
Commission Meeting

of

STATE HOUSE COMMISSION

LOCATION: Committee Room 12
State House Annex
Trenton, New Jersey

DATE: December 12, 2002
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Paul P. Josephson
(Representing Governor James E. McGreevey)
Senator Walter J. Kavanaugh, Chair
Senator Bernard F. Kenny, Jr.
Assemblyman Michael J. Doherty
Robert L. Smartt
Kathy Steepy
(Representing Charlene M. Holzbaur)



ALSO PRESENT:

Edward R. McGlynn, Secretary
Robert J. Shaughnessy Jr., Counsel

Meeting Recorded and Transcribed by
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SENATOR WALTER J. KAVANAUGH (Chair): Good morning.
This is the meeting of the State House Commission of December 12.

We've met the Open Public Meetings Act. It's all been published.
Could we have the roll call, please?

MR. McGLYNN (Secretary): Certainly.

Just for housekeeping purposes, Assistant Director Kathy Steepy
is sitting in for Charlene Holzbaur.

Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Here.

MR. McGLYNN: Assistant Treasurer Smartt. (*sic*)

DEPUTY TREASURER SMARTT: Here.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Here.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Here.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Here.

MR. McGLYNN: I need approval of the minutes, please, of
September 19, 2002.

SENATOR KAVANAUGH: Well, don't we have two-- We had
two meetings. It was a meeting here when you -- someone else was present,
and then we had a meeting before that where the total Commission was
present.

ASSEMBLYMAN DOHERTY: Was this on the fifth?

SENATOR KAVANAUGH: Remember, we were all here? What was the date of the snow?

MR. McGLYNN: The fifth.

SENATOR KAVANAUGH: Okay, we have minutes for that.

MR. McGLYNN: I think all we did at that point was take testimony from one individual. You have a copy of that testimony, sir.

May I have a motion for the minutes of September 19 and for the testimony on December 5, which the meeting was adjourned from and carried until today?

SENATOR KENNY: I'll move.

MR. McGLYNN: Thank you.

ASSEMBLYMAN DOHERTY: Second.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Under new business, Item No. 2: RPR 98-26, Block 37.02, Lot 49, in Franklin Township. The Department of Treasury requests approval to lease a Department of Environmental Protection, DEP,

residential property located at 157 Cortelyous Lane in Somerset County to Robert Acosta. This is a renewal of a lease for a period of five years, with cost-of-living increases.

SENATOR KAVANAUGH: Any one here for discussion? (no response)

If not, a motion, please.

It's been moved and seconded.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 3, Mr. Chairman-- Mayor Barse, Assemblyman Asselta, and Assemblyman Van Drew are stuck in traffic. They would like to be here to testify in favor of this matter, so I would ask that it be held until they appear. Is that okay?

SENATOR KAVANAUGH: Well, just if they want their presence -- or we can just note their presence and move through. We can just come back to it. But I think there's no problem with it.

MR. McGLYNN: I agree that there isn't any problem, but I think they would like to be heard, if possible.

SENATOR KAVANAUGH: Okay.

No. 4, please.

MR. McGLYNN: RPR 03-01, Block 46, Lot 32 in Clinton Township. The New Jersey Department of the Treasury, on behalf of the Department of Corrections, requests approval to lease property located at Mountainview Correctional Facility to Hunterdon County for a waste transfer station.

SENATOR KAVANAUGH: Anyone here to comment? (no response)

Can we have a motion, please?

ASSEMBLYMAN DOHERTY: So moved.

SENATOR KAVANAUGH: Second?

SENATOR KENNY: Second.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Director Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 5: RPR 03-02, Block 157, Lot 34.01 in Marlboro Township. The New Jersey Department of Treasury requests approval to grant a utility and access easement to Recovery Management Systems for \$250.

SENATOR KAVANAUGH: Anyone here for discussion? (no response)

Could we have a motion, please?

ASSEMBLYMAN DOHERTY: Motion.

SENATOR KAVANAUGH: Second?

SENATOR KENNY: Second.

SENATOR KAVANAUGH: Moved and seconded.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Director Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 6: RPR 03-06, Block 601, Lot 12, Woodland Township, Burlington County. The New Jersey Department of the Treasury, on behalf of the Department of Human Services, requests approval to lease the West Building apartments, numbers 21 through 26, on the grounds of the New Lisbon Developmental Center, to AdvoServe of New Jersey, to provide care and treatment for clients of the Division of Developmental Disabilities.

SENATOR KAVANAUGH: Anyone here to discuss? (no response)

May I have a motion, please?

CHIEF JOSEPHSON: I'll move the item.

SENATOR KAVANAUGH: Second?

