

**Continuing Care Retirement  
Community Council Meeting  
September 14, 2016**

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Mark Hennessey: I'm Mark Hennessey, I'm the Chair of the Council and I have the privilege to call to order the meeting of the Continuing Care Retirement Community Council and welcome members and participants and observers.

I would like to remind Council members, staff and the audience that this meeting is subject to open meeting law and is broadcast over the Internet. Webcasts are accessed at the Department of Health website which is [www.health.ny.gov](http://www.health.ny.gov). The on demand webcast will be available to later than 7 days after the meeting for a minimum of 30 days and then a copy will be retained in the Department for 4 months.

Here are some suggestions and ground rules to follow to make this a successful meeting. I'd prefer if people would address each other as Council Member and last name just to help sort of move through the process. I know all of us know each other on a first name basis but I think it will just help us for decorum purposes. Because this is a synchronized captioning, it is important that people do not talk over each other. Captioning cannot be done correctly with two people speaking at the same time. If Council members wish to speak, please stand your nameplate up on end or raise your hand. We will call upon you in the order you indicated your intention to speak.

The first time you speak it would be helpful if you would state your name and briefly identify yourself as a Council member or DOH staff member. This will be of assistance to the broadcast company to record the meeting. Please note, as we've said a couple of times now, I think that the microphones are hot and it would be helpful if you had additional comments you want to make, that you'd step away from the table if they're not related to Council business. I would also ask that at this time anyone who is on the Council or anyone in the audience just take a moment and silence your cell phone. So if anybody hasn't done that that would be very helpful.

It's required that we're going to get a record of appearance form from the people in the audience. As a reminder, there's a form that needs to be filled out before you enter the meeting room which records your attendance at these meetings. It's required by the Joint Commission on Public Ethics in accordance with Executive Law Section 166. The form is also posted on the Department of Health's website which I mentioned earlier under the Council Section of the CCRC page. In the future you can fill out the form prior to the Council meetings if you so choose and we want to thank you all for your cooperation with fulfilling these duties of the Council as prescribed by law.

Members of the public are only allowed to address the Council if they sign up to speak during the public comment period. Comments will be limited to 3 minutes per speaker. Members of the public are not allowed to hand out materials directly to the Council or question the Council, they can only make public comments to the Council for consideration.

I would like to take a moment to introduce the members. We currently have 9 of 11 seats filled and we're pleased that the Governor nominated and the senate confirmed 5 new members to the Council. So please join me in welcoming the following; Harriett Barnett who is a resident of

Kendal on Hudson CCRC, James Davis who is the CEO of Amsterdam at Harbor Side CCRC, Alicia Laible-Kenyon who is the President and CEO of Elderwood Senior Care, Carol Fenter who is a resident of Jefferson's Ferry CCRC, Brian Nealon CEO of the Wesley Healthcare Center, Mr. Nealon was not able to be with us today due to a prior commitment. I'd also like to welcome 2 new agency representatives to the Council, James Sheehan who is the Bureau Chief of the Charities Bureau of the Office of the Attorney General, and Barbara Stubblebine who is the Director of Communications for the State Office For the Aging. Barbara unfortunately was not able to join us today.

And that leaves us with one returning member, Wayne Kaplan who is a partner at Ruskin, Moscou, Faltischek if I did pretty badly with that name. Unfortunately, Mr. Kaplan was not able to be with us today due to a prior commitment.

We are also joined by Mike Herron up here with us who is staffing the event and he's been a tremendous help in our preparations for the meeting today. We look forward to working with all of you as you bring your individual expertise to this Council. So thank you very much.

We're going to move through the agenda that we have today with one variation. We will still talk about the election of the Vice Chair but we will not actually be taking a vote on the election of the Vice Chair today. I know I had thought that that was going to be something to take up on the agenda, but we will talk about it at one point.

So the first item on the agenda today is the proposed updates to the Council Bylaws. Last week we sent Council members proposed revisions to the CCRC Bylaws. We now wish to present these proposed changes to the Council as required by the Council Bylaws. The by-law amendments must be presented to the Council at the Council meeting prior to the meeting at which they are voted on. So we won't be voting on those changes today, we'll just be presenting them. You'll have time to look at them. Have any thoughts or comments you may have about them and then at the next meeting we'll probably take a vote at that point.

I'll briefly highlight the changes proposed and the need for the change. First, the Bylaws make reference to the outdated term for the program and the Council. The proposed changes are being made to reflect the correct language, the term life care is being replaced with continuing care retirement throughout the Bylaws.

Second, regarding meetings of the Council, chapter 549 of the Laws of 2014 revised Article 46 Section 4602 sub 2 to require that the Council meet as often as deemed necessary to fulfill it's responsibilities. The bylaws are being revised in a way to help facilitate this change in law.

Third, two minor revisions were made in the Office of the Council section requesting that the Bylaws be revised to reflect that the record of the Council now reside in the bureau that is charged with overseeing the CCRC program and supporting the Council. The other change is that we are requesting to take advantage of webcasting technology and replace Council minutes with the webcasting transcript. This change will save valuable staff time while we maintain an

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accurate account of the meetings. And we're being facilitated today for those purposes which makes it available to everyone here and anyone who couldn't be here, which is a good thing.

And last, we made a few changes where there was reference to 5 days in the Bylaws for presentation of materials; for clarification purposes we changed that to 5-business day. I hope that will be more hopeful for people.

So I would ask at this point if anyone has any questions on the proposed amendments? And I'll just open to see if anyone on the Council has any questions?

Female: Mark I have, you said business day but it says calendar days on here.

Mark Hennessey: Calendar sorry. My mistake. Any other questions, comments? Okay well hearing none, please review the changes and be prepared for a vote at the next CCRC Council. And thank you very much.

The next item on the agenda is the adoption of the 2016/2017 Council schedule. As per the Public Health Law section 46022, the Council is required to meet as often as necessary to fulfill its responsibilities. I would ask at this point may I have a motion to present the proposed 2016/2017 CCRC Council Meeting schedule.

Council Member Sheehan: So moved.

Mark Hennessey: Okay and the motion was by Council Member Sheehan. And can I have a second? Motion for the second was by Council Member Davis. Is there any discussion? Okay hearing no discussion, the ayes have it and the motion passes.

We had a motion and second I take it back. We didn't vote yet. Thank you. So may I call for a vote? All the ayes

(Chorus of ayes). All the nays? Okay motion passes.

Alright the next item on the agenda is a presentation on the CCRC Program, Mike Herron is going to give us that presentation. It's going to be a brief presentation regarding the status of the CCRC Program. Mike has been the DOH staff person directly involved in the oversight of the CCRC Program for the past 3 ½ years. In the interest of time, please hold your questions and comments until after Mr. Herron has finished his presentation. Mr. Herron?

