the STPs, but let me say the State has agreed with this work plan. We've also briefed Peconic Green Growth, Citizens Campaign for the Environment, the Nature Conservancy, Group for the East End, Long Island Pine Barrens Society and the Town of Southampton. And while they weren't overjoyed with the new work plan, they understood it, and did not raise a serious amount of concern.

LEG. SCHNEIDERMAN: Wouldn't it be prudent to have the proper staff levels to work under the old plan until the new plan is actually accepted by -- formally accepted by the State?

MR. PAUL: The State is ready to sign right today. As soon as we finish this Legislative meeting, if we have don't have any changes that we want to propose to the State, the State is ready to sign. We've been through multiple meetings with the State and they are ready to sign. And I believe the Legislature will be getting a letter from Peter Scully saying just that, that they are satisfied with the new work plan and they're ready to move forward.

LEG. SCHNEIDERMAN: Okay. I don't have any further questions.

D.P.O. HORSLEY: Legislator Romaine.

LEG. ROMAINE: Yes, Deputy Commissioner. My understanding is the County Executive laid off six positions, proposed laying off six positions, one account clerk, one senior public health sanitarian, two assistant public health engineer trainees, and two public health sanitarians; is that correct? In his original proposal for the layoffs, he proposed eliminating this unit by laying off the positions I've just described; is that correct?

MR. PAUL: That's correct.

LEG. ROMAINE: Okay. Then the County Executive says he was going to use interim positions to amend the budget, and that I think is constitutionally questionable, but nevertheless, he did that. Which of these positions did he restore that he proposed laying off?

MR. PAUL: Walter, would you like to come up? I'll leave the details to Walter.

LEG. ROMAINE: Well, I would hope that you would know the details, but I know Mr. -- I know that Walter is -- Mr. Hilbert is very competent.

MR. HILBERT: Good morning.

D.P.O. HORSLEY: Nice of you to say.
MR. HILBERT:
Good morning. Thank you. Actually, the positions that were restored was the senior sanitarian and one of the public health sanitarians was restored. So the overall amount of positions that were cut were four. There was two engineers, one public health sanitarian, and the account clerk was cut.

LEG. ROMAINE:
So the account clerk was cut, one senior public health sanitarian was cut, two assistant public health engineer trainees were cut, and one public health sanitarian was cut. Walter, approximately how many sewage treatment plants are there in Suffolk County?

MR. HILBERT:
There's 192 plants currently.

LEG. ROMAINE:
There's 192 plants. How much staff does this leave in the unit currently that inspects these plants?

MR. HILBERT:
Three.

LEG. ROMAINE:
Three for 192 plants. Walter, I'm going to ask you to just go beyond a little bit, because I know you deal with other Health Department issues. Has the State of New York considered the Great South Bay, Moriches Bay and Shinnecock Bay impaired waterways because of the amount of nitrogen in those bays?

MR. HILBERT:
They are -- there are lists of impaired water bodies that New York State does, and nitrogen is one of the reasons for the impairment, that's correct.

LEG. ROMAINE:
Could you tell me approximately how often the 192 plants have had problems? I mean, have some of them had problems throughout the years? Have they always complied? Is there 100% compliance?

MR. HILBERT:
No, currently, there's not 100% compliance. You do have mechanical systems that are --

LEG. ROMAINE:
Oh, sure, they break down and stuff like that. But, I mean, how quickly you fix them if no one's looking over your shoulder, you know a little sewage here, a little sewage there can't be all bad, or so some of the operators think. I mean, the reason we have this unit is to kind of keep them honest, to kind of indicate that these plants, which cost a lot of money to operate, and cost even more money to fix when they break down, should be fixed immediately.

Later today I have before this body the Sewage Pollution Public Right To Know Law that would establish fines and reporting periods, where people, if they don't self-report, could be subject to these fines; and, yet, we have only three people to implement this because we have a revised work plan; and yet, we have advocates around this body, starting with our Deputy Presiding Officer, that would love to extend sewers for a lot of public purposes, but we have no one to check on them. And they have the ability to have a huge impact on our environment, on our drinking water, and on the bodies of water that surround this Island.
MR. HILBERT:
Perhaps it would give you a sense of comfort if I explain the new revised work plan to you, okay? Basically, the old work plan was four inspections, where every plant had a quarterly inspection.

D.P.O. HORSLEY:
Yeah. Walter, you’re going to have to speak into the mic a little bit better.

MR. HILBERT:
Okay. So every plant had a quarterly inspection that they were -- we were required to perform under the old work plan, okay, whether the plant was historically a good operating plant or not, okay? The new and revised plan went to a risk-based management approach, okay? Basically, what we're going to do is we're going to go out and inspect every facility one time, and turn around and evaluate the facilities. The facilities that are high-risk facilities that have orders on consent, have operating --

LEG. ROMAINE:
How many of those high-risk facilities do we have, roughly speaking?

MR. HILBERT:
Roughly speaking, now, it's about 55 facilities that are in the high risk --

LEG. ROMAINE:
Fifty-five facilities of 192 are high-risk.

MR. HILBERT:
Well, they're high-risk because they're --

LEG. ROMAINE:
Because they violated, and they have consent orders, and they have to rebuild, and there's a whole host of things.

LEG. HAHN:
Let him finish.

MR. HILBERT:
Correct.

D.P.O. HORSLEY:
Let him answer. It might be a good idea, Ed.

LEG. ROMAINE:
Sorry.

MR. HILBERT:
So what we will do is we will then inspect those a second time, okay? So, basically, the high-risk facilities will continue to be inspected on a quarterly basis, just as they are now, and the facilities that are lower risk will be inspected twice per year. As we go through and we inspect the facilities, we'll be moving people in and out of the high-risk group, so that will always be a fluctuating number. Currently, like I said, it's about 55 facilities that we will inspect on the quarterly basis, and as they improve, as orders on consents are satisfied and plants are repaired, they'll come out and go into the better group, the lower risk category, and they'll be inspected twice per year.
LEG. ROMAINE:
Do we have any of these sewage treatment plants in the Pine Barrens?

MR. HILBERT:
There are a few sewage treatment plants. There's not many in the Pine Barrens.

LEG. ROMAINE:
Let's take one in my district that I'm familiar with, let's take Calverton Hills. Is that a high-risk plant?

MR. HILBERT:
Yes, it is.

LEG. ROMAINE:
When was that built?

MR. HILBERT:
That was built probably in the early '80s

LEG. ROMAINE:
1972, okay? Has it been upgraded since '72?

MR. HILBERT:
Yes.

LEG. ROMAINE:
Is it -- and it has, but it's not meeting standards now; is that correct?

MR. HILBERT:
Correct. They're currently under an order on consent and they have a design for --

LEG. ROMAINE:
I only mention one example. I mean, I could give you multiple examples of plants throughout this Island that aren't meeting -- that are discharging way too much nitrogen, they're not meeting the ten milligrams per liter of discharge standards, which is currently the State standards, they're much higher than that, and it's having a negative effect on our drinking water. I am greatly concerned. And I understand you've worked for Suffolk County a long time. People recognize you, respect you, turn to you, as I do oftentimes. But one of the sad lessons that I've learned is people who say, "We can do more with less," at the end of the day, we wind doing -- we wind up doing less with less.

(*Applause*)

And I am greatly concerned. I am greatly concerned about the impact on our environment. I don't think that this plan -- honestly, I don't think that this plan is going to protect this County, and its residents, and its groundwater, and its tributaries, and bays, and bodies of water as it should.

By the way, we have a separate fund, as you know, the 477 Fund, which is the quarter penny, that can be used not only to purchase land or to stabilize sewer rates, but for environmental projects. I did not want to take this from the budget. I understand our County Executive, I understand the struggles he has with a very difficult budget. So this is coming out of a special dedicated fund to fund these people, because I believe we need to protect our groundwater, particularly at a time we're talking about expanding sewers. And we need to check on these private operators who run private sewage treatment plants to make sure that they comply and that it's up to the top standard,
and we were not polluting our waterways. Walter, thank you very much for your service.

D.P.O. HORSLEY:
Thank you very much, Mr. Romaine. Legislator Hahn?

LEG. HAHN:
Thank you. Did you get to finish what you wanted to say in terms of what the plan and the new plan is?

MR. HILBERT:
Well, basically, the new plan doesn't really represent too much of a change for the high-risk facilities. They still will be inspected on a quarterly basis. They are still monitored on a monthly basis under the discharge monitoring program that they currently have. It's only the facilities that we consider, you know, low-risk facilities, and right now there are about 140 or so of those facilities out there. They're actually averaging about six milligrams per liter of total nitrogen. Drinking water standard or the discharge standard is 10 milligrams per liter of nitrogen. So those facilities are doing very well, and those are the facilities that we're looking at minimizing the amount of inspections to twice per year to basically save the manpower that we need. So --

(*The following testimony was taken & transcribed
By Alison Mahoney - Court Reporter*)

LEG. HAHN:
Could some warrant more than quarterly inspections?

MR. HILBERT:
Yes. And we do go -- for example, facilities that are in construction, okay, as we need to do construction inspections, we perform them on an as-needed basis throughout the process, just not because we do quarterly inspections. Those are routine inspections for operating performance, okay. So if we have other reasons, if we get complaints on a facility, if there's an odor complaint, of course we'll go down and do an inspection of the facility, you know, immediately to ensure that the plant is operating properly.

LEG. HAHN:
I guess I'm asking is there a category, might there be a category that's like high-risk? Plus, if, you know, you just keep going back, they might need monthly instead of quarterly inspections, just because of their track record.

MR. HILBERT:
Potentially we could need to go back to a facility more. And if we do, you know, we can go back to a facility, okay, that's not saying that we can't. Okay? This is just the overall inspection for the routine, quarterly inspection process under the State contract.

LEG. HAHN:
And my understanding is that Suffolk County was doing more inspections than other Counties, like Nassau and other counties around the State. Like we were doing more than what the State required.

MR. HILBERT:
That's correct, by far and away.

LEG. HAHN:
When did we decide to do more than what the State requires and why?

**MR. HILBERT:**
The original MOU, Memorandum of Understanding, that was entered into with the DEC is actually about a 20-year old document, and at the time, quarterly inspections was the frequency that was chosen. Again, the ability to update the plan has been there all along, it just has not been something that we have chosen, you know, to act upon.

**LEG. HAHN:**
I guess what I’m trying to get at is, is there something different about Suffolk County and Long Island from the rest of the State that would require us to want to do more than what the rest of the State does, getting at our aquifer *(laughter)*.

**MR. HILBERT:**
Well, Suffolk County is a sole source aquifer, you are correct. We use the water beneath our feet for our drinking water purposes. But right now the DEC and other regions, if they do an annual inspection only, that’s the only inspection that they do. So we’re already talking about doing, you know, biannual inspection and quarterly inspections for our worst operating facility. So again, you can see how far and above it is from the other areas of the State. Other municipalities, we checked Jersey, we checked, you know, Rhode Island, we’ve checked some other municipalities that have similar standards to ours and nobody is doing this level of inspection at all.

**LEG. HAHN:**
How will a low-risk -- what would have to happen for a low-risk facility to become a high-risk facility?

**MR. HILBERT:**
There are a few things that will change your category. Basically, if a facility is placed under an Order on Consent, if they have operating issues, if they need to upgrade and repair something major and we put them under an Order on Consent, then they will go to a high-risk group and we’ll watch them four times a year. If a facility enters into just a voluntary, if -- an Order on Consent is when we go out and we find a problem and we require them to fix, we will facilities that come to us and say, "Listen, Part A broke. We really need a little bit of time to fix it." That’s if we have a voluntary agreement with them that they will fix it, again, they would go into the high-risk group.

If their operational data that we get, our sample data that we would collect, you know, twice a year, if that is in noncompliance, if their monthly data under the DMR’s is in noncompliance, again, that would move someone from the low-risk to the high-risk category. So if their data, you know, is starting to show noncompliance, our sample data is starting to show noncompliance, then we would move them across to groups.

The other thing is if we get conflicting data. If we go out and take a sample and we show that the plant is operating at 15 or 20 and their sample data shows that, "Hey, we’ve been swimmingly going along at two milligrams per liter," and there is some discrepancy that we can’t quite figure out why, then again they would move into the high-risk category and we would watch them for four times a year. And then again --

**LEG. HAHN:**
And this is part of the plan that you’ve agreed to with the State, is how to shift from low-risk to high-risk. And it wouldn’t be take over multiple quarters to determine that there’s some kind of conflict, it could happen in one finding of noncompliance?

**MR. HILBERT:**
Yes. Yes. If, for example, if we go and a facility is in disrepair and we take an Order on Consent, that will immediately move them from high-risk -- or low-risk to high-risk.

**LEG. HAHN:**
But testing findings I’m talking about?

**MR. HILBERT:**
Test findings as well.

**LEG. HAHN:**
Test findings, it could be just that one finding that could get them on a high-risk evaluation schedule?

**MR. HILBERT:**
We are going to utilize the State DEC protocol for noncompliance, which is basically three significant noncompliance which is 20% more than the standard, so three of 12 milligrams per liter over a six-month period, or a rolling average of over 10 milligrams per liter in a six-month. So we'll continue to do a rolling average of facilities, and if any time that their rolling averages goes over 10 milligrams per liter, again, they will go from low-risk to high-risk.

**LEG. HAHN:**
How can you explain the development of this plan with the findings in your report, which I can never remember the name of, "Water Quality" --

**MR. HILBERT:**
The Comp Plan --

**LEG. HAHN:**
Comprehensive Water Quality (*laughter*).

**MR. HILBERT:**
-- is an easy way to remember it, yes.

**LEG. HAHN:**
How do you --

**LEG. SCHNEIDERMAN:**
Reconcile.

**LEG. HAHN:**
-- reconcile the two plans?

**MR. HILBERT:**
Well, again, the Comp Plan looked at sewage treatment plants, they looked at data during the formation of the report that was older, was older data. We've done, you know, increased inspections. Again, to this level, we've increased our legal actions taken against facilities, that again will not diminish. So again, we've moved since the original writing of the report, and sewage treatment plants today are a lot better than they were ten years ago.

**LEG. HAHN:**
And you feel comfortable that three staff can adequately inspect the 55 high-risk plus a hundred and whatever it is 40, some odd others?
It's 192 total.
MR. HILBERT:
Correct. It's approximately 500 inspections a year. And yes, they can handle that work load.

LEG. HAHN:
And what exactly happens in an inspection, and how long does it take?

MR. HILBERT:
The inspection itself is probably a couple-hour procedure. You get to the plant, you walk through the plant, you’ll test the equipment at the plant, make sure -- for example, if there’s a backup blower, which they’re required to have, that that’s functional as well, so they’ll test out the equipment, they’ll pull the sample and move on. So basically, an inspection probably takes about three hours to complete an inspection. We account a day, basically, for an inspection, because then there's paperwork associated with it, follow-up of it, so it’s about one day that we count per inspection.

LEG. HAHN:
The math isn’t adding up in my head. I don’t -- it doesn't sound like there's enough to do this, but I'm going to let other of my colleagues ask more questions. And thank you very much for your answers.

MR. HILBERT:
Thank you.

D.P.O. HORSLEY:
Thank you very much, Legislator Hahn. Legislator Anker.

LEG. ANKER:
This is a slippery slope, I have to say. This is -- you know, as an environmentalist, you know, I want to make sure that our groundwater is protected and that our sewers are being looked after.

But what we're looking -- we're going into our 477 Fund, and my concern is that do we -- if we keep going into this fund -- and again, Gail, if you could just go over real quick the issue of funding for these positions, okay, versus -- you feel the County is appropriately handling the workload. And as Legislator Romaine had said, there’s 192 sewer plants that need inspection by three inspectors.

So again, do we have -- number one, do we have the need? And you're saying we don't -- we don't have -- of course we could always use more help, but we can adequately handle the inspections of the sewer plants; is that true?

MR. HILBERT:
Yes, that is true.

LEG. ANKER:
Okay. And Gail, as far as the expense of this particular resolution, can you just give me a quick overall perspective?

MS. VIZZINI:
I think what you're asking is, is there enough money in Water Quality to restore. I think it was Walter who indicated that one or two of these positions have already been restored, so the dollars that were used in the fiscal impact to calculate the salaries were roughly for the one, two, three, four -- for the six positions here, it was roughly $35,000 a month, so it will be a little bit less than that.
By previous actions, we've already authorized another $1.7 million in salaries and benefits be paid from Water Quality. There -- and moving forward, we only get about 1.2 million in new money coming in annually. There is a trade-off between, well, when will we run out of Water Quality money as far as positions are concerned. We previously had met with the Budget Office, we have slight differences in our projections, but somewhere around 2014 there's going to be a lot of pressure, unless people have left the Water Quality or unless we reprioritize what functions are truly funded from Water Quality. Because as the salaries increase, retirement is paid from there, supplies, everything related to that person.

So it's not sustainable. And it also erodes the available fund balance to do the brick-and-mortar-type projects, unless we reprioritize what is going to be funded, positions, brick-and-mortar, other Cornell projects that we have coming from the 477, you know, what portion is going to be to sustain salaries.

LEG. ANKER: Okay. So it sounds -- again, the dilemma is do we -- do we trust, you know, the accuracy of having enough people to oversee the sewers versus are we going to lose the money and not have it go to other important projects or situations.

Let me ask you, Bill. Is there new technology available, since 1972 when Legislator Romaine said the sewer system was created, that we're using today that will help with the overseeing of these sewers and, you know, alleviating some of the problems? In other words, what's available now technology-wise versus what we did before hands-on by employees, you know, decades ago?

MR. HILBERT: Well, there are new technologies that are out there for, you know, the nuts-and-bolts sewage treatment plant. Again, today we've gone more towards, you know, computer-controlled systems, etcetera, that are out there, they're more reliable today than they were 30 years ago. So the newer facilities that we're building today and the facilities that are older that we're upgrading to newer technologies, again, are more reliable than they were. So again, the likelihood of having, you know, an occurrence happen at a new facility is less.

So I think your question goes maybe to the monitoring side, is there things that we can do to monitor treatment plants, you know, nitrogen monitoring, etcetera. They do potentially have probes that could monitor, you know, and use a computer system to report overages, but again, those kinds of equipment are only as good as they are maintained. Again, if a probe is used and a probe is not calibrated properly, it's giving you inaccurate data, so is the data good or not.

Again, our sampling of a system on a quarterly basis. Sewage treatment plants, they don't change that much. Once a facility goes into operation, it reaches what we call steady-state, the community is fully occupied, etcetera. There's really not a lot of change in the influent characteristics and, therefore, how you need to treat the sewage. So by us looking at a quarterly basis, taking a sample, them taking a sample on a monthly basis does give you a lot of data to actually analyze how efficiently the plants are being operated.

LEG. ANKER: Okay. Again, it's a very complicated issue. And it's kind of strange because you said the sewage systems don't change too much. I mean, the Romans had it down, you know, it seems like. Again, not to say that, you know, we haven't progressed, but it would be nice to see technology, especially
when we're surrounded by the top scientific institutions to help us with this problem. So again, maybe that's an extended conversation we can have later. But thank you.

MR. HILBERT:  
You're welcome.

D.P.O. HORSLEY:  
We're good? Thank you, Legislator Anker. Legislator Schneiderman.

LEG. SCHNEIDERMAN:  
Hi, Walter. Thank you. Suffolk has a long, proud history of protecting our groundwater resources, as you know, from all of the studies we've done to the hundreds of millions of dollars we've spent preserving land over deep aquifer areas.

You know, I'm concerned when I hear our work plan is going to monitor less often. I know some of these plants you're saying are not high-risk, but as they age out they could be. And this biannual inspection rather than a quarterly inspection could mean three or four months before we pick up a problem, which may be too late. That may be a problem that, you know, would be very expensive to try to fix, as you know, and maybe not repairable. And it seems what's driving this is it's not so much technology, and I appreciate -- you know, we can do more with technology to monitor these things and these plants are better than they have been in the past, but what's driving it is the lack of resources at the County level. What Legislator Romaine has put in is a way to up the staff back to its prior levels using a fund that's designed to protect groundwater quality.

You know, I've suggested that we use a similar fund, it still comes out of the sales tax portion, the Quarter Penny, but it goes towards sewer work. It seems to me that the people who are inspecting the sewer -- sewage plants could be paid for from the fund that's designed for sewage plants, stabilizing tax costs within the sewer districts. So that would take more time to do it.

You're telling me as a professional that this work plan makes sense based on, you know, the current design of these plants and that the three people are enough to do it. What you say is important to me, if you believe that's adequate to protect our groundwater resources. I wonder, though, when we had done this layoff list, you know, the some 300 positions, the Health Department was hit very heavily, as you know, with those layoffs, and that list was developed with the assumption that the State might take over this function. We found out that the State wasn't going to take over this function, and now we're doing it ourselves with less people under this modified work plan. Where are these -- the three people coming from? Are we pulling them off of other things that the Health Department was doing when we had assumed that we wouldn't be doing this function? Can you answer that; are there things that aren't being covered now by us taking this on?

MR. HILBERT:  
No. Basically, the program originally had six people within the program. So the three people that currently have remained all along within the program, I have, you know, taken and transferred people away to other programs. Our commercial program and, you know, our plan review functions is where the engineer went from the program. So we've transferred to other programs within the office to help with backlogs, etcetera. As you're all well aware, you know, we're an economic generator to try to promote, you know, economic growth through issuing permits, you know, that make environmental sense, but also, you know, do protect the environment but allow for the growth that we need here.

So again, there's pressures in my office for other plan review and we basically transferred staff out of the program to there. So it's the same staff, so it's not like we had to find staff and transfer people back into the program.
LEG. SCHNEIDERMAN:
Right, but that's going to mean either slower processing or less thorough review somewhere else. So it seems to me, even if we do this work plan, this modified work plan, that if we could cover some of the salaries through either the 477 Fund or through the Assessment Stabilization Fund, it could alleviate some pressure on the General Fund and maybe allow for, you know, three more people to be hired to cover this. And some of it I know is covered by the State in this function, but it's only a small portion of the actual cost. So it might make sense to pursue this avenue of bringing in money from one of these two areas to cover that, allow you to hire if it's really only three people you need there, and then return these other people to where you had them before so that we don't see the diminution of services in other areas.

MR. HILBERT:
Well, we've basically -- we've moved the people already. So, I mean, so the other areas are now covered with these people that, through the revised work plan, you know, are not necessarily needed in the program at this point in time. So there's really no net effect on the office right now.

LEG. SCHNEIDERMAN:
You're saying you are covering everything that you need to cover with the current level of staffing.

MR. HILBERT:
Correct.

LEG. SCHNEIDERMAN:
Okay.

D.P.O. HORSLEY:
Thank you very much, Legislator. Legislator D'Amaro.

LEG. D'AMARO:
Just very quickly, I wanted to thank you for making the department and what you're responsible for more efficient, in effect, is what we're doing here. If I heard today, through your testimony, that there was a need for further inspections on low-risk plants, I would want to support this bill, but apparently what you're saying is there's not. I mean, there's 192 facilities, did you say?

MR. HILBERT:
Correct.

LEG. D'AMARO:
Right. Fifty-five of which have been determined to be higher risk and will maintain the quarterly inspections?

MR. HILBERT:
That's correct.

LEG. D'AMARO:
Right. So if we did 192 inspections quarterly, as we were doing, if you take out the 55, there's 137 lower risk facilities, if you do the math.

MR. HILBERT:
Correct.
LEG. D'AMARO:
So times that by two, that would be 274 unneeded inspections per year; is that correct?

MR. HILBERT:
That's correct.

LEG. D'AMARO:
Okay. So what you're doing, in effect, is rather than going in blind on inspections, you're doing this risk assessment because you feel that you'd rather put the resources where they're most needed, which is what I believe we try to encourage government to do. And you're doing that, and I appreciate that very much.

And you're convinced that the lower risk facilities do not have a need for more inspection and do not pose a significant, or really any risk to our groundwater, based on their operating history and your risk assessment.

MR. HILBERT:
Yes. I mean, the operating history has shown, and for the 2011 year, that those facilities were operating at six milligrams per liter and the discharge standard is ten, so roughly half the discharge standard.

LEG. D'AMARO:
Now, can that --

MR. HILBERT:
So, you know, high operating facilities.

LEG. D'AMARO:
Okay. Can that change overnight?

MR. HILBERT:
If you had a malfunction of a facility, that can change.

LEG. D'AMARO:
Right. But are there people on site that would know that happening before, let's say, your six month inspection period?

MR. HILBERT:
Yes. There's a daily operator that visits the facility, they do daily testing at --

LEG. D'AMARO:
Daily testing.

MR. HILBERT:
Daily testing at the facility.

LEG. D'AMARO:
Daily testing.

MR. HILBERT:
Yes. So it's --
LEG. D'AMARO:
So if we -- it's not necessarily accurate to say that we may not pick something up like that three or four months too late, because it's -- these are the County inspections going on, but there are on-site personnel responsible for the plant, that know the plant, that's watching the plant, that's monitoring the plant.

MR. HILBERT:
That's correct.

LEG. D'AMARO:
Right. So your inspections are on top of all that monitoring. Now, if an individual uncovers a problem with a plant and calls the County department, the County Health Department and says, you know, "We see an elevated level of whatever it is you're monitoring," would you say, "Well, you still have five months to go before inspection, we're not coming out." Is that what you do?

MR. HILBERT:
No, not at all.

LEG. D'AMARO:
What would you do?

MR. HILBERT:
We would -- actually, my two inspectors of the program are licensed treatment plant operators themselves; they both have State licenses.

LEG. D'AMARO:
Okay.

MR. HILBERT:
So we would go out and we'd actually, you know, lend technical support and assistance to try to get the plant operating and review data with them and see if there are things that we could get them to do to, you know, resolve the issue as quickly as possible.

LEG. D'AMARO:
All right. So again, I think moving to a risk-based inspection schedule makes a lot of sense. Not just because of the economic times and the funds that are not available and the offset here are the funds that we're using, as we heard from our Budget Office, are unsustainable within the next two years, but really you're just making the inspection process more efficient, knowing that there are on-site -- there's on-site monitoring going on, should a problem occur we're not going to go for five months polluting the groundwater, that would be addressed much quicker because there would be folks on-site who would know what was going on at the plant.

MR. HILBERT:
That's correct.

LEG. D'AMARO:
Okay. Very good. Thank you.

D.P.O. HORSLEY:
Thank you very much, Legislator. Legislator Spencer.

LEG. SPENCER:
Thank you. I appreciate you taking our questions. I think that the issue here is if we're cutting back in terms of resources, are we making government more efficient or are we cutting corners? And I
think that there's got to be some way of looking at outcome measures, or looking at track records to
be able to either indicate what is an acceptable number of inspections, there has to be data that's
out there looking at programs like this. And I think I asked this similar question in committee. Is
there any sort of comparison that we could look at to see how this sort of process has worked in the
past, in other places?

MR. HILBERT:
We actually did a little bit of research into what other municipalities are doing and we actually
couldn't really find, you know, too much written. New Jersey does one inspection, one annual
inspection. I believe -- I have a few of them. Massachusetts tries to do one inspection and really
sets it up basically on a priority leveling as well. New York State DEC and other areas of New York
State generally perform, again, one annual inspection. So we're so far above and beyond what
those municipalities are doing. It's hard to compare, you know, their program to ours, you know.
And we didn't even -- and again, for all the issues that are related here as a sole source aquifer and
all the environmental issues that we have here, we didn't choose to, you know, go that drastic with
the program. You know, we chose, you know, a fairly conservative, risk-based approach to, you
know, to the program where you're still going to go on a twice per year basis and quarterly for all
the -- you know, all the bad operators out there; again, similar to the current program that we're
using. So to say what do other people do. We have not been able to find a lot of that data out
there, and any time we find data, it's so far less than what we are proposing that it really doesn't --

LEG. SPENCER:
That makes a lot of sense. And I think the reason this matter is so delicate is that it is one thing to
be able to make our operations more efficient and save the taxpayers money, and if we could look at
the results of putting in these efficiencies and then be able to go back and make adjustments it's
one thing, but because we're dealing with our aquifer, we can't afford to get it wrong. So it's not
one of those things where we could cut back and then look and say, "Oh, it's not working because
the consequence is too great." So that's I think what a lot of -- that's what my major concern is.

So, you know, I look for if there was some sort of track record or reassurances from past
performance, or either from looking at other models that would give me a much higher comfort
level. And then other than that, the only thing we can look at is outcome measures. And so if
you're looking at outcomes, then it's kind of like, "Oh, it didn't work out. Oops, we can't afford to do
that." So that's -- I think that I see -- when I'm operating on a patient, I can't afford to say, "Oops,
it didn't work out," you know, I have to know what I'm doing beforehand.

So I appreciate the answers, and I definitely appreciate you trying to make government more
efficient. But you really can't afford to get this wrong, you know? So I'll continue to listen, but still,
I'm very conflicted about this particular issue. Thank you.

D.P.O. HORSLEY:
Thank you very much, Legislator. Legislator Hahn.

LEG. HAHN:
Me again, sorry. Okay. So I was doing the math, and if you have about the 500 -- with the new
plan, about 500 inspections a year, divided by three people, you have about 166 per person. You
were saying it takes about a day, because the inspection is three hours and then lots of paperwork.
Have we looked at -- I mean, that's kind of concerning to me. Have we looked yet at ways to make
the paperwork a little more efficient? Because it sounds kind of ridiculous that it would take, you
know, three or four hours to do the paperwork for a three or four hour inspection. Maybe the
driving is included in there, it is a very big County. But, you know, do we -- do we have -- if it's
only three inspectors, do we have, you know, the latest technology for these individuals to enter
things in, you know, electronically? And you know, we're not talking about a whole lot of people
getting new equipment to do this more efficiently. Has the group, Performance Management Team, looked at other ways to make this more efficient, per person what they can do with added technology, or have you already done that?

**MR. HILBERT:**
I don't believe that that's been done yet. I'm sure it will be a task that eventually all offices will undergo within the County. It hasn't come, you know, as part of this effort, you know. But the extra time, that's basically -- it's paperwork. It's if you have meetings with people, it's if you have Orders on Consents and you have to have compliance conferences. So there's a lot of background information that gets put in there. And again, just for -- it's approximately 240 man days per year for a person.

**LEG. HAHN:**
Right.

**MR. HILBERT:**
So again, you can see that, you know, 500 inspections and 750 man days, again, leaves you room for things to get done in the program. So it's not that there is no room within the program at all that, you know --

**LEG. HAHN:**
Can I ask Counsel; this bill calls for the addition of how many staff?

**MR. NOLAN:**
My recollection is two?

**MS. VIZZINI:**
No.

**LEG. CALARCO:**
Three.

**MR. NOLAN:**
Four?

**MR. HILBERT:**
Four.

**LEG. HAHN:**
Ed, this adds four?

**MR. HILBERT:**
There's actually six included, but two positions were backfilled through other means already, so it's actually four positions total.

**LEG. HAHN:**
And this -- Jay touched on this earlier. BRO, or maybe George; does it have to be 477? Could it be sewer funds? The other --

**D.P.O. HORSLEY:**
Stabilization.

**LEG. HAHN:**
Stabilization Fund. What is wrong with me today? *(Laughter).*

**MR. NOLAN:**
No, it can't come from the Stabilization Fund; cannot, under current law.

**LEG. HAHN:**
Cannot.

**LEG. SCHNEIDERMAN:**
No, but we could modify the law, as we did recently, so that the funds could be used for salaries, and that's something I'm interested in pursuing. So we'd have to amend it, as we recently did, to create the incentive program for upgrading sewers. We brought some money into the General Fund. I think Legislator Horsley had that bill and that amended that Assessment Stabilization. We'd have to amend it again.

**LEG. GREGORY:**
Okay. And --

**D.P.O. HORSLEY:**
That's a long discussion, Jay.

**LEG. HAHN:**
That certainly would be a long discussion, but I think our monitoring of the sewage treatment plants is part of what's so important about -- I mean, we had in our Environment Committee Chris Garbler, Dr. Garbler from Stony Brook University came and gave a presentation about harmful algae blooms all over Suffolk County, red tide, brown tide, PSP/DSP events in Huntington, on the South Shore, etcetera. And so, you know, nitrogen in our waterways and monitoring that is of critical importance.

I agree with you, I think you can low-risk. It sounds like your plan is a good one. I like this efficiency, I like what you're trying to do, putting resources where we need them the most. We need to focus on the 55 and maybe even, like I was trying to allude to earlier, do more with those 55. I'm not convinced three is enough, but I think six additional is too many, so I'm kind of torn on this. But -- and I would like to -- I think we should consider what Jay was alluding to when he spoke. So I think I'm going to support the tabling, but with a real big caveat that I don't think three is enough. So I think we have -- you know, if one additional, we really need to just work in here where that right number is. I think we should look at -- it's a small number of individuals. Should they have added technology that can make what they do even more efficient so that it's not high on the paperwork end, or etcetera. So I think this needs more discussion. I think, though, it's a very important item from an environmental concern.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. I just wanted to add to your comment, though, Kara, that the problem isn't necessarily the inspections of our plants, it's the fact that we don't have enough sewers throughout the County. That's the problem.

**LEG. HAHN:**
Yes, there's that, too.

**D.P.O. HORSLEY:**
That's a big problem.

**LEG. HAHN:**
That's a several billion dollar question, yes.
D.P.O. HORSLEY:
That's right, but that's where those blooms come from.
Legislator Stern.

LEG. STERN:
Thank you. This is a one-year work plan; correct?

MR. HILBERT:
Correct.

LEG. STERN:
All right. So at the end of the year, you come back, you do an analysis as to what the success of the work plan was and you go forward from there.

How -- have you had the discussion, have you been able to develop a plan at the end of the year, at the end of this one-year plan, how you're going to measure success? Do you measure success by maintaining the status quo with the number of personnel that you have? Is the goal to bring the number of high-risk facilities down to bring the number of low-risk facilities up? Going forward in the next year, what is your plan to measure whether or not this work plan is successful for this year and how you're going to evaluate that going forward?

MR. HILBERT:
At the end of the year we're going to use the performance data of all the facilities, okay, and basically the data that I mentioned from 2011 that set the high-risk and the low-risk categories. So if you take a look at the high-risk facilities, that was six milligrams per liter of nitrogen based upon their monthly samples and our, at the time, quarterly samples, produced an average of six milligrams per liter.

So going forward, we will produce a report, okay, probably on the order of April, because it takes us a little bit to get some data back for 2012 and evaluate the program to see did those numbers change. And of course our goal is to have it changed to the positive where more high-risk facilities became low-risk than the other way around, okay. So, you know, and we will at that point then evaluate what -- you know, what the manpower needs are and go from there.

LEG. STERN:
In any given year, is that the goal? Obviously you would think logically you would want the high-risk number to come down, the low-risk to go up. And is that the working goal, or do you -- do you consider just maintaining the status quo at the end of the year? Particularly this year with the difference in manpower, would you believe that to be a success?

MR. HILBERT:
I would --

LEG. STERN:
If you just maintain the status quo at the end of the year with this work plan.

MR. HILBERT:
Well, again, the low-risk facilities are maintaining six milligrams per liter, which is roughly half the drinking water standard which I think is a great goal to hit. And if we maintain that goal, that would be something that's very good, to maintain that goal.
LEG. STERN:
Thanks.

D.P.O. HORSLEY:
Thank you, Legislator Stern.  Legislator Gregory.

LEG. GREGORY:
Thank you.  A lot of the questions that I had were asked already, so I'll just ask the simple question. Are you confident that this new proposed work plan is the way to go?

MR. HILBERT:
Yes, I am.

LEG. GREGORY:
Okay.  And you've worked with the County.  What's your experience with the County?

MR. HILBERT:
I've worked 25 years with the County, all of it basically in sewage treatment and industrial waste treatment.

LEG. GREGORY:
And your -- what is your responsibility, actually?

MR. HILBERT:
I now run the Office of Wastewater Management.

LEG. GREGORY:
Okay.  So you would be -- you're responsible for supervising and overseeing this plan to ensure that it works.

MR. HILBERT:
Correct.

LEG. GREGORY:
Okay.  And if you had any concerns about the implementation or our abilities to carry out our inspections, I gather you would seek to ratify or change the plan to seek the personnel necessary if there were a personnel issue?

MR. HILBERT:
Correct.

LEG. GREGORY:
You don't have any issues with that?

MR. HILBERT:
No.

LEG. GREGORY:
Okay.  And you said that the State has -- I think the gentleman next to you said that the State has verbally approved this work plan.

MR. HILBERT:
LEG. GREGORY:
Okay. All right, thank you.

D.P.O. HORSLEY:
Thank you very much, Legislator Gregory. I think that concludes the speakers, the questions. I just have one, if I may, Walter. Thank you for being here today, by the way.

The question on the outfall pipe, is that a function of our inspectors or is that a function of Public Works to oversee? In case there is the leak that may occur some day before we get it fixed. Who looks at that?

MR. HILBERT:
That's actually -- and that facility is operated by DPW, so they would be --

D.P.O. HORSLEY:
So the inspectors aren’t involved with that process?

MR. HILBERT:
We don't have a way --

D.P.O. HORSLEY:
No one's looking out the back door going, "Uh-oh"?

MR. HILBERT:
We don't have a way to inspect the outfall pipe. It's below the Island, below the water, etcetera, so it's a very difficult thing to inspect.

D.P.O. HORSLEY:
I realize that. I just wanted to make sure that all our eyes on it. Okay, thank you very much.

I have -- that concludes the questions as far as my list. We have a motion to table which has precedence, as well as a motion to approve. Roll call on the tabling motion.

(*Roll Called by Ms. Ortiz - Chief Deputy Clerk of the Legislature*)

LEG. GREGORY:
Yes to table.

LEG. ANKER:
Yes.

LEG. SPENCER:
Yes to table.

LEG. D'AMARO:
Yes.

LEG. STERN:
Yes.

LEG. NOWICK:
This is tabling?

**D.P.O. HORSLEY:**
Table.

**LEG. NOWICK:**
No.

**LEG. KENNEDY:**
No.

**LEG. BARRAGA:**
No.

**LEG. CILMI:**
No.

**LEG. MONTANO:**
Yes.

**LEG. CALARCO:**
Yes.

**LEG. HAHN:**
Yes.

**LEG. MURATORE:**
No.

**LEG. BROWNING:**
Yes.

**LEG. SCHNEIDERMAN:**
No to table.

**LEG. ROMAINE:**
Absolutely no. We should vote on this, up or down.

**D.P.O. HORSLEY:**
Yes to table.

**P.O. LINDSAY:**
(Absent).

**MS. ORTIZ:**
Ten.

**D.P.O. HORSLEY:**
The motion passes. It has been tabled.
All right, we're moving along. *Economic Development & Energy:*

Unfortunately I was not there at the committee hearing this last week. I understand, Legislator
Stern, that you chaired the meeting and that all the appointments that are referenced in Economic Development, they all came before the committee.

**LEG. STERN:**
Yes.

**D.P.O. HORSLEY:**
Very good.

All right. **1682-12 - Approving the appointment of Jason McMunn to the Gabreski Airport Conservation and Assessment Committee (County Executive).**

**LEG. SCHNEIDERMAN:**
Motion.

**D.P.O. HORSLEY:**
Motion by Legislator Schneiderman.

**LEG. STERN:**
Second.

**D.P.O. HORSLEY:**
Second by Legislator Stern. All those in favor? Opposed? Abstentions?

**MR. LAUBE:**
Seventeen (Absent: Presiding Officer Lindsay).

**D.P.O. HORSLEY:**
Very good.

**1809-12 - Appointing Grant Hendricks as a member of the Suffolk County Industrial Development Agency (IDA) (Horsley).** I'll make a motion to approve.

**LEG. CILMI:**
Second.

**D.P.O. HORSLEY:**
Seconded by Legislator Cilmi. All those in --

**LEG. MONTANO:**
Question.

**D.P.O. HORSLEY:**
Oh. On the motion.

**LEG. MONTANO:**
Is he here?

**D.P.O. HORSLEY:**
No, he's not, but he was at the committee hearing.

**LEG. MONTANO:**
Okay. You don't want him here?

D.P.O. HORSLEY:
Okay. Any --

LEG. KENNEDY:
Mr. Chair?

D.P.O. HORSLEY:
Yes.

LEG. KENNEDY:
I would ask, you know, having not had the opportunity yet at the committee, to what extent -- first of all, is Mr. Hendricks -- is this a reappointment or is he coming on for the first time?

D.P.O. HORSLEY:
No, it is an appointment. It's not a reappointment.

LEG. KENNEDY:
So he's coming on for the first time. We've seen some quite significant changes in the composition of the Suffolk County IDA and a very clear message, I think, from the County Executive regarding what he -- his vision with the Suffolk County IDA is, which may have been different from the way it's operated in the past. And I'm just curious to what extent -- I know Mr. Hendricks is a significant principal in the construction industry here on Long Island.

D.P.O. HORSLEY:
Yes, he is.

LEG. KENNEDY:
But I'm just wondering to what extent he shared what his view, his vision or his thoughts are about how the IDA would operate and how he would see his role.

D.P.O. HORSLEY:
Ben, would you like to take that one?

MR. ZWIRN:
If we could pass over this? I think Mr. Hendricks is going to be here this afternoon.

D.P.O. HORSLEY:
Oh, he is.

MR. ZWIRN:
So he'll make an appearance.

D.P.O. HORSLEY:
Because I last thought he was instructed that he didn't have to be here, so.

MR. ZWIRN:
I think so, but I think he wanted to be here and he was instructed that he didn't have to be.

D.P.O. HORSLEY:
Right.
So I think he's planning on coming this afternoon. We didn't think this would get -- we would get this far with the agenda that we had today.

D.P.O. HORSLEY:
We're just good at what we do, Ben.

(*Laughter*)

Legislator Romaine.

LEG. ROMAINE:
Yes. This is for Ben. I know Mr. Hendricks, and obviously he has a very good reputation. But aside from that, my understanding of the operation of the Suffolk IDA is it operates in towns that don't have IDAs; is that correct? Or does it operate and compete with Town IDAs? I don't know that answer. And to ask that question, I would need to know how it operates. Do you know if it competes with --

D.P.O. HORSLEY:
I can answer that.

LEG. ROMAINE:
I'm sure you can.

D.P.O. HORSLEY:
Excuse me?

MR. NOLAN:
(Inaudible).

D.P.O. HORSLEY:
Yeah, we're passing this over. The policy of the Suffolk IDA is that they defer to any towns, IDAs that have a particular issue within their community.

LEG. ROMAINE:
I ask that question because in Brookhaven we definitely have an IDA.

D.P.O. HORSLEY:
You definitely have an IDA.

LEG. ROMAINE:
And I hope no contract that we would enter into would commit this County IDA to doing anything that should be done by Brookhaven IDA.

D.P.O. HORSLEY:
Is this a campaign speech?
LEG. ROMAINE:
No, no, no, no.

(*Laughter*)

Some of my colleagues, including Mr. Kennedy on the other side, know the issue I'm raising about this.
D.P.O. HORSLEY:
Okay. I don’t know what you’re referring to, but just --

LEG. ROMAINE:
He’ll raise it later because I can’t speak about it.

D.P.O. HORSLEY:
Okay. Let me just add that if -- the only time the Suffolk IDA generally goes into a community that has an existing IDA is if a company has more than one operation in the County. Sometimes they may have one in say Hauppauge and one in Babylon, so they -- Suffolk would take the issue, and it’s usually an agreement and they usually work together closely.

LEG. KENNEDY:
Mr. Chair, let me just share a little light. As a matter of fact, what Legislator Romaine was inferring but which he can’t speak about is the representation in the sale to the Shermans of the fact that the Suffolk County IDA would, in fact, grant sales tax and property tax abatements to the Shermans. For any of us that have read the contract and have been a part of the discussion for the five or six years that we have, that is brand new. To the best of my knowledge, no nursing home here in the County of Suffolk has that type of accommodation. No representation as an inducement in order to enter contract has ever been made regarding that. And quite frankly, I think it goes to Legislator Romaine’s question as to the interoperability between a town IDA and the County IDA. So I’m certainly going to want to hear from Mr. Hendricks about his views on that issue in particular. Thank you.

D.P.O. HORSLEY:
I’m sure he’d appreciate those askings. All right. We’ll pass over this at this moment and we’ll pick it up later on. And of course you’ll remind me, Counsel.

1820-12 - Authorizing a lease agreement with ELRAC, LLC d/b/a Enterprise Rent-A-Car for use of property at Francis S. Gabreski Airport (County Executive).
Would anyone like to make the motion? Motion by Legislator Stern. Legislator Schneiderman seconds the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Very good.

1821-12 - Amending the 2012 Adopted Capital Budget and Program; accepting and appropriating 100% FEMA and SEMO funds in connection with tower renovations at Francis S. Gabreski Airport (CP 5709)(County Executive).

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman.

LEG. STERN:
Second.
D.P.O. HORSLEY:
Second by Legislator Stern. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

LEG. SCHNEIDERMAN:
Cosponsor.

D.P.O. HORSLEY:
1836-12 - To appoint Paul Allan as a member of the Suffolk County Citizens Advisory Board for the Arts (Browning).

LEG. BROWNING:
Motion.

D.P.O. HORSLEY:
Legislator Browning makes the motion.

LEG. ROMAINE:
Second.

D.P.O. HORSLEY:
Second by Legislator Romaine. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Very good.

Okay, moving to Education & Information Technology:

1778-12 - Accepting and appropriating a grant award amendment from the State University of New York for an Educational Opportunity Program 68% reimbursed by State funds at Suffolk County Community College (County Executive).

LEG. ANKER:
Motion.
LEG. SPENCER:
Motion.

D.P.O. HORSLEY:
Legislator Anker makes the motion. Second by -- who was that; Cilmi was it?

LEG. CILMI:
No.

D.P.O. HORSLEY:
Who was it? I heard it from my left.

LEG. STERN:
D.P.O. HORSLEY:
All the way over there. Okay, Doc Spencer seconds the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1779-12 - Accepting and appropriating a grant award from the State University of New York for a Conversations in the Disciplines Program entitled “Digital Humanities and the Transformation of Scholarship” 53% reimbursed by State funds at Suffolk County Community College (County Executive).

LEG. ANKER:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Anker. Seconded by Legislator Spencer. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
All right, moving to the Discharged Petition:

1807-12 - Authorizing a charge back for the out-of-County tuition (County Executive).

LEG. GREGORY:
Motion.

D.P.O. HORSLEY:
Motion to approve by Legislator Gregory. Do I have a second on the motion?

LEG. ANKER:
(Raised hand).

D.P.O. HORSLEY:
Second by Legislator Anker. Ben, would you like to have comment on this? Are there any other further motions; we're good? Okay.

MR. ZWIRN:
This is the same bill that we -- that was proposed last year and passed the Legislature. This is for the out-of-County tuition. Last year it was passed, the Towns were asked to collect it. There was a meeting of the Association of Town Supervisors that I attended last year and the Supervisors, as long as it was identified as not a town tax, that is a tax that would be collected on behalf of Suffolk County Community College, there was no objection.

There was an objection by Supervisors earlier because, unlike this particular notification with a bill before the Legislature at this time, the towns were notified by the former County Executive's Office on September 19th that this was being passed on to the Towns. And as some people know, the
town budgets have to be submitted by September 30th. So a lot of those budgets that had already been prepared had already -- everything had already been done, and that this sort of left them. The Town of Babylon, for example, had to add -- you know, had to add a line that was, I think, $2.2 million. Because the biggest impact is on the western end towns -- Town of Babylon, Town of Huntington -- because those municipalities are close to the Nassau County line and that's where these students are going, to Nassau County Community College.

So we would ask you to do this. The Towns in the past -- and I was there at that particular meeting and Supervisor Vecchio was there, Supervisor Russell, there was no objection from the Supervisors. Some of the East End Supervisors preferred this as opposed to including it into the General Fund. It's about -- I believe it was about $10 million; and I ask BRO because I haven't got the numbers in front of me -- that would be added to the General Fund if this is not done, and that would be close to a 20% tax increase just in the General Fund if it's not done. It's permitted by law. It was done last year for the first time since, I think, a long, long time ago. But we'd ask you to renew it today. Again, last year it passed 17, with 17 votes, we ask you to do it again so as the budget's being prepared, they can account for this.

LEG. SCHNEIDERMAN:
Can I ask some questions?

D.P.O. HORSLEY:
Okay. Was there someone else? Legislator Cilmi.

LEG. SCHNEIDERMAN:
Wayne?

LEG. CILMI:
Ben, you talked about a tax increase; of what percentage?

MR. ZWIRN:
Well, if this goes back into the General Fund, and I'm asking -- I haven't got the number in front of me, I haven't got the fiscal impact statement. But say it was $10 million, and that money was included in the General Fund, as it would have been last year, I think the General Fund Property Tax is 52, 53, $54 million; you can do the math if you had to add $10 million additional expenses to that.

LEG. CILMI:
Well, is it possible that when the County Executive prepares his operating budget proposal for us, that he could include some sort of a reduction somewhere else to account for this cost that really the Counties face and we're just passing it on as a mandate to the Towns?

MR. ZWIRN:
Well, the problem that -- and I think we all know. I mean, the Budget Review Office made a presentation, that even if, you know, the nursing home is sold, and that's -- you know, that's -- I don't think that's a given, but if that's how the vote goes, you'll still be facing a $179 million shortfall. So to find an additional $10 million on top of that, I think they're going to be looking at ways to save money a lot more than that $10 million.

But I think that's why last year, at the very last minute, it was not included in the County Executive's budget. And the big objection that the Towns had was that, "Look, we've already printed." Some of the towns had already -- the Town of Huntington I think already printed their budget up and had no provision to even account for this. And if I'm not mistaken, I don't even know if this appeared on the Town -- on the tax bills last year because they didn't have time to get it in
because it was done so at a late --

**LEG. CILMI:**
I think there was a difference between what the towns did and didn't do, and that actually caused some confusion. But nevertheless, as has been presented to us, the budget deficit has changed quite a bit over the past couple of months. The projected budget deficit has changed, or the supposed budget deficit has changed. So -- and it's changed by -- not by 10 or $20 million, but literally by hundreds of millions of dollars.

So I would suggest that there may be additional changes when we actually construct the budget that might come from increased sales tax revenue or increased property tax revenue or decreased expenses or what have you, that could help us with this $10 million expense that the Counties are faced with as a result of a New York State law.

So I would suggest we wait until the County Executive proposes his budget and we amend the budget and deal with it that way in the same manner as we did last year. That's just my opinion. Thanks.

**D.P.O. HORSLEY:**
Thank you, Legislator Cilmi. DuWayne -- Legislator Gregory, did you want to be heard?

**LEG. GREGORY:**
Thank you, Mr. Vice-Chair. I think from my understanding, the authorization for last year has expired. To suggest that we may not have a deficit, I don't know where we get that conclusion. We know that we do have a deficit. We maybe have difference of opinions as to what that number is, but I don't think there's any belief that we'll be able to take on any more additional cost. I mean, we're talking about selling the Foley Nursing Home with a deficit of $10 million. There are so many things that -- answers or questions that we have to answer, and to take an additional burden in a climate where we're not able to, you know, meet our obligations to date I think is unrealistic.

I think that, you know, if there's no opposition from the towns, you know, they -- you know, they've accepted this -- you know, us passing this on to them and collecting it at the town level. I think we should authorize it so the County Executive has a clear picture of what he's looking at when he puts his budget together and submits it to us in less than a month. You know, we should move forward. I mean, this is -- to me this is an easy answer. This is get it done, the County Executive put his budget together and without any objection from the towns.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. Legislator Cilmi wants to --

**LEG. CILMI:**
I just wanted to redress. I never said that we didn't have a budget deficit, clearly we do. My point, though, is that this is a responsibility of the counties, which we are, in turn, passing on, with the State's authorization, to the towns.

Now, this County is faced every year with a 220 or so million dollar pen -- sorry, Medicaid cost, because the Federal Government says to the states, "You must pay for 50% of Medicaid costs. But you can, if you so choose, pass some of that cost down to the Counties," and New York State does. And I'm not sure that there's any of us that would, you know, stand behind that decision.

So I'm simply saying that we're doing the same thing here with this out-of-County tuition cost, that's all. I'm not saying we don't have a budget deficit, clearly we do. This is an expense, however, that's -- you know, that we face in the County. And yes, it's easy to push it down to the towns if we
can, but I just don’t think that's the right decision.

**MR. ZWIRN:**
If I may, Mr. Chair?

**D.P.O. HORSLEY:**
Yes, please.

**MR. ZWIRN:**
One of the things that came out at the Association of Supervisors meeting last year, especially the East End, they said, "Look, we don't send many students out-of-County and, therefore, they paid very little, if they paid anything at all." The towns that have the greatest number of students going to Nassau Community College are the towns that are picking up the greatest number of costs. They're paying for their students that live in their towns to go to Nassau Community College. Some of the towns on the East End said, "Look, we don't think that's" -- you know, "Let the Town of Babylon, Town of Huntington, the West End towns pay for their students to go and we'll pay for our students to go." So they thought this would be some relief for them, because they were subsidizing, you know, students from the West End going to Nassau Community College.

I think, you know, one of the things we may be able to do next year is to work on maybe some legislation to propose to the State maybe to claw back some of this. Because I think that ultimately is where the answer is, although there might not be the political will to do that.

**LEG. CILMI:**
Well, I agree with you. And I would suggest that the East End towns, then, should join those of us in an effort to eliminate this unfunded mandate that we have from New York State.

**MR. ZWIRN:**
Well, that's --

**LEG. CILMI:**
You know, counties that have community colleges should not be forced to subsidize students that attend other community colleges. We have a wonderful community college right here in Suffolk County, and there's no reason that we should fund education for kids that choose to go to other -- or students, not necessarily kids, that choose to go to other community colleges. So I would invite the East End towns to join with us in that debate, and maybe we can get this thing taken care of once and for all.

**MR. ZWIRN:**
I think going next year when we go with a, you know, State agenda, I would be willing to work with you or members of IR would certainly be willing to work with you to propose legislation like that to try to get that done. That would be something I think everybody would support, including the community college.

**D.P.O. HORSLEY:**
Legislator Kennedy.

**LEG. KENNEDY:**
Ben, I -- you know, Legislator Cilmi, to his credit, has really taken point on this. And I was going to ask, I think I can surmise from what you're talking about as far as a recommendation for next year.

As we stand right now today, the same set of factors that are in place that kind of brought this to
light, which is our responsibility here on a local level to pay not just for the Associate's Degree, but as well as the Bachelor's and the Masters at FIT? There's been no relief on that whatsoever?

MR. ZWIRN:
Well, I think -- I don't think we have -- it still has not been resolved. I don't think the State has made any move yet --

LEG. KENNEDY:
Let me --
MR. ZWIRN:
-- to try to collect those funds.

LEG. KENNEDY:
So the --

MR. ZWIRN:
That the Comptroller has been directed to withhold with Senator -- with Legislator Cilmi's legislation that passed this body.

LEG. KENNEDY:
All right. Then let me just shift gears to the other side, because all of us are always concerned, to what extent our Town Supervisors have an opportunity to weigh in on the acts that we take. The Supervisors meeting that you were referencing, I'm sorry, I didn't catch when it was that you had said. This relates to last year or has there been discussion more recently.

MR. ZWIRN:
We have called through the Supervisors' offices and have not gotten any negative comments.

With respect to the Supervisor from your town --

LEG. KENNEDY:
Yeah.

MR. ZWIRN:
As long as it was identified, he had no problem with this going on the Town tax bill, as long as it was clear to the people who lived in the Town of Smithtown.

LEG. KENNEDY:
Yeah, we had a lot of discussion last year, as a matter of fact. And I had constituents who called concerned that this was an aberration. I'm a little concerned that now it appears that we're starting to institutionalize it, but towards the end of trying now to see if we can get the resolution we need at a State level to get some equity.

MR. ZWIRN:
In the legislation that's before you today, there is language that recognizes that this only is in effect until we come up with a new County policy, and that would be -- hopefully, if we can get some State legislation to try to give us some relief. But until that time, it's going to be paid. And as I said, the Town Supervisor said as long as it's not, you know, somebody is going to say we've raised town taxes to cover this, we're okay. It's similar to what we did with the MTA tax.

LEG. KENNEDY:
Yes.
MR. ZWIRN:
We understood. We made it a separate line so people understand, we're collecting it but we didn't charge it.

LEG. KENNEDY:
Well, my point is, so they've had ample opportunity, there's no element of surprise, they know this is coming.

MR. ZWIRN:
It's not coming on September 19th, it's coming two weeks before their budgets are due.

LEG. KENNEDY:
All right. Thank you. Thank you.

D.P.O. HORSLEY:
All righty. Thank you very much. Legislator Barraga.

LEG. BARRAGA:
Ben, you talked about maybe taking a look at State legislation next year to maybe change things a little bit, and philosophically I think that's a good idea. Because I don't know what the original intent of the subsidization was. I mean, certainly, when I take a look at Babylon or Huntington, a large number of those students go to Nassau Community College, I guess logistically it's a lot easier to get there than go to the different campuses in Suffolk that the Community College has. But I can see where a County has an obligation to subsidize a student when that County doesn't offer the educational program that that student is seeking. I mean, if he wants an Associate's Degree in Business and Suffolk offers it and he winds up going to Nassau Community College to get the same degree, I don't think we should subsidize that.

The only subsidization should happen when someone comes along and says, "You know, I want an Associate's Degree. Only Nassau offers this, Suffolk doesn't"; all right, I understand that. But this mass migration to community colleges to take Associate Degrees that we offer in Suffolk County is unacceptable. And you have to -- if you change that, then this whole deficit question, money question, dissipates dramatically.

MR. ZWIRN:
And that money comes back into Suffolk County as well.

LEG. BARRAGA:
Yes.

MR. ZWIRN:
Which would be helpful. That's why the Community College would be very supportive of this. I don't -- I agree with you, I was hoping maybe you could lend some light as to how this got passed in the first place, but I don't know.

LEG. BARRAGA:
I'm old, but not that old.

(*Laughter*)

D.P.O. HORSLEY:
Legislator D'Amaro.
LEG. D'AMARO:  
I had more of a budget question for the Budget Office. Dr. Lipp, maybe you can help me with this. But when we say the subsidy going out from Suffolk County, that's the -- Suffolk County picking up the difference between what is, in effect, our resident rate and the non-resident rate of the other County; is that what we're talking about?

MR. LIPP:  
Basically, yes.

LEG. D'AMARO:  
Yeah. And so when Suffolk County pays out, those funds come from the County General Fund, or from the college fund?

MR. LIPP:  
It's a County expense, so it comes from the General Fund.

LEG. D'AMARO:  
The General Fund.

MR. LIPP:  
Yes, up until this year.

LEG. D'AMARO:  
When Suffolk County receives out-of-County tuition from a non-resident's County, where does that fund go?

MR. LIPP:  
That goes to the college.

LEG. D'AMARO:  
It goes to the college.

MR. LIPP:  
Right. It's a revenue in the college budget. The cost is an expense in our budget. That's how the State Law reads.

LEG. D'AMARO:  
So how much revenue comes into Suffolk County Community College?

MR. LIPP:  
I'm not sure, but it's pretty small, de minimus.

LEG. CILMI:  
Through the Chair, I believe it's less than a million dollars, Legislator D'Amaro.

LEG. D'AMARO:  
Well, let me ask this. Who sets the out-of-County resident -- the non-resident, excuse me, tuition rate?

MR. LIPP:  
The State makes the determination, based upon what the costs are for each of the Community Colleges around the State.
LEG. D'AMARO:
The State sets the rate.

MR. LIPP:
Yes. And we have such a high number because we have a very high population.

LEG. D'AMARO:
You mean if you're a non-resident and want to go to Suffolk Community College, it's generally, relatively speaking, a higher tuition than --

MR. LIPP:
Well, there aren't too many people that come from -- off of Suffolk to Suffolk Community College, obviously witnessed by the fact that it's less than a million dollars that the College receives.

LEG. D'AMARO:
Okay. But whatever does come in goes to the College itself.

MR. LIPP:
Exactly.

LEG. D'AMARO:
Okay. Thank you.

D.P.O. HORSLEY:
All right. Legislator Schneiderman.

LEG. SCHNEIDERMAN:
Thank you. First to Legislator Barraga. I thought you raised a really interesting point, and it would be worth maybe bringing the College in at some point to maybe do some analysis of why so many are going out-of-County. Maybe we can add some programs, maybe even bring some people from Nassau to Suffolk and reverse this trend by just changing some of our program and offerings. I think that's -- it's worth studying. We're not right now making this thing go away. And I think the whole concept is a bad concept. I'd love to see the whole thing wiped out, but the fact is we're going to be paying this bill.

Legislator Kennedy brought up FIT, and this bill does have specific language so we're not passing down the third and fourth year at FIT. But ultimately, we're going to be paying the bill, somebody -- the residents of Suffolk County, whether it's in the County tax bill or the Town tax bill, are paying for it. As Mr. Zwirn said, it is a little fairer this way. The more kids you send to Nassau or FIT, the less -- the more you're going to pay as a proportion.

I don't think we can reverse this at this point, because the amount of money we'd have to make up we just couldn't possibly do. So I did have a question, though, for Mr. Zwirn, because in my tax bill, which is your tax bill in East Hampton as well, it didn't show up on the town line, it showed up on the County line. And breaking it out like we did with the MTA tax, I think it lets the taxpayer know, it's not something that we created, it's not something we have any control over. Here it is, this is what this mandate has caused and it's -- in our tax bill, it's a very small number. But how come in East Hampton it was on the County portion of the tax bill and the other areas it was in the town portion?

MR. ZWIRN:
I'm not sure it even appeared on all the town bills, because it happened so late. I'm not sure.
LEG. SCHNEIDERMAN:
And I don't want -- you know, if every town it appeared on the County portion, I don't have an objection to that either, as long as it's its own line.

