
Commission Meeting

of

STATE HOUSE COMMISSION

LOCATION: Committee Room 1
State House Annex
Trenton, New Jersey

DATE: September 21, 2000
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Devon L. Graf, Chair
(Representing Governor Christine Todd Whitman)
Senator Walter J. Kavanaugh, Vice-Chair
Assemblyman Leonard Lance
Assemblyman Anthony Impreveduto
Charlene M. Holzbaur
Maureen Adams
(Representing Roland M. Machold)



ALSO PRESENT:

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

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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SENATOR KAVANAUGH: Good morning, ladies and gentlemen. This is the State House Commission Meeting of September 21. We have met the requirements of the Open Public Meetings Act. At this time, I ask Mr. McGlynn to call the roll.

MR. McGLYNN (Secretary): Director Holzbaur.

MS. HOLZBAUR: Here.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Here.

MR. McGLYNN: Authorities Unit, Director Graf.

MR. DEVON L. GRAF (Chair): Present.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Here.

MR. McGLYNN: Senator Kavanaugh, Chairman Kavanaugh.

SENATOR KAVANAUGH: Here.

Move for the approval of the minutes of June 28.

MR. McGLYNN: Mr. Chairman, we have an amendment. Mr. Shaughnessy, our Counsel, would like to--

SENATOR KAVANAUGH: Mr. Shaughnessy.

MR. SHAUGHNESSY (Counsel): If I may, Mr. Chairman, one slight amendment. Under the minutes, Old Business, specifically No. 3, RPR No. 00-20, it should be amended to reflect that that item was actually moved, seconded and unanimously approved at our March 27, 2000, State House Commission Meeting, and there was public comment heard with regard to that matter. I think the minutes should reflect that.

SENATOR KAVANAUGH: Could we have a motion with the amendment?

ASSEMBLYMAN LANCE: So moved.

SENATOR KAVANAUGH: Second?

MR. GRAF: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Agreed.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Agreed.

MR. McGLYNN: Director Graf.

MR. GRAF: Agreed.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 2, Mr. Chairman, is RPR 98-19. The New Jersey Department of the Treasury, on behalf of the Department of Education, requests approval to dispose of 5.31 plus-or-minus acres of vacant land to Jersey City, located at Block 2078, Lot A.1, A.B., A.C., A.D., A.4, A.9, A.10, A.11, and A.15, Jersey City, in Hudson County.

SENATOR KAVANAUGH: Is there anyone here to comment?

(no response)

Seeing no one, motion, please.

ASSEMBLYMAN LANCE: So moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Moved and seconded.

Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 3, under New Business, RPR 93-82.

The New Jersey Department of Treasury requests approval to lease a DEP residential property to Vicki McMorrow, located at Block 1002, Lot 31, in Allamuchy Township, in Warren County. This is a renewal of a lease.

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

Motion?

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Seconded.

Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 4, RPR 96-02. The New Jersey Department of the Treasury requests approval to lease a DEP residential property to Mary Jane Jones. The property is located at Block 1002, Lot 31, in Allamuchy Township, Warren County. Again, this is a renewal of a lease.

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

ASSEMBLYMAN LANCE: Moved.

SENATOR KAVANAUGH: Second?

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 5 is RPR 00-09. The New Jersey Department of the Treasury, on behalf of the Department of Human Services, requests approval to lease three houses on the grounds of Greystone Psychiatric Hospital to Compcare of Bergen County. The property is located on Ruth Davis Drive, at Block 10, Lot 1, in Parsippany-Troy Hills Township, Morris County.

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

Is there a motion?

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: No. 6 is RPR 00-29. The New Jersey Department of the Treasury requests approval to dispose of vacant land located at Block 26001, Lot 1, and Block 25001, Lot 1, in Montgomery Township, Somerset County, via direct sale to Somerset County.

SENATOR KAVANAUGH: Anybody have a comment? (no response).

Motion, please.

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 7 is RPR 00-30. The New Jersey Department of Treasury requests approval to lease a DEP residential property to John Gatti, located at Block 67, Lot 3, in Branchburg Township, Somerset County.

SENATOR KAVANAUGH: Any comment? (no response)
Motion?

ASSEMBLYMAN LANCE: Moved.

SENATOR KAVANAUGH: Second?

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: May I have a roll call, please?

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: No. 8, RPR 00-33. The New Jersey Department of the Treasury requests approval to lease a DEP residential property to Donald Dolan, located at Block 366, Lot 3, in Byram Township, Sussex County.

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

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 9 is RPR 00-34. The New Jersey Department of the Treasury requests approval to lease a DEP residential property to Eugene and Doris Gambrell, located at Block 37, Lot 48, in Franklin Township, Somerset County.

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

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: No. 10 is RPR 00-36. The New Jersey Department of the Treasury, on behalf of the Department of Corrections, requests approval to lease a parcel of vacant land located on the grounds of the East Jersey State Prison to the Union County Utilities Authority for a DEP-required ambient air testing and environmental assessment sampling site. The property is located at Block 905, Lot 10, in Woodbridge Township, Middlesex County.

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

Motion, please.

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Seconded.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 11 is RPR 00-37. The New Jersey Department of the Treasury, on behalf of the Department of Human Services, requests approval to transfer the Green Brook Regional Center from the University of Medicine and Dentistry to the Department of Human Services. The property is a multistory building that is being used by the Department of Human Services as a residential facility for developmentally disabled individuals and is located at Block 6, Lot 1, in Green Brook Township, Somerset County.

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

Motion?

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 12, RPR 01-02. The New Jersey Department of the Treasury requests approval to lease a DEP residential property to Charles and Cynthia Applegate. The property is located at Block 147, Lot 44, 27 Waterloo Valley Road, in Allamuchy Township, Warren County.

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

Motion?

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 13, from the Department of Environmental Protection: Assunpink Wildlife Management Area, Block 7, part of Lot 1, Upper Freehold Township. The DEP, Division of Fish and Wildlife, requests approval to renew a 15-year lease with the United States

government to operate the VORTAC facility at the Assunpink Wildlife Management Area located in Monmouth County.

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

Motion, please.

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Seconded.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Senator Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 14: Thompson Park, Block 1099, Lot 3, in Middletown Township. The DEP, on behalf of the Township of Middletown, requests approval to divert approximately 0.93 of an acre for the realignment of Campus Drive East, which travels through the center of the campus at Brookdale Community College in Monmouth County.