ASSEMBLYMAN DOHERTY: Second.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Director Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No 7: RPR 03-07, Block 952, Lot 1, in Wall Township, Monmouth County. The New Jersey Department of the Treasury, on behalf of the Department of Human Services, requests approval to lease water tower space on the grounds of the Arthur Brisbane Child Treatment Center to AT&T Wireless, for the installation of a wireless antenna system.

SENATOR KAVANAUGH: Anyone here to discuss? (no response)

Is there a motion?

ASSEMBLYMAN DOHERTY: Motion.

SENATOR KENNY: Second.

SENATOR KAVANAUGH: Moved and seconded.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Senator-- I'm sorry, Director Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Just from a housekeeping matter, Mr. Chairman, we have received -- and everyone had received -- a copy of a letter from Barbara Tachau of 15 Elm Street, in Florham Park, which I will make part of the record, concerning a number of items on the agenda, which has been reviewed by everyone. Her comments are being taken into consideration by the members of the Commission as we go forward.

SENATOR KAVANAUGH: Thank you.

MR. McGLYNN: Item No. 8: RPR 03-08, Block 234, Lots 5 and 6 in Little Falls Township, Passaic County. The Department of the Treasury requests approval to lease a parcel of vacant land to Montclair State University, for parking for the adjacent New Jersey Transit Station. The term will be for 99 years, with a one-time rental payment of \$1.00.

Everyone has also received a copy of the letter from the Mayor of Little Falls, indicating that, while he is not necessarily opposed to it, he would like for some cost-sharing to be arranged between Little Falls Township and the college when this is done.

If that is something that the Commission would like to see, at least, discussed, I think negotiations should occur between the State and Little Falls Township.

SENATOR KAVANAUGH: Anyone to comment? (no response)
Motion, please.

DEPUTY TREASURER SMARTT: So moved.

SENATOR KAVANAUGH: It's been moved.

ASSEMBLYMAN DOHERTY: Second.

SENATOR KAVANAUGH: And seconded.

Roll call.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Director Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Chief Josephson, I'm sorry.

Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: All right, Item No. 9.

SENATOR KAVANAUGH: You have noted, in there, regarding the town's concern.

MR. McGLYNN: Yes, and I will do that in the minutes to be approved at the next meeting -- also with Counsel, Mr. Shaughnessy.

SENATOR KAVANAUGH: Thank you.

CHIEF JOSEPHSON: Just so that the record is clear, are we-- Is the intent to make the suggestion that that negotiation occur, to make that a requirement?

MR. McGLYNN: I don't think it necessarily has to be a requirement, but I think the State, in good faith, would probably want to, at

least, have those discussions with the township of Little Falls. This Commission has never made those things as requirements, as I remember.

CHIEF JOSEPHSON: I just want that to be clear, for the record, for our friends over at Transit.

DEPUTY TREASURER SMARTT: Could I ask the Counsel if it's even appropriate for this committee to make that recommendation -- if it's in the jurisdiction of the Commission. It could be noted-- The letter can be noted in the record that would acknowledge the concern that had been expressed. I'd be concerned about us going beyond that.

SENATOR KAVANAUGH: I think that what Mr. Smartt is saying is proper. I just want to make it clear that we here, as a Commission, are not -- it is not within our purview to move in that direction, but, just to make a comment, that if they want to discuss Montclair in the community -- want to discuss, let them be that way, but at least--

DEPUTY TREASURER SMARTT: Thank you, Mr. Chairman.

SENATOR KAVANAUGH: Say again?

DEPUTY TREASURER SMARTT: I said thank you.

MR. McGLYNN: Mr. Chairman, Items No. 9, 10, and 11 concern facility costs to be paid either by the State -- or to the State for Human Services per diem rates for calender year 2003. And a copy of the agenda is available for everyone. I wonder if we might move those en masse, with the rates as indicated in Items 9, 10, and 11.

SENATOR KAVANAUGH: Is there anyone here to comment regarding the rates? (no response)

This is an annual--

CHIEF JOSEPHSON: I'll move the approval of items 9 through -- are we doing 10 or 11?

MR. McGLYNN: We're going to do 9, 10, and 11.

CHIEF JOSEPHSON: Nine, ten, and eleven, based on the records submitted by the Department of Human Services.

DEPUTY TREASURER SMARTT: Second.

SENATOR KAVANAUGH: Moved and seconded. Roll call.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 13-- Well, let me do this, if I may. These are all Department of Environmental Protection requests.

CHIEF JOSEPHSON: We still have No. 12.

MR. McGLYNN: I'm sorry.

CHIEF JOSEPHSON: It's another tower.

MR. McGLYNN: Item No. 12 is a Department of Transportation wireless communications request. The property is Route 287 Northbound at milepost 34.6, vicinity of James Street in Morris Township. The New Jersey Department of Transportation, Bureau of Major Access Permits, Wireless Communications Unit, requests approval to license a site to erect a wireless communications facility on a 120-foot monopole on State-owned property in Morris County.