MR. ZWIRN:
Yeah, as long as it's identified. And that was the concern that the Town Supervisors had --

LEG. SCHNEIDERMAN:
In which case it wouldn't be passing it down to the town. It would be keeping it in the County but on its own line.

MR. ZWIRN:
I understand.

MR. LIPP:
And to me, that's actually the best solution, if that could be worked on. Point of information on that. That would be difficult to do, because if it was kept on the County line, then we would bump up against the 2% State property tax cap, which is on all County taxes. So if we're calling that a County tax, then it effects in terms of how much we could raise.

LEG. SCHNEIDERMAN:
Robert, did it affect the town's 2% cap?

MR. LIPP:
Yes. I don't know about any individual town, if it actually created a problem for them or not. But the reason why we put it on the town portion of the bill this past year was we would have had problems with the 2% State property tax cap.

LEG. SCHNEIDERMAN:
Robert, if it went back let's say to the County piece, could it -- would the apportionment change again so that it would be basically everybody across the County picking up their fare based on assessment rather than how many kids --

MR. LIPP:
Right. Up until this past year, the way it was done is as you're saying.

LEG. SCHNEIDERMAN:
I wouldn't object either way. But I like the idea of it having its own tax line, whether it be County or town.

D.P.O. HORSLEY:
Okay, we're going to try to move this along. Legislator Anker and then -- because we've got some Judge candidates that are here, we wanted to get them through prior to lunch. Okay?

LEG. ANKER:
The question was why do people seem to go towards Nassau Community College and I think it was the location. I sit on the Higher Education Chair and we discussed that with Community College staff and that seems to be the main reason.

Now, what you're going to see, I'm hoping, if I can look in a crystal ball briefly, is that the money that we've invested in Capital Projects for Suffolk Community College is going to bring in more students, it's going to focus on a specific type of major and it's going to, you know, increase, hopefully, the student population. You've got the Life Science Building that's going to be constructed
soon, you've got the Workforce Development Center. So again, these issues or projects that we've been working on with the Community College, in support with the Legislature and the County Executive, hopefully will bring in more students from out-of-County.

D.P.O. HORSLEY:
Very good. Again, I think that we've all come up with some -- I think we're in a general consensus in that we've got to deal with this issue next year.

But with that being the case, I think we only have a motion to approve? Are we all set? All those for? Against?

LEG. MURATORE:
Against.

LEG. CILMI:
Against.

D.P.O. HORSLEY:
Abstentions?

MR. LAUBE:
Fifteen (VOTE: Opposed: Legislators Muratore & Cilmi - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
The motion is approved.

All right, what we're going to do now, I believe Legislator Montano has a motion to be made on taking several IR's out of order.

LEG. MONTANO:
Yes, thank you. We have two of the appointments to the District Court Bench that are here now. I'd like to take IR 1831 out of order, that's confirming the appointment of Karen Kerr as District Court Judge for and of the Third District to fill a vacancy.

LEG. CALARCO:
Second.

LEG. MONTANO:
Second by Legislator Calarco.

D.P.O. HORSLEY:
Okay. We have a motion to take 1831 out of order. May I have a second on the motion?

LEG. CALARCO:
Calarco.

D.P.O. HORSLEY:
Legislator Calarco seconds the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
We are -- it is now being taken out of order.

LEG. MONTANO:
Would someone -- you want to make a motion?

D.P.O. HORSLEY:
Okay. May I have a motion?

LEG. STERN:
It's my pleasure to make the motion to approve.

LEG. SPENCER:
Motion to approve.

D.P.O. HORSLEY:
Okay, we have Legislator Stern who has made a motion to --

LEG. MONTANO:
I'll second it.

D.P.O. HORSLEY:
-- approve. And seconded by Legislator Montano. By the way, so we're all up-to-speed here, this is 1831-12 - Confirming the appointment of Karen Kerr as District Court Judge for and of the Third District to fill a vacancy (County Executive).

D.P.O. HORSLEY:
Good morning, or afternoon.

MS. KERR:
Good morning. Afternoon, actually.

D.P.O. HORSLEY:
Yeah, that's a good start. There we go. Would you like to make a quick statement, or would you like the questions first?

MS. KERR:
Whichever you prefer.

D.P.O. HORSLEY:
How about you make a quick statement. Who are you, Karen? And it's good to see you, though.

MS. KERR:
As you stated, my name is Karen Kerr. I've been a practicing attorney in Nassau and Suffolk County for the past 23 years. I spent the majority of my career in the Nassau County District Attorney's Office where I prosecuted cases from the District Court level up into the major felony offenses as well.

My last few years in the DA's Office was spent in the Narcotics and Gang Bureau. I left the office approximately seven years ago. My practice -- to become a solo practitioner, and my practice has concentrated on criminal defense. I was also appointed about five years ago to be the Village Prosecutor for Northport Village. And on a personal level, I am married to the same man for the past 23 years as well, and I have two daughters, twins, 15-years old.

D.P.O. HORSLEY:
Very good. Thank you very much. Are there any questions of Ms. Kerr?

**LEG. SPENCER:**
Yes.

**D.P.O. HORSLEY:**
Yes. Doctor Spencer.

**LEG. SPENCER:**
Thank you, Judge Kerr. I appreciate you coming forward. Well, soon to be Judge Kerr, hopefully.

I actually just wanted to make just a brief, I guess, character reference. I am personally familiar with Karen. She’s someone that’s very active in our community, she’s active in the Village of Northport where, for a number of years, she’s someone that has come to represent integrity. She’s someone that I’ve seen her just get involved. Our -- she’s a personal friend, and I’ve never seen anyone have a negative thing to say about her with regards to her ethics and getting involved. So I’d recommend her to my colleagues without hesitation.

**D.P.O. HORSLEY:**
Thank you very much. High praise. Legislator Stern.

**LEG. STERN:**
Thank you, Mr. Chairman. And welcome. Good to see you. Let me echo the comments of Legislator Spencer. Karen enjoys an outstanding reputation in our community; not just in our community, but particularly within the legal community as well. She’ll make a fine addition to the bench.

**D.P.O. HORSLEY:**
Thank you very much. Everybody good? Anything you’d like to add, Ms. Kerr?

**MS. KERR:**
I just want to thank everybody for giving us this -- giving me this opportunity and fitting us in to your schedule. I know that you’re very busy and it’s a big calendar you’re dealing with today and I appreciate your time.

**D.P.O. HORSLEY:**
Thank you very much, we appreciate that. Okay, we have a motion to approve. All those in favor? Opposed? Abstentions? It is passed.

**MR. LAUBE:**
Seventeen (Absent: Presiding Officer Lindsay).

**D.P.O. HORSLEY:**
Congratulations, Judge.

*Applause*

**MS. KERR:**
Thank you.

**D.P.O. HORSLEY:**
Okay. Legislator Montano for a motion.

**LEG. MONTANO:**
Yes. I'd like to make the same motion. IR 1832, confirming the appointment of Adam Halpern as District Court Judge for and of the Fourth District to fill a vacancy. And I believe that is in the Town of Smithtown; am I correct?

**D.P.O. HORSLEY:**
Okay. We have a motion to --

**LEG. MONTANO:**
To take it out of order.

**D.P.O. HORSLEY:**
That's a motion to take it out of order. Is there a second on the motion?

**LEG. CALARCO:**
Second.

**D.P.O. HORSLEY:**
Legislator Calarco seconds the motion. All those in favor? Opposed? Abstentions?

**MR. LAUBE:**
Seventeen (Absent: Presiding Officer Lindsay).

**D.P.O. HORSLEY:**
It is now taken out of order. 1832-12, this is to confirm the appointment of Adam S. Halpern as District Court Judge for and of the Fourth District to fill a vacancy (County Executive). Now I'll be taking motions to -- on the --

**LEG. MONTANO:**
I'll make the motion.

**LEG. CALARCO:**
Second.

**D.P.O. HORSLEY:**
Motion by Legislator Montano.

**LEG. CALARCO:**
Second.

**D.P.O. HORSLEY:**
Seconded by Legislator Calarco.

**LEG. KENNEDY:**
On the motion.

**D.P.O. HORSLEY:**
On the motion.

**LEG. KENNEDY:**
Mr. Chair, and Mr. Halpern, soon-to-be Judge Halpern, thank you for being before us again. You
were in front of us in Ways & Means and you related to us your experience as an attorney. You indicated to us you’ve attended fine schools. As a matter of fact, we shared the conversation that, like you, I am a SUNY Grad and a St. John’s Grad as well. So you come to us with an excellent background, great experience in the courts. But you also come to us in something that is a bit of -- well, I don’t know if I want to call it an oddity, but it is what it is, it’s a political process. And so as we had discussed in Ways & Means, you have the Democratic nomination and that only for the position of Judge out of the Town of Smithtown, the Fourth District Court; that's correct?

MR. HALPERN:
That's true, yes.

LEG. KENNEDY:
Okay. So here we are and we are now presented with you before us for the purpose of serving out the balance of Judge Toumey's term. I know Jack personally. I was thrilled to see when he went up to County Court, I campaigned for him in many areas throughout my district, and this is the process that we have. But I will -- having said all of that about you, I will not be able to vote for you today because you come to us solely and exclusively from that political process. And as they say, the leopard can’t change its stripes; I'm a Republican. So I wish you the best of luck, but I won’t be supporting you today.

D.P.O. HORSLEY:
Thank you, Mr. Kennedy. Legislator Nowick.

LEG. NOWICK:
And I, too -- I just think it's only fair to say to you, it's not that I disrespect you in any way. I was just concerned at the fact that -- and this is probably what Legislator Kennedy was trying to also say. The petitions that were signed, your name was not on the petitions; was that right?

MR. HALPERN:
I believe I'm a party designee.

LEG. NOWICK:
No, I know. But were there petitions signed with your name on it, or did the person on the petitions drop out of the race and then your name was put in; is that how it worked?

MR. HALPERN:
Something to that effect, yes.

LEG. NOWICK:
Okay. And again, I just didn't want you to think -- there's no way -- I know you're qualified, there's no way, so I'm just -- I'm not voting against you, I'm just abstaining.

MR. HALPERN:
I understand your position. I respect it as well.

D.P.O. HORSLEY:
Okay. Are there any further questions? Legislator D'Amaro.

LEG. D'AMARO:
I just want you to know that I’m going to support you here today, not based on your party enrollment, but based on your qualification, which I believe is the only analysis that we should be making here today.
MR. HALPERN:
Thank you very much. I appreciate that.

D.P.O. HORSLEY:
Well put, Mr. D'Amaro. Okay. Are we good? Okay. Was there anything else you'd like to add?

MR. HALPERN:
I would just like to thank the Legislature for hearing this matter today, taking it out of order. And for those -- well, I understand the role of Judge and I intend to act as a Judge with great honor and with commitment and to work very hard doing such. And again, thank you so much for hearing this this morning.

D.P.O. HORSLEY:
Well said. Okay. We have a motion to approve; is that correct?

LEG. MONTANO:
Correct.

D.P.O. HORSLEY:
Okay. All those in favor? Opposed? Abstentions?

LEG. KENNEDY:
Opposed.

LEG. CILMI:
Opposed.

LEG. BARRAGA:
Opposed.

LEG. NOWICK:
Abstain.

LEG. ROMAINE:
Opposed.

LEG. MURATORE:
Opposed.

D.P.O. HORSLEY:
Abstentions? Is it close?

LEG. MONTANO:
No, we're good.

D.P.O. HORSLEY:
We're good, I think. You got it?

LEG. MONTANO:
Congratulations.

D.P.O. HORSLEY:
Ten, right?
MR. LAUBE:  
Yeah, just hold on.

D.P.O. HORSLEY:  
Eleven, we've got an abstention there, too. Drum roll.

MR. LAUBE:  
I have twelve; unless I'm missing somebody, then it's eleven.

D.P.O. HORSLEY:  
Sounds good. Congratulations, Judge.

Applause

MR. HALPERN:  
Thank you very much.

MR. LAUBE:  
Eleven (Opposed: Legislators Romaine, Muratore, Barraga, Cilmi & Kennedy - Abstention: Legislator Nowick - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:  
All right. We've got two more minutes, and I've got one more I'd like to squeeze in there, if it's possible.

Okay. On page seven, 1749-12, second from the bottom, To appoint member of County Planning Commission (Michael Kaufman)(County Executive). I'll take a motion to take it out of order.

LEG. KENNEDY:  
Second.

D.P.O. HORSLEY:  
Seconded by Legislator Kennedy. Okay? All those in favor? Opposed? Abstentions? It is now taken out of order. Do we all see where we are; 1749? We're good?

LEG. MONTANO:  
What page is that?

D.P.O. HORSLEY:  
Okay. We got it? We're good?

MR. LAUBE:  
Yes, we got it.

D.P.O. HORSLEY:  
All right. Mr. Kaufman, come on up.

MR. LAUBE:  
Seventeen on that last vote (to take it out of order).

D.P.O. HORSLEY:  

Thank you. Okay, who wants to make the motion to approve?

LEG. NOWICK:
Motion.

D.P.O. HORSLEY:
Legislator Nowick makes the motion to approve. Is there a second?

LEG. KENNEDY:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Kennedy. Okay, we have a motion to approve. Any others? We're good? Okay. Mr. Kaufman, welcome.

MR. KAUFMAN:
Thank you.

D.P.O. HORSLEY:
And certainly I think we all know of you and your history and how much you've done for this County and we appreciate your service. Are there any -- first of all, would you like to make a quick statement, very quick?

MR. KAUFMAN:
I know you guys want to get to lunch, so I'll hold off on it.

D.P.O. HORSLEY:
You're a good politician. Any questions of Mr. Kaufman? We're good. Okay, let's call the vote. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
You've been approved. Congratulations.

LEG. KENNEDY:
Cosponsor.

LEG. NOWICK:
Cosponsor.

D.P.O. HORSLEY:
There you go. We'll be recessed for lunch, 2:30.

(*The meeting was recessed at 12:28 P.M. and resumed at 2:30 P.M.*)

D.P.O. HORSLEY:
Will all Legislators please come to the horseshoe. Again, would all Legislators please come to the horseshoe. We're about to begin. Mr. Clerk, I understand that if I say, "Let's call the roll," they'll all be here. Let's call the roll.
(Roll Called by Mr. Laube, Clerk of the Legislature)

LEG. ROMAINE:
(Not Present)

LEG. SCHNEIDERMAN:
(Not Present)

LEG. BROWNING:
Here.

LEG. MURATORE:
(Not Present)

LEG. HAHN:
(Not Present)

LEG. ANKER:
Here.

LEG. CALARCO:
Present.

LEG. MONTANO:
(Not Present)

LEG. CILMI:
Here.

LEG. BARRAGA:
Here.

LEG. KENNEDY:
Here.

LEG. NOWICK:
Here.

LEG. GREGORY:
Here.

LEG. STERN:
Here.

LEG. D'AMARO:
Here.

LEG. SPENCER:
Here.

D.P.O. HORSLEY:
Here.
P.O. LINDSAY:
(Not Present)

LEG. MONTANO:
Montano.

MR. LAUBE:
Also, Montano. Thirteen. (Not Present at Roll Call: Legs. Romaine, Schneiderman, Muratore, Hahn/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
All right. Good afternoon, everybody, and we will be proceeding with the meeting, and we're going to be doing our public hearings, which we might as well get right into it and proceed.

I.R. 1341 - A Local Law to amend the Prompt Payment Policy for all not-for-profit contract agencies (Co. Exec.). I have no cards. Would anyone like to be heard on 1341? Would anyone like to be heard on 1341? This is the County Executive's. Are they interested in closing it? All right.

LEG. CALARCO:
Motion to recess.

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Motion to recess by Legislator Calarco, seconded by Legislator Cilmi. Any other motions on the floor? Okay. If not, all those in favor? Opposed? Abstentions? It has been recessed.

MR. LAUBE:
Eleven. (Not Present: Legs. Romaine, Schneiderman, Browning, Muratore, Hahn, Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
1489 - A local law to improve the safety of vehicles used by Child Care Providers that contract with the County "Look Before You Leave Our Children Act."

LEG. STERN:
Motion to recess.

D.P.O. HORSLEY:
Motion to recess by Legislator Stern. Do I have a second on the motion?

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Second on the motion by Legislator Cilmi. All those in favor? Opposed? Abstentions? It has been recessed.

MR. LAUBE:
Eleven. (Not Present: Legs. Romaine, Schneiderman, Muratore, Hahn/Absent: P.O. Lindsay)
D.P.O. HORSLEY:
1522 - A Local Law to enhance provisions for enforcement of certain Consumer Protection Laws (Co. Exec.).

LEG. CALARCO:
Motion to recess.

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Motion to recess.

MR. NOLAN:
See if there's any speakers.

D.P.O. HORSLEY:
Oh, yes, we do have to ask if anyone would like to be heard on this. Would anyone like to be heard on this? 1522. Would anyone like to be heard on 1522? Okay. We have a motion by Legislator Calarco, second by Legislator Cilmi to recess. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fourteen. (Not Present: Legs. Schneiderman, Muratore and Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
1577 - A Local Law to require public notification of sewage contamination in Suffolk County (Romaine). I do not have any cards on this. Would anyone like to be heard on 1577? 15 -- yes, please, Ms. Johnson.

MS. JOHNSON:
Thank you. I have a brief comment, which is that I think this is the beginning of a good process. We have had sewer plants that have been out of compliance with the drinking water standards 80% of the time, and not by a little bit, by almost 40%. So notification of sewer contamination is an important thing for the community to be aware of and to know, and to make reasonable decisions about how they want to move forward. Thank you very much.

D.P.O. HORSLEY:
Thank you. Would anyone else like to be heard on this? Would anyone else like to be heard on this? All right. That being the case, Legislator Romaine?

LEG. ROMAINE:
Motion to close.

D.P.O. HORSLEY:
Motion to close.

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Cilmi. All those in favor? Opposed? Abstentions? It has been closed.
MR. LAUBE:
Fourteen. (Not Present: Legs. Schneiderman, Muratore and Montano/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
I.R. 1695 - A Local Law authorizing the County Executive to execute agreements for the sale of vacant land at Yaphank County Center, Phase II - Budget Mitigation (Co. Exec.). I have a number of cards here, and I'll start to go through them now. All right. The first speaker is Judith White. Judy? There she is. Again -- hey, Judy.

MS. WHITE:
Yes.

D.P.O. HORSLEY:
Would you -- I know that you are just a good sport. It has been brought to my attention that we do have an Assemblyman here that is -- would you defer to -- for one person to --

MS. WHITE:
My pleasure.

D.P.O. HORSLEY:
And -- because you may have a lot of questions asked you. It's always good to see you.

ASSEMBLYMAN MURRAY:
Thank you.

D.P.O. HORSLEY:
And thank you for being here.

ASSEMBLYMAN MURRAY:
Good to see you, too. And I will apologize ahead of time. I understand it's a three-minute time limit. I have a little statement to read that might run a little bit longer.

MR. Little:
Five minutes.

ASSEMBLYMAN MURRAY:
It's five minutes, okay. Thank you very much.

D.P.O. HORSLEY:
It is three minutes.

ASSEMBLYMAN MURRAY:
I think I'm using it up right now, aren't I?

D.P.O. HORSLEY:
Don't worry about it. We're -- Tom Cilmi's got your back, so --

ASSEMBLYMAN MURRAY:
I know. I'll read this statement. Good afternoon, Legislator Horsley, and the rest of the esteemed Members of the Legislature. I thank you for allowing me to share my thoughts on this important issue today.
With recent headlines about Suffolk County’s dire financial problems and the decision to have today’s hearing about the sale of this parcel to a particular bidder, it’s clear that the debate is not whether this land will be sold, but when and to whom. That being said, clearly, any discussion regarding the purchase and development of this previously undeveloped surplus land needs to address environmental concerns and the impact any development will have on residents living in this community.

Considering the fact that the land that is being discussed has been declared surplus by this very Legislative Body, is zoned industrial, and sits in an otherwise industrial surrounding, the proposal to sell this land to the Brookhaven Rail Terminal seems to be an ideal fit. In fact, its close proximity to an existing industrial park could serve as a major enticement to attract new businesses to the area. Once again, that would mean more revenue and more jobs. Now, during these tough economic times, we cannot afford to stand in the way of job creators.

I've spent the last couple of years in Albany working with Governor Cuomo and my colleagues in the Assembly and the Senate to make New York a more business-friendly state. We want to send a message to the rest of the country, the rest of the world that New York is open for business. We'd like to work with our partners in local government to make it happen, and this seems to be a perfect opportunity to do just that.

When businesses succeed, they generate more taxable revenue, provide more product or service, and, most importantly, they generate jobs. While many in the community originally had serious concerns about the rail spur, as time has gone by, most of these fears have, thankfully, not materialized. And while there are still legitimate concerns about dust, landscape and buffer replacement there, it is still an active construction site. Now, the principals have promised to address these concerns by the end of year, and I, as well as many other officials in public office, will make sure that they make good on this obligation.

If this operation is going to expand into this new parcel, however, we need to make sure its impact on the residents who have lived in this community for generations, as well as the greater Carmen's River watershed, are negligible. Any development in this area needs to have a minimal impact on groundwater. Refrigerator storage facilities for food and other warehousing for rail goods are not only desperately needed by businesses seeking to come to Long Island, but they also pose no danger of toxic spills. Now, any plans for storage of materials dangerous to our environment and watershed should not be allowed.

Intensive residential development would also have a major impact on the environment, tax base, schools and the quality of life here, and have been resoundingly rejected by the community. For those reasons, this, too, should be rejected. Any development here should also be required to connect to the Suffolk waste water treatment plants, ensuring that any water spilling into the ground would be treated and cleaned. Can I continue?

D.P.O. HORSLEY:
Go ahead.

ASSEMBLYMAN MURRAY:
I appreciate it. Finally, because this project will ultimately impact the Yaphank community and the environment there, the sale of this property should benefit both. The County should set aside a percentage of the proceeds from the sale of this land and dedicate it to pay for the long overdue and much needed dredging of the upper and lower lakes. The studies that have been completed, the plan is in place. All that's missing for this is the funding. By doing this, the project will not only have a positive economic impact on the community, but also a positive impact on the environment
and the quality of life in Yaphank as well.

Setting aside a small portion of the proceeds of what is essentially found money to finally take the steps necessary to save the Yaphank lakes is not too much to ask. These lakes serve as the very centerpiece of the Yaphank community, and desperately need dredging. For years officials on all levels of government have struggled to fund the revenue to do what's necessary to save the lakes. I believe this is a perfect opportunity to finally get it done.

Now, in closing, the sale of this property will be one more step in helping to fix the financial crisis this County finds itself in. New York State has also taken several steps to deliver help and relief for Suffolk County. Just this year alone, we delivered a Medicaid Relief Plan that will have the State take over the growth in Medicaid costs and assume the local administrative responsibilities, which will save our counties and New York City 1.2 billion dollars, that's billion with a "B" over the next five years.

Just last week the Governor signed into law legislation that I cosponsored that allows the County to establish a Traffic Violations Bureau. That will reduce the burden on our courts and generate roughly 11 million annually to the County. And legislation was also just signed into law that will allow Suffolk County to regulate its taxis, limousines and livery vehicles, which will generate an estimated $340,000 a year in revenue.

Now, by moving forward with this deal with the suggestions I've offered today, we'll be taking steps to balance Suffolk's books, protect and improve the quality of life for our residents in Yaphank, protect our environment, dredge our lakes, and once again join in New York's ongoing efforts to let the world know that New York is, in fact, open for business. I thank you for your time.

D.P.O. HORSLEY:
Thank you very much, Mr. Murray. We have a question for you. But let me just add that Suffolk is always looking to work and partner with New York. When you're looking at those lakes, you know who to talk to, we're here.

ASSEMBLYMAN MURRAY:
Absolutely.

D.P.O. HORSLEY:
Okay. There you go. Legislator Browning.

LEG. BROWNING:
Hello. How are you?

ASSEMBLYMAN MURRAY:
Good.

LEG. BROWNING:
First of all, I'd like to say congratulations. I heard you just got engaged.

ASSEMBLYMAN MURRAY:
Thank you very much; very excited.

(*Applause*)

LEG. BROWNING:
But -- absolutely.
ASSEMBLYMAN MURRAY:
I believe she may be well-known here.

LEG. BROWNING:
News travels fast.

ASSEMBLYMAN MURRAY:
Right.

LEG. BROWNING:
But, anyway, you know, I know that there has been some controversy in Yaphank, and Yaphank being in my district, we share the community. And as an elected official, I think you would agree that process needs to be done.

ASSEMBLYMAN MURRAY:
Sure.

LEG. BROWNING:
And I'm just curious if you think that accepting one appraisal, having one appraisal done is acceptable? And, also, a direct sale rather than doing an RFP; do you agree that there should have been an RFP process, and that, you know, there should have been more than one appraisal done?

ASSEMBLYMAN MURRAY:
Oh, I believe when you're talking about the process of moving forward, I believe that's this Legislature's bailiwick, so I believe that's a question you should ask your colleagues here and see if they agree.

LEG. BROWNING:
Yeah. But, as an elected official on the State level, wouldn't you agree that that was something -- if this was State property, that you would want to see that done, too?

ASSEMBLYMAN MURRAY:
Again, I'm not going to change the process in which you guys do that. If that's how you go through the process when you have surplus property and you want to sell the land, that's your process and your decision on how to do it. I would make recommendations, as I said in my statement, as to, once you do make the sale, setting aside some proceeds, putting that and dedicating it to cleaning up the lakes. I think that's a win-win all the way around.

LEG. BROWNING:
Actually, the lakes is a Town project.

ASSEMBLYMAN MURRAY:
What's that?

LEG. BROWNING:
The lakes are a Town project.

ASSEMBLYMAN MURRAY:
It's actually a combination.

LEG. BROWNING:
GM 8/21/12

Very little of it is County property, so -- but, no. Just as an elected official and somebody who is in government, that you would want to see proper process. And I think the RFP and more than one appraisal would have been appropriate, and that's what I'm advocating for.

ASSEMBLYMAN MURRAY:
And, again, I'll defer to your Legislature here as to how you go about the process in selling it.

D.P.O. HORSLEY:
Well parried.

(*Laughter*)

LEG. BROWNING:
Noncommittal.

D.P.O. HORSLEY:
Are there any further questions of the Assemblyman? Assemblyman, thank you very much for coming down here today.

ASSEMBLYMAN MURRAY:
Thank you very much. Thanks.

D.P.O. HORSLEY:
Okay. I'm going to call back Judy White, who left us with a poster, and now she can talk about it. Again Judy, three minutes.

MS. WHITE:
Thank you, Legislator Horsley. Actually, I am hoping to be shorter than three minutes. I'm here today representing Brookhaven Rail Terminal. We have with us today Jim Pratt, who is one of the officers of Brookhaven Rail Terminal, and Dan Miller, who is the Chief Financial Officer of Oakland Transportation. They both have statements that they will make after I am finished. I did have a board which had an outline of the land that --

D.P.O. HORSLEY:
We have it up here.

MS. WHITE:
Thank you. So that you can see what it is that we're talking about. I have been authorized today just to very quickly read into the record two letters of support, one from the Long Island Forum for technology, which we have been very happy to work with at Brookhaven Rail Terminal.

"The Long Island Forum for Technology supports 1695. Brookhaven Rail Terminal is Long Island's first multi-modal rail freight facility, providing rail-based shipping and logistic services to one of the largest consumer markets in the U.S. The recognition that creating a multi-modal rail facility on Long Island is critical for Long Island's sustainable growth, and preservation of highway and bridge assets has been reiterated in myriad public reports and studies published over the last decade. As the first such multi-modal rail facility on Long Island, BRT is highly supportive of the Long Island Regional Council vision statement statement. Implementation of BRT's development plan will substantially reduce the significant impediment to Long Island's future growth and quality of life that truck traffic congestion and its negative consequences on businesses and private, public costs presents.

Developing BRT will enhance homeland security and emergency preparedness by creating another
pathway for life and business-sustaining freight to access Long Island, and by providing rail-accessible storage for dry and perishable emergency preparedness materials and supplies.

As the New York State Regional Technology Development Center for Long Island, LIFT is responsible for supporting all of the approximately 3300 small and medium-sized manufacturers in Nassau and Suffolk Counties. BRT will provide a facility which will reduce the cost of shipping in raw materials, as well as exporting finished goods off Long Island, thereby making them more competitive. LIFT also looks forward to working with BRT to enhance our rail consortium initiative and our composite materials program.” And it’s signed by Frank Otto, the President of the Long Island Forum for Technology.

And I’d just like to say that we have been working with LIFT, both on their rail composite program, and on some of the security issues that they deal with on a regular basis.

D.P.O. HORSLEY:
Three minutes goes quickly.

MS. WHITE:
Okay. I will just hand in the support --

D.P.O. HORSLEY:
Do you want to just put it in the record?

MS. WHITE:
-- letter from the Long Island Metro Business Action Group, which is signed by their chairman, and is also supportive of BRT.

D.P.O. HORSLEY:
Thank you very much, Judy. We appreciate you coming down here today.

LEG. ROMAINE:
Questions.

D.P.O. HORSLEY:
Oh, I'm sorry. Legislator Romaine would like to ask you a question.

MS. WHITE:
Oh, certainly.

LEG. ROMAINE:
Judy, how are you?

MS. WHITE:
I'm good, thank you.

LEG. ROMAINE:
Good. I'm still one of the undecided on this, and I'm listening very carefully to all the testimony. I got handed some things that people raised some other issues to my office, and I thought since you represent the purchaser of this property, BRT, or their subsidiary, Oakland Transportation, whatever --

MS. WHITE:
Well, they're here as well today.

**LEG. ROMAINE:**
Okay.

**MS. WHITE:**
If you'd like to ask them directly, you can certainly do that.

**LEG. ROMAINE:**
Okay. I just thought I'd raise this now. And if you don't have an answer, fully understandable, but if you could get me an answer to some of those questions, over -- I don't think we're voting on this today, we're going to close --

**D.P.O. HORSLEY:**
Made a motion to close.

**LEG. ROMAINE:**
-- or recess the hearing, one or the other, and, you know, maybe voted on the next meeting or the meeting after that. But they raised with me a question. I've got a memorandum of law that was handed out to all my colleagues also, that under Section 215 of the law, that, obviously, this property can be sold, but it requires a two-thirds vote of the Legislature. Now, I've been a Legislator in the '80s, I was County Clerk for 16 years, back in the Legislature for seven years, and I understand one thing. If you're selling any County property, it is required 12 votes. But I'm hearing a rumor that someone's going to circumvent that and try to come up with a Local Law that only ten votes would be needed. I don't know if that's the case, and, hopefully, Counsel --

**D.P.O. HORSLEY:**
Yeah, this is something that Counsel could answer --

**LEG. ROMAINE:**
Right.

**D.P.O. HORSLEY:**
-- if you'd like.

**LEG. ROMAINE:**
I'd love Counsel to answer that.

**MR. NOLAN:**
The Yaphank property has already been declared surplus by an earlier resolution.

**LEG. ROMAINE:**
Well, that's another question that I'll raise -- I raised at the last meeting of the Legislature, so I'll deal with that separately, because we closed the hearing on the sale -- on the sale of this property. And then we found out at the end of the meeting, 1694, I think it was, that 39 acres weren't included. Whoops, we forgot to declared those surplus. And they added them in after the hearing was closed. So there's a question about that, in my mind anyway, but there's a question about the number of votes. Is it 10 or is it 12, because I've always used 12, and this County has always relied on a 12-vote, as prescribed by law.

**D.P.O. HORSLEY:**
All right. This is a public hearing, you know, that --
LEG. ROMAINE:
Right, okay. That's just one question, either Counsel, or working with BTR (sic), they could answer that.

D.P.O. HORSLEY:
Counsel will address that, Ed. I'd like to have that answer to all the Legislators, so we're all --

LEG. ROMAINE:
Right, at some point.

D.P.O. HORSLEY:
Okay.

LEG. ROMAINE:
I don't expect --

D.P.O. HORSLEY:
Done deal.

LEG. ROMAINE:
A few other things. They indicated that the County did not go through a bidding process, and the RFP for Legacy Village can't be substituted for the lack of an RFP or bid on this property. This is a directed sale. So that was another question that was raised. I'm just raising them now to get them all out, so they can be aired and researched, just so everyone knows.

They also said that the lack of an EIS was troubling, and the EIS that was done for Legacy Village could not substitute for that. And, in fact since neither the County nor the buyer has indicated anything about the intended use of the property, any valid determination of significance wasn't possible. And, therefore, how did it pull the negative declaration and why isn't an EIS required for a sale of property this size. And someone, I can't talk about Foley, but someone said Foley is adjacent to that. That's additional 14 acres if these were two --

D.P.O. HORSLEY:
Ed. Ed, I don't mean to interrupt, but, please, if you have a question for Judy, please, make it -- direct the question at Judy.

LEG. ROMAINE:
Okay. Are you aware --

D.P.O. HORSLEY:
Are you aware? There you go, a good start.

(*Laughter*)

LEG. ROMAINE:
There you go. Are you aware that people said if they were two private developers, developing two private pieces of property that were adjoining, one for 230 acres and the other for 14, that the issue of segmentation would have been brought up and an EIS would have been required? These are issues that people are bringing to me.

I mean, I haven't made any decision on this. I understand the significance of the County budget, I understand the significance to the County economy, I understand all of that. I understand the desire to get cars and trucks off the road and use rail, so -- but I want to weigh all these factors
before I make a decision. So I just thought I’d mention that. So those are the issues out there. Are you aware of those?

And what I would suggest is that either Counsel and/or buyer, or County Attorney address these issues, because they are being raised.

**MS. WHITE:**
Legislator Romaine, as you well know, I am not an attorney, and so, therefore, I'll leave the legal questions to the Legislative Counsel and to County Attorney. With regard --

**LEG. ROMAINE:**
I just would say you do a great job of what you do do.

**MS. WHITE:**
Thank you.

**LEG. ROMAINE:**
And I'm very appreciative of whatever information that you forwarded to me today. Thank you very much.

**MS. WHITE:**
You're very welcome. And your letter, I read it with great interest.

**MS. WHITE:**
Thank you. And with regard to SEQRA and NEPA and whether or not it should or should not have been done, we have submitted the NEPA study that was done for the first piece of property. We actually have -- Mr. Miller has another copy of the NEPA decision that was done that he will submit to the Clerk of the Legislature. And if we were to move forward with this purchase, with Suffolk County, and the Surface Transportation Board, as you know, has jurisdiction over the railroad -- that's a Federal law, we have nothing to do with that -- I am sure that they would be taking another look at what it is that we are doing with the property. But, again, I will leave that to the environmental experts with the County. Okay?

**LEG. ROMAINE:**
Thank you very much.

**D.P.O. HORSLEY:**
All right. Any further questions? Judy, thank you very much.

**MS. WHITE:**
You're welcome.

**D.P.O. HORSLEY:**
Daniel Falcone, and on deck is Jim Newell.

**MR. FALCONE:**
Hello, everybody. Thank you for the opportunity to speak. I appreciate the committee listening to me on behalf of the Brookhaven Rail Extension. My name is Daniel Falcone.

**D.P.O. HORSLEY:**
Speak into the mic.
MR. FALCONE:
My name is Daniel Falcon. I work for a company called Ultra Green Energy Services. We’ve partnered with Brookhaven Rail Terminal. What we do is we bring in an alternative fuel. It's actually considered by the EPA an advanced biofuel, because it gives you a positive energy of five-to-one ratio. For every one unit you make fuel, you create five energy units out; very, very cool. And we're bringing it to the New York metro area.

We partner with rail lines because a majority of this fuel is trafficked through the United States from their producers by rail. So we take these opportunities to collaborate with BRT, create a new entity, a synergy where we create jobs, and create distribution from these hubs. So Brookhaven Rail becomes a hub to distribute this renewable fuel into Long Island.

We’ve contracted -- we've already moved about 200,000 gallons through there. We have contracted another 100 rail cars to go into BRT this coming season, and another 100 by the end of next month. That's 200 of -- about 800 tractor trailers that will be not moving to bring fuel to this particular location.

I know people are saying, "Well, how do you get the fuel out of there?" There will be tractor trailers coming in to take this fuel out of there, but for one purpose, to take this renewable fuel to be blended into the existing petroleum structures out on Long Island. That's the only goal. We have four majors that are buying this fuel, and when they take this fuel and blend it into their petroleum fuel, they severely cut the greenhouse gas emissions, lower their carbon footprint, reinvest in domestic jobs, and put money back into economy.

We are very much interested in expanding our opportunity with Brookhaven Rail Terminals also, and we want to take this advantage to say that it would be critical, not only to our business, but to the environment.

You've got to realize, what's happening in New York City, a mandate came out, starts in October, but as of July, all heating oil in New York City is an ultra-low sulphur heating oil. It is one of the cleanest oils in the country. You take this advanced bio-fuel that we're putting into the fuels at 11 to 12% blend, they show the emissions are better than natural gas. So I want to understand the impact that's going to have on the environment by moving more of this product into this area and dispersed throughout Long Island, not only to the residents, but commercial industry.

I am around today if there's any questions about this fuel, or I have -- I can back this up on any documentation that's necessary for the committee that they might need. Our goal really is to blend 20% fuel, which is authorized by operating engine manufactures, which won't void warranties, and would be severely less in emissions than that of natural gas. Our goal is to help expand this opportunity.

I appreciate the opportunity listening to us. And, again, I have documentation to back up any type of information I've offered today. Is that three minutes?

D.P.O. HORSLEY:
You did that within three seconds. Not bad, I'm impressed.

MR. FALCONE:
All right.

D.P.O. HORSLEY:
Thanks, Mr. Falcone.
LEG. ROMAINE:
Mr. Chairman.

D.P.O. HORSLEY:
Oh, yes.

LEG. ROMAINE:
I just want to say that both DuWayne Gregory and I attended that; very impressed with the biofuel and the ability of that to make our environment a lot cleaner. We live in one of the areas with the dirtiest airs in the United States, believe it or not, and this biofuel is intriguing, it’s something that I think could be a game-changer, and certainly a very positive thing for the environment. So this is another thing that I’m -- you know, you weigh everything, but that -- I want to say that program is definitely a positive program.

MR. FALCONE:
Thank you.

D.P.O. HORSLEY:
Thank you very much, Mr. Falcone.

MR. FALCONE:
Thank you. Thanks for your time.

D.P.O. HORSLEY:
Jim Newell.

MR. NEWELL:
I’ll acquiesce my time to my constituents and go forth with what they’re doing.

D.P.O. HORSLEY:
I'm not sure what you said, but I think it's -- you mean you don't want to speak? Acquiesced, okay. Chad Trusnovec, and on deck, MaryAnn Johnston.

MR. TRUSNOVEC:
Good afternoon. My name is Chad Trusnovec. I am the president of the Yaphank Taxpayers and Civic Association. And at the last meeting I had made some statements that -- you know, questions and -- about concerns that we had in the Town of Yaphank, and some of the statements I made may or not have been absolutely clear. So one statement that I would like to make at this time is to clarify, one, and that is that I, the Yaphank Taxpayers and Civic Association and the community that it represents at this time oppose the sale of this property for the expansion of the Brookhaven Rail Terminal. The reasons are many, you’ve heard many, and you're going to hear more than the ones that I'm going to bring to you today.

Last night, at about 3 a.m., one of my dogs alerted me that it needed to go outside, and as I stood on my deck waiting for the dogs to return, I heard what sounded like thunder, followed by a loud thud, followed by the backup alarm from a payloader, or other heavy equipment, and then more thunder. Well, there were no storms last night. That apparently was just another load of aggregate being delivered. This is the steady background noise that we hear every night over the din of the Long Island Expressway. Sleeping with the windows open is basically, the majority of the time, out of the question. All I could think of sitting there on my deck at three in the morning was, "My God, what has happened to my town?"

BRT we believe has not been a good neighbor. In addition to the noise pollution, sand continues to
blow across Sills Road regularly. The landscape buffer that has been promised since the beginning has still not been completed. We keep hearing many excuses as to why it's still under construction. This has gone on for far too long. To my knowledge, this buffer has not even been started.

Some months back my understanding is that they were cited by the DEC for illegally dumping construction and demolition debris where the sand had been mined. If this is true, this is simply appalling and unacceptable. How does this happen? We were told that they were allowed to mine sand to bring the property to the proper grade that was needed to meet Federal guidelines. Does this mean that they dug more holes for the debris? Did they dig down further than they were allowed? And how close are they to the water table? Does anyone know? The Carmans River watershed, of course the water table that I'm speaking of, is just one more reason why many believe that this is a bad idea. I am not a hydrologist, but some experts place this property clearly in the two-to-five-year range, and once we've polluted our waters, there is no going back.

This is all just on 30 acres, and the current proposal, including the sale of this property, calls for expanding it to over 350. What kind of nightmare would we be faced with at that time? The increased truck traffic through the area will be devastating. The noise will further deteriorate our already declining quality of life. Selling this property will also relinquish all control over local authority. As has been shown in the past, this rail facility will supersede all local zoning, planning and enforcement. Unfortunately, in the past, they have thumbed their nose --

D.P.O. HORSLEY:
Mr. Trusnovec, you have to wrap it up.

MR. TRUSNOVEC:
Can I have about ten seconds?

D.P.O. HORSLEY:
Ten seconds.

MR. TRUSNOVEC:
Okay. Unfortunately, they have thumbed their nose at civics -- our civics in the past, and they've even won lawsuits filed by the Town of Brookhaven. I ask you to all consider the massive impact that this project will have on our community and the surrounding area forever. Thank you.

D.P.O. HORSLEY:
Thank you.

(*Applause*)

MaryAnn Johnston, and on deck is Jim Pratt.

MS. JOHNSTON:
Good afternoon. MaryAnn Johnston, on behalf of ABCO. I cannot tell you how distressing it is to hear Miss White speak about the BRT's expansion plans when, in fact, we have neg dec on the premise that we don't know what they're going to use the property for.

Willful blindness on the part of government in enforcing its laws is unacceptable to our residents. SEQRA needs to be done by responsible people. We need to have true data, accurate information, and we need to have elected officials who choose their advisors wisely, not those that will agree with whatever they want. This is a simply bad plan.

As far as having won a lawsuit, that didn't happen. The Surface Transportation Board ruled that
they had no right to run a railroad. And Brookhaven, through agreement and stipulation, bypassed the public process that would have been involved in determining whether they existed in the first place. That didn't happen. Once again, top-down bottom planning, not acceptable to the residents, not a part of the civic process, and not in compliance with New York State law, which requires community-based planning.

When you have something as important as deciding whether or not you're going to turn the central part of Brookhaven, Riverhead, and parts of Islip and Babylon into a commercial corridor that services the needs of the City of New York, I think the people in this town need to be heard.

Now, frankly, I like Mr. Falcone's project. I suggest he put the fuel in the trucks and run them that way. If it's efficient, it's efficient, and you don't need to have rails to move it. The reality is this rail operation is a serious detriment.

The owners and the County have failed their legal obligation, failed it. How can you pretend? "Oh, we don't know what they're going to use it for." Well, you just heard what they're going to use it for, and that makes that neg dec irrelevant, illegal and wrong, and you need to go back to the drawing board and do it the right way. The people deserve nothing less than a full environmental hard look at these issues. And it doesn't matter how much money you're going to make. When you destroy a river, you destroy our natural resources and you destroy one community after another, because this is not the first. This is just the first -- excuse me. There is one planned for Brentwood, another for Calverton, another one for Riverhead, and that's only the ones we know about. And that is called segmentation, because you're planning an intermodal truck rail network that is connected, and that needs to be heard. The people in Queens have a right to be heard. They put up with the garbage and the C and D pulled off the rails every day, sitting on the siting, stinking with rats. And if you speak to the Citizens United for Railroad Environmental Safety out of Queens --

D.P.O. HORSLEY:
Ms. Johnston, please, start to wrap up.

MS. JOHNSTON:
-- they'll tell you that. Thank you.

D.P.O. HORSLEY:
Thank you.

(*Applause*)

All right. Jim Pratt, and Daniel Miller on deck.

MR. PRATT:
Thank you, Ladies and Gentlemen of the Legislature, for hearing us this afternoon. Legislator Horsley, thank you for your time.

My name is Jim Pratt. I'm a partner in one of the businesses that is a partner in the Brookhaven Rail Terminal. My family has been in the highway construction business on Long Island for about 75 years. I'm a third generation employee of that family firm. We got involved in this project about five or six years ago. Most of you know or have heard by now the history of how the project came to be, so there's no point in going over that again.

There are three aspects that this project brings to the County and the Town. One is cost, both for raw materials and manufactured product. We are in the process of handling flour for one of our bakers in the area. He is very pleased with the service. You heard Mr. Falcone refer to the biodiesel
product, which he manufactures into low sulphur fuel oil for homes, businesses, apartments and vehicles.

The other aspect of the project is the job creation. We've already created 25 jobs. In the process, through the expansion phase of the dry warehousing and refrigerator warehousing, that number will grow to about 250 jobs as we expand. There is a great deal of interest in the project, a great deal of interest in bringing additional projects -- products such as lumber, structural steel, reinforcing steel to the area, each of which will create jobs on its own.

I'm going to cut my remarks a little short to address two issues that continue to come up, and I'm not entirely sure have been vetted to their fullest. The one issue is this DEC issue. The issue before the DEC is the appearance and use of a piece of construction machinery on the site. It is a mobile piece of construction equipment. DEC has taken a position that it needs a registration number, it's that simple. That's the issue at hand, whether the machine does or doesn't have to be registered.

As it relates to operations at night, we don't operate at night. Yesterday we received 15 carts of aggregate, at noon we unloaded six of them, and as we sit here, the balance of them have yet to be unloaded, so we don't work at night. We haven't worked at night, and the DEC issue is ongoing, and it's simply a matter of a registration number for a piece of construction equipment. Thank you.

D.P.O. HORSLEY:
Mr. Pratt, just one quick question, and I think you're the person to ask. You know, when I originally -- I visited your location, as you know, and I find this whole project very intriguing and interesting. One of the things that you had discussed at that time was maybe, you know, the East End farmers would be able to use your rail to export some of our farm goods to other places within the state, or whatever. Is that still contemplated? Is that something that you're interested in doing or looking at in the future?

MR. PRATT:
Clearly. We're interested in speaking to the farm community. We have had some conversations with the farm community. I'm sure you guys are aware that J. Kings has opened a place in Riverhead, which may affect the ability to do business in that community at this point, but that's going to grow. We've talked about nursery stock going outbound, we've talked about wine going outbound, but as the construction, as everybody has pointed out, we're not quite done with the first phase yet. We need a transload building in order to be able to load boxcars with finished product outbound. So when that's done, we'll be in a better position to speak to those guys more intelligently.

(The following was transcribed by Kim Castiglione, Legislative Secretary)

D.P.O. HORSLEY:
But you're -- this is still on your future plans.

MR. PRATT:
Clearly.

D.P.O. HORSLEY:
Excellent. Nice to hear. Thank you.

MR. PRATT:
Thank you.
D.P.O. HORSLEY:
Daniel Miller, and on deck is John O'Hara.

MR. MILLER:
Hi, good afternoon. My name is Dan Miller. I’m the Chief Financial Officer of Oakland Transportation Holdings, which is the company that's interested in making this purchase. I'll keep this brief, but I just want to give you a few points that we're looking at as we're contemplating this purchase. BRT for us represents a significant economic development project. We already have about $40 million in private capital between us and our partners and the BRT facility. This $20 million in additional purchase represents just the real estate. For an acreage, development of this size, we think it’s going to require significant additional capital and we’re solidly behind the project.

The reason we're interested in this is because we've had such strong interest so far. In a short period of time since this site has opened we've already done 820 railcars into the site. The demand and the people that are coming to us now that we're starting to become more public, have more information out there, is incredible for the businesses that are hungry for this type of transportation. That's why we fundamentally believe so strongly in the economics of this project.

As Jim mentioned, the site has already produced 25 direct jobs. We think up to 250 additional jobs are on the deck once everything is developed, which is what we're working towards. And that doesn't include obviously the indirect jobs in terms of the other people that are involved in the site and the development that goes on here.

We believe that our site is creating significantly better environment for business on the Island. The rail transport, as we've talked about, removes all these trucks from the road, it eases congestion. It's equivalent to, in terms of the railcars we've handled so far, is equivalent to 3200 long haul trucks moved off the freeway. And someone who comes back and forth on the L.I.E. a lot, that's a very personal thing to see, just from my limited trips out here.

BRT has provided cheaper alternatives for these shipments of goods. You know, you mentioned the County Farm. We've talked to -- from the biodiesel, you mentioned the flour. We also have stone coming on the Island, and the number of commodities that people have shown interest in is -- it's wide and varied and continues to develop.

In terms of this acquisition of additional land, we believe that because of the strong interest, we want to have the capacity to expand in the future. This adjacent land gives us that opportunity, and we believe that the strong fundamentals of the project that we've seen so far are going to continue for the foreseeable future. The congestion and the issues that people have with transporting goods on to the Island, we think that's going to continue to become a problem and it's something we can help solve.

Oakland Transportation Holdings is very -- is very interested in this project. We're very interested in committing future capital to it and we just hope that the County takes into account all of the economic impact that we feel this project is going to have as it starts to development. So that's all I really want to say, and it's not even three minutes.

D.P.O. HORSLEY:
Thank you very much, Mr. Miller. Questions? I thought you were going for your mike. Mr. Barraga.

LEG. BARRAGA:
Mr. Miller, I wanted to ask a question, and I think this also applies to Mr. Pratt. Let's say I agree with most of your statement in terms of stimulating business and economic growth. But I am concerned as I listen, because I listened to the second series of meetings I've been at where I've
heard people talk about this particular project. Are you folks meeting periodically with the Civic Association to discuss with them, say once a month, in terms of what you're doing, and hearing input from them in terms of how your project is affecting their quality of life so that certain steps can be made to make their quality of life more appropriate? Obviously they've got some real problems. Do you meet with them every few weeks?

MR. MILLER:
Personally I represent the investment fund, so I'm not having those meetings. But through my understanding -- she'll probably be a lot more specific. Judy is working with us on this.

MS. WHITE:
Legislator Barraga, we do not meet with them every few weeks. We have met with the South Yaphank Taxpayers Association, the Yaphank Taxpayers Association. We've had individual members to our site. We've met with the Longwood School District, with the South Country School District, with the ambulance -- South Country Ambulance Association.

LEG. BARRAGA:
Is there one main civic group in this immediate area?

LEG. ROMAINE:
Yaphank.

LEG. BARRAGA:
Is it the Yaphank?

MS. WHITE:
I think there's actually two. There's the South Yaphank and then there's the Yaphank Taxpayers.

LEG. BARRAGA:
Okay. Do you meet with them once a month?

MS. WHITE:
No, we do not.

LEG. BARRAGA:
Why don't you do that? I mean, it's a major project. It affects their quality of life. I'm not trying to be antagonistic here, but it seems to me that you know, you should be sitting down with them to relate to them what you're doing, and they can give you feedback in terms of the positive and negative effects it's having on their quality of life.

MS. WHITE:
Totally understandable. I would suggest to you that we've been -- we've started meeting with them and the -- what's going on at the site doesn't change dramatically from month to month. We are a construction site. In September of '11, we broke ground. In September -- I'm sorry, in September of '10 we broke ground. We met with them in September of '11. We started operation. We understand that there's concern about the dust. It's a construction site. We do have watering trucks at the site. We have started planting the buffer, we started from the southwest corner. That corner is totally planted. We -- as we put in the required work that needs to be done to complete the buffer in the other areas, those areas will be planted as well. We just got water to the site. We're waiting, frankly, to be hooked up to the Suffolk County Water Authority. So we -- as soon as they do that, we will have water on the site. So -- and --

LEG. BARRAGA:
I guess the point I'm making, even though it's a construction site and things don't change too much month to month, I think it's incumbent upon you to get together with that civic association and just take a couple of hours once a month to sit down and talk about where the project stands, what's anticipated, and also listen to them. I just heard a gentleman from the civic association say he went out with his dog at 3 o'clock in the morning and heard the trucks and all the noise. And I heard another gentleman say we don't have trucks coming in at that time. Well, that should be made clear. That's some of the things that would be discussed if you met once a month. All right. Thank you.

MS. WHITE:
Okay. Thank you.

D.P.O. HORSLEY:
Thank you very much. The next up is John O'Hara, and on deck, Jake Watral.

MR. O'HARA:
Good afternoon, Legislative committee. My name is John O'Hara. I'm managing partner of Corporate Reality Services and I am also the President of Brookhaven Industrial Group Association, which is a business group out in the Yaphank/Medford/Bellport area. I've been working out in the Yaphank/Medford/Bellport area for the last 18 years. I have been responsible for bringing probably 90% of the businesses out there, over three-and-a-half million square feet of space, and thousands of jobs to the community.

Brookhaven Industrial Group Association has 70 members in that area. I could tell you that a number of the members of the group, some of the bigger companies like Quality King Distributors, which has over 1,000 employees and has a 500,000 square foot warehouse, is interested in using Brookhaven Rail Terminal to ship product out of their facility. There's another company that's been in the Sills Industrial Park, which is around the corner from the rail yard, that was considering moving to North Carolina. We have been in discussions with them to bring up wood from North Carolina, where they purchase their products from on the rail, which would be more cost effective for them and then they would stay here on the Island and keep their 100 plus jobs here in Yaphank.

The project is, as I see it, an economic engine. Over the last five years there's been no activity out in Yaphank or Medford or Bellport for new companies to build facilities. Over the last six to eight months, since the rail terminal has gotten so much publicity, there's been so many people interested in coming out to Yaphank and to possibly doing a build to suit for lease and using the rail facility.

I do believe that Phase I, II and III, which is the 120 acres which they currently own, will probably be filled up within the next five years, and that the 229 acres that they want to purchase from the County would be a good economic engine to continue growth in the area. Thank you.

D.P.O. HORSLEY:
Thank you, Mr. O'Hara. Jake Watral, and Tom Attivissimo.

MR. WATRAL:
I am going to pass. Thank you very much.

D.P.O. HORSLEY:
You're welcome. Tom?

MR. ATTIVISSIMO:
Thank you. Thank you for hearing us. I'm a real estate broker for Greiner-Maltz Real Estate. I
have been there for 27 years, Senior Director there. And as John has mentioned, we bring small companies and we're basically marriage counselors for those vacant buildings and those folks who want to grow and expand. And over the last several years there hasn't been much expansion. If anything, there's been more of a glut of commercial real estate on the market.

As far as the economic engine for the Brookhaven Rail Terminal, it is true that a lot of folks have peaked interest in this site because the need to bring the goods to and from their warehouse in an economic fashion is not available to them on Long Island. New Jersey and PA have the intermodal, they have a Port Authority there, which brings goods in and from trains, and on the intermodal they can bring it to their warehouses where raw material can get converted and then shipped back out again. People on Long Island, unfortunately small business owners aren't familiar with that. They do have to wrestle with the rising costs of freight over the bridges. The surcharges are increasing, which will incur larger logistics, costs to all the truckers, and pass those expenses on to the business owners who will pass it on to the consumer. So having this ability to bring in any kind of good, it could be feathers, it could be cardboard boxes, it could be anything. This rail terminal can bring those goods in at an economic fashion to these small business owners, which everyone will benefit from.

It will retain jobs on Long Island. And as far as New York goes, there is no retention policy. This will actually be one of those retention policies inherent in just being there, by having cheaper means of bringing things into Long Island, which we so desperately need. So that's my schtick and thank you for hearing my story.

D.P.O. HORSLEY:
Thank you for your schtick. All right. John Palasek, and on deck, Lisa Mulligan.

MR. PALASEK:
Excuse me. I have to get out of the maze. Hold on.

D.P.O. HORSLEY:
You're doing pretty well.

MR. PALASEK:
Not bad. Good afternoon. My name is John Palasek, a resident of Yaphank, member of South Yaphank Civic Association, the other civic association of the two that are most impacted by this. You know, I'm not really sure I'm fundamentally opposed to anything like this. I think there is a need for economic development and that sort of thing, but I've heard resume after resume about how wonderful this is going to be. For whom? For businesses, for bakers, for fuel oil people and that sort of thing. Where is the benefit to me? When I drive down Yaphank Avenue, what am I going to see? When they talk about -- the gentleman that was just here spoke of the existing land that's being used now and the land that's planned in the future, and it will increase the benefit to whom? If you don't know specifically even what you're putting on the 250-odd acres in question, how can you tell me whether it's going to be a benefit or not? You don't even know what's going to be there yet. If you had an empty lot next door to your house and somebody said they were going to build something there, wouldn't you want to know what it was? I mean, are you just going to take it on their word that it's going to be something I'll like or something I can live with?

Mr. Barraga suggested monthly meetings. I think that's an excellent idea. I think what people need to understand, on both sides of this issue, is that this is a huge project, and this is something that once it's done is going to be here for generations. This isn't something that's just going to be dealt with for a year or two and then it will go away.

This push to sell this land because the County needs the money. It's not my fault the County needs
the money. Whatever happened in the past that created the budget deficit is not my problem. I don't have to live with some slipshod thing that's thrown together just so you guys can make $20 million in a hurry. I mean, if the budget was messed up you had something to do with that, it didn't happen in a vacuum.

I mean, when I want something done, and believe me, Kate Browning is well aware of the things that go on in my district. When I ask for help, when I ask for some kind of cooperation on behalf of this body or other governing bodies, I could probably watch five glaciers deteriorate before I get something. But now because we have a push to have some budget written properly by the end of a fiscal year we have to rush to put this all together.

Like I say, I'm not necessarily opposed to it. I think it could be done properly. I think a lot of things can be done properly if they're managed properly, but if the sand blowing across Sills Road and the never ending "we're getting to it" type of thing is any indication of how this is going to continue, then I want to stop and I want to take a hard look at what's going to happen first, and I want to know for sure in writing what's going to happen first. And I want to know for sure that it's not going to adversely affect myself, my environment and the region as a whole. I don't think that's a lot to ask for, especially for something that generations are going to live with. Thank you.

D.P.O. HORSLEY: Thank you very much, Mr. Palasek.

(*Applause*)

D.P.O. HORSLEY: Excuse me, John. We have a question.

MR. PALASEK: Hopefully I have an answer.

D.P.O. HORSLEY: Well, I think its Legislator Browning that wants to speak to you, after you said nice things about her. We agree.

LEG. BROWNING: Thank you, John, because like you said, and I think we've had meetings with BRT and basically told them, you know, the Yaphank community is not saying an absolute no, we're saying let us get next to you rather than be against you. Just out of curiosity, how many meetings have you attended with BRT pertaining to the Yaphank land?

MR. PALASEK: The biggest meeting was about a year-and-a-half ago at our regular civic meeting, and there was a presentation and we were shown the present acreage and what it entailed. Since then, I can't recall a specific meeting where we actually sat down with BRT per se and actually discussed any future development of that particular site or any future development of any other site. This 250 acres is, in terms of how things happen in this world, a surprise. I mean, this all came about in the last six or eight months when Legacy Village fell apart. All of a sudden -- it seems to me that this land, and not just now, but historically is burning a hole in Suffolk County's pocket.

When I first moved to Yaphank in '92 there were plans to put a 70,000 seat dome stadium on Yaphank Avenue, there were plans to put a Nascar track on Yaphank Avenue. What is it with this land that it needs to be developed? You know, Maryann Johnston at the last meeting on the seventh, which I didn't attend but I did listen to online, suggested that a lot of this land could be
used as a solar farm. Isn't that benefiting us in some way, too? Isn't that helping to save energy and that sort of thing? Doesn't that help businesses also, but it doesn't produce truck traffic and that sort of thing.

You know, the dedicated truck traffic for fuel oil and things like that, that's fine. But what about the dedicated truck traffic for the aggregate, for the structural steel, for the reinforcing steel, for the flour, the cardboard, all the other stuff? It's got to go someplace. This isn't happening underground. This is what no one has discussed with us and that's what we want to know. We want to know specifically how many trucks are we going to see. Is Yaphank Avenue going to be converted to four lanes to accommodate trucks? Will there be a dedicated on/off ramp maybe from Sunrise Highway so there isn't a jam up on Victory Avenue where there is now when trucks try to come off there and access that area. These are questions we have.

I know it's going to work for business and all of that stuff. But I'm tired of hearing about people in suits telling people who aren't wearing them how it's going to benefit them. I want to know how it's going to benefit us, the guys not wearing the suits. That's all I want to know.

**LEG. BROWNING:**
Thank you, John. I just want them to know, I just want to make sure that everyone knows it's not a no, it's not a NIMBY attitude.

**MR. PALASEK:**
No.

**LEG. BROWNING:**
It's just let me know what your plan is, and at this point in time, you know of no plan; correct?

**MR. PALASEK:**
Not specifically, no, for anything other than what we were originally told. Let me just echo what Kate just said. I'm not fundamentally opposed to anything as long as it's done properly. If it can be done properly and if it is proven that it can be done properly, fine, do it. But so many things are promised and in the end it never works out that way and that's what we're afraid of. Thank you.

**LEG. BROWNING:**
Thank you, John.

**D.P.O. HORSLEY:**
Okay. Thank you very much, Mr. Palasek. Lisa Mulligan, and on deck is Peter Curry.

**MS. MULLIGAN:**
Hi. Thank you for the time. My name is Lisa Mulligan. I'm the Director of Economic Development for the Town of Brookhaven. Just want to very briefly tell you that we are very supportive of this project. We're really excited about the potential, not only for the local businesses, Brookhaven's businesses, Suffolk County's businesses, but the whole Island's businesses.

And the gentleman asked how that's going to impact him, someone not in a suit. That's going to improve our entire economy and I think everyone knows that today, especially, that's a concern for everyone. So I just wanted to take a moment to express our support of this project and how excited we are about it. Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Ms. Mulligan.
LEG. BROWNING:
Can I ask a question?

D.P.O. HORSLEY:
Yes. Lisa.