SENATOR KAVANAUGH: Any comment? (no response)

Motion?

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 15: Open Space, Block 123.03, Lot 1.06, part of those lots in Somerville Borough. The DEP, on behalf of the Borough or Raritan, requests approval to divert approximately 2.5 acres of open space for the widening of Route 206 in Somerset County. Of the 2.5 acres needed by the Department of Transportation, 0.37 acre will be acquired in fee taking and the remaining 2.14 acres in various easements.

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

I would just like to ask you, Mr. McGlynn, since that's my district, I don't know where Somerville comes into this.

MR. McGLYNN: Bear with me for a moment.

SENATOR KAVANAUGH: On the west side of 206, some of it comes down--

MR. McGLYNN: For some reason it is listed here, but-- Someone is here from DEP, I know. Yes. It's listed here as Somerville Borough.

DAVE SMITH: Right.

MR. McGLYNN: Could you come up and identify yourself, please?

MR. SMITH: My name is Dave Smith, with the Green Acres Program. The property is zoned by Raritan Borough. However, it's located in Somerville Borough. It's a portion along Route 206. It's a little bit south of the mall, the Raritan Mall.

SENATOR KAVANAUGH: The same side?

MR. SMITH: The same side as the mall, correct. And DOT is doing some road widening, and they need a portion of the open space there that was part of Green Acres back in the 1960s.

SENATOR KAVANAUGH: I know the 123 acres is Somerville, and the next piece of property is Somerville, but the line is north of that 123-acre tract. I thought that was up further, where they're going to do their expansion.

MR. SMITH: I have a map here. I can bring it up and show it to you, if you want.

SENATOR KAVANAUGH: Yes. I just want to make sure this is done because--

That's Somerville. (indicating)

MR. SMITH: This is Somerville. (indicating)

SENATOR KAVANAUGH: Right.

Okay. Thank you.

Motion, please.

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

Good morning, Assemblyman.

ASSEMBLYMAN IMPREVEDUTO: Good morning, sir.

MR. McGLYNN: Assemblyman Impreveduto, Items 1 through 14 were approved unanimously.

ASSEMBLYMAN IMPREVEDUTO: And I vote to the affirmative on that, too.

MR. McGLYNN: Thank you.

Item No. 16: D & R Canal State Park, in Trenton City. The New Jersey Department of Environmental Protection, Division of Parks and Forestry, requests approval to grant an easement to allow the installation of a fiber optic cable conduit, by directional drill, under the Delaware and Raritan Canal, where it crosses Montgomery Street, in Mercer County.

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

Motion?

ASSEMBLYMAN IMPREVEDUTO: Moved.

ASSEMBLYMAN LANCE: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 17: D & R Canal State Park, in Lawrence Township. The New Jersey Department of Environmental

Protection, Division of Parks and Forestry, requests approval to grant an easement to allow the installation of a fiber optic cable conduit, by directional drill, under the Delaware and Raritan Canal, where Route 1 passes over the Canal in Lawrence Township.

SENATOR KAVANAUGH: Comment? (no response)

Motion, please.

ASSEMBLYMAN IMPREVEDUTO: Moved.

SENATOR KAVANAUGH: Second?

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 18: Forked River Game Farm, Block 315, Lot 28, in Lacey Township. The New Jersey Department of Environmental Protection, Division of Fish and Wildlife, requests approval to

lease approximately 8.5 acres of land for continued improvement, maintenance, repair, operation, and public use of the recreational fields in Ocean County.

SENATOR KAVANAUGH: Any comment? (no response)

ASSEMBLYMAN IMPREVEDUTO: Moved.

SENATOR KAVANAUGH: Second, please.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 19: Forked River Game Farm, Block 315, Lots -- part of 38, 39, 40, 40.01, 41, and 42, to U.S. Fish and Wildlife Service, and Block 315, Lots 28 and part of 38, to Lacey Township. DEP, Division of Fish and Wildlife, requests approval of the sale of the Forked River Game Farm in Ocean County. The majority of the property, 503 acres plus or

minus, will be sold to the U.S. Fish and Wildlife Service; 18.53 acres will be sold to Lacey Township for recreational fields. The State will retain 19.16 acres currently leased to the Juvenile Justice Commission.

SENATOR KAVANAUGH: Any comment? (no response)

Motion, please.

ASSEMBLYMAN IMPREVEDUTO: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 20: Memorial Field, Block 203, Lot 1.01, in Absecon City. The New Jersey Department of Environmental Protection, on behalf of the City of Absecon, requests approval to dispose of Memorial Park, a 7.56-acre active recreational facility located on Route 30 in Atlantic County.

SENATOR KAVANAUGH: Is there any comment? (no response)
Motion, please.

ASSEMBLYMAN IMPREVEDUTO: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 21: Waterfront Park, Block 28, Lots 1, 2, 2.01, 2.03, Block 51, Lot 3, in Perth Amboy. The New Jersey Department of Environmental Protection, on behalf of the City of Perth Amboy, requests approval to make legal the City's 1984 lease, sale of half of a street, and the granting of permanent access and utility easements on a portion of Waterfront Park in Middlesex County.

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

Motion, please.

ASSEMBLYMAN LANCE: Moved.

ASSEMBLYMAN IMPREVEDUTO: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: No. 22: Higbee Beach Wildlife Management Area, Block 748, Lot 35.01, a portion of that, in Lower Township. The New Jersey Department of Environmental Protection, on behalf of the Division of Fish and Wildlife, requests approval to lease approximately 750 square feet of land consisting of the footprint of the tenant-owned structure known as the Sunset Beach Sportsman Club, located in Cape May County, for a period of five years.

SENATOR KAVANAUGH: Was this the nude beach?

MR. McGLYNN: That was it.

SENATOR KAVANAUGH: That's the place. (laughter)

MR. McGLYNN: It's the one that you and I used to go to.
(laughter)

SENATOR KAVANAUGH: God, I gotta stop that. (laughter)

MR. McGLYNN: And Assemblyman Impreveduto would show up
late. (laughter)

ASSEMBLYMAN IMPREVEDUTO: No comment. (laughter)

SENATOR KAVANAUGH: Any comment from the audience?
(no response)

ASSEMBLYMAN IMPREVEDUTO: Moved.

SENATOR KAVANAUGH: Second, please.