Mike Herron: Welcome everyone. First of all, congratulations on your first successful vote in the Council in quite some time. Its good news, good start. I'm going to give some brief background on the CCRC Program. This is a version of a presentation I usually give to other people across the state about the program and provide you with some vital information and background information and get you up to speed about what's been going on since the Council last met.

Just so everybody is aware when we say the term CCRC that's actually a term defined in Public Health Law Article 46 & 46-A of Public Health Law describing and define was a CCRC actually is which is a Continuing Care Retirement Community. I'm not going to read exactly from the slide. It's up there for everybody to read and follow along. But just so we're aware of what it is, it's a comprehensive and cohesive living arrangement for the elderly and it contains three elements which is usually an independent living unit, skilled nursing facility and its usually some sort of assisted living which usually in this state is some sort of enriched housing. They also get additional services that are geared toward senior care and they're listed up there on the screen.

The CCRC Model that we have that we operate in the State I have outlined some things that are pretty specific to the State. There are CCRC's in other states but this one in New York you enter into a CCRC through a residency agreement and that includes an entrance fee and a monthly fee. So you pay an entrance fee and that's usually somewhere north of \$100,000 and a monthly fee and that monthly fee covers the services that the resident is provided.

You may only enter a community as a resident by signing a contract or residency agreement and moving into an independent living unit. The exception that is on the books right now is the Care at Home model which has an exception for coming in from the home under a contract. But an important thing under both contracts is that you are considered a resident through the contract and you have a contract binding you. And that contract defines your services. It's going to describe what the resident in CCRC receives and what they're available to get and what is actually covered under their payments. And that contract, I like to tell people that contract is kind of a commitment. It binds the CCRC to the resident themselves. The resident is making a commitment to get services and receive services at the CCRC through the continuum of care for usually the remainder of their life. And that community is making through that contract a binding agreement with the resident that they'll provide those services but really ties the two together. We do have what's called look-alikes in this state, New York State and they often will provide all of these levels of care but they don't have that binding contract that really binds the two together. So residents are free to either receive the services elsewhere around the community.

And in a CCRC when we talk about the contracts that are in place, there are different types of contracts. We'll go through them, I'm not going to read these again verbatim, I'll just give you overviews of each. The more traditional one was the Life Care Contract and that contract generally covers services its like Long-term Care Insurance for the person's remainder of their life. Its usually under a fixed amount that is stated as a monthly fee and that doesn't change. And again that covers the resident as they move through the continuum of care as their care needs change that will be covered under the contract under a fixed amount.

The other type of contract that is offered is the Type B contract and it is often referred to as the Modified Contract. And that contract again includes the continuum of care. by law it must cover at least 60 days of skilled nursing coverage under that contract and that's above and beyond Medicare coverage and the resident can then have it stated in their contracts what they do

beyond and above that and at what rate. So some of that care can be paid for on a per-diem basis out of pocket or it could be contracted for in the contract as well. So this is still just like the Type A. The Type B is considered an insurance product as well because its prepaid healthcare coverage for 60 days of skilled nursing care.

Then we have the Type C contract and that Type C contract is usually referred to as a Fee-for-Service contract and that contract covers the residents throughout the continuum of care but it doesn't have prepaid healthcare insurance involved in it and included in it other than to provide the care on campus that's not paid for. So the resident would have to pay out of pocket for any of the healthcare facility services that they receive, it's not covered in the rate.

We have a new contract type, we actually have none of these contracts in New York State right now but it was approved. We're calling it the Type D, real original, just went with the alphabet and its called Care at Home. And that contract will, it was just in 2014 approved but will allow a contract holder to stay in their home and not move into an IOU and receive services from the CCRC and be considered part of the community and a resident and then they could then move onto the community to receive higher levels of care and also access other services at the CCRC. So a resident under this contract does not live at the CCRC but is contracted to get services there.

So in this slide I kind of lined them up because we do have two sections of Article 46 that authorize CCRC's and I put them side by side for comparison purposes. And you'll see the Article 46 CCRC on the left can offer 4 types of contracts A through D. They must offer under the New York State Law Article 46 an A or a B contract and then on top of that they can choose to offer a Type C or a Type D but they must, if you're an Article 46 you must offer a Type A or B to residents. And Article 46's in New York State are regulated by the Department of Health and we also, because it's an insurance product and there's prepaid healthcare involved, they are regulated by the Department of Financial Services as well under the insurance law.

Article 46-A CCRC's are Fee-For-Service CCRC's and they're only allowed to offer Type C Contracts Fee-For-Service Contracts. They cannot offer Type A, Type B or Type D contracts. And those entities are only regulated by the Department of Health because they don't have prepaid healthcare, they're not considered an insurance product.

So I did a nice little graphic here to show you the two types of contracts we have under Article 46 and 46-A, and just to show you it is an umbrella type of contract and covers all the elements of a CCRC. You have the Independent Living Unit or home which is the entry point into the model in the state and then you have the other two levels of care on the campus, or nearby location, which is the Assisted Living with Skilled Nursing. And that contract covers the resident throughout that continuum of care.

Now some current information on the program itself. Here are our twelve CCRC's in no particular order. Our Article 46-A and we only have one in this state currently authorized as Good Shepherd Village, it's number five on the list. All the other CCRC's listed there are Article 46 CCRC's, and they're all active at this time.

I have some facts I'm going to present to you about the program I like to tell people when I'm talking about the program. There are 12 CCRC's spread across the state, it's from the Buffalo Region to Long Island. And they are spread throughout the state. We have some in the Rochester area, some in the middle part of the state, and then some down in the Westchester areas as well.

Some other facts, in the next couple bullets I point out that all 12 CCRC's are not for profit. We have two potential new CCRC's on the horizon that are also not for profit. And we have on that's in the process of being purchased through a court order and that is also a not for profit. The big take home from this slide is that they are all not for profits in this state right now. That is not to say that a for profit entity cannot operate a CCRC. There's nothing prohibiting that. Actually I believe most of this would be a function of the funding mechanism the industrial development agency funding that was used to create the program was limited to not for profits.

Another fact is that, I like to tell people is that, there's approximately 2,300 Independent Living Units that are active and supported by Adult care Facilities and Skilled Nursing Facilities. This is not a small, small program. There's lots of people living in CCRC's and this is their home. And something that I try to remind myself often is that people live here, this is their home. And there's 2,300 people who can be living in a CCRC at any time in the state.

We also try to let people know that CCRC's do provide employment opportunities for local economies. They infuse money into local economy not only through employment but through spending. They spend in their local economies by buying goods and services. And they are mostly funded through private dollars. Most of the money that's being paid into the CCRC is private money from the residents. There is some Medicare money that's paid for the Medicare coverage and there's very little Medicaid dollars involved here.