LEG. BROWNING:
Like Mr. Palasek said before, to say this project, it's how many acres of land, what is the project? Maybe you can tell me because I really don't know.

MS. MULLIGAN:
Well, I actually would defer that question to the specific project owners. We have been supportive of this as they've moved along, but I would be speaking out of turn if I said what they were going to do with this property.

LEG. BROWNING:
But you work in Economic Development in the Town of Brookhaven; correct?

MS. MULLIGAN:
Yes.

LEG. BROWNING:
So wouldn't you be aware of what their plan is?

MS. MULLIGAN:
Well, we're aware of their plan in the general, what they're putting -- what they've already done, the rail spur that's in there, but I don't know exactly what their plan is for the future property. But I can tell you that we have, for the first time since I've been in economic development for Brookhaven, we have companies coming in very excited about what this is going to do to help their bottom line and also to help the economy.

LEG. BROWNING:
It still baffles me how you can support a project when you have no idea what the project is.

(*Applause*)

MS. MULLIGAN:
What we're supportive of is the concept of the rail hub, what that will do in general.

LEG. BROWNING:
That's that piece, but the other piece you know nothing about.

MS. MULLIGAN:
Honestly, I don't know what they're going to do with the additional property.

LEG. BROWNING:
Thank you.

MS. MULLIGAN:
But it's going to be a continuation -- from what I've been told, it's a continuation of the rail spur.

LEG. BROWNING:
But that's the point of the Yaphank residents, is they have no idea what's going on.
MS. MULLIGAN: Did you have a question?

D.P.O. HORSLEY: All right. Yes. I'll direct that. Thank you, Lisa, though. Legislator D'Amaro.

LEG. D'AMARO: Thank you. Thanks for coming down today, appreciate it. I tend to agree. I've heard a lot about the land sale, the surplus, declaring it surplus, but I really don't know what exactly is happening with all the acreage that we're considering here, and I think we need a little more detail on that. But I wanted to ask you, you're the Deputy Director of Economic Development?

MS. MULLIGAN: The Director.

LEG. D'AMARO: You're the Director. I apologize.

MS. MULLIGAN: That's okay.

LEG. D'AMARO: So has Brookhaven, considering this large track which Suffolk County owns, has Brookhaven looked at any other uses that would be economically beneficial to the town?

MS. MULLIGAN: That specifically would be our Planning Department. But this land has been there vacant for a long time, so we're glad that something will be going in there that will help the economy.

LEG. D'AMARO: Well, I mean, beyond being reactive to what we're talking about today, the potential use here, has your Economic Development Department --

MS. MULLIGAN: My department has not.

LEG. D'AMARO: -- studied the property in any way or thought about what the needs of the area may be?

MS. MULLIGAN: No.

LEG. D'AMARO: Nothing?

MS. MULLIGAN: No.

LEG. D'AMARO: Okay. Thank you.
MS. MULLIGAN:
Our Planning Department would handle that, though, so they might have a study about it.

LEG. D'AMARO:
Okay.

D.P.O. HORSLEY:
Thank you very much, Ms. Mulligan.

LEG. ROMAINE:
Quick question.

D.P.O. HORSLEY:
We have another question. Lisa, you're hot. Okay.

LEG. ROMAINE:
I realize that your department does not handle I guess planning issues, so you -- let me just understand your statement and correct me if I'm wrong. You're supportive of the work that has been done by BRT to date, yes?

MS. MULLIGAN:
Yes.

LEG. ROMAINE:
You think that the work that they may do on the 230 acres, whatever that may be, would be positive?

MS. MULLIGAN:
Yes.

LEG. ROMAINE:
But you're not sure what it is.

MS. MULLIGAN:
I've been told --

(*Laughter*)

-- that it would be a continuation of the rail spur and we are supportive of that.

LEG. ROMAINE:
Okay. And your department has no plans about this, but the Planning Department might.

MS. MULLIGAN:
Correct me if I misunderstood the question, but I thought you were asking if we had a plan for that area in general. That would be the Planning Department that would handle that, yes.

LEG. ROMAINE:
Okay. Could you do me a favor?

MS. MULLIGAN:
Sure.

**LEG. ROMAINE:**
Could you go back and contact the Planning Commissioner and ask if he has a plan for the general area in the Town of Brookhaven, and if you could forward or e-mail, whichever is easier, that plan to my office, I'll give you a business card so you'll have my e-mail address and my mailing address. I would appreciate getting a copy of that plan.

**MS. MULLIGAN:**
Okay. I can do that.

**LEG. ROMAINE:**
Thank you very much.

**MS. MULLIGAN:**
You're welcome.

**D.P.O. HORSLEY:**
Okay.

**AUDIENCE MEMBER:**
Would we be permitted to rebut?

**MS. WHITE:**
Legislator Horsley, I'm not rebutting, but I just wanted to say that there seems to be a lot of questions about what the plan is for the property. Jim Pratt could address that issue, because what we're talking about now, and we tried to explain this when Legislator Browning and the representatives came there, the plans for the property depends upon what it is that the businesses and the industry in Suffolk County and on Long Island requires. Just as we did not know a year -- two years ago when this started that one of our largest commodities was going to be flour. We had no idea. We knew we were building it for aggregate, but we did not know that flour was going to be the largest commodity.

**AUDIENCE MEMBER:**
Point of order.

**D.P.O. HORSLEY:**
Okay. I think that the --

**MS. WHITE:**
I apologize.

**D.P.O. HORSLEY:**
Please in the back. Judy, I appreciate your comments. I think what we can do is maybe we can ask a question of one of the other members to -- that will speak on it. Peter Curry and Marc Herbst is on deck.

**MR. CURRY:**
I pass at this time.

**D.P.O. HORSLEY:**
All right. Marc Herbst.
MR. HERBST:
Good afternoon, Legislators. Thank you for the opportunity to testify on behalf of the Long Island Contractors Association. We're an organization that represents a multi-billion dollar heavy construction industry here on Long Island. As a point of full disclosure, members of our organization are partners of the BRT Rail Terminal and they have not asked me to testify today, nor did they know that I was appearing, and I think I'm going to be docked for my day's pay for being here, but, needless to say.

In truth, LICA has been an advocate of green infrastructure projects for more than a generation, and our support of this effort is consistent with our track record. Candidly, I'm not surprised that there is particularly some opposition to this proposal. And typically, as we know on Long Island, whenever something new is proposed there's a reaction. Whenever anything environmentally, transportation or infrastructure issues come up, that's a natural concern. If it's wind power, sure, but not here. If it's improved rail service, excellent, but not right now. If it's sewers, good idea, but what about the cost?

So here we have a private company at a rail transfer site that's already begun to demonstrate the environmental proof of the concept, seeking to use its own dollars to acquire additional land that would add strategic depth to this facility. Let's look at the math and understand what is actually taking place. In the first 11 months you've heard about the operation; it's received 843 rail cars containing stone, flour and bio diesel, taking a combined inbound and outbound 8,316 long haul trucks off the Long Island Expressway. Using State metrics of this kind of study we know that extrapolates into 361,380 fewer gallons of diesel fuel consumed. In addition, that's over five million dollars saved in travel time and highway congestion costs. Nearly half a million in highway and bridge maintenance costs, and tons of reduced carbon, nox and particulate matter emissions.

And yet the response of further improving these numbers may be no. No to taking more tractor trailers off our roads. No to removing more truck exhaust from our region's air. No to reducing our carbon footprint. No to leveraging rail to stop the hourly pounding endured by our local roads as a convoy of trucks supply our region with goods and products. No to the rail transfer facility that single handedly redefined how we can transport what we need on and off of the Island in an environmentally safe, sane and rational manner. It's no to common sense, no to approving green alternative. No because for far too long that's been our region's traditional response to good ideas. I strongly urge you to support this proposal. Thank you.

D.P.O. HORSLEY:
Thank you very much, Marc. We do have a question from Legislator Browning.

LEG. BROWNING:
Sure. I think you did hear the Yaphank resident just before talk about, you know, they're not necessarily saying no. And I think it's important for you to understand why the Yaphank residents feel the way they do today. I'll give you a little history about Yaphank and Legacy Village and that proposal. And I think what's going on right now in Yaphank is there's a serious lack of trust in government, and I think if you lived in the community you would probably feel the same way as they do. And so I'm just trying to ask you to understand where they're coming from, that there was a process, a supposed process with Legacy Village, where the Yaphank residents and the South Country residents were all going to be involved and be included in the process, but they weren't. They were shut out.

And so now we have some acreage that they're just saying what are you going to do with it? Because right now what they're saying is, you know, what you're proposing may be very good. It may create jobs, it might be great for the economy here on Long Island. However, you could turn
around tomorrow and sell it and say oh, we're going to sell it and build a casino. Maybe we need a new landfill. They're just being told we're going to sell it, but we don't know what we're going to sell it for. That's all they're asking, and I don't think that's unfair to ask them -- to give them the answer that they're asking.

(*Applause*)

MR. HERBST:
Thank you.

D.P.O. HORSLEY:
Kate, put that in the form of a question.

LEG. BROWNING:
Did you understand that?

MR. HERBST:
Yes, I did.

D.P.O. HORSLEY:
There you go.

MR. HERBST:
Thank you very much, Legislator.

D.P.O. HORSLEY:
Just to keep things straight. Legislator D'Amaro.

LEG. D'AMARO:
Thank you. I don't have an issue with you advocating for a project, but I do have an issue with you dismissing the opposition in the manner in which you did.

MR. HERBST:
I certainly wasn't dismissing. I said that's a normal reaction which is understandable, and I can empathize with that.

LEG. D'AMARO:
Well, that's not the way I took it. It seems to me you were pretty much dismissing it. But in any event, my question for you is what organization are you with again?

MR. HERBST:
Long Island Contractors Association.

LEG. D'AMARO:
Have you -- has your organization given any kind of consideration to alternate uses for this property? It's a large track of property held by Suffolk County.

MR. HERBST:
We do not own the property. We have no vested interested. We're simply interested in construction and the well-being of the infrastructure for Long Island.

LEG. D'AMARO:
Well, aren't there other projects that would meet those interests?
MR. HERBST:
And we probably would be supportive, but this is --

LEG. D'AMARO:
But you don't have any suggestions of your own.

MR. HERBST:
I'm not here to suggest anything for any particular location.

LEG. D'AMARO:
Okay. All right. I just think the fact that people in Suffolk County, when a project is proposed in their backyard come out and want information about it, I don't think they're necessarily saying no. I just don't think it's appropriate to dismiss them, I really don't.

MR. HERBST:
I'm not dismissing them.

LEG. D'AMARO:
Because I think it really does a disservice to your position.

MR. HERBST:
I'm not dismissing them. I didn't mean to come across that way. But that's the normal reaction that people have in their understanding of why, but these questions have to be answered so we don't say no. And I'm essentially agreeing that the communication must take place.

LEG. D'AMARO:
Well, if I heard you right, you went through a litany of no to this, no to that. I mean, you were pretty emphatic.

MR. HERBST:
If we don't open our conversation that's the no we'll have.

LEG. D'AMARO:
People, you know, when you're constructing something in your backyard, hundreds of acres of this type of facility, it's going to have a substantial impact on the surrounding community. I don't think that people should be dismissed out of hand.

D.P.O. HORSELY:
Okay. Thank you very much, Mr. D'Amaro. Any other questions? Thank you very much, Mr. Herbst. All right. James Garcia, and on deck is Amanda Scott.

MR. GARCIA:
My name is James Garcia. I'm the newly elected President for the South Yaphank Civic Association. Eighty percent of this project, or just under 80% of this project is going to be located within our portion of Yaphank. I'm not going to repeat everything that everybody else has said, you've already heard it, but I am concerned when you sit and tell me where I attend a meeting and I ask a simple question, what are you going to build, and you can't give me an answer other than 4,000 square feet of a building. Okay, what size, you can't tell me, you can't tell me how many, you can't tell me size, width, height or anything what this is going to look upon our community? I have a lot of questions.

You talk about trucks, and the taking of trucks off the highway. Biggest problem I have that
unfortunately in Yaphank, not only do you take the trucks that drop in, where do these trucks go to
take the material that comes in? Right in our community, right out, so we’re not going to see any
decrease in trucks, we’re going to see more. And you put more. Everything that comes into
Yaphank, it’s like small community, nobody cares, we’ll dump it, and it’s a big problem for us,
because after a while you get upset.

I do get upset when I look at a community that's so beautiful and now it's being polluted and
everything else. I don't mind growth, I favor growth, I'm all in favor of growth, but if you can't
answer a community's question then there's something wrong. That's all I have to say.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much, Mr. Garcia. We have a question from Legislator Cilmi.

LEG. CILMI:
Thanks for coming, Mr. Garcia. Welcome. So it seems to me that there's been a lack of dialogue
between the community and BRT, so today may be a great opportunity to start that dialogue. So
what would you envision for this piece of property? What sort of development, if at all, would you
suggest to them might be appropriate for this piece of property?

MR. GARCIA:
I'm not the town building inspector, or the town government, but I would hopefully say that when
you build something, that you build it to conform to what the surrounding community is. We have a
lot of woods, and when you can't tell me what you're going to build -- I have seen the type of
buildings that they're talking about out west. They are humongous in size, trucks pulling in. It's an
eyesore. When you can't tell me how many buildings you're going to build on these lots and how big
these lots are, what are we going to do? Say yes and then suddenly end up with a disaster?

LEG. CILMI:
I certainly appreciate your apprehension and I'd likely share it if I was in your shoes. But, you
know, I think it's important, if we're going to truly have a dialogue, if they came to you and said,
"Well, we'd like to build housing there." You know, what would your answer be? If they said, "We
want to build light commercial", what would your response be? If they said, "We want to build
high-rise office complexes", what would your response be? There's got to be some sort of -- you
know, a dialogue is two ways. You can't just say come to us with your proposal and then we'll
respond to that proposal. If there truly -- if you'd truly like them to open their hearts and minds to
your opinions, then why don't we start today with sharing what those opinions are as to what would
be appropriate for that location.

MR. GARCIA:
I agree. And like I stated, I don't mind growth. I'm in favor of growth. Without growth, I mean, it
helps us tax wise and everything else, but I just wanted to see it conform to what the community
surrounding is.

LEG. CILMI:
So what sort of growth would you --

MR. GARCIA:
I don't mind buildings but I don't want to see 25 buildings in an area that only five should be built or
something.

LEG. CILMI:
Okay. Well, now we're getting somewhere. So there's a density issue. What else?

**MR. GARCIA:**
The traffic is a tremendous problem for us, because Yaphank Avenue is the shortest route right now between the Long Island Expressway and the Sunrise Highway. When you look at the Long Island Compost trucks going up, when you look at the garbage trucks for the landfill going through, when you look at the fire department coming through every night, every day, with the heavy trucks, when you look at the Suffolk County Highway Department coming through with their trucks and everybody else taking a short cut through through their trucks, how much more can we take? How much more can that road actually take?

**LEG. CILMI:**
So this is the kind of dialogue that is good, I think, and needs to happen between both sides. And I won't put you on the spot for any other suggestions. I think you've started that dialogue and hopefully it will continue. Thank you.

**D.P.O. HORSLEY:**
Yes, Legislator D'Amaro.

**LEG. D'AMARO:**
Sir, let me ask you this, and thank you for coming down today. Would you be more comfortable -- are you a resident of the area?

**MR. GARCIA:**
Yes, I am.

**LEG. D'AMARO:**
Okay. How long have you lived there?

**MR. GARCIA:**
I've lived there six years, but I've worked in Suffolk County Police Headquarters for over 20.

**LEG. D'AMARO:**
Okay, very good, so you're very familiar with the area. Would you be -- Suffolk County is the owner of this property. Would you be more comfortable if in connection with selling the property to anyone that we had a more detailed plan, maybe with -- even within our contract as to how the property would be developed so that you would have something to analyze?

**MR. GARCIA:**
Yes.

**LEG. D'AMARO:**
Is that what you're looking for?

**MR. GARCIA:**
That's exactly what I'm looking for.

**LEG. D'AMARO:**
I don't think it's necessarily incumbent upon you, a resident, to come up with what the uses may be. I mean, that's going to be dictated by marketplace and what can and cannot be done and who the buyers and sellers are, but you certainly have a right to react. The problem I see that you're having is that you feel that there is just simply no sufficient plan on the table for you to react to.
MR. GARCIA:
That's exactly part of the problem, is that there isn't.

LEG. D'AMARO:
Suffolk County, as the owner of this property, is in a position to negotiate the terms of sale. Would you be more comfortable if those terms of sale included more detailed plans with respect to the use of the property and the development of the property?

MR. GARCIA:
One-hundred percent.

LEG. D'AMARO:
Okay. Thank you.

D.P.O. HORSLEY:
Thank you very much, Mr. D'Amaro. And thank you very much, Mr. Garcia. All right. Amanda Scott, and on deck is Alexandra Mueller.

MS. SCOTT:
Good afternoon, Mr. Chairman. My name is Amanda Scott and I'm respectfully submitting a statement from Jan Burman, the President of the Association for a Better Long Island. "The ABLI represents some $15 billion in commercial, industrial, retail and residential real estate in Nassau and Suffolk County. Collectively, groups members are the largest real estate taxpayers in the region, and are certainly among LIPA's most significant energy customers.

Our members sit at the intersection of public policy and the Long Island economy. Where we fulfill our mission of creating orderly growth and a strong economic base, the future of Long Island would be that of a bleak and desperate landscape. It is for this reason that the ABLI supports the Brookhaven Rail Terminal, the region's first multi-model rail freight facility that has already proven to be a 21st century alternative in transporting goods on and off Long Island. At a time when the Island is facing global competition, when a lingering recession continues to stalk the region, and when there is a demand for practical, workable environmental solutions, the Brookhaven Rail Terminal has already begun to demonstrate how we can retain our competitive edge without sacrificing our environment.

We support the current application now before the Legislature regarding the sale of property to the rail facility, and the reason is simple for those of us who are on the front lines of the economy. Long Island needs every progressive advantage it can achieve if we are to create a future we can hand to the next generation. Without these kinds of environmental investments by private industry, we will be creating a region where no one can find work here, no one can afford to live here, no one can afford to breathe here, and no one will be able to pay for the parks and open space that are now off the tax rolls.

It has been noted the Brookhaven Rail Facility is consistent with the Long Island Regional Council Vision Statement. It has also been stated that the rail yard has the means to substantially reduce truck traffic congestion, a problem that is reflective of how much we currently depend on trucks for our region's imports and exports. One would have to wonder whether the alternative to the Brookhaven Rail Terminal would be yet another lane in the Long Island Expressway, and while that is obviously a piece of fiction, what is not fantasy is a region choking on its own truck traffic, unable to compete with those parts of the country where there is a far more robust transportation infrastructure.
The Brookhaven Rail Terminal has demonstrated that it is a transformational project which promotes many of the strategies identified in the 2011 Long Island Strategic Plan. Now it's time to let it assume its role as a regional leader in creating environmentally sound solutions to what has been intractable problems. We support this proposed sale and the benefits it will bring to the County, the region and our collective future. Thank you very much.

D.P.O. HORSELY:
Thank you very much, Ms. Scott. Alexandra Mueller.

MR. AMPER:
Alexandra Muller.

D.P.O. HORSELY:
Muller, I'm sorry.

MR. AMPER:
Ms. Muller is from the Pine Barrens Society. I thought I couldn't make it but alas unfortunately I did.

D.P.O. HORSELY:
Dick, I would never stop you from talking. So why don't -- so you're going for Ms. Muller.

MR. AMPER:
That's correct.

D.P.O. HORSELY:
Okay.

MR. AMPER:
I find myself in a position of commending this Legislature for the dialogue here today. Mr. Barraga, Mr. D'Amaro, Ms. Browning, Mr. Romaine, are asking questions that I think the Legislature needs to ask. And I would only say to Mr. Cilmi if you want to know about this program you should be asking the applicant about it. I mean, what we're looking at is a mysterious, even secret project that the contractors support, the ABLI supports, the Brookhaven Economic Development supports, and none of them can tell you what it is. At least you seem to want to know.

(*Applause*)

That's a very, very good sign. We have a lot of misinformation. Civics really can't have a dialogue with them because you can't expect the Civics to know what's going on if the people who are proposing the project can't tell you, and they've told you that they cannot tell you what's going on on the property. It would be the height of irresponsibility for this Legislature to sell property the County owns to folks who won't even tell you what they're going to do with it. We have a lot of misinformation on this project. Ms. Lansdale appeared and said that -- she's the Planning Director here -- this land is not in the Carmans watershed.

(*The following testimony was taken & transcribed by Alison Mahoney - Court Reporter*)

MS. SELTZER:
I don't mean to lecture you, so I'm going to try to make this as short as possible. We've submitted a Memorandum of Law that I believe you all have a copy of. I just want to briefly explain my position.
In this country, we expect government to behave in a legally acceptable manner. We expect our citizens to comply with the law and we expect government to comply with the law. The Law in this case is very straightforward; it says that you as a County have an absolute right to declare County property surplus by a vote of two-thirds of the Legislature, and I believe you have done that. And then after you’ve done that, you have a legal obligation to sell or lease that property to the highest responsible bidder, and I believe that is not what has happened in this case. So I am asking all of you to please, no matter how wonderful you think BRT is, you can’t just give it to them. Okay? You have to have a bidding process. That’s the law and you are all obliged under the law to behave in a legally acceptable manner.

The other thing that I would just like to mention is that this property, although it has been proposed for other uses and has had SEQRA review, that SEQRA review is not applicable under the present surplus contract. You have to have, by law, a SEQRA review for exactly what this is going to be used for.

And just the last thing I want to mention, and that is you count on the Town of Brookhaven zoning laws to protect the residents. The zoning laws of the Town of Brookhaven are not going to protect the residents. It is your responsibility, at this point, to do everything you can to make sure that this property, when it is sold and when it is being used, is going to not only be an economic benefit, but it is also not going to harm the residents of the community. Thank you.

Applause

D.P.O. HORSLEY:  
Thank you very much, Ms. Selzer. Doug Swesty?

MR. SWESTY:  
Thank you very much. I appreciate the opportunity to speak before you this afternoon. My name is Doug Swesty, I’m a resident of the Town of Brookhaven. I am also the Long Island Watershed Director for the Sea Run Brook Trout Coalition.

Now, you may -- some of you have met me and have corresponded with me via e-mail. You may be wondering what does this have to do with the Brookhaven Rail Terminal.

LEG. D’AMARO:  
Sir, move the mic closer.

MR. SWESTY:  
Oh, thank you. My organization is concerned with the protection of the Carmans River ecosystem, along with many other ecosystems of coastal streams in the Northeast United States. We've long been advocates for the protection of the Carmans River. Now, recently the Town of Brookhaven passed a resolution to begin a new Carmans River planning process of which there was a proposed component for a significant open space acquisition. If the County is struggling for money, why isn't the Town of Brookhaven being considered as a potential bidder for this property? The Town has found, and there were enormous number of advocates there, some of you may have been in the audience for the Town Hearings on this, of people looking to preserve the Carmans River. But yet what we're talking about here is sale of surplus land that has thus far protected the Carmans River ecosystem for a potential industrial facility on the banks of what is a wild and scenic river within the State of New York, what is considered by the New York State, Department of State, Division of Coastal Management as an irreplaceable resource, what is considered by the New York State’s Department of Coastal Management, and is listed as a Coastal Management Zone which triggers special considerations all the way up to Route 25.
So we have a situation where we have a river ecosystem that people are looking to protect, and yet we've heard about tremendous environmental benefits that people have claimed from this Brookhaven Rail Terminal, but we've heard little or nothing about the environmental impacts of this. And we have a charade game that's being played here, as was elucidated by Legislator Romaine, where people are saying, "This is a wonderful project. We're endorsing this project. We're absolutely behind it." We don't know what it is, all right? And that doesn't pass the smell test here.

We have the opportunity to do something here that would protect and preserve the Carmans River. My own position would be that this space would best be used kept as open space, but that's something that could be considered if the process is allowed to go forward in compliance with the law. How can you possibly Neg Dec an action which we haven't heard what the environmental impacts are because we simply don't know what the project is. Process matters here. And this needs to have time to develop. We need to consider what are the implications, not just for the immediate future, not just the implications for the County's budget within the coming year, but what is the implication for our legacy to our children here within the County? Thank you.

D.P.O. HORSLEY:
All right. Thank you very much, Mr. Swesty.

That concludes the cards that I have on this hearing. Would anyone like to be heard? Would anyone else like to be heard? Oh, Mr. Zwirn. Why don't you come on up.

MR. ZWIRN:
Mr. Chairman, I know there have been members of the County Exec's staff, the Law Department, from the Planning Department who have been listening, and I think they'd like the opportunity to address some of the questions that have been raised, if that's --

LEG. HAHN:
Please.

D.P.O. HORSLEY:
Okay. I think that's fair.

MR. ZWIRN:
Is it possible that maybe we could --

D.P.O. HORSLEY:
You've got the gang ready. Okay, this is what I'd like to do. I don't want to make this into a long conversation. We will wait for the bill to be heard in front of the full -- the committees. But what I'd like to do is if you just -- if there are any questions that you guys can answer from the County Planning Department's perspective on the particular questions that were raised during this issue. Otherwise, I'd rather you wait 'til the public hearings. Is there somebody that could do that?

MS. LANSDALE:
Yes.

D.P.O. HORSLEY:
Okay.

MS. LANSDALE:
There's a bunch of questions that were raised that we're prepared to answer, if that's okay with you.

LEG. MONTANO:
What questions?

**LEG. STERN:**
(Inaudible).

**LEG. MONTANO:**
I couldn't hear you.

**D.P.O. HORSLEY:**
Okay, I'm sorry. Ms. Lansdale?

**MS. LANSDALE:**
Sure. One of the first issues that I'd like to respond to is where this property is in relation to the Carmans River Watershed. So I'd like to provide members of the Legislature with a map which comes from the County’s Comprehensive Water Resources Management Plan which shows the entire watershed and the groundwater contributing areas, and then explain where this subject parcel is in relation to the groundwater contributing area from Carmans River.

**D.P.O. HORSLEY:**
So pass that out, right. Okay.

**MS. LANSDALE:**
Okay. So in a few seconds you'll be receiving the map, and this parcel is actually within the Carmans River groundwater contributing area and it's located in the three different colors on the map. The darkish shade of blue is the contributing -- the groundwater contributing area time of travel of 25 to 50 years, and the northern boundary of the parcel and the western boundary of the parcel are in the area of dark blue. The majority of this site is within the 10-to-25 year groundwater contributing area, and the southern portion of the site is in -- which is across the street from the Brookhaven Landfill, is in the 5-to-10 year groundwater contributing area. I just wanted to make a point of clarification on that.

**D.P.O. HORSLEY:**
I think that is appropriate. Is there anything else that your members would like to answer as far as the Planning Department's opinions on -- relating to questions that were asked and brought up during the public hearing?

**MS. LANSDALE:**
Definitely. The SEQRA process questions, several were asked by members of the Legislature, and we have members of CEQ and my Planning staff here to answer them, if that's okay.

**MR. KAUFMAN:**
Okay.

**D.P.O. HORSLEY:**
Mr. Kaufman, and please be brief.

**MR. KAUFMAN:**
Okay, I'll try as best I can. By the way, just to let you all know, I do not take a position on this sale. I'm merely one of three CEQ members who oversaw this particular EIS, and that's all I'm speaking to is the findings and the SEQRA aspects of it. They do dovetail with some of the questions that have been asked here, but again, I take no personal opinion on this. Director Lansdale asked me to come down and talk about some of these issues because I'm fairly well-versed in them. I have been dealing with them for over 20 years.
You all need to remember that Legislator Lindsay’s bill which ended Legacy Village also directed CEQ to fully complete the EIS process, especially on the issue of surplus and sale. Consequently, you have a final GEIS before you which deals with that issue. The land was declared officially surplus in 2011, following completion of SEQRA. And Mr. Mule here to my left has those finding statements, etcetera. The sale at this point in time is called ministerial, and that's why a Neg Dec has been issued. It's a policy decision, essentially, for the Legislature. The sale of undeveloped land to unknown future buyers in 2011 was fully analyzed in the AIS process, as was the issue of surplus, okay.

Essentially, as raw land, there was no significant impact associated with a surplus sale; and that's the critical language to understand under SEQRA, the surplus sale of raw land. The action, therefore, before the County right now is a sale, it's not approval of a plan, okay. In 2011, the SEQRA analysis that was undertaken by CEQ, and then adopted by this Legislature, related again to the declaration of surplus, it occurred prior to, long prior to the railroad ever coming on the scene. As such, it was a generic or a general look at the concept of sale. So there was no plan attached to the 2011 surplus Legislative declaration which would require any kind of new EIS today. That's why CEQ just recently advised that a Negative Declaration be issued.

If there was a plan attached to what was going on -- in other words, if the County was working in cooperation with the railroad and reviewing a plan -- a Pos Dec would occur. That's what happened with Legacy Village back in 2009. A Pos Dec applies to a surplus sale if there is a municipal decision to, one, a full development plan as part of a sale. Again, that's why Legacy Village received a Positive Declaration. Right now, at least to my knowledge and as part of the EIS, there is no plan regarding the railroad controlled by Suffolk County that exists today in connection with the sale. It is a ministerial act, as I understand it, and I've researched this law extensively. What you're faced with is the concept of a sale. What happens with the railroad is either up to the Town of Brookhaven or Federal regulation, whatever, but that's not this County's official responsibility under SEQRA. That's a policy decision and a policy call for the Legislature, but that's outside of what is being done or has been done under SEQRA.

There's no requirement, as one or two Legislators brought up, to do a second GEIS on the sale of vacant land when our first GEIS examined the issue of sale of this vacant land. Under the law, the railroad plans again are not connected with the Suffolk County sale because it occurred -- the EIS that you are dealing with at this point in time occurred prior to the railroad ever coming on the scene. SEQRA simply does not favor two EIS’ on the same issue.

So that's basically your SEQRA analysis right there. You're dealing with a sale and a ministerial act as a policy decision as to what you want to do.

D.P.O. HORSLEY:
Thank you very much.

LEG. D'AMARO:
Wayne?

D.P.O. HORSLEY:
Yes, I see Kate, but I believe I had Legislator Stern first. Legislator Stern has asked for you to be here this afternoon, and I thought that would be appropriate that I’d let Legislator Stern ask first.

LEG. STERN:
Thank you. There was one question that was outside the scope of that which was brought up specifically, so I'll wait until committee to ask that question. But as to an issue that did come up
and specifically to what we're talking about here. It was -- I think it was Ms. Selzer's Memorandum of Law that states that regardless of what may happen with the property, if the sale is approved, and even if there are railroad activities that might go on there, that it's not going to be subject to the Federal Railroad Act. And that seemed to be a big part of the question as to who maintains jurisdiction, who ultimately has the decision-making authority over what goes on or does not go on there on the property. So if we have an EIS that is sufficient and we don't have any further role to play, I think part of the concern is whether or not area residents would be able to voice their concerns to the Town of Brookhaven that has zoning authority, or does the Town of Brookhaven not play that type of role because of the possibility of what may go there and come under the Federal Railroad Act.

So I'm hoping that you can speak to who maintains jurisdiction? In your opinion, to what extent does the Federal law take priority? What kind of power does the Town of Brookhaven maintain going forward and, for that matter, decision-making authority that we might have since there are plenty of major County roads that border the subject area. So jurisdiction-wise, who takes priority, where are area residents protected and what role do we continue to play, if any?

MR. MULE:
What I can tell you is that --

MS. MAHONEY:
Can you state your name, please?

MR. MULE:
Michael Mule, Suffolk County Planning.

MS. MAHONEY:
Thank you.

MR. MULE:
What I can tell you is that the original Brookhaven Rail development did go through an environmental assessment process through NEPA at the Federal level, and also went through a SEQRA process at the Town level in which they issued a Negative Declaration. So ultimately, if BRT went to the Feds for the first project, they did indicate earlier today that they would have to go through NEPA on this subsequent project.

MR. BRAUN:
Yeah, if I may add to that. Robert Braun, Assistant County Attorney. If they decide to develop this as part of their -- or as an expansion of their existing rail transfer facility, then the Federal jurisdiction under the National Environmental Protection Act would apply. If they decide to develop this instead, perhaps, as simply a warehousing facility separate from their rail facility, then it would be, at that point, under the jurisdiction of the Town of Brookhaven for all of those zoning, SEQRA and other issues that might arise then.

So it's they -- part of the reason that we can't determine at the moment what the study is, they haven't decided what to do. And you may recall that representatives of the potential buyer described this as a purchase of opportunity for them, that while the land is there and not currently owned by someone else, they want to get control of it so that in the future they can either expand their facility -- in which case, as I said, it would be Federally determined, the environmental issues -- or if they decide to develop it in a way that doesn't require Federal oversight, then the Town and the County would have the roles that they would always have. Including, as you say, it borders on County Roads, so it would go to the -- our Planning Commission for a recommendation back to the Town and so forth.
LEG. STERN:
So do you believe, then, that our jurisdiction over the County Roads and where ingress and egress and directional regarding the property, is that something that we maintain regardless of how the property is used? Or if it comes under the Federal jurisdiction, do we maintain the ability to determine how our roadways are used in that area?

MR. BRAUN:
No, I think that in terms of the roads themselves, we retain ownership and jurisdiction over them. In terms of what takes place on the site, not part of the County's Road system, would be either, as I said, under the Federal regulations or ours.

MR. KAUFMAN:
Following up, there would be no preemption of the County-owned facilities or the County Road network under any kind of Federal or Town review.

LEG. STERN:
Thank you.

D.P.O. HORSLEY:
Thank you very much, Legislator Stern. Legislator Browning, and again, keep it to the questions that were asked from the public hearing to the Planning Department. Just be mindful.

LEG. BROWNING:
Well, actually, Legislator Stern pretty much asked everything that I wanted to know. However, I did want to ask you, is there some jail property included in the sale of this land?

MR. BRAUN:
The initial description of the land excluded a strip along the eastern border of the southern tax lot which was not originally declared surplus by this Legislature last year. When the Planning Department looked at it and the Department of Real Estate looked at it, they determined that it would be in the County's benefit to sell the entire tax lots. So we went before the Legislature and asked that that additional strip be declared surplus.

A little triangle in the southwest corner of what looks like the cleared area for the jail extends into that tax lot. And initially we thought that our recharge basin, a sump, extended into that corner and that we would need to retain ownership. We recently determined that it's not, in fact, a recharge basin itself, but merely a storm drain that's in that little triangular area. And after discussions with the attorney and the engineers for the buyer, we've determined -- they've agreed that they will relocate our storm drain, and perhaps even give us some additional storm drains, and then we won't need that little corner. And so that will be eliminated from -- as an easement for us and it will be part of what's sold to them outright.

LEG. BROWNING:
Thank you. I'm curious, maybe, Mike, you can answer this, because I'm really not familiar with NEPA, and I'm just curious. What is the difference between NEPA and SEQRA?

MR. KAUFMAN:
That would take about three hours to explain. They're very --

D.P.O. HORSLEY:
Please don't.

LEG. BROWNING:
We'll set up an appointment to have that three-hour meeting.
D.P.O. HORSLEY:
Save it for the hearing.

MR. KAUFMAN:
It's more technical. They really look at the same kinds of things.

LEG. BROWNING:
Which one is more technical and stringent; SEQRA or NEPA?

MR. KAUFMAN:
Neither. They're both, if you will, stringent upon what they look at. It is technically different in certain of the procedures, but you end up basically with the same type of result. You're doing an environmental analysis of the land, which is the objective that you want to have, and you basically are making finding statements. The rest of it is, for the most part, procedurally. You don't get that much of a difference in in-depth analysis. They're really -- I've not come across any. On the other hand, I'm not an expert on NEPA. I've encountered it a number of times, I like to stay away from it.

LEG. BROWNING:
Okay, thanks. We'll set up an appointment for that three-hour meeting (laughter).

D.P.O. HORSLEY:
Thank you very much, Legislator Browning. Legislator D'Amaro, and then Romaine.

LEG. D'AMARO:
Thank you. I want to go back to the SEQRA comments that you were making just before. As far as the surplus aspect of this, the EIS was completed before this particular purchaser was even on the horizon and, therefore, that determination stands today.

MR. KAUFMAN:
That's correct.

LEG. D'AMARO:
Okay.

MR. KAUFMAN:
We did not know the railroad was out there and it had no bearing on our discussions.

LEG. D'AMARO:
Okay.

MR. KAUFMAN:
We looked at the land as if it were raw land and could be sold as a surplus sale.

LEG. D'AMARO:
Did any -- okay, you looked at the land as though raw land and being sold. But did you consider any potential purchaser at that time?

MR. KAUFMAN:
Not any specific purchaser.

LEG. D'AMARO:
Uh-huh.

**Mr. Kaufman:**
I mean, we considered Legacy Village, that was obvious. That was a good two-thirds of what we looked at.

**Leg. D’Amaro:**
Now, why did you consider Legacy Village whereas here you don't need to consider this purchaser?

**Mr. Kaufman:**
Well, Legacy Village was the original directive to look at. After that, we also were directed to look at alternatives under SEQRA.

**Leg. D’Amaro:**
Wait, let me just go back. We're talking about when the property is being declared surplus.

**Mr. Kaufman:**
When -- if you go back in time, Legislator Lindsay made a determination and this Legislature basically gave us, at CEQ, a directive to perform an EIS looking at the elimination of Legacy Village as a primary consideration and to look at the alternatives, some of which included the land as a surplus sale as raw land. So that was one of the directives we were given to look at, that fell well within the ambit of SEQRA and the analysis that we had already done.

**Leg. D’Amaro:**
But wasn't a determination made at that time, when the land was going through the surplus process, that an environmental review was triggered based upon the proposed use of the property?

**Mr. Mule:**
The original Pos Dec was issued because the County was requiring the Legacy Village Development as a condition of the sale. So the action before the County at that time was ultimately the approval of this development. At this point in time, the contract of sale does not include any specific development, it's a simple surplus and sale of raw land.

**Leg. D’Amaro:**
But does SEQRA make that distinction? In other words, I understand your point, that Legacy Village was included in that review of the surplus determination because there was, I guess at the time, a contract with a certain developer or developers on how the property would be developed, which we don't have here. But is it form-over-substance at that point? I mean, we are all sitting here talking about the potential use of this property if we as a County sell it to a buyer who we know what business they’re in and what they’re doing. And so how do you justify the formal requirement that it be in writing as opposed to government fulfilling its intent under SEQRA to do an environmental review when we know what the potential use is?

**Mr. Kaufman:**
You've got about five questions in there, and let me try and deal with them in order.

The SEQRA process, as Mike Mule was just saying, was triggered initially in 2009 by Legacy Village. We analyzed and performed, as much as we could under SEQRA, both an analysis of Legacy Village and also the alternatives, and that's a requirement under SEQRA. One of the alternatives was the sale of the land in its raw state, okay. As such, when the Lindsay bill came through, which this Legislature approved, directing us to -- or directing the disassociation, if you will, of Legacy Village from the process, we looked at those alternatives also. So you have a document here which looks at both Legacy Village in terms of maximum development of the property. You also have a full analysis.
of raw land sale. And also contained in it is a look at it as a surplus sale. Okay. So you have a
different type of document as opposed to a directed document. You've got something containing a
number of different analyses in here, a couple of thousand pages worth of work on all of this. So we
looked at all of those alternatives. One of those alternatives became the primary aspect of this EIS,
and that was what the Lindsay bill was based upon.

LEG. D'AMARO:
All right, let me -- if I accept what you're saying is that the surplus determination was supported by
an environmental review that was made at the time, so we don't need to go through that again.
And that's really not what we're talking about here today. We're having this public hearing on the
bill that would authorize the execution of the contract of sale, so we're past the surplus thing. And I
can accept that, because one of the alternatives that you considered at the time was vacant land
and the environmental assessment was done at that time, right.

MR. KAUFMAN:
Yes.

LEG. D'AMARO:
So here we are today now with a contract that's before us to sell this vacant land, right? And are
you saying that the SEQRA determination that you did in the past on the surplus, when it was
analyzed as vacant land, now applies to this bill?

MR. KAUFMAN:
Yes. Because the bill that is before you right now is a ministerial act, it is a sale. That's the way it's
been presented to CEQ, that's the way the bill reads at this point in time. It is not a development
plan, okay. Even though we know now who the developer is, okay, it does not have those attributes
that caused a Pos Dec a while back with Legacy Village.

LEG. D'AMARO:
Well, I think before --

MR. KAUFMAN:
There's a disassociation, if you will.

LEG. D'AMARO:
Okay, I understand that. So before you mentioned something about a full development plan.

MR. KAUFMAN:
Yes.

LEG. D'AMARO:
Is that what would trigger an environmental review?

MR. KAUFMAN:
Yes. I'm the one who advanced that back in 2009. And again, a Pos Dec applies to a surplus sale if
the municipality is attempting to run a full development plan. In 1993, the same thing happened
with Robins Island; that's when I was first on CEQ and that's when I first started dealing with these
aspects. To the extent the municipality is guiding what is going on and determining what is going
on, okay, that runs into a Pos Dec. Robins Island had a development plan attached to it; houses
basically in certain lots that were developed along the shore line of Robins Island. Here we have
Legacy Village. That was a clear directive. I mean, we had plans and everything before us that rose
beyond -- it was a directed plan, essentially.
LEG. D'AMARO: Well, let me ask you this, though.

MR. KAUFMAN: Without such a thing here.

LEG. D'AMARO: Right, I understand.

MR. KAUFMAN: We're in a different category.

LEG. D'AMARO: So a full development plan. And who makes the determination what constitutes a full development plan? And let me tell you why I ask that question. Because I understand if you memorialize it in writing and it's all laid out and you have detailed plans; sure, that's a full development plan. And that would be the County, as the owner of the property, trying to implement policy; in other words, we believe the property should be developed in this way for whatever policy reasons we have. However, what we're doing here seems to be stopping short of meeting the definition of a full development plan, therefore, not triggering the SEQRA process.

MR. KAUFMAN: Under SEQRA you're absolutely correct, it does not rise to that. You're just dealing with, as far as I understand and as far as I know, and having looked at the documents that have been presented to us, there's no development plan. We may know what is out there to some degree. We know that there's a possibility of a rail yard, we know there's a possibility of refrigeration, there's a million possibilities. We don't know at this point in time.

LEG. D'AMARO: So are you saying a development plan to trigger SEQRA has to be binding?

MR. KAUFMAN: No, no, no. There has to be something fully out there which the government participates in. That's not the case here. A sale of land -- I mean, imagine if you owned 20 acres in Islip Town and you decide to sell to a -- and you're a private person and you decide to sell to a developer. Is a Pos Dec triggered by the mere sale? No. Okay. The Pos Dec occurs when the developer submits development plans to the municipal agency, in that case the Town of Islip. So as the raw land owner, you've got no responsibility under SEQRA to run an EIS on a sale. That's all it is, it's a ministerial act. It's signing a contract saying, "Hey, give me some money, I'll give you some land." That's all there is to it. Okay.

As to your previous question, you as a Legislature are the ones who actually made the determination that there was sufficient development going on in that area under Legacy Village to call a Pos Dec. We advised you that we saw something over there, we had full plans before us, you know, baseball stadiums, four megawatt power plants, things like that. We advised you, as the Legislature, that we saw Pos Dec. You are the ones, as a policy board, that made that determination that there was a connection between a sale of land and development and, therefore, you were the ones who affirmed the Positive Declaration. Remember, we're just advisory at CEQ.

LEG. D'AMARO: No, I understand that. But I just -- again, I feel as though there's almost an intentional circumvention of the SEQRA process here. In other words --
MR. KAUFMAN:
Well, you can't --

Applause

LEG. D'AMARO:
Well --

MR. KAUFMAN:
You can't bootstrap in a certain way.

LEG. D'AMARO:
I'm not holding you to that, I think you're giving me terrific advice here, and obviously extremely expertise in SEQRA and what we're talking about. However, based on what you're telling me, it almost seems like, you know, we can sell this property and kind of know what's going to happen with it, but if we stick our heads in the sand and don't dictate any policy, we don't need an environmental review.

MR. KAUFMAN:
Here's --

LEG. D'AMARO:
Now, wait a minute. I'm talking from a policy maker's standpoint, okay. Because my preference on this property, which is a very large tract of land, and we have a finite amount of parcels like this. I don't know if we even have another one like this, that we would have the ability to come up with a more detailed plan and kind of say, you know, here are the policy -- here are the needs in the County. Let’s try and meet those needs. And so what if it triggers an environmental review, that’s what the process is there for.

MR. KAUFMAN:
That may be your call as a policy maker, and I would fully defer to that. But the research I've done and the cases that I've seen -- again, under the law, there's no requirement to do a second GEIS on a sale of vacant land when the first one examined that issue. Okay. SEQRA does not favor doing two EIS', essentially, on the same issue.

Is it burying your head in the sand? Yeah, you can look at it that way. But at the same time, as an attorney, you're dealing with a contract of sale wherein there's nothing in there regarding development that is guided by this municipality. That's the difference. Where there is, you get a Pos Dec. Where there is not -- again, it's the raw land sale as a homeowner to a developer. The developer is the one who triggers the SEQRA process if he tries to develop it.

LEG. D'AMARO:
All right. So my last point is given all of that, and I understand the distinctions and I understand what legally is required and what the legal standards are. Are you saying that -- let's say later on that this -- the fact that we didn't do an environmental review for this contract, as it's written, which is not, in your opinion, a full development plan, let's say, that were challenged. Because my understanding of SEQRA, it's not so much about the formality, it's more about the intent. And we are public officials acting in that capacity here with knowledge, actual knowledge on the public record of how this property is proposed to be used.

Applause

And yet we're saying we don't need to make an environmental review at this time. And I just
wonder, I just wonder whether that would withstand a challenge.

D.P.O. HORSLEY:
Okay.

MR. KAUFMAN:
I think it would.

D.P.O. HORSLEY:
Okay, I think we apparently have differing opinions on that issue. Are you done, Mr. D’Amaro?

LEG. D’AMARO:
Apparently so.

D.P.O. HORSLEY:
Thank you. Ed Romaine?

LEG. ROMAINE:
I always learn from my colleague, Lou D’Amaro.

(*Laughter*)

Now he’s definitely going to switch his opinion. But he made a number of telling points. And, you know, I think we’re all sitting here -- and look, do we want to see things moved by rail as opposed to truck? Sure, we want to get trucks off the road. We want to end congestion. Do we want to --

D.P.O. HORSLEY:
Keep it to questions, Mr. Romaine.

LEG. ROMAINE:
Yeah, I’m getting to this question because I’m raising issues that will be more. There’s a lot of things about this project that, at first blush, has some value. Until you get into the details and you look a little closer, this is what I’m going to be asking someone up there, probably the attorney, to address. Here’s the question for me.

When you start looking deeper into this, there’s 18 of us, we’ve dealt with all types of complex legislation, we’ve heard all types of stories about all different resolutions. But as you look deeper, we’re being asked to vote to sell land without understanding how that land will be used after it passes from the County. That’s the first question.

There was no RFP on this land, there was no bid process. It makes sense to go to Brookhaven Rail Transportation because they’re right next door. This is, in essence, a directed sale. Here’s my question. I’ve been listening all day. And again, I want to keep an open mind, because Legislators should and eventually at the end you cast a vote. But I’ve heard all types of things how this property could be used and alluded to. I mean, Mrs. White was kind enough to write a letter about some of the possible uses that it could be put to. And now that we have some idea, under SEQRA, under Section 617 of SEQRA, does it require us to revisit this issue? Does it require us to revisit this issue now that we have some general idea of the uses that this property would be put to? That’s my question for the attorney. I think it’s a fair question.

MR. BRAUN:
Again, Robert Braun, Assistant County Attorney. The contract proposed between the County and the purchaser doesn't require them to put any specific use there. The chances are --
LEG. ROMAINE:
I don't want to interrupt. This is not about the contract. I listened to testimony today, I received letters from different people, including this Mrs. White, about the uses of this property. Now that we have some knowledge about the potential use of the property -- forget the contract, I'm not asking about the contract. Now that we have some potential use about how this property might be used after its sale, does it require, under six -- Section 617 of SEQRA, for this issue to be revisited? And I would like you to answer that question.

MR. BRAUN:
The simple answer is not at this time. Because --

LEG. ROMAINE:
You believe it's not ripe.

MR. BRAUN:
Exactly.

LEG. ROMAINE:
And you think it could be ripe later on. Do you know when this issue becomes ripe enough that the County says, "You know what? Wait a second. Maybe we've got to revisit this and maybe it does require a full-blown EIS."

MR. BRAUN:
At that juncture, I don't believe it's the County's -- the County is the lead agency anymore. I think at that juncture, if it falls under the jurisdiction of the town because it's not preempted by the Federal rules, then the town is the lead agency. If it's preempted by the Federal rules, then the Federal government -- the Federal review is the --

LEG. ROMAINE:
Has the County Attorney weighed in -- second question. Has the County Attorney weighed in regarding Federal railroad statutes and things of that nature, whether this is the subject to that type of jurisdiction by the town?

MR. BRAUN:
Again, Legislator Romaine, that depends on the plan that they finally put forward to develop the property.

LEG. ROMAINE:
But we should ignore all the other statements that have been made, have alluded to its use.

MR. BRAUN:
Well, at the time that they make that plan, the review that's conducted then will include other potential uses, which will be the use they propose, an as-of-right use, for example, if it were requiring a change of zone, putting in a solar farm. Whatever the potential uses are that are identified at the time there's a plan, the environmental review at that time will, or should examine those other uses as well to see what their impact might be.

LEG. ROMAINE:
But you don't think it is ripe at this time.

MR. BRAUN:
Correct.

LEG. ROMAINE:
And you think it's okay to come here and say, "We have no idea what's going to happen to this land," although a lot of people have alluded to different things, and then ask 18 Legislators who are informed, who understand how things operate, and ask us to shut our eyes to what potential could be and vote for this? I mean, this may be the best project in the world.

D.P.O. HORSLEY:
Mr. Romaine.

LEG. ROMAINE:
This may have a lot of good things.

D.P.O. HORSLEY:
Mr. Romaine, the whole purpose of them coming before us today was just simply to answer some of the questions that were --

LEG. ROMAINE:
I appreciate your answers. Thank you very much.

D.P.O. HORSLEY:
Thank you very much. I appreciate that. Kara, could we -- I've got you up next, but could we make it fairly short?

LEG. HAHN:
We will have other opportunities to talk to you all, hopefully. You know, Ed kind of mentioned the bidding process. Is there any way that that can be addressed?

MR. BRAUN:
I think I can clarify that a little it. Before we found Oakland Transportation Holdings, or they found us, the County hired real estate broker Newmark Knight Frank to act as our agent in procuring buyers for this property. They sent out over a hundred solicitations to developers, we got back maybe two responses, and those two responses were extremely inadequate. And unfortunately I don't have those numbers with me, but they were in the tens of thousands of dollars for the whole piece, not in the millions of dollars for the whole piece.

LEG. HAHN:
Does that qualify, under this County Law Section 215, as public advertisement, or does there have to be an actual RFP?

MR. BRAUN:
Generally speaking, an RFP is a process by which the County procures services or procures materials, not sells it. But we have gotten into the custom of using it going the other way, when the County has something to sell. I don't believe that an RFP is the only appropriate method for the County to sell its assets.

LEG. HAHN:
So it's your understanding -- has the County Attorney weighed in that we did not need to do an RFP in this case?

MR. BRAUN:
Yes. We solicited bids, we got no response to that. Then Oakland Transportation came to us and said, "We're interested in this property because it adjoins our property," and we began discussing
this with them.

There was a point in time at which anyone who was interested could have contacted us and there was an on-line bidding process set up where the broker maintained a website and we published all kinds of rules and we sent them out both on the Internet and by mail and, as I said, we got no responses, virtually no responses.

**LEG. HAHN:**
Okay. Well, probably during the committee we're going to want to know more about that. Also for during the committee, can you please outline the properties on this groundwater contributing area map so that we can -- and make a distinction between what was added recently?

**MS. LANSDALE:**
Sure.

**LEG. HAHN:**
Because my question is was the recent land added in the five to ten year contributing area? Because if that was added recently and we didn't do -- you know, I just would like to see it laid out on this map, because I kind of have an idea of where it is but it's not outlined with this overlay.

**MR. BRAUN:**
Let me just also add that this is not, as was claimed earlier, on the banks of the Carmans River, this is a mile to two miles away from the Carmans River. And what's on both sides of this piece of property is a fireworks factory, a sewage treatment plant and the nursing home. So this is not -- and it may be undeveloped at the moment, but this is not in an ideal location for preservation. And as Director Lansdale testified on another occasion, this was scored 17?

**MS. LANSDALE:**
Ten.

**MR. BRAUN:**
Ten, as a property -- out of a hundred, as a property to be preserved.

**LEG. HAHN:**
Yes, I asked that question of her.

**MR. BRAUN:**
Okay.

**LEG. HAHN:**
Thank you.

**D.P.O. HORSLEY:**
Okay?

**LEG. HAHN:**
Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Legislator Hahn. Legislator Spencer. And I think we're going to wrap it up with this one and we'll be thanking you very much to the planners. Legislator Spencer?

**LEG. SPENCER:**
One of my very astute IDA members passed on a particular question that I'd like to -- which I think is good. Are we able -- since we have these concerns with regards to future use; are we able to put restrictions, a covenant and restrictions with regards to the sale?

**MR. BRAUN:**
We -- in theory we could. I don't know if -- I mean, we haven't negotiated anything like that with the people who are interested in it, so I don't know what covenants and restrictions they could live with, what they couldn't. But in theory we could, certainly.

**LEG. SPENCER:**
It would make a lot of sense, especially since we have so much concern with regards to the unknown. Why don't we look at putting some restrictions in with things that we're absolutely concerned with?

**MR. KAUFMAN:**
Legislator Spencer, just to let you know, one of the requirements of the EIS was to deal with the septic effluent that possibly was going to be coming out of this property. We did a full analysis of that. We required as part of the EIS, and I believe it is part of the contract also, that all of the septic effluent be directed into the County's STP, which will be expanded, okay, and it will be treated per the DEC regulations.

The numbers are normally, out of a plant you get about 10 migs -- ten milligrams of nitrogen per liter; that's the DEC standard. The Carmans River right now I believe has an input right now of about two, okay. That's what the river itself consists of. The effluent that will be coming out of the STP will be between, I believe, 1.9 and 2.1 milligrams of nitrogen per liter; that's treated water before it gets into the recharge pools. Once it gets into the recharge pools, it will be going through the -- basically the sand that's lying over there, the Carver, Plymouth Carver Associations, there will be absorption and adsorption, and hopefully the nitrogen will fixate in that area and the impacts upon the freshwater aspects of the Carmans River will be negligible because the flow won't be going that way. It will be going to the southeast.

We have a number of maps showing that, and I've known that fact since 1996 when the first maps came out on all of this. The flow will not be going to the east, it will be going to the southeast. So the water will be treated to the gold standard that everyone wants around here which is an STP, and then the plant will be expanded.

**MR. BRAUN:**
Mr. Kaufman is correct with respect to the requirement in the contract that they connect to the treatment plant next door. And in fact, that treatment plant is being changed from merely being a County-owned facility to being a sewer district, so that it can accept wastewater from facilities not owned by the County.

**D.P.O. HORSLEY:**
Okay? Everybody, we appreciate your comments today and answering --

**LEG. BROWNING:**
Wayne, I have one question.

**D.P.O. HORSLEY:**
Kate.

**LEG. BROWNING:**
Well --
D.P.O. HORSLEY:
All right, I'm trying to be fair.

LEG. BROWNING:
It's one simple question.

D.P.O. HORSLEY:
Keep it short.

LEG. BROWNING:
It's up to them how quickly they want to answer it. ETRB, I've sat in the ETRB for, I think since I've been in office, and every time a piece of property comes up that the County wants to purchase there's three appraisals, unless it's under a certain amount of money. This certainly exceeds any amount of money if we were to purchase it.
Why is there only one appraisal? Why hasn't there been more than one appraisal?

MR. BRAUN:
This is a sale of the property, not a purchase. And the appraisal was conducted by one of the appraisers on the County's list and then reviewed by the County itself, by our Senior Review Appraiser who had some comments and made some suggestions that it might be valued a little differently. But -- and because we're in the middle of a contract negotiation, I don't want to get into exactly what that appraisal disclosed. Suffice it to say in this forum that the purchase price that we've been offered exceeds the appraisal, and the review of the appraisal. And the appraisal was done basically on paper. So the review of that appraisal also consists of the appraisal looking at other comparable sales and making adjustments for location and so forth. But the County's been, according to both the appraisal and the review appraiser, been offered more than the property has appraised for.

D.P.O. HORSLEY:
Okay. I think asked and answered. Thank you very much for helping us out with some of the questions from the public hearing. All right. I'll entertain a --

MR. ZWIRN:
We just ask that this be closed at this time.

LEG. BROWNING:
I would like to make a motion to recess.

D.P.O. HORSLEY:
Hang on a second. We'll be taking motions, I just want to get our Clerk back in order.

MR. LAUBE:
Thank you. Fire away.

D.P.O. HORSLEY:
Okay. Kate makes a motion to recess?

LEG. BROWNING:
Yes, sir.

D.P.O. HORSLEY:
Seconded by? Seconded by?
LEG. GREGORY:
I make a motion to close.

D.P.O. HORSLEY:
We have a motion to close. I'll second the motion to close. Is there a second on the recess?

LEG. ROMAINE:
I'll second the recess.

D.P.O. HORSLEY:
I'm sorry, who said that?

LEG. ROMAINE:
Second for purposes of discussion.

D.P.O. HORSLEY:
Oh, God.

LEG. NOWICK:
Oh, no.

(*Laughter*)

LEG. BROWNING:
I can make it quick. I am asking --

D.P.O. HORSLEY:
Okay, so you have a second. I have a second on the recess.

LEG. BROWNING:
And on Thursday night and the following -- next Tuesday night, there are meetings in Yaphank, finally, with the residents. And I think out of respect for them, I'm just asking for a recess because I think there's a whole lot that has to be ironed out. Lou, you asked a lot of good questions, very important questions for the sale of this land. And I think each and every one of you, if it was in your backyard or in your district, you would feel exactly the same way, that there are many unanswered questions pertaining to this property. And I don't want to see us do a sale that we're going to regret. So that's why I'm asking for a recess for one cycle and let the Yaphank resident have their public meetings.

D.P.O. HORSLEY:
Okay. Thank you very much. We'll have a roll call vote on this.

LEG. D'AMARO:
Wayne, just on the motion?

D.P.O. HORSLEY:
On the recess?

LEG. D'AMARO:
Wayne?
D.P.O. HORSLEY:
Yes.

LEG. D'AMARO:
Just on the motion, very quickly.

D.P.O. HORSLEY:
On the motion.

LEG. D'AMARO:
I do have a lot of open questions on selling this property. However, this is really just a vote to close the public hearing.

D.P.O. HORSLEY:
That's all it is.

LEG. D'AMARO:
Yeah, and we have heard from the public at this point, I think we do have a sense of what needs to happen going forward. And I just want to assure the folks that are here, and also my colleagues, that by supporting the close of the public hearing today, we're still going to have an opportunity to vet the actual contract in committee and then again, if it gets out of committee, at the full Legislature, at which time I will seek the answers to my questions that I had here today. Thank you.

D.P.O. HORSLEY:
Which I would hope you would. Thank you very much.

Okay. The recess vote comes first. Mr. Clerk?

(*Roll Called by Mr. Laube - Clerk of the Legislature*)

LEG. BROWNING:
Yes.

LEG. ROMAINE:
Yes.

LEG. SPENCER:
No to recess.

LEG. D'AMARO:
No.

LEG. STERN:
No.

LEG. GREGORY:
No to recess.

LEG. NOWICK:
Yes.
LEG. KENNEDY: Yes.

LEG. BARRAGA: No.

LEG. CILMI: No.

LEG. MONTANO: No.

LEG. CALARCO: No.

LEG. ANKER: No.

LEG. HAHN: Yes.

LEG. MURATORE: Yes.

LEG. SCHNEIDERMAN: No to recess.

D.P.O. HORSLEY: No.

P.O. LINDSAY: (Absent).

MR. LAUBE: Six.

D.P.O. HORSLEY: Motion to close. Roll call.

LEG. ROMAINE: I don’t think you need a roll call.

D.P.O. HORSLEY: All in favor? Opposed?

LEG. BROWNING: Opposed.

D.P.O. HORSLEY: Abstain?

MR. LAUBE:
Sixteen (Opposed: Legislator Browning - Absent: Presiding Officer Lindsay).

**D.P.O. HORSLEY:**
The motion passes. It's closed.

*(Public Hearing)* The next IR is **1698-12 - Adopting Local Law No. -2012, A Local Law to amend post-employment restrictions (Schneiderman).** I do not have any cards on this. Would anyone like to be heard on 1695?

**MR. LAUBE:**
Ninety-eight.

**D.P.O. HORSLEY:**
Please, Ms. Johnston. Ninety-eight, rather, I'm sorry.

**MS. JOHNSTON:**
My questions are -- thank you very much for listening. My question is very simple; what restrictions are you lifting?

**MS. MAHONEY:**
State your name, please.

**MS. JOHNSTON:**
Mary Ann Johnston from ABCO. What restriction on post-employment are you lifting? It is very important that you have an absolute discussion about this. We have several employees who used to be a big part of County government who are now lobbyists, and they have not met the criteria of having been absent from County government for a specific period of time. And I think that's critically important that the public be well-served by employees who leave public service and don't parlay that service into a bank account.

So realistically, I'm asking just a simple question; what restrictions are you lifting and are they targeted for specific employees?

Thank you.