ASSEMBLYMAN LANCE: I'll second that one.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: No. 23: Johnson Park, Smoyer Park in Mercer County's Herrontown Arboretum, Township Open Space, Block 6401, 31.18 and 31.18, 2901, 6402, Lots 2, 17, and 412, 1, 2, in Princeton Township. The New Jersey Department of Environmental Protection, on behalf of the Township of Princeton, requests approval to dispose of or divert five acres of parkland involving the four parks in Mercer County. The purpose of this request is to make legal an inadvertent exchange of parkland, correct to two boundary areas within a park, provide for a road right-of-way, and shift the location and rebuild a sewer pump station within open space.

SENATOR KAVANAUGH: Is there anyone here to comment?

Yes, would you come forward.

How many people do we have that want to comment? One, two, three--

Your name into the mike, please. Is the light on? (referring to PA microphone)

WENDY MAGER: No, but let me see. I'm told these are not working.

SENATOR KAVANAUGH: Okay, well then-- Maybe we didn't pay the rent. (laughter)

ASSEMBLYMAN IMPREVEDUTO: The Governor wouldn't do that, would she?

MS. MAGER: I'm afraid I'm electrically challenged, so I can't do much. How's that?

SENATOR KAVANAUGH: Yes.

ASSEMBLYMAN IMPREVEDUTO: That's wonderful.

MS. MAGER: Very good.

SENATOR KAVANAUGH: Would you identify yourself and where you live, please?

MS. MAGER: Yes, thank you.

Good morning, members of the Commission. My name is Wendy Mager. I reside in Princeton Township, and I am the President of Friends of Princeton Open Space. Friends of Princeton Open Space is a qualified 501(c)(3) charitable organization. We've been around for over 25 years, and our purpose is to protect and preserve open space in the Princeton area, and of course, that is the subject of this particular application.

We sent a letter to the Commission, dated September 18, 2000, which I hope you have received. I don't intend to go through everything it says in the letter, but there are a couple of points that I would like to highlight. I'd also like to mention that our concern and involvement with open space in the Princeton area has been a constant and devoted, and we compliment our township on its record in preserving open space. We have worked with the township.

For example, on a project that was regarded as very important by the State, the preservation of the institute lands, it was a priority of the Commissioner of the Department of Environmental Protection. We are helping the township to repay the Green Acres loan that was obtained by the township for that project, which also received \$10 million of direct State money.

With respect to the current application, I'm not here to speak so much to the township's reasons for desiring to do these things, but rather to the issue of the land that is proposed to replace the diverted parklands. And

I know all of you will consider our position carefully, but I appeal, especially, in this regard, to Assemblymen Lance and Impreveduto and Senator Kavanaugh and to the Governor's representative, Mr. Graf, because I think they particularly are here as representatives of the legislation that created the Green Acres Program and of the Governor's demonstrated concern with the preservation of open space.

As you, I'm sure, are aware, the Green Acres regulations contemplate that diverted parkland will be replaced with lands of equal or greater market value and of reasonably equivalent size, quality, location, and usefulness for recreation and conservation purposes. And I guess, I would say, our comments go to the issues of quality, primarily, in this sense: The land that is proposed to be substituted here is part of a parcel that is being developed in Princeton Township by an entity called Pulte Homes. This development approval process was one in which we participated. This substituted land is a portion of the tract being developed by Pulte that would basically be undevelopable because of stream corridors, steep slopes restrictions, and the like. And as my letter sets forth, in the process of reviewing that application for development, it was agreed between the township and Pulte that this area would be deeded to the township. Pulte agreed not to develop it, but as I've indicated, that really wouldn't have been feasible, and the development rights attributable to that acreage were basically utilized on the rest of the tract.

So what we're saying is that we believe that proper replacement of diverted parklands should not involve replacement with land like this that would have been preserved anyway, that was already agreed to be preserved,

and for which the planning authorities, and consequently, the community already made concessions to a developer, which in this case took the form of variances, and very importantly, of abandoning a designation of part of this property for recreation in the master plan. And it would have been ideal to meet the township's pressing recreation needs. And if this land then is used to replace this diverted parkland, we feel like the community will have paid twice. We will have paid once because these concessions were made, this ideal recreation site was lost, and certain other agreements were made that benefited the developer. And we will lose again because instead of replacing the diverted lands with something new that would not otherwise have been preserved, resort is being had to this agreement that was already in place.

And I think that really goes to the basic philosophy of the Green Acres Program, and it's really a policy question that is very important in terms of what this Commission recognizes as being adequate to replace parkland when we know that, even with the amount of money that's recently been approved to preserve a million acres of open space, we will not, in the end, have as much as we would like. So every acre is precious.

And the last point I would make is that we do know that before these matters come to you, they do go through Green Acres, and Green Acres gets a transcript of the public hearing that was held. One of our board members, Mr. Vonsobush (phonetic spelling), who is here, spoke at the public hearing. Unfortunately, the transcript of his remarks, which then went to Green Acres, as he will explain to you, does not at all capture what he feels he said and the nature of our concerns. So in some sense, this is coming to you

from Green Acres on an inaccurate or incomplete record, and I think that should be a matter of concern.

So I would urge that this is a specific agenda item that deserves very careful consideration and, perhaps, deserves to go back to Green Acres or other action be taken to recognize this policy issue that's presented here.

Thank you.

SENATOR KAVANAUGH: Thank you very much.

How many more individuals-- Are you all opposed? Opposed, opposed, opposed? I'll hear one more if you want to pick one of the three, because we get the gist of the-- There's no sense in duplicating. Who'd like to go?

RICHARD BARRETT: (speaking from audience) I basically plan to take up on what Ms. Mager said about the minutes being--

SENATOR KAVANAUGH: It's just-- You know, the public hearing-- The discussion here is whether we're going to pass along what they did. So, if you would come forward, identify yourself and where you live.

MR. BARRETT: My name is Richard Barrett. I live at 99 Rosedale Lane, Princeton, New Jersey. I have also written to the Commission, which you should have a copy of my letter. I'm here concerning the two parcels, within Princeton's application, which the State House will consider today. These are the two parcels of Johnson Park. These parcels were given to Princeton by General Johnson and wife to remain in perpetuity as parks.