I'm going to highlight some recent activity in the program. Through the previous Council, proposed and it was passed, a regulation for the to our health regulations that allowed some reconfiguration projects to be approved by the Department of Health without Council approval. I want to highlight some that have been recently approved and actually most have been completed.

The first being Peconic Landing, and it's down on Long Island, and it's some apartments and they put in a brand new Memory Care Unit for memory care. And that has just recently been completed. I've actually seen it, it's very nice. And they're very proud of it and they should be, it's very nice.

Kendal on Hudson, CCRC just reconfigured their community basically to reflect the change in healthcare that the department is also promoting as well, which is to provide care at the least restrictive environment and they've converted some of their skilled nursing into Memory Care Unit as well to benefit their residents. And that is just wrapping up, I believe it's done officially

now and active and the residents seem to be very happy with it. But we can actually hear from a resident themselves, they're here right now, one of the Kendal on Hudson residents.

And Kendal at Ithaca is just finishing up their project. They've added some apartments there as well and did some expansion at the Skilled Nursing Facility and upgraded their facility to support that expansion.

One of the reconfiguration projects you might be hearing about, it has made a lot of news in the Buffalo area, is the Canterbury Woods project. And it's referred to as the Gate Circle Project, the old Fillmore Gates Circle Hospital was imploded, and big publicity out there, and they're going to build some Independent Living Units there. That is a CCRC that's just on the outskirts of Buffalo and they believe that there's a market to build a small Independent Living Unit complex right down the road. That Independent Living Unit complex will be serviced by the main campus for the healthcare needs and all the other CCRC needs. So it's considered part of the community. It's just they're trying to be part of the Buffalo revitalization project and appeal to some people who still like to be closer to the city. And again, it's just down the road from the current campus.

We also have some new CCRC's on the horizon. The department's been approached and been in discussions with two new possible CCRC's that may be making an application, one very shortly, to the Council for approval. But under the regulations and law the Department of Health does have the ability to approve priority reservation agreement applications without Council approval to allow prospective CCRC's to try and test the water and marketing before they come forward for formal approval.

And we have one that was submitted by the River Spring in the Bronx and they have submitted an application but they have currently asked to be put on hold because they have to work out some zoning issues with the property.

And Fountain Gate Gardens in Suffolk County has been very active. They've been approved to take priority resident agreements by the department, have been actively doing so, and to my knowledge have been very successful in it and may be looking to come forward with, actually they've submitted, I should say, certificate of authority application to the department and we may be looking to come forward with that soon for approval.

Both of these communities I should note, they were already providers of Assisted Living and Skilled Nursing, they had that element on campus and both had property become available right on the campus to build Independent Living Units. So these two entities will already have Licensed Skilled Nursing care and Licensed Assisted Living care on the campus and active. And they will be building Independent Living Units and then contracting with those existing licensed entities to provide those services.

We did have a certificate of authority, conditional certificate of authority, that was approved by the previous Council. And that has been surrendered, it was surrendered last year and it was for

the Club at Briarcliff. And they were authorized to take ten percent deposits on 169 Independent Living Units. It was an Article 46-A Fee-For-Service community and they weren't able to make a go of it in the marketing so they decided to surrender their certificate of authority and they're no longer active.

We do have a bankruptcy case that some of you may be aware of. I have a slide coming up, a whole presentation actually, a set of slides on this, and it's the 2015 Westchester Meadows CCRC filed a Chapter 11 Bankruptcy case. And the court recently approved that Bethel Methodist Home would be awarded the rights to file an application to continue operations as a CCRC. And you'll hear more about that in a little bit.

Another thing that's happened since the Council last convened is in 2014 there was a new law passed for the program that authorized Article 46, and Article 46 only, CCRC's to offer care at home contracts. It's what I referred to earlier as the Type D Contract. And that product is now available to be offered, the law made it so. But part of the law stated that they would have to come to Council for approval. So a community right now cannot come to the Department of Health and ask for approval, it will have to come to Council for a formal vote to add that contract type. And we currently don't have any interest or anybody looking to add that, to file that application and add that contract. And we'll also be looking to the Council for support on how to promote this new product line and what it looks like and what the application will look like. And that's actually part of the charge of the Council to help us in that matter in general.

We also had a lot of debt refinancing going on in the communities. They've been taking advantage of the lower interest rates and they've been coming forward to the Department to approve their financing to take advantage of that rate. In most cases they're just looking to lower their debt service costs and in some cases some of them have been adding the cost of some of the work that needs to be done, minor work they add to their debt load. But we do review those applications with the Department of Financial Services and do approve them as long as it doesn't cause harm to the community and financial, cause any sort of financial harm, and they have the ability to meet that debt load change. And in most cases it refers, it either results in savings to the community or they take that savings and invest it into the community itself, so it's break even.

Lastly I have some slides on the CCRC Council. I'm going to go over them briefly, I'm not going to go through all the details, they're there for you to look through. But just important to note that we now have nine of 11 Council seats filled. We did have ten but recently one of the members, Josef Posset had to resign his Council seat. So we were going to have ten now we're down to nine. And we will be looking to fill those two seats in the near future.

I am pointing out that Public Health Law Section 4602 states that the Council shall meet as often as deemed necessary to fulfill its responsibilities. Why I want to point that out here is that's actually a change that happened in 2014 to the law. So that's different than the last time the Council met. Previously the Council was required to meet four times a year. So now it's as



deemed necessary and we've just approved our new schedule for next year but it does allow for us to call meetings as deemed necessary.

There's a bunch of powers and duties listed on the next bunch of slides, I'm not going to go through them but they're there for people to read. And I just want to drive home the point that Public Health Law under 4602 is what defines what the powers and duties of the Council are. They are related, in most part, to help give the Council authority over the certificate of authority for CCRC. And that includes change of ownerships, that includes establishing a new CCRC, that includes taking any negative action against that certificate of authority. It's kind of a checks and balance that you as a group have over the certificate of authority. And does not allow the Department to do things to the certificate of authority, or create new certificates of authority without coming to the Council, and it is your power that you have to make that decision making part of that process. We do, the Department will make recommendations to the Council but you will have to take the formal vote on that.

There's also some items in there about helping us out with making suggestions on applications and streamlining regulations and oversight. And those are all important as well and we'll be looking to the Council in future agendas to help us out with that. Also make some recommendations on regulations and so forth and policy. So we expect to be active in doing those things as well. And again I'm not going to go through every single one, I just kind of paraphrased it.

I do have some resources that I'd like to point out that are available to the public and to the Council. First we do have a CCRC webpage and I'm in the process of updating it. I've done it a little bit. We've added a section for the CCRC Council so that people can go to it and get updates on what our agendas are, when our meetings are, and some of the materials. And we'll be posting these materials, these presentations, to that website hopefully soon. I do have a request in. There is a big long string of terms there, string to get there. The biggest thing to do is if you go to the search corner of the DOH webpage you can type in CCRC and one of the links should get you there. Or I tell people to go to the bottom of the screen and there's topics A to Z, if you click on that and click on Long Term Care, that's the section we're under. So there is a webpage that lists all the active communities and it will list Council activities as well.