**D.P.O. HORSLEY:**
Thank you for your questions, Ms. Johnston.

**LEG. SCHNEIDERMAN:**
(Inaudible).

**D.P.O. HORSLEY:**
Yeah, why don't we -- maybe we'll get a motion on the floor and then we'll open it up to --

**LEG. SCHNEIDERMAN:**
Well, I'm going to recess because I'm still working on this bill.

**D.P.O. HORSLEY:**
Okay.

**LEG. SCHNEIDERMAN:**
So I'm not looking to close it. But the intent of the bill really came up in that last group of layoffs when some of the Public Works employees who were losing their jobs were concerned that it would be very difficult to find other jobs in this economy. You know, the idea, I believe, behind the ethics
provision that was created was that so people wouldn’t use their inside information then to jump ship from the County and secure high-paid jobs based on their connections. It wasn’t necessarily meant to hurt the people that we were saying, “We don’t need you anymore. Go out there and, you know, try to do your best to find a job.” So it really was to have that discussion and see really what the intent of that ethics provision was.

I certainly am still working on this bill, so I don’t think it’s really ready for prime time. I’d like to exempt any exempt employees, those who live by the sword, die by the sword, so to speak. So if somebody is a political appointment, this shouldn’t apply to them when one administration changes over. But there are some Civil Servants here who seem to be caught up in this that I don’t believe this provision was meant to harm, and -- but I do think the bill needs some more work. So I’m going to move to recess it.

D.P.O. HORSLEY:
Thank you very much, Legislator Schneiderman. Is there a second on the recess?

LEG. MURATORE:
Second.

D.P.O. HORSLEY:
Legislator Muratore seconds the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Sixteen (Not Present: Legislator Spencer - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
It is recessed.

(Public Hearing on IR) 1702-12 - Adopting Local Law No. -2012, A Charter Law to make transparent the County’s rule making process (Cilmi). I do not have any cards on this one. Anyone like to be heard on 1702? 1702. Okay, that being the case, Legislator Cilmi --

LEG. CILMI:
Motion to recess, please.

D.P.O. HORSLEY:
-- makes a motion to recess.

LEG. ROMAINE:
Second.

D.P.O. HORSLEY:
Second by Legislator Romaine. All those in favor? Opposed? So moved.

MR. LAUBE:
Sixteen. Seventeen (Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
(Public Hearing on IR) 1703-12 - Adopting Local Law No. -2012, A Charter Law to adopt tax policy prior to Election Day (“Taxpayer Awareness Act Part 1”) (Cilmi). I do not have a card -- any cards on this. Would anyone like to be heard on 1703? 1703. That being the case --
LEG. CILMI:
Recess.

D.P.O. HORSLEY:
Legislator Cilmi makes the motion to recess.

LEG. ROMAINE:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Romaine. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Hahn & Montano - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
/Public Hearing on IR) 1704-12 - Adopting Local Law No. -2012, A Charter Law to require open deliberations in budget amendment process (“Taxpayer Awareness Act Part 2”)(Cilmi). I do not have any cards on this. Would anyone like to be heard on 1704? 1704. That being the case --

LEG. CILMI:
Motion to recess.

D.P.O. HORSLEY:
Mr. Cilmi makes the motion to recess.

LEG. MURATORE:
Second.

D.P.O. HORSLEY:
Second by Legislator Muratore. All those in favor? Opposed?
So moved.

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Hahn - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
I do not have any cards on 1705. Would anyone like to be heard on 1705? Anyone like to be heard on 1705?

LEG. CILMI:
Motion to recess.

D.P.O. HORSLEY:
Mr. Cilmi makes a motion to recess. Seconded by?

LEG. MURATORE:
(Raised hand).
D.P.O. HORSLEY:
Legislator Muratore.  All those in favor?  Opposed?  Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Hahn - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
It has been recessed.

(Public Hearing on IR) 1708-12 - Adopting Local Law No. -2012, A Charter Law requiring legislative approval of fee changes (Cilmi).
Would anyone like to be heard on this?  I do not have any cards. 1708. 1708; would anyone like to be heard on 1708? Mr. Cilmi.

LEG. CILMI:
Motion to close, please.

D.P.O. HORSLEY:
Mr. Cilmi makes a motion to close. Is there a second?

LEG. ROMAINE:
Second.

LEG. MURATORE:
(Raised hand).

D.P.O. HORSLEY:
Mr. Muratore makes a motion -- a second to close. Are there any other motions? All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Hahn - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
It has been closed.

(Public Hearing on IR) 1797-12 - Adopting Local Law No. -2012, A Local Law to establish boating safety instruction requirements ("Suffolk’s Safer Waterways Act") (Stern). I do not have any cards on -- yes, I do. I’m sorry. Thank you, Counsel, for keeping me straight. I’m losing my mind. I have Gina Lieneck first. I’m sorry for those that filled out cards and almost lost -- your heart palpitated.

MS. LIENECK:
Good afternoon. My name is Gina Lieneck and I am here to support Legislator Stern’s boating safety law.

D.P.O. HORSLEY:
Move a little closer to the mic.

MS. LIENECK:
Okay. As some of you may know, I lost my daughter Brianna to a horrible boating accident seven years ago on August 17th. My life has never been the same since the tragedy of my daughter on August 17th. My husband Frank, daughter Danielle and myself suffered both physically and
emotionally on that since that horrible night and still continue to suffer. I know that there is nothing that can bring my daughter Brianna back to me, but it has always been my hope and passion that no one would ever suffer such a loss on a boat again. Unfortunately, the recent loss of three young children has brought the issue to the forefront of Long Island again.

It seems nothing has changed in the way of legislation, which is completely unacceptable. We need to act and act now. The proposed legislation before you today is a start. While it may not be perfect and there are still many issues that need to be addressed, at least something is being done. I don't want another child or a person lost on the waters of Long Island again. There are a couple of points that I need to -- that need to be made.

New York State requires boating safety courses for jet skis, personal water craft, but not for boats. Can you imagine that a person could buy a 40-foot Sea Ray and drive the same day; how could that be? The ocean is more dangerous than the roads we drive on. Tides changing, channel markers, buoys, weather, etcetera. You need to take a written test for a driver's license, but not to operate a boat; unacceptable. Penalties and enforcement need to be increased at the County and local levels, that is the only way for this to work.

In closing, I want to thank you for your time today and please vote on this -- passing this boater safety education class. Let's not have another tragedy like the one recent on Fourth of July or mine again. I don't want another child or person to die again on the waters. Thank you.

D.P.O. HORSLEY:
Mrs. Lieneck, we are very sympathetic. And on behalf of the full Legislature, we share your loss.

MS. LIENECK:
Thank you.

Applause

D.P.O. HORSLEY:
All right. Steven Rossetti?

MR. ROSSETTI:
Good afternoon, everyone. Most of you already know me in my other capacities, as a businessman and a business advocate. Today I'm here as a resident of Suffolk County, a friend to this esteemed body, and a friend to the people of Suffolk County.

As a lifelong resident of Long Island and a lifelong boater, I have spent countless hours enjoying our beautiful waters with my family and friends. Our world class beaches, boating, sailing and fishing are among the best parts of our quality of life we cherish here. Many Long Island residents and business owners consider this to be the main reason that they choose to live, do business and raise their families here. But unfortunately, recent events have shown all of us that a beautiful day on the water can turn tragic in a moment's notice.

I have a great deal of experience in this matter and believe that I am qualified to speak for many in the boating community. I began my boating experience at the young age of three-years old. I was fortunate enough to be able to experience a Huck Finn style life as a child and explored the back bays and the inlets of southwestern Nassau County with my family and friends. I have many great stories of these experiences, including having the famous band leader, Guy Lombardo, buy gas for our boat because we ran out and did not have enough money to purchase more.
Today I’m a United States Coast Guard licensed Captain with Master Certification. I used this license commercially on the Great South Bay from 1997 through 2001. I have spent many years training in boating safety, starting with lessons at summer camp and then classes that were given by the United States Coast Guard Auxiliary. That is why, along with many other boaters and public safety advocates, I strongly support Legislator Steve Stern’s Suffolk Safer Water Acts -- Waterways Act and urge the Suffolk County Legislature to pass it without delay.

Unbelievably, currently, there is no requirement for adults in New York State to complete a boating safety course in order to operate a pleasure craft on our waters. This law will require all boaters operating a vessel on Suffolk County waterways to complete an approved boating safety course which will provide essential training about the rules of the road for boaters, education on equipment, navigation and emergency response training in the event of an accident. Our local Coast Guard auxiliaries and power squadrons now administer these courses. Although no class will prevent all accidents, boaters should demonstrate common sense when operating a vessel.

(Beeper Sounded)

I'm almost done. But more than common sense is needed to safely operate a boat on Long Island's busy waterways. This important initiative in front of you today is long overdue. If this law is passed, Suffolk County will have, once again, set a tone and cut a trail for other levels of government to act. Thank you.

D.P.O. HORSLEY:
Thank you very much, Steve. We appreciate your comments. Yes, Legislator D'Amaro has a quick question for you.

LEG. D'AMARO:
Thank you, Mr. Rossetti, for coming down today.

MR. ROSSETTI:
You're welcome.

LEG. D'AMARO:
Based on your experience, A lifelong resident and person who's used our waterways over the last several years, if not more, you know, what you often hear when we look at this type of requirement, critics would say that boating on Long Island or in our water ways, Great South Bay, Long Island Sound, is one of the last things that you can really do where the government's really not stepping in and telling you how to do it. So based on your experience, can you give us a sense of how much there is a need for a basic safety boating course for the folks operating vessels? I mean, there are many people out there that operate vehicles responsibly and safely.

MR. ROSSETTI:
But they're licensed. They went through a training course to get that driver's license. All you have to do is open up the paper --

LEG. D'AMARO:
No, no, I'm not talking about the roadways, I'm talking about on the waterways.

MR. ROSSETTI:
Both.

LEG. D'AMARO:
Okay.

**MR. ROSSETTI:**
Both. All you have to do is open up the newspapers every day, in recent weeks we've had one death after another, one accident after another, be it BWI, boating while intoxicated, or just simply negligence. This has got to stop. We have to take the first step right here in Suffolk County now. I've been calling for this for a long time.

**LEG. D'AMARO:**
So based on your experience and what you've been hearing about and the unfortunate tragedies that have occurred, you believe that a basic boating safety course would ultimately make our waterways more safe and could ultimately save lives; you believe that.

**MR. ROSSETTI:**
Without a doubt. And I would believe that that is the mere baseline of education for boating.

**LEG. D'AMARO:**
Okay. Thank you, Sir.

**MR. ROSSETTI:**
Anyone else?

**LEG. BROWNING:**
Question.

**D.P.O. HORSLEY:**
Legislator Stern.

**LEG. STERN:**
Thank you, Mr. Chairman. And thank you, Steve, for being with us today. You'll also hear that boating is really just a matter of common sense. What can I possibly need to know that I can't learn out on the water or have a feel for on day one? So in your experience, which is impressive, in your opinion, is it possible just to rely on common sense on day one to read charts, let's say, or to know how to read wind the day that you put your boat in the water, just relying on your, "common sense"?

**MR. ROSSETTI:**
Absolutely not. I believe that those areas are very complicated. If you get into an accident on a boat, you can't just step off and make a phone call somewhere. There are going to be further complications that will occur that might hinder the possibility of you being able to save lives.

**LEG. STERN:**
Do you think that it's possible to rely on common sense? You bring up, you know, what happens if there's, God forbid, an accident and you're called upon to act, there are various channels that are available on the airwaves. Is it even possible to rely on common sense to know what channels are available for what services?

**MR. ROSSETTI:**
No, you must know the proper FCC frequencies to use. Our emergency channel here in the northeast that I know of is Channel 16, and that's where you're able to hail the Coast Guard. You must use proper procedure, you must learn proper procedure in being able to hail a Coast Guard so they know it is a serious call.
LEG. STERN:
And do you think, in your experience, that it would be possible just to rely on basic common sense to know what buoy markings mean or channel markings mean the day I put my boat in the water? Can I just rely on common sense to understand that?

MR. ROSSETTI:
No. Learning navigation and age to navigation, which are the buoys, is just like reading your driver’s booklet before you go to take the driver’s test. You must learn about these aids. They are just like signs. You must know, you must be educated on knowing what those buoys mean; set the channel markers, inbound/outbound, very important.

LEG. STERN:
Thank you.

D.P.O. HORSLEY:
Thank you very much, Legislator Stern. Legislator Hahn.

LEG. HAHN:
Hi there.

MR. ROSSETTI:
How are you?

LEG. HAHN:
I just brought my daughter for her driving test this week, last week. She failed.

(*Laughter*)

Yeah; she’s 19, she’s pretty upset about it. But, you know, when we were practicing -- I hate to say it, but I kind of got reminded of some things that, you know, after, I’m not going to say how many decades of driving, I might have forgotten something that’s a simple defensive item. I think -- so one of my questions was will, you know, yacht clubs and other organizations be able to hold courses so large groups of their members who are -- you know, have been boaters for years and years and decades and, you know, have been doing it well and doing it safely, will they be able to, you know, bring in a trainer and train many, many of their members all at once under this law?

MR. ROSSETTI:
I would suspect the opportunity for that to happen. And the business opportunity for someone to educate others is going to be available with this.

LEG. HAHN:
And I think that, you know, even though people like yourself have been on the water for years and years and years, and maybe, you know, took a course years and years and decades ago, you never -- you know, there’s new technologies, there’s new types of boats.

MR. ROSSETTI:
Yes.

LEG. HAHN:
You know, these electric cars that are now on the road, there’s kinds of things that people need to know before driving those. So I imagine that even people who have been boating for decades and it’s a way of life for them, they may actually learn something from participating even in, you know, something at their local Yacht Club or at a course held wherever they’re going to be held that meets
the standards in this legislation. But I think everyone can benefit from those kinds of courses.

**MR. ROSETTI:**
Legislator, I'm an advocate --

**LEG. HAHN:**
Do you agree? *(Laughter)*

**MR. ROSETTI:**
Yeah, I'm an advocate of education and reeducation. Myself, I've taken the Coast Guard Auxiliary course twice before I even decided to go on to take the Captain's courses and exams.

**LEG. HAHN:**
Okay. Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. Legislator Browning.

**LEG. BROWNING:**
A curious question. Because we have Nassau County and Suffolk County, and there is no border checkpoint when you're coming across the waters or even on the roads. So I'm curious how this is going to work if you have Nassau residents who now come into Suffolk waters and don't have that license, just maybe just for the day; how would you address that? Or even anyone who comes from another state, you know, a Florida resident or somebody from of the eastern shores decides they're going to drive their nice big boat and come up to New York. I mean, how are you going to regulate that out-of-state resident from --

**MR. ROSETTI:**
Well, I envision if you enter the Suffolk County waters, you take on the laws of Suffolk County. So they better get a certificate in training real quick.

**LEG. BROWNING:**
I think that's going to be a little bit more complicated than what you say. Because again, they're just coming up for the day.

**MR. ROSETTI:**
It's not all that complicated.

**LEG. BROWNING:**
I think it might be.

**D.P.O. HORSLEY:**
Would the sponsor like to weigh in on that? That might be a question to the sponsor.
I didn't mean to interrupt. Kate is in the middle of a --

**LEG. BROWNING:**
You know, obviously --

**D.P.O. HORSLEY:**
I just thought maybe that Legislator Stern might want to answer that rather than Mr. Rossetti.

**LEG. BROWNING:**
Well, the public hearing is still open, so obviously --

**LEG. STERN:**
Very briefly. Within the legislation there is a provision going to reciprocity, so if there are boaters that have completed safety certification that are licensed in other states, there would be reciprocity there.

As to those jurisdictions that don't have those type of requirements, you basically look to the law of the sea. And your home port really has jurisdiction, you know, it's really where you're coming from. The hope is that our leadership here in Suffolk County will not only make our local waterways safer, but will send an important message to our neighbors to the west, and to New York State as a whole, that doing something comprehensively would ultimately be the better way to go. But until that time, it's important to act locally to ensure that our local waterways are safer. But as far as other jurisdictions go, the legislation does provide for reciprocity.

**D.P.O. HORSLEY:**
Okay? Ms. Browning, you're --

**LEG. BROWNING:**
Yes.

**D.P.O. HORSLEY:**
Good. Thank you. Legislator Nowick.

**LEG. NOWICK:**
Just quickly. And Mr. Rossetti, you will probably -- maybe -- will you agree if I say that years ago when we passed the cell phone law, Nassau County did not have it. We could not stop cars from coming in from Nassau County, but once they got here the law was the law. However, Kate, you're right, it is a hard thing to do. But let's assume ten people on a boat, seven of them have the training. It's a chance that's worth taking, if seven people at least get trained and three come in from another County. And maybe if we -- you know, it's just -- you're right that you can't monitor it, but erring on the side of safety would probably be well worth this legislation.

**LEG. BROWNING:**
It's just I'm saying if you have somebody who is a day-tripper from Nassau County and it's different --

**LEG. NOWICK:**
You're absolutely right, there's no way we can --

**LEG. BROWNING:**
Or a Florida resident who doesn't know that Suffolk County requires this.

**LEG. NOWICK:**
But half of our laws --

**LEG. BROWNING:**
It happens.

**LEG. NOWICK:**
We don't monitor anyway. Did I mention that?

(*Laughter*)
D.P.O. HORSLEY:
All right, we'll deal with this when we get to the public hearing, or when we get to the bill, actually.

MR. ROSSETTI:
What you're going to do with this legislation --

D.P.O. HORSLEY:
But I appreciate your agreement. Thank you, Mr. Rossetti, you did a great job (laughter).

MR. ROSSETTI:
What I think you're going to be doing with this legislation --

D.P.O. HORSLEY:
We still have more -- we still have more cards.

MR. ROSSETTI:
You're going to be setting a tone for this law and it to be picked up elsewhere. Thank you.

D.P.O. HORSLEY:
Thank you very much. We appreciate your input.

Applause

Lawrence Postel. On deck is Paul Gaines.

COMMANDER POSTEL:
Good afternoon. My name is Lawrence Postel and I represent the United States Power Squadron, USPS, not to be confused with the United Postal Service, also USPS.

Some personal background. I've been boating over 30 years. I am a life member of the United States Power Squadron which means I've given 25 years of service and earned 25 merit marks. You earn one merit mark for each year by giving significant service to the organization. I carry the grade of Senior Navigator which means I've taken every advanced grade course, including Celestial Navigation, and six elective courses offered by the organization. I equate this accomplishment to a Ph.D. and safe boating. Currently, I'm the Commander of District 3, responsible for overseeing the operations of 18 squadrons on Long Island covering the area from Brooklyn to Montauk Point.

Who is the United States Power Squadron, the best kept secret? The United -- the Power Squadron is an organization covering the entire United States, including Puerto Rico and Hawaii. It's made up of 33 districts. Our mission is to teach safe boating, starting with the basic ABC course, and later followed by advanced grades and elective courses. Our ABC course is both U.S. Coast Guard approved and NASBLA, which is the National Association of Safe Boating Law Administrators. We have an MOU with New York State and we are one of three organizations qualified to issue a Certificate of Completion recognizing a student has taken a safe boating course. Others are New York State Parks Commissions and United States Coast Guard Auxiliary.

Recently, the USPS has changed its philosophy and opened up some of our advanced grade courses to non-members. This change was brought about by -- to fulfill and identify a need to further our public education offerings. We have also developed on-the-water training classes featuring classroom sessions and hands-on environment aboard a vessel. Any member of USPS who is teaching public courses must be certified by USPS. They must maintain the certification by attending recertification classes on a regular basis. Currently we have an excess of 200 certified
instructors. Why did USPS make these changes to offer more public courses? It came to our attention that USPS/ABC Course is a premiere course offering tremendous value to the students. It, however, offers only the basics, and you need much more than that to be a confident, safe boater.

To support this concept, I will compare piloting a boat to driving a car. The traffic lanes are not marked easily with easily viewable white lines, but the buoy system that we have has significant distances between successive buoys. There are no entrance and exit ramps to exit or leave traffic lanes. There is no traffic lights to control the traffic. Boaters depend upon rules of the road, common sense and courtesy to prevail. There are no shoulder lanes to pull off and wait a storm or a fog, which may pop up at any moment due to sudden weather changes. There are no street lights to light the way for night boating, nor headlights on boats.

(Beeper Sounded)

I need another half a minute (laughter). Boaters depend upon moonlight, ambient light and vessel markers on the vessels to navigate the waters. While we cover all these basics in our basic boating course, we cannot get into detail about -- on these lectures.

United States Power Squadron fully supports all efforts to mandate that every boater take at least, at the very least, a basic boating class. We are extremely happy to see that Suffolk County is considering mandating boater education at the County level and hope that New York State will follow your lead and mandate it at the State level. We recommend that the implementation plan be given careful consideration as to the instructor availability and material availability.

The last thing we would like to have is legislation passed for services that cannot be provided. Please do not legislate things that will allow individuals to fill their pockets with money and send people out onto the water with a false sense of security to satisfy a mandated requirement; this will not accomplish your intent of educating boaters to reduce needless accidents and deaths. United States Power Squadrons stand ready --

D.P.O. HORSLEY:
Mr. Postel, you're going to have to lease wrap it up.

COMMANDER POSTEL:
-- with help with the design and implementation process that will be a viable means to which the demand necessary to educate the public. I am very, very --

D.P.O. HORSLEY:
Mr. Postel, please.

COMMANDER POSTEL:
I'm leaving a copy of the USPS book which is our course. It contains everything in it. It's this, it's some 300 pages.

D.P.O. HORSLEY:
Thank you.

COMMANDER POSTEL:
This will go to Legislator. And I thank you, Legislator Stern, for the opportunity to voice our opinion on this topic. And you all should know that only 10% --
D.P.O. HORSLEY:
(Laughter) Please. We should all know.

(*Laughter*)

COMMANDER POSTEL:
Ten percent of the people out on the water have --

D.P.O. HORSLEY:
We love what you do. You notice I let you go on this long, please. Thank you.

COMMANDER POSTEL:
Thank you.

Applause

LEG. STERN:
Mr. Chairman?

COMMANDER POSTEL:
Any questions?

D.P.O. HORSLEY:
Legislator Muratore, you have a question?

LEG. MURATORE:
I do, yes. My question is if I drive from New York to Connecticut, do I have to have a Connecticut license to drive in Connecticut?

COMMANDER POSTEL:
No, you don't.

LEG. MURATORE:
I do. If I'm there going to visit my Aunt and my Uncle and my Grandma, I need a license. So why are we making people who come from Nassau have this so-called Coast Guard license to come into the waters of Suffolk County? Shouldn't we just be worrying about Suffolk County residents and training them, and maybe educating people or going to the State and talking to our State people to enact State legislation to cover everyone in New York State. I think it's kind of fool-hardy to force people from Nassau to partake -- I mean, we'd love them to do it, of course we would, but we can't force it. This is a Suffolk County resolution.

So I think the resolution is flawed a little bit. Maybe we should table this, go back and remove that portion so people from Nassau can come into Suffolk and spend their tax dollar here in Huntington and Lloyd Harbor and places like that.

COMMANDER POSTEL:
I think that was brought up earlier, in that how are we going to mandate this or keep control of it. I think we need to start somewhere. And since the County is willing to take this step and start, why not educate the people in Suffolk County and at least have some portion of the people out on the water have a knowledge of what's going on out there.

LEG. MURATORE:
But we have to make it right to begin with. So I think that portion of forcing people from other parts, from Connecticut, Rhode Island, Nassau County to come to Suffolk, and if they are stopped --
LEG. STERN:
Through the Chair? If I may, Legislator Muratore, that's not what the legislation says.

LEG. MURATORE:
Okay. Okay.

LEG. STERN:
What it says is that if you have completed a boater safety certification course, or if you're licensed in some other jurisdiction, then that certification will satisfy the requirement here.

LEG. MURATORE:
But what if you're not? And what if your state doesn't require that?

LEG. STERN:
If the State doesn't require -- the law of your home port is what governs, that's basically the law of the sea. So this legislation in no way mandates Nassau County residents to do anything, nor would we choose to do that, nor can we do that here, as you know.

LEG. MURATORE:
Oh, great. Super. I'm good with that, then. Great. Thank you.

D.P.O. HORSLEY:
Okay. Thank you very much.

COMMANDER POSTEL:
Thank you.

D.P.O. HORSLEY:
Thank you, Mr. Postel. Paul Gaines? And on deck is Mary Ann Johnston.

MR. GAINES:
Good afternoon, everybody. And thank you for the opportunity to speak today. I'm here on behalf of my daughter, Victoria Gaines, who passed away July Fourth in a tragic boating accident in Oyster Bay.

Presently New York State does not require a boat operator from having a boat -- from having boater education. A 2011 Coast Guard report states that 89% of boating accidents in New York State are from boaters with no education. Should there -- you know, there should be some sort of comprehensive and -- there should be a boating course and it should be comprehensive, it should be in a classroom setting. I really would love to see that happen. I really am opposed, though, also of seeing anything being done online. It's hard enough for somebody to sit through an 8-hour driver's education course and stay awake and retain all the information that's being offered. How do you expect somebody to retain it online for a boating course that's even more, you know, required.

I also believe that boat owners should be certified. I absolutely believe this. New Jersey has certification and Connecticut has certification, all right? So just because Nassau County does not at this point, it may be a matter of time before they jump on the bandwagon as well.

Please keep in mind, also, when we say certification, boaters should also be certified in the type of craft that they operate. There's different hulls to different craft. A sailboat is vastly different than a speed boat. So we may want to consider that as well, that might be something important.
The education and certification of boat operation is only one component of what I would like to name Victoria's Law. It is made up of three components and I'm working very, very diligently with County, State and Federal elected officials to make this happen. I implore all of you to pass 1797. You're establishing the foundation for New York State, not just for Suffolk County but for New York State to follow. All right? Right now you're making our water ways safe for all of us to enjoy, as well as helping us to prevent more needless deaths as my daughter Victoria's on July Fourth.

Just so you all are aware, you may also be interested in taking a look at Senate Bill 7831 which is also for boater certification as well that has recently been proposed. So, just to give you an idea. What Legislator Stern has proposed is actually more comprehensive, more in-depth than what New York State was -- is proposing right now. So I definitely implore everybody to please pass this bill. Thank you.

D.P.O. HORSLEY:
Mr. Gaines, thank you very much for being here today. And again, we're sorry for your loss.

MR. GAINES:
Thank you.

Applause

D.P.O. HORSLEY:
Mr. Gaines, thank you very much for being here today. And again, we're sorry for your loss.

MR. GAINES:
Thank you.

Applause

D.P.O. HORSLEY:
Mr. Gaines, thank you very much for being here today. And again, we're sorry for your loss.

MR. GAINES:
Thank you.

Applause

D.P.O. HORSLEY:
Mister -- okay. I've got one more.

LEG. STERN:
If I may?

D.P.O. HORSLEY:
Yeah, please.

LEG. STERN:
I was just distracted briefly while Commander Postel was walking away from the podium. If I could just ask Commander Postel; you are joined by many of your colleagues, so maybe you could just let everybody know who is with you today real quick. Thank you, Mr. Chairman.

COMMANDER POSTEL:
I have members of the Power Squadron that came here to support me from Long Island. I have my DEO who is the District Educational Officer, and my assistant here as well, and I have a Commander and her husband, and I have another past Commander from Long Island. So they're all here to support this.

D.P.O. HORSLEY:
That's great.

Applause

Legislator Muratore, a question of one of the speakers?

LEG. MURATORE:
No, I have a question of Legislator Stern.
D.P.O. HORSLEY:  
Oh, we're going to have -- we're going to be voting on this bill.  
Go ahead.  What the heck at this point.

LEG. MURATORE:  
The question is, if it's not required in Nassau, then it's not required in Suffolk.  Is that what you said  
to me, the home port is in charge?  I mean, they rule?  So if Nassau says you don't need training  
and they come in their boat in Suffolk County, they don't need training?

LEG. STERN:  
(Nodded head in the affirmative).

D.P.O. HORSLEY:  
Okay?  Very good.  We have one more card, Mary Ann Johnston.

MS. JOHNSTON:  
Mary Ann Johnston, just speaking for myself.  I would have to say, realistically, having been a  
boater all of my life, having sailed the waters of Gardiners Bay, Shelter Island Sound, Peconic Bay,  
as well as Great South Bay and Moriches, common sense is not all that common.  I remember sailing  
back from Cedar Point one weekend with a gale, we had three reefs in our sail and we came upon a  
group of boaters out of Port of Egypt, and they had no life jackets, they were taking on water, they  
didn't have a clue what to do.  As you know, with a sailboat you have a lot of free board and you  
have a long time to turn around and pick them up, and the rules require, you have to pick them up.  
So we turned around, I'm throwing them life jackets, they're throwing them back.  They don't want  
me -- they didn't want life jackets, they wanted to get out of that boat.

So, you know, realistically, if people had to know what you need to know to operate a boat safely,  
we would have less tragedy.  I've grown up on it, my parents taught me how to do it, but you really  
need to do it.  I took two Power Squadron courses and learned a great deal about what you need to  
do.

And the other opportunity I need to say is sailboats have the right-of-way.  It's amazing how many  
power boats don't know that, don't know that.  And it's a really important thing, and that's -- we  
don't have the waters we had 25, 30 years ago, they're very crowded now.  
So we do need legislation, and I thank you for doing it.  Thank you.

D.P.O. HORSLEY:  
Thank you very much, Ms. Johnston.

All right.  Would anyone else like to be heard on this hearing?  Would anyone else like to be heard  
on 1797?  In that case, Mr. Stern, what would you like to do?

LEG. STERN:  
Motion to close.

LEG. D'AMARO:  
Second.

D.P.O. HORSLEY:  
There's a motion to close by Legislator Stern.  Seconded by Legislator D'Amaro.  All those in favor?  
Against?  Abstentions?
MR. LAUBE:
Sixteen (Not Present: Legislator Nowick - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Congratulations, Mr. Stern.

Applause

All right, there you go. I like to hear applause.

/Public Hearing on) 1803-12 - Adopting Local Law No. -2012, A Local Law to eliminate item pricing waiver fee (Cilmi). Would anyone like to be heard on this? 1803. 1803, anyone like to be heard on 1803?

LEG. CILMI:
Motion to recess.

D.P.O. HORSLEY:
Legislator Cilmi makes a motion to recess. Is there a second on the recess motion? I'll make the second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Sixteen (Not Present: Legislator Nowick - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
/Public Hearing on) legislation IR 1811-12 - A Local Law authorizing the County Executive to Execute Agreements for Sale of the John J. Foley Skilled Nursing Facility (Phase II - Budget Mitigation)(County Executive). I have several cards on this and I will proceed to go through them.

MR. ZWIRN:
Mr. Chairman?

D.P.O. HORSLEY:
Yes?

MR. ZWIRN:
The prospective purchasers are here with some representatives. Would it be all right if they come in either --

MR. NOLAN:
The speakers first.

LEG. KENNEDY:
The speakers first.

D.P.O. HORSLEY:
Is there --

MR. ZWIRN:
You want to do the cards?
D.P.O. HORSLEY:
The Legislators would like to have the speakers go first, okay?

MR. ZWIRN:
That's fine.

LEG. KENNEDY:
No, no. They've waited here all day long.

D.P.O. HORSLEY:
The speakers first?

LEG. KENNEDY:
All day long.

D.P.O. HORSLEY:
Okay. The first speaker, the first questioner is Marvin Smith. On deck is Lee Snead.

MR. SMITH:
Good afternoon. I would like to thank this Legislature for giving me the opportunity to address this body. As a Suffolk County taxpayer and resident, it seems to me that it is past time for us to move forward with the sale of the John J. Foley Nursing Home. As I understand it, the County did its due diligence by researching the past practices and service performance records of the private organization interested in purchasing this vital institution.

We're all concerned about the health and welfare of the patients at John J. Foley. We have been assured that under the terms of the agreement, the purchasers have agreed to the County's request that every patient remain at the facility and all staff be offered positions to insure continuity of care. The Sherman Family have a relationship with Union Local 1199 and will work to -- with them to protect workers' rights. The agreement protects every single patient and protects the interests of Suffolk County taxpayers. Is it a perfect agreement? No. And one does not exist. When this is agreed to, will there be Monday morning quarterbacks? Of course. But those same Monday morning quarterbacks do not have a more effective plan. The question is are we serious about doing something or are we interested in having a political football?

This agreement will protect the patients, assure continuity of care by existing staff and relieve the drain of the County budget. Additionally, it will provide stability and a funding stream to social and youth programs. We urge that every member of this body support this agreement. Thank you.

(DTHE FOLLOWING WAS TAKEN AND TRANSCRIBED BY LUCIA BRAATEN-COURT REPORTER)

D.P.O. HORSLEY:
Thank you, Mr. Smith. Lee Snead, and on deck is Jennifer Tay, I believe it is.

MR. SNEAD:
Good afternoon, Members of the Legislature. I represent Suffolk County Association of Municipal Employees as their Governmental Liaison and we are here to oppose this sale. As many of you know, we have over 200 workers at the Foley facility right now and our main concern is with the continued employment of those individuals.
You've just heard the suggestion that the contracted issue provides for protection of both employees and the patients at that facility, seven yet last week before the Health hearing, County Attorney Cohen and Ms. Calcaterra both admitted that this contract provides no such assurances; that, in fact, the buyer of this facility could turn around tomorrow, ship everybody out to another facility and sell this place off. There are no specific provisions in the contract that require an offer of jobs to anybody. In fact, if you look at section 6.3, it says it shall not require the buyer to employ such employees on the same terms and conditions as they now have. And to the extent that the buyer offers employment, that he'll -- they will be paid the same as other people in the County in the health industry. I don't know who's going to suggest that they will enforce that provision, but that actually anybody who reads a contract knows that's weasel language.

Beyond the issue of the employees, there are serious problems with the manner in which this contract is moving forward. It's my intention to provide a legal memorandum to the body here. And I would ask this body, if they are inclined to close this hearing today, which I believe for other reasons is improper, that they at least allow the hearing to stay open for the purpose of receiving written submissions.

Secondly, next, the supersession issue here has been raised in conjunction with another piece of property you're selling, that equally applies here. There has been no proper -- no proper designation of this property as surplus, and unless twelve members of this body are prepared to do it today or at some point in the near future, this property can't be sold.

We're all aware now as of the hearings last week of the interesting tax abatement provision in this matter. Why is it that we are giving tax abatements to an individual who's coming in to buy a piece of property, and why hasn't that tax abatement been reflected in the purchase price of this facility?

Lastly, this contract is supposed to close by December 31st of this year, yet it's contingent on both receiving full zoning approvals from the Town of Brookhaven and certificates of occupancy for the facility. Now this facility was built by the County and I don't know that they did it according to New York State standards, but I doubt you're even going to get a full review of this facility by building inspectors of the Town of Brookhaven within a period of a year, and that's even if you have the right to get a certificate of occupancy for the use here, which is changing.

We would strongly urge each member of this body to turn down this law at this time and save the jobs of our members.

(*Applause*)

**D.P.O. HORSLEY:**
Thank you, Mr. Snead.

**LEG. CILMI:**
Wayne.

**D.P.O. HORSLEY:**
We have --

**LEG. CILMI:**
Wayne.

**D.P.O. HORSLEY:**
I have -- also, Mr. Cilmi would like to ask you a question first.
LEG. CILMI: How are you, Lee?

MR. SNEAD: Good.

LEG. CILMI: A question for you, just thinking out loud. If an arrangement could be made whereby the prospective buyer, whether it's -- whether it's this particular buyer or otherwise, would agree to sort of reimbursing the County for the cost of employees, the employees would remain County employees for the length of their employ here in Suffolk County until they choose to leave or until they retire, and the new owner of the facility pays the County some amount, you know, equal to the cost of their employment, and then over time, of course, as our employees leave, they fill those jobs, those vacancies with private 1199 employees, or what have you, at some point in time then the County would be out of the nursing home business, and would that be an arrangement that would -- that you would entertain?

MR. SNEAD: As you --

LEG. CILMI: I wouldn't ask you to commit to something, but does it sound interesting to you at least?

MR. SNEAD: Well, first off, that would have to be something that would be voted on by our Executive Board, and I'm obviously --

LEG. CILMI: Right.

MR. SNEAD: -- not in that position. However, the way you phrased that, it would be totally unacceptable, because what you've identified is exactly one of the problems we have here as a union. We are the lawful representatives of the employment force of the John J. Foley facility, AME of Suffolk County. You are talking about bringing in a whole different representational unit to come in here and represent our employees. So from that stand -- 1199 is not our union.

LEG. CILMI: No, no, no, don't misunderstand me. What I mean is that the employees there would remain AME employees as they are now.

MR. SNEAD: Okay.

LEG. CILMI: And as they -- as they leave, the new owner could do what they want with that -- with that job. But for the length of their employ, they remain AME employees, they keep their benefits as County employees, etcetera.

MR. SNEAD: With regard to working out a deal with the County where the employees remain their, remain County employees, remain in the State Retirement System, I believe that is something that the
union would be very willing to discuss and has already indicated that. There are a number of ways that that could occur. There are -- there, in fact, was an offer last year for more money in a public/private partnership with the County that would have allowed the County to keep the facility and keep our employees hired, but manage that facility and be paid. So there are other systems out there that that could occur.

I am aware that this discussion's ongoing. It is to my understanding one that we would be willing to engage with and are happy to speak with it. We have not been engaged in any way, shape or form in this discussion until today, essentially. So we would be -- we would look very favorably toward a deal like that.

**LEG. CILMI:**
I only bring that to the floor now because, as you've seen, we're anticipating a discussion with the prospective owners in short order and it may be something that they wish to think about. Thank you.

(*Applause*)

**D.P.O. HORSLEY:**
Legislator Kennedy has a quick question, Mr. Snead.

**LEG. KENNEDY:**
Yeah. Lee, you were there -- first of all, thank you for being here. You were there at the Health Committee meeting on Thursday, and I believe you might have had an opportunity to see that the three-page memorandum of, I think he called it, explanation that the County attorney had prepared and done explaining why in his opinion we don't have to comply with most of the basic premise of disposition of property that any municipality in the State of New York has to engage in. The surplus declaration in particular you had spoken about, but I'm a little unsure with that. Can you --

**MR. SNEAD:**
Well, you, as a Legislative body, when you are selling a piece of County property, you have to do two things pursuant to County Law 215. You have to first declare it surplus by a super-majority, you then have to agree to sell it. Normally, when you agree to sell it, County Law 215 requires you to put it out to public auction. The point of Mr. Cohen's memo was that on that second issue -- it didn't address the surplus issue at all, but on the second issue, he felt that you could pass a Local Law to eliminate the need to go out to public -- to public bidding, make that subject only to a permissive referendum. That was the point he was making in his memorandum. And, by the way, I've read that memorandum. One of the -- one of the cases he cites to suggest that we have the authority to do that actually reverses at the Appellate Division.

So I think you have a real issue here that's going to -- that's going hang this -- going to hang this up, and I'd like to be able to put in a memorandum in regard to that. But on the issue of the sale -- excuse me -- on the declaration of this property as surplus, you have to do that separately from the agreement to sell the property, too.

**LEG. KENNEDY:**
So then is it your opinion that the way this resolution is constructed at this point, it's inherently flawed and basically void?

**MR. SNEAD:**
Absolutely.

**LEG. KENNEDY:**
It is asking us to take a transaction or an act that legally we can't take.

**MR. SNEAD:**
Absolutely. And to the extent that you are considering closing this public hearing tonight, I remind you that the Hibberd Law was passed precisely to have two additional hearings in this process before you close the public hearing. The Hibberd Law was designed to inform you, to give you additional information -- additional opportunities for public to inform you about what is happening here and what the ramifications are, what the possible alternative strategies might be. So to the extent you’re considering closing this hearing tonight, I would suggest to you that you’re going to violate the Hibberd Law right at that point.

**LEG. KENNEDY:**
Okay. Thank you. Thank you, Mr. Chair.

**MR. SNEAD:**
Thank you for letting me appear.

**D.P.O. HORSLEY:**
Thank you very much, Mr. Snead.

(*Applause*)

Mr. Snead, sorry about that, we have one more question.

**LEG. STERN:**
Lee, just very quickly. Which case were you referring to that the Appellate Division overruled, do you know?

**MR. SNEAD:**
It’s on the second page, top paragraph. You got the memo?

**LEG. STERN:**
Yeah.

**MR. SNEAD:**
Can I see it? Blass versus Cuomo.

**MS. ORTIZ:**
Can you say it on the record?

**MR. SNEAD:**
Blass versus Cuomo.

(*Applause*)

**MS. ABRAMS:**
Hello again. Forgive me. My name is Jennifer Abrams. I just got married.

**D.P.O. HORSLEY:**
Yeah, I was going to say I have Jennifer Tay here.

**MS. ABRAMS:**
I wrote Tay.
D.P.O. HORSLEY:
Congratulations.

MS. ABRAMS:
Thank you. So here we are again. I spoke to you earlier today and I thought of a few other things that I wanted to bring forward before you decide on this.

We’ve made so many improvements at Foley, everybody here knows that. We just came off of an excellent survey, only a few minor, minor things. Probably one of our best surveys in, I don’t know, how many years?

AUDIENCE MEMBER:
Twenty.

MS. ABRAMS:
Twenty years. For the few months that I was in admissions, from December until May, we were handcuffed because Four South wasn’t opened. But in that short period of time we obtained bed hold on Three South. How long was it that we had no bed hold on the HIV Unit? I think ten years. So we were able to obtain bed hold and that was a great influx of cash to our facility. I believe there was a grant that goes along with that, right? How much is it? A lot a couple of hundred thousand dollars, I think. Okay? Rehab was full. Shouldn’t we have at least had an opportunity to obtain bed hold throughout the whole facility before you sell us off? If Four South were open, I assure you that in those few months it would have been full. We turned away patients.

It was very frustrating for me to be in that role, and that’s why I’m happy that I’m back on the unit, because I can provide the care that we all give every day there. We just -- I couldn’t bear to do it anymore. It was unsettling to me to know that we had 40 empty beds and that we had to walk away from difficult-to-place patients knowing that those families were in severe turmoil. I would say that if my mom needed to be placed, I would without hesitation place her there. We have people from the facility who have family members there, and that speaks volumes to what we do there. To have the confidence to know that I would place my own mom and go home at night and sleep, that really speaks to something about our facility and how important it is and vital. And all those people that we turned away, those are Suffolk County residents. They had every right to have wanted to place their family members there. And I think it would behoove this Legislature to at least give us the opportunity to try to obtain bed hold so that we could really show how much we can make. We weren’t able to do that by closing -- we weren’t able to obtain bed hold. How much does that -- Kathy knows the numbers.

MS. REEVE:
4.1 million dollars since January.

D.P.O. HORSLEY:
Please.

MS. ABRAMS:
Since January.

D.P.O. HORSLEY:
Yes.

MS. ABRAMS:
From January until now --
D.P.O. HORSLEY:
Speak to us.

MS. ABRAMS:
-- 4.1 million would have been income that we could have brought in, but we were handcuffed. We were cut off at the knees because the unit wasn't open, and that decision was made here. That was -- these decisions were driven by this Legislature.

So we urge you to please reconsider. I'm happy that the Shermans are here, that's great, but I think we deserve the opportunity to reap the benefits of what we have sewn, the hard work that we have done. The County deserves to reap the benefits for it. Okay. Thank you.

(*Applause*)

D.P.O. HORSLEY:
Thank you. We -- excuse me, Ms. Tay.

LEG. HAHN:
I have a question.

D.P.O. HORSLEY:
I couldn't remember your new name. We have -- Legislator Hahn would like to ask you a quick question.

LEG. HAHN:
Can you tell me a little bit more, no name, but the types of people who were turned away and how many they were and why?

MS. ABRAMS:
At this particular time, the people that we turned away were dementia patients, because dementia was full. Four -- Four North was full, it's a locked unit, and those were either dementia or nearing dementia, behavioral patients that couldn't be placed on a regular floor because they were at risk for elopement, or they were too high of a need to be placed on a regular floor. We would have been able to take them on our fourth floor. They were dementia patients.

LEG. HAHN:
So they were patients that the Foley Skilled -- Skilled Nursing Facility can handle.

MS. ABRAMS:
Correct.

LEG. HAHN:
But because of the closure of the wing or the floor --

MS. ABRAMS:
We didn't have --

LEG. HAHN:
-- they wouldn't --

MS. ABRAMS:
We couldn't take them.
LEG. HAHN:
-- take them.

MS. ABRAMS:
We couldn't take them because Four North was full, because all the Four South patients were moved over, the doors were shuddered, and the lesser -- the people requiring less -- the lesser behavior dementia patients were placed on different units. Four South was shuddered, so those beds weren't able to be filled. And more to the point, they're still included in our census. So when our census goes out, it looks as if we are at 78% capacity, so when you're trying to sell us, we don't look very valuable, when in reality those 40 beds shouldn't have been included, because we're really at like 97%.

LEG. HAHN:
Do you know how many people --

MS. ABRAMS:
We're full.

LEG. HAHN:
-- were turned away?

MS. ABRAMS:
At least 13 for sure.

LEG. HAHN:
Since when?

MS. ABRAMS:
But probably, you know, more because we couldn't even look at them.

LEG. HAHN:
Just since the floor was shut?

MS. ABRAMS:
Yeah.

LEG. HAHN:
Which was -- when was that done?

MS. ABRAMS:
It was two weeks before I started in admissions, which was -- I believe it was the first week of December. We would tell some of them that we could put them on a wait list, but the only real way you come in on a wait list is if somebody, unfortunately, passes away. If they really require --

LEG. HAHN:
Wait. We have a wait list for that unit?

MS. ABRAMS:
We did. At that point, we would tell -- you know, I would tell the social worker, or whoever I was dealing with, you know, if we get an opening, we'll try. But we couldn't bring those patients to the second, third or fifth floor, because they're required to be on the Dementia Unit, which was Four South, which was closed two weeks before I took that role. So during the time that I was in admissions, we had a full census up on our fifth floor rehab, which, again, were difficult rehab
patients that other facilities might not have taken, and we were able to fill those beds up. We were able to obtain bed hold on HIV Unit, which -- ten years. What I'm saying is the potential for John J. Foley to be full and to operate efficiently has been clearly done, we have done our job. So it's really not fair at this point to sell us when we've proven ourselves. It's very complicated.

If they opened those doors to Four South, those are the -- those are the -- those beds are the easiest to fill because the need is so great. I urge you to open that and give us the opportunity, at least another year. I don't know. This is where you have to come in.

**LEG. HAHN:**
Wayne, I'm done.

**MS. ABRAMS:**
Why shouldn't we all reap the benefits of what we've done, of the work that we've done? Why should we give it away? I'm not saying that they can't do a good job, but if we have proven that we can as County servants, why would we -- why would we just give it away?

**D.P.O. HORSLEY:**
Okay. I think that the questions have been answered, excepting Ms. Nowick's.

**LEG. NOWICK:**
No. Just to Legislator Hahn's question. I think it was you, right, Kara, that asked the question how many beds were turned away?

**LEG. HAHN:**
Yep.

**LEG. NOWICK:**
I actually was there this afternoon and spoke to the Executive Director, and we did tour that particular North and South. North is filled, is it, or South? North is filled.

**MS. ABRAMS:**
Well, Fourth South and North, south was closed, so now --

**LEG. NOWICK:**
Right.

**MS. ABRAMS:**
-- now North.

**LEG. NOWICK:**
And we did ask the question how many were turned away, and his answer was about eight. But the reason -- the reason probably is because the nursing home is in flux and it's hard to commit. He also felt that if it was not in flux, that they could probably fill those beds like that.

**MS. ABRAMS:**
Absolutely. It wasn't because of -- I mean --

**LEG. NOWICK:**
I'm not coming to a conclusion, I'm just telling you what he told us today.

**MS. ABRAMS:**
Yeah. But I'm the person that was actually out there --

D.P.O. HORSLEY:
Okay.

MS. ABRAMS:
-- doing the admissions.

D.P.O. HORSLEY:
That would be clear.

MS. ABRAMS:
So I can tell you that, without hesitation, it might take a couple of months if somebody's out there doing it.

D.P.O. HORSLEY:
Okay. We have one more question there, is Kate Browning.

LEG. BROWNING:
Hi, Jennifer.

MS. ABRAMS:
Hi.

LEG. BROWNING:
Congratulations, by the way.

MS. ABRAMS:
Thank you. Thanks.

LEG. BROWNING:
And, you know, my mom had dementia, and I know that having visited the nursing home many times, I think that, you know, it's my understanding that many of your dementia patients are not just dementia, but many of them have psychiatric problems.

MS. ABRAMS:
Right.

LEG. BROWNING:
And in your experience of having done admissions, what -- you know, what percentage of the current residents do you think had -- have dementia with some psychiatric problems, that when you were out and you looked at the PRI's were denied by other nursing homes and John J. Foley being the only place for them to come? I was just curious. Do you -- I don't want to put you on the spot and ask you a question you may not have the answer to, but I'm curious if you have an answer to that.

MS. ABRAMS:
Not an exact number, but I can tell you that many of our dementia patients also carry the diagnosis of schizophrenia, schizophrenia-related dementia is entirely different than, you know, someone that could, you know, safely be at home. The behaviors that come about at different times of day, sundowning, you know, these can be infantile behaviors, screaming, kicking, you know, just shouting out at random; infantile behaviors that involve incontinence care and things like that. Very difficult behaviors that are related to schizophrenia and dementia, and we happen to have quite a
few of them and --

**LEG. BROWNING:**
And is that generally because you wind up being the last resort, where the -- I mean, how many private nursing homes --

**MS. ABRAMS:**
That is how I felt. In the role it was very frustrating to me knowing that I only had one or two empty beds at a certain point in time. And the need was so great because I would be called in to see them, and many times I would go back and they would still be there, and that was very frustrating, especially knowing that this is why I took the job in the first place, because I thought that's what we were here for.

**LEG. BROWNING:**
Right.

**MS. ABRAMS:**
And I would walk down Stony Brook halls, I would walk down Saint Catherine's, you know, and that's telling, too. When I would go to, say, Saint Catherine's, who has their own nursing home, that's a red flag. Why am I getting a PRI? Well, because that particular nursing home has a particular type of patient, you know, and, yes, I would face that many times. And it was painful for me to have to say no to these families. Desperately they would call and, you know, "Please come see my spouse. Please, I have no other alternative." And I saw, you know, maybe a month in that it wasn't -- it wasn't opening, Four South wasn't going to be reopened, so it made my job very, very frustrating.

**LEG. BROWNING:**
Thank you, Jennifer.

**MS. ABRAMS:**
And that's why I went, you know --

**D.P.O. HORSLEY:**
We have one more questioner, Legislator Kennedy.

**LEG. KENNEDY:**
Jennifer, hi.

**MS. ABRAMS:**
Hi.

**LEG. KENNEDY:**
Thank you for being here again. And you've been steadfast and you do a great job there.

**MS. ABRAMS:**
Thank you.

**LEG. KENNEDY:**
Thank you for the care that you do.
LEG. KENNEDY:
But I want to go to something that you spoke about at the Health Committee meeting last Thursday, and it kind of goes to this notion that I've heard floating around many times, that somehow we at John J. Are in competition with the general sector out there. You spoke about our Alzheimer's unit and how it differs from most any other Alzheimer's unit that you know of or that we would find for any other facility in Suffolk County. How so, and tell me a little bit about that.

MS. ABRAMS:
Again, this is my opinion based on being in other nursing homes, and knowing that I was reviewing a PRI, reviewing the same patient that other screeners were looking at and that, you know, they were walking away from. It was very clear to me that they weren't going to be accepted at these other facilities, they'd been picked over.

LEG. KENNEDY:
So our patients, by and large, were -- required greater elements of care, had heavier needs, and may have had, as you said --

MS. ABRAMS:
Yes.

LEG. KENNEDY:
-- more behaviors, if you will.

MS. ABRAMS:
Right. I also -- you know, I can tell you from when I worked on Four South, I won't give you patient names, but many of the admissions that we got, you could see that they had been bounced around from hospital to hospital. One of them in particular recently died, but I remembered researching his illness to find out what was it that made him so unusual. He went from four or five different nursing homes. He was at Good Samaritan for only one hour, where he was transferred to the hospital and bounced around and ended up with us, and the buck stopped here, we kept him for a few years. He lived with us for, oh, I guess about five years until he recently passed away. His behaviors were so great that he -- they couldn't contain him in these other nursing homes. And I read all of the notes. Some of them said that he was aggressive, one of them said that he had, you know, attempted to strangle a nurse in one facility, and just one by one was transferred out. I question whether that -- you know, whether he really did that, because he never was violent, but he definitely had severe behaviors. You know, he ended up, you know, having to be on a one-to-one at one point. But these are the things I'm talking about, these are the patients that we handle.

LEG. KENNEDY:
Well, there were two --

MS. ABRAMS:
Most people can't handle -- they end up coming to us and they make their life there.

LEG. KENNEDY:
But the other thing that you mentioned that impressed me, too, was -- is that you characterized our unit as a secure unit or a --

MS. ABRAMS:
It is secure. We have a WatchMate, which was also recently upgraded. Many upgrades were recently done to our building, too. Yes, we have the WatchMate System, but we also have a -- it's a gated -- Four South has a big metal gate blocking the elevator, so it's basically -- in essence, it's a
secured unit. Those who really need also get the WatchMate, but there's more eyes. There's -- you know, the care that's rendered on Four is unlike the Second and the Third Floor, and it really takes a special individual to be able to work there. And I commend the staff there. They did a great job when Four South went over to Four North and it became so congested because these -- you know, you had so many things going on with these patients at different levels. Very difficult, but we did it, you know.

D.P.O. HORSLEY:
Okay. Legislator Kennedy?

LEG. KENNEDY:
Thank you. Thank you, Mr. Chair.

D.P.O. HORSLEY:
Thank you very much. And we've got a long way to go, so thank you very much. We appreciate your comments.

MS. ABRAMS:
Thank you so much.

D.P.O. HORSLEY:
Nanci Dallaire, and on deck is Linda Ogno.

(*Applause*)

MS. DALLAIRE:
Thank you. It's disappointing that this public hearing is happening. I'm surprised that two public hearings have already been held. I'm a taxpaying County employee at John J. Foley, and I've been actively opposing any sale or closure of this health care institution for five years. I've anticipated and waited for any public proceedings involving John J. Foley. I stay informed, but I was not aware of those two public hearings. I must once again voice my opposition to this so-called public hearing.

Those who have endured at John J. Foley pray. We may be hard-pressed on every side, but we're not crushed; perplexed, but not in despair, so we will once again combat this assault. We will stand up for our standards and defend our rights to these services. This facility and these services should not be up for debate. John J. Foley deserves to be secured by this County and insured by this State, just like the criminals who live in the brand new jail next door.

The County continues to ignore the potential at John J. Foley. There were only two options considered. And although Mr. Bellone was open to options, he only pursued the same two options that the previous County Executive dictated. I thought we were supposed to learn from our mistakes. If we don't, we're doomed to repeat them. Well, déjà vu. The only thing I have learned is that if you do not look for solutions, you will not find them. So after five years, I'm convinced we cannot convince you. Our public outcries have fallen on deaf years, but the fact remains this sale is wrong. It will be a serious mistake for Suffolk County, a backwards step for these services, and a breach of trust with the citizens in our County.

We know all too well that we are in serious debt. The County's convinced that this sale will significantly reduce the deficit. I believe that sale will only make our bad situation worse. Why would we jeopardize these services at a time when we need them the most? Most families need these services. More people are aging on Long Island. More soldiers are coming home wounded. Why not be compared? We have been so quick to forget that this facility served as an essential emergency evacuation center for hundreds of citizens when crisis struck. How do we discount these
services?

This Legislative body holds the power to change the collision course that has been set. You could turn it around. Search for the solutions without sacrificing services. The cost for that brand new correctional facility is never up for a debate. The blame is placed on Foley while the cost for that jail totaled 170.4 million dollars through the end of 2011, and I wonder what that total is today. It's a slap in the taxpayer face to watch John J. Foley demise as we watch that jail rise. Tax paying citizens who can and do vote are sold out and abandoned, but the criminals who cannot vote get the Taj Mahal built and their future is secured? Know that there were only two options ever considered.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much, Ms. Dallaire. Linda Ogno, and on deck is Pat Rollings.

MS. OGNO:
I expect you as a taxpayer to comply with the law of -- that you guys have made. Yeah, I really just don't think you -- I sit here time after time and I look at you guys, things that you do while people are talking. It breaks my heart. We haven't even sold this building to the highest bidder. What do you think's going to happen when the other nursing home people come in and see that Mr. Sherman got this deal for 23 million dollars? I'm sure there's going to be a couple of lawsuits against this body. The County Executive's breaking your law by entering into a contract by using the Foley name.

You've put many laws on the books. We've sat here listening to all these people that have come here to talk. You need to follow the law. Giving this man tax breaks, too, is a -- Brookhaven Town -- only towns will no IDA's are allowed, and Brookhaven is very active in this.

I just -- I just -- I don't really know what else to say. We've been coming here for years. We've said everything we could possibly say. This facility was made for people that can't go anywhere else. I've worked there or 24 years. I've worked in other facilities. We take people that will not go anywhere else, and they've come in and they're hard-pressed and they're difficult to work with. But you know what, they make a home there and they turn it around. We keep them for years after other people have gone -- they've gone from nursing home to nursing home. We've had families come to us and thank us. And then we wonder, we take care of these people for so long, how did they have this trouble in other nursing homes, but they make a home there and they become our lives, too. I think it's something you really have to consider.

You know, 23 million dollars may seem like not a lot of money, but not when we had a 530 million dollar deficit just a couple of months ago and we're already down to 180 million. I'm pretty sure we can afford to keep Foley around for a little longer, especially if you run it right and break us even. Thank you.

(*Applause*)

D.P.O. HORSLEY:
Thank you, Ms. Ogno. Pat Rollings, and on deck is Kathleen Reeves.

MS. ROLLINGS:
Good afternoon. Pat Rollings. I've been working at the facility for 25 years. For the last five years, we've been coming to you and basically with a guillotine over our head. You know, month to month to month we don't know what's going on. And, you know, am I going to be able to keep my job? Am I going to be able to retire? I have 25 years in the pension system. If I don't make 55 with
30 years, my pension is really not going to be that much. And let's face it, we all know we are lower in the pay grade, so I don't have a big pension to begin with. I need those five years.

You know, a lot's been said about our facility and the kind of patients that we get. And I will tell you, I've worked on a dementia unit, and there's been many times that we've got patients that I'll tell you, "Oh, my God, how did we get him?" "Oh, my God, he's cursing me, he's hitting me, he's coming after me." But like Jen was saying, with diligence, we try to find out what his problems are. And because we have this staff, it's a constant continuity of care. They get to know us and trust us.

I have one guy that two years ago was calling me every name in the book, coming at me. Now, when he sees me, "Oh, come here, come here. You can help me, you can help me." He doesn't know my name, he knows my face.

Another thing, too, is, you know, many of you here have voted against layoffs. You're talking another 200 layoffs. There's 200 of us, and many of us are so close, so close to fulfilling our duty for the County. If this place is sold, the jobs that we will lose cannot be picked up in the County elsewhere. We are CNAs, we are Nurse's Aides, we are nurses, LPN's. There are no other positions in the County. The other layoffs, and I feel terrible for them, because I know what they're feeling because I've been living this life for five years. At least they could be on a preferred list. If times get better, at least they have the possibility of retaining a County job again and being able to fulfill their years to get into the pension.

And I just feel like what Jen was saying, there's such possibilities in our place and we keep coming here and telling you guys. We can do something. We can make money for this facility, but we just feel like we're undermined at every step of the way, and an example is closing this unit. Every time we turn around, we get one step forward and two steps back. We just want to be able to keep this facility County. It is special, it is not like the private sector. We've told you this over and over and over. Please, please, don't do another 200 layoffs. Please keep it County, it is an asset. You don't sell -- I wouldn't sell my house now the way things are going on. You shouldn't be selling this, especially at that ridiculous price after all that's been put into it. Thank you very much.

(*Applause*)

D.P.O. HORSLEY:
Thank you, Ms. Rollings. Kathleen Reeves, and on deck is Alison Abrams.

MS. REEVES:
Hi, good evening. My name is Kathleen Reeves, I work at John J. Foley, I'm a nurse. And first of all, before I even start what I came up to say is I've been a nurse for 30 years. I've worked at Long Island Developmental Center, I've worked at Nassau County Medical Center, and now I'm working at John J. Foley. The people with money will always get taken care of. It is the people that don't have the money that need a place to go, and this is what John -- the purpose that John J. Foley fills.

Now, what I wanted to say is that under resolution, I.R. 1811, Suffolk County is not getting a proper and fair deal -- is not getting a proper and fair deal. This is because of self-created losses due to poor management of the County. The County is, in effect, gifting a municipal asset to Israel and Samuel Sherman.

Nursing homes sell at five to eight times their annual revenue. By keeping the resident level artificially low and not admitting new residents -- excuse me -- residents as previously under Mr. Levy and since Mr. Bellone has taken office and dumping residents as it was done under Mr. Levy, artificially depressed annual reimbursement and revenues, therefore, reduce the multiple used in the appraisal and artificially depression of the sales price -- sale price. To put it bluntly, to base a sale price on 195 residents in a 264-plus capacity facility guarantees an effective loss on any deal.
Acceptance of this HEAL Grant, which is actually the taxpayers' money, to pay off the bond without proper legal vetting is, in fact, stealing from the taxpayers. You, as a body, are abdicating your fiscal responsibility to protect taxpayers of Suffolk County.

We've already supposedly appraised the nursing home; is an ongoing concern rather than the sale of real estate and the building. The County has also agreed to act as an agent with the IDA to further reduce the Sherman's taxes, the actual amount I don't know. The County has already lost in excess of 4 million dollars since January by keeping empty beds. Empty beds don't make money. In the real world of business, people get fired for shooting themselves in the foot this way. This deal is, in fact, worthy of the Keystone Cops.