One of the parcels that is before you is also deed restricted. There could never be any building, parking area, or maintenance of any type of structure. I feel that these deed restrictions have not been adequately

addressed prior to the application. Therefore, I am asking that the application be tabled until those issues are resolved. And I would just like to point a couple of them out. The deeds for this property is very specific that these parcels remain as public parks. I also further have a letter from Robert Wood Johnson in 1956 that states his intention as far as building, as far as conservation along the Stony Brook. The Stony Brook, at present, is an impaired stream. The covenants and restrictions were put in the deed on that parcel to protect and maintain the water quality along the stream.

The second thing that I would like to address, as far as the deed restrictions, is that originally, several years ago, there was-- Johnson Park, the 14-acre piece, was traded to the school board in exchange for a piece of land on which the fire station was built. At that time, an agreement was made between the township and the school board. I understand, at this point, the State is looking upon that agreement as ultra vires, that there was not authority to make that agreement. But there have also been statements in the application that the parcel was given to the school board to be used specifically for conservation and ecology studies for the school. That is not the case. I have the document with me. The parcel was given to the school board that allows for school expansion and facilities expansions. Now, one of the things -- whether that document still stands is questionable -- but one of the things that was offered as a condition of this diversion would be that the covenant and restrictions would be placed back on this parcel and that it would be held strictly as it was granted. That has not been done.

At this point, I am told that, contrary to what was stated in the public record, that it would be done, that it is the intent of the township to do

it. I think intent and doing it are two very different things, and that as a condition of this application, that that must be done. Furthermore, I think as far as the pumping station, there are questions that this application is being pushed forward very quickly. The public hearing was held August 14. Although it was very well-attended by many people, I also take issue with my statements that were grossly distorted in the minutes, which were only available yesterday. And I think that has to be addressed.

And I think that using the pumping station as the reason of compelling public need to push this application forward in this manner is not right considering these legitimate legal issues about the parkland, about the deeds, and they really must be considered first. And what I would suggest is also that as far as the pumping station that we have a real alternative analysis that -- instead of this being used as the reason.

I think that's about all I would like to say. But again, what I'm asking is, until these issues are resolved, that this be tabled to the next meeting, which can't be that far in the future.

SENATOR KAVANAUGH: Is there anyone here who is in favor of?

UNIDENTIFIED SPEAKER FROM AUDIENCE: (indiscernible)

SENATOR KAVANAUGH: In favor? Opposed? Hold on.

Is there anyone in favor of the application?

Won't you come forward, one or the two of you, whoever.

If you would relinquish your seat?

MR. BARRETT: Oh, sure. My final comment was that, I think, given the fact that the township has the alternative analysis for giving up the

park at this point, I think is questionable. If the township is going to put the covenant and restrictions back on Johnson Park, what is the purpose of giving the piece to the school board? The school can enjoy and use as they've had for many years. These are parks that have been loved and enjoyed by Princeton residents for 50 years. The school board and school students can use the parks as everyone else. And I think that one thing has happened is that certain organizations that have used the park in the past have not been allowed to because of liability issues with the school board. And I think there is a difference, and this is why Green Acres statutes prohibit school boards from owning parkland. And usually, a school board has a different purpose and agenda with land. It's for school uses.

Thank you very much.

SENATOR KAVANAUGH: Thank you.

One of you start and identify yourself and where you live.

TRISHKA WATERBURY, ESQ.: Yes, good morning. My name is Trishka Waterbury, and I'm the Assistant Attorney for the Township of Princeton.

ROBERT V. KISER: My name is Robert Kiser. I'm the Township Engineer for the Township of Princeton. I have held this position for 17 years.

MS. WATERBURY: The two of us have been primarily responsible for assembling this entire application, which is why we're here to speak in favor of it. I think that many of the concerns that have been raised here this morning were also raised at prior public hearings, and it's certainly the township's position that we have addressed these in the past within the

application and in direct communications with some of the people who have spoken.

But what I'd like to emphasize this morning to this Commission is the overwhelming public need for these diversions. I think what's important to remember are two things. One, we're really talking about a minute amount of property. Aside from the 14-acre Johnson piece that we were just mentioning that was already deeded to the board of education, for which we're going to have to try to do a corrective deed, if this Commission grants us permission, those 14 acres -- their use will not change. That has been our stated intent all along, is that we would, in the corrective deed, reinsert a deed restriction that the use of those 14 acres would continue to be in accordance with existing -- at Green Acres regulations, so that the board of education could do with it only so much as the township could do with it were it to remain in township ownership, as it currently is.

With respect to the property that we wish to divert for the Rosedale Road Pump Station, we're talking about a quarter of an acre. And at this point -- and our engineer can speak to this better than I can -- but this pump station is going to fail. If it fails, there's going to be raw sewage discharged into the Stony Brook, and we see no alternative but to upgrade the pump station and relocate it out of the floodplain in which it currently sits.

As for the other diversions, I don't think that there have really been any objections voiced to them. So unless you have specific questions about them, I'll restrict my comments to what I've just stated.

SENATOR KAVANAUGH: Thank you, Ms. Waterbury.

Yes, Mr. Kiser.

MR. KISER: Yes. Good afternoon, Mr. Chairman and Commission members.

The Rosedale Road Pump Station -- is critical that that pump station be replaced at this time. The pump station is 40 years old. It's wearing out. It's in need of replacement. But more critical, the force main, which was constructed 40 years ago, is of asbestos cement material, which has reached its useful life, as part of the pump station replacement will be replacing that force main. We're fearful that that force main can fail at any time, which would discharge raw sewage into the Stony Brook. So it's very important that we move ahead with that project.

With regard to the Bund (phonetic spelling) Drive diversion, the Bund Drive connection will serve a nursing home that will be breaking ground within the next two weeks, as well as the Institute for Defense Analysis. It's important that this linkage be put in place so that we would have direct access from our emergency services, including our rescue squad and our fire department, to these new facilities.

I'd also like to mention, regarding the 35.5-acre parcel, that we're using this as an exchange for this particular diversion. Yes, the dedication was from the developer to the township. But as part of that planning board approval, the town required the developer to install a soccer field, a basketball court, a hard-surfaced play area, and a playground, all to be dedicated to the township as part of this 35.5-acre parcel. And also, the remaining portions of that parcel will be free and available for the public's use for hiking trails and enjoyment of the wooded area.