We do have an email account. And we ask people who have questions on the CCRC program to send questions to this email account. It's [CCRC@health.ny.gov](mailto:CCRC@health.ny.gov), I was real creative there. But at least it's easy to remember and short, you don't have to do a lot of typing. And myself or one of the staff members will answer any questions that come in.

We do have a listserv. And listservs are used by New York State to blast email people on things that are related, that may be of interest, interested parties for CCRC activities. This Listserv will mostly be used for Council activities to make members, so interested parties of the public know about activities. And we'll be sending out things like agendas and materials out through that listserv. It is available for signup. It's kind of an automated process that I'm not super familiar with. I have instructions out there, but more importantly we have more detailed instructions that

we can hand out to people who are interested. And we also have, you can email the CCRC email account at [CCRC@health.ny.gov](mailto:CCRC@health.ny.gov) and we will send you those instructions.

At this time, I would like to ask the Council members if they have any questions. Again, this is for Council members only, not members of the public.

Council Member Sheehan: Mr. Herron, two questions.

Mike Herron: Yes.

Council Member Sheehan: From slide 29 and slide 32. 29 address charges for operators and I didn't know about those charges until I read the statute. Are there such charges at this time?

Mike Herron: Yes, there are. It's \$50 per Independent Living Unit. That is based on the annual statements that are filed with the Department which usually come in mid-May or June. And then we pull those together and it will usually go out with a solicitation letter for those charges. We calculate them based on the annual statements, the IOU's reported. And they pay the fees. We currently just received the last of this year's fees yesterday. So they're all current and paid and we keep an accounting of that and make the deposit into the account.

Council Member Sheehan: And what happens with the funds that are raised?

Mike Herron: Those funds are used to pay for CCRC activities. The most being the triannual surveys that are done. We have a memorandum of understanding with our partners at the Department of Financial Services to conduct those onsite reviews and those site reviews are billed against that account. It will also be used to pay going forward Council activities, the cost of webcasting, the cost of travel for all of you will be charged to that account as well. So that is an offset account for expenses for the program.

Council Member Sheehan: The second question I had with respect to slide 32, powers and duties to review and approve proposed financing by IDA's and is that just initial financing or is that for refi's as well?

Mike Herron: I believe that's just. Is it initial or?

Cynthia: I would assume that it would also be for refinancing. However, IDA's are not currently authorized really.

Mike Herron: That's my understanding as well.

Council Member Sheehan: Okay, thank you.

Mike Herron: Right, so that's kind of.

Council Member Sheehan: Dead letter.

Mike Herron: Dead letter, right, and most of the refinancing that has been done has been not, they're getting out of the IDA funding. They're financing out of the IDA bonds.

Thank you Cynthia.

Mark Hennessey: Are there any other questions for Mr. Herron or the Department on this topic? Okay, thank you Mike.

Our next agenda item is a presentation on the Westchester Meadows CCRC Bankruptcy. This presentation is being made to provide Council members with background on the matter related to an Article 46 CCRC that was recently the subject of a sale motion by Federal Bankruptcy Court. It's anticipated that this sale motion will require future Council action but at this time the material is being presented for informational purposes only. Mr. Herron?

Mike Herron: That's me again and I'm glad that my technology cooperated and I was able to change slides. I was sweating the most.

So we want to present some background material to you today on the Westchester Meadows Bankruptcy case. It's a case you may or may not be familiar with but we want to give you enough background because we do expect that in the near future the Council may have to take some action related to this bankruptcy case and we want you to be familiar with it enough so that you're educated on the matter should something have to come forward.

And first I'm going to give you some background on Westchester Meadows CCRC itself. It is located in Westchester County as the name would lead you to believe. It is a not for profit CCRC, as all of our CCRC's are in this state. It is licensed to operate 120 Independent Living Units, 12 Enriched Housing Units, and 20 Skilled Nursing Units. That's what it's licensed for. It currently has 75 out of 120 Independent Living Units under contract, which equates to a 62.5% occupancy rate. There are 90 residents in Independent Living Units and that includes spouses. So each contract can have a spousal rider to include a spouse and that's why the number varies from 75 to 90, that's why we jump up, it includes spouses. And then you have three in Enriched Housing and nine in the Long Term Care Skilled Nursing beds. Just for background, occupancy has been an issue over time. And operations have been supported over time through financial support from their parent organization.

And I've thrown a map up here just to kind of give you an idea, most people are familiar with New York, but this is down by north of New York City, just east of the Tappan Zee Bridge on 287, north of 287 there. And we do have some CCRC's in the neighborhood of this CCRC. We have Kendal on Hudson who's just west of there, by where it says Tarrytown. They're actually in Sleepy Hollow so they're very in close proximity. We have one of our Council Members CCRC located, I believe, I'm not great with maps and Long Island, I'm a Northern New York guy. But I believe it's just south of there, one of the little points is Amsterdam at Harper Side.

And just to the far east and right of the map you'll see the word Port Jeff starting off and we do have a CCRC out there and one of our Council Members actually is from that CCRC as well in Port Jefferson it's called Jefferson's Ferry.

Just to continue on with the facts. Westchester Meadows was part of a larger healthcare organization called Hebrew Hospital Home which at one time did include a managed Long Term Care Plan. It included home care services which included a Certified Home Health Agency, which you hear referred to as a CHHA. And a Licensed Home Care Services Agency which is oft referred to as LHCSA. And it also included a Skilled Nursing Facility. Over the past few years the parent organization has been selling or spinning off the operations of those other healthcare entities. And what I want to drive home here is the only current part of that healthcare operations that is actually serving the public and residents is the CCRC. All of those other healthcare entities are in wind down mode. So the CCRC is the only one providing actual services to people right now.

So how did we get to bankruptcy? The initial plan was for Hebrew Hospital Home to use the proceeds from the sales of their healthcare entities to fund CCRC operations and revitalize the community. They were going to put money into the program to make a go of it. But unfortunately in May of 2015 there was a group of creditors who filed an involuntary Chapter 11 Bankruptcy proceeding against the Managed Long Term Care Entity, Choices, which the parent was still liable for some of the debt. And that's what sparked a June 2015 meeting between the affiliated boards to discuss the financial matters at hand. The actual board of the CCRC is called Hebrew Hospital Senior Housing, Inc., they're the legal operator of the CCRC, and they were advised of the lack of cash resources to continue funding CCRC operations and the possibility of the need for bankruptcy filing. It is our understanding that based on this meeting the board decided to stop entering into new residency agreements at that time and to stop paying entrance fee refunds due.