SENATOR KAVANAUGH: Anyone here to comment? (no response)

Can we have a motion, please.

CHIEF JOSEPHSON: So moved.

DEPUTY TREASURER SMARTT: Second.

SENATOR KAVANAUGH: Moved and seconded. Roll call.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kennedy -- Senator Kenny -- I'm sorry.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes. He'll get to know you after a few years. (laughter)

MR. McGLYNN: I do see that everyone, I think, is here on Item No. 3. I see Assemblyman Asselta, I saw Assemblyman Van Drew, and I see Mayor Perry Barse from Vineland. Would you like to go to that--

SENATOR KAVANAUGH: Well, let's just get DEP out of the way.

MR. McGLYNN: I'm sorry. Thank you.

SENATOR KAVANAUGH: Thirteen and fourteen.

MR. McGLYNN: The following are all Department of Environmental requests. Number 13 is the Delaware and Raritan Canal State Park in Trenton, a 1400- to 2400-square foot diversion.

Number 14 is the Delaware and Raritan Canal State Park in Lambertville, a 3841-square foot diversion.

Fifteen is the former Morris Canal and Banking Company lands, Greenwood Lake, township of Warwick, New York, for approximately 2100 square feet.

Number 16 is the Memorial Oval Park and Memorial Rose Garden Park in Livingston, Essex County, for approximately .50 acres.

Number 17 is the Monmouth Battlefield State Park in Freehold, in Monmouth County, for the diversion of .973 acres.

Number 18 is the Allaire State Park in Howell Township for a diversion of approximately .26 acres.

Number 19 is the Strawberry Field Air Force Base in Hamilton Township, Mays Landing, for Atlantic County to enter into a utility easement.

And Number 20 has been held.

So these are all diversions, and the background material is contained in your folders and is also part of the agenda, and the agenda has been distributed to everyone.

SENATOR KAVANAUGH: Is there anyone here that has any objection and discussion on any of these that we just listed, 13 through--

MR. McGLYNN: Thirteen through nineteen.

SENATOR KAVANAUGH: --19.

Mr. Josephson.

CHIEF JOSEPHSON: Chairman, I will move the items as a group. I would like to make one comment, though, which is that I know Item 15, which relates to the Greenwood Lake conveyance in the town of Warwick, New York -- which is a little unusual that this Commission's dealing with property in New York-- Who knew the State held land there, but we do.

I just note that in the ordinary course, I wouldn't consider this item right, because I think they were still subject to a real property review and law division's review, as well, of the matter. But, in view of the fact that this is apparently an individual homeowner looking to convey their property, I don't see any problem in this one instance. But just as a general course of action, I think I'd like to have, in the future, DEP make sure that we, at least, have the AG's review.

But noting that it's subject to those conditions -- the approval -- I have no problem with moving forward on that item, as well.

SENATOR KAVANAUGH: Thank you. Just one comment-- Just this past week, one of the commissioners of the Delaware and Raritan Canal

Commission died. And I'd just like to mention that Frank Torpey -- and also, his son, who was in the past administration as Chief of Staff. Our condolences to--

CHIEF JOSEPHSON: We most certainly do, Mr. Secretary.

SENATOR KAVANAUGH: Okay, can we have a motion, please?

CHIEF JOSEPHSON: We have the motion. I think we need a second.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: We need to go back to Item No. 3.

SENATOR KAVANAUGH: Item No. 3.

MR. McGLYNN: Item No. 3 is RPR 02-23, Block 962, Lot 2, Vineland Armory in Vineland City. The New Jersey Department of Treasury, on behalf of the Department of Military and Veterans' Affairs, requests

approval to lease a 4.867 acre parcel of vacant land in Cumberland County to the city of Vineland for the construction of a firehouse. This matter has been amended since our December 5 proposed agenda to provide for a term of 30 years with a 30-year additional option, for a total of 60 years.

SENATOR KAVANAUGH: Is there anyone here to object to this?

(no response) No objections.

Is there anyone here who'd like to speak on Number 3?

ASSEMBLYMAN NICHOLAS ASSELT A: I don't believe I need to sit.

But thank you, Mr. Chairman, for hearing this most important issue. I'll just briefly frame it and turn it over to my colleague and then to the Mayor of Vineland.

This has been a three-year process that has taken place with a previous administration in the city of Vineland, which really points to the fact that there is, obviously, property not being used by DMAVA for a lot of years in a very heavily commercial area of Vineland.

Right now, it's under extreme development. Cumberland Mall is under expansion, which is very close. There is a new \$125 million regional hospital being constructed as we speak, and an expansion at the oldest community college in the State of New Jersey, all within a one-mile radius of this new property.