SENATOR KAVANAUGH: Thank you very much. I think what you're stating is -- showing that there is something of almost an emergency nature, but the concern I have is the citizens. You've had your hearings. There was concern about the sewer. I would ask if the town and the citizen groups could get together with DEP at a meeting, try to resolve the issues that have been brought forward, and that we table it at this time and move it to our agenda the next time, and it will either pass or fail. I think the points that you're making certainly have a great deal of value, but as not only a member of the Legislature, but as a citizen, that I think it is important that we listen to the taxpayers and make sure that things are done in the right way. And as you know, your salary comes from them, so that we don't want to just ignore it.

MR. KISER: Mr. Chairman, in order for this project to move ahead, and assuming when we can resolve our differences, is there any way that this Commission could approve this application subject to a meeting and resolving of the issues regarding the pump station?

SENATOR KAVANAUGH: Well, I would talk to Mr. Shaughnessy.

MS. MAGER: Respectfully, I would object to that. I don't think we have much leverage to get our concerns addressed in the meeting if the application is approved just subject to having the meeting.

SENATOR KAVANAUGH: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes. Thank you, Mr. Chairman.

I'm not prepared to vote for this today. I am familiar with the area. I'm also familiar with the governing body in Princeton Township. Is Phyllis Marchand the Mayor at the moment?

MS. WATERBURY: Yes, she is.

MR. KISER: Yes.

ASSEMBLYMAN LANCE: My friend. And unto me with Friends of Princeton Open Space, a close friend of Kathy Bagley (phonetic spelling), your executive secretary. And I trust that all involved are persons of good will. I would like to see a meeting before there is any resolution by this Commission and would not vote for approval even with a contingency today.

The Commission does have the ability -- and I wish this conveyed back to Princeton Township -- to meet by telephone if there is some sort of emergent situation. I am also concerned with the allegation. We're not a court of law, but at some point, I would like to hear from Green Acres or DEP on the suggestion that testimony was not well-represented. That's certainly not the concern of the Township of Princeton. I speak now to the agency involved. If there was testimony and opposition, I would like that accurately categorized. I concur with the Chairman's suggestion that this matter be tabled for today.

SENATOR KAVANAUGH: Thank you, Assemblyman.

Is there any other comments of the members? (no response)

What we could do-- What I would suggest, that if arrangements are made along with DEP and the township and the group that it concerns, as soon as they're ready, notify the secretary, and we could call a special meeting to clear this matter up so that wouldn't be any problem. It's not comfortable to have sewage in your streets, so be happy to do that. But at this time, I would ask that we have a motion to table.

ASSEMBLYMAN LANCE: I so move.

MS. HOLZBAUR: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

I hope that will satisfy all parties and that we can get it rectified as soon as possible.

MR. BARRETT: Thank you very much, Mr. Chairman, Commission members.

MS. WATERBURY: Thank you.

MR. McGLYNN: Mr. Chairman, with your permission, Items No. 24 through No. 29 all concern the New Jersey Department of Transportation, Bureau of Right of Way. I'll read them all, and we can vote them on en masse.

SENATOR KAVANAUGH: Certainly.

MR. McGLYNN: No. 24 is Project 3, Section 1, Parcel VXR12A2, in the town of Secaucus. The New Jersey Department of Transportation,

Bureau of Right of Way, requests approval to sell a site located in Hudson County.

Item No. 25 is Project 4 and 17, Section 2, Parcel VX94B, in Paramus Borough. The New Jersey Department of Transportation, Bureau of Right of Way, Property Management, requests approval to sell a triangular-shaped parcel of vacant land containing 2614 square feet in Bergen County.

Item No. 26 is Project on Route 55, Section 7, Parcel VX35C, in Vineland City. The DOT, Bureau of Right of Way, Property Management, requests approval to sell an elongated, rectangular-shaped parcel of vacant land containing 1.416 acres located in Cumberland County.

Item No. 27 is a project on Route 1, Section 5, Parcel X28B, in North Brunswick Township. The New Jersey DOT, Bureau of Right of Way, Property Management, requests approval to lease by direct negotiations 0.572 plus-or-minus acres of vacant land located in Middlesex County.

Item No. 28: Project Route 676, Section 1, Parcel VX52J and VX52N, in Camden. The DOT, Bureau of Right of Way, Property Management, requests approval to sell 2.534 plus-or-minus acres of vacant land located in an area zoned industrial, located in Camden County.

And Item No. 29 is Project on Route 24 Freeway, Section 12, Parcel VX48B, in Millburn Township, where the DOT, Bureau of Right of Way, Property Management Unit, requests approval to sell 6620 square feet of vacant land located in Essex County.

SENATOR KAVANAUGH: Is there a motion, please?

DEPUTY TREASURER ADAMS: So moved.

ASSEMBLYMAN LANCE: Second.

SENATOR KAVANAUGH: Moved and seconded.

Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No. 30 is Route 35, Milepost 14.5, in Point Pleasant Beach Borough. The New Jersey Department of Transportation, Bureau of Major Access Permits, Wireless Communications Unit, requests approval to license a site located in Ocean County for the purpose of erecting a wireless communications facility on an existing GPU power line on State-owned property.

SENATOR KAVANAUGH: Any comment on the tower? (no response)

Motion, please.

DEPUTY TREASURER ADAMS: So moved.

MS. HOLZBAUR: Second.

SENATOR KAVANAUGH: Seconded.

Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Item No 31, Routes 1 and 9, Milepost 48.1, in the city of Newark. The New Jersey DOT, Bureau of Major Access Permits, Wireless Communications Unit, requests approval to license a site located at the New Jersey Department of Transportation Maintenance Yard in Essex County for the purpose of erecting a wireless communications facility on State-owned property.

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

Motion?

DEPUTY TREASURER ADAMS: So moved.

MS. HOLZBAUR: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: We now must sit as the judicial retirement system board, and we have one matter for executive session, but if we could first approve the minutes of the meeting held on June 29, 2000.

SENATOR KAVANAUGH: Can we have a motion, please?

ASSEMBLYMAN LANCE: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: And then we must confirm the death, retirements, and terminations, also.

SENATOR KAVANAUGH: How about the financial statements?

MR. McGLYNN: I'm sorry. And financial statements first. They didn't mark that one, thank you. We can do them together, if you like?

SENATOR KAVANAUGH: All right.

Is there anyone here to comment on retirement system of death claims? (no response) Okay.

Can we have a motion, please?