On July 13, 2015 there was a letter distributed to the residents of the CCRC advising them of the financial matters at hand and that there may be a need to sell CCRC through a Chapter 11 Bankruptcy process. And it was all pretty much laid out to the residents what some of the challenges were and that they would be suspending any sale of new units and not be paying entrance fee refunds that came due. And then the CCRC was finally put into bankruptcy on December 9, 2015.

After it was put into bankruptcy they had to approve a bankruptcy sale process and I'm going to describe that in the next few slides. The initial plan was for the CCRC to solicit sale of the facility by identifying a stalking horse bidder to act as the floor of the bankruptcy auction. At the time I was not a bankruptcy expert but I quickly had to learn the lingo and the terminology and I'll teach you all it now.

A Stalking horse bidder is an entity that signs an asset purchase agreement with the CCRC itself and then it's approved by the bankruptcy court. That acts as a floor for an auction that's to be held and other entities can come in and bid against that to make it higher, it has to be higher at

certain increments. But what the stalking horse gets is they get some protections including usually a breakup fee should they not be awarded the bid on auction. And this is all approved by the court. And this was the plan.

Unfortunately, while the bankruptcy process was ongoing the CCRC started to run low on operating funds and they went to the court to request what was called debtor in possession financing. And this was to be used to continue to fund operating costs. And really what this equated to was they needed money to run. They were going to use the value of the asset to leverage themselves to get money from a lender to keep funding operational costs. The court in that decision decided to only let them do so to an amount that would give them money to operate through September of 2016 based on what their spending was. And the court said in the ruling that it did not want to allow any further funding because it wanted to protect the value of the asset for Bankruptcy Court. And it did determine in that ruling that the matter should be resolved by September 30<sup>th</sup> because the CCRC was running out of money at that time.

Unfortunately, again the CCRC could not reach an agreement with a stalking horse bidder and in the interest of time the court actually had to approve a sales process that was initially supposed to be stalking horse in a bid and it was going to go just to a process where they took bids. And in July 2016 two bids were submitted under that process. One was to continue the facility as a CCRC, and the other was to convert the property to Senior Housing. Now based on those two bids and the difference in those two bids the court made the determination that there would not be an auction, that an auction would not be a viable way to proceed, and they would actually hold a hearing to make a determination.

And prior to the hearing on the sale the bidders were allowed to present to the residents their proposals. They did so at the CCRC location itself. There was a meeting held where both bidders were present. They took questions, both beforehand and at the meeting, and both bidders were allowed to address those questions and tweak their proposals accordingly. And then the residents were allowed to express their preference through a vote. It was a non-binding vote or ballot but they were allowed to express that to give the court and to the board an idea of what their preference was.

I'm going to briefly go through the details of the bids and I'm going to warn you that there's a lot of details on here and I'm not going to run through every single one but they are here for people to read and look through.

The first being the Focus Health Partner bid. That bid was from a Chicago based for profit entity that wanted to convert the property to Senior Housing. To do this they would have to surrender all the licenses that were currently at the facility for the CCRCm which included the Article 46, the Article 28 Skilled Nursing Facility license, and the license for the Enriched Housing. Those entities would not exist anymore and the people in the healthcare facility would have to be transferred to another licensed facility. They were offering to pay the residents their entrance fee refunds due back that could be used for Independent Living Unit residents to stay at the CCRC at the current monthly rate that they were paying but do it as housing, not as a CCRC. And then the

healthcare residents could use that money to offset the cost of having to receive care and move to another facility off site.

I have more details here just on the specifics of that bid. Again, this would have required the health facility portion to close. There would be no future care provided at the facility. They did, I do want to point out, they did make a proposal to try and buy an insurance contract for residents there who stayed there under the Senior Housing and offset it with an insurance policy but that has never been officially approved by the court, it's been tabled by the court I believe at this time.

Oh and one important thing I did want to point out to the Council is if this proposal were to go forward it would not require Council action. It would not require Public Health, any Council action or Department of Health action other than the closure plan because it was a conversion to Senior Housing it would not come before this body for a vote.

The Bethel Methodist Home bid on the other hand was to keep the property a CCRC and pretty much operations ongoing as they were. Bethel Methodist Home is a not for profit Licensed Long Term Care provider in the county and they operated Assisted Living, Skilled Nursing, and Independent Living Facilities in the county. Again, they proposed to keep the CCRC pretty much as is. the problem there is that there was a liability for the current resident refunds owed to current residents should those refunds contracts be terminated and those refunds become due, and that would have been a problem for financing. So in the proposal they had a restatement of that entrance fee as part of the proposal to reduce that entrance fee to a lower number.

And there were some other asks that they had in the proposal. Just to allow time to bring the CCRC up to speed and meet the requirements. And those were in part of the proposal. This proposal was considered by the court and ruled as the court as a transfer of the license and Bethel would be subject to the Department of Health review, Department of Financial Services review, Public Health had help getting Council approval for the Article 28 SNIF license, and then CCRC Council approval for the Article 46 license as well. So this is subject to this body's approval. And the court would then make a ruling to discharge the debt through the bankruptcy process and then pass the facility, the asset and the facility, through to Bethel Methodist Home with the revised resident contracts.

And I quickly want to state that Bethel Methodist Home at this time does not have any authority to enter into contracts with residents. That has to be granted by this body here, the CCRC Council, so the current contracts that need to be revised have to be done by Westchester Meadows CCRC which is the debtor in this case. So they would have to submit to the Department those revised contracts, that entity would, for approval which is required. And then they would have to, Westchester Meadows itself, would have to engage the residents to restate the contracts and again, they're restating the entrance fee. The balance for the entrance fee that was being restated at a lower amount, the balance from the original entrance fee was going to be restated as a conditional payment that would be paid at a future date should specific financial indicators by the CCRC be met. And that's being done to protect the community so they don't

have to pay this conditional payment and put this community in jeopardy, financial jeopardy. And again, those would have to be submitted to the Department for approval. The previous residents and their estates that were currently owed entrance fee refunds due they would be subject to the court ruling to the proceedings as unsecured debtors in this part of the bankruptcy proceeding.

So there was two bids, the court had to make a ruling, so I'm going to briefly talk about what the court did and where it puts us. So the court has a hearing in mid-August and it heard testimony from all sides, both parties, the debtor, the creditor, and it weighed the facts. The court made the ruling based on some information but it weighed that the debtor, Westchester Meadows' board, and the residents had a strong preference, I won't say strong, but they had a preference for Bethel's proposal why the creditors, and by creditors I mean the nonresident creditors did as my understanding express a preference for the Focus proposal.