What this does for Vineland, as the Mayor will articulate, is it gives us better fire coverage, demanded by a study that was made a few years ago.

So, with that, briefly, being said, I'll turn it over to my other colleague, Assemblyman Van Drew.

ASSEMBLYMAN JEFF VAN DREW: I'm going to be just as brief. I just want to express that there is strong support for this across party lines. I wanted to express my support for it, as well.

It is a safety issue. There is a tremendous amount of commercial growth in the area. The county college needs good coverage; the new hospital system, which is going to be a beautiful large facility, will need that coverage, as well. It will improve the parking lot at the armory. So it's a real plus-plus for the city of Vineland, for the State of New Jersey, and everybody involved.

I just thank you for the opportunity to just say a few words.

SENATOR KAVANAUGH: Thank you.

Mayor.

MAYOR PERRY D. BARSE: Good morning. I want to thank you for the opportunity to present this today and, of course, to Assemblyman Asselta and Assemblyman Van Drew, who have been very supportive of this initiative.

Again, it's been an, approximately, three to three-and-a-half year process. We look at it as a partnership, which we've had many of, between the State of New Jersey and the city of Vineland. We've had tremendous successes in economic development. We've worked as an active partner with the State of New Jersey, the Department of Economic Development, and Commerce. And we just, in fact, yesterday, spent the day speaking to the Swedish American Chamber of Commerce in Philadelphia. We shared the podium with

the director and had a great presentation. We've done many successful projects.

We look at this in a similar vein. We look at being able to partner with the armory there to provide services that we can contribute to make life a little easier for the State budget, as far as nuances around the property, whether it be snow removal, maintenance of the parking lot, things of that nature.

And we'll certainly provide needed support services for our growing Cumberland Mall area, for our new hospital facility. It would also provide active, extensive service to Route 55. Our fire services and our emergency management services are often called out on Route 55, which runs along a large stretch of Vineland, to provide service in case of accidents and breakdowns and spills, things of this nature.

We don't have great coverage in that particular south end of our city, southwest end of the city. We would have quicker access and quicker support for those traveling on Route 55, so it's something that really hasn't been discussed too much, but it is an important facet. We'll be able to improve our services in that respect, as well.

We look at it, again, as a true partnership, as we've done with so many other partnerships with the State. It's a great public service, and a great issue, as far as the health and safety of our constituents are concerned.

Thank you.

SENATOR KAVANAUGH: Thank you.

Are there any comments from the Commission? (no response)

MR. McGLYNN: We need a motion to approve.

ASSEMBLYMAN DOHERTY: Motion.

SENATOR KAVANAUGH: It's been moved and seconded.

CHIEF JOSEPHSON: Second.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

Thank you, gentlemen.

ASSEMBLYMAN ASSELTA: Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

MAYOR BARSE: Thank you.

SENATOR KAVANAUGH: I'm sorry we had to get you up this early in the morning.

MR. McGLYNN: Mr. Chairman, since Item 20 has been held, we now--

SENATOR KAVANAUGH: Is there anyone here that has any comment to the State House Commission, because we are now going to move into the Judicial requirement -- I mean, Retirement Committee.

MR. McGLYNN: We now sit as the--

SENATOR KAVANAUGH: Just one second.

Senator Smith, do you have any--

SENATOR SMITH: Just keeping my eye on you, Senator Kavanaugh.

SENATOR KAVANAUGH: All right, I just want to be sure.

MR. McGLYNN: Let me also indicate that Mayor Barse brought a letter with him on Item No. 3, which I think is the same letter that was part of the record already. But if it's not, it will be added to the record.

We now sit as the trustees for the Judicial Retirement System. And I need a motion, please, to approve the minutes of the meeting held on September 19, 2002.

CHIEF JOSEPHSON: So moved.

SENATOR KAVANAUGH: Moved and seconded. Roll call.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: I need a motion to approve the confirmation of the Death Claims Retirement Survivors' Benefits and Terminations.

SENATOR KENNY: Moved.

SENATOR KAVANAUGH: Moved by Senator Kenny.

SENATOR KENNY: Yes.

SENATOR KAVANAUGH: Second?

ASSEMBLYMAN DOHERTY: Second.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: I need a motion to approve the financial statements as of September 30, 2002.

SENATOR KENNY: Moved.

CHIEF JOSEPHSON: Second.

SENATOR KAVANAUGH: It's moved and seconded.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: On Item No. 4, I believe our Counsel needs to speak with us in closed session, if I'm correct.

MR. SHAUGHNESSY: That's correct, Mr. Secretary.

MR. McGLYNN: Item No. 5, I need approval to publish the proposed regulations in the *New Jersey Register* contained in New Jersey Administrative Code 17:10 et seq.

SENATOR KAVANAUGH: Do we have a motion?