DEPUTY TREASURER ADAMS: So moved.

MS. HOLZBAUR: Second.

SENATOR KAVANAUGH: And seconded.

Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: We have one matter we must talk about in executive session. So we need to adopt a quick resolution going into executive session, and everyone can leave the room.

And then, Mr. Margulies, we'll ask you to come back in, if we may, okay?

ROBERT E. MARGULIES, ESQ.: Yes, sir.

MR. McGLYNN: Mr. Shaughnessy is going to recuse himself, and Carol Johnston from the Attorney General's Office is going to meet with us. So whereas N.J.S.:10-4b (*sic*) permits the exclusion of the public from certain matters, whereas this matter concerns pending litigation, therefore be it resolved that this Commission will move into executive session to consider this matter. It is anticipated the matter shall become public no later than -- in the next half an hour.

Do I have a motion?

ASSEMBLYMAN IMPREVEDUTO: Moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Seconded.

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

All opposed? (no response)

We're in executive session.

(EXECUTIVE SESSION)

AFTER EXECUTIVE SESSION:

SENATOR KAVANAUGH: Okay, Mr. Margulies.

Come in. All come in and sit down. (addressing audience)

Let's have a motion to go back into public session.

DEPUTY TREASURER ADAMS: So moved.

MS. HOLZBAUR: Seconded.

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

Opposed? (no response)

SENATOR KAVANAUGH: Okay.

Good morning, Mr. Margulies.

I understand that you're representing.

MR. MARGULIES: Yes, sir. Good Morning, Senator.

I represent-- I'm Robert Margulies, an attorney in Jersey City, and I represent the Retired Judges Association of New Jersey -- Mrs. Healy and Mrs. Maturri -- with respect to a petition that was filed some time ago before this deliberative body, referred to the Office of Administrative Law, with a decision coming out this summer, issued on July 20, 2000, by Judge Springer.

Perhaps-- I've been waiting for many years to have a case where I have an opportunity to represent widows and children. I guess this is one.

Perhaps with respect to the procedure, what I understand is before you and is on your agenda is the approval of the Attorney General's request for extension to submit exceptions. Obviously, you've been in executive session, and I would not be privy to that, but perhaps I should be privy to what the -- if there are other issues that have been presented by the Attorney General to the Commission. So, as a matter of due process, I'd be in a position to respond to that instead of just -- otherwise, you know, I'll give you my argument and what I think is appropriate.

SENATOR KAVANAUGH: A question now. Do you represent the two widows pro bono, or is this a part of your income as the representative of the judges?

MR. MARGULIES: Well, making full disclosure, I had received a small \$2500 retainer when I undertook this from the Retired Judges Association of New Jersey. And in terms of additional compensation, that has not been determined as yet by that group or by the individuals. But I am retained individually by the two widows, as well as by the association.

SENATOR KAVANAUGH: Well, Assemblyman Lance, who is an attorney, formerly with the Governor, is going to respond to you.

ASSEMBLYMAN LANCE: I think we should discuss the matter that has been advertised into counsel, which is, as you suggested, the one topic that is on our agenda today regarding this matter--

MR. MARGULIES: Okay.

ASSEMBLYMAN LANCE: --which is the approval of the Attorney General's request for an extension to submit exceptions to the OAL initial decision.

MR. MARGULIES: Okay. If I may then, and I hope that I won't be extending beyond my prerogative, because I think it leads into a discussion of some of the main issues. If I can just in -- very briefly indicate what this controversy is about is the statutory construction of legislation that was passed in 1982. It is very clear and not ambiguous that originally under the Judicial Retirement System final salary meant annual salary received by the member at the time of his or her retirement and death. In 1982, for the two sections related to death and active service or death and retirement, that was specifically changed to read, for the purposes of this section, each section, final salary means the current salary for the judicial position in which a member served at retirement.

This is the issue that was raised. And the administrative law judge, Springer, unambiguously found in the petitioner's favor. Forty-five days from whatever way you count had elapsed with no action being taken by anyone, including the filing of exceptions by the Attorney General.

And there's also legislation that you're aware of that 52:14B-10(c) has a deemed approved provision. Rules of the Administrative Agency, the OAL, indicate that the only way to get an extension under 1:1-18.8(b) is if there is an emergency or unforeseeable consequences.

I guess in looking at the cases-- The cases seem to be very clear that the Supreme Court and the Appellate Division has made exception when some action was taken. But the only thing that the Attorney General, at this point, brings before you is that this is a complex case.

Now, Assemblyman Lance, in one of the prior determinations when there was a question of scheduling I noted, indicated that this is a

full-service Commission, and if there was something that had to take place before your next quarterly meeting, there was an internal mechanism in order to address problems. So it's not a matter of--

ASSEMBLYMAN LANCE: Would you suggest, Counselor, that we should be informed of that?

MR. MARGULIES: Pardon?

ASSEMBLYMAN LANCE: That we should be informed of that, members of this Commission?

MR. MARGULIES: Should be informed of what?

ASSEMBLYMAN LANCE: Of an emergent situation.

MR. MARGULIES: There is no emergent situation I'm suggesting. I'm suggesting that if there is business--

ASSEMBLYMAN LANCE: This is the first moment I've been made aware of this situation.

MR. MARGULIES: Well, if there is business-- There certainly is business, because your Commission referred this matter to the Office of Administrative Law, which acted and sent the decision to your Commission. There was no action taken. And I take the position, and I've done it in writing in the brief that we submitted, because what -- the other thing that has happened that your Commission did do is, three days ago, on the 18th, sent an order that was signed by the Director of Pensions, from the agency to the acting director of the Administrative Law saying, "Please, nunc pro tunc -- now as then -- tell us that the time is extended." I suggest to you that you could take the position that that really is a nullity. This is a clear statute. And instead of going back in the legal wrangling that will, on an appeal, end up

being over procedural issues where you can make a clear determination that there's no need for that, you have a judge who made a determination. If the agency-- If you deny that application and if the agency determines to go to the Appellate Division, then instead of being on the procedural issues of, "Did you act? Did you not act? Should you have acted? What does it mean? How are we going to distinguish it?", we'd be on the main issue.