To date, everything has been done in a secret and without -- in secret and without answers to questions asked. Selling John J. Foley under such conditions is a lose/lose situation for the taxpayers of Suffolk County. The accepting of non-vetted HEAL Grant with the sole purpose of giving the nursing home to one select not-vetted owner is an even further rape of the taxpayers' money. I'll be just one more minute.

Currently, there are approximately 200 Suffolk County workers at John J. Foley. There are approximately 200 Suffolk County taxpayers, and 200 citizens of Suffolk County who will be without jobs.

D.P.O. HORSLEY:
Ms. Reeves, please wrap it up.

MS. REEVES:
I'm wrapping it up. Okay? Earlier, Ms. Regina Seltzer was absolutely correct by saying that related to the rail job -- rail -- excuse me -- rail yard deal, that there were laws that were not being followed. This does seem to be becoming a new practice in the County of Suffolk. All right? Yet in other ways nothing has changed since the last County Executive. One-shot deal after one-shot deal to balance the County budget on the backs of the workers at taxpayers of Suffolk County. Thank you.

D.P.O. HORSLEY:
Thank you very much, Ms. Reeves.

(*Applause*)

Alison Abrams, and on deck is Patricia Kuss.

MS. ALISON ABRAMS:
Hi. I'm Alison Abrams. I'm a nurse practitioner at John J. Foley. I have been in medicine for 40 years, 40-plus years, and I've seen medicine change, come, go, all kinds of things happen. And we, as a society, are in big trouble because of what's happening. I mean, we rate 17 in the world for our quality of care, and we spend more money by millions. Why should we make this facility a problem for our society? We take good care of our residents.

I have seen tremendous changes over the last couple of years since I've been there. As Jen said, we are -- had made so much progress. Our patients are such -- well taken care. They're people that nobody else wants. It's not even just the dementia floor, it's all the floors. There -- we have patients that nobody else wants. They don't have high pay sources. We're not in it for the money. They will not have anyplace to go. There's lots of ways to get rid of people. I mean, if somebody private comes in, I don't know if -- you know, I can't say exactly that it would happen, but that's what usually happens, they go to the hospital and they don't come back, and that's the way it is,
and we don't want that to happen.

Our patients are well taken care of. We've made so much progress. We had I think six administrators in two years and we still survived, and thrived and got better. So I believe that we should not sell it. It's -- 23 million dollars is way too little. We have totally a lot of extra acres, those 14 1/2 acres. If you want to subdivide them, sell those acres for 23 million. It makes a perfect continuing care community. Somebody wants to put up a nice continuing care, that's what beds we need, we need it in Long Island, we need it in the country, so think that. Think sell those other acres; perfect feed for us. It's just a perfect combination. So that's what I have to say.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much, Ms. Abrams. Patricia Kuss.

MS. KUSS:
Good afternoon. I'm Patricia Kuss, a former employee of John J. Foley Skilled Nursing Facility, and I'm very, very sad to say that. I miss the residents, I miss my coworkers.

I think it's a big mistake to sell the facility. I think that we should look at viable solutions, as was suggested by Legislator Cilmi. Let's think about keeping the existing workers County, if anything, and just through attrition and the retirement, just let them have what they deserve. People's pensions are on the line. If you've got 25 years in and you're 49, you can't take advantage of the retirement. Think about that retirement package. I recently put in for mine and I retracted it, and I have my reasons. But, please, please take care of them while they're still there.

And I really don't know what else to say, because they do give care up and -- it's over and above the call of duty. Those residents are like family to every single one of us, so keep that in mind when you make your decisions. Thank you.

D.P.O. HORSLEY:
Thank you very much, Ms. Kuss.

(*Applause*)

With that, I have no further cards. Would anyone like to be heard on this? Would anyone like to be heard?

MR. STRAUSS:
I always wait until last.

D.P.O. HORSLEY:
All right. Then we're going to -- we have the prospective buyers coming up as well. So you're on deck, sir.

MR. STRAUSS:
Thank you, Wayne. I learned something new from this morning, because I spoke last, and Mr. Kennedy brought up that not only are they getting a good deal on the price of the facility and the land, but now we're going to give them IDA land -- money. Why? They can't buy it just as is? Now we have to give them more supplemental?

We were talking about not being able to supplement anything. Well, here we are. We're going to
sell it and now we're going to supplement it also. I don't get it. I don't get it.

Another thing is, you know, we heard this before. I was here for the first buyers and they said, "Oh, no, we'll keep everybody, we won't get rid of any of the patients, unless they cause a problem." Boy, isn't that amazing? Who's there to tell you if that was a real problem, or if it was a problem, this way they can get out, get somebody in there, they'd make more money. It's a profit. I don't begrudge anybody to make a profit, but they're telling you stuff, they ain't going to do that. If they don't make any money on that person, I guarantee you he's going to be a problem. Out the door, bring in the ones that make more money, and they have no more problems. Think about it. Guys, this is not -- this is not something that you haven't heard before. Just remember that, they told you, "Oh, no, we'll keep everybody, unless they're a problem."

I don't know these new people, I'm sure they're upstanding citizens. I don't know them, but I'll tell you one thing, if they say the same thing about a problem, they're in this for a profit, that's all they're interested in.

Again, thanks, guys. I know you people have a hard decision to do, but I don't think you should sell it. Thank you.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much. And the gentleman in white.

MR. BINGHAM:
I just want to say good afternoon.

D.P.O. HORSLEY:
I'm sorry. Your name and --

MR. BINGHAM:
Oh, my name is Ray Bingham, right. I've been at Foley for the last 23 years. My background basically is that I've been working in nursing homes since 1969, right. I live in the Seventh District where you're from, the largest senior citizens complex out here on Long Island. I've seen day in, day out, my residents fall in my -- you know, in the hallway where I live at, right, they ask to come to Foley and it's always come back to the same thing, "Oh, we can't send our family here, this place is being sold." Right? So why should I send my family there? My families only going to be there for two months or three months, right?

I can tell you, right, I came up with a plan that I think the County could go with and make this thing work. Number one, cut out all the bad publicity for one year, right? A partnership between the employee and the County, right, the same 15% that Mr. Steve Bellone was trying to take from us. Okay. We'll give it to the County to subsidize, right? Every week, each and every employee probably will be, if I explain it to them, put into this system that it can work, that everybody will be happy. The place will remain County, right; number two, the union still would be there. Everybody will take advantage of all the stuff and cut out the nonsense for a whole entire year, this way we could market that place, because that place is a gold mine, I can tell you that.

I've lived in Far Rockaway in Queens where they have the largest influx of nursing home in this world, right? I've worked in just about every single one. I've seen the dumps and I've seen the good ones, right? I've seen the ones that make it, right? I am a diabetic that take insulin four times a day. The last time I called in sick at John J. Foley is 2004. That's commitment. I've worked for six-and-a-half years, right, straight, right, you figure without calling in, right? And what I did, I
turned around and I worked for over six months straight. Every single day I was at my job. That's because I have a certain feeling for that job.

Tomorrow morning, if I passed away, I'd like to be cremated and my ashes sprinkled at John J. Foley. That's how committed I feel to that place. Thanks.

(*Applause*)

D.P.O. HORSLEY:
Thank you very much. With that, I'd like to invite up the prospective buyers of Foley, which would include former Senator Mike Balboni, Sam Sherman, Israel Sherman, Elliot Aryeh, Administrator at Sunharbor, as well as from the County, the Chief Deputy County Executive, Regina Calcaterra, and County Attorney, Dennis Cohen. I think I got everybody. Welcome.

MR. BALBONI:
Good afternoon.

D.P.O. HORSLEY:
Senator?

MR. BALBONI:
Thank you. It's very nice -- it's an honor to be here before all of you, and it's good to see so many familiar faces.

This evening I am here as kind of an industry rep. In addition to doing some Homeland Security stuff, I also do health care. I'm the Executive Director of the Greater New York Health Care Facilities Association, which represents approximately 80 nursing homes in the metropolitan area. As a part of that, I am the Principal Management Trustee of the 1199 Greater New York Health Care Fund, which is about a half a billion dollar health care fund. The significance of that is that I get a chance to see how the homes are doing from an economic perspective, because I sit on the Delinquency Fund and oversee when funds -- when houses have to withdraw from the funds.

The opportunity that I want to just present to you today is kind of a brief overview as to what's been happening in this state with nursing homes. It begins in 1982, when we create this whole system of Medicaid reimbursement, and at that time what we never anticipated, and Legislator Barraga knows this better than anybody, is that the law allowed for a base rate for reimbursement. But every time over the years that you sold that home, you got a new base. And, therefore, got a higher reimbursement. In 2006, the State Legislature saw this as an inequity and created a law called rebasing, which essentially said all of the nursing homes in the State of New York had to change and have one base year. And back in 2006, they thought they had the money to do this. It wasn't implemented until much, much later, 2008, and essentially, there was a component called scale-back. And what they did was they went to the homes that had been Downstate that had already been rebasis and they said to you -- said too them, "You must give us money, and we're going to take that money and we're going to send it Upstate so we can create this kind of equalized basing level." This was a dramatic shock for a lot of Downstate facilities.

Now the association I represent is a for-profit association. As you know, there's three types of nursing homes, for profit, not-for-profit and public. What's been happening is that the State has
now come in, and from a national perspective, New York State has the highest Medicaid rate reimbursement of any state in the nation. And so CMS, which is the Federal Medical Management System, they've said, "You got to reduce costs." Now comes the Cuomo Administration, they create the Medicaid Redesign Team, and they put into place a series of changes that dramatically change the Medicaid reimbursement system in the State, causing enormous challenges and problems. The first thing they did besides -- right after they did rebasing, back when Governor Pataki was in office, he had made an agreement that there was going to be a level of funding that would ensure, if you had a contract with 1199, that you'd get a trend factor. One year -- every year you'd get 1%. The Legislature came in and they ended that, and they haven't given a trend factor since I think it was 2009. That's the first stressor. The next stressor is they come and they say, "We're going to change the way we do the entire reimbursement." Instead of a cost basis, we were going to a price basis, just like they do in Medicare. This has been a tremendous restructuring of the Medicaid. And in the last piece they're doing is now, after going to pricing, they're going to long-term managed care, again, another way -- another change in the reimbursement rates.

So what's happened now is that all of -- all sectors of the nursing home industry have been really affected by this, some of them better, most have done worse. But when you take a look, what are the homes that have really struggled? Homes under 100 beds can't survive. They're really -- I'm seeing it time and time again, they have such tremendous difficulty surviving, because the capital cost structure do not permit that size and that amount of beds to continue to operate.

Secondly, the not-for-profits also are changing, and there's a trend, and it's not just in New York State, it's nationally, that not-for-profits are becoming for-profits. But, lastly, it's the publics. Publics have had significant pressure and challenges.

According to the Berger Commission back in 2006, there was testimony that there were approximately 40 -- I think it was 46 nursing homes. Just recently, DOH about down now it's down to 38 public nursing homes. And last DOH count, ten of those nursing homes are under review to be sold. So what you're seeing is a trend and it's driven by the fact that the reimbursement, you know better than anybody else, to counties has been limited over the years, again, resulting in tremendous financial pressure.

I, as a part of this association, I get a chance to work with the Shermans and Sunharbor Manor. I've known that facility when I was in the State Legislature. And so I'm here basically to tell you that from and orange -- oranges-to-oranges perspective, the Sunharbor Nursing Home is a very good match when you talk to John J. Foley in terms of number of beds, in terms of catchment area, in terms of cost structures. They're obviously a way forward that could present opportunities that you've already talked about in terms of census, in terms of the other -- be able to do training, additional training for folks to properly make sure that they document the services that they're providing. There's a program called MDS.3.0, in addition of which the last piece is that you have the opportunity here to aggressively market this.

But the best thing I can tell you about the Sunharbor Manor, and for those of you who came out and took a look at it, I think you were -- you saw it as a pretty good facility. I speak from the heart because my mother was placed in Sunharbor Manor and just last year. And so it was one of the things I could have picked any nursing home across the metropolitan region, I picked that one.

So just as kind of a resource, it's a challenging time for all nursing homes and all structures, but particularly public. And so I think, hopefully, we're going to see some stabilization in years to come, but right now it's still in flux. Thank you very much, Legislators.

**D.P.O. HORSLEY:**
Thank you very much, Senator. Would anyone else like to make a statement at this point in time? Okay. If not, what we'll do is we'll start asking questions. Legislator Hahn, would you want to start this off?

LEG. HAHN:
Sure. I reserve the right to come back, though, if I don't ask everything.

D.P.O. HORSLEY:
Reservation noted.

LEG. HAHN:
This may be best asked of Regina, but I think maybe anybody can answer. I think there's been some misinformation out there about an additional 14 acres. Can you, please, clarify the footprint of the facility and if there are an extra 14 acres.

MS. CALCATERA:
I'll defer to the County Attorney, Dennis Cohen, on that.

MR. COHEN:
No, there's no additional 14 acres. It's 14 acres. It's the same footprint that was being sold to the Rozenbergs.

LEG. HAHN:
Do you happen to have a map of that footprint? Because I think it's very important. I read an article in Newsday that talked about it as an additional 14 acres, and so I want to make it clear to everybody in the audience, and at home, and listening at home, and here at the horseshoe, that there's not an additional 14 acres. You know, the facility, its parking takes up most of the 14 acres. There aren't additional empty acres that can be built on that are significant. There are not 14 acres that are empty that can be built on, as was suggested.

MS. CALCATERA:
The 14 acres is the footprint of the building. There's no additional land that's being sold around it at all. It's just -- it's the building and the building's parking lot.

LEG. HAHN:
I want to get to what Mr. Snead mentioned, or I think that's his name. I'm sorry if I got it wrong. This contract, will it require that all of our employees are kept at the facility? Can you, please, talk about that language and how binding that is, and what -- how much of a protection will our employees have if we sell?

MR. COHEN:
Well, the contract calls for the facility to keep the employ -- to hire the employees, that's the contractual clause. They would be bound by that. There's -- while there's no specific remedy in the contract, the remedy would be to challenge any adverse action by specific performance. So, I mean, that's the remedy.

LEG. HAHN:
So there are no guarantees. They're going to be there day one, but day two, they -- you know, there are no guarantees on how many employees will be at the facility.

MR. COHEN:
There are no guarantees in the contract. I think maybe Mr. Sherman may want to comment on the employee aspect of it.
MR. SAMUEL SHERMAN:
Well, the one thing that I would say regarding that is that, you know, we understand how essential the employees are to the nursing home. And our philosophy is the facility is run basically from the top down, which means starting from the Administrator, going all the way on down. That's how we build a successful facility. So we understand the importance of the employees there, and we're certainly going to work with them throughout the transition, because those are the -- those are the employees that are familiar with the residents there, familiar with the issues that exist there right now. Although we did our due diligence, we're certainly not operationally in control. So we're not very familiar with everything that's going on there right now, so we'll rely on the employees for that, and we certainly have every intention to keep the employees in place. I don't have --

LEG. HAHN:
So are you saying on the record that it's your intention, you know, with good performance, to keep the employees that are employed there today, it is your intention today?

MR. SAMUEL SHERMAN:
Yes, that is our intention today.

LEG. HAHN:
Can you talk to me a little bit about the preferred list? And this is more of Regina and to -- the preferred list, I want to say alternative, or is there a way? I know there was someone who spoke here earlier who talked about unfortunate 200-plus employees that we devastatingly had to lay off earlier got to be on the preferred list, and that, you know, it wouldn't -- Foley employees wouldn't get to be on any kind of preferred list. Can you explain that and why -- if there's any way to -- if somehow they got laid off at this facility, could be on a preferred list for us?

MR. COHEN:
My understanding is if someone is laid off from County service, they get put on the preferred list, which means if the County hires an identical position somewhere else in government, they have to first hire off that preferred list.

LEG. HAHN:
Is there any kind of category for hiring similar position, that they maybe could be on a preferred list for -- I don't know. I don't know the legality of this, that's why I'm asking, for the -- yes, for the CNAs or LPNs, if they qualify for something else that the County hires for?

MR. COHEN:
I don't know the answer to that. I can certainly research that and provide an answer.

LEG. HAHN:
Thank you. Why -- I want to know why we're turning patients away. I'm very concerned about testimony I heard that, you know, we closed a wing and we're turning people way. I've been told over and over again that empty beds don't make any money, and a filled bed, no matter what the reimbursement rate is, is better than an empty bed, and, yet, here we are creating a series of empty beds that are staying empty and we're turning patients away. And so I want to know why we're turning patients away. I want to know how does that -- how does it help us right now? And I'm very concerned about that, so I'm hoping someone can address that for me.

MS. CALCATELLA:
I would like Dr. Tomarken to address this, but one thing is that there has been no directive from the County Executive's Office to turn patients away. If patients were turned away, like an example of one of the folks who testified earlier today is, according to her, there was no more room in the
dementia patients, so -- but beyond that, a situation where we're no longer able to provide that service, for whatever reason, that's the only impression that we got. But, otherwise, there's been no mandate, but I will defer to Dr. Tomarken on that. Okay?

D.P.O. HORSLEY:
Legislator Hahn, Dr. Tomarken is standing there. Could I ask him to address that?

LEG. HAHN:
Yes, please.

DR. TOMARKEN:
Is that on? Can you hear me?

(*Affirmative Response*)

Every patient is evaluated for their appropriateness at the facility. We cannot -- we have not and we could not close admissions without State approval. We have not decertified beds that would be -- we would not be able to do that without State approval. We reorganized our patient population within the confines of the building to make it more efficient. So, yes, we did close a part of a floor, but it was a consolidation. So all our beds are still active, all patients applying for -- applying for admission --

AUDIENCE MEMBER:
The unit's closed.

D.P.O. HORSLEY:
Please, speak into the mic. And for the audience, please, shh. We were respectful to you.

DR. TOMARKEN:
And all patients have the appropriate evaluation, and some may or may not have been found to be appropriate for the facility. I don't have the details of that, I'd be glad to look into if that's an issue, but we are open for business.

Now, you must understand that the Legislature in the budget put us under a restriction of decreasing the number of staff and decreasing the number of patients we could handle. We had enough money through September 1st. There was -- further funds had to be obtained if we were going to go beyond September 1st. So the initial budget that we were told was six months at the current level, and then the next six months would be at a reduced level of staffing and patient population.

LEG. HAHN:
While I don't expect a full answer here today, if this closes, I very much want to know what this Administration did to try to save, as opposed to sell, because that will be important to me as well. That's it for now.

D.P.O. HORSLEY:
Thank you. And we have you reserved in case you'd like to come back. Legislator Spencer?

LEG. SPENCER:
Hi. Good evening. Thank you for taking the time on a very long day. I just had a few questions for the prospective buyers. I'm a physician in -- I have sat on the Medical Board at Huntington Hospital, and I think what would be very, very helpful for a lot of us as Legislators and for me personally is to -- I wanted to address a few questions, and maybe I'll go through them, and then by way of statement, I think you could probably respond to most of them.
A lot of times what I feel is really important is that Foley's personal, and it's personal because of just the heart that goes into it. You heard the testimony of the gentlemen that's been there for over two decades and has worked, despite having his own medical problems, and I think that the passion that's there -- and I understand, I get it. I understand the business end of things, but I think you could alleviate a lot of concerns if you could kind of tell us a little bit about yourselves. Why are you in the nursing home business? You have ten homes. What's your long-term vision? When you look at your facilities, all your facilities are licensed and accredited, and I think that that's very important. But you see where you have one facility, that's CMS, that's four stars, and one, that would be two, are different ratings. Is there a quality plan?

One of the big issues for us on the Medical Board was quality and safety. Is there an officer that's in charge of looking at all the facilities and having a vision of making them all four-star facilities? And then understanding that if you having a business transaction, you're looking to have a profitable facility, a lot of times you're confronted with issues of quality versus profit. And do you answer to a board? If there's a decision that requires maybe a little less profit, but would then turn out a lot greater quality long term, do you have the ability to make those decisions?

So I'll stop there and let you kind of respond. But I do think that if you kind of give us -- because it's not so much you could find anything off of the internet that would say whether or not there's an issue here or there, but what would be really important to me is to hear how do you respond to these -- if you find that there's an issue. In any hospital, you can always find something, but how do you respond? How do you take it as owners? Would you put your mother in any of your homes? That's my question.

**MR. ISRAEL SHERMAN:**
My name is Israel Sherman. I'm one of the applicants for the purchase of J.J. Foley. I've been a nursing home administrator for approximately 30 years.

Why I do this, it's because that's what I've studied, that's what I enjoyed doing. I've been blessed with being able to become an operator, rather than just an administrator. And throughout my entire career, what's been important to me is the quality of life of my residents. So it really didn't matter which facility it might be. Budgets are obviously always an issue, because we have to be fiscally responsible, but the first and foremost thing has always been the care that we provide. We are always striving to provide the best possible care that we can.

You know, the star system is a complex rating system that has various different parts to it. You'd have to go online and see exactly what's involved. It's not that simple to understand why some things are one star, two stars or five stars within each category. There are I believe five different categories, each one having its own star system, and then you have an overall.

The goal is very simple. The quality of life of our residents is what we're all about, and regardless of where we do that. And it doesn't matter to us how long they've been there, doesn't matter to us how long they plan to be there, doesn't matter to us how old they are, how young they are, we are trying to take care of the people that live there. Our philosophy has always been that, especially for the long-term care residents, that this is where they live, this is their home. That's always how we run our philosophy. So that what we're interested in is just to make sure that we can do as much as we can.

Now, in every facility, obviously, depending on the size, there are a lot of employees. So we can't tell you that we're perfect. You know, it's not easy to say that, whether it's 100, 200, 300 or 400, employees are always going to be doing exactly what needs to be done. I will tell you the overwhelming majority are always trying to do what should be done, but that's not always easy and
things do happen. And some of the residents, for example, you talk about dementia, dementia, you know, for those of you that are more familiar with it, I'm sure as a physician you are, but I'm sure some of you have taken care of elderly loved ones, it's not always easy. So that that's part of our challenges, but that's what we do. That's what I do, that's what I've done all my professional life, and that's what we hope to do at J.J. Foley.

LEG. SPENCER:
Thank you. And since I know the speakers list is long, then I'll just refer, but I reserve the right to come back.

D.P.O. HORSLEY:
You and Kara, huh? I'll just restart from the -- from the last one. Legislator Nowick.

LEG. NOWICK:
I also reserve the right to come back. And welcome, and I'm sorry you had to wait so long, but we'll probably be here until tomorrow, so. First, I want to say I'm sorry I missed the tour of your Sun Manor, is it?

MR. SAMUEL SHERMAN:
Sunharbor.

LEG. NOWICK:
Sunharbor Manor. How many beds are there in Sunharbor?

MR. ISRAEL SHERMAN:
Two-hundred-sixty-six.

LEG. NOWICK:
And you own 13 other facilities or 12 other facilities?

MR. ISRAEL SHERMAN:
Approximately.

LEG. NOWICK:
Are those also 200 beds, or how many -- what's the approximate --

MR. ISRAEL SHERMAN:
They vary in size from as small as 37 beds to up to 320 beds.

LEG. NOWICK:
One nursing home has 320 beds?

MR. ISRAEL SHERMAN:
Two of the ones that I'm involved with have 320 beds -- I'm sorry, one of them does; one is 305 beds.

LEG. NOWICK:
That's a large nursing home. But are you the Administrator of Sun Manor, obviously, you can't be the Administrator of all of them, but are you the Administrator of Sun Manor?

MR. ISRAEL SHERMAN:
No, Elliot Aryeh, who is the person sitting on my right, is the Administrator of Sunharbor.
LEG. NOWICK:
Sorry I say it wrong. Sunharbor. So you're the Administrator. If you were to purchase John Foley, would either of you be the Administrator, or would -- who would be the Administrator, because you just said that's the most important thing.

MR. ISRAEL SHERMAN:
Let me address that also because we talked about the staff. We would not be walking in to make any changes in staffing. Okay?

LEG. NOWICK:
So the Executive Director that's there now would stay?

MR. ISRAEL SHERMAN:
That's correct. Our plan is to come in and review what's going on. Obviously, the place is running. They had a survey, which I believe was a pretty good survey, recently. So we are -- our goals are not to come in and to just do anything other than to make sure we understand what's going on before we would make any changes, if necessary; they may not be necessary. For example, talk about the Administrator, if the Administrator is happy working there, we'd be happy to try to work with him, our goal would not necessarily be to change that.

LEG. NOWICK:
So right now there is no plans for a new Administrator to come in? Right now you would see how the nursing home runs, and if in two months weren't happy, they would either stay or go, or whatever your decision is?

MR. ISRAEL SHERMAN:
That's correct.

LEG. NOWICK:
Now Sunharbor, the two of you own that entirely, 100%, that's your's.

MR. ISRAEL SHERMAN:
(Nodded in the affirmative).

MR. SAMUEL SHERMAN:
(Nodded in the affirmative).

LEG. NOWICK:
All right. Are those -- the other 13 nursing homes, are they all unionized, or just Sunharbor, or are all your nursing homes unionized with -- what is it, 1199; do I say that right?

MR. ISRAEL SHERMAN:
There -- except, I believe, for one, they are, in fact, all unionized.

LEG. NOWICK:
So your intention would be, from what I'm understanding from --

(*Cell Phone Sounded*)

I hope that's not me. No, mine's broken.

(*Laughter*)
So your intention would be, from what I'm understanding from the Executive's Office, is that the patients would all stay. We've talked about this. Now would the AME employees become 1199 employees?

**MR. ISRAEL SHERMAN:**
We don't govern who becomes the union for the facility, the employees do that. The union is the representative of the employees. If the employees decide to keep the same union as their representative, then we would be negotiating a contract with them. If the unions were -- if the employees would decide that they'd prefer to have another union, whoever that may be, then it's our obligation -- as the employer, we don't determine which union comes into the facility.

**LEG. NOWICK:**
I'm sorry. I just didn't know -- understand how that worked. I thought that you would have a union and they would belong to that, so -- and then the union would negotiate with the two owners to determine salary; is that how it works?

**MR. ISRAEL SHERMAN:**
Yes, that's correct.

**LEG. NOWICK:**
Okay for now.

**D.P.O. HORSLEY:**
Okay. Thank you, Ms. Nowick. And I'm glad we are on reserve again. Mr. -- Tom Barraga, Legislator Barraga.

**LEG. BARRAGA:**
First, let me say it's great to see the Senator. He and I go back a long way, and we had some great memories in the New York State Assembly, and, of course, he went on to the Senate, that other House.

(*Laughter*)

I guess my comments really pertain initially to the Deputy County Executive and the County Attorney. Back, if my memory serves me right, in March of 2010, the County had negotiated the deal with the Rozenbergs to sell the nursing home, and, of course, they came in and sat exactly where you were. And there was a great deal of discussion in terms of the employees and the patients. One of the things that was agreed to, and that's why I want to speak to you, too, is that there is a differential in terms of salary that one makes when they're employed by the County in a nursing home versus what they would receive from a private owner and, say, 1199 is the unanimous.

There was an amendment I had put forth, which was agreed to by the Administration at the time, that if the nursing home was sold, that for a period of 12 months, the differential between what they would get in the private sector versus the public sector would be made up by the County. So, for example, if someone was making, say, $40,000 a year with the County, and now with the new owner and 1199 as their representative, their salary is, say, 36,000, that $4,000 differential would be made up by the County for a period of one year. Would the Administration, if it is sold, be willing to take a look at that?

**MS. CALCATERRA:**
In March 2010, I don't think anyone around the table knew that the County had a 530 million dollar
deficit over '11, '12 and '13. And over the -- as you know, in March of '06, March 6th of this particular year, our Blue Ribbon Panel determined, with the help of BRO and the Comptroller's Office, to determine that the County had a 500 million dollar deficit. Ever since then, with work of the County Legislature, we've been able to move that down a tad bit, so now we're in the two hundreds.

After Gail Vizzini, who heads up the BRO, testified last week, I believe, and I believe she told members of the Legislature that even after we -- if we sell Foley, and if we sell Yaphank, and if we increase taxes up to the tax cap in the police precinct, we will still have 170 million dollar hole after that. So because of our budget crisis, and our fiscal crisis, and our goal is to do our best to stave off a financial control board by the time the Legislature goes back in session in January, it is unlikely that we would be able to do that, because we don't have the financial capability of doing that.

LEG. BARRAGA:
Are you saying you're unwilling to look at it?

MS. CALCATERA:
I'm saying it's unaffordable. I mean --

LEG. BARRAGA:
No, I didn't ask that.

MS. CALCATERA:
-- it's incredibly unaffordable.

LEG. BARRAGA:
I didn't ask that. Are you unwilling to look at it? Are you unwilling to look at that differential? I understand the fiscal situation of the County, but certainly, you know, in 2010 things weren't that great either. And you pointed out, we went from what, 530 down to 179, maybe, and we're reducing it and we're going to sell this home? Maybe the money should be there to make some sort of a compensation agreement with those employees for one year.

MS. CALCATERA:
And what about the folks we just laid off? We just laid off several hundred people and didn't offer them compensation packages of their --

LEG. BARRAGA:
You laid them off, I didn't.

MS. CALCATERA:
Actually, it's the County Legislature that put forth about 700 employees to be considered for layoff and we put that list down to a few hundred less.

LEG. BARRAGA:
The County Legislature did what it had to do, but the reality is, on an individual basis, on a personal basis, I didn't think that was the right strategy. It was your call, but that's the last thing you do, not the first. All I'm saying is that that was something that came up that was agreeable to the Administration at the time. I'd just like you to take another look at it, because that would make it much more palatable for these people to move from, you know, a public nursing home to the private sector, knowing that at least for 12 months they're going to get the same salary, and in that 12 months they can make a determination as to whether or not they want to stay with the Shermans or find some other employment someplace else.
MS. CALCATERA:
It's something that we'll look at.

LEG. BARRAGA:
Thank you. To you, gentlemen, there's been quite a bit of discussion, and, of course, you know the people behind you are either employees, most of them are employees, and a lot of them are very concerned, as we are, about the patients. And there's been some discussion about what happens if you take over the nursing home and then you've indicated you want to keep the patients. But there are circumstances, for example, if somebody takes a severe stroke, you're not equipped to deal with that, you've got to transport them to a local hospital. Then the question becomes whether or not they're going to go back to the nursing home. There are some who would feel that would be an opportunity for you to move them in a different direction, not take them back. Now, certainly, that's understandable if you don't have the capabilities of taking care of a patient like that. But the question is, there's some doubt in the minds of some whether or not that would be the case, or you would just feel that, you know, "Let's not take Tom Barraga back, we can get Fred Smith and he's not as ill as Barraga and we can make more money on him."

Would you be willing to, when that situation arose for the existing patients, not the future patients, the existing patients that are there now, and if they were shipped off to a hospital and you indicated you couldn't take them back, would you be able willing to have Dr. Tomarken come in from the Suffolk County Department of Health to do an evaluation on that patient to see whether or not that patient should go back to your home or has to be placed someplace else?

MR. ISRAEL SHERMAN:
Let me begin by addressing your point a little bit differently. As I mentioned to you before, we look if the people that are living in the nursing home as this is their home. Okay? So if we can take care of them, then we take them back to their home.

LEG. BARRAGA:
Right.

MR. ISRAEL SHERMAN:
Clearly. Are there situations where we can't? Absolutely. There are definitely situations where they need medical care that's beyond what the particular facility can provide. But we never send someone to a hospital with the expectation that we're not going to take them back, that -- we don't do that.

LEG. BARRAGA:
In those instances where you make the decision, "We can't take Tom Barraga back, he's too ill," would you be willing to have Dr. Tomarken from Suffolk County Department of Health come in and reaffirm that decision?

MR. ISRAEL SHERMAN:
We would consider -- we can consider that, yes.

LEG. BARRAGA:
All right. Thank you. The last question to the Administration. Also, at the time, there was an offer being made to the employees at the nursing home that if they signed off on the sale, if my memory serves me right, there was an early retirement plan in place in 2010, and it would have applied to them if they had agreed to the sale. That didn't happen. Would the administration consider that option as well, an early retirement plan, for those who might qualify if the nursing home is sold?
MS. CALCATERRA: That is something that we'll look at as well.

LEG. BARRAGA: All right. But not the retirement plan that just went through. I'm not sure I ever understood that plan, but the one in 2010, which I think there was some more -- it was financially lucrative, a little more financially lucrative for people than the one that just went through.

MS. CALCATERRA: Again, we're all facing a fiscal crisis.

LEG. BARRAGA: I know.

MS. CALCATERRA: But in light of the fiscal crisis and our responsibility to taxpayers, we will look at that as well.

LEG. BARRAGA: All right. I want you look at both. All right. Look at that differential and look at the possibility of early retirement. Nice meeting you.

MS. CALCATERRA: Nice meeting you, too, Legislator.

D.P.O. HORSLEY: Okay. It's good that we get along.

(*Laughter*)

I got a quick question before -- and I'm going to let Mr. Kennedy go to speak, because I know he'll be at length, but it kind of --

(*Laughter*)

This goes to some of the questions that have already been asked. A number of employees have -- and this is to you, Regina, and to Dennis. A lot of -- a number of employees have come up and said, "Listen, I need" -- "I've got five months," "I've got a year," "I've got a year-and-a-quarter and I'll be 55 and I'll be eligible for retirement," "I've worked all these years, I'm going to have to forego my pension," and that fear. Is there anything that we can do to address those types of concerns from our employees that may not be able to go to SEIU and would live a life that they truly deserve, because it's really such a short issue?

(*The following testimony was taken & transcribed by Alison Mahoney - Court Reporter*)

MS. CALCATERRA: Absolutely. We did plan on taking a look at that and taking a look at folks who are close to retirement and trying to figure out how to bridge that. Because we are opening up a Jail Medical Unit in the jail, we may have some need in the Department of Health. So we were going to start looking at this once the vote occurred, so then we know what the timeframe was and we know what everyone's retirement is.

D.P.O. HORSLEY:
Is that a commitment?

**MS. CALCATELLA:**
That's a commitment that we're definitely going to look at that and we're trying to consider our options.

**D.P.O. HORSLEY:**
Thank you. I appreciate that. Okay. Legislator Kennedy.

**LEG. KENNEDY:**
Thank you, Mr. Chair. Senator, thank you for being here. As a matter of fact, it's good to see you. And thank you for the work that you've done in Homeland Security, as a matter of fact. You're legendary in the State.

**SENATOR BALBONI:**
Thank you very much.

**LEG. KENNEDY:**
It's nice to have you here in our house.

Gentlemen, let me begin, I guess, by -- in the spirit of disclosure, as a matter of fact. Mr. Sherman, you explained that you've been blessed to be able to be a nursing home administrator and operator for 30 years. I'll tell you, in the spirit of full disclosure, I've been a municipal employee for 36 years. As a matter of fact, I began my career working in State hospitals. I worked for ten years for the Office of Mental Health and I worked in some of the most God awful places that people would want to see.

Today I'm an attorney. And what I do is, is I try to serve my constituents and serve the people of Suffolk as best I can. So when I look at a contract, what I try to do is, is I try to apply the knowledge that I've gained over 15 years of practice and go to the elements of what's contained within the contracts. Because as you gentlemen know, you've been able to acquire 10, 12, 13, 14 homes. Every time you've done so you've done it with a contract; there's the verbal as far as what's represented, and then there's the written which is the binding contract. So let's start, if we can, with SS Operating LLC and SS Realty, LLC. Who are they?

**MR. SAM SHERMAN:**
SSI Realty and the operating -- is an operating company and is a real estate company that we formed to purchase the John J. Foley facility.

**LEG. KENNEDY:**
Okay. And I'm sorry, Sir, I didn't hear in the beginning; you are whom?

**MR. SAM SHERMAN:**
I'm Sam Sherman.

**LEG. KENNEDY:**
You're Sam Sherman, okay. Thank you, Sir. It's a pleasure. Okay. So we formed that for the purposes of purchasing. Let me ask, then, who, in fact, comprises the total we; is it you two gentlemen or are there other interests?

**MR. SAM SHERMAN:**
It's Israel Sherman and I.
LEG. KENNEDY:
Okay. So you two comprise the whole of what will be the ownership interest both for the real estate portion and for the operating portion?

MR. SAM SHERMAN:
At this point that's correct, right.

LEG. KENNEDY:
Well -- okay. There you go. What does that mean, "at this point"?

MR. SAM SHERMAN:
It means that that's our intention at this point. We don't necessarily know that we're going to be the only two people that are going to be involved. We're definitely going to be the operators. As far as the real estate or the operation, we have some people that we're working with, so we're not necessarily -- we're not necessarily saying that we're going to be the only two people that are going to be investing in this facility.

LEG. KENNEDY:
Okay.

MR. SAM SHERMAN:
I can say that today.

LEG. KENNEDY:
I appreciate that candor. And again, understand, my questions come from the basics of, as the Senator knows, we that live in the public sector are compelled to disclose and almost every aspect of our life is public. I've filed disclosure since 1986, so I would not be doing my job if I didn't ask some of these specifics associated with what's with the contract.

Now, there are other facilities -- and I apologize, I was not able to go to Sun Harbor. I heard that it's a very nice facility. As a matter of fact, certainly the Senator's decision to have his mother there is something that I respect him tremendously and it is a difficult decision any time that we're, you know, called on to place a loved one. But tell me a little bit about Sun Harbor, then. So is Sun Harbor similar to what John J. Foley would be? Is it an operating facility and a property ownership?

MR. SAM SHERMAN:
I would say it is. It definitely does compare to John J. Foley. The amount of beds compares just about -- it's almost about equal, it's 266 as opposed to 264 at John J. Foley. I would defer to our administrator at Sun Harbor Manor, Mr. Elliot Aryeh who can --

LEG. KENNEDY:
Well, before we turn to Mr. Aryeh -- and thank you very much for having him here, because obviously my concern, amongst my bundle of concerns, is care for our patients. But if I can, I'm going to stay with you for a second, because my question at this point is who represents or who comprises the operating entity for Sun Harbor and the property, the realty company of Sun Harbor?

MR. SAM SHERMAN:
Okay. Well, the operating company is Sun Harbor Acquisition, LLC, which is Israel Sherman and I, we're members of that.

LEG. KENNEDY:
Okay.
MR. SAM SHERMAN:
The real estate company is another party.

LEG. KENNEDY:
Another party.

MR. ISRAEL SHERMAN:
If I can just clarify. The real estate is an arm's length lease. It's an -- we have a long-term lease on the building. We do not own the property at Sun Harbor. It's an arm's length lease with a landlord. That's not connected at all with the operation.

LEG. KENNEDY:
Okay. Are you -- so obviously you know who the landlord is. I mean, are you prepared to share who the landlord is?

MR. SAM SHERMAN:
The name of the company is Zelder Enterprises.

LEG. KENNEDY:
I'm sorry, Zelder?

MR. SAM SHERMAN:
The company is Zelder Enterprises, right.

LEG. KENNEDY:
Zelder Enterprises. Okay. Well, thank you, I appreciate that.

Let's talk a little bit about, you also have a number of facilities in the western tier, western tier of New York State, I believe, under Absolute, Absolute Care?

MR. SAM SHERMAN:
Absolute Care, yes, that's correct.

LEG. KENNEDY:
Okay. You know, I take great counsel from my colleague, Dr. Spencer, as a matter of fact. In my eight years, this is the first time that a physician has actually been here. So I went on-line, and as you explained initially, the State Department of Health does a fairly comprehensive evaluation process; they say, I guess, nursing homes are regulated only less than nuclear power. But I see some facilities there that look like there were some inspections that were less than, let's say, glowingly favorable. Somatica was one of the facilities, Eden was one of the facilities, Gasport was one of the facilities. What, if anything, should I take from that?

MR. ISRAEL SHERMAN:
I'm not sure I understand what your question is.

LEG. KENNEDY:
I guess I'm asking you about the inspections that were done at those facilities that showed that there were issues at the time of inspections associated with -- and forgive me, I'm probably going to mangle the terminology; serious concern, is that it? I'm not quite sure. Where there were incidents of residents that were either not properly hydrated or that had, oh, catheters and things like that that were in dwelling for a period of time. Are those aberrations, are those -- what should I take from that?
Mr. Israel Sherman:
The nursing home industry is very complex.

Leg. Kennedy:
Okay.

Mr. Israel Sherman:
As I mentioned to you before, there's a lot going on, there's a lot of residents, there's a lot of employees. There's a lot of room for a lot of things to happen. We make every effort to do the best that we can. We make every effort to have systems in place to try to maintain that quality of life and the care that we provide. We make every effort to look at any errors that are made or any citations that the State gives us and try to rectify whatever they find.

Leg. Kennedy:
Okay. All right, let's move on a little bit from your current operations to some of the particulars associated with this transaction.

John J. Foley actually has been a matter of contention for I would say probably five to six years. You may remember that our former County Executive undertook to do an RFP, I believe it was in 2008, and at that time the facility was offered for I believe an outright arm's length sale. Did you gentlemen consider or were you aware of -- had you looked at acquisition at that time?

Mr. Israel Sherman:
We did not.

Leg. Kennedy:
You did not. Okay. Subsequently, and as a matter of fact, this was just in the last 18 months, I believe, we had both a public/private partnership that was offered by and through the Legislature, and I believe the County Executive again did an arm's length offer for outright acquisition and sale. Likewise, no interest, no offer?

Mr. Sam Sherman:
I was not aware of that. We were not aware of that.

Leg. Kennedy:
You gentlemen were never aware up until, I guess, most recently when Mr. DeGere approached you?

Mr. Sam Sherman:
That's correct.

Leg. Kennedy:
Okay.

Mr. Sam Sherman:
We did know about -- obviously we knew about the old RFP. We had heard about it, but we had no interest at that time. So we were kind of following like anyone else would follow a new story.

Leg. Kennedy:
Okay. So for whatever reasons, economics changed, your business perspective changed --
LEG. KENNEDY:
And now this opportunity came along and it appeared to be something that fit into your business model.

MR. SAM SHERMAN:
We were -- exactly. We were focusing on other acquisitions at the time. We had Sun Harbor that had come up in 2006, Absolute facilities came up in 2007, and our primary focus was to build those facilities up. We weren't necessarily as focused on moving past that point until we made sure that those were under control.

LEG. KENNEDY:
Okay. Is there any relation -- I'm just curious. There is another Sherman; do you gentleman have a brother that also has ownership interest possibly with some other facilities? One over in the -- it's the old Lutheran nursing home, I think it's -- oh, why can't I think? Avalon, Avalon, up in Smithtown.

MR. ISRAEL SHERMAN:
I have a 2% interest in Avalon.

LEG. KENNEDY:
You do.

MR. ISRAEL SHERMAN:
Clearly as an investment, not as an operation. I have nothing to do with the operation there.

LEG. KENNEDY:
Okay. And that is the one that I believe is -- Sentosa operates that.

MR. ISRAEL SHERMAN:
That's correct.

LEG. KENNEDY:
Correct? Mr. Landau}; Mr. Landau is the principal there?

MR. ISRAEL SHERMAN:
That's correct.

LEG. KENNEDY:
Okay. I will tell you gentlemen that, first and foremost, I appreciate you being here. I appreciate you making yourselves available.

You heard the chuckle when I took the microphone; I'm no fan of the sale. But nevertheless, I appreciate the fact that you've come here to go ahead and share some of this information with us. I try to keep an open mind. My questions as to the legitimacy of the resolution, I'll turn and I'll address to the County Attorney and to the Chief Deputy. We raised them in Health, I'll raise them again. I shouldn't waste your time with that.

But as to these questions about just the general premise and the operations, I appreciate. I may have some more questions, and I guess I'll end with the last one. Twenty-three million dollars is a lot of money. I never did any kind of a real estate deal or came anywhere near that, I just did simple purchase and sale of houses. But once in a while I'd get a commercial deal and it was an
all-cash deal, and what would happen is, is there was a requirement on the part of the seller for something that was called status of funds, and it would be a reflection or representation of how the money to consummate the purchase was going to be tendered. Is that something that's been contemplated in the discussion so far with this contract?

MR. SAM SHERMAN:
We've complied with whatever the County has asked us to do with regard to -- with regard to the sale. We've given them our financials, we've given them our -- quite frankly, I don't remember everything, but we've given them whatever they've asked for, including financials and things of that nature. So there --

LEG. KENNEDY:
Well, thank you for being a good prospective purchaser. But again, I'm at a disadvantage because I asked for that over three weeks ago and I still don't have any of it. So I will not take up your time anymore, I'll address the other end of the table. Thank you. I'll yield.

D.P.O. HORSLEY:
Thank you very much, Legislator Kennedy. Legislator D'Amaro.

LEG. D'AMARO:
Yeah, thank you. Senator, nice to see you. Thank you for your service to the people of the State of New York.

I had a few questions. First, I just want to make the point and I would encourage the administration to follow-up on what Legislator Barraga was speaking to. Because I do recall that he had made those proposals at the time we considered the sale the last time and I thought they were right on, to provide some kind of transition or assistance with transition for employees, whether it was early retirement, pay differential. And I believe, though, the Suffolk County Department of Health coming in to review a patient who may not be retained is something new, Legislator, if I'm not mistaken, but probably a good idea. I don't know who would have final say there, but --

LEG. BARRAGA:
They should have a second opinion.

LEG. D'AMARO:
-- at least you have a second opinion; fair enough. So I would support, at least if we could take a hard look at that and determine whether or not the County is in a position to even entertain something like that. At least when we have to finally vote on the contract, we'll have all that information, and obviously your position on that.

I wanted to ask the County Attorney, just very quickly. I know the contract of sale, which I did have a chance to review now, it contemplates a closing date by the end of the year; is that correct?

MR. COHEN:
Yes, on or about closing, it's December 31st.

LEG. D'AMARO:
Right. Now, it's contingent, however, on whatever government approvals may be required. And part of what's included there, I believe, are town approvals; is that correct? What town approvals are required?

MR. COHEN:
Well, the property is zoned, I believe, residential, so they would either need a -- I believe they're
going to be going for a rezone rather than a variance.

LEG. D'AMARO:
Right.

MR. COHEN:
So that's going to go before the Brookhaven Town Board.

LEG. D'AMARO:
Okay. And are you confident that that can be secured before the end of the year?

MR. COHEN:
Yes, our information is that it can.

LEG. D'AMARO:
Okay. All right, then I want to turn to the contract. And I appreciate that the Shermans are here today. Welcome, gentlemen. Thank you for coming in today.

There are two provisions of the contract that I would just like to briefly focus on. The first is provision 6.1, Resident Retention, and I would just like to get a sense of how you interpret what your obligations are under these clauses. And Resident Retention says, "The buyer shall retain all residents currently receiving services at the facility as of the date of closing." If a -- If on the date of closing a resident is not receiving services or has been brought to a hospital for some reason, would you then feel that that resident would not be covered by this retention clause?

MR. ISRAEL SHERMAN:
They -- regardless of what the contract says -- and by the way, also, it's not just whether we want to or not, but the State Department of Health, New York State Department of Health would look at the continuity of the facility, would look at where those residents are. So I appreciate your concerns that you would want, for example, to have the County Medical Director give a second opinion, that's fine, we really have no problem with that. But we have an obligation to the people that live there, and that's not just somebody who happens to be there on that day. If somebody went out the day before to the hospital or the week before, they're still the residents of that facility, and that's how we would look at it. Okay? So whoever is there is there. Whoever resides there is both something that we ethically would try to keep in that building as long as we can take care of them, and, by the way, we would also be required to do that by the Department of Health, New York State Department of Health.

LEG. D'AMARO:
Okay. But contractually, would you feel obligated to also, as a matter of your contract, retain that resident?

MR. ISRAEL SHERMAN:
That I have to ask my lawyer. If you want a legal opinion on what the contract does, I'm not a lawyer. I can tell you what I would do as an administrator, I can tell you what my intentions are --

LEG. D'AMARO:
And I appreciate your answer as an administrator, I really do, which maybe goes even beyond what's binding on you by contract.

MR. ISRAEL SHERMAN:
Right.
LEG. D'AMARO:
But at the end of the day, if there's ever a dispute, the first thing you're going to look at is what does the contract require, but I'll leave that there.

Another question; "The buyer shall retain all residents currently receiving services at the facility as of the closing date."
For how long?

MR. ISRAEL SHERMAN:
It really comes to the same answer. They live there, and New York State Department of Health requires us to have a care plan for every resident. They require us to have a potential discharge plan if that is, in fact, something that's appropriate for the person. But we also require that if we would discharge anybody, it has to be to a safe discharge. So we don't really look at this as a new entity with regard to our residents. They are the residents of the facility and that's how we would treat them. So regardless of whether we come in or not, there's a continuity there for the people that live there that's very important, both to us and to New York State Department of Health.

LEG. D'AMARO:
Let me ask you this. The next part of this clause says, "Only residents requiring services not available at the facility may be eligible for transfer," but that is not necessarily always going to be the case. Even if a resident requires services that you offer, is there a circumstance where you would still seek to transfer that resident for some reason?

MR. ISRAEL SHERMAN:
I really am not sure I know where that question is going. Okay? If you want to try to explain what you're asking.

LEG. D'AMARO:
Well, eligibility for transfer is governed by what standard?
If I'm a resident in one of your facilities, how do I become eligible for transfer?

MR. ISRAEL SHERMAN:
In any of our facilities, to be eligible for transfer would mean that -- well, okay, let's eliminate one category. You have people that come to a nursing home for short-term rehabilitation. Okay? So we're all aware that somebody has, whatever, acute episode of whether it's a fracture, whatever it may be, and those individuals usually intend to go home and that's wonderful and everybody is happy. But it all comes to the fact that a nursing home provides a level of care with a lot of restrictions, simply because that's the kind of facility that it is. So that in order to be qualified for a lower level of care, meaning someone who doesn't need as much services, then we would always review that and see if we could -- if they're, number one, interested; and number two, if we can find proper placement for them, then we would consider that. But that's a general process regardless and that's why I'm saying to you, I'm not looking at that contract as much because this is what we do on a regular basis.

LEG. D'AMARO:
Okay, fair enough. And I think the intent of this provision is that any resident who is there as the closing date you will remain committed to retaining at the facility for whatever period of time they may require the services that are offered. If at some time the services that you offer -- or scratch that. If at some time the resident requires a service that's not available at your facility, they could be transferred and you would participate, obviously, in that transfer and encourage that transfer. Have you done an evaluation of the current residents yet to determine who would fall into the category, which residents would require services that would not be available at the facility as run by
your entity?

MR. ISRAEL SHERMAN:
The -- the likelihood is that whoever is there now is medically appropriate where he is. So it's not as if we expect to go in there and we have a different set of parameters than we do. The parameters that will guide what we do are the parameters of the existing facility.

LEG. D'AMARO:
Right, because you've gone through your 20-day due diligence period. Part of that, I would assume, you've gained some awareness of who your residents would be and what their needs are, I would assume. I mean, I know most of that's probably financial and other types of due diligence that you did. But do you have a sense of who the residents are? And is it your representation today that based on your concept of how you're going to run this facility and what services you're going to offer, that all the existing residents there today will fall within the services that you're going to offer at this facility?

MR. ISRAEL SHERMAN:
Yes.

LEG. D'AMARO:
Okay. That's very reassuring to hear that, because I don't really have any knowledge of how you run a facility, let alone your facility or what you're thinking on what services are you offering, what services are you not offering. So I can only ask a general question as to whether or not you believe today that the services you will offer will encompass everyone and you don't believe you would have a need to transfer existing residents based on the services that you offer; is that accurate?

MR. ISRAEL SHERMAN:
That's accurate, yes.

LEG. D'AMARO:
Okay. I want to go to another clause, Section 6.3, it's called Employee Retention, and a few of my colleagues have already touched upon this.

The way I read this contract, it does not, in fact, require you to retain any County employees, current County employees. What it requires you to do is to offer employment to those employees. And in my mind -- and in full disclosure, purposes of full disclosure, I'm also an attorney, and maybe we make distinctions that we shouldn't, but the fact is you can offer employment, but on what terms? So you look further at the contract. And what's interesting is it doesn't say you have to offer on terms that you may be using at your other facilities, but on terms that shall be consistent with nursing homes in Suffolk County. So who sets that standard?

My concern, as a County official, where we're dealing with employees and impacting their lives, is that this clause -- and I'm sure you're going to be operating in good faith, but it really doesn't tell us what are those terms that are going to be offered. So an employee might have a certain expectation, you have a certain expectation as to what the term shall be, they're not going to match ever, but maybe there might be room; if there's not too much distance between the two of you, you can close the gap. But if one side comes in with a demand that's just in the stratosphere, you can certainly kill that deal immediately. So how do I get a sense that when you're looking to transition the employees into the new facility, that the terms of employment which have this vague standard in the contract about what's consistent with nursing homes in Suffolk County will, in fact, be something that an employee would be willing to accept.

MR. SAM SHERMAN:
I'll address that. We -- you know, our -- what's important to us, again, is to make sure that we retain the employees there that are familiar with the facility. And we plan on relying on many of these employees to give us pertinent information regarding the facility, regarding the issues that exist there right now, regarding what they feel is necessary to improve the facility, the quality of care for the residents there.

So, you know, in that regard, we -- you know, we need these employees to be there at the facility. I don't have a closetful of employees that I plan on bringing in and replacing the employees with today. You know, we understand that we have to run the facility and we need good quality employees there. Now, we can't make any specific determination as to what wages or benefits that would be, and the only way to do something fair is to have something in the contract that states that it will be comparative or something similar to what Suffolk County employees would get. We can't make any specific commitments in that regard at this point because we believe that's something that should be negotiated.

LEG. D'AMARO:
Something that should be negotiated after I vote on the contract and after you take operational control of the facility.

MR. SAM SHERMAN:
Well, the negotiations can't -- we can't have negotiations until we actually assume operational control.

LEG. D'AMARO:
I have to tell you, I try and put myself in the position of the employees when I look at this provision. And I appreciate your representation and I know you're trying to give me confidence in the fact that -- you know, even as a business matter, you need these employees. They know the facility and they understand the facility and you're going to be relying on them. But the fact of the matter is the contract clause has no term on it; you could need all these employees for two months, but then after two months you may not. It doesn't really define what the offer of employment will be, and I think that's solely within your discretion in the contract. So I struggle with that because my concern, when you pull away all the other issues, and, you know, we'll be debating this for a long time about procedure and was it followed and all of that, but the bottom line is we're affecting the employees and we're affecting the residents, and that's where my concern lies. And what I need to know between now and when I'm going to actually -- if we close this public hearing and vote, I need to know that what's going to be offered to these employees who are going through an awful lot of stress right now, and have been for years, that the terms of their employment will at least be fair. And I understand that you may not be able to give me exact salary and benefit quotes here and now, but I think it would be in your best interest, frankly. Because even if you get the facility and you're relying on these employees, if the morale is not there, you have a big problem, and I think you realize that. I think it's actually in your best interest to think about that now and maybe -- I don't know how far you would want to disclose that, but I think it would help your cause an awful lot in dealing with employees and dealing, certainly, with me supporting this. Okay?

Sir, go ahead.

MR. ISRAEL SHERMAN:
Let me just make one point about that. What our expectation is, that the employees would make a decision as to -- we fully expect this to remain a unionized facility. Okay? We would expect the employees to decide whether they want the existing union to continue to represent them or if they chose a different union. When we -- when we're talking about negotiating, we're talking about negotiating with whatever -- you know, whatever entity the employees decide they prefer to have representing them. And our expectation is to bargain for a contract that is somewhat within industry
standards, okay, for the area, and that's what I think the intent of that contract is. And it's very hard to sit here and tell you what that would be, because we don't know. It would obviously be different. I'm not going to sit and tell you it's not going to be different, but that's our expectation. And there are plenty of contracts out there that you could look at.

LEG. D'AMARO: Thank you. And I appreciate that answer. Just very quickly, though. When you have to fulfill this employee retention clause, you need to offer employment to all employees who are employed at the facility, right? So when do you make that offer of employment?

MR. ISRAEL SHERMAN: The way this works in most cases is the seller terminates the employees on the day -- at the end of the contract and the buyer makes the offer of employment on the following day.

LEG. D'AMARO: So at that point you're not dealing with a collective bargaining unit, you're dealing one-on-one with the individuals employees; is that correct?

MR. ISRAEL SHERMAN: That's correct.

LEG. D'AMARO: Okay. And whether they --

MR. ISRAEL SHERMAN: That's a good question. I don't know the answer -- okay, go ahead.

LEG. D'AMARO: Yeah. Well, whether they organize in the future as an employee of a new facility is another issue, but initially that offer needs to be made to those employees. Because, you know, they're thinking about, you know, like you just said, you know, on the last day, on December 31st I'm unemployed, and then on January 1st am I employed? And that's a big question. I mean, I wouldn't really -- I can sympathize with someone being very concerned about that. So again, I encourage you to really focus on that in advance. Think about if you are truly going to transition into this facility, how do you lessen that anxiety factor? How do you make the offers? When do you make them? You know, remember, if this really closes by the end of the year, you're going through a whole holiday season at that point for many people. I mean, these are real issues that, if you are successful, and I hope you are, that will greatly impact your morale from day one when you're going to rely on them the most. It's extremely important. So I raise that today in the form of questions, but I would appreciate if you would think about that.

MR. SAM SHERMAN: I think just as a practical matter, I just don't -- I don't know if we have the authority to make any offers if we don't -- you know, if we don't own anything. So as a practical matter, I don't see how we can do anything like that, but we can certainly consider what we want to do and have conversations.

LEG. D'AMARO: Well, that's all I'm talking about. I don't think you have to make an affirmative offer prior to closing your deal and being legally permitted to do so if that's the requirement. But certainly I'm encouraging you to think about that and making that transition as smooth as possible and keeping in mind that, the way I read this contract, there really is no standard. Okay? So that concerns me.
A couple of other really quick questions and then I'll yield. In the contract you represent, if I'm reading it correctly, that there is no litigation pending against, I guess, any of your entities that would have a material, adverse impact on your financial ability, I guess, to go through this transaction and to operate the facility. Do you stand by that representation?

**MR. SAM SHERMAN:**
Yes.

**LEG. D'AMARO:**
Okay. Good. And I wanted to ask you, who's responsible for the regulation of this facility and your other facilities? Who do you answer to, the State of New York?

**MR. ISRAEL SHERMAN:**
We're licensed by the New York State Department of Health.

**LEG. D'AMARO:**
Right.

**MR. ISRAEL SHERMAN:**
And I believe they are technically a subcontractor of CMS, you know, the Federal government.

**LEG. D'AMARO:**
Right. Okay. All right, so any issues dealing with whether there was some kind of issue between a resident and one of your facilities would be handled through that regulatory process; is that correct?

**MR. ISRAEL SHERMAN:**
Yes.

**LEG. D'AMARO:**
It is, okay. All right. Gentlemen, thank you very much again. And I wish you the most success, I truly do. Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Legislator. Legislator Browning.

**LEG. BROWNING:**
Thank you. Good evening. A couple of questions for the Administration and also for you, Mr. Sherman.

My first question would be for the Administration. Mr. DeGere, I believe in the last -- at the committee meeting you had mentioned that there were three buyers. Who -- you know, I think it's important that everything be open and transparent. And I'd like to know who were the three buyers; obviously Mr. Sherman, but who are the other buyers, or potential buyers?

**MR. COHEN:**
When we went through this process, in order to get the people in, we had nondisclosure agreements signed, so I'm not comfortable at this point disclosing who the other potential buyers were.

**LEG. BROWNING:**
That's a good answer. And I guess, Mr. Sherman, one of my questions for you would be on -- at our last committee meeting, I'm just curious, I would assume that you're a very good businessman. And Mr. Cohen at the last committee meeting talked about -- we talked about the appraisal and the
contract, and he said that they didn't get the appraisal until after the contract was signed. Now, let me ask you, have you ever signed a contract without an appraisal?

**MR. ISRAEL SHERMAN:**
Yes.

**LEG. BROWNING:**
You have. But coincidentally, the appraisal and your offer winds up being the same; correct?

**MR. SAM SHERMAN:**
I'm not even quite sure actually that it's the same. I don't know. But what we value -- what we look at is, you know, we're not buying a piece of -- although we're buying a piece of real estate here, we're looking at this as the operation itself. So the appraisal -- we're -- we've been out there and we've seen other deals, other nursing home deals, so we can kind of make our own evaluation.

**LEG. BROWNING:**
Okay. But your offer was 23 million and the appraisal came in at 23 million; correct, yes or no?

**MR. COHEN:**
The appraisal is lower than 23 million. And I don't believe we shared the appraisal with the prospective purchaser, that would just be bad business.

**LEG. BROWNING:**
Oh, no, I'm not saying you shared it with the prospective purchaser. I'm just trying to figure out which comes first, the horse or the cart. You know, it just seems to me signing a contract with someone with not actually knowing what your appraisal is, I just think it just didn't make sense to me.

**MR. COHEN:**
I had someone who has done multiple real estate deals before I became -- well, before I was a Judge, I think every contract we did was without an appraisal.

**LEG. BROWNING:**
And this is a real estate deal?

**MR. COHEN:**
No, it's a deal. It's a business deal. But, you know, again, we enter into contracts all the time in the private sector without an appraisal.

**LEG. BROWNING:**
Okay. So Mr. Sherman, I'm just curious, the average age of the Sun Harbor residents is -- what is the average age of a Sun Harbor resident?

**MR. ARYEH:**
Legislator Browning, to your question. My name Elliot Aryeh, I'm the Administrator of Sun Harbor, so I'm going to respond to your question.

**LEG. BROWNING:**
Okay.

**MR. ARYEH:**
I believe the average age is somewhere in your late 70's to 80's at this point. Sun Harbor fosters a
very active, short-term rehab unit. Obviously you know the law of averages, that's going to pull your numbers down somewhat, but the predominant force in our facility, just number-wise, is the long-term care facility.

LEG. BROWNING:
Because -- that -- and that's where I was getting, is that the average age at John J. Foley is about 50, 55, and the many years that the majority of the residents have been there, I mean, I've met residents who have been there as many as 15, maybe 20 years have been there. And, you know, the County is continually saying we can't make money on them. So I'm just curious, how are you going to be able to run the facility with people who are not going to make money for you?