MR. McGLYNN: It's just for publication.

CHIEF JOSEPHSON: So moved.

ASSEMBLYMAN DOHERTY: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: That concludes the items for public consideration. We need a closed session, or an executive session.

SENATOR KAVANAUGH: Do we have a motion, please?

CHIEF JOSEPHSON: So moved.

DEPUTY TREASURER SMARTT: Second.

MR. McGLYNN: All in favor? (affirmative responses)

Opposed? (no response)

SENATOR KAVANAUGH: Ladies and gentlemen, if you remove yourselves from the room, we have a closed--

HEARING REPORTER: On the record or off the record?

MR. McGLYNN: Let me ask Counsel.

MR. SHAUGHNESSY: There's no requirement under the Open Public Meetings Act to have a verbatim record contemporaneously, so long as notes of the meeting are contemporaneously made.

SENATOR KAVANAUGH: We're not doing any--

MR. McGLYNN: We don't have objection to that. I think we should do it, unless you have an objection to it.

SENATOR KAVANAUGH: Does anybody have any objection to having the equipment on to record? (no response)

Thank you.

Senator Smith, I knew that you had gone to Washington for--

SENATOR SMITH: I'm not sure if I should exit or not. There is now a position of alternate to the State House Commission. I was appointed to that position. I'm not sure whether that means when the Commission's short a member, I sit, or only in the event Senator Kenny is not present.

SENATOR KAVANAUGH: You're welcome to stay and get training. (laughter)

SENATOR SMITH: Okay.

SENATOR KENNY: It's very rigorous.

PETER GORMAN: Senator, I'm Pete Gorman, from the Division of Pensions. I just want to know if you want me to stick around for the Treasury Department. If not--

SENATOR KAVANAUGH: Why not--

MR. GORMAN: --right out side.

SENATOR KAVANAUGH: No, inside -- well, you better stay outside.

CHIEF JOSEPHSON: I think, actually, since we're going to be receiving advice--

SENATOR KAVANAUGH: If you hear two knocks on the door, you come inside.

MR. McGLYNN: The other individuals in the room are employees of the State of New Jersey in the division that handles the State House Commission. Do you want them in or out?

SENATOR KAVANAUGH: I'm a plumber. Do we have a lawyer?
(laughter)

MR. SHAUGHNESSY: Typically, we just include members of the Commission and Counsel.

SENATOR KAVANAUGH: You'll be three knocks.

SENATOR KENNY: Twice on the pipe. (laughter)

SENATOR KAVANAUGH: Okay, they're all gone. They can't hear. Let's get started.

MR. McGLYNN: Mr. Shaughnessy.

MR. SHAUGHNESSY: Yes, if I may.

Good morning.

First, with regard to item No. 21 on the agenda, specifically subparagraph four, consideration of appeal from Judge Glenn Berman regarding initial administrative decision that he must contribute to the Judicial Retirement System at the rate of 3 percent of his full judicial salary.

Since the Commission sits as the trustees of the Judicial Retirement System, by law, matters of this nature should come for consideration before the Commission.

This is a matter in which, from the materials before the Commission, there appears to be no factual dispute. The reason that's important is-- And I understand there is someone here from Pensions here, as well. I also understand that Pensions has been consulted, and there is no factual dispute in this matter. Rather, it's an interpretation of the statute alone.

With that said, it's my belief and recommendation that the Commission may deliberate upon this matter, reaching a decision. And that decision should be ultimately prepared by our office for adoption or issuance by the Commission by the next meeting.

I don't know if there are any particular questions or if anyone wants to deliberate about that anymore.

MR. McGLYNN: Does anyone have a recommendation?

Bob, what's--

MR. SHAUGHNESSY: Well, I can--

MR. McGLYNN: I think it's pretty clear on its face as to what the issue is.

MR. SHAUGHNESSY: Right. From what I know in our office, there was a letter issued by the Division of Pensions. It is my understanding, but I have not been able to verify whether that letter was issued with the blessing of our office. There was consideration of this matter by our office, but no formal opinion has yet been issued.

From what I understand, though, without prejudice, if there was an opinion issued, it would have been consistent with the Division of Pensions' letter.

MR. McGLYNN: How about if we asked -- the State House Commission can ask for an advisory opinion from the AG's Office. How about if we ask the AG's Office to give us advice in writing as to what their opinion is -- should happen to Judge Berman, and then we can deal with it at the next meeting?

MR. SHAUGHNESSY: Absolutely.

CHIEF JOSEPHSON: I think I would request that it be in the form of a, really, recommended decision document, so that it could be, simply -- if the members deliberate and agree--

MR. SHAUGHNESSY: I understand, Mr. Josephson.

CHIEF JOSEPHSON: Thank you.

MR. SHAUGHNESSY: Absolutely.