And the agency can then do one of two things. The pension agency can say, "You know what? We exceed, and we're going to allow these pensions to be paid," or they can take an appeal. If they think that's wrong as a matter of law, they can take an appeal. And on then, not the procedure, but on the substance of the matter, the Appellate Division and then the -- probably the Supreme Court would be in a position to consider it. But it would then-- I think there ends up being no criticism of this agency, because certainly this agency, this Commission, could have adopted, or not, the findings of the administrative law judge. And since it appears very clear, very unambiguous that the legislation was changed and changed to mean what the administrative law judge said, I suggest that instead of saying filing the exceptions -- and if I could just comment on the exceptions, not being critical of the Attorney General's Office, the exceptions aren't exceptions. The exceptions are a reiteration of the legal argument made below to Judge Springer.

Now, I understand that over the years that practice has sort of changed. When I started out, when an administrative body made a deliberative determination, there were actual exceptions. Usually, as I recall, you numbered them -- this is why it's wrong -- one, two, three, four. All we got here is really a restatement of the brief below. And that's why in sending you

a letter, I sent you-- Besides making a two- or three-paragraph explanation of our position, I sent you our brief below. I mean, why restate it on a different piece of paper.

I'm suggesting that this body consider that there is no, certainly, emergency. There is no unforeseeable consequence. Not only am I saying that, but the Attorney General hasn't said there is any, because they can't point to any. And that the prudent thing to do, as a deliberative body, would be to let this matter go forward, let the -- because I think you're without jurisdiction, and I say it respectfully. It's only because of the statute that the Legislature passed. I think you're without jurisdiction to consider it anyway, but let it go forward, and then the agency can make the determination. If they agree, in hindsight, with Judge Springer's analysis, then they'll recalculate and pay the pensions. If they don't agree, then they are not hamstrung in any way, and the Appellate Division will make a determination, because they'll take an appeal.

I would be available for any questions, but I think I've expressed my position.

SENATOR KAVANAUGH: Any other comments of the Commissioners? (no response)

You're on the clock, so I'd like to give you a little more time. (laughter) If not, thank you very much.

Yes.

PETER GORMAN: My name is Pete Gorman. I'm with the Division of Pensions. I just want to make a comment. The last time this Commission met was on June 29, prior to the rendering of the OAL decision. We meet on

a quarterly basis most of the time. And I suggest to you, this is the first time you couldn't really vote on this or take action on it, because you didn't meet in a formal meeting until today.

SENATOR KAVANAUGH: Well, Mr. Gorman, I mentioned that to you in the closed session about the fact that we meet on a quarterly basis. Today is really the first day we could have acted on something in June. So that the question I asked you was, not being an attorney, wouldn't it be such that the court would say, "Well, they did it in a timely fashion." A letter came in, in June. They met in September, but it was the first meeting they had, but that's the way they meet. It's a group that meets four times a year.

MR. GORMAN: Right. And the problem with the 45 days is, obviously, it fell-- The last meeting was June 29, and this is the next one.

SENATOR KAVANAUGH: It sounds like the Governor has to sign a bill. She's there every day. In 45 days, it becomes law if she doesn't sign it. But she has the opportunity, whereas we had no opportunity to act.

MR. GORMAN: I don't know how to resolve this, Senator. I couldn't vote for the board on your behalf, and I wouldn't want to. But yet, I don't know how you could have taken any action prior to today.

SENATOR KAVANAUGH: Well, what is the next step?

We're going to have Carol Johnston represent us.

C A R O L J O H N S T O N, E S Q .: Perhaps this Commission can authorize Mr. Gorman to ask for extensions of time and other administrative functions like that in the future.

SENATOR KAVANAUGH: In the future.

MR. MARGULIES: Could I be heard? I do have a suggestion. The statute actually says that you can, for good cause, make an application to extend the time. The problem, I think, mechanically, procedurally, we'd end up arguing about is, all of the cases in Supreme Court and the Appellate Division talk about some action being taken within that 45-day period. In other words, the one case, even in the *King* (phonetic spelling) case, in the Supreme Court case, they talk about -- well, they stretch. They ordered transcripts. They took some action. Here, nothing took place. Both the application for the motion to extend time for exceptions before this deliberative body was made after the 45 days, and the application to the Administrative Law Director was made well after that. That was made this week. I think probably what the Attorney General is saying is probably a prudent thing to do, so that you don't-- This doesn't-- This procedural glitch doesn't happen again.

But I think, if you think about it, it really is cleaner to let this thing go and be heard on the merits and not over the wrangling, so there's the finger-pointing of who should have done what. Because I'm not a believer in finger-pointing. I'm a believer in going to the merits.

SENATOR KAVANAUGH: That's easy to say, but we reflect on our entire retirement system. Bringing up police, the State Police that are in the system -- I mean, we're talking a great expense to the State if something like this would be accepted. I personally oppose the fact that these two judges retired at a set salary at that time, and then they come at a later time and they die, and they say, "Oh, gee, they're making 100,000 now, and I was only making 75, so I want to get my retirement at 100." Well, that's in retrospect.

It was 75,000. That's what you retired at. How can we go out and tell the people we gave Judge O'Leary (phonetic spelling) a \$25,000 bump and it's 75 percent of that -- it's going to be added to his pension.

MR. MARGULIES: So we put this in context, you realize that we're talking about 25 percent of the current salary. We're not talking about the 75 percent. We're talking about what these people -- these widows -- and the magnanimity of the Legislature was to give the widows and children of deceased judges 25 percent, not-- All we're talking really about is essentially a reasonable cost-of-living increase as time goes by.

Unfortunately for Mrs. Healy, Mr. Healy died when he was in his early 40s. So when we're talking about the fairness of this Hudson County Judge to his widow, what would be fair in terms of a reasonable retirement, I suggest that it's not the kind of dollars that you should be concerned about. And also, not to go back and look at everybody's voting record, but this took place -- this change took place in 1982. What we're talking about is the interpretation of the agency over those years until these two judges and the association came and complained.

ASSEMBLYMAN LANCE: Mr. Chairman?

SENATOR KAVANAUGH: Yes.

ASSEMBLYMAN LANCE: I am not prepared to discuss the merits of the case. I would suggest that we give our counsel the authority to appeal the procedural question, recognizing there are arguments on both sides of the procedural question. I would move that, and then as a separate motion, move that in the future in other cases we give whatever authority is necessary to our counsel and staff to make sure that in the future they have that

authority which they may not have had. But that would be a separate motion. I would first move that we give our counsel the authority to ask for an extension of time regarding the procedural aspects of the case that have been defined so ably by our counsel and also by counsel for both of the judges and the Retired Judges Association.