MR. SAM SHERMAN:
I can address that. The premise that they're not going to make money from them, I think I would just take issue with that. There are a number of things that we can do to basically make this facility financially viable. Taking care of those patients doesn't necessarily mean we're not making money. Today there is, with MDS 3.0, the State actually has a methodology of reimbursing facilities based on the acuity of the residents. It's just a question of documenting properly so that it reflects the care that's given, and when you do provide that care, you should be entitled to get reimbursed from the State. So the State has come up with the methodology that will allow facilities, if documented properly, to actually get reimbursed more for those kind of difficult patients. So there's a -- there's actually an incentive, a financial incentive for those residents in the facility.

LEG. BROWNING:
So basically you're saying the County has not done a very good job in operating this facility.

MR. SAM SHERMAN:
I'm not saying that at all.

(*Laughter*)

LEG. BROWNING:
It certainly seems like it. We have so many long-term residents that --

MR. SAM SHERMAN:
You just said that, not me.

LEG. BROWNING:
-- have the potential to make a lot of money for the County and to kind of help the nursing home to be more solvent than what it currently is.

MR. SAM SHERMAN:
There are -- I will say it's kind of a new thing that's out there, it requires training. But again, that's what we do, we're in the health care business.

LEG. BROWNING:
Electronic medical records you have in the nursing home; correct?

MR. SAM SHERMAN:
We do have that at Sun Harbor.

LEG. BROWNING:
And we're hoping at some point in time they will be up and running at John J. Foley. What is the
daily rate per day in the likes of Sun Harbor?

**MR. SAM SHERMAN:**
Which rate would you be referring to?

**LEG. BROWNING:**
Per patient, per resident.

**MR. SAM SHERMAN:**
There are different payer sources.

**LEG. BROWNING:**
Okay. Say Medicaid, because the majority of the John J. Foley residents are Medicaid.

**MR. SAM SHERMAN:**
Right now it's at 236, approximately.

**LEG. BROWNING:**
Okay, because I believe John J. Foley is 280. But that would not be the case if we privatized John J. Foley, though; correct?

**MR. SAM SHERMAN:**
My understanding is that it would be similar to that amount.

**LEG. BROWNING:**
Okay. And I believe that that additional money -- and John could maybe jump in if he ever wanted to on this one, but I believe the daily rate, we get that additional funding because that helps to pay down our debt service. So for every resident that we have, the debt service is covered and paid for with that rate.

One of the things -- I did look at some of your -- I believe you have a number of homes, Absolute Center for Nursing & Rehab, and there's one in Endicott. And there was something that came to my attention was because of the type of residents that we have at John J. Foley, we have 12 HIV beds, many of them have psychiatric problems, we have dementia patients, many of them with psychiatric problems, and in December of 2010 there was some issues with your nursing home where it says, "Appropriate treatment for mental, psycho-social difficulties." The severity and the number, it actually is checked standard -- "substandard quality of care", and it has the boxes marked, four not being on a very positive which means there's an immediate jeopardy and it shows that there was a pattern, and also mentions about, "Not employ persons guilty of abuse." And again, it shows the severity being immediate jeopardy and the residents affected, it showed a pattern and also shows substandard quality of care.

So obviously, when I look at nursing homes -- when I look through the Endicott facility, it really doesn't look very good. And I'm wondering, have you -- what have you done to remedy those problems? I mean, what is your current plan? Because I see this actually dates back to 2012 and there are a number of concerns of mine with your Endicott facility that there are -- it's definitely not one of your better run facilities. So when I look at a potential buyer, I want to be sure that whoever is buying John J. Foley Skilled Nursing Facility, we won't be seeing similar patterns that we're seeing in Endicott. Could you respond to the complaints on the Endicott facility?

**MR. ISRAEL SHERMAN:**
The Endicott Facility has since gone through a survey that has met standards. And as I had mentioned before, we are constantly striving to correct whatever we -- whatever the department tells us that has not been done correctly. And in fact, Endicott now is providing a much better level
of service than it has before.

LEG. BROWNING:
Okay. Could I get an update on that, please? I'd appreciate it.

MR. ISRAEL SHERMAN:
We can do that. We'll provide it to the County Executive's Office.

LEG. BROWNING:
Yeah. And I think, you know, definitely the John J. Foley Skilled Nursing Facility is in my district, I'm very familiar with it. I'm a frequent visitor. I know probably most of the people in this room right now by first name. I know many of the residents very well, many of them have family members in my district. So it is a big concern of mine.

I told the County Executive the other day, I said I knew John J. Foley when my children were younger, taking them from -- my church group would go and entertain them over the holidays, our school would go there. I've been there with my children before I was a Legislator. So I don't look at John J. Foley as just a County facility, I take it personal. They're my constituents. Most of the workers, many of them are my constituents. So I have some serious concerns for them. And I would like to think that if this sale does go through, I will be welcomed to walk in those doors at any time. Because I will be keeping an eye on John J. Foley Skilled Nursing Facility, which I believe through some legislation, if it does become privatized, it should no longer have that name, because it does not carry the legacy of John J. Foley.

One of the other things that I'm really concerned about --

LEG. ROMAINE:
You can't enter into a contract with that name.

LEG. BROWNING:
Right. Yes, that is true, and cannot enter into a contract with that name.

We -- you know, there's this message going out that, you know, these less residents can go anywhere. There's any nursing home in Suffolk County could take them. I know for a fact that's not the case, because I know of certain ones who have been sent up to Massachusetts because of the difficult type of patient that they were. So to say that they can stay in Suffolk County in another nursing home if they're moved out, that is not true. If it becomes a private facility, my biggest concern, and I've said it to the County Executive, is that these hard-to-place, difficult residents, not only that they get to stay till the day they die if they have to, but I'm concerned about the potential future residents of Suffolk County who will be rejected by other nursing homes. And what kind of guarantee would I get from you that you would accept the same type of people to your nursing home if you potentially own that one in Yaphank?

MR. ISRAEL SHERMAN:
There aren't really guarantees, okay, but what I've always done -- you know, as a nursing home administrator, throughout my career I've had people approach me asking where they should place their loved ones, and my answer has always been that it should be near where they have people that are going to visit them.

So a nursing home is a local business. A nursing home is not something that -- and I've gone up to Massachusetts and brought back residents, so I know what you're referring to. What was happening at that point was a lot of residents were going to Massachusetts because no facilities in the area were willing to take them, and the New York State Department of Health had an arrangement with
some nursing homes up there and were sending there. And they were actually -- it was called the repatriation to try to bring them back into New York, which made a lot of sense.

The goal is to take care of the people that live near the facility. It's sort of -- think of it as a catchment area. The immediate area is our first preference, that's the people that I would recommend to go there and that's what we will try to do. It's not a contractual issue. Okay? We can't give you any kind of contractual guarantee. We can tell you that the goals of our facility is always to service the people in the community around them, wherever it may be.

**LEG. BROWNING:**
Well, my concern is the legacy of John J. Foley, and that we have -- you know, this was the infirmary, it is now the John J. Foley Skilled Nursing Facility. And the legacy of John J. Foley, to make sure that Suffolk County residents, those who are the least desirable, have somewhere to go. And that's my concern, is that as a for-profit agency, you cannot guarantee that to me, and that's why I could not support it. And that's why I think the necessity and the need of a public nursing facility because of the fact that we don't -- we generally try not to turn anybody away.

**D.P.O. HORSLEY:**
Is that a question?

**LEG. BROWNING:**
No, it's a statement.

**D.P.O. HORSLEY:**
Okay. Well, let's -- we're going to try to keep it to questions. Are you done?

**LEG. BROWNING:**
I think I'm done for now.

**D.P.O. HORSLEY:**
Thank you, Kate. I appreciate it.

**LEG. BROWNING:**
But I'll reserve my right.

**D.P.O. HORSLEY:**
All right. Steve Stern. We're going to keep to the questions where the hour is getting late and we've got several more people on the list. Thank you.

**LEG. STERN:**
First, for the Senator, welcome. Although it might not be within your purview or deal specifically with the organizations that you work with and represent, in your experience as an elected official at the State level and now in your present capacity, I'm interested in your perspective regarding the spectrum of care, particularly home care which is a part of the services that are offered and will be offered going forward. So I wanted to get your perspective on the shift or the potential shift from high level institutional care, the type provided in the Skilled Nursing Facility, and the move towards a more intermediate, or lower level of care as we go forward.

**SENATOR BALBONI:**
Legislator, that's exactly what the State is exploring right now and we're all anticipating in terms of the long-term Managed Care Program. This has been tried in other states. Some -- most states
have kept it, some have reversed it, and so they didn’t want to do this anymore. But essentially what's happening now, as you described appropriately, there's a continuum of care and it begins with the highest per diem rate care, which is the hospital, and goes to the long-term nursing, Skilled Nursing Facility, like a nursing home, and then down to what they call CHHA's, home care agencies, Alexa. And as you go down to all the different levels, there is a reduction in the daily rate.

What the State is very focused on, this is the Medicaid Redesign Team looking at this, are trying to stop things like rehospitalization; that's a major focus of this new program. And there are incentives being built into various reimbursement programs to make sure that that does not happen. Likewise, they are trying to drive patients out of the longer term institutional care, facilities to the home care which they believe is, in fact, a lower rate of pay. I testified before State Senate and the Assembly Budget Committees and Health Committees on this very issue and one of the things that I tried to point out is that it's a very difficult thing when you get into the economics of a long-term skilled nursing facility and home care.

I have -- my father now, my mother had passed, he lives at home. He's got a skilled nursing home, but it's a very different set of circumstances than having someone who has high case mix index, in other words the acuity that Sam Sherman spoke about, to be able to care for that individual, even on an episodic basis at home, is very, very difficult. And so what I think the Department of Health is looking at and is going to see is that there's going to be a population where that continuum of care migration, if you would, is not going to be appropriate. And they're going to have to try to deal with that from a budgetary standpoint as to how they ensure that the nursing home hospitals, as well as the other organizations, are impacted in a way that makes sense for the patients themselves, but also keeps within the parameters of the global cap.

You know, that was the other thing I failed to mention. We have a brand new way of reimbursing or controlling costs in the State of New York. This is the global cap, you can't go beyond that. And every year the MRT does an analysis of how much we've spent and now comes back and says, "Well, either you're under the cap or over the cap." And under a law that the State Legislature passed, the Commissioner of the Department of Health has the sole discretion to now come back and say, "We can take money from your sector to make sure that you're under the global cap itself." So that is almost like a Sword of Damocles is hanging over the entire system itself to make sure that the efficiencies, the cost savings, but also the care is maintained.

LEG. STERN:
And so in light of that, knowing that at least as far as reimbursement goes, that that's the future that we're looking at, how important then is providing a home -- I'm sorry, an adult day-care program, let's say, on the part of the facility and not just providing those kind of services one-on-one in anybody's individual home? Does that become an even more important element for a facility to offer that as a service going forward?

SENATOR BALBONI:
What's happening now is a lot of hospitals, major health care organizations like North Shore University Hospital, is looking to create these MLTC's, Managed Long-Term Care, and in there have a constellation of services so that you can actually provide a feeder network for patients. And the key to that, of course, is that you brand the different services in such a way that the patients want to remain in the system itself. We're not there yet. You know, this has been out there, we were supposed to begin the migration of certain patients this last summer, that's delayed. Originally they said they were going to get to 2013, we don't think that that's going to be a realistic timetable. So but that is very, very important to have that kind of continuity and relationships so that you have the ability to take patients and send them someplace else, to home care if that's appropriate, but if
they come back, be able to provide the care for them as well.

**LEG. STERN:**
With that, I'll turn to the Shermans. Because I would love to get your perspective on this idea of adult day-care and how you see it working within the facility as it exits now and your plans going forward for the future, and then I have a couple of questions about the particular contract.

**MR. SAM SHERMAN:**
Certainly. The adult day-care is an important component. It's something that I believe up until about a year and a half ago was almost full. So it served a large purpose, particularly for the community, which is important to us to maintain that relationship and have that as a successful, viable part of the operation. So our intention is to actually continue that and try to make that as successful as it possibly can be.

**LEG. STERN:**
The section of the contract, it's Section 6.2, *Registrant Retention*; "As of the day of the closing, the buyer shall continue providing services to registrants in the adult day-care program." How would you define a registrant? How long do you believe that this contractual provision binds you, requires you to continue to offer those services to registrants?

And I guess another part of that question is if there is a registrant who needs some acute level of care and is not participating for some period of time in the adult day-care program, are -- is he or she still continued a registrant, in your opinion, under this contract so that he or she would be guaranteed the opportunity to return to the program?

**MR. SAM SHERMAN:**
Right. Well, once again, I'm not an attorney, so for me to speak to the legalities of the contract would be a little difficult. But our intention, we have full intention of building up the Adult Day Care Program. Right now, my understanding is it's down to about 20, 25 slots. So whatever registrants would like to come in or additional registrants, we certainly welcome them. So we would have no reason whatsoever to take whoever is actually in the fold right now and, you know, move them out; our intention would be to build that program up.
So that's how I would deal with that.

**LEG. STERN:**
In your opinion, a registrant is a registrant is a registrant, regardless of need, level of care. If they are enrolled in the program, then they would have the opportunity, really the ability contractually to remain in the program really as long as they continue to require those kind of services.

**MR. SAM SHERMAN:**
I would think so. But again --

**MR. ISRAEL SHERMAN:**
I'm sorry, let me answer that. The Adult Day-Care Program has medical requirements. So it's not -- it's not as if we can say that everyone that's in there now should or shouldn't be; presumably, if they are they would continue. But there are requirements by the New York State Department of Health, when you have a medical model for an adult day-care program, that those individuals have to have certain medical needs. It's not a social model. Okay. So we are bound somewhat by those requirements.

**LEG. STERN:**
Understood. Then, again, as long as they meet those requirements of the medical model as opposed to merely a social model, they will have the opportunity to continue in that program. Thank you.

**D.P.O. HORSLEY:**
We're good? Thank you, Legislator Stern. Legislator Calarco.

**LEG. CALARCO:**
Thank you. And thank you, gentlemen, for being here today and answering our questions. I did take the opportunity to tour the facility, Sun Harbor, and found it to be a very nice facility and very well run. And it was clear that your Administrator Elliot does a very good job there and knows the facility. So I do condemn you -- congratulate you for that, excuse me.

(*Laughter*)

We had a few questions, a little discussion at that time about your operating structure there. Because you are a for-profit entity, and I don't fault you for that, there's nothing wrong with being a for-profit entity, but clearly it means you're looking to try to find a way to make the nursing home make money. So we talked about your ratios of patients at Sun Harbor right now, and could you tell me what is the ratio you have there now in terms of Medicaid payment versus private payment versus the short-term Medicare payment, which I understand almost pays double to what the others do. But if you could just speak to what your ratios are there now.

**MR. SAM SHERMAN:**
All right. We were approximately 15 to 20% short-term Medicare or Medicare Part A, I would say about 60% Medicaid, and the rest would be a combination of HMO and private.

**LEG. CALARCO:**
And I think we discussed at that time that there is certainly a need to try to keep to some sort of a ratio in terms of the number of Medicaid patients versus the Medicare patients you have at the facility in order to stay profitable.

**MR. SAM SHERMAN:**
Well, there's no one specific number or ratio. But certainly the patients that do get reimbursed more for, all those Medicare parties, short-term rehab patients, however. Again, with the new model that the State has put forth, there are incentive, financial incentives of taking care of long-term patients as well, depending on their acuity levels and, again, making sure that you document whatever you do to reflect the care that's provided.

**LEG. CALARCO:**
Okay. And your understanding of what we have at the Foley Center right now, what is -- we have -- I think we're at about 90% Medicaid patients; is that correct?

**MR. SAM SHERMAN:**
I believe so.

**LEG. CALARCO:**
So if you were to acquire the facility, would you be looking to expand the amount of short-term Medicare Part A patients you have in the facility as opposed to looking to place more long-term patients? Because we do have about 70 open bends, so you have a lot of flexibility there in terms of how you move forward with your ratios.

**MR. SAM SHERMAN:**
Right. Well, we're certainly going to consider every single PRI that comes our way. Obviously we
would like to do a number of things. One of the things we'd like to do is build up the rehab program, that is true, that's something that we'd like to do. We'd probably like to offer rehab seven days a week, and I'm not sure what they're doing right now, up to three hours a day. We can do things to improve that area and perhaps get residents or more short-term residents to come into the facility. But certainly with 70 beds down, we're going to consider every single -- every single resident or every single PRI that comes to our table we're going to carefully consider. Whatever the problems exist or whatever the medical issues presented to us, as long as we can handle that.

LEG. CALARCO:
Could you -- I have a couple of my colleagues asking; could you explain what a PRI is?

MR. SAM SHERMAN:
A PRI is a Patients Review Instrument, that's the instrument that's sent over to a nursing home that's required and it's basically gives you all the information that you need to know on the patient the hospital information.

MR. COHEN:
It's the basis for your medical reimbursement.

MR. SAM SHERMAN:
Yeah, it's the basis for our reimbursement.

LEG. CALARCO:
And right now, the way you try to fill your beds, do you have people out there working with the hospitals or working with individuals in terms of trying to make sure that they are aware of the services you're providing and bringing in those PRI's? And then how do you evaluate those PRI's and look at them to determine whether or not those patients are people you want to try to accept into the facility?

MR. SAM SHERMAN:
I'm going to defer to our Administrator on that one.

MR. ARYEH:
Legislator Calarco, we fostered -- I guess we can say we created strategic approaches through partnerships, both with our patients, our families and most importantly our hospitals. Obviously that all boils down to our staff and what they can do for us in those facilities. We've been successful in creating relationships with the hospitals in our local catchment area that have helped us develop programs to provide care of a higher acuity level than we did earlier. We brought in programming and provision of care that many facilities never have done -- have not done. This has helped us also open up the doors for other residents to receive care within our facility, both on a long-term and a short-term basis.

To answer your question as far as who we have out in the field, yes, we do have employees who are out in the facilities helping us to review PRI's. The way the system works is a Patient Review Instrument is sent to sometimes the facilities that a patient requests, and as we've heard here today, many times the PRI is rejected by facilities, and by default, the hospital sometimes has to send it to other facilities.

It helps the facility, a home, to have nurses or other employees who can take a look at that so that you can make that decision almost earlier. When something is sent over an e-mail or over a fax machine, perhaps there's a delay before you get to review it. And when a hospital doesn't get an answer, and they're limited on how long they can wait before they have to discharge a resident, residents have a tendency to be discharged to other places.
Yes, we do have people out there that assist us in helping to find patients, helping us so we can take care. Often the PRI, by the way, which is most important to note, gives you as best a review as you can. But remember, it's like looking at a resume, and until you sit in that interview and see the potential employee first-hand, you don't really know what you have. Having somebody in the field helps to give us a true picture of what it is so we know that perhaps the resume doesn't look so good, but this is a start and we can do this. We can handle this patient. It also gives us the ability to know ahead of time, before the patient gets to our facility, what we need to do to put into place, what type of devices we need, what the hospital has had so we can help continue that what we'll call continuum for that resident when they segue to our facility.

**LEG. CALARCO:**
So when you look at those PRI's and you hear the people out in the field -- and this is partly, I think, your business model that helps you be successful in your business models to make sure that you are getting those patients in the door that you feel are going to be the ones you want to have. You take a look at their medical needs and whether or not your facility can handle those medical needs, and also whether or not the financials work out on that in terms of the reimbursements for those medical needs.

**MR. ARYEH:**
So that doesn't really come to the staff that we have in the field.

**LEG. CALARCO:**
Okay.

**MR. ARYEH:**
It's kept separate and apart.

**LEG. CALARCO:**
So that's done in-house by the administration in the facility?

**MR. ARYEH:**
The decisions and determinations made by my individuals in the field are done strictly on a clinical basis. And they're looking not just at the clinical end of it, like you mentioned, Legislator Calarco, as far as the health, but as far as the psycho/social. What can we do for this person? How can we benefit their quality of life? What programs perhaps do we need to think about? You know, suddenly you see an influx of a younger age population which, by the way, Sun Harbor has experienced, as we shared with you when you came for the tour, we've had a younger population come into our home. Because of this, we've been able to create younger programming and devices that have assisted their quality of life. And it definitely helps to be able to get that true picture before they come to our door, if possible, when possible.

**LEG. CALARCO:**
And I guess one of the questions I think we need to get at here -- and when it comes to looking at the patients in the facility, and I'm hearing one thing from you folks and another thing from other individuals -- is there a patient out there presently that is not cost effective to take into the facility? I mean, it keeps -- it sounds to me that you're saying the State's changed the model. They've changed the way they do reimbursements. We feel that we're able to really capitalize on this by making sure that we're getting full reimbursement for the level of care that we have to provide to these patients. And so the patients that are higher level of care, which I think historically were the patients that were difficult to place because of the high level of care, they're no longer less cost effective; is that what you're telling us?
MR. ISRAEL SHERMAN:
The State has changed how they reimburse. There are still certain inequities in how a
reimbursement is done. What our goal is to maximize whoever is there and try to get the most for
what we do.
What we try to encourage our staff is if we're doing something, let's document it properly; if you
document it properly, then we're trying to -- then we will be getting as much as possible from the
State. That's not to say that everything is reimbursed as well as others.
Yes, it's true that for more care, the State does pay more, but there are certain categories that it
doesn't always work out exactly like that. Our goal is to take whoever is there and to get the most
of what we can get.

LEG. CALARCO:
But you feel with the 70 open beds in the facility that you can keep the people that are there, don't
have any need to move them out and bring your ratios and bring your numbers into line where you
can make the facility profitable.

MR. ISRAEL SHERMAN:
We will do that. And as I've stated before, we look at the facility as the home for the people that
are there. Unless we can provide them with a level of care that's more appropriate for them that
they want, okay, we will not --

LEG. CALARCO:
No, and I've heard that and I do believe that. I don't think that you're looking to move any of the
people out of the facility. But it doesn't mean that moving forward there won't be certain individuals
that maybe don't fit into the model at certain times of when they may need --

MR. ISRAEL SHERMAN:
The general -- long-term care is geared towards providing people with the -- with, shall we say, the
level of care that's appropriate for them. If someone doesn't need the medical model of a Skilled
Nursing Facility, meaning if someone can live well in a less restrictive environment, we're not doing
them any favor by putting them in a nursing home.

LEG. CALARCO:
Of course. But if there are individuals who need the skilled nursing care but may not necessarily be
able to be reimbursed at the rates that make them profitable care, then moving forward you're
going to take everything into consideration as you look to place new patients in your facility.

MR. ISRAEL SHERMAN:
That's correct, we would be. We would be looking to try to put in whoever is appropriate for the
facility, for a Skilled Nursing Facility.

LEG. CALARCO:
I appreciate that. And as full disclosure, the 7th Legislative seat is the seat that John J. Foley once
sat in. So I have to honor what he looked to fight for and that was taking care of those people who
are the least fortunate and least capable of taking care of themselves and have the least means
available to them. So thank you very much.

D.P.O. HORSLEY:
Thank you very much, Legislator. Legislator Gregory.

LEG. GREGORY:
Thank you. Thank you for being here and answering questions. I know it's probably not a usual
process for you to go through, but nonetheless you're here. And Senator, thank you for coming, and
I appreciate your comments as it relates to placing your mother in the facility at Sun Harbor. That's really how I viewed my visit when I came to visit. And those that didn't have the opportunity to go, I think they really missed a real opportunity, because I was -- I literally have to say, I was very impressed from the moment I stepped in the facility. And by that -- and Elliot is tremendous, I wish we could snatch him, very knowledgeable. Sam, Mr. Sherman, you were there, the patients clearly knew you. It wasn't a dog and pony show, there was a relationship. Patients actually came up to us and said, "This place is wonderful." So I was very, very, very impressed, given the -- you've kind of been painted the boogyman; I was expecting you in a black cloak, you know, outfit with the hatchet and it wasn't that at all.

Now I'll get to my questions, I'm sorry. So I guess what my basic question is you have over 13, 12 or 14 facilities throughout New York State. Are all your facilities -- do you attempt to run them all in the same manner as you do Sun Harbor? Because that's the only experience I can go with.

**MR. ISRAEL SHERMAN:**
Yes.

**LEG. GREGORY:**
Okay. So when I walked in, the first thing I noticed was you had an employee appreciation -- employee of the month, which to me sends a tremendous message. That's something that you tend to do in all your facilities?

**MR. ISRAEL SHERMAN:**
Yes.

**LEG. GREGORY:**
I'll tell you why it's important to me and I'll ask you why it's important to you. The message that it sends to me is that, one, you appreciate your employees, which is very difficult in any environment today, whether it's public or private. You appreciate their work, you reward them for their work, and it's rewarded because you expect a certain level of proficiency. And that proficiency is not just because they show up, you know, punch the clock on time and leave on time and do the basic standard things, but I would imagine that you expect a certain level of care for the residents. Is that -- why is that something that you feel that's important that you have in your facilities?

**MR. ISRAEL SHERMAN:**
Just to back up a little bit. Working in a nursing home, on the level of whether it's nursing assistant, whether it's a nurse, it's hard work. Okay? Almost all of the employees in all of our facilities work hard, care about what they do and definitely earn what they make and deserve to make a nice living.

Also understand that today I may be an owner, for 30 years I was an employee and I wanted to be appreciated also. Okay? I've always felt that we need to appreciate everybody that's there. Obviously our first concern is our residents, but our second concern is taking care of our employees. So it's always important. And the two go together because wherever we are -- and, you know, in different parts of the State, employment is different. But it's hard to find good people that care about their work, that care about the residents. So we're always trying to do whatever we can to keep our good employees.

**LEG. GREGORY:**
That was the first thing I saw, the big poster, employee of the month, I forget her name. The second thing I saw when Elliot directed the tour was, as we turned down that wing, you had paintings and drawings of a resident. And Elliot, can you expand into that just a little bit?
MR. ARYEH:
Sure. What Legislator Gregory is referring to is we had created a section, there's actually a few sections throughout our building, as we find out about hidden talents, achievements or personal hobbies of some of our residents, our staff, some of them are brought to our attention by the staff, some of them through simple care plan meetings where the families share it with us, and sometimes just by conversation with our residents. We've decided to attempt to promote that and to bring that back into their residential area. So we did establish a wall and one wall grew to two and two walls grew to three and then that grew to wonderful debates between the residents of how long it should stay up for and who else gets to go on the wall, of their work. So as we found an artist who is in our midst, we allowed her and her family to bring in the paintings, some of the paintings she had done, and we plastered them on of the walls in our main lobby. As we found the photographer -- and these are just some examples; I won't run through the full list of this, but this is just, I guess, to give you perhaps a feel. A photographer who is in our midst and he was there, although only short-term, short-term has gone to long-term and he is now a permanent resident within our home for long-term already. We allowed him to start putting his portraits and his pictures up on the wall. And then the pictures started with captions and then he started photographing events and our own staff and objects in motion and we created a wall for him, and every time he walked through, there's no question that he felt like a million bucks. When his family came through and the grand kids came through, the same thing, they saw Grandpa's stuff on the wall, this was amazing for them. We've also created a section, another unit that discusses -- I guess like we have an employee of the month, the idea I had was -- the idea we had, really, we have -- we have I guess what's called a focus group and we developed this so we can discuss with our employees to bring ideas to the table and see what their interests are and what they feel would benefit our operation. And just like we have an employee of the month, we also went to have a resident of the month. So we created a section down at the end where we can do a simple focus, a simple small bio with their permission and their consent to discuss something about them and their picture, a snapshot of what it is. That is the idea. The idea is really fostering an approach through a partnership, both with our patients, our staff and the management, to make sure that they're receiving a high quality of life. And it's not just the health care only. There's an extreme psycho/social model that goes into a wellness of a patient and that can't be forgotten. True; perhaps I don't get reimbursed for that, but that doesn't go without saying that it's not required and it's not necessary. So that's what Legislator Gregory is sharing with you. I believe I --

LEG. GREGORY:
Yeah. And it may seem trivial, but I think it's very important in how programs like that shows an appreciation for the residents. They're not viewed as a profit margin or just some anonymous person, but you really try to -- the impression I've gotten was that you try to really make it their home and you really try to give them ownership at that home and opening programs of their choice and selection. And I think that says, you know, probably more than anything, I think that says a lot about the type of people you are, the type of business model you try to employ and how, you know, what comfort level you can bring to the Foley Nursing Home. I'll get to some more technical questions now. Thank you for your response.

Now, should the sale go through, what is your evaluation process?
Day one, the sale is yours, the facility -- the sale is closed, the facility is yours. Talk to me a little bit about the evaluation process.

MR. SAM SHERMAN:
Well, the evaluation process, of course, consists of us going into the facility and being there, speaking with the administrator, speaking with some of the employees of the department and certainly getting their suggestions, finding out what they think, because they've been there all along, they're familiar with the situation, they're familiar with the facility, with the operation. That would be our fist -- that would be the first thing that we'd engage in.
And once again, you know, taking a walk around, just seeing how everything works, looking around, taking a look and seeing what kind of capital improvements we can provide to the facility is extremely important. And then from there we'll go into the technical stuff and start looking into charts and documentation, training and things of that nature and see how that works out. So that's the process. And again, as we get in there and as we assume operational control, the more we're in there, the more we'll see. And whatever needs to be improved, our goal would be to improve it to give the best quality of care to the residents. And whatever is working fine, we intend to just keep the way it is.

LEG. GREGORY:
Okay. There's a lot of talk about reimbursement rates, so I guess part of your evaluation would be -- or the residents being, I don't know, being is the chart, PRI, I don't know, whatever it's called, are they being evaluated at their best cost or highest need or whatever the case may be; is that a part of it, the evaluation? If I asked that question properly, but I'm sure you can answer it better than I asked it.

MR. SAM SHERMAN:
Are you referring to residents that are currently there?

LEG. GREGORY:
Right, right, right. I know that there -- well, there's been comments made that we don't bill properly or we haven't billed to where we should be billing, therefore we can get a higher reimbursement. I don't understand all of that, it's very technical to me. Would that be an evaluation that you guys make?

MR. SAM SHERMAN:
All right. Well, certainly, one of the things we look at is the documentation. And the training is the key because the employees are the ones that are documenting, so bringing in the right people, consulting and training them, having them understand what it is that needs to be documented and making sure that the documentation reflects the care provided, that's the key. I imagine what you're referring to as far as making the -- evaluating or making sure documentation is done properly.

LEG. GREGORY:
Okay.

SENATOR BALBONI:
Legislator, let me just clarify something. This is not just an issue that relates only to John J. Foley. This is an industry-wide, Statewide effort to try to make sure that there's the proper documentation. And the Health Department has really wrote this out to say you need to do this in a way to make sure that you're reflecting the care that's being given. And what the trends have demonstrated is, in fact, that even though you have really good people who do great work, sometimes there is this component that the State relies on so much in terms of determining what the reimbursement rate is that's not appropriately addressed. And so what it presents in this particular situation is not so much a "you can do it better", it presents an opportunity, and that's really crucial going forward.

LEG. GREGORY:
Thank you. I know the hour is long, so I'll yield at this point. But thank you, thank you again for being here.

D.P.O. HORSEY:
Thank you very much, Legislator Gregory. Legislator Nowick; a short question.
LEG. NOWICK:  
And you know my questions always are.

D.P.O. HORSLEY:  
I knew you would.

LEG. NOWICK:  
For Administration -- and I guess partially also. You put a deposit down already on the contract?

MR. SAM SHERMAN:  
Yes.

LEG. NOWICK:  
What happens to Mr. Rozenberg's deposit; does that have to go back to him before this deal goes through?

MR. COHEN:  
No. There's presently litigation with respect to that down payment, but no, we would not be giving that back.

LEG. NOWICK:  
Thank you.

D.P.O. HORSLEY:  
Thank you very much. That was wonderful. Legislator Cilmi; short.

LEG. CILMI:  
Thank you. Thank you all for being here. My colleagues have all asked important questions and you've all given candid answers, and it seems to me that you all have a great passion for your work and I really appreciate that. So I can put that question aside in my deliberations, then, and think about this in terms of the deal. And I won't bore you with many of my questions that relate to the deal itself, those are questions I'll have for the Administration at some other point, but there is one question that I would like to ask.

Could you envision and would you entertain a situation whereby the employees who are currently at the facility remain AME, the union that represents them now, remain AME employees through the County of Suffolk, and some arrangement is made whereby you would reimburse the County for the cost of that employment. And over time, those employees would naturally leave, they'd retire or they would find other jobs or what have you, and then you would replace them with, you know, employees of your choice who would not be AME employees or not be employees of the County, but that would help in terms of the transition of these employees out of public employment and into private employment, it would ensure that they maintain some level of health benefits that they count on, it would ensure that they maintain the pensions that they count on, and it would assure the County gets out of the business eventually entirely. And it may not cost you any more than what -- you know, what you're planning it to cost you now.

So I'm just curious if that's something that, you know, you would discuss with the Administration, talk to the Administration at some other time, whether or not that's something that they would entertain. But I'm curious to hear your point of view.

MR. ISRAEL SHERMAN:  
I think that's more a question for the Administration than for us.
LEG. CILMI:
So it is something that you would entertain as an arrangement if it's -- I mean, obviously we can't pigeon hole exactly what the deal would be, but you could see some sort of an arrangement where something like that would work.

MR. ISRAEL SHERMAN:
I think your question has a lot of different parts to it. Do we have -- is it something we would not consider? The answer is we would consider that. I think there's legal questions, both on our side and on the County's side. So I don't know that it's easy for us to answer it, but would we consider it? The answer is yes. Can it be done is much more complex.

LEG. CILMI:
I can appreciate the complexities of it. My experience is that when there's a will there's a way. And I think, you know, there may be a will for more -- in more ways than one here to have that happen. So Senator, have you seen any -- I mean, you've seen a lot of transitions from public facilities to private facilities; have you seen anything like that?

SENATOR BALBONI:
Not so much because of the tremendous financial pressures that usually attend a migration from a -- or a change, a conversion from a public to either a not-for-profit or a profit, and so generally that's not a component of it. It doesn't say necessarily it couldn't be, but that's generally what the trend has been going forward.

There are, you know, programs that you can do. But again, you know, it's not -- typically what we've seen, it's not like you go from one union to another union. Generally speaking, you have -- like for the down state area, if you go from a not-for-profit to a for-profit, it's 1199. So they just -- it's a different -- same bargaining unit, different ownership. This obviously going from a public to a private, there is transition. And as the Shermans outlined beforehand, that's a decision of the workers. You know, there's got to be a decision as to how -- who they want to represent them. That's the initial step in that whole discussion, and once that's done then there are other pieces that can be considered.

LEG. CILMI:
Okay. Could I ask that the Administration at least discuss that with the Shermans? I mean, I don't know that you can rule it outright, Regina, now or not, but --

MS. CALCATERA:
No. Legislator Cilmi, we will discuss it with the Shermans, but we'll also discuss it with Civil Service and Labor Relations. Because I think one of the questions that popped in my mind, because I heard you had proposed this earlier as well, is whether or not a private sector entity could have a public sector union; a private sector entity could have a private sector union that would be governed by {Arissa and Taft Heartly}. I don't know if a private sector facility can have a public sector union. So there's a few variables that are in there, so we'll take a look at this, in addition to a lot of the other recommendations that were proposed. And at the end, what I was going to do was recap all the requests that were put forward and list them down to make sure we have them all to show you our affirmation that we're going to be following through on what we discussed.

LEG. CILMI:
Terrific. I appreciate that. Thanks. Thank you all again for being here.

D.P.O. HORSLEY:
Thank you very much, Legislator Cilmi. Legislator Muratore.

**LEG. MURATORE:**
Thank you, Mr. Chairman. For Ms. Calcaterra and Mr. Cohen. My question is besides the Shermans, who else had bid on this project, besides the group that is here today?

**MR. COHEN:**
Again, as I mentioned earlier, the -- you know, as part of this process we entered into nondisclosure agreements with the proposed purchasers. So at this point, I'm uncomfortable giving that information.

**LEG. MURATORE:**
Can you give me a number one; one, two, three, four?

**MR. COHEN:**
The amount was four. There were four who participated in the process, I believe three made --

**LEG. MURATORE:**
And this was the number -- this was the highest bidder?

**MS. CALCATERRA:**
They initially were not the highest bidder, but their final bid ended up coming to be the highest bidder.

**LEG. MURATORE:**
Okay. Now to the Shermans, have you looked at the AME contract? Have you read it over? Do you think you could work with that contract if they do decide to stay with AME and work for your organization?

**MR. ISRAEL SHERMAN:**
That contract would not apply to us. The contract would end with the sale of the facility. We would be renegotiating with the employees who choose to have this union represent them.

_(THE FOLLOWING TESTIMONY WAS TAKEN AND TRANSCRIBED BY LUCIA BRAATEN-COURT REPORTER)_

**LEG. MURATORE:**
And who would represent them in the interim while you were negotiating the contract?

**MR. ISRAEL SHERMAN:**
That's a good question. I don't know -- as the question was asked before, what happens from the day of -- you know, the day of the County closing and us taking over. I can't answer that question, but we do fully expect to be entering into a negotiation process with whoever the employees choose to represent them.

**MR. COHEN:**
Legislator, it's my understanding, as long as the -- as long as AME is legally permitted to negotiate a private sector agreement, they actually go with the employees in the first instance.

**LEG. MURATORE:**
So I know they're not covered by Triborough, but would the same thing happen to them? Would their benefits and their salaries hold true while you were negotiating with them, with another union, or with AME, or you would just arbitrarily pick a salary and benefits for them?
MR. ISRAEL SHERMAN:
It's a good question. I'm not the sure. I don't believe that the old contract would -- we would --
that we would be obligated by that with regard to the salaries or the benefit package. We would like
to try to maintain as much of that as possible. But that's a good question and I don't know what the
legal obligation would be on the day of closing.

MR. COHEN:
I'm sorry. Again, Legislator, to my understanding, that they -- that the contract does not go with
them, that they would -- that they would negotiate a new agreement.

LEG. MURATORE:
So what would they work under? I mean, you get interviewed and Mr. Sherman says, "I'll pay you
"X" number of dollars," and they decide yes or no, or --

MR. COHEN:
Well, based on the limitations of the contract, which is they have to offer, you know, salaries
commensurate with what's standard in the industry in Suffolk County. So that -- they'd be bound by
that provision, but otherwise it's subject, you know, to the negotiation.

LEG. MURATORE:
Okay. Thank you.

MS. CALCATERRA:
And, Legislator Muratore, many of the questions answered -- asked this evening that are
outstanding have to relate to employee transitions. One of the questions that was brought up earlier
was, I believe, by Legislator D'Amaro, is how best do we plan on transitioning, especially because
that transition -- because on one day the contract ends, another day these employees still need to
be employed. We're going to work with the Shermans on that, we're going to work with the
Legislature on that, to come up with a plan to work on transition, in addition to the other issues that
came up this evening.

LEG. MURATORE:
Okay, great. Thank you.

D.P.O. HORSLEY:
Thank you, Legislator Muratore. Legislator Hahn, do you still have a question?

LEG. HAHN:
Yes, yes.

D.P.O. HORSLEY:
Quick.

LEG. HAHN:
Thank you. No. I'm going to ask. We're here. We're here until we get the answers. I'm concerned
about the last resort cases, and I know we've touched upon this previously. Some people have
touched upon it, and I hope I'm not repetitive. Are there any types of -- and I think this was --
sorry. Love you, Wayne.

D.P.O. HORSLEY:
Good.
LEG. HAHN:  
Are there any types of patients or types of service that Foley cares for today that you will not continue? And I know you're committed to handling the patients that exist, but I want to -- you know, I've just been told about this unprofitable patient where -- and I know, we've done -- bounced around, but because we have to wait on a waiting list, I couldn't ask at the time this was getting asked before. So you talked about certain categories that don't work out to get reimbursed fairly. And so I just -- I want to know -- I understand you're going to keep the ones that it's their home, Foley is their home. But in the future, the types of patients that we care for now, do you intend on discontinuing any types of service?

MR. ISRAEL SHERMAN:  
The answer to that is no, we do not intend to discontinue any services. We intend to continue to service residents that need skilled nursing care. That is the focus of any skilled nursing facility and that is what we plan to continue to do.

LEG. HAHN:  
So, right now, is there a type of patient that all of your 13, or a majority of your 13 or 14, or however many homes it is -- I'm sorry, I can't remember the number -- turns away?

MR. ISRAEL SHERMAN:  
I'm sorry. Can you repeat that?

LEG. HAHN:  
Is there a type of patient that the majority of your homes do turn away?

MR. ISRAEL SHERMAN:  
No.

LEG. HAHN:  
I'm concerned, and I'm now turning to Regina and others from the Administration. I'm just concerned about the last-resort cases, and how can the County assure me and assure Suffolk County residents that there won't be someone, you know, who -- some father who says his son had an aneurism when he was in Europe and he can't find a place here in Suffolk County? How can you assure me and others that there aren't these devastating cases that people are going to have to take, you know, their mom, or their dad, or their son, or their daughter to Massachusetts? And what can we do here in the County to kind of feel better that -- and I feel great that the residents that are there will stay there, because this -- the Shermans want to provide them a home, but I am concerned about the future patients. And Kate touched on this and Rob touched on this, but I just feel like we have to, as a County, we're -- we're operating this. We got into this business because we wanted to take care of those cases.

MS. CALCATERA:  
Understood, Legislator Hahn. And I'm glad you asked that question because there was something that we didn't get an opportunity to raise earlier today.

When the County Executive met with Legislator Spencer, in their initial conversation when they were talking about the nursing home potential sale, the discussion that transpired between the two of them was to create a unit and position in the Department of Health called the John J. Foley Patient Protection Program. And the focus of that particular program, when they first started talking about it, was to make sure that folks who are now in Foley have a liaison with the County. So, like the State has an ombudsman to the nursing home, we can also have something -- the same in our Department of Health that serves as an ombudsman.
So then what we can do, because we haven’t yet completely flushed this out, is have this person, this individual, this unit set up some type of program that if there is a situation, which we’re hoping this never does arise, but we all want this comfort, that that communication is made to the liaison, to the patient protection person. And either we work with the Sherman facility or other facilities to work to get them in there, because the primary objective would be to have them -- to have them receive Medicaid funding. Our Department of Social Services is who approves Medicaid funding, so that's where our control is. We have some type of a liaison out there in the communities, have them contact all the different nursing homes, let them know if there's some patient that for some reason seems to be hard to place, our liaison will work with that. And our liaison will work with DSS and that particular patient to have them be eligible for Medicaid, which makes them more desirable as well, because sometimes there's like a little glitch as far as them even being eligible for Medicaid. 

So I think that's -- I mean, that's something that we can do, and we could, you know, figure out how best to develop that, so at least it comes back to us, and that's something that we're monitoring and they're -- we're working on.

**LEG. HAHN:**
But the reality is we wouldn't have any teeth. Like this liaison, this ombudsperson, couldn't say to any home in Suffolk County, you know, "We need you to take them, take them." You know, I don't know if we need a fund or if we need, you know, something set up that kind of gives us some kind of security that --

**D.P.O. HORSLEY:**
Question, Kara.

**LEG. HAHN:**
Do we need a fund or something set up that provides us some kind of security, some kind of teeth to assuring that we don't have someone in limbo?

**MS. CALCATERA:**
It's a possibility. We should discuss that. That's something else. I also -- what we also would want to do is have this particular person have direct communication with the Department of Health, because in all the meetings that we've had with the Department of Health over the past few months on a variety of different things is they have said that patients cannot be denied. And if you ever find out that a patient is denied, then you need to tell us and we'll look into it. So that's another connection that we can make there, notwithstanding, you know, we'll talk about setting up some type of fund as well. I mean, these are things that we can discuss and flush out.

**LEG. HAHN:**
I guess it's the whole -- the whole idea that the beds, nobody wants them to be empty, but here we are operating a facility with 48 beds empty on purpose. And so, you know, I'm struggling with like the inconsistency there. And, you know, we're turning patients away and other facilities will do the same. And I'm really just struggling with a whole bunch of inconsistencies that I've heard. But I feel I do want to pursue this line with you about what can be done to make us feel better about these case -- last resort cases and what government should be doing to make sure that our own residents have places to go.

**MS. CALCATERA:**
Understood, and we'll continue talking over the next few weeks to see if we can put something together that would be comprehensive.

**LEG. HAHN:**
Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Legislator Hahn. Legislator Barraga, for a short one.

**LEG. BARRAGA:**
A very short one. A quick question to the Shermans. Let’s say in the next couple of days the County comes in and says, "You know, we were thinking it over, we can do the differential. We can pay these employees the County rate for the next 12 months." If that be the case and it’s not that expensive, if you take a look at each employee and what they’re making on an annual basis, if the County goes along with that, would you think or go along with a lock-in period of 12 months for the same employees? In other words, their differential would run 12 months. Your lock-in period, you could say, "Look, we'll take the existing employees as is for the next 12 months."

Now, the downside for you is that, you know, I’m assuming that all the employees are good employees. I’m not out to give you a lot of aggravation, but you would be committing yourself for the next 12 months to take the existing employees. After that time, the future will take care of the future. But from an employee perspective, they would know, number one, that they’re going to get the same salary that they’re earning now for the next 12 months, they’re part of that union, and they know they have a job for the next 12 months. How does that look from your side? It’s not costing you any money. The risk is you might have to deal with a couple of employees that you may normally might want to get rid of, but you’re going to have to keep them for 12 months, but is that such a risk? Would you be willing to consider that if the County goes along with the differential?

**MR. ISRAEL SHERMAN:**
I think your question is a very complex question. The answer to your question is we would be willing to talk to the County about doing that. We would consider it, but I think it’s got a bunch of different pieces, as Regina mentioned, about how we can work that out. There are --

**LEG. BARRAGA:**
The employees would join 1199, they wouldn’t stay in the AME.

**MR. ISRAEL SHERMAN:**
Well, you’re assuming 1199 is the one that the employees want. I don’t know that.

**LEG. BARRAGA:**
Well, it wouldn’t be the AME, it would be one of the unions that you would normally deal with, okay? It’s not going to cost you any more money. You have "X" amount of dollars you would pay them based on their function. The County's going to pick up over and above that. All we’d be asking you is to sort of lock them in, as Mr. D’Amaro pointed out, for a period of time, in this case, the same period of time as the differential, 12 months.

**MR. ISRAEL SHERMAN:**
We would definitely consider such a proposal.

**LEG. BARRAGA:**
Thank you.

**D.P.O. HORSLEY:**
Thank you very much, Legislator Barraga. Legislator D’Amaro, you had a quick one?
LEG. D'AMARO:
Yeah, very quickly. And thank you, Mr. Deputy Presiding Officer, for recognizing me a second time, I appreciate that.

My question is for the County -- to the County Attorney or to the Chief Deputy. Presently, the County's operating the Foley facility. There are several residents in there, it's my understanding, where we are not getting reimbursed. And it's also my understanding, in a case like that, that the County may seek reimbursement or may even have a lien for the services that have been rendered. How does that factor into an eventual sale? Has that continued to be pursued? If so, if we do -- if we're successful in any recovery, all or partial, does that funding come to the County as of the date of closing? You know, what consideration is given to that?

MR. COHEN:
Any accounts receivable for services that predate the closing date would stay with the County. So if the County collected on that money post closing, we would keep that money.

LEG. D'AMARO:
Right. Is that something that the County will continue to pursue, or is that something that perhaps we would work hand in hand with a new owner to pursue? What -- have we given any thought to that? Are we pursuing that now?

MR. COHEN:
We started pursuing through guardianship proceedings, because the -- my understanding of the people who are not paying is it's because applications have not been made to get reimbursed. So, by seeking guardianships, if the guardianship is granted, then the guardian can then file the application on behalf of the patient for the reimbursement.

LEG. D'AMARO:
But if we -- if the County sells the facility, will we, as a County, continue to seek the reimbursement and payment that we're due?

MR. COHEN:
Yeah, that is our -- that is our intention.

LEG. D'AMARO:
That's the intention right now. Okay. And under the contract, all of those accounts receivable up to the day of closing inure to the County, stay with the County?

MR. COHEN:
Correct.

LEG. D'AMARO:
Okay. Thank you. Thank you, Mr. Deputy Presiding Officer,

D.P.O. HORSLEY:
You're very welcome. Legislator Kennedy.

LEG. KENNEDY:
Okay. Thank you also for a second time to recognize. Gentlemen, it's been very, very interesting listening to the dialogue going back and forth. And I appreciate your answers and your candor, and, you know, a whole variety of different things that you've talked about, and health care is complex, there's no doubt about it. And I think you kind of hit on some of the issues associated with reimbursement and the importance of having staff that can appreciate doing the reimbursement.
And it's with a sense of remorse that I listen to this, but, nevertheless, we are where we're at, not because of you. I commend you for what you've done well. I feel somewhat responsible for what we've not done with our employees, but, nevertheless, that's my issue to resolve.

I want to go to the building. Let's talk about the building. I took a look while you were talking and I got to see Sunharbor, where you said that you were a tenant, has an appraised value of 10 million dollars. We talked a little bit about the comparability as far as numbers of beds. This building is for 23 million dollars. And, as a matter of fact, the appraisal that we have allocated, I think, value for the business at about 4.8 million. So the building, based on that going concern appraisal, which I don't know if I'm necessarily comfortable with that, should be replacement, but we'll leave it at 19 million. What's your assessment from being operators in the business and having 13, 14, 15 facilities? What's your sense of our facility? How's that value; good, bad, in the middle? What do you think?

**MR. SAMUEL SHERMAN:**
Since we made that offer, I would say that's -- we would consider that to be the value of the facility. That's our -- that's our offer.

(*Laughter*)

**LEG. KENNEDY:**
Nineteen million. Okay. There was a --

**MR. SAMUEL SHERMAN:**
The offer is more than that, I'm sorry.

**LEG. KENNEDY:**
No, I understand. You're right, the offer, the total offer is 23 million, but as I just laid out to you, the appraisal that was done after you tendered your offer allocated value for the business at 4.8 million and property value of 19. So, coincidentally, the appraiser came in at where you were at, and I guess you gentlemen are astute measurers of the market, then. I should ask it, I guess, a different way.

A previous prospective purchaser sat at this same table and when I asked him to give an estimate of what it would cost to replace that building, or to put it up from bricks and mortar, he came in with a number that was much different than what he offered or what he tendered. Just out of curiosity, I'd ask you the same thing. Were to go about and build a 181,000 square foot five-story building, what would be the cost?

**MR. SAMUEL SHERMAN:**
I certainly have no idea. We're in the health care business, not the real estate business.

**LEG. KENNEDY:**
Okay, I appreciate that. Is there a rule of thumb in the nursing home business when it comes to pricing out the cost of construction? And, Senator, you might be somewhat familiar with this, because I believe the State of New York actually puts an estimate, a cost estimate by region on new construction of a facility.

**MR. BALBONI:**
Legislator, they do, but what they do is they take a look at what you're paying for. There isn't a broad-based number even for the region, and they see whether or not that number that you're paying for it is in line with a series of different criteria.
LEG. KENNEDY:
Okay.

MR. BALBONI:
So there is no kind of cookie cutter -- you know, if you're in this region, you pay. It's not really kind of how it works. They evaluate it when you submit your whole proposal, because what they're looking at is viability of the business.

LEG. KENNEDY:
Yes.

MR. BALBONI:
So you can't have a cost component that so outweighs what either other folks are paying in the area or what you can sustain in terms of your Medicaid reimbursements.

LEG. KENNEDY:
No doubt. And, as a matter of fact, of course, the perspective I speak from is the public facility perspective. Again, as you began several hours ago, you talked about the three different facets and components. I'm aware of Albany County, as a matter of fact, which at this point right now is still discussing new construction of a facility in excess of, I believe, 75 to 80 million.

Gentlemen, look, the hour's late. I don't want to keep my colleagues here anymore. I will tell you that the former prospective purchaser estimated about 67, 68 million to replace. But, nevertheless, you're businessmen, you've offered. Thank you for being here.

D.P.O. HORSLEY:
Thank you very much, Legislator Kennedy. Legislator Browning for --

LEG. BROWNING:
Thank you. I didn't realize I was --

D.P.O. HORSLEY:
I think you might be the last one, but I'm not -- but Legislator Gregory, I wasn't sure was --

LEG. BROWNING:
Okay.

D.P.O. HORSLEY:
I'm game.

LEG. BROWNING:
I'm ready to go.

D.P.O. HORSLEY:
Go, quickly.

LEG. BROWNING:
There was a comment that you made about accepting into admissions skilled nursing care residents, and I know that John J. Foley has what's called long-term custodial care, which are the chronic patients. Do you accept them at your other nursing home facilities? And, you know, if you'd like to explain the difference, because I know sometimes we don't -- not everyone understands what the difference is between the two.
**MR. SAMUEL SHERMAN:**
I wasn't sure who you were referring to. I heard the long-term custodial.

**LEG. BROWNING:**
Well, you have skilled nursing care residents versus the long-term custodial care. There is a difference, and the long-term custodial being the more chronic patients, which would be like our -- the one that Kara spoke about, that the 38-year old who had the aneurysm and will be there for probably the rest of his life.

**MR. ISRAEL SHERMAN:**
It's not a function of age. By New York State Department of Health standards and what they're looking to see us admit is people that require skilled nursing care, not custodial care. That's what -- in other words, the model of a skilled nursing facility, with the nursing staff that they have, the certified nursing assistants, and so on, that model is geared towards providing skilled nursing care, so it's not geared for the custodial care. Now, granted, many custodial care residents end up in skilled facilities, but that's really not the mission of a skilled nursing facility.

**LEG. BROWNING:**
However --

**MR. ISRAEL SHERMAN:**
If it happens, so be it, and we take care of them.

**LEG. BROWNING:**
However, many of our residents are long-term care -- long-term custodial care. Is there a difference in the finances and making money on the two?

**MR. ISRAEL SHERMAN:**
The structure is such that you do get paid more based upon acuity. But under that a lot of the costs are fixed, and that's why the New York State Department of Health does not want us to do that. They do not want us to be taking in as -- if we decided to say we're going to take in as a routine matter custodial care residents, that's not what they want us to be doing in an SNF.

**LEG. BROWNING:**
But then where do those people go? That's the population that John J. Foley has, is the long-term custodial care, many of them, so where would they go if they -- if you wouldn't take them or any other nursing home?

**MR. ISRAEL SHERMAN:**
I can't -- it's an unfortunate -- it's a good question and I appreciate what you're saying. I can't answer that question, I can just tell you what the role of skilled nursing facilities are.

**LEG. BROWNING:**
So I think I got my answer. And there was -- Regina, you had mentioned about having the ombudsman and the County creating some kind of a panel to make sure that Suffolk County residents in the future would be taken care of. And you mentioned that DSS, obviously, does the Medicaid payments. I'm curious. How are you going to enforce anyone going to -- forcing any nursing home to take a Suffolk County resident with Medicaid payments? Because I'm very familiar, having served on the Health and Human Services, that when it comes to anything with DSS, it's always controlled by the State. The State makes the laws, they make the guidelines; that if we had a Suffolk County resident that was trying to go to the John J. Foley Skilled Nursing Facility now as a private entity and they say, "We don't want to take him," you're not going to be able to pull the
Medicaid money from any of the residents. I'm just trying to understand what you're trying to say with the Medicaid, because we have no control over how Medicaid gets paid.

**MS. CALCETTARIA:**
I'm sorry. Then I must have -- Legislator Browning, I must have communicated that differently. What I wanted to say is our DSS approves Medicaid. Some of our patients -- some of the challenge with patients, I understand, is that they aren't Medicaid eligible because they haven't completed the paperwork properly. That's the piece that we'll be able to help with, because we -- our DSS is a County agency. To work with them and to work with the patients to make sure, whichever patients they are, are going through the process and getting Medicaid eligible, and working with them and working with their families to make sure that the paper is submitted. So at least it makes it much more viable.

So there's -- you're right. I mean, what you had just said is not what I meant to say. And if it came across that way, then that wasn't my intention at all. It was the other piece, that we could still serve a purpose, we could still help facilitate getting patients Medicaid-covered because it's DSS that's doing it. That's the piece that I wanted to communicate.

**LEG. BROWNING:**
But then our long-term -- I think I heard the answer, that they wouldn't necessarily want to take those long-term custodial care who are chronic care patients and residents, so -- and residents.

**MR. ISRAEL SHERMAN:**
Can I --

**LEG. BROWNING:**
So whether you can get them Medicaid or not --

**MR. ISRAEL SHERMAN:**
I'm sorry. Can I clarify something? A chronic care resident is somebody that would normally qualify for skilled nursing care.

**LEG. BROWNING:**
They don't normally qualify for --

**MR. ISRAEL SHERMAN:**
They do, they do.

**LEG. BROWNING:**
Yes.

**MR. ISRAEL SHERMAN:**
Custodial is not a chronic care. Understand that we're mixing --

**LEG. BROWNING:**
Sometimes they are. I believe sometimes they are; am I correct?

**MR. ISRAEL SHERMAN:**
No. If they have chronic care, they would qualify for skilled nursing care. I'm just trying to explain to you that the license of a skilled nursing facility is for the purpose of providing skilled nursing care.

**LEG. BROWNING:**
However, we have long-term custodial care residents who are on Medicaid. So my --
MR. ISRAEL SHERMAN:
It doesn't mean -- that doesn't mean they're not getting skilled services.

LEG. BROWNING:
I would say that at the John J. Foley Skilled Nursing Facility right now, they're getting services.

MR. ISRAEL SHERMAN:
No. What I'm saying to you is that you're assuming that someone that is long-term is not necessarily someone who would qualify for skilled nursing care, how it's defined clinically, and what I'm telling you is that they may be. So there are terms here that I'm not sure everybody understands. What I'm saying is that we do provide long-term care --

LEG. BROWNING:
Right.

MR. ISRAEL SHERMAN:
-- in the skilled nursing facility. We do provide care for the chronically ill. Okay? We do provide care for people that need custodial care, because they can't take care of themselves at all. That's all included in long-term care, it's all included in skilled nursing care, and it's within the realm of what we would do. Okay? But I think each individual case has to be evaluated if -- and, again, I'm not so sure that there really is anybody in John J. Foley that would not qualify; I don't know that to be the case.

LEG. BROWNING:
No, but I think what I had heard was the long-term custodial care is generally not something that you would be encouraged to take at a skilled nursing facility; am I correct?

MR. ISRAEL SHERMAN:
We have to define our terms well and I'm not sure that we're defining them the same way, that's all I can say, and I'm not a clinician. Okay? But I don't know what you're defining as custodial care and we'd have to -- we'd have to -- I think that's beyond the ability of us to really analyze it in this setting as to what is considered your definition and what I'm talking about with skilled nursing care. I'm just not sure it's the same.

LEG. BROWNING:
Well, I think it would be important to look at the current patients --

MR. ISRAEL SHERMAN:
We could do that.

LEG. BROWNING:
-- that are at our nursing facility at this time and how many long-term custodial care residents there is.

MR. ISRAEL SHERMAN:
Okay. I can tell you that I walked through John J. Foley. I did not see that many people --

LEG. BROWNING:
Okay.

MR. ISRAEL SHERMAN:
-- that I think would not qualify for a nursing home --
LEG. BROWNING:  
Oh, they qualified for Medicaid.

MR. ISRAEL SHERMAN:  
No. That would not qualify for what we would consider a skilled nursing resident. So I'm not sure that there really is all that many of that. It's not -- in other words, custodial care is not synonymous with long-term care. Okay? So we do take long-term care residents and we would continue to take long-term care residents.

LEG. BROWNING:  
Okay.

D.P.O. HORSLEY:  
Asked and answered?

LEG. BROWNING:  
I'm not sure if my question's been answered, but I'm --

D.P.O. HORSLEY:  
Good.

LEG. BROWNING:  
I'll not continue.

D.P.O. HORSLEY:  
Okay. I think that is all I have on my list. Thank you for being here tonight. I would hope that Regina and Dennis will stay around for future debates. But, gentlemen, thank you very much. We really appreciate you having come down tonight. You've answered a lot of questions. And I got to -- I've got to hand it to you guys, you hung in there, it was good. Thank you very much.

MR. ISRAEL SHERMAN:  
Thank you very much.

MR. SAMUEL SHERMAN:  
Thank you very much.

MS. CALCATERA:  
And thank you for the opportunity. And we will work with the Legislature to review the list of tasks that we have ahead of us this evening and to make sure we're working to try to figure out what's best for the employees at Foley. Thank you.

D.P.O. HORSLEY:  
Thank you very much, Regina. And make sure that you hang out, because we've got the other debate to go as yet.

All right. That being the case, and nothing more to be said, I don't think -- I will make a motion to close the hearing on 1811, seconded by Legislator Barraga. Are all the Legislators in the -- hang on.

LEG. BROWNING:  
Motion to recess.
D.P.O. HORSLEY:
There is also a motion to recess by Legislator Browning. Is there a second on the motion?

LEG. MURATORE:
Second.

LEG. KENNEDY:
I'll second.

D.P.O. HORSLEY:
Legislator Muratore is seconding the motion. All right. The motion to recess comes first. Are we all -- all here that's here?

LEG. HAHN:
All here that's here.

D.P.O. HORSLEY:
That's good. Okay. All right. To recess, Mr. Clerk, roll call.

(Roll Called by Mr. Laube, Clerk of the Legislature)

LEG. BROWNING:
Yes.

LEG. MURATORE:
Yes.

LEG. SPENCER:
No.

LEG. D'AMARO:
No.

LEG. STERN:
No.

LEG. GREGORY:
No to recess.

LEG. NOWICK:
No to recess.

LEG. KENNEDY:
Yes to table -- or yes to recess. I'm sorry, yes to recess.

LEG. BARRAGA:
No.

LEG. CILMI:
No.

LEG. MONTANO:
No.