On August 22<sup>nd</sup> the judge presiding over the case awarded in favor of Bethel, the awarded Bethel the proposal. And they stated they would do so by transferring the assets to Bethel free and clear in exchange for \$16.1 million in a purchase price to be used to liquidate the debt of the CCRC.

Bethel was going to award it through court the right to make an application to assume the rights of the licenses through a change of ownership. The court ruling gave Bethel the right to file the application and that's what they're in the process and going to do. They would assume the assignment of the revised contracts as part of this ruling as well. And those contracts would not go into effect, the revised contracts, until they actually closed on the facility.

Importantly to all of us is that the judge ruled that the agreement had to be executed and done and the transfer of ownerships approved by October 31<sup>st</sup>, 2016. That's October 31<sup>st</sup>, 2016. At that time Bethel would officially assume full operational control. So those looking at a calendar can figure out pretty quick that there's going to have to be an action coming to the Council soon. The CCRC, this was done because the CCRC was going to run out of money on September 30<sup>th</sup>. And as part of this process the court recognized that, but it also recognized that it would take time to get the statutory approvals needed. So in the order it made a provision for Bethel Methodist Home to pay up to \$200,000 in operating losses for the month of October for the CCRC. So the CCRC will have money to operate and up to \$200,000 in losses will be paid by Bethel who was awarded the rights and it gives them time to file and have the applications approved. And again, the court noted that all the approvals had to be made by October 31<sup>st</sup>, 2016.

So I'm going to run through kind of what needs to be done here to make this happen by October 31<sup>st</sup> there's three applications that need to be filed. The first would be a certificate of authority application to the Department of Health and actually that application is outlined in Public Health Law 4604 and 900.3 of the Associated Regulations. The Department has to do a review and make a determination and recommendation to the Council based on the requirements of Regulation 900.4 and if those requirements are met will make a recommendation to this body for a vote. And again, this has to happen by October 31<sup>st</sup>, 2016.

There needs to be a certificate of need application filed for the Article 28 Skilled Nursing Facility license and the Department of Health has to review and make a recommendation to the Public Health and Health Planning Council on that for a formal vote. And then a certificate of need application has to be file for the license transfer as well. That is not subject to an independent Council vote it just needs departmental review.

So now we know what has to be done. What are the next steps? And we're kind of in the middle of this right now so it's something in process. The first thing that needs to be done per the calendar is that the current contracts with the residents have to be renegotiated and it states at 100% participation that these contracts have to be renegotiated with new terms, it's basically the entrance fee refunds. And that has to be done by September 26<sup>th</sup>, 2016. And they have to be approved by the Department of Health. I will report to you that they have been submitted to the Department of Health and Department of Financial for services for a review and approval. And we're in the process of working with Westchester Meadows on final approval so they can go forward with those contracts for signature of the residents to try to meet this timeframe. The contracts will only become effective on the transfer so they're not effective immediately. They're going to go to Bankruptcy Court and be transferred to the Bankruptcy Court process.

The applications that need to be filed have to be done, obviously by, like I keep saying over and over, by October 31<sup>st</sup>, 2016. So we've scheduled a Council meeting, the next Council meeting for October 26<sup>th</sup> for this body to hopefully have an application that's been reviewed by the Department, meets the criteria for approval, and presented as such to the Council for a formal vote. That should get us within the timeframes that we need. We have to have the Article 28 Skilled Nursing license approved in that timeframe as well. And that is hoped to be and should be presented at the October 26<sup>th</sup>, 2016 Public Health and Health Planning Council meeting. And it is my anticipation that that will happen. And then the application for the Article 7 Enriched Housing license will need to be reviewed by the Department and just approved by October 31<sup>st</sup>, 2016. So a lot has to happen but more importantly know that the Department has made every effort to schedule public meetings to make this happen and we are within the timeframes that the Court outlined. And at least we will be able to go forward and give those statutory approvals to Bethel so they can go forward to the Court to show they have those approvals.

Mark Hennessey: Are there any questions for Mr. Herron in relation to this from the Council members?

Council Member Laible: So it is expected then that, so it's for the first bullet point, the application for change of Article 46 certificate of authority, so the Department of Health believes that that time frame will be met so that that will be reviewed by Department of Health by the next meeting?

Mike Herron: That is our hope. We are working, we have been and continue to work with the applicant, to Bethel Methodist Home, to meet that timeframe. It is our expectation there will be an application submitted shortly. And we hope to review it.



Council Member Laible: So it hasn't been submitted yet?

Mike Herron: It has not been submitted.

Council Member Laible: What happens if it doesn't get submitted and go through this process by the time we meet next and we're at that October 26 date?

Mike Herron: Then we won't meet the Court deadline and it would have to go back to the Court and the Court will have to consider the facts and decide what they want to do. They've only authorized this through October 31<sup>st</sup>, 2016.

Council Member Laible: And they only have that \$200,000 operating cost for that one month.

Mike Herron: Correct.

Council Member Laible: So if it doesn't go through it could have.

Mike Herron: The discussion will have to be made about how operating losses, if there are operating losses projected, will be funded. The Court will have to make some decisions about where we are in the process, I think. And they'll have to weigh the facts and then Bethel Methodist Home will have to agree to be on the hook again for another month. So there'll have to be some discussion with the Court but it goes into the Court's hands. We've just lined everything up to try to be responsive but obviously the ball is not in our court so to speak on this and we're waiting on materials but we will be, and are trying to be, through this whole process. This has been going on for a year and we've been trying to be as responsive as we can to facilitate this.

This is an expressed, this is what the residents expressed they wanted and the parties wanted. The Court made this ruling and we're trying to accommodate that as best we can. And I can only say that everybody, every regulatory agency has been great, there's been nights, weekends worked, meetings held, we've all been phoning in from home to try to do this, from the beginning, even to facilitate the process with prospective people too. We've had people, potential bidders come forward and we've met with them just to talk about the law and what they proposed. There was a lot of people from other states that talked about things that were done in other states and they worked. We talked about New York State Law and let them know that maybe that's a great idea but it's not allowed under Law. So the two proposals that did come forward were pretty much vetted at least through the Law process that they were doable. We didn't want a bid to come forward, and we just advised people, it wasn't a preapproval process by any means, it was just to say this is what a CCRC is in the state and here's the Law and pointed out the areas of Article 46 that need to be met. Just so we didn't have somebody who's really coming into this process with something that couldn't be approved. We didn't want to have to go through all the disapproval or just how somebody wasn't approvable.

Council Member Laible: And just, so for the next meeting this is something that we have to push forward and vote on. Is there anything that's been discussed to make sure that the CCRC under this new management will be successful and that we won't be facing this again. Is there a needs assessment that's been done in the area?