MR. McGLYNN: So that--

MR. SHAUGHNESSY: So, in other words, perhaps the best -- if there's anyone here -- the Judge or counsel for the Judge, or if there is anyone here from Pensions that would like to speak, we can hear from them today. If not, we can move forward looking at the papers, and we can review the matter and issue a proposed recommended decision, if you will, in anticipation of our next meeting.

MR. McGLYNN: Is that okay with everyone? (affirmative responses) Okay, so we should do that formally as a motion when we go back into public--

MR. SHAUGHNESSY: Yes, I think we should say that it's anticipated that it will be a formal decision -- a final decision made by the next meeting.

MR. McGLYNN: That's fine.

MR. SHAUGHNESSY: And we'll be ready for it.

MR. McGLYNN: All right, the second item is the Cape May diversion. I mean, I know that's--

MR. SHAUGHNESSY: Yes, that's right. Exactly. The second matter, Number 22, is--

SENATOR KAVANAUGH: Let's see, do we want to move -- motion moved on this?

MR. McGLYNN: I think we have to do it in public.

MR. SHAUGHNESSY: We'll do it in public. We'll just go back in public.

The second matter is the Cape May diversion matter.

CHIEF JOSEPHSON: Actually, I don't even think we need a motion on that.

MR. SHAUGHNESSY: Excuse me.

CHIEF JOSEPHSON: I don't even think we need a motion on that. I thought you said we're going to request the advice of Counsel on it, and any comment we'll take today, and then we move on--

MR. McGLYNN: That's fine.

MR. SHAUGHNESSY: Okay, I think what we're, ultimately, going to have to do is, at least if you're inclined to, do an amplified decision. We need to, at least, indicate that a decision will be forthcoming as proposed or as modified, or whatever. At least do that.

Now, I don't know how much more the Commission would like on that, but, at the September 19 meeting, we followed the application, if you

will, of Cape May, the county of Cape May. We reviewed the approval of the Department of Environmental Protection, and we, as well, approved this subject diversion. An appeal followed. And one of the issues in the appeal was whether the State House Commission had made sufficient findings of facts to support this diversion.

The appellate rules of court allow us to amplify a decision. What we intend to do here is prepare -- and what we've done is prepare an amplified decision for the Commission's review and consideration. It's our recommendation that this amplified decision be adopted by the Commission. Ultimately, it will be filed with the Appellate Division to assist both the court and the parties through this appeal.

I understand, and I will announce publicly, also, that the Department of Environmental Protection is supportive of this and, also, intends to issue its own separate amplified decision, supportive of its recommendation of the approval, by the end of the year.

MR. McGLYNN: And this is being done in hopes that the Appellate Division won't send it back to us to issue an amplified decision, which has happened to us before.

MR. SHAUGHNESSY: Yes, sir.

MR. McGLYNN: That's probably a good idea to do.

MR. SHAUGHNESSY: I guess, at this point, unless there's any questions or follow-up to that--

MR. McGLYNN: So we will need a motion to issue this amplified decision in this matter--

MR. SHAUGHNESSY: Yes.

MR. McGLYNN: --when we come back into public session.

MR. SHAUGHNESSY: Right, and then we'll just have you, Mr. McGlynn, sign it on behalf of the Commission, if approved. And then, ultimately, we intend to file it with the Appellate Division.

CHIEF JOSEPHSON: Do we have commentators here today on this item?

MR. SHAUGHNESSY: I don't know, Mr. Josephson.

MR. McGLYNN: The only person that's here is Rich Luchen, (phonetic spelling) who is counsel to the county college, who said that he was available if we had any questions of him. We can ask him.

CHIEF JOSEPHSON: I think I saw one of the environmental groups, as well, here.

MR. McGLYNN: Okay, you're right. Tracy Carluccio is here from the Riverkeeper Association. (*sic*) So we'll ask them if there are any comments on it.

SENATOR KAVANAUGH: Bob, as Counsel, what we can do is, when we go back into session, just ask you to -- 22 and 23 -- ask us what you want -- we'll make that motion.

MR. SHAUGHNESSY: Okay.

SENATOR KAVANAUGH: Want to give them two knocks, Bob.

MR. McGLYNN: Well, wait, there's one more.

MR. SHAUGHNESSY: Well, there's one last matter, which is a bit novel. The final matter is Number 23 on the agenda. This matter is somewhat novel, I believe, to the Commission. It deals with arts inclusion in public buildings. There is, in fact, a statute -- New Jersey Statute, it's 52:16A-

31, in particular, Part B, which is the Public Buildings Arts Inclusion Act. This Act requires some involvement and approval by the State House Commission.