And I'm asking now of counsel, as a legal matter, if we request an extension, then that presumably would be opposed by counsel on the other side and that would be heard by who?

MS. JOHNSTON: The Office of Administrative Law, the director of the Office of Administrative Law.

ASSEMBLYMAN LANCE: By the director of the Office of Administrative Law. And if we were to give you authority to request an extension, then, as a matter of due process, counsel for the two judges and for the Retired Judges would be heard on that motion before the chief judge of the Office of Administrative Law. Is that the way it would work?

MS. JOHNSTON: Correct.

MR. MARGULIES: Respectfully, that's already been done. Your secretary on the 18th, on your behalf, made a request of Mr. Masin, the Director of the Office of Administrative Law, for an extension, nunc pro tunc, now as then. So that's already been done, and I've already opposed that.

ASSEMBLYMAN LANCE: Yes, sir.

MR. MARGULIES: And so I guess one alternative is wait and see what he says. If he says there's no extension, if he buys my argument, then I guess the agency will then have to determine to take an appeal, because it will then be, as a matter of law as I understand it, final. I don't think there's any,

and obviously, you're going to rely on the Attorney General, but I don't think there's any independent way of dealing in the Appellate Division with the procedural issue, separate and apart from the main issue.

ASSEMBLYMAN LANCE: I would ask our counsel what--

MS. JOHNSTON: The Commission-- If the chief judge of the Office of Administrative Law were to deny the extension request, it is possible for this Commission to reconsider what has -- the decision that has been deemed final. And if it were to want to reconsider this matter and examine it on the merits, it would be advisable to hold a special meeting for that purpose, at which counsel for both parties would be invited.

ASSEMBLYMAN LANCE: So what do you suggest we do procedurally at this point?

MS. JOHNSTON: Cover both bases by first-- I think we have three motions now here. Your first motion was to authorize continuing to obtain an extension of time.

ASSEMBLYMAN LANCE: And you do recommend that this Commission pass that motion, as our counsel? That's your recommendation to us?

MS. JOHNSTON: As a procedural matter, that would be within -- that would be appropriate.

SENATOR KAVANAUGH: All right. Let's get that off the table.

ASSEMBLYMAN LANCE: I so move that limited motion.

SENATOR KAVANAUGH: Is there a second?

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

Okay. Going to the second.

ASSEMBLYMAN LANCE: And you recommend what advice regarding our second motion that, in the future you have this authority automatically? Was that the gist of--

MS. JOHNSTON: If I heard you correctly, your motion was to counsel and to staff, and/or staff, to have the authority on behalf of the Commission to perform the administrative acts requesting extensions of time from the administrative law judge and perhaps to also request extensions or grant extensions of time for extensions.

ASSEMBLYMAN LANCE: I believe that is efficacious for future matters and so move.

SENATOR KAVANAUGH: Is there a second?

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: This is for future matters,
correct?

MR. McGLYNN: Correct.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

SENATOR KAVANAUGH: The third one?

MS. JOHNSTON: The third matter would be in the event that the Office of Administrative Law were to deny the Commission's extension request, that this Commission would want to take a look at the merits of this matter anyway and hold a special meeting for that purpose.

MR. McGLYNN: That would be either to grant or deny, I think, correct?

MS. JOHNSTON: Correct, because the Commission has not taken any position one way or the other.

SENATOR KAVANAUGH: Okay. Do we have a motion?

ASSEMBLYMAN LANCE: I would move that.

DEPUTY TREASURER ADAMS: I'll second that.

SENATOR KAVANAUGH: Seconded.

Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Adams.

DEPUTY TREASURER ADAMS: Yes.

MR. McGLYNN: Director Graf.

MR. GRAF: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: I have a problem. I just noticed the names of the judges here. One judge, Healy, is someone who I know -- did know -- the gentleman who died very young. Unfortunately, he lived in my town, and I'm not sure if I need to recuse myself.

MS. JOHNSTON: The standard would be if you feel that your independence of judgment and objectivity would be impaired due to your friendship with the judge and his family.

ASSEMBLYMAN IMPREVEDUTO: I think I'd be recusing myself.

MR. McGLYNN: You abstain.

Assemblyman Lance.

ASSEMBLYMAN LANCE: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

ASSEMBLYMAN LANCE: And this is not a motion, this is simply a question. If, for example, the chief judge of the Office of Administrative Law were to rule against us on the procedural issue, then, counselor, you could come back to us on the substantive issue. Is that accurate?

MR. MARGULIES: Well, my position is that, because of the statute, that it -- the deemed approved provision, that there would be no action further. The next step in the chess game would be, the Director of Pensions would have to make a determination whether they were going to accept Judge Springer's interpretation and apply it, or they were going to take an appeal to the Appellate Division. I don't think-- I think counsel is right. It doesn't foreclose you from coming back and doing it, because you are above that agency. But if you didn't take any action, and they didn't within some period of time, it's actually a good question. They've got to-- As far as I'm concerned, this is sort of a friendly warning. They've got to watch their time period, because they may be-- The maximum amount of time that they have to take that appeal, in my considered judgment, is 75 days, so long as they make an-- The same problem in the Appellate Division -- so long as they make an application to extend that additional 30 days beyond the 45-day notice of appeal time. They have to do that within that time period. So frankly, if the Division of Pensions isn't careful, they could box themselves out of an appeal, and there would be no jurisdiction to actually hear their appeal.

I bring that forth because I'm not looking-- I represent judges. We're not looking to be unfair here in any way. I think that they-- What I

would have done, and not to tell the Attorney General, but I'd be filing protective notices of appeal, but-- That's the way I practice.

MR. GORMAN: I have one comment. The Director of Pensions won't have the final word on this. He'll ask the Commission. This is the one retirement system that's totally different than-- Pensions ordinarily does have it, where the board of trust is. But in this case, for the judicial system, the State House Commission is the one it ultimately has to pass.

MR. MARGULIES: But, with all due respect, if -- because of the statute, deemed approved provision, if I'm right, they've already essentially acted by not acting. I mean, you'll go to your lawyers and find out. I think you're treading on-- That's why I said don't fight the procedure. Let the thing be heard on the merits, if the Pension Commission wants to do it. They're the ones that are