**LEG. CALARCO:**
No.

**LEG. ANKER:**
(Not Present)

**LEG. HAHN:**
No.

**LEG. SCHNEIDERMAN:**
No.

**LEG. ROMAINE:**
Recuse.

**D.P.O. HORSLEY:**
No.

**P.O. LINDSAY:**
(Absent)

**MR. LAUBE:**
Three. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

**D.P.O. HORSLEY:**
All right. Now motion to close.

**MR. LAUBE:**
Could I check on the motion and second, because I couldn't hear it. Who was the motion and the second on this to close?

**D.P.O. HORSLEY:**
I made the motion.

**LEG. BARRAGA:**
I did.

**D.P.O. HORSLEY:**
And Legislator Barraga was the second.

**MR. LAUBE:**
Thank you. Legislator Horsley.

**D.P.O. HORSLEY:**
Do we need a roll call?

**LEG. SCHNEIDERMAN:**
Yes.

**D.P.O. HORSLEY:**
Okay. Let's put it on the record, then.
(Roll Called by Mr. Laube, Clerk of the Legislature)

D.P.O. HORSLEY:
Yes to close.

LEG. BARRAGA:
Yes.

LEG. SPENCER:
Yes.

LEG. D’AMARO:
Yes.

LEG. STERN:
Yes.

LEG. GREGORY:
Yes.

LEG. NOWICK:
Yes.

LEG. KENNEDY:
No.

LEG. CILMI:
Yes.

LEG. MONTANO:
Yes.

LEG. CALARCO:
Yes.

LEG. ANKER:
(Not Present)

LEG. HAHN:
Yes.

LEG. MURATORE:
No.

LEG. BROWNING:
No.

LEG. SCHNEIDERMAN:
Yes.

LEG. ROMAINE:
Recuse.

**P.O. LINDSAY:**  
(Absent)

**MR. LAUBE:**  
Twelve. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

**P.O. HORSLEY:**  
Okay. All right. We have an -- we have an add-on on the public hearings, and I believe it's going to be recessed, but I want to make sure that it -- we take care of it. It's a CN. It's in your -- do they each have a copy of it?

**MR. NOLAN:**  
In the red folder.

**D.P.O. HORSLEY:**  
It's in your red folder. Okay. The CN is for *adopting Local Law 2012, a local law to further regulate utility poles on County road right-of-ways. It is I.R. 1622.* Would anyone like to be heard on this? Would anyone like to be heard on this, 1622?

**LEG. SCHNEIDERMAN:**  
I'm going to make a motion to recess.

**D.P.O. HORSLEY:**  
Legislator Schneiderman makes a motion to recess. I'll second the motion, and then on the motion.

**LEG. SCHNEIDERMAN:**  
Well, no, I've gotten comment from both Verizon and from Cablevision. There is a technical aspect that still needs to be addressed, so I'm going to work with Counsel on fixing that, and we'll address it at the next meeting.

**D.P.O. HORSLEY:**  
Thank you very much, and good luck with that. All those -- to recess, all those in favor? Opposed?

**LEG. HAHN:**  
Recuse.

**D.P.O. HORSLEY:**  
Abstain? One recusal.

**MR. LAUBE:**  
Fifteen. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

**D.P.O. HORSLEY:**  
We're good? Excellent.

**LEG. ROMAINE:**  
Mr. Chairman? Deputy Presiding Officer?

**D.P.O. HORSLEY:**  
Yeah, I know.
LEG. ROMAINE:
I would like to make a motion to take 1696 out of order. This is a resolution to establish an independent Medical Examiner’s Office. The Medical Examiner has been here all day, and I’d like to give her the courtesy --

D.P.O. HORSLEY:
Bless her heart.

LEG. ROMAINE:
Courtesy of --

D.P.O. HORSLEY:
And I've also got Mr. Hendricks in the back. I didn't miss you, Grant. We're with you.

LEG. ROMAINE:
Give her the courtesy of --

D.P.O. HORSLEY:
Can I just read the -- I want to read --

MR. NOLAN:
The public hearing.

D.P.O. HORSLEY:
-- the public hearing into -- to set the new public hearing. There's only one, okay? And then we'll take care of the Medical Examiner.

LEG. MONTANO:
Did you get me on that vote? Renee, did you get me on the last vote on the poles? You did get --

MR. LAUBE:
Yes, I got you as yes to close.

LEG. MONTANO:
Thank you.

D.P.O. HORSLEY:
Okay. We're good.

LEG. MONTANO:
Yeah, we're good.

D.P.O. HORSLEY:
Okay, great. Okay. I'd like to set the date for the following public hearings, September 13th, 2012, 2:30 p.m., the Rose Caracappa Auditorium, Hauppauge, New York:

Let's see. We have the 2013 Operating Budget; the Southwest Sewer District Assessment Role; the Procedural Resolution 12 - Authorization of the alteration of rates for the Sayville Ferry Service, Incorporated, 1810; as well as I.R. 1840 - A Local Law to expedite the return of blighted properties to the tax roll and productive use. I made the motion; do I have a second on the motion?

LEG. CILMI:
Second.

**D.P.O. HORSLEY:**
Seconded by Legislator Cilmi. All those in favor? Opposed? Abstention? We're good?

**MR. LAUBE:**
Sixteen. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

**D.P.O. HORSLEY:**
Okay. All right. Let's -- okay. Did we get the motion? We're good?

**MR. LAUBE:**
Yep, 16. Yes.

**D.P.O. HORSLEY:**
Just going to take one second. All right. Which --

**LEG. ROMAINE:**
This is 16 --

**D.P.O. HORSLEY:**
Legislator Romaine, where is it?

**LEG. ROMAINE:**
I make a motion to take 1696 out of order.

**LEG. D'AMARO:**
Second.

**D.P.O. HORSLEY:**
I got it. Okay. First one under Health on Page 8. 1696, I'll make a motion to take --

**MR. NOLAN:**
He made a motion.

**D.P.O. HORSLEY:**
Oh, he already -- Mr. Romaine already made a motion; seconded by whom? Legislator D’Amaro. Okay. All in favor? Opposed? Abstentions? It is now --

**MR. LAUBE:**
Sixteen. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

**D.P.O. HORSLEY:**
It is now taken out of order.

**LEG. ROMAINE:**
I don't know if the Medical Examiner wishes to speak.

**D.P.O. HORSLEY:**
Is she still here?

**LEG. ROMAINE:**
Yes, she is.
D.P.O. HORSLEY:
Oh, you are a peach. Would you like to come up and make a statement? I understand that you would like to make a statement on -- well, let's have a -- do we want to put a motion forward, Legislator Romaine?

LEG. ROMAINE:
I make a motion to approve.

LEG. KENNEDY:
Second.

LEG. MURATORE:
(Raised his hand.)

D.P.O. HORSLEY:
Seconded by Legislator Muratore. We have a motion on the floor to approve. Is there any other motions? We're good? Come on down. Did you have lunch?

MS. MILEWSKI:
I did have lunch.

D.P.O. HORSLEY:
Nice. Good to hear.

LEG. ROMAINE:
Not dinner.

MS. MILEWSKI:
That's okay. You guys haven't had dinner either. All right. Should I go ahead and start?

D.P.O. HORSLEY:
Please, make your statement.

MS. MILEWSKI:
Okay. Good evening, Legislators. I'm Yvonne Milewski. I'm the Chief Medical Examiner, for folks I have yet to meet, who haven't met me yet. Hold on. It's on, all right. I'm going to read from this statement. I didn't intend to, but the night is young, and I want to make sure I covered just a few points.

The staff of the Medical, Forensic, Crime and Toxicology Laboratories work very hard and diligently to provide timely, compassionate and scientifically accurate and responsible service to the grieving families of Suffolk County and to our criminal justice partners. I am very proud of our staff and I am honored to represent them. All of our mandated duties and responsibilities currently are fully accredited by prestigious national accrediting bodies.

Becoming independent from the Health Department organizationally and administratively means that I will have full control over my budget, and as a Department Head, I'll be in a position to advocate for and represent our staffing and operational needs with the Executive Branch and the Legislature's entities that appoint and confirm me as Chief Medical Examiner respectively. This is especially critical at this time because of the ongoing fiscal emergency and major changes that are occurring within the Health Department.
Also complicating the situation are, so that you're aware, workloads in the Medical Examiner's Office have been steadily increasing over the last several years. Public safety and criminal justice programs and task forces have been ramping up their initiatives, resulting in increased arrests and firearms crimes, drugs crimes, DWI and DUI crimes. This has had a direct impact on our workload. It's resulted in increased requests for my staff to draw blood on DWI arrests, and increased numbers of specimen submissions and complicated analyses in the laboratories, increased volume of firearm and drug evidence submissions and subsequent requests for analyses. And all Medical Examiner scientific staff involved with this increased workload must meet with ADAs to give more of their time to review their analyses, prepare for testimony, and then actually testify. This is a substantial increase in workload that is preceded without any discussion or budgeting for concomitant increases in any staffing and resources to meet those needs.

Accreditation demands, you should be aware, for forensic scientific laboratories are continually increasing, resulting in the need for additional skilled staffing, and at the very minimum, maintenance of all of our staff levels. Additional positions are needed for accreditation. Increased accreditation demands means scientists spending more time on activities mandated by accreditation and less time on crime -- crime caseload. Excuse me.

And last, I'd like to bring to your attention the public and media scrutiny of mistakes that happen in medical examiners' offices, and laboratory accreditation struggles and failures that regularly occur and are represented in local media like Newsday, regional media like the Wall Street Journal and New York Times, and nationally like CNN. And you should be aware that there is a public -- a PBS regularly scheduled program called Postmortem that regularly features a poorly funded and understaffed death investigations systems and the unfortunate mistakes that occur within those jurisdictions.

So, just in closing, I'd like to say that what I -- what would really mean a lot to me is full support of this resolution within the Executive Branch and the Legislature, so I can continue to enthusiastically welcome the challenges that come with the additional responsibilities, and continue to devote my efforts to ensure the delivery of timely, compassionate, and scientifically accurate and accredited services provided by the Medical Examiner's Office. Thanks for your attention.

D.P.O. HORSLEY: Thank you very much. We appreciate your struggle today.

MS. MILEWSKI: That's okay.

LEG. SCHNEIDERMAN: Can I ask a question?

D.P.O. HORSLEY: Yes, we have a question. Legislator Schneiderman.

LEG. SCHNEIDERMAN: Thank you for coming down, and thank you for educating me on all the functions of your department. Other counties, is the Medical Examiner ever an independent entity?

MS. MILEWSKI: Well, yeah. In major jurisdictions nationally, the Medical Examiner's Office, and especially those offices that consolidate forensic scientific capability like Suffolk County, it's not unusual for those departments to report directly to the Executive Branch Office of Management and Budget, or at least to some Executive Board that has multi-disciplinary representation. But in New York State we've
had an unusual situation with, as you know, Article 6 funding being available to medical examiners' offices only if they resided in local health departments, and that really mandated medical examiners to, at least on paper in an organizational chart, to exist within local health departments. But, as a reality statement, I'll tell you that all the chief medical examiners I've spoken to in the State, regardless of that paper relationship, have received their budgets directly from the Executive Branch of their jurisdictions.

**LEG. SCHNEIDERMAN:**
Would this bill maintain that relationship in terms of funding, so that we wouldn't -- so we would continue to get that funding from the State.

**MS. MILEWSKI:**
Article 6 funding for the Medical Examiner's Office was abolished last year by the State.

**LEG. SCHNEIDERMAN:**
Okay. So it was basically put there so we could get the funding, but now we're not -- funding doesn't exist anymore?

**MS. MILEWSKI:**
Yes, that's right.

**LEG. SCHNEIDERMAN:**
Okay.

**D.P.O. HORSLEY:**
Okay. Thank you very much. Legislator D'Amaro.

**LEG. D'AMARO:**
Okay. Thank you. Well, it sounds like a warning shot across the bow the way you're describing an increasing demand on your office. And I would assume the driving motivation for this bill is that you feel that demand is not being met by resources from the County for you to run your office the way you feel it should be run. So, first, I want to just commend you for coming forward and letting us know that. And maybe that just makes the case right there why your office should be independent, because it's -- I think, in all the time that I've been here, I don't think I've ever heard from you before about staffing needs and workload. It seems to probably just get mixed up in the whole Health Department budget itself. And is that -- is that the driving motivation for you to support this legislation, you feel that you just need more; you need to be put in a position where you can advocate for your office and the needs of your office?

**MS. MILEWSKI:**
Yeah, I'll agree with the culmination of your comments. I recognize that the Health Department is an enormous department that serves many functions, has, I believe, eight divisions. And I've -- it's been my position that I'm the best person to advocate for the needs of the Medical Examiner's Office, and it's my Charter bound duty and responsibility to take responsibility for the functions that we provide that are mandated to the County.

**LEG. D'AMARO:**
Thank you. How does the current system work now for your office around budget time? Do you make a request, and, if so, to whom, and how is that request analyzed and dealt with?

**MS. MILEWSKI:**
We submit our budget on request to the Health Department Finance Section. I really don't have any internal administrative operational support. My purchasing, contracts, personnel needs are met by
staff that reside physically in the Health Department admin area, so I work with Ms. Bermel. And we're a very robust purchasing unit, as you can imagine laboratories, reagents, all that stuff is critical, and they provide some of that support for us as well.

**LEG. D'AMARO:**
But is it -- do you feel that if this bill were to pass, that you would need to duplicate all of those support services that are now available in the Health Department?

**MS. MILEWSKI:**
It's my position, although I've not met with Finance or Budget Analysts yet to specifically address what the options are, that our work that's done by those folks on Rabro, currently Rabro, must represent a certain amount or percentage of the work they do, perhaps even translate into a full-time employee number; I don't know what it is. And if we were to become independent, we'd take that work with us. So it's my position that, you know, I'd like to have some of that support in-house.

**LEG. D'AMARO:**
Right. So you would be using existing staff, is what you're saying. You would not look -- although they may move over to a newly created department, which is in effect what we're doing here, you believe that there's sufficient staffing available now where those individuals are working full-time on your requests anyway, is that what you're saying?

**MS. MILEWSKI:**
Yeah. I mean, again, I wish I was more of a Budget and Finance person, but I'm sure there's -- I don't know for a fact what percentage of our work volume in the different areas that represents, but I'm sure they -- someone over at Rabro could advise and maybe even have a Budget Analyst address that need.

**LEG. D'AMARO:**
Is your support for this bill driven solely by these types of considerations, budget considerations, knowing the needs of your office staffing, or is it something more where you feel that the -- I would assume that as the Medical Examiner, in the Health Department, do you answer to the Health Commissioner, and would this change that dynamic or relationship?

**MS. MILEWSKI:**
My concerns are primarily wanting to take full responsibility for the budget and have advocacy access. And Dr. Tomarken has been a great person for me to work with. He heavily consults with and works with me to meet my needs.

**LEG. D'AMARO:**
How much higher would your budget request be had you been independent in this sense, if this bill was in effect at the beginning of this year?

**MS. MILEWSKI:**
That I don't know the answer to. I'm sorry. I wanted to seek the answer to that, because I actually think that, you know, we're 104 employees, we have several vacancies that are critical, that are not backfilled, so we do seek to fill them at a better time. You know, we, obviously, have personnel needs. We're a robust purchasing unit, and we don't have many contracts, so, you know, I could see my needs being primarily in the purchasing area, with some finance support and maybe some payroll. So I really -- I can't -- I'd have to meet with Civil Service to talk with them about what an ideal position that would be.

**LEG. D'AMARO:**
Yeah. I wasn't really looking for a number, I was just curious as to whether or not you believe that you would be seeking a higher budget than what was proposed for you in 2012.

MS. MILEWSKI:
Well, I think that it would cost more money if I needed more staff, but I also -- at the moment, from my level of understanding, I think that a case could be made from reassigning some of those staff to me.

LEG. D'AMARO:
Right. I'll tell you where I'm coming from. I want to support this bill, because I think you should be independent. I think what you do -- what your job is and what you do in the County almost -- I was amazed to hear that you're not independent, frankly. I think it's important work, and I think it should be done independently.

I find it interesting that what's driving you primarily, though, is your need to just advocate for your own department, your own budget lines, and your needs of your office, and deal directly, let's say, with the County Executive's Office and the Legislature around budget time, and you're actually taking on a tremendous burden. But I also have to conclude that what's making you conclude you need that type of control is that you've been dissatisfied with what's been allocated to you in the past; is that true?

LEG. ROMAINE:
I don't think the good Doctor wants to comment on that.

LEG. D'AMARO:
Well, then I don't want to vote for this, because I need to know what it's going to cost the County of Suffolk if we're going to create, in effect, a new department with support and things like that.

LEG. ROMAINE:
Not to get into a debate, but --

D.P.O. HORSLEY:
Yeah, that's not --

LEG. ROMAINE:
-- I think the Crime Lab is critical, particularly to the work of our District Attorney, it's absolutely critical. And, obviously, there's work to be done with grieving families, but the crime lab and the work that that lab does is crucial to the criminal justice system.

LEG. D'AMARO:
But, Legislator Romaine, with all due respect, if the Medical Examiner wants to be the head of the department, then I think when you put a simple question as, "Do you need more resources," or, "Are your resources in the past insufficient given your growing caseload," I think we -- I think we should let her answer.

LEG. ROMAINE:
Absolutely.

MS. MILEWSKI:
I'll answer that question. I think I need more resources to do my job.

LEG. D'AMARO:
All right. All right. I'll yield. Thank you.
D.P.O. HORSLEY:
Thank you very much, Legislator D’Amaro. Legislator Calarco.

LEG. CALARCO:
Hi. How are you today?

MS. MILEWSKI:
Okay.

LEG. CALARCO:
I just had a couple of quick questions, and I think it’s a follow-up on Legislator D’Amaro’s line of thinking to a degree.

Your position, your title, it’s a designated title by the County Executive, correct? You’re an appointed position directly by the County Executive? You -- while you’re under the Health Department, you don’t have to -- the Commissioner does not have hire-fire ability over your position, correct? You were appointed by the County Executive and approved by this body. So the Commissioner of the department can’t dictate the terms of your employment.

MS. MILEWSKI:
That’s my understanding.

LEG. CALARCO:
And it sounds to me that, you know, as Legislator D’Amaro just pointed out, I think that you -- the impetus behind this bill is that you don’t feel that your Department, your Division has received the due resources that you need to do your job. But in the past, when we have had our budget meetings or budget hearings, Capital Budget hearings, Operating Budget hearings, have you attended the Legislative meetings to speak up on behalf of your division?

MS. MILEWSKI:
I have not attended those budget meetings.

LEG. CALARCO:
You’ve never attended those budget meetings? Have you been told not to attend by the Commissioner’s Office? Have you felt inhibited to come out and speak to us? I mean, obviously you’re here today, so you must not feel too inhibited to come out and speak. But, in the past, you felt that you were being precluded by the Commissioner or by someone to tell you, "Don’t go speak to the Legislature"?

MS. MILEWSKI:
I would object a little to that characterization, because, you know, I’ve been in this position for five years.

LEG. CALARCO:
I understand that, I know that.

MS. MILEWSKI:
And it’s been my position to work as best as I can with, you know, the directives and the structure that’s given to me. So, you know, generally, as far as I know, and I’ve been told that it’s the central finance admin folks that come in and negotiate that business with this body.
LEG. CALARCO:
So you have made your recommendations to the Department, and you don't feel that the
Department's relayed those recommendations appropriately on to us, and if you had this as your
own Department, you would be able to relay those recommendations to us more directly?

MS. MILEWSKI:
I think that the Department has eight divisions that they have to weigh against each other --

LEG. CALARCO:
I understand that.

MS. MILEWSKI:
-- with very limited resources coming back to them, possibly, you know, than their higher ups, and
my needs are weighed against them. And I feel like I'm the best person to represent how important
those are separate from a department that has, in my opinion, very different reasons for it to exist,
even a mission. So I think, in a sense, I'm being weighed against other important functions, sure,
but, you know, I'm fighting against the same resources for things that have nothing to do with my
mandate.

LEG. CALARCO:
Okay. So what you feel is that you have to fight within the Department to get resources before it
even comes to this body to fight with us about whether or not we're giving you the resources you
need?

MS. MILEWSKI:
I think that's the nature of the structure. I mean, I think all Division Heads in the Health
Department are trying to do their best to represent how important their needs are.

LEG. CALARCO:
And there certainly would be a need for -- if you broke apart from the Health Department and
became your own department, for you to take certain support functions along with you, you think
that possibly the personnel are there, that -- you know, that payroll person or that purchasing
person is there in the Health Department already primarily serving the functions of your unit, so
those people would just come along with you and we wouldn't need to hire anybody new to fill those
positions?

MS. MILEWSKI:
I wouldn't -- honestly, when this issue has come up with me, and even the folks at the BRO, I've
been advised that perhaps there are alternatives to that. My employees are 105. Could there
possibly be an arrangement where the Health Department would continue to do my payroll? But
these have all been identified to me as secondary things, or down-the-road things to figure out after
this issue is addressed.

LEG. CALARCO:
Okay. I appreciate that, and I just -- I get the sense that this is a fairly sizable type of change in
direction for the County. And, you know, we're only a month away from the whole budget process,
and perhaps it would be far more prudent for us to pick this up in the budget process and determine
whether or not we should be transferring employees, and not just employees who work directly
under you, but employees other -- in doing the support functions in the Health Department to a new
department, and I think that's -- it's just better suited to do at that time in the budget process than
to do it independently here a month before the budget is going to be presented to us by the County
Executive. And I think this would throw quite a wrinkle into the budget that he's preparing now, and
I think that's probably the better route to go on this. Thank you.
D.P.O. HORSLEY:
Legislator Gregory.

LEG. GREGORY:
Thank you, Mr. Vice Chair. Hi, Doctor. How are you?

MS. MILEWSKI:
All right. Thank you.

LEG. GREGORY:
Good, good. I had the pleasure of coming there last year and visiting and meeting with your staff, and it was a very educational and informative opportunity for me, so I thank you again.

I know a lot of questions were asked; I'm just going to get straight to it. Is there any particular reason why you feel that this change in status is important now, as opposed to, which Legislator Calarco just stated, that maybe we can do this -- would be better suited to do this during the budget process?

MS. MILEWSKI:
You know, I'll answer that question very openly, as I always do. You know, it's really been my personal opinion that I've wanted this to help me run this office the entire time I've worked there. So the timing of it? Well, Legislator Romaine entered a resolution, and I'm not going to sit here and say I don't want this to happen, because I do think it would really help me to do this job, and I think we could really be on top of our needs better. But, you know, just the knowledge of the general cycle, what's important to do when, I mean, there's obviously a fiscal crisis going on, you know, I would really like to actually address the budgetary needs of this kind of a move myself. So the timing, I -- you know, for me, the timing is -- there's -- every time is a good time for what I seek to do. Where it fits in the budget cycle, how potentially disruptive it is, is something that you guys understand better than I do.

LEG. GREGORY:
Okay. And I can understand that, because even when I went to visit last year, you mentioned this, that you would like this, and be able to fight for -- you felt that you would be in a better position to advocate for the ME's Office in obtaining the resources that it needs to excel and keep its level of excellence.

I tend to believe a change like this, you know, should be given -- should be made in the full context of the budget, because there will be other ramifications. I support this, I think you know that. If you don't, I'm stating it here today, I do support it, but I believe it should be done within the budget. It's a month away, and then we can fully analyze the -- you know, any effects that will happen once the status is -- I don't want to say granted, but given to the department.

So I do thank you for waiting. I know it's been a long day. I don't know where the Vice Chair went. Thank you, Mr. Vice Chair.

MR. STRAUSS:
To your left. To your left.

LEG. GREGORY:
Oh.

D.P.O. HORSLEY:
All righty. We're good? Everyone --

**LEG. D'AMARO:**
Wayne, could I just make one other point?

**D.P.O. HORSLEY:**
Absolutely.

**LEG. D'AMARO:**
Just in response to Legislator Gregory and Calarco. It might make -- if we want to make this part of the budget process, it might make more sense to pass this, because then it would empower -- it would empower the Medical Examiner to then advocate for her Department now while the budget's being prepared.

**LEG. GREGORY:**
You know, my conversations with the Administration there, they're not opposed to this. They would like -- you know, they're putting the final touches on the budget together. I think they may even be looking at this already to include it in the budget. So I don't know. I mean, I don't know if anyone's here to answer that question, but I do understand your point.

**LEG. D'AMARO:**
If it's something we would support in the budget, I don't really see the harm, then, of going forward with this.

**D.P.O. HORSLEY:**
Yeah. Legislator Spencer would like to ask a question.

**LEG. SPENCER:**
To Counsel, George --

**D.P.O. HORSLEY:**
Counsel, we've got a question from the floor.

**LEG. SPENCER:**
For a measure such as this, establishing the independent Medical Examiner, the County Executive would have to sign off on it, and then when does something like this go into effect?

**MR. NOLAN:**
Well, this goes into effect, let's see -- well, it says it goes into effect immediately upon its filing in the Office of the Secretary of State.

**LEG. SPENCER:**
Does the Executive -- it goes right to the Secretary of State, like the ag districts.

**MR. NOLAN:**
If we pass this, it would go to the County Executive, who would have to hold a public hearing. If he signed it, then it would go up to the Secretary of State and the law would be effective upon that date.

**LEG. SPENCER:**
Thank you.
D.P.O. HORSLEY:
Okay. Legislator Spencer, asked and answered?

LEG. SPENCER:
Yes, asked and answered.

D.P.O. HORSLEY:
Ms. Vizzini, did you do financials on this? That may have been asked. I've been running around doing 40 different things. Is this revenue-neutral at this point if we're not adding employees or --

MS. VIZZINI:
The only thing we noted was that the resolution calls for the creating and filling of a Chief Deputy Medical Examiner, which we estimate to be about a $200,000 item, whether that would be an additional cost or whether it would come out of existing appropriations, but it's not an existing position right now.

D.P.O. HORSLEY:
So what you're saying is this is a $200,000 plus to the budget.

MS. VIZZINI:
There is that potential, unless it's offset with some other --

D.P.O. HORSLEY:
And that's mandated by this resolution?

MS. VIZZINI:
Correct.

D.P.O. HORSLEY:
Okay. Yes, Legislator Hahn.

LEG. HAHN:
It creates the position, but the County Executive needs to sign the SCIN to fill it. So there's not necessarily an automatic $200,000 cost, we have to fill the position, right?

MS. VIZZINI:
Correct.

MS. MILEWSKI:
If I can just speak up for a minute.

D.P.O. HORSLEY:
Yes.

MS. MILEWSKI:
When I started, there was a First Deputy Chief Medical Examiner in the budget and working for the office, because it is a mandated position. Regardless of this resolution, it's in the current code. And, of course, operationally it's critical that there be somebody who can be the chief, should something happen to me or what. So let me just say quickly --

D.P.O. HORSLEY:
Okay.
MS. MILEWSKI:
-- that we do -- we do have a regular doctor vacancy right now, that SCIN has been signed, and I have no need for another junior, what I need is a Deputy Chief. So, at the minimum, I've got some -- you know, I can even earmark -- I mean, this position is very important to me.

D.P.O. HORSLEY:
Okay. And we're not -- we're not downplaying that, we're just checking on what it is -- how does this affect the budget.

MS. MILEWSKI:
I understand.

D.P.O. HORSLEY:
Because everything we're doing now is being driven by --

MS. MILEWSKI:
Oh, I completely understand.

D.P.O. HORSLEY:
-- monitoring concerns.

LEG. CILMI:
Can I readdress that?

D.P.O. HORSLEY:
Yes, Legislator Cilmi.

LEG. CILMI:
I just want to readdress that, then, because if it's a mandated position, then surely it must be in our budget.

MS. MILEWSKI:
It's not.

LEG. CILMI:
Even though it's not filled, it's not in our budget?

MS. MILEWSKI:
No. The gentleman that was in place retired, and the position did not stay in the budget.

LEG. D'AMARO:
We'd only have to fund it until the end of the year, I think.

LEG. CILMI:
So who removed it from the budget?

MS. MILEWSKI:
You know, there were some personnel changes in the Department within my division, and I'm not exactly sure what happened.

LEG. CILMI:
I don't think it's a question really for you, I mean, it's a --
MS. MILEWSKI:
Oh, because I don't know.

LEG. CILMI:
It's really a budgetary question, because we -- even though the person may not be there, the position, you know, although it may be vacant, the position should still exist in the budget. And particularly if it's a mandated position, I would -- I would expect that we would have kept that position alive in the budget and accounted for it accordingly. Yes? Budget -- I guess that's for Budget Review.

MR. NOLAN:
I would just say that what the law says now, what this law would say is that, within appropriations, there will be a Deputy. So, if you're not having the appropriations for the position, there's not going to be a position. I don't think you'd have to put it in the budget. It says within appropriations.

LEG. CILMI:
Okay. Well, I appreciate that. But I'd still like to have an answer to my question.

MS. VIZZINI:
I don't know the history of when the position was, you know, no longer in the budget. I'd have to research it for you.

D.P.O. HORSLEY:
My suspicion would be that if there was a vacancy, they wiped out all the vacancies.

LEG. CILMI:
Doctor, who actually mandates that this position exists within your Department?

MS. MILEWSKI:
It's in the Administrative Code. I mean, that's as I understand.

LEG. CILMI:
The County's Code.

MS. MILEWSKI:
Correct.

LEG. CILMI:
Okay.

MS. MILEWSKI:
And that's how I was advised to it.

LEG. CILMI:
Okay. So this is not a situation where, you know, whoever, you know, looks at and accredits your agency is going to say, "We don't have this position here."

MS. MILEWSKI:
Well, I will say that it was pointed out as a deficiency in my accreditation.

LEG. CILMI:
It was.
MS. MILEWSKI:
Ascribed sort of a minor status, so it wasn't enough to keep me --

LEG. CILMI:
Okay.

MS. MILEWSKI:
You know, dock me completely, it just registered as a deficiency.

LEG. CILMI:
I gotcha. So between what you've answered and what our Counsel has said, I'm comfortable. Thank you.

D.P.O. HORSLEY:
Okay? All right. What do we have as far as motions? It's been a while. We have a motion to approve, I remember that.

MR. LAUBE:
Yes, you have a motion to approve and a second.

D.P.O. HORSLEY:
And second.

LEG. CALARCO:
Motion to table.

D.P.O. HORSLEY:
There's a motion now by Legislator Calarco --

LEG. GREGORY:
Second.

D.P.O. HORSLEY:
-- to table.

LEG. GREGORY:
Second.

D.P.O. HORSLEY:
Second by whom? Legislator Gregory? There's a motion to -- motion and seconded. Okay. Tabling motion comes first. I have no sense of where we're at with this one.

LEG. ROMAINE:
Roll call.

D.P.O. HORSLEY:
Why don't we do a roll call? Thank you, Ed. That's where I was going, you finished my words. Okay. Roll call.

(Roll Called by Mr. Laube, Clerk of the Legislature)

LEG. CALARCO:
Yes.
LEG. GREGORY:
Yes.

LEG. SPENCER:
Pass.

LEG. D'AMARO:
No.

LEG. STERN:
No.

LEG. NOWICK:
No.

LEG. KENNEDY:
No to table.

LEG. BARRAGA:
No.

LEG. CILMI:
No.

LEG. MONTANO:
Pass.

LEG. ANKER:
(Not Present)

LEG. HAHN:
No.

LEG. MURATORE:
No.

LEG. BROWNING:
No.

LEG. SCHNEIDERMAN:
No.

LEG. ROMAINE:
No.

D.P.O. HORSLEY:
No.

P.O. LINDSAY:
(Not Present)

LEG. SPENCER:
No.

**LEG. MONTANO:**
No.

**MR. LAUBE:**
Two. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

**D.P.O. HORSLEY:**
Okay. The motion fails, so motion to approve. We have a motion to -- I’m kidding. Gun shy here. I have a motion -- we have a motion to approve. All those in favor? Opposed? Abstentions?

**LEG. CALARCO:**
Abstain.

**LEG. MONTANO:**
Abstain.

**D.P.O. HORSLEY:**
Okay.

**MR. LAUBE:**
Fifteen.

**LEG. SCHNEIDERMAN:**
Tim cosponsor.

**D.P.O. HORSLEY:**
All right. Congratulations.

**LEG. KENNEDY:**
Good luck.

**D.P.O. HORSLEY:**
We're going back to -- we've got one more poor soul who's been with us for hours.

**MR. LAUBE:**
It was 14 on that, 14. (Not Present: Legs. Anker/Absent: P.O. Lindsay)

**D.P.O. HORSLEY:**
Page 7, 1809. Appoint -- that's in Economic Development and Energy. **Appointing Grant Hendricks as a member of the Suffolk County Industrial Development IDA (Horsley).** And Grant was here for I think several meetings and has answered questions, both from the committee, as well as a group of Legislators that interviewed him, and -- but I think that, Grant, maybe the best thing to do, just tell us a little bit about yourself and --

**MR. HENDRICKS:**
Thank you, Legislator Horsley. First and foremost, I’d like to offer my condolences to Legislator Horsley and his family for their recent loss.

**D.P.O. HORSLEY:**
Thank you, Grant.
MR. HENDRICKS:
My name is Grant Hendricks. I'm a lifelong resident of Suffolk County. I live in Bay Shore with my wife and four children. We're all very active in our community. I'm the President of Bimasco. Bimasco is a family-owned business, incorporated in 1952. We've been serving the heavy and highway construction market, most noteworthy with regard to construction of roads, recycling, manufacturing of asphalt emulsion, site work, drainage. We employ about 30 to 50 people. I'm also the President of G9 Turf. G9 Turf does installation and maintenance of high quality synthetic turf systems. I'm a member of the Long Island Regional Planning Council. I'm a Board Member of the Long Island Contractors Association. I'm a Trustee for Local 1298; Board Member of the United Way of Long Island. And I believe that my experience in business would make me a good candidate to serve on the Suffolk County IDA, and I appreciate the opportunity to be of service.

D.P.O. HORSLEY:
Thank you very much, Grant, and, certainly, your reputation precedes you. Apparently, there were several questions, and we'll start with Legislator Kennedy.

LEG. KENNEDY:
Thank you for being here, Mr. Hendricks. As a matter of fact, I know that your folks and business have probably built most of the roads that we actually drive on here in Suffolk County. And I know of your family and the good work that they've done for many years, so thank you for offering to come forward and to serve.

I imagine being in the business that you've been in, you've had an opportunity to go ahead -- as you said, you serve on many boards. I think you have a pretty good understanding of what it takes in order to run a business here in Suffolk County, attract businesses to Suffolk County, and keep businesses in Suffolk County.

I'm going to ask a question, and I don't know whether or not you've even had the opportunity to have it before you, but you did sit and see us vet prospective purchasers for a nursing home here for the better part of like the last three or four hours. They have a contract that represents that they will be receiving Suffolk County IDA benefits. That's somewhat precedent-setting, at least in my time here in the last eight years. I've never seen a contract to that effect, nor known of the Suffolk County IDA to embrace that posture. So you're not even on the Board yet, but let me ask you if you have any thoughts about it or how you think it might fit in.

MR. HENDRICKS:
I don't have any thoughts on it. I have not seen the application. I have not had any experience whatsoever on the Suffolk IDA, as you know, as of yet. I do consider myself an independent team player. I'm here to promote the economic development of Suffolk County, and I would treat that application just as though I would treat any other application, independently and with an open mind.

LEG. KENNEDY:
Okay. I appreciate that, that's a fair answer. When you would be considering applications that would be coming in, what would be the relevant criteria, then? What would be -- what would be your hope that a business would be offering in exchange for what can be very lucrative benefits in the combinations?

MR. HENDRICKS:
Well, the very things that, hopefully, the IDA can be a conduit for, and that's job creation, job retention, good quality jobs, jobs that people can earn enough money to afford to live here on Long Island.
LEG. KENNEDY:
Okay. All right. I appreciate it, and thank you for stepping forward and for holding yourself out as a candidate.

MR. HENDRICKS:
Thank you, Legislator.

LEG. KENNEDY:
You're welcome.

D.P.O. HORSLEY:
John, I may add that, Grant, in my discussions with him, had grave concerns for the future economy of Suffolk County, and he really wants to be part of pushing economic development issues and stuff like that. So I think he's an excellent business choice, and that's --

LEG. KENNEDY:
Good, we need that.

D.P.O. HORSLEY:
Okay. If there are no other questions, I'll make the motion to approve, second by Legislator -- oh, I'm sorry. Would you like to make the motion, Tom.

LEG. BARRAGA:
I'll make the motion.

MR. LAUBE:
I already have a motion and --

D.P.O. HORSLEY:
Tom Barraga makes the motion, yeah.

MR. LAUBE:
I have a motion and second from earlier today, was -- you made the motion and Legislator Cilmi was the second.

D.P.O. HORSLEY:
Boy, who knew that?

MR. LAUBE:
I know.

D.P.O. HORSLEY:
That was eight hours ago.

(*Laughter*)

MR. LAUBE:
More than that, actually.

D.P.O. HORSLEY:
Is that okay, Tom?

LEG. BARRAGA:
That's fine.

**D.P.O. HORSLEY:**
I mean, I'll withdraw, if you want.

**LEG. BARRAGA:**
He's dropping out. Which Tom is no longer?

**D.P.O. HORSLEY:**
Okay. I will withdraw my motion on Grant, it will now go to Tom. Tom's going to make the motion.

**LEG. CILMI:**
I'll second it.

**D.P.O. HORSLEY:**
There you go, the Islip guys. Okay. There being no other motions, all those that are in favor? Opposed? Abstentions?

**LEG. CILMI:**
Congratulations.

**MR. LAUBE:**
Fifteen.

**D.P.O. HORSLEY:**
Congratulations, Grant. You're on the IDA.

**MR. LAUBE:**
Sixteen. (Not Present: Legs. Anker/Absent: P.O. Lindsay).

(*Applause*)

**D.P.O. HORSLEY:**
And just the fact that you stayed here all this time, you're the man.

**MR. HENDRICKS:**
Thank you very much --

**D.P.O. HORSLEY:**
We appreciate it. Now you know what we do.

**MR. HENDRICKS:**
-- for your vote of confidence. Yes.

**D.P.O. HORSLEY:**
I don't know if that's good or bad for you, but -- to know that.

**MR. HENDRICKS:**
Well, it's good to know that the elected officials are not just 9-to-5ers, that's for sure.

**D.P.O. HORSLEY:**
Okay. Thanks, Grant. Have a good night.
MR. HENDRICKS:
You, too. Thank you.

D.P.O. HORSLEY:
Okay. We're going to move -- I'll make a motion to take out of order on Page 9 the discharge petition, 1813 - Amending the 2012 Adopted Operating Budget and the 2012 Adopted Capital Budget, and accepting 100% State grant funds and appropriating a part thereof from the New York State Department of Health (NYSDOH) to the Suffolk County Department of Health Services for the HEAL NY Phase 21 Grant for the John J. Foley Skilled Nursing Facility. Maybe what we can do is maybe we should speak to this, if we may.

LEG. HAHN:
To vote on that, taking it out of order?

D.P.O. HORSLEY:
Oh, I'm sorry. Yes, to take it out of order. That was the motion that --

LEG. HAHN:
Second.

D.P.O. HORSLEY:
-- I was making --

LEG. HAHN:
Second.

D.P.O. HORSLEY:
-- to take it out of order. Second by Legislator Hahn. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Sixteen. (Not Present: Leg. Anker/Absent: P.O. Lindsay)

D.P.O. HORSLEY:
It is now out of order, taken out of order. I'll make a motion to approve. Is there a second on the motion? Second by Legislator Hahn.

LEG. BROWNING:
Motion to table.

D.P.O. HORSLEY:
Motion to table by Legislator Browning. Is there a second on the motion to table?

LEG. MURATORE:
Here.

D.P.O. HORSLEY:
Seconded by Legislator Muratore. We have a tabling motion, as well as an approval. Okay. Do we want to know what it's about first, or how do you want to start this? You want to start this, Lynn? Why don't you have a question?

LEG. NOWICK:
I know what it's about.
D.P.O. HORSLEY: Okay.

LEG. NOWICK: But I'm having a little trouble. There's a little bit of a gray area in there. I'm not sure who I'd ask the question to, I guess Counsel.

D.P.O. HORSLEY: Ask it and we'll find somebody.

LEG. NOWICK: Okay. I wanted to know, are these funds -- if we accept these funds and we don't sell the nursing home to the Shermans, can we still take this money and use it to the benefit of the John J. Foley?

MR. NOLAN: The resolution doesn't say that it is conditioned on the sale of the Foley building. That's all I can tell you.

LEG. NOWICK: It doesn't?

MR. NOLAN: It doesn't.

LEG. KENNEDY: That's the third "Whereas".

D.P.O. HORSLEY: Counsel, the question on the third "Whereas"? I don't have it in front of me.

MR. NOLAN: Well, there is a "Whereas" clause that does reference a transition, but, you know, to my mind it's the "Resolved" clauses that count. So I think maybe the Administration would have to address that issue, because I just -- I don't think I'm in a position to answer that.

LEG. KENNEDY: Then why is it in there?

D.P.O. HORSLEY: Maybe we'll have either Regina or the County Attorney. Dennis, would you like to answer that question?

MR. COHEN: I'm sorry, I didn't hear the question.

D.P.O. HORSLEY: Okay. The -- John, you want to ask the question?

LEG. KENNEDY: Yeah. I don't want to hog the mic from Lynne.

LEG. NOWICK: I have the question. Okay.
LEG. KENNEDY:
Go ahead.

LEG. NOWICK:
That was the question. I wasn't sure if this is just -- if the County sells the nursing home, what I want to know is, we accept the grant and next month just let's say we do not approve the sale of the nursing home. Can we still take that money and defease the debt and use that money the way we want to towards the nursing home, or is this money just going to be used if we sell the nursing home, whether it to be the Shermans or anybody?

MS. CALCATERRA:
Legislator Nowick, that's a very good question, and it hasn't been asked yet, so I really appreciate that you did ask so we can clarify it.

The HEAL Grant money that is slated to be used towards debt is not contingent upon the sale. So, regardless of what occurs with the nursing home, we will still get that from the State, and it will still be used to pay down the debt.

LEG. NOWICK:
Okay. And if we don't -- there's a motion to table, I understand. Is there a time restraint on this grant? So if we -- if we table it and then it goes to September's meeting, do we lose the money?

MS. CALCATERRA:
No, we don't lose the money. We haven't received the money yet. However, there's an issue related to the budget. I mean, one of the things I know I had mentioned earlier is that we're presenting our budget on the end of September, I believe September 20th or 21st, and there's a series of things that we were hoping to have in it, and one of them is -- you know, we've got the Foley Nursing Home, the Yaphank land sale, and, you know, receiving the HEAL Grant, and we want to make sure that we're doing our best to bring down the budget from a structural deficit part and from the -- just the general deficit part. So this is one of our anticipated items that we were going to use in presenting our budget. So, if it's not in there, then -- or if it's not something that we can build into the budget, then we've just got to figure out how else we're going to balance out those -- what we're paying for deficit.

LEG. NOWICK:
Oh, okay, I understand that, but I just wanted to ask you a question. And I don't know if I heard right a month ago, but when I was told about the sale of the nursing home to the Shermans, naturally, we talked about the 23 million and it was a lot less than it was last year, and that's our own fault, or whatever it is, but what I was told was because of a HEAL Grant, actually we netted the same amount. But if we can get the HEAL Grant -- well, the HEAL Grant really doesn't -- it's not what's netting us, then, the extra money. We're going to take this HEAL Grant with or without the sale of the nursing home, we're going to -- if we take this HEAL Grant, we can use it, we can pay off our debts, and I understand the budgetary -- but would this have come to us if we weren't selling the nursing home, or is it only coming to us because we told New York State we were selling it?

MS. CALCATERRA:
No, no.

LEG. NOWICK:
I mean, I don't understand why it's in there about the transitioning of JJFSN.
MS. CALCATERA:
We never told New York State that we're selling the nursing home. New York State had recommended to us that we sell the nursing home and that the County should get out of the nursing home debt. The HEAL Grant, we applied for the HEAL Grant on February 8th or 9th. It was applied for the fifth week of the Administration. What was put in the HEAL Grant back then was a variety of different factors requesting the HEAL. And since it was the fifth month of our Administration, we were still trying to figure out how to put some of the lights on. So Department of Health came to us and said, "We're applying for a HEAL Grant," and I said -- we all said, "Fine, go ahead and do it." And we were notified in mid-June that we were getting the HEAL Grant and that it was to be used, and that we could use it to pay down our debt. That was a discussion that the Governor’s Office had voluntarily said to us. That was mid June.

We didn't -- I did not meet the Shermans until July 18th, was the very first time I met them. With the -- the sale related to the nursing home, the negotiations with the nursing home didn't take place until July. So we were getting this HEAL Grant, regardless what the future of the nursing home, is to pay down our debt. Was -- did that --

LEG. NOWICK:
Good answer.

MS. CALCATERA:
-- help clarify you?

LEG. NOWICK:
Yes.

MS. CALCATERA:
Perfect.

LEG. NOWICK:
That means we can take the money and run whether or not we sell the nursing home, and that's what I get out of the answer.

MS. CALCATERA:
Yes.

LEG. NOWICK:
Thank you.

MS. CALCATERA:
But, ideally, if we do sell the nursing home, the proceeds will be going to all parts --

LEG. NOWICK:
But, either way, it's all part of the budget.

MS. CALCATERA:
Yes.

LEG. NOWICK:
Either way.

MS. CALCATERA:
Absolutely.
LEG. NOWICK:  
Thank you.

D.P.O. HORSLEY:  
Legislator Kennedy.

LEG. KENNEDY:  
Thank you, Legislator Horsley. Regina, actually just a couple of questions with the way the process went with HEAL, and then I've got a question for Counsel.

The notification of award that first came on June 18th actually referenced about nine million, I think, that was associated with consolidating the two clinics in southern Patchogue -- in southern Brookhaven into the second floor of Foley. Along with that was the representation that we would temporarily debed for 80 beds, and that we would permanently forfeit the 60 licenses that we had for the adult outpatient day-care program, at least that's the document that I saw that Dr. Tomarken forwarded to me.

MS. CALCATERA:  
I'm looking at a letter dated June 18th that's quite --

LEG. KENNEDY:  
Yes.

MS. CALCATERA:  
-- so generic that it could probably have been sent to every HEAL Grant applicant in the state. I don't see where it is specifically stating anything related to our grant application. It's saying that we were awarded it. It's quite generic. I do have it here, so I don't know what document you're referring to, but this document is dated June 18th. It's addressed to Jane Corrarino and it is from Dr. Shah, the Commissioner of New York State Department of Health and --

LEG. KENNEDY:  
Signed by Mr. Downey as well --

MS. CALCATERA:  
No. That is not what --

LEG. KENNEDY:  
From the Dormitory Authority --

MS. CALCATERA:  
No, not what I have.

LEG. KENNEDY:  
Okay.

MS. CALCATERA:  
I have a letter that's a very generic letter.

LEG. KENNEDY:  
I'll be happy to forward you what Dr. Tomarken gave me. My point is this, and February is an early time for anybody to try to get their arms around things. And you said the Health Department approached you and you encouraged them, "Yes, go ahead and seek this." So here we are now and
now we're having this discussion about the award, however it occurred, and I'll show you so that you can see. It's migrated from consolidation of the clinics into another facility, and it's now committed to not just debt reduction, but actually debt, for all intent and purposes, I believe it's debt elimination. There's probably about 16 million that remain on the mortgage. We're going to commit everything beyond the million-and-a-half or two million that we put towards installation of firewall through all five floors now, not just the first floor and the basement, and the utility redundancy, all of which have been violations that have -- we've carried in the facility for the last three years. And that may be a decision in order to go ahead and bring it into compliance, because, quite frankly, if there was going to be a sale, the purchaser would either want a credit to make that repair, or they'd insist we did it. So that's how that portion is being applied.

But the Medicaid reimbursement that we receive for those beds, the long-term beds, is made up of two components. There's the cost of care and there's reduction of the capital debt. So the one decision drives the other. One would only pay off a mortgage if one was going to sell. By approving this, it necessitates that; don't you agree?

**MS. CALCATERRA:**
Absolutely not. And, in fact, the percentage of the Medicaid reimbursement -- our Medicaid reimbursement for John J. Foley, I believe, is 272. And I know that earlier Legislator Browning said 280, so it's somewhere in between there.

**LEG. KENNEDY:**
Yes.

**MS. CALCATERRA:**
Per patient for Medicaid reimbursement is $24.54. So that's the part that we get reimbursed for capital. And to an earlier question is the Shermans don't get capital reimbursement in their -- in their Medicaid portion, so that's part of that delta between what they get and then what we get. That -- regardless of what the outcome is with Foley, if we were to keep it open, that 24.54 per patient times 157 patients who are on Medicaid, times 365 days a year, is 1.4 million dollars only every year that we get towards paying down our debt out of everything. So we have an opportunity here to get a 17 million dollar grant from the State to just take it and wipe it out, you know, put the money, take it towards that, or we can work another 17 years to try to apply that piece towards it.

The better avenue, as far as being responsible and deal with our fiscal challenges, and knowing that we have debt out there, especially when we're in constant contact with the rating agencies, and they want to know how it is that we're bringing down our deficit. The more responsible avenue to go that's good for the rating agencies and good for our bond rating is to pay down our debt. So we now have that opportunity to take the 17 million and put -- and pay down the debt, so that's what we plan on doing.

**LEG. KENNEDY:**
Again, yes, I appreciate what you've articulated. I think I disagree with the way that you cannot separate one from the another. But, nevertheless, the other question that I have, then, is, is how does this impact in 2013 Operating, when, in essence, the resolution before us is to amend the 2010 Capital?

**MS. CALCATERRA:**
I will work to get an answer for you on that. I don't have an answer right now, but I will work to get that for you.

**LEG. KENNEDY:**
Thank you, I appreciate that. And lastly, I'll turn to Counsel. Section 373 of County Law says that
when we amend the Capital Budget in the year that we are in, it requires a super-majority.

**MR. NOLAN:**
We're a Charter county --

**LEG. KENNEDY:**
Yes, we are.

**MR. NOLAN:**
and if our Charter is inconsistent with what's in the County Law in terms of amending the Capital Budget, then that is going to be what is going to prevail in terms -- and, in fact, our local laws in many ways is more stringent in terms of amending the Capital Budget during the year.

**LEG. KENNEDY:**
So it's a question of either 12 or 14, but, at the very least, 12 votes have to hold for us to amend the 2012.

**MR. NOLAN:**
Not if there's an off -- if there's an offset, then I believe it's a simple majority. If we're changing the method of financing, I think then it's 14. I think those are the requirements, but I'll go to the Charter. Are you saying that this is 14?

**LEG. KENNEDY:**
I'm saying this vote -- no, I'm not saying it's a 14, I'm saying it's a 12-vote, it's a 12-vote to amend.

**MR. NOLAN:**
I think we're -- this is taking grant money and it's going into the Capital Program.

**LEG. ROMAINE:**
It's amending the Capital Program.

**LEG. KENNEDY:**
It's amending the Capital Program.

**MR. NOLAN:**
Yeah, but it's --

**P.O. LINDSAY:**
Go to 373 and look at it.

**MR. NOLAN:**
I think 373 is not going to be relevant. I think whatever our law states in the Charter Administrative Code in terms of amending, but I think to take grant money and put it into the Capital Program or put into escrow, I think that's 10 votes, but I'll check the Charter.

**LEG. KENNEDY:**
I'd appreciate it. Thank you.

**D.P.O. HORSLEY:**
Is that -- we good? Okay. Thank you very much, Legislator Kennedy. Legislator Calarco.

**LEG. CALARCO:**
Thank you. This is for Budget Review, just a couple of questions about the facility right now. What
is the amount of debt that we have out on the facility total?

MR. LIPP:
Starting in 2013, which is when we would wind up needing the money for, the total debt is 15 1/2 -- will be 15 1/2 million. About 2.35 will be the 2013 piece.

LEG. CALARCO:
So we're going to be 15-plus in the hole right now, and it's about 2.35 to pay off our debt service every year?

MR. LIPP:
Right. And the debt goes -- debt service goes out to 2028.

LEG. CALARCO:
Okay. To 2028, so that's --

MR. LIPP:
Right. And it goes down each year.

LEG. CALARCO:
It lessens, okay, because as we're paying off the bond.

MR. LIPP:
Right.

LEG. CALARCO:
So it sounded to me from the testimony from Ms. Calcaterra that we're going to be getting reimbursed from Medicaid about 1.3 million on those capital costs; is that correct?

MR. LIPP:
Well --

LEG. CALARCO:
Do you know what that -- do you know what the reimbursement is that we get off of the capital expenditures every year? So you would renegotiate with AME but a new contract.

MR. ISRAEL SHERMAN:
We would renegotiate with whoever the employees decide they would like to represent them.

LEG. MURATORE:
And who would represent them in the interim while you were negotiating the contract?

MR. ISRAEL SHERMAN:
That's a good question. I don't know. The question was asked before, what happens from the day of -- you know, the day of the County closing and us taking over; I can't answer that question. But we do fully expect to be entering into negotiation process with whoever the employees choose to represent them.

(*The following testimony was taken & transcribed by Alison Mahoney - Court Reporter*)

MR. LIPP:
Well, like she said, the rate, which is going down, as I believe she stated, is going to be 24.54, the
new rate; that's per bed/per day. And then --

**LEG. CALARCO:**
Per filled bed.

**MR. LIPP:**
Right. And --

**LEG. CALARCO:**
So if the bed's not filled, we don't get that payment?

**MR. LIPP:**
Right. But the point to be made also, though, is, number one, if we were to keep the facility and we ran it at close to maximum, and we do have a very -- we have a very high percent Medicaid to begin with, then probably the revenue we would receive is higher than she was stating under those conditions.

**LEG. CALARCO:**
If we had all the beds full, would we be getting enough reimbursement through the Medicaid payments to pay off our debt service every year?

**MR. LIPP:**
I think the answer to that is we'd probably be a little bit light, but the way it works out is over the long run we're supposed to be reimbursed 100% for debt. To make a long story short, that would mean it would take more years, we'd be a little bit short each year, but in the long return, out into perpetuity, we'd be 100% reimbursed, just we wouldn't get it all up front in the same year.

**LEG. CALARCO:**
So we'd have to front the money and we'd get it back --

**MR. LIPP:**
We'd have to front a portion of the money. You know, if could be just a few --

**LEG. CALARCO:**
But once we pay off the bonds, once we pay off our bonds, we're no longer getting that reimbursement?

**MR. LIPP:**
We would --

**LEG. CALARCO:**
Because there's no longer reimbursement to be made?

**MR. LIPP:**
I believe --

**LEG. CALARCO:**
Or are we still going to get that money?

**MR. LIPP:**
I believe what would happen is if we're setting aside a sinking fund to pay off the bonds, then there's no -- we're not going to get the reimbursement of the 24.54 per filled bed per day. So, therefore, we would lose that revenue. We'd make a few hundred thousand a year depending upon
how many beds we had filled, we would lose that $300,000 if we didn't have these grants. The fewer beds we had filled, the bigger the difference, obviously.

**LEG. CALARCO:**
I don't know if I'm following you, but --

**MR. LIPP:**
What I'm saying is in the long run we would get reimbursed 100%. In the short run, we would probably have to spend more than the revenue we got back. How much more, that would be dependent upon how many beds were filled.

**LEG. CALARCO:**
But that would imply that at some point down the future we're going to be getting more money in than we're actually putting out to pay off debt service.

**MR. LIPP:**
No, the reimbursement would be -- it would be constrained or capped. They wouldn't be paying us more than we're spending.

**LEG. CALARCO:**
But if it doesn't equal out now, and you're telling me it's going to equal out in the long run, how does that work? Unless at some point in the future we're going to be getting more than we're getting now.

**MR. LIPP:**
Because that's the State formula, they're charging -- they're providing a certain reimbursement. The State's providing a certain reimbursement for the capital portion which, depending upon your number of beds, isn't going to fill the entire nut.

**LEG. CALARCO:**
I still don't think I'm following you, but that's okay. To the Administration --

**MR. LIPP:**
There's a mismatch between the timing of the reimbursement and the expense.

**LEG. CALARCO:**
Yes. So at some point in the future we're going to be getting reimbursement for monies that we expended sometime in a previous budget year.

**MR. LIPP:**
That would be correct, yes.

**LEG. CALARCO:**
So at some point in the future we will be getting more money in than we're spending that year to pay off debt.

**MR. LIPP:**
Correct.

**LEG. CALARCO:**
Okay.

**MR. LIPP:**
If we kept it long enough.
LEG. CALARCO:
If we went long enough out there into the future.

MR. LIPP:
Correct; that's correct.

LEG. CALARCO:
To 2028.

MR. LIPP:
Yes.

LEG. CALARCO:
Okay. To the Administration; Regina, if you have a moment, please?

MS. CALCATERRA:
Sure.

LEG. CALARCO:
Just a quick question. I know there's been a lot made of whether or not we can -- the grant is supposed to be used to pay off debt, and I know you just testified that it is. Have we gotten anything from the State in writing staying -- or have we submitted a new application, modification plan or whatever it is to say we're going to be using this to pay off the debt as opposed to what we originally proposed?

MS. CALCATERRA:
Yes. Before we received the letter, the award letter, before the County received that, I received a phone call from the Governor's office that said, "We're giving you a $17 million HEAL Grant and you should be using it to pay off your debt." They knew that we had a debt by way of our conversations. The HEAL award letter came in mid-June, we submitted our response. When you submit a response to a HEAL Grant, you just don't get a HEAL grant award and that's it. What they then want you to do is to submit a work plan, a time line and a modification agreement, I think that's the name of it, and you have to submit that within 30 days of getting that letter. We submitted it, you know, within the time line, but then we got a response back from State Department of Health where they just wanted some clarification on the capital improvements that we had in the HEAL Grant. So then we followed up with a final grant response that included the debt and included the capital appropriation on July 31st.

Since then, I've continued to have a series of conversations with the department -- with the Governor's office, and the Governor's office, folks there that oversee the Department of Health, they said, including this morning, "We're very supportive. This is happening. We just haven't yet sent you an award letter yet," the finalized award letter, but it is -- we expect it soon.

LEG. CALARCO:
So we're going back and forth with the State right now to --

MS. CALCATERRA:
No, we're not going --

LEG. CALARCO:
-- amend the application and get it appropriate so that we can get the final award letter saying --
MS. CALCATERA:
We're not going back and forth on the State's -- on the substance.
We submitted that.

LEG. CALARCO:
But we're -- we submitted a modification plan, they said, "We want a little more clarification," so we're -- we've submitted that clarification, so we're going back and forth with the State to get it all worked out. But they're on board with the idea of us -- we're going to be using this to defease debt.

MS. CALCATERA:
The debt, because they're trying to get counties out of the nursing home business and trying to help them address the financial costs related to that and, so yes.

LEG. CALARCO:
But they're not putting in writing in any of this paperwork they're sending us that this has to be done in order to close the nursing home. Because you just said they're doing this to get us out of the nursing home business, and so that would --

MS. CALCATERA:
No, that's generally -- when you read a HEAL Grant, when you see the HEAL Grant, the focus of it is to downsize a nursing home, close a nursing home. That's why counties apply for it, is for -- it kind of fits into that one bucket there. So you're correct, it is not contingent upon us selling the nursing home.

LEG. CALARCO:
And there's nothing that they put in writing anywhere that says that, correct?

MS. CALCATERA:
No.

LEG. CALARCO:
That there's some strings attached about what we can --

MS. CALCATERA:
No, there's not. But I think we also need to look -- no, there's absolutely not. But look at the bigger picture as well, is that we had a $530 million hole and the way that we're getting around -- out of a lot of this is with the help the State has provided us.

We have gotten red light cameras from them in the Governor's budget; we got the OTB in the Governor's budget; we got the Traffic Violations Bureau which is going to bring in ten to 11 million; we have a new Taxi & Limousine Law that's going to help us govern taxi and limousines; we got the $17 million HEAL Grant; we got variances repealed and reinstated so we don't have to pay for inmates to go out-of-state. And also importantly, we got the COC to allow us to have a phased-in opening of the jail and where we don't have to hire a new class of Correction Officers this year, which is happening next year. Much of that happened by the way of dialogue, and so they're doing their best to help us out.

So if they're offering us -- we did not get a check from them. We're not get handouts, but if they're offering us a grant to pay down our debt, we want to make sure that that's the direction we're going in because we need them as partners and we've worked months to get what it is that we've been able to get from them to help us get out of this without getting a big handout. So we want to make sure that that's the direction that we're going and that's the commitment that we keep by way of our dialogue with them. We don't want to deviate from that too much, because they're doing this as
part of the bigger picture for us to help us out. And this is a very strong relationship that we’ve got.

LEG. CALARCO:
So but they’re -- they’ve made the commitment to this funding for paying down debt.

MS. CALCATERA:
Correct.

LEG. CALARCO:
And they’re not tying that to closing the facility.

MS. CALCATERA:
No.

LEG. CALARCO:
Or selling the facility.

MS. CALCATERA:
No.

LEG. CALARCO:
Okay. Thank you.

MS. CALCATERA:
You’re welcome.

D.P.O. HORSLEY:
Thank you, Legislator Calarco. Legislator Barraga.

LEG. BARRAGA:
On the resolution. There’s an expression called "Take the money." Take the money. You know, three years ago we couldn’t get 17 cents out of the State of New York because of their fiscal problems. Now they’re willing to give us 17 million and we have this type of debate. No one in Albany at this moment cares a damn about this. This is a done deal. They want the 17 million to go to Suffolk County, we should be accepting it with open arms, not nitpicking the thing to death. The last thing you want to do is table this, because that draws their attention. They’ll wonder, "What the heck is the Suffolk Legislature thinking about, to table this? For what?" The next time we meet, September 13th, and maybe the 17 million isn’t there anymore. Think of it in your own personal -- if someone came to my door, I opened the front door and the guy had a certified check for Tom Barraga for 17 million, he wouldn’t get off the stoop, I’d already be down at the bank cashing the check.