It specifically says, expenditures for recommendations concerning the inclusion of artistic designs in State buildings shall be approved by the State House Commission. And the only requirement on that approval is that the total estimated cost of the fine arts elements included in such plans, and specifications for public buildings or group of public buildings for the purpose of implementing the design, shall not exceed 1.5 percent of the total estimated cost of the construction of such buildings or group of buildings.

So, with regard to our advice, I believe that the State House Commission needs to address this approval and the approval process. There is the caveat, obviously, that it could be up to 1.5 percent of the total estimated cost of the construction of the building.

I think what needs to be discussed today -- and there are people from the Division of Property Management and Construction here -- is the implementation of a proposed form in which the council -- maybe in the timing of the council's approval of such arts inclusion. So, in essence, it's something that really needs to be done.

Our office has approved this. There was, recently, a carve-out from the NJBA, New Jersey Building Authority, projects. But, rather, the projects that come to the Division of Property Management and Construction -- the State buildings that come through there -- will then come before the State House Commission.

Are there any questions or follow-up as to that?

CHIEF JOSEPHSON: What's the basis for carving out the State Building Authority?

MR. SHAUGHNESSY: My understanding is that it has its own approval process, legislative approval process, which includes an arts element to it. So that would be a redundancy, if you will, to that approval process.

MR. McGLYNN: I think what they want us to do is to adopt this form, if I'm not mistaken, as the one that would be sent to us.

MR. SHAUGHNESSY: That's my understanding, as well.

MR. McGLYNN: Okay.

MR. SHAUGHNESSY: But I don't know if the Commission wants to hear from the proposer, if you will, the Division of Property Management and Construction, or has any questions about the form.

MR. McGLYNN: I guess this is just expenditure for recommendations concerning the inclusion of artistic designs, right?

MR. SHAUGHNESSY: It is the expenditures for recommendations, that's correct, for artistic designs. And I think there is some latitude or interpretation in the statute that may allow the Commission, if it so chooses, to delve further into the actual artistic project for the design. But I can't tell you, because I'm not part of this process, when that is formulated in the process, exactly, and at what point it gels.

CHIEF JOSEPHSON: I would be very reluctant to get involved in fooling around with the artistic elements. I don't think we need to necessarily address that here today. We can wait and see what happens, one day, but I think, as a general practice, we're probably best served by focusing on the expenditures.

MR. McGLYNN: It's probably just a checks and balance to make sure they're not spending more than 1.5 percent. And if they are, they probably have to come to us and say they want to spend more, and then we can make a decision as to whether or not we want to get involved in what things look like and what the artistic designs are.

MR. SHAUGHNESSY: My understanding of the form is that it has a particular project number, the location of the project, the current estimate of the construction cost, the proposed arts inclusion budget, which would be that up-to-1.5 percent. And the proposed arts inclusion plan would be some designation or specification at that point -- what the art is intended to be. But I don't know more about that. That may be better left for the Division of Property Management and Construction at this point.

DEPUTY TREASURER SMARTT: Since the statute only seems to deal with the expenditure, is there a need to have a plan element at all, as long as it doesn't exceed 1.5 percent? I think having a plan gets us into the potential swamp that Paul Josephson wisely suggested we avoid.

MR. McGLYNN: If you do this form and just take out the proposed arts inclusion plan, you're fine. And then, if it's over 1.5 percent, you can say, "What's it going to be?"

MR. SHAUGHNESSY: I don't know if there's actually-- One may view this as a mathematical formula, if you will. But I don't know -- proposed arts inclusion plan -- how detailed that would be in any event. I mean, that's something if the Commission wants to seek a modification of the form, it can.

CHIEF JOSEPHSON: I think what might be reasonable would be, rather than focusing on the elements of what the plan are, maybe an emphasis on a cost-reasonableness discussion of the plan -- that we focus on the kind of fiscal propriety of what's going on. Is this going to be one artist getting a million dollar grant, or is this a balanced plan that makes sense, and makes fiscal sense that we're, kind of, getting our dollar's worth? I think that may be more consistent and best serve us, in fulfilling our statutory role here on reviewing the expenditures.

I'd also just identify another issue we might have on this -- is, we all know what happens to estimates of construction costs. The issue of, if an estimate goes up significantly, and then somebody comes back and says they want to increase the arts budget as a result, which is probably something we should resist -- that temptation-- That would be the other issue I would see. But I think if we focus on the fiscal accountability aspect, we're probably best served.

MR. SHAUGHNESSY: So if we were going to, then, return to public session, would you like to hear from anyone first, Commission, or would you like to move the form as modified, if you will?

SENATOR KAVANAUGH: Is he going to give us wisdom if we hear from him?

MR. SHAUGHNESSY: I can't ascertain that. I assume it is wisdom.