Mike Herron: Well part of what they'll need to present in the application is feasibility. Both the need, they'll have to prove that they can market it. It's part of what's actually in the regulations that they have to provide that. So there'll have to be some marketing. They'll have to demonstrate that they'll be able to sell contracts. And then they'll have to prove financial feasibility as well. If they have the ability to go forward and not only that, be able to make a go of it and withstand any negative events that could occur and have the resources to do that. That will be part of the application.

And we know they're working on that. And any day now we expect to get an application and have it reviewed. So, and some of that was actually submitted with the Article 28 application. There's kind of a cart before the horse thing here because of Public Health schedules and timing, we've had to work on the Article 28 portion, and my office has done that as well, of that application for that license change. So the work is being done, there's just a higher, the 46 application is larger so it requires more work. And there's some actuarial studies that need to be submitted. So they're finalizing that I believe right now. And that will all be part of the process.

Mark Hennessey: Are there? Council Member Davis, please.

Council Member Davis: Just one comment and two questions. In light of the limited structure of the Council we need to make sure we have a quorum for that October 26 so we need to reinforce to the Council Members the need to be here or to be prepared to make other arrangements for them so we have the quorum for the vote. Or else we get into the end of October and we have other issues as you just addressed.

Mike Herron: We are very mindful of that and we will be working with Council Members to ensure that we have a quorum and we'll make whatever arrangements we need to be made. Just I think we pushed really hard for this meeting and there was two members who had really previous engagements that were not the fault of their own. I think actually both are out of the country. So there was just really no other option for us to do anything and we're hoping that doesn't happen again, it was just a fluke of the calendar.

Council Member Davis: Obviously it will be important to have a quorum for that.

Mike Herron: Of course.

Council Member Davis: And I have two questions Mike, perhaps do you know what the likelihood is of the former residents who are now unsecured creditors getting any of their money back? Are they going to be able to reach that deep?

Mike Herron: I don't know. The Court has been pretty clear that that will have to be handled by bankruptcy process. The purchase price did increase in this process. And I'm hoping that they could be reached but at what level I don't know. I'm not at liberty to say at this time. Hopefully maybe for the next time we can look into that. We'll have some further details, this has been a very fluid process, the numbers have changed and continued to change. Why there wasn't really an auction per say has certainly turned into that and the bids did change and the numbers changed and moved so there was more money going into the bankruptcy process. So I'm still waiting for all of that the flush out. I kind of knew the numbers beforehand but I'm not sure how much will pass. I do know all the secured creditors will be paid, I believe the administrative class of creditors will be paid as well. But above and beyond that, now we get into the unsecured, I'm not sure at what rate they'll be paid.

Council Member Davis: Okay, just one final question. In your review of the C of A do you anticipate, if you will, any tweaking of the regulations to make all this work?

Mike Herron: No, I don't expect any tweaking. The Court in the court ruling they deferred to the application process as it stands. There was no I didn't read anything in and I believe the read of the Department is that there doesn't need to be any tweaking and we're not under order to do any tweaking. We are to follow the normal application process and actually the Law and regs state that a change of operator and a change of license is just the same requirements that exist for establishment of an operator. So it's the same requirements that we normally would follow for anybody. We are to treat this exactly the same as we would any other application. And that's how we're going to review it. The applicant knows that, that's been clearly communicate to the applicant and to the debtor, Westchester Meadows, that that's the process that the Court, in their ruling, deferred to the Department and the application process for all of the facility licenses to go through the normal process.

Mark Hennessey: Are there any other questions by Council Members? Okay thank you, Mike.

The next item on the agenda is actually future planning for the next upcoming meeting as well as the meetings that follow. We wanted to just see and put out there if there are topics that Council Members would like to have discussed at the next meeting or future meetings, this is your time to talk about planning for our future meetings. So, and I see Council Member Sheehan is taking the first shot so go for it.

Council Member Sheehan: I think when we look at the what happened with Westchester Meadows it was not a problem that occurred suddenly. It was an ongoing problem in the organization with a significant decline over time in residency rates. And I think would be helpful in the next meeting or one of the next meetings to talk about risk assessment for these facilities and to talk about the corrective action plain process the Department of Financial Services uses and public disclosure of the DFS reports on the finances of the facilities. And this particular facility was under a correction action plan as my recollection since about 2008. So it would be helpful to have DFS come in and talk about their process and for us to discuss what other steps should be taken to make sure this doesn't happen again.

Mike Herron: DFS does do over part of an examination for the facility usually approximately every three years. That report is actually public. And I will provide that to the Council where they can get that information to see that and we'll try to get it out there now that the Council's actually active we'll try to get some of that information presented in a formal public forum which may help the facilitating of that may be this Council. And we can use this as a forum.

Mark Hennessey: I would say though, Council Member Sheehan, is let us have the opportunity to engage with DFS and talk to them about your proposal and see what we can do in terms of their appearance Okay?

Mike Herron: But that report is public out there. But we'll get, again, this is a good opportunity to get it out there.

Mark Hennessey: Any other Council Members who might have ideas for future meeting items? Council Member Davis.

Council Member Davis: Thank you. Well just regulatory issues and potential relief on the 140, I know we've seen a lot of things in the past, particularly from our association, about the kinds of things that perhaps need to be changed to make CCRC's more manageable and to perhaps make it easier for new CCRC's to intervene, to introduce them into the marketplace. I think regulatory issues, what are the kinds of things that the CCRC's may find helpful in their current operations and what could spur new activity in the future.

Mark Hennessey: How best would you see us accomplishing that kind of discussion? What kind of appearance would you want?

Council Member Davis: Well I think as I mentioned out State Association through its CCRC cabinet spends a lot of time talking about these kinds of issues. And I think that's certainly a dialogue with them would be important. Certainly I have some of my own thoughts and maybe some of the Council Members as well.

Mark Hennessey: Thank you, any other Council Members have potential items?

Male: Not at this point.

Mark Hennessey: Okay, anyone else? I do have one item which we were supposed to take up earlier. And we, part of the bylaws we're supposed to have a Vice Chair. And what I would ask is just for if any of the Council Members are interested in acting in the capacity of Vice Chair, whether they be here today or whether they not be here today, if you just indicate your interest so that we can consider adopting someone as the Vice Chair and having that vote maybe at the next meeting. So I would just put that out there for everyone to discuss and consider.

We're moving to the point in the agenda where we will allow for public comment. Mr. Herron I'd just ask if anyone has posited public comments? I know that Leading Age is here today, I think to make a public comment. So I'd ask that if we have anybody who's ready for the public comment period, and I know Dan Heim from Leading Age is one of those people, that you just join us up here at the microphone right there where Mr. Herron was until quite recently.

Mr. Heim whenever you're ready to go.

Dan Heim: Thank you very much. Good afternoon everybody. I am Dan Heim, Executive Vice President with Leading Age New York. Thanks for the opportunity to appear before you this afternoon to provide input on some of the challenges and opportunities for current and prospective operators for CCRC's in New York State. I promise to be brief and I will definitely be done before four PM.