(*Laughter*)

What we’re doing here is saying to the guy, "Well, wait a minute here. Let me check with my spouse and let me think" --

(*Laughter*)

"What does she say? I’ve got two kids and, you know, they have to have some input. And you know, I’ve got the dog in the yard here. If he goes two paws up he’s on board. And, you know, the parrot, the parrot is just terrible, you never know what he’s doing. I’ll tell you what, pal. Come
back September 13th," he'd think I was crazy and he wouldn't come back.

This is a slam dunk. The 17 million is there, you take it and you pay down the debt. Even if there's any confusion later on, you still control the money. Take the money, you have the leverage. I mean, this kind of a debate, I mean, I can remember sitting here many, many a time wishing we had a million or two million or five, anything from the State of New York to help us out. Here the 17 million is right at the door, you take the check.

**D.P.O. HORSLEY:**
I've never appreciated you more, Tom.

(*Laughter*)

Legislator D'Amaro.

**LEG. D'AMARO:**
Thank you. Excuse me, I think the expression is "Take the money and Run", if I'm not mistaken.

**LEG. NOWICK:**
Show me the money.

**LEG. D'AMARO:**
And "Show me the money," that's another one. But so I don't -- I agree with that, take the money, don't hesitate. But I was just curious as to once we take the money, how it's being spent. And I just wanted to ask the Chief Deputy County Executive why the other smaller appropriations for the medical, dental and laboratory equipment, and then also about a million dollars going into a 1603 Capital Project, which in the Adopted Capital Budget & Program we put zero. So why those choices?

**MS. CALCATERRA:**
I'm going to ask Margaret Bermel, also from the Health Department, to join me in answering this question. The primary objective of us getting the HEAL Grant and concern was that it go towards debt and then there will be money remaining. We're still unclear whether that money is going to be remaining. We have a variety of different numbers on what that debt actually still is from Audit & Control we were told that it was 16.3 million, from our internal budget folks we were told it was over 16 million, we know that BRO said it's here in the high 15 millions. I believe, I'm looking, Gail looks a little surprised.

**MS. VIZZINI:**
No, I read off Audit & Control's numbers, the 16.3.

**MS. CALCATERRA:**
Okay. Oh, 16.3, got it.

**MR. LIPP:**
Fifteen five.

**MS. VIZZINI:**
Oh, 15.5, yeah. Well, I -- the difference is probably what we may have paid this year, I guess.

**MS. CALCATERRA:**
So the 17 million would go towards that, and then we would have funds left over. We're not too clear on what those funds are, and the first priority was to address a survey that was done. And that's why I brought Margaret up here, because there was a survey that was done on John J. Foley in 2007 where we needed to make some safety modifications. We applied for waivers, those waivers
were denied in December '09, so we need to make those changes, and that is what is put in as how we're going to use the additional money.

**LEG. D'AMARO:**
That's for the purchase of the equipment as well as the Capital Project.

**MS. CALCATERRA:**
No. The purchase of equipment would be -- if you did a ranking of three, it would go debt, safety modifications, and if there's any left over there would be purchasing of equipment, but it doesn't look like that's how it's going to fall.

**LEG. D'AMARO:**
Right. I'm just a little confused, because if the Capital Budget and Program is being amended, the final budget, Capital Budget for this year has zero. So are these repairs mandated somehow by the State? I mean, we didn't fund them.

**MS. CALCATERRA:**
I'm sorry, I don't have all the answers specifically to your question, so I'm going to defer to Margaret and hopefully she'll be able to provide you more guidance.

**LEG. D'AMARO:**
Thank you.

**MS. BERMEL:**
Good evening. Margaret Bermel from the Health Department. Legislator D'Amaro, in regard to the question on the capital, there were deficiencies in electrical and fire wall safety and at John J. Foley in 2007.

**D.P.O. HORSLEY:**
Margaret, can you speak just a little louder?

**MS. BERMEL:**
Sure.

**D.P.O. HORSLEY:**
Thank you.

**MS. BERMEL:**
Is that better? I'm not usually up at this hour.

(*Laughter*)

**D.P.O. HORSLEY:**
We appreciate that.

**MS. BERMEL:**
So there were waivers requested to postpone the corrections to the deficiencies, but the waivers were denied. The deficiencies were identified in the survey and the plan of correction was submitted. There are electrical concerns, the emergency wiring is not separated from the regular wiring in the facility. There was no fire wall in the stairwell. So these deficiencies were going to be addressed in the Capital Program over a three-year period. Because of this HEAL Grant, we would be able to then accelerate the correction of the deficiencies so that the safety needs of the residents
could be addressed all in this year, in this current 2012 year, rather than spreading it out and doing one floor at a time.

**LEG. D’AMARO:**
But let me just stop you there. I appreciate that. But so the waivers were denied -- waiver meaning we wanted to -- we submitted a request to waive the requirement for these improvements.

**MS. BERMEL:**
Correct.

**LEG. D’AMARO:**
So I would assume, if we submitted a waiver, that we disagreed that they were really a safety issue.

**MS. BERMEL:**
Well, I think --

**LEG. D’AMARO:**
Let me just finish my thought.

**MS. BERMEL:**
I'm sorry. Sure.

**LEG. D’AMARO:**
So here we are in 2007, we make application and say, "No, we don't think this is a real health and safety issue at this facility," but the State disagrees, no waivers granted. 2007, '08, '09, '10, '11, it's five years later, its in the Capital Program, but in subsequent years, do you know where it's placed in the budget?

**MS. BERMEL:**
Well, it was a three-year phased-in project. It was supposed to start this year. In fact, it has --

**LEG. D’AMARO:**
Well, no, it wasn't supposed to start this year because it’s zero funded for this year. At least the resolution I'm looking at says, "Current 2012 Capital Budget & Program, zero." So my question becomes if we have been going for five years without making the improvements, we initially disagreed with the State, why do we need it to even do the improvements? And now it looks like we're on the cusp of perhaps selling; why are we allocating a million dollars to make the improvements when we might divest ourselves with the whole facility in the next three months?

**MS. BERMEL:**
Well, this is for the benefit of the residents and it's to correct the safety -- these are safety concerns that are -- we -- although the County had filed a waiver, I -- and I wasn't really involved in it at that time, but my recollection is that the County had felt that the building was constructed under the safety regulations at that point in time 15 years ago, but now the code had changed since then and now we were out of compliance. Clearly, you know, the fire wall and the electrical concerns should be addressed as quickly as possible for the residents who are currently residing in that facility.

**LEG. D’AMARO:**
I don't know if it's really fair to state it just that way. Because clearly the County didn't do the repairs for the last five years, clearly we defunded it for this year, clearly we requested waiver from the requirement five years ago. But now it’s become this omni-potent fire and safety issue at the facility right before we might sell it.
MS. BERMEL:  
Well --

LEG. D'AMARO:  
I don't understand that.

MS. BERMEL:  
These are --

LEG. D'AMARO:  
Or is it just that we really have no other place to use the money?

MS. BERMEL:  
Well, it's more that, you know, the State has issued these deficiencies, and they are deficiencies. And the HEAL Grant would allow us to accelerate the correction of the deficiencies.

LEG. D'AMARO:  
Okay. I appreciate that. My point is that perhaps -- I don't know if we're required to use this money by the State as a condition of the grant, or perhaps it could be applied somewhere else where we're going to have a facility that we're actually going to own beyond the next three or four months. To me, it would be money better spent if we had other required safety improvements, perhaps, in other facilities, County buildings, health centers, whatever it may be where you're going to spend a million dollars in capital -- in grant money, in effect, and put it into a building that's being sold. I don't understand that.

I also don't quite understand the need for 186 -- $187,000 in medical, dental and laboratory equipment, again, when we've already signed a contract of sale for the facility. So is it that the funds can only be used for this purpose? Did the State say, "You must do this as a condition of the grant," or is that our discretion to allocate these funds?

MS. CALCATERA:  
The conversations with the Governor's Office surrounding this, they advised us that we can use it for the grant and then use it for capital improvements at the nursing home.

LEG. D'AMARO:  
Oh, okay.

MS. CALCATERA:  
At the nursing home. However, we can explore this further, but that is what -- it was just limited to the nursing home, but it doesn't mean it's precluded from other opportunities.

LEG. D'AMARO:  
All right. I appreciate that answer very much. And the purpose of my whole line of questioning is only should we perhaps reallocate this portion of the grant to somewhere maybe where we would benefit more long-term from having it. Okay. Thank you.

MS. CALCATERA:  
Understood.

LEG. D'AMARO:  
That's it. Thank you.
D.P.O. HORSLEY:
Thank you, Legislator D’Amaro. Legislator Browning?

LEG. BROWNING:
I think it’s quick and simple. And I certainly will say, no, we shouldn’t reject $17 million, and I don’t think that’s something that we are doing.

At the committee meeting I asked about the modification and I’d like to see a copy of the modification, and I would also like to see something in writing from the State. No, I did not get it.

MS. CALCATERA:
I do apologize. I did share it with our intergovernmental staff and obviously they didn’t press the send button in your direction.

LEG. BROWNING:
Okay. I have one piece of paper here, but I still -- this was an application, I’m assuming. And I simply asked for -- we keep hearing, "Well, we had a conversation with the State, with the Governor’s office." I’m just asking for something from the Governor’s Office stating, you know, "We’re approving how you’re spending this." And I really do resent the fact that you continually say, "The State keeps telling us to close. They keep pushing the issue with closing nursing homes," because that’s not quite true. And I can tell you, I’ve had the conversations with NYSAC. I’ve had conversations with State representatives in the Health Department. That is not the message that has come to us, and I think, John, you can say the same. We’ve been to Albany, we’ve talked with the same people and they have never once said, "We’re encouraging counties to close nursing homes."

And let’s go back, like I said, in the past we had Pilgrim State and Kings Park and they closed. And what happened? There was no plan made. Now what do we see? We see these people who got dumped out on the street with nowhere to go. That’s my concern. It’s the same with accepting this grant, there’s another push to close John J. Foley and with no real plan, because as far as I can see, the Shermans have no real plan to keep anybody or to do anything for the future populations and we’re going to see a major problem, maybe not in the immediate future, but maybe five years, ten years from now where we’re going to see another population of people that are being displaced.

So all I’m saying is let’s make sure we’re taking care of people properly. We’ve talked about the health centers, merging the health centers. Isn’t it a possibility to take some of that $17 million? I know Brookhaven is interested in building a new facility and merging the two health centers. Why couldn’t we use some of that HEAL Grant to help move that process along and sell the Shirley building?

MS. CALCATERA:
Well, I would like to first mention something that you said earlier. Whatever conversations you and Legislator Kennedy had with the State was different than the conversations that I had. We are not talking to necessarily the same people. This is what we were encouraged to do when we started going up there early on, talking to them about our deficit and a variety of different things. So please do not believe for a moment that I’m not being accurate. I’m being quite accurate, that this is the direction the State wants us to go and other Counties to go, and that is what is relayed to me. So we may be just speaking to different people and that’s where the different messaging is coming from, but that was made very clear to us.

And the second thing is that we need to make sure we take this 17 million and use it to pay down the debt. If there’s a little bit of money left over, we’ll go back to it, but when we go to the State, building up the relationship that we’ve built up over the past few months and getting all of the things
that we've gotten from them, this was offered to us to help pay down our deficit, because they were trying to help us out this way. And that -- it was given to us, even though we don't have it in writing -- and trust me, I, too, am looking forward to it in writing as much as you are. But that's what the focus is.

So let's see what happens with the remaining amount, but that's what the commitment was, that's what the dialogue was. And because they have been so good to us and they've given us a lot in the short amount of time, which, quite frankly, is probably a lot more than Suffolk County has gotten from the State in years. The one thing that they gave us to help us out was to pay down our debt, then for us to go back and say, "We really don't want to use it for the debt, we want to use it for something else." So we need to continue having that relationship and apply it towards paying down that debt, and then the number that is left over, we can address that.

**LEG. BROWNING:**
Well, and that goes to my next question is in the conversation with the County Executive's Office that I had was talking about the health centers and saying -- I requested, let me be a participant, let the Chair of our Health Committee be a participant when you make a decision on this $17 million grant and where is the best way to spend it, and I was guaranteed that we would be able to play a role. We didn't get to participate and that's what bothers me, is that we never get that opportunity. And again, we were ignored, and it was basically, "Here we go. This is what we're going to do, take it or leave it. Legislators, here you go, this is what you got and this is what you've got to vote on today."

**MS. CALCATERA:**
I was unaware of that dialogue, so I wasn't privy to it. I'm just relaying the dialogue that I've had with folks from the State.

**LEG. BROWNING:**
And the issue is is that the initial application says closing two health centers, moving them to John J. Foley, which is not what we're doing it with. And like you said, we've have had -- you have had conversations with the Governor's Office we have not seen the modification, we have not seen anything new from the Governor's Office saying that you're going to approve the $17 million that we're going to get, the $17 million HEAL Grant to pay down our debt. And I don't think that's a very hard thing to ask for.

**MS. CALCATERA:**
Legislator Browning, it's the State. We submitted our amendment to the application on July 21st, it is now August 21st. It would have been fabulous if we got a letter turned around quickly, I would have loved that. It would have closed this dialogue down. Because it seems like we're repeating the same things we repeated the other day, now we're repeating it again. I have no new information for you and no new response. All I can say is that I asked and answered your questions. I've got nothing more.

**LEG. BROWNING:**
Well, it bothers me that the request that was made by myself to have us participate in the process was totally ignored.

**D.P.O. HORSLEY:**
Okay. I think that's -- are you done with the questions?

**LEG. BROWNING:**
I'm done.
D.P.O. HORSLEY:
Thank you. Legislator Gregory.

LEG. GREGORY:
Okay, I'm just going to be quick. Not even really a question, just to reiterate what Legislator Barraga said. You know, since I've been here, I don't think we've turned down any grant money, and this shouldn't be the first instance. Take the money and run.

D.P.O. HORSLEY:
Legislator Nowick, did you want to -- did you have a question?

LEG. NOWICK:
I guess as long as my question was answered and it was answered the way it was, I can't see the downside to taking 17 million. So I would say to you, call the State and tell them, "You send it, we'll spend it."

MS. CALCATELLA:
I like that.

D.P.O. HORSLEY:
Can't argue with that thinking. Two paws up.

LEG. BARRAGA:
(Laughter).

D.P.O. HORSLEY:
Okay. That's the last Legislator. Would all Legislators please come to the horseshoe? We're about ready to vote.

LEG. MONTANO:
What do we got?

D.P.O. HORSLEY:
We have a -- Ms. Clerk, do we have a --

MS. ORTIZ:
A tabling and an approval.

D.P.O. HORSLEY:
A tabling and an approval.

MR. NOLAN:
Tabling goes first.

D.P.O. HORSLEY:
Tabling goes first. Roll call.

(*Roll Called by Mr. Laube - Clerk of the Legislature*)

LEG. BROWNING:
Yes.
LEG. MURATORE:
Yes.

LEG. SPENCER:
No to table.

LEG. D'AMARO:
No.

LEG. STERN:
No.

LEG. GREGORY:
No to table.

LEG. NOWICK:
No.

LEG. KENNEDY:
Yes to table.

LEG. BARRAGA:
No.

LEG. CILMI:
No.

LEG. MONTANO:
No.

LEG. CALARCO:
No.

LEG. ANKER:
No.

LEG. HAHN:
No.

LEG. SCHNEIDERMAN:
No to table.

LEG. ROMAINE:
Recuse.

D.P.O. HORSLEY:
No to table.

P.O. LINDSAY:
(Absent).

MR. LAUBE:
Three.
ASSEMBLYMAN LOSQUADRO:
Abstain.

(*Laughter*)

D.P.O. HORSLEY:
And apparently Losquadro is abstaining.

MR. LAUBE:
Dan Losquadro, abstain.

(*Laughter*)

D.P.O. HORSLEY:
He's on Albany schedule.

All right. What did we do, Renee, what was the number on that?

MR. LAUBE:
Three.

D.P.O. HORSLEY:
Three. Okay. Motion to approve? Do a roll call, why not.

(*Roll Called by Mr. Laube - Clerk of the Legislature*)

D.P.O. HORSLEY:
Yes.

LEG. HAHN:
To approve?

MR. LAUBE:
To approve.

LEG. HAHN:
Yes.

LEG. ROMAINE:
For the HEAL Grant.

LEG. HAHN:
Yes.

LEG. SPENCER:
Yes.

LEG. D’AMARO:
Yes.

LEG. STERN:
Yes.
LEG. GREGORY:  
Yes.

LEG. NOWICK:  
Yes.

LEG. KENNEDY:  
No.

LEG. BARRAGA:  
Yes.

LEG. CILMI:  
Yes.

LEG. MONTANO:  
Yes.

LEG. CALARCO:  
Yes.

LEG. ANKER:  
Yes.

LEG. MURATORE:  
No.

LEG. BROWNING:  
Yes.

LEG. SCHNEIDERMAN:  
Yes.

LEG. ROMAINE:  
Recuse.

P.O. LINDSAY:  
(Absent).

MR. LAUBE:  
Fourteen.

D.P.O. HORSLEY:  
Okay. The motion is approved.

All right. Everybody back to Environment, Planning & Agriculture, page seven. 1368 I believe is where we're at. Does anybody have anything different? Good.

Okay, 1368-12 - Accepting the donation of certain lands now owned by Ciro and Nancy Noto and transfer such lands to the Suffolk County Department of Parks, Recreation and Conservation for open space preservation purposes (SCTM No. 0209-018.00-01.00-009.000). (Browning)
LEG. BROWNING:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Browning, right?

LEG. BROWNING:
Yes.

LEG. ANKER:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Anker. All those in favor? Are there any other motions? We're good, right? Okay. All those in favor? Opposed? Abstain?

MR. LAUBE:
Sixteen (Not Present: Legislator Montano - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay?

LEG. NOWICK:
I'd like to take one out of order because John has to leave; 1799 out of order.

LEG. CILMI:
Second.

D.P.O. HORSLEY:
Okay. Why don't you make a motion.

LEG. NOWICK:
I'll make a motion to take 1799 out of order.

LEG. CILMI:
Second.

D.P.O. HORSLEY:

MR. LAUBE:
Sixteen (Not Present: Legislator Montano - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
I've just got to find out where it is.

LEG. BARRAGA:
Page nine.

LEG. NOWICK:
Health.
LEG. BARRAGA:
It's under Health.

D.P.O. HORSLEY:
Okay. What is it?

LEG. NOWICK:
It's barring a certain contract with DeGere Physical Therapy.

MR. NOLAN:
1799.

D.P.O. HORSLEY:
1799. Where the hell is it? Oh, there it is, I've got it.

Okay, 1799, you see it? It's about four down. All right, barring a certain contract with -- oh, my god.

(*Laughter*)

LEG. ROMAINE:
Absolutely. Here till midnight.

D.P.O. HORSLEY:
Lynne, that was a trick.

LEG. NOWICK:
He's sick. The Legislator is not well, let him leave.

D.P.O. HORSLEY:
Okay. 1799-12 - Barring a certain contract with DeGere Physical Therapy Services (Kennedy). Okay, I'll make a motion to table.

LEG. SPENCER:
Second.

D.P.O. HORSLEY:
Second by Legislator Spencer.

LEG. KENNEDY:
I'll make a motion to approve.

D.P.O. HORSLEY:
Legislator Kennedy makes a motion to approve.

LEG. BROWNING:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Nowick. Okay. All right, who would like to be heard on this?
LEG. CALARCO:
I've got a question.

D.P.O. HORSLEY:
You've got a question, okay. Legislator Calarco, we'll start with you.

LEG. CALARCO:
This is to both the County Attorney and our Counsel. If we pass this resolution, does it do anything with the contract that we have in place right now, which is your -- in terms of having to pay them out for the services they rendered to the County?

COUNTY ATTORNEY COHEN:
The way I read the resolution, it merely prevents the County from entering into a contract with DeGere. You know, the fact is we currently have a contract with DeGere, so as far as I'm concerned, it would have no effect on the current contract.

D.P.O. HORSLEY:
George?

LEG. CALARCO:
George, are you of the same opinion?

MR. NOLAN:
Yeah. In committee I reached essentially the same conclusion. It bars entering into the contract. The fact is we've -- the County has already entered into the contract with DeGere, so I said in committee, I don't know what effect this would have -- or I didn't think it would have the effect that Legislator Kennedy had hoped for.

LEG. CALARCO:
So if we approved this, all it does is make sure we never enter into a contract with this particular person again in the future. Okay, thank you.

LEG. KENNEDY:
Mr. Chair, let me just weigh in for a second with my --

D.P.O. HORSLEY:
Legislator Kennedy.

LEG. KENNEDY:
-- rationale to go ahead and move it forward. Notwithstanding these two gentlemen's legal opinion, I'll give you mine for what it's worth.

The Comptroller can only disburse County funds to one who legally has some kind of a nexus or arrangement with the County. If we pass the resolution and the County Executive signs it, whatever the premise was for, the performance of service no longer remains in place. That's my understanding that what happened was there's a bill that's already been presented through the Comptroller for $560,000 for DeGere having procured Sherman for the purpose of entering into the contract. The reason I put this forward and set aside everything that we beat tonight and for all the past six years, is this is very simple; this is a licensed physical therapist who, as of a couple of days ago, does not appear as a licensed real estate broker in the State of New York, and he vended a transaction in the appraised amount of $23 million. He brought about -- I'm sorry. He brought about a buyer and a seller, he effectuated a meeting of the minds, and by the appraisal that you folks procured after the deal was done, the value of the business was characterized at only 4.85
million. Therefore, the value of the real estate, as the Shermans said tonight, was $19 million. That's the sale of real estate, that's why we shouldn't be paying him, that's why I moved the resolution forward. No valid legal premise upon which to make payment.

COUNTY ATTORNEY COHEN:
Legislator Horsley, can I --

D.P.O. HORSLEY:
Would you like to comment on that, Mr. County Attorney?

COUNTY ATTORNEY COHEN:
I'll just take them in order. One, I don't believe this bill -- because they're not entitled to any payment until the deal closes. The deal hasn't closed, so they're not entitled to any money, so I don't believe they've submitted a bill, and it certainly would be premature for them to do so.

LEG. KENNEDY:
Okay.

COUNTY ATTORNEY COHEN:
To respond to the second part about them not being a real estate broker, we've gone back and forth. I know you know my opinion.

LEG. KENNEDY:
Yes.

COUNTY ATTORNEY COHEN:
However, as a result of conversations that I had both with you on the record and with other Legislators, I understand the concern with the contract with DeGere. I've reached out to Mr. DeGere, explained to him the issues that were being raised by this body, and he has agreed to take out the real estate component and only seek a fee for the sale of the business.

LEG. ROMAINE:
Four point eight million.

COUNTY ATTORNEY COHEN:
And we've -- excuse me?

LEG. ROMAINE:
I'm just thinking to myself, the 4.8 million.

COUNTY ATTORNEY COHEN:
I'm just thinking to myself, the 4.8 million.

COUNTY ATTORNEY COHEN:
Well, we -- because it has not been allocated yet, what we did was we put a minimum to the fee. The minimum of the fee is the 4.8 million with a maximum of $175,000 fee. So whatever the math is, I had figured it out at the time, I think it's about seven million, if it's allocated at seven million, but there was a minimum cap and maximum cap now to the agreement to take out the real estate component. So while I disagreed with the opinion, I did understand from this body that there was great concern with that provision. So again, he has agreed to change that aspect of it and limit his fee to just the sale of the business.

LEG. KENNEDY:
Well, that does seem like that, you know, that is certainly movement on his part. Obviously, I'd argue that he never had validity to commence, and actually we're engaging in some reformation of
the contract, then, aren't we?

**COUNTY ATTORNEY COHEN:**
We amended the contract.

**LEG. KENNEDY:**
Well, there you go. So see, if the contract was amended, then my resolution is very valid now, isn't it? Because if the amendment was done unilaterally, and the way this even came about was by waiver, we talked and I said, A, I didn't see the emergency; and B, now if we've got unilateral amendment on a contract issued on the waiver, I'd say the authority is nowhere to be found. Not the dog, not the parrot, not anybody, that doesn't hunt.

**COUNTY ATTORNEY COHEN:**
So your theory is that we should go back to the old contract?

**LEG. KENNEDY:**
No. My theory is is that the guy shouldn't be paid, period, because basically the service that he engaged in was not legitimate and valid. It was an invalid and void contract on its face, but I'll let it go at that.

**D.P.O. HORSLEY:**
Dr. Spencer?

**LEG. SPENCER:**
I had a lot of questions with regards to this particular issue and I think that the real estate component was really important to me, and I find that very comforting that the Executive's Office has addressed that. And as a result, you know, I don't feel the need to bar this contract.

**D.P.O. HORSLEY:**
Legislator D'Amaro.

**LEG. D'AMARO:**
Yeah, through the Chair, just to the sponsor of the resolution.
So what we have right now is a legally binding and enforceable contract that's been amended already, which is not void but may be voidable if it's for an improper purpose, right? And there is a distinction, going back to your contracts law school days, I'm sure, right?

**LEG. KENNEDY:**
Please (laughter).

**LEG. D'AMARO:**
But let me ask you this. The third RESOLVED clause seems to be the operative provision; "RESOLVED, that any contract entered into in violation of the terms of this resolution shall be deemed null and void." The question I have, through the Chair, for the sponsor is whether or not the intention of that third RESOLVED clause is to be effective retroactively to a contract that's already been fully executed. And if so, then aren't we, in effect, passing a resolution compelling the County to breach a contract?

**LEG. KENNEDY:**
You know what, Legislator D'Amaro? I respect the question that you're positing back. And as a matter of fact, you and I could probably talk for about the next hour, particularly as far as contract theory on this, and it's not fair to do to my colleagues.
I will say to you, A, I appreciate the fact that the County Attorney went to Mr. DeGere. I object to, quite frankly, five cents going to him because I believe that it was invalid from its outset. I'm not going to sit here and try to argue to convince my colleagues, they'll make the decision that they make. I think the resolution drafting is, I'm going to concede, a little inartful. On second look, I probably could have, you know, collaborated with Counsel to get a better outcome, but we have what we have at this late hour.

If it's moved down to 175 and, you know, the County Executive elects to go forward with that, I guess that's going to be the decision that he will make and the Administration will make. I obviously would continue to take issue with it. Do I think that we would be directing the County to take an act that's an unfair or -- I'm sorry, not an unfair, an illegal act? I don't think so, because I believe that the premise upon which the contract was made is an invalid and an illegal premise to begin with.

The gentleman held himself out to perform some function for us that he never had license or ability to do. It is as if you or I attempted to practice a law without a license, or Dr. Spencer practice medicine without a license. No matter what we signed, it wouldn't be enforceable. I'll offer to you, that's the same arrangement we have here. That's why the outcome or that's why the wording in the resolution went to eliminate the contract.

**LEG. D'AMARO:**
My only point is that I think your resolution would have been better worded had you perhaps directed the Comptroller not to pay the bill --

**LEG. KENNEDY:**
No doubt about it.

**LEG. D'AMARO:**
-- and not attacking the contract itself.

**LEG. KENNEDY:**
Well, you know, now the County Attorney made a good point, that the fee, whether legitimate or not, isn't earned until closing. We don't even have a resolution passed that authorizes the contract with Sherman. So why don't I just make a motion to table, I'll talk to Counsel, we'll modify it and we'll get some action language that works with everybody here.

**LEG. D'AMARO:**
And then I think we can have the debate on the merits that you're driving towards here.

**LEG. KENNEDY:**
Okay. Fair enough.

**LEG. D'AMARO:**
By the way, just to make it clear, I don't agree with your analysis.

**LEG. KENNEDY:**
Well, there you go.

**LEG. D'AMARO:**
But at least we can have the discussion.

(*Laughter*)
LEG. KENNEDY:
That's quite all right. Look, I'm going to go gobble some antibiotics. I'll make a motion to table.

D.P.O. HORSLEY:
Okay. Legislator Browning.

MR. LAUBE:
We have a motion.

LEG. BROWNING:
I guess -- no, I'm just curious, because I'm trying to find out when we have ever entered into agreements and contracts with anyone without Legislative approval or ever having seen anything. And I don't know, George, if you could enlighten me?

MR. NOLAN:
All the time.

LEG. BROWNING:
Okay.

MR. NOLAN:
Very few contracts come here for approval. Very few.

LEG. BROWNING:
And, you know, I think one of the other issues is is that the very first RFP when Rozenberg responded, there was other RFP responders that -- I know that only one, I believe Regina said, responded or was reached out to, and I believe that there was another responder which was somewhere around $3 million higher than the current -- than the Shermans. So I just feel like we didn't need to use Mr. DeGere to get anyone. We had an RFP with I think about five or six responders and when Mr. Rozenberg walked away, I think it would have been appropriate for the County Executive's Office to reach out to the other responders, and one of them being, I believe, $3 million higher, that you would have saved 500,000, or I guess now 175 if you had done that.

D.P.O. HORSLEY:
Okay. Thank you very much, Kate. I -- almost to a member, I had people comment to me how unhappy they were about this DeGere thing, they really didn't -- they weren't -- they didn't feel that it was the right thing to do. So I just wanted you to know that, and thank you for working on it. We appreciate you taking steps.

COUNTY ATTORNEY COHEN:
You're welcome.

D.P.O. HORSLEY:
Okay. We have a motion to table, which takes precedence. I think we already have one, right?

MS. ORTIZ:
Yes, you already have.

MR. LAUBE:
You have a motion and a second to table and you have a motion and a second to approve.
D.P.O. HORSLEY:
Right. Okay, tabling comes first. Do you want a roll -- do you need a roll call? Okay. All those in favor? Opposed? Abstentions?
It's been tabled.

MR. LAUBE:
Fifteen.

LEG. ROMAINE:
Please list me as a recusal.

MR. LAUBE:
Fourteen (Recusal: Legislator Romaine - Not Present: Legislators Kennedy & Montano - Absent: Presiding Officer Lindsay).

(*The following testimony was taken by Alison Mahoney - Court Reporter & was transcribed by Denise Weaver - Legislative Aide*)

D.P.O. HORSLEY:
Okay, go back to page seven. 1711-12 - Amending the Adopted -- You with us? Three from the bottom. Amending the Adopted 2012 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2012 Capital Budget and Program, and appropriating funds in connection with Suffolk County Eelgrass Restoration Initiative (CP 7180)(Co. Exec.)

LEG. HAHN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Hahn, second by Legislator Anker. She made the effort, she got back here. All those in favor? Opposed? Abstentions? So moved.

LEG. SCHNEIDERMAN:
Cosponsor.

LEG. ROMAINE:
Cosponsor.

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. We're good? 1772, right? We're skipping over 49, we've already done that.

1772-12 - To reappoint member of County Planning Commission (John J. Finn)(Co. Exec.).
This is a reappointment. May I have a motion?

LEG. GREGORY:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Gregory, seconded by Legislator Spencer. All those in favor? Opposed? Abstentions?
MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
All right. 1786-12, page eight, Accepting grant funds in connection with the transfer of Development Rights Study (Co. Exec.).

LEG. HAHN:
Motion.

LEG. STERN:
Second.

D.P.O. HORSLEY:
Motion by Legislator Hahn, seconded by Legislator Stern. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen. (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
So moved.

1814-12 - Appropriating funds in connection with Brownfields Program, former Blue Point Laundry site (CP 8223) (Calarco).

LEG. CALARCO:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Calarco, seconded by Legislator Muratore.
All those in favor? Opposed? Abstentions? On the corresponding --

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Thank you. Bond issue, 1814A, Pending Bond Resolution (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of $502,000 bonds to finance the cost of construction and site improvements for the Brownfields Program (former Blue Point Laundry Site)(CP 8223.316 and .414), same motion, same second. Roll call vote.

(*Roll Called by Mr. Laube - Clerk of the Legislature*)

LEG. CALARCO:
Yes.

LEG. MURATORE:
Yes.

LEG. SPENCER:
Yes.
LEG. D'AMARO:  
Yes.

LEG. STERN:  
Yes.

LEG. GREGORY:  
Yes.

LEG. NOWICK:  
Yes.

LEG. KENNEDY:  
(Not present).

LEG. BARRAGA:  
Yes.

LEG. CILMI:  
Yes.

LEG. MONTANO:  
(Not present).

LEG. ANKER:  
Yes.

LEG. HAHN:  
Yes.

LEG. BROWNING:  
(No reply).

LEG. SCHNEIDERMAN:  
Yes.

LEG. BROWNING:  
Sorry, yes.

LEG. ROMAINE:  
Yes.

D.P.O. HORSLEY:  
Yes.

P.O. LINDSAY:  
(Absent).

MR. LAUBE:  
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay)

D.P.O. HORSLEY:  
All right.  Discharge Petition:
1490-12 - Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - Open Space component - for the Rams Head Investors, LLC property - Lake Montauk - Town of East Hampton (SCTM No. 0300-012.00-02.00-003.000) (Schneiderman).

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman.

LEG. D'AMARO:
Second.

D.P.O. HORSLEY:
Seconded by Legislator D'Amaro. On the motion.

LEG. CILMI:
Counsel, can you tell us, or maybe the sponsor can tell us, how many acres this is, please?

LEG. SCHNEIDERMAN:
Just under an acre; point seven eight.

LEG. CILMI:
Point seven eight? Three-quarters of an acre?

LEG. SCHNEIDERMAN:
Three-quarters of an acre.

LEG. CILMI:
Four hundred thousand dollars?

LEG. SCHNEIDERMAN:
It's Montauk.

LEG. CILMI:
Thank you.

LEG. SCHNEIDERMAN:
It's surrounded --

LEG. CILMI:
Motion to table.

LEG. SCHNEIDERMAN:
It's surrounded by a hundred acres of parkland. It scored, I think, 47. It's in contract and this is just the final step here. So we've already -- it was appraised in 2011 at that price. Property values in Montauk have not been going down, only going up. It's a lot in the middle of a hundred acres of County-owned land.

D.P.O. HORSLEY:
Okay.
LEG. CILMI:
Motion to table.

D.P.O. HORSLEY:
Legislator Cilmi just made a motion to table. Is there a second on the motion? Second on the motion? For failure to get a second --

LEG. SCHNEIDERMAN:
On which, 21?

D.P.O. HORSLEY:
-- there is no tabling motion. Just on the motion to approve.

LEG. D'AMARO:
On that motion.

D.P.O. HORSLEY:
Yes.

LEG. D'AMARO:
Just also, I want to make one further point, that this was reviewed in committee several times and I asked a lot of questions on this particular parcel, and the conclusion that we reached was that it was -- excuse me, it was a buildable lot and it's surrounded, I believe, by parkland. If I'm not mistaken, if I remember the --

LEG. ROMAINE:
It has access.

LEG. D'AMARO:
And there is access to the lot as well. So although it is a little on the pricey side, it did score very high in the ratings. I asked an awful lot of questions because at first it was like sticker shock when you look at the price, but given the location, given the fact that if we don't do this now the price is only going to go up in the future, and given the fact this it's a buildable lot with access from a road, I think it would be in the best interest of the County to go ahead with this.

D.P.O. HORSLEY:
Okay. Thank you, Legislator. We have a motion to approve. All those in favor? Opposed? Abstentions?

LEG. CILMI:
Opposed.

LEG. BARRAGA:
Opposed.

D.P.O. HORSLEY:
Abstentions?

MR. LAUBE:
Thirteen (Opposed: Legislators Cilmi & Barraga - Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).
D.P.O. HORSLEY:
Very good.

**Government Operations, Personnel, Housing & Consumer Protection:**

**1480-12 - Adopting Local Law No. -2012, A Local Law establishing registration requirement for Health Department expeditors (Browning).** Legislator Browning.

LEG. BROWNING:
Motion.

LEG. SPENCER:
Second.

D.P.O. HORSLEY:
I'm sorry, I missed the second. Who was the second? Spencer, Doc Spencer is the second. Are there any other motions? We're good?
All those in favor? Opposed? Abstentions?

LEG. HAHN:
Hold on. Can we do -- on the motion; can we ask questions?

MR. LAUBE:
I got the nos.

D.P.O. HORSLEY:
Went too fast?

LEG. NOWICK:
Opposed.

D.P.O. HORSLEY:
It was opposed. Right? What do we got?

LEG. HAHN:
I have questions.

MR. LAUBE:
Is Legislator Nowick voting no or is she asking a question?

LEG. NOWICK:
No, I thought we were voting.

MR. LAUBE:
Oh, okay.

D.P.O. HORSLEY:
We are. That was a no. They're opposed. Okay.

MR. LAUBE:
I got 11.
D.P.O. HORSLEY:
All raise your hands high if you're voting no.

MR. LAUBE:
I got 11 right now. Eleven.

LEG. CALARCO:
Cosponsor.

D.P.O. HORSLEY:
To approve?

MR. LAUBE:
Yes.

D.P.O. HORSLEY:
Right. Okay, the motion is approved. Are you guys confused? I don't want to -- you guys good? Okay. I'm not trying to pull a fast one here.

MR. LAUBE:
Eleven votes.

LEG. ANKER:
Cosponsor.

D.P.O. HORSLEY:
All right. We're done? Well, that went well.

MR. LAUBE:
Ten. (Opposed: Legislators Romaine, Muratore, Cilmi, Barraga, Nowick - Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay)

D.P.O. HORSLEY:
1602-12 - Adopting Local Law No. -2012, A Local Law to update and strengthen the County’s Responsible Bidder Statute (Spencer).

LEG. SPENCER:
Motion.

D.P.O. HORSLEY:
Motion to approve by Doc Spencer.

LEG. D'AMARO:
Second.

D.P.O. HORSLEY:
Seconded by Legislator D’Amaro. Any other motions? We're on the motion. We're good? All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).
LEG. SPENCER:
Thank you.

D.P.O. HORSLEY:
1824-12 - Establishing a new policy requiring health insurance contributions by exempt employees (Presiding Officer Lindsay).

LEG. NOWICK:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Nowick. I'll second the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. 17 -- 1696 we've already approved.

Health:

1760-12 - Approving the reappointment of Teresa Strum to the Suffolk County Disabilities Advisory Board – Group C (Co. Exec.).

LEG. SPENCER:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Spencer.

LEG. D'AMARO:
Second.

D.P.O. HORSLEY:
Second by Legislator D’Amaro. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1761-12 - Approving the reappointment of Kleo J. King to the Suffolk County Disabilities Advisory Board – Group B (Co. Exec.). Same motion, same second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Thank you.

1763-12 - Approving the appointment of Michele Santantonio to the Suffolk County Disabilities Advisory Board – Group B (Co. Exec.). Same motion, same second.
LEG. SPENCER:
No. Motion to recommit.

LEG. D'AMARO:
Second.

LEG. SPENCER:
Brief explanation. There's reappointments and appointments. Three of the new appointments appeared, and this one was a new appointment who did not appear before the committee and so she has to appear, so we have to recommit this one.

D.P.O. HORSLEY:
Very good. We have a motion to recommit and it was second by Legislator D'Amaro. All those in favor? Opposed? Abstentions?
It has been recommitted.

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1764-12 - Approving the appointment of Carolyn Schick to the Suffolk County Disabilities Advisory Board – Group C (Co. Exec.).

LEG. SPENCER:
Motion.

LEG. D'AMARO:
Second.

D.P.O. HORSLEY:
Motion by Legislator Spencer, second by Legislator D'Amaro. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1765-12 - Approving the appointment of Michael Stoltz to the Suffolk County Disabilities Advisory Board – Group B (Co. Exec.). Same motion, same second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1766-12 - Approving the reappointment of Roy Probeyahn to the Suffolk County Disabilities Advisory Board – Group D (Co. Exec.). Same motion, same second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).
D.P.O. HORSLEY:

1767-12 - Approving the reappointment of Glenn Campbell to the Suffolk County Disabilities Advisory Board – Group D (Co. Exec.). Same motion, same second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:

Okay. 1768-12 - Approving appointment of Beverly Cody to the Suffolk County Disabilities Advisory Board Group D (Co. Exec.). Same motion, same second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:

1770-12 - Approving the appointment of Garrett Hulet to the -- Garrett, I'm sorry. Garrett Hulet to the Suffolk County Disabilities Advisory Board – Group D (Co. Exec.). Same motion, same second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:

1771-12 - Approving the reappointment of Valerie Lewis to the Suffolk County Disabilities Advisory Board – Group D (Co. Exec.). Same motion, same second.

LEG. SCHNEIDERMAN:
On the motion.

D.P.O. HORSLEY:
On the motion.

LEG. SCHNEIDERMAN:
Really just a question for Counsel. It has nothing to do with this individual. But we had passed an amendment to the composition not that long ago where, I think, Group D, used to be, all came from the County Executive and then we split it, I think, six from the Legislature and six from the County Executive. I just want to make sure we're following that. These all seem to be coming from the County Executive.

MR. NOLAN:
As far as I know we are following that. There are some Legislative appointments in that group now, but we have made some Legislative appointments to that group, but, you know, I'm not --

LEG. SPENCER:
We still have three more to appoint.

LEG. SCHNEIDERMAN:
Okay, that's great. I just have some interested names, so maybe I'll speak with you.
LEG. SPENCER:
Okay.

D.P.O. HORSLEY:
We didn't call the vote, right? Okay. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Very good. 1799 we've done.

1801-12 - Approving the reappointment of Ronald J. Gaudreault as a member of the Suffolk County Board of Health (Spencer).

LEG. SPENCER:
Motion.

D.P.O. HORSLEY:
Motion by Doc Spencer. Seconded by Legislator D'Amaro. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1817-12 - Appropriating funds for the purchase of equipment for Medical, Legal Investigations and Forensic Sciences and to approve the purchase of one (1) replacement vehicle in accordance with Section (B)(6) of the Suffolk County Code and in accordance with the County Vehicle Standard (CP 1132)(Co. Exec.). What do we got on this one? It's 1817. Got a motion on that?

LEG. SPENCER:
Motion.

D.P.O. HORSLEY:
Motion. This requires 14 votes. Okay, we have a motion by Doc Spencer, seconded by; was it Dwayne, by Legislator Gregory. Okay. This requires 14. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. The corresponding Bond Resolution, 1817A - (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of $210,000 bonds to finance the cost of acquisition of equipment for Medical, Legal Investigations Forensic Sciences and Acquisition of one (1) replacement vehicle for the Medical Examiner's Office (CP 1132.517), same motion, same second. Roll call.

(*Roll Called by Mr. Laube - Clerk of the Legislature*)
LEG. SPENCER:
Yes.

LEG. GREGORY:
Yes.

LEG. D'AMARO:
Yes.

LEG. STERN:
Yes.

LEG. NOWICK:
Yes.

LEG. KENNEDY:
(Not present).

LEG. BARRAGA:
Yes.

LEG. CILMI:
Yes.

LEG. MONTANO:
(Not present).

LEG. CALARCO:
Yes.

LEG. ANKER:
Yes.

LEG. HAHN:
Yes.

LEG. MURATORE:
Yes.

LEG. BROWNING:
Yes.

LEG. SCHNEIDERMAN:
Yes.

LEG. ROMAINE:
Yes.

D.P.O. HORSLEY:
Yes.

P.O. LINDSAY:
(Absent).
MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. 1834-12 - Authorizing support for the submission of a Local Government Performance and Efficiency Grant Application for the implementation of the Grants Management System (GMS)(Co. Exec.). Motion on this?

LEG. CILMI:
Motion.

LEG. STERN:
Second.

D.P.O. HORSLEY:
Motion by Legislator Cilmi, seconded by Legislator Stern.

LEG. HAHN:
Cosponsor.

LEG. CILMI:
Cosponsor.

LEG. CALARCO:
Tim.

D.P.O. HORSLEY:
Okay. All those in favor? Opposed? Abstentions? Do you got the cosponsors?

MR. LAUBE:
Fifteen. (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay). Who was the second on that?

D.P.O. HORSLEY:
Cilmi and Stern.

MR. LAUBE:
Thank you.

D.P.O. HORSLEY:
Okay. 1813 we've already done.

Parks & Recreation:

1706-12 - Authorizing use of Smith Point County Park property by Mastic Beach Ambulance Company for "Help Us Save You Program"(Browning).

LEG. BROWNING:
Motion.

LEG. HAHN:
Second.
D.P.O. HORSLEY:
Motion by Legislator Browning and seconded by Legislator Muratore.
All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1707-12 - Authorizing the use of Smith Point County Park, Cathedral Pines County Park, Southaven County Park, and Smith Point Marina by the Long Island 2 Day Walk to Fight Breast Cancer, Inc., for Breast Cancer Walk in 2013 (Browning).

LEG. BROWNING:
Same motion.

LEG. HAHN:
Second.

D.P.O. HORSLEY:
Same motion and Legislator Hahn seconds the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1753-12 - Authorizing use of Southaven County Park for the Craig Elberth Cross Country 5K Run (Browning).

LEG. BROWNING:
Motion again.

D.P.O. HORSLEY:
Legislator Browning makes the motion, seconded by Legislator Calarco.

LEG. HAHN:
Second.

LEG. CALARCO:
Second.

D.P.O. HORSLEY:
All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1754-12 - Authorizing use of Smith Point County Beach property by the American Cancer Society, for the Amazedness Kite Fly (Browning).

LEG. BROWNING:
Motion.
LEG. CALARCO:
Second.

D.P.O. HORSLEY:
Legislator Browning makes the motion, seconded by Legislator Calarco. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1782-12 - Authorizing use of Southaven County Park, showmobile and pavilion by Contractors for Kids for their Family Fun Day and Picnic Fundraiser (Co. Exec.).

LEG. BROWNING:
Motion.

LEG. CALARCO:
Second.

D.P.O. HORSLEY:
Motion by Legislator Browning, second by Legislator Calarco. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1783-12 - Authorizing use of Cupsogue Beach County Park by Barrier Beach Preservation Association for its 5k Race Fundraiser (Co. Exec.).

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman, seconded by Legislator Muratore. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1816-12 - Authorizing use of Farmingville Hills County Park property by the Farmingville Residents Association, Inc. Tails and Trails(Calarco).

LEG. CALARCO:
Motion.

D.P.O. HORSLEY:
Legislator Calarco makes the motion, second by Legislator Muratore. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).
D.P.O. HORSLEY:
1819-12 - Amending the 2012 Capital Budget and Program; accepting FEMA and SEMO Aid and appropriating funds in connection with beach replenishment at Meschutt County Park (CP 7163)(Co. Exec.).

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman, second by Legislator Anker. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Same motion, same second on the corresponding Bond issue, 1819A - Pending Bond Resolution (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of $96,850 bonds to finance a part of the cost of beach replenishment at Meschutt County Park (CP 7163.312). Roll call.

(*Roll Called by Mr. Laube - Clerk of the Legislature*)

LEG. SCHNEIDERMAN:
Yes.

LEG. ANKER:
Yes.

LEG. SPENCER:
Yes.

LEG. D'AMARO:
Yes.

LEG. STERN:
Yes.

LEG. GREGORY:
Yes.

LEG. NOWICK:
Yes.

LEG. KENNEDY:
(Not present).

LEG. BARRAGA:
Yes.

LEG. CILMI:
Yes.
LEG. MONTANO:
(Not present).

LEG. CALARCO:
Yes.

LEG. HAHN:
Yes.

LEG. MURATORE:
Yes.

LEG. BROWNING:
Yes.

LEG. ROMAINE:
Yes.

D.P.O. HORSLEY:
Yes.

P.O. LINDSAY:
(Absent).

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

Public Safety:

D.P.O. HORSLEY:
All right. 1822-12 - Accepting and appropriating a grant in the amount of $1,170,580 from the New York State Division of Criminal Justice Services for the Operation Impact IX Task Force with 90.19% support (Co. Exec.).

LEG. BROWNING:
Motion.

D.P.O. HORSLEY:
Motion. I'm sorry, who said that; Kate? Okay. Motion by Legislator Browning, second by Legislator Muratore. All in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1825-12 - Authorizing the creation of a Suffolk County Decontamination (Decon) Strike Team (Co. Exec.).

LEG. BROWNING:
Motion to table. And actually, the next three we're going to request to table. There were some questions that we didn't have answers to and I don't think there's anybody here from the County Executive's Office who can answer. So can we just table one cycle?
D.P.O. HORSLEY:
They got what they wanted and they ran out.

LEG. BROWNING:
Yep. Table one cycle, please.

D.P.O. HORSLEY:

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Motion's been tabled. I can't believe they all ran out.

1826-12 - Authorizing the creation of the Suffolk County Urban Search and Rescue (USAR) Team (Co. Exec.).

MR. ZWIRN:
We're still here.

LEG. BROWNING:
Ben's here.

D.P.O. HORSLEY:
Now there's a sewer guy for you. Oh, Ben's here. All right, I take it back.

LEG. BROWNING:
Back on 1826.

D.P.O. HORSLEY:
1826-12 - Authorizing the creation of the Suffolk County Urban Search and Rescue (USAR) Team (Co. Exec.).

LEG. BROWNING:
Motion to table.

LEG. MURATORE:
(Raised hand).

D.P.O. HORSLEY:
Motion to table by Legislator Browning. Second? Legislator Muratore seconds the tabling motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1827-12 - Authorizing the creation of a Suffolk County Incident Management Assistance Team (IMAT)(Co. Exec.).
LEG. BROWNING:
Motion to table.

D.P.O. HORSLEY:
Motion to table by Legislator Browning, second by Legislator Muratore. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1829 we've already done.

Public Works & Transportation:

1622-12 - Adopting Local Law No. -2012, A Local Law to further regulate utility poles on County road right-of-ways (Schneiderman). Mr. Schneiderman?

MR. NOLAN:
This is -- yeah, this is now a Certificate of Necessity, but we can table it now.

D.P.O. HORSLEY:
Okay. We have a motion to table, second by Legislator Calarco. All those in favor?

LEG. HAHN:
Recuse.

D.P.O. HORSLEY:

MR. LAUBE:
Fourteen (Recused: Legislator Hahn - Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1685-12 - Adopting Local Law No. -2012, A Local Law amending Chapter 740 of the Suffolk County Code in connection with revisions to sewer use rules and regulations (Co. Exec.).

LEG. GREGORY:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Gregory, I'll second the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1709-12 - Authorizing execution of agreement by the Administrative Head of SCSD No. 2 - Tallmadge Woods with Plaza at Miller Place (BR-0976) (Co. Exec.).
LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman, I'll second the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1710-12 - Amending Resolution No. 642-2011 in connection with the construction of Compressed Natural Gas (CNG) fueling facilities (Capital Program Number 5603, PIN 075961) (Co. Exec.).

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman, I'll make the second. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1730-12 - Amending Resolution Nos. 426-2009 and 251-2010 in connection with the replacement of CR 67, Motor Parkway Bridge over the Long Island Expressway at Exit 55, (Phase I), Town of Islip (CP 5172, PIN 075614) (Co. Exec.).

LEG. CILMI:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Cilmi. Is there a second on the motion?

LEG. STERN:
Second.

D.P.O. HORSLEY:
Seconded by Legislator Stern. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1758-12 - Amending the 2012 Capital Budget and Program and appropriating funds in connection with a Cost Benefit Analysis of Sewer Capacity, Demand, and Alternative Solutions (CP 8189) (Browning).
Legislator Browning, that's yours.

LEG. BROWNING:
Motion.
D.P.O. HORSLEY:
Motion by Legislator Browning, seconded by Legislator Schneiderman. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
We also have a corresponding Bond Resolution. 1758A - Pending Bond Resolution (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of $226,000 bonds to finance the cost of planning in connection with a cost benefit analysis of sewer capacity, demand and alternative solutions (CP 8189.112), same motion, same second. Roll call. Thanks.

(*Roll Called by Mr. Laube - Clerk of the Legislature*)

LEG. BROWNING:
Yes.

LEG. SCHNEIDERMAN:
Yes.

LEG. SPENCER:
Yes.

LEG. D'AMARO:
Yes.

LEG. STERN:
Yes.

LEG. GREGORY:
Yes.

LEG. NOWICK:
Yes.

LEG. KENNEDY:
(Not present).

LEG. BARRAGA:
Yes.

LEG. CILMI:
Yes.

LEG. MONTANO:
(Not present).

LEG. CALARCO:
Yes.
LEG. ANKER:
Yes.

LEG. HAHN:
Yes.

LEG. MURATORE:
Yes.

LEG. ROMAINE:
Yes.

D.P.O. HORSLEY:
Yes.

P.O. LINDSAY:
(Absent).

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. 1787-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of facilities for Sewer District No. 23 – Coventry Manor (CP 8149)(Co. Exec.). Same motion, same second -- to approve the motion by Legislator Schneiderman. You want the second? Legislator Cilmi seconds it. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1788-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of facilities for Sewer District No. 5 – Strathmore Huntington (CP 8115)(Co. Exec.).

LEG. STERN:
Motion.

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Stern, seconded by Legislator Spencer. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1789-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of the facilities for Sewer District No. 7 – Medford (Woodside - CP 8119)(Co. Exec.).
LEG. CALARCO:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Calarco, seconded by -- who's in there? Legislator Schneiderman. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1790-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of the facilities for Sewer District No. 7 – Medford (CP 8150)(Co. Exec.).

LEG. CALARCO:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Calarco, seconded by Legislator Schneiderman. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1791-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of facilities for Sewer District No. 10 - Stony Brook (CP 8175) (Co. Exec.). Stony Brook. Kara, where'd she go? Kara? Legislator Hahn makes the motion, second by Legislator Anker. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1792-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of facilities for Sewer District No. 11 - Selden (CP 8117)(Co. Exec.).

LEG. MURATORE:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Muratore, seconded by Legislator Schneiderman. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1793-12 - Calling for a public hearing for the purpose of considering the proposed increase and improvement of wastewater treatment facilities for Sewer District No. 14
-Parkland (CP 8128) (Co. Exec.). I don't know where that is. Where's that?

LEG. CILMI:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Cilmi. We'll go -- who cares at this point. I take that back. Seconded by Legislator Schneiderman. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

1794-12 - Calling for a public hearing for the purpose of considering proposed increases, improvements and extension of facilities for Sewer District No. 18 - Hauppauge Industrial (CP 8126)(Co. Exec.).

LEG. CILMI:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Cilmi, second by Legislator Schneiderman. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1795-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of facilities for Sewer District No. 3 – Southwest (CP 8170)(Co. Exec.). I'll get this one. I'll make the motion, second by Legislator Cilmi. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
1796-12 - Calling for a public hearing for the purpose of considering proposed increases and improvements of facilities for Sewer District No. 20 – William Floyd (CP 8148) (Co. Exec.).

LEG. BROWNING:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Browning. I knew that. Second by Legislator Muratore. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Number 1818-12 - Appropriating funds in connection with Replacement of Major Buildings
Operations Equipment at various County Facilities. 
(\textit{CP 1737}) (Co. Exec.). Do I have a motion on that?

\textbf{LEG. CALARCO:}  
Motion.

\textbf{D.P.O. HORSLEY:} 
Motion by Legislator Calarco, seconded by Legislator Schneiderman.  
All those in favor?  Opposed?  Abstentions?

\textbf{MR. LAUBE:}  
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

\textbf{D.P.O. HORSLEY:}  
The corresponding bond issue \textit{1818A - Pending Bond Resolution (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of $200,000 bonds to finance the cost of replacement of major buildings operations equipment at various County facilities (CP 1737.328)}, same motion, same second. Roll call vote.

\textit{(*Roll Called by Mr. Laube - Clerk of the Legislature*)}

\textbf{LEG. CALARCO:}  
Yes.

\textbf{LEG. SCHNEIDERMAN:}  
Yes.

\textbf{LEG. SPENCER:}  
Yes.

\textbf{LEG. D'AMARO:}  
Yes.

\textbf{LEG. STERN:}  
Yes.

\textbf{LEG. GREGORY:}  
Oh, yes.

\textbf{LEG. NOWICK:}  
Yes.

\textbf{LEG. KENNEDY:}  
(Not present).

\textbf{LEG. BARRAGA:}  
Yes.

\textbf{LEG. CILMI:}  
Yes.

\textbf{LEG. MONTANO:}  
(Not present).
LEG. ANKER:
Yes.

LEG. HAHN:
Yes.

LEG. MURATORE:
Yes.

LEG. BROWNING:
Yes.

LEG. ROMAINE:
Yes.

D.P.O. HORSLEY:
Yes.

P.O. LINDSAY:
(Absent).

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. 1755-12 - Designating “Fall Prevention Awareness Day” in Suffolk -- oh, I’m sorry.

1828-12 - Amending the 2012 Capital Budget and Program and appropriating grant funds for reconstruction of the Port Jefferson Wastewater Treatment Plant at Suffolk County Sewer District No. 1 - Port Jefferson (CP 8169)(Co. Exec.). Legislator Hahn --

LEG. HAHN:
Motion.

D.P.O. HORSLEY:
-- makes the motion, second by Legislator Schneiderman. All those in favor? Opposed? Abstentions? So moved.

D.P.O. HORSLEY:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Veterans & Seniors:

1755-12 - Designating “Fall Prevention Awareness Day” in Suffolk County (Stern).

LEG. STERN:
Motion.

D.P.O. HORSLEY:
Legislator Stern makes the motion. Is there second on the motion? Legislator Muratore makes the second. All those in favor? Opposed? Abstentions?
**LEG. SPENCER:**
Cosponsor.

**D.P.O. HORSLEY:**
Cosponsor, Legislator Spencer. We're good? Okay. We got cosponsors around. Okay. Raise your hands if you want cosponsoring fall prevention.

(*Legislators Calarco, Anker, Hahn, Gregory, D’Amaro, Spencer, Stern & Muratore requested to be listed as cosponsors to IR 1755-12*)

**MR. LAUBE:**
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

**Ways & Means:**
All right. **1635-12 - Further strengthening procedures for procuring consultant services (Kennedy).**

**LEG. CALARCO:**
Motion to table.

**D.P.O. HORSLEY:**
Motion to table by Legislator Calarco. Is there a second on the motion to table?

**LEG. GREGORY:**
Second.

**D.P.O. HORSLEY:**
Second by Legislator Gregory; is that okay? We have a motion to table. That's good. All those in favor? Opposed? Abstentions?

**MR. LAUBE:**
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

**D.P.O. HORSLEY:**
The motion has been tabled.

**1777-12 - Approving payment to General Code Publishers for Administrative Code Pages (Pres. Off.).**

**LEG. CALARCO:**
Motion.

**D.P.O. HORSLEY:**
Motion by Legislator Calarco, second by Legislator Gregory.
All those in favor? Opposed? Abstentions?

**MR. LAUBE:**
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

**D.P.O. HORSLEY:**
Page 12, **1823-12 - Authorizing the removal from public use status and the sale of County**
owned Real Estate, (SCTM No. 0200-987.00-01.00-046.004)(Co. Exec.).

LEG. CALARCO:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Calarco, seconded by -- who was that? Legislator Spencer was that?

LEG. SPENCER:
Yeah.

D.P.O. HORSLEY:
Okay, Legislator Spencer. All those in favor? Opposed? Abstentions?

LEG. CALARCO:
Cosponsor.

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. You got them? Okay, 31 and 32 we have already done.

1837-12 - Adopting Local Law No. -2012, A Charter Law to add efficiencies for the newly created Board of Ethics (Co. Exec.).
Motion by -- I'm sorry, Legislator Gregory, seconded by Legislator Stern. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

LEG. ROMAINE:
Cosponsor.

D.P.O. HORSLEY:
Go to the manila folder. All right. We have two Procedural Motions, No. 14 and 15. We all got them?

LEG. CILMI:
I got it.

D.P.O. HORSLEY:
You got it? Okay. Procedural Resolution No. 14-2012 - Apportioning Mortgage Tax By: County Treasurer (Presiding Officer Lindsay).

LEG. SCHNEIDERMAN:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Schneiderman.

LEG. CILMI:
Second.
D.P.O. HORSLEY:
Second by Legislator Cilmi. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fourteen (Not Present: Legislators Montano, Nowick & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Okay. **Procedural Resolution No. 15 - Approving partial settlement of AWP Litigation (Actavis, Hoffman La Roche, Mylan, Tap)(Presiding Officer Lindsay).** Motion on that? I think this is probably something that -- okay. I'll --

LEG. CALARCO:
Motion.

D.P.O. HORSLEY:
Motion by Legislator Calarco, I'll second the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fourteen (Not Present: Legislators Montano, Nowick & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
**Certificate of Necessity:**

We only have one CN. Congratulations to the Administration.

1884-12 - **Authorizing the County Executive to Execute an Access Agreement/Temporary Easement with the New York State Department of Environmental Conversation for the Continuation of the Shinnecock Inlet Dredging Project (Co. Exec.).** Legislator Schneiderman makes the motion, Legislator Romaine seconds the motion. All those in favor? Opposed? Abstentions?

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
Nice. I'll make a motion to waive the rules and lay on the table the following resolutions.

LEG. SCHNEIDERMAN:
Wasn't there a second CN?

LEG. ROMAINE:
Second CN he's asking.

MR. NOLAN:
We took care of it.

MR. LAUBE:
1622, we tabled it.

D.P.O. HORSLEY:
Okay. Are we ready? 1876 to Human Services; 1877 to Public Safety; 1878 to Education & IT; 1879 to Education & IT; 1880 to Vets & Seniors; 1880 -- is that a seven -- 1881 to Public Works; 1882 to Public Works; 1883 to Parks & Recreation; 1885 to Ways & Means; I need a second on that.
LEG. CILMI:
Second.

D.P.O. HORSLEY:
Second by Legislator Cilmi. All those in favor? Opposed? Abstentions? I believe --

MR. LAUBE:
Fifteen (Not Present: Legislators Montano & Kennedy - Absent: Presiding Officer Lindsay).

D.P.O. HORSLEY:
We are adjourned. Thanks, gang. Nice job.

(*The meeting was adjourned at 11:15 PM*)

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