CHIEF JOSEPHSON: I would suggest that since we're on the record right now, as it were -- there is a record made of this -- and I think it would be sufficient for Counsel to discuss with staff what the sense of the

Commission is, as far as what we'd like to see under this item of proposed arts inclusion plan. That's probably sufficient.

SENATOR KAVANAUGH: You're carrying the ball.

MR. SHAUGHNESSY: Okay.

SENATOR KAVANAUGH: Give them two-and-a-half knocks.

Do we have a motion to go back into the State House Commission meeting, please?

MR. McGLYNN: It's been moved and seconded.

SENATOR KAVANAUGH: Moved and seconded.

MR. McGLYNN: All in favor? (affirmative responses) All opposed? (no response) We're back in public session.

SENATOR KAVANAUGH: At this time, we will ask our Counsel to comment on items that are before us.

MR. SHAUGHNESSY: If I may, with regard to Number 21, Subsection 4, I understand that there will be a motion for preparation and announcement of a final agency decision of the State House Commission, in consultation with Counsel, by the next regularly scheduled State House Commission meeting.

MR. McGLYNN: Which will be towards the latter part of March of 2003.

CHIEF JOSEPHSON: Should we solicit any comment on this item?

SENATOR KAVANAUGH: If there is anyone who'd care to speak, otherwise we'll continue on to expedite this.

MR. SHAUGHNESSY: Is there a motion and second to that?

CHIEF JOSEPHSON: I'll second the motion.

SENATOR KAVANAUGH: Moved and seconded. Roll call.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. SHAUGHNESSY: With regard to Number 22 on the agenda, I understand there is a motion to issue an amplified decision of the State House Commission concerning its approval of the September 19, 2002 subject diversion. That will be issued and executed on behalf of the Commission by the Secretary and then, ultimately, be filed with the Appellate Division.

I also may add that I understand that the Department of Environmental Protection will file a separate amplified decision on its behalf in support of its approval of the subject diversion by year end.

Is there a motion and second as to--

CHIEF JOSEPHSON: I'll move that the Commission approve the amplified statement that's been prepared by Counsel on our behalf.

DEPUTY TREASURER SMARTT: Second.

SENATOR KAVANAUGH: Are there any questions? (no response) Roll call, please.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

CHIEF JOSEPHSON: Before we move on to the next item, I'd just like to make one comment on the last item, which is, in reviewing the record -- and I want to make sure this comes through loud and clear -- is that one of the primary questions that we have to look at in approving a diversion is the issue of a compelling public need, and I'm not sure if it came through cut and dry in the memo that's going to be submitted to the Appellate Division.

But I know, on my behalf, I'd like to indicate that I found the testimony -- that we received during our hearing from the students and folks

associated with the college concerning the need -- was, I think, a clearly demonstrated and compelling need for the additional facility in that area of the state. It's an underserved area. We did have students come in and talk to us about the significant difficulty and discouragement to further education in having to travel over an hour to the existing facility in Mays Landing. Certainly, that's a strong factor in my vote, with respect to this matter.

SENATOR KAVANAUGH: Thank you.

MR. SHAUGHNESSY: Finally, Number 23 on today's agenda is the State House Commission's approval of the arts inclusion review and approval process. I don't know if there is anyone here that would like to make any comment with regard to that.

SENATOR KAVANAUGH: Is there any party here that would care to comment?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes, sir.

SENATOR KAVANAUGH: Is there a second? Let's not get avalanched, now.

CHIEF JOSEPHSON: Are you the representative on behalf of the Division?

UNIDENTIFIED SPEAKER FROM AUDIENCE: I'm a Deputy Attorney General representing DPMC.

CHIEF JOSEPHSON: I think we can probably, just in the interest of moving things along here-- I think the Commission has a sense, and we'd just like to, I guess, as long as we're in public session, give you a little direction in terms of what the sense is here.

The form that's been supplied, in the process that's been laid out for us, is, generally, appropriate and where we'd like to head. I think the request is that the elements being given emphasis and presentation to the Commission be focused on, really, the fiscal aspects of the plans that are being supplied so that there is -- the Commission's able to fulfill its duty, which we see as being largely a review of the expenditures being made, so that we just know that there's fiscal accountability and that money is being spent properly on these projects.

MR. SHAUGHNESSY: I believe that the motion would be to accept the form submitted in a substantially final form and that I have been directed to work with Counsel, as well, in the Division of Property Management and Construction, to finalize that form.

CHIEF JOSEPHSON: Moved.

SENATOR KAVANAUGH: Moved and seconded.

MR. McGLYNN: Assistant Director Steepy.

ASSISTANT DIRECTOR STEEPY: Yes.

MR. McGLYNN: Assistant Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

Is there anything else? (no response)

Thank you for coming.

MR. McGLYNN: Everyone, have a very nice holiday, and thank you for getting here on time. We appreciate it.

(MEETING CONCLUDED)