Mark Hennessey: Thank you.

Dan Heim: So Leading Age of New York, for those of you that are not familiar, is the only statewide organization representing the entire continuum of not for profit mission driven and public continuing care including CCRC's and a range of other providers. Leaving Age New York's nearly 500 members serve an estimated half a million New Yorkers each year.

So I want to begin by commenting on the current and future demand for CCRC's. There are as you know, 62 counties in New York State, only ten of them are home to the 12 CCRC's that we have. Leaving over 80% of our counties without a CCRC. And currently there are close to 2,000 CCRC's in the United States, the majority, about 80% are sponsored by not for profit organizations. While there continues to be a lot of migration of older adults to warmer weather states like Florida and the Carolinas, older New Yorkers are also leaving the state for neighboring states such as Pennsylvania, which has 197 CCRC's, New Jersey with 27, and Massachusetts with 31, and they're not going there for the weather. With only 12 CCRC's scattered throughout New York seniors who can afford this model of care are migrating to neighboring states where CCRC's are more plentiful to access their services.

The relatively small number of CCRC's in New York State in relation to the potential demand is really stark when you compare it to these neighboring states on a population basis. There are over 200,000 New Yorkers aged 65 plus for each CCRC in the state, 200,000. Compare this with Pennsylvania which has a CCRC for about every 10,000 residents aged 65 plus, and Connecticut and New Jersey and Massachusetts which has CCRC's for about every 30 to 40,000 aged 65 plus persons. When you look at the 85 plus population there are over 30,000 New Yorkers for each CCRC in New York State and only about 1500 individuals age 85 plus in Pennsylvania, Connecticut and New Jersey and Massachusetts have a CCRC for about every 4500 to 6500 aged 85 plus persons. So when you take all this information into account and even when you exclude Pennsylvania from the comparisons because Pennsylvania is really such an outlier the population figures would suggest that New York should have six to seven times the number of CCRC's that are currently operating here.

So why aren't there more of these communities being developed in New York State? Certainly we have challenges in terms of development cost and a variety of other circumstances but we believe that part of the issue is that New York's statutory and regulatory requirements and oversight of CCRC establishment in an ongoing operation is part of the issue. We think it adds significant time and cost to establishing a community and operating it on an ongoing basis. State law regulation day to day oversight we believe should be revised to encourage the development of additional CCRC's while continuing to protect the interest of residents and improving the operation of our existing communities.

The market for CCRC's is expected to expand as baby boomers age and begin planning for their retirement resulting in a potential for additional job creation and a bright economic future for the state. However, without increased CCRC development many of New York's seniors will continue to leave the state and spend their assets and income elsewhere.

So CCRC's really are, we believe, economic drivers. In addition to providing quality care and multiple services on one campus, they create jobs and they create significant economic development for local communities. In a fiscal climate that calls for encouraging more economic development and reduced public spending additional CCRC's in New York would meet both of these important goals. First of all, residents and employees of CCRC's spend their income in the community contributing to the economic growth of local communities and the state. Direct expenditures within the CCRC are multiplied as these income expenditures translate into income for businesses and individuals in the community. Residents also invest their assets and income in the community for their residential health related benefits. This in turn obviates or delays the need to rely on the Medicaid program to cover these costs.

While New York CCRC's differ in terms of their size, their structure, the amenities they have at their location, each of them has two economic features in common. The first is that based on information from 2014, each CCRC annually generates between ten and 50 million in economic activity within its region. And secondly each CCRC directly supports between 100 and 300 jobs and indirectly supports additional employment through all the secondary economic activity. Collectively in 2014 New York CCRC's generated nearly 500 million in economic activity to the state and directly or indirectly supported well over 2,000 jobs.

So New York, we believe, is in need of additional CCRC's, however we are falling behind and missing out on the multimillion dollar economic development opportunities. With a more progressive regulatory development environment we believe the CCRC model could become more widely available and more affordable to New York seniors, could create thousands of good paying construction and ongoing jobs and generate millions of dollars in economic activity for the state and its local communities.

So Leading Age New York and our CCRC cabinet have begun to educate state policy makers and law makers on a need to eliminate barriers to the development, expansion, and efficient operation of CCRC's in New York State while preserving vitally important resident protections.

We believe that comprehensive statutory and regulatory reforms are needed in order to modernize outdated provisions of Article 46 and 46-A which were enacted several years ago. Among the reforms we're advancing are the following.

The first is to establish clear time lines, timeframes and guidelines to process applications and approvals and ensure staff resources to evaluate those requests in an efficient manner.

Secondly clarifying that the CCRC Residency Agreement is the single contract covering all services provided by the community in order to streamline state surveillance and oversight.

Thirdly clarifying standards for outside admissions to ensure CCRC's can meet their actuarial revenue projections. So in a case where assisted living and nursing home beds are first opened in a community, there may be vacancies in CCRC's are allowed under certain circumstances to admit individuals from the outside.

Fourth identify statutory requirements that do not exist in other states and that make the establishment and operation of CCRC's in New York unnecessarily complex and expensive.

Fifth, allow greater use of residence entrance fees deposits for the cost of acquiring, constructing, and equipping a new community.

Six, modifying existing regulatory requirements to enable CCRC's to realize prevailing market returns on their invested reserves while preserving the security of these funds.

And then finally, convening a work group to make recommendations to lawmakers, the department, and you the CCRC Council, on creating affordable financing options for the development of additional communities and also the upkeep of existing communities in New York State.

So in conclusion I would say the Leading Age New York and its membership remain very much dedicated to ensuring the state's existing CCRC's continue to operate and offer high quality housing and health services, meet their current and future financial obligations to their residents, provide for need upgrades to facilities and programs and be responsive to their residents employees, their communities, and regulators. As the association representing the state CCRC's we look forward to working with the Council and relevant state agencies to advance CCRC policy here in New York. Our CCRC Cabinet meets quarterly to discuss issues of importance to the field and they are a great resource to use and I'm sure they will be to you as well. So with that said I thank you again for the opportunity to comment and be happy to answer any questions.

Mark Hennessey: This public comment period we won't necessarily do question and answer with everyone giving public comment so we just thank you for your comment Mr. Heim.

Dan Heim: Thank you.

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Mark Hennessey: Were there any other public comment candidates? I'm seeing no.

With that I would ask for a motion to adjourn this meeting. Council Member Davis makes the motion. May I have a second?

Female: Second.

Mark Hennessey: Second. All in favor say aye.

[Chorus of ayes]. The public portion of the meeting of the CCRC Council is now adjourned. As a reminder the next Council meeting is October 26<sup>th</sup>, 2016 at 875 Central Avenue in Albany, New York. Thank you for coming today and thank you for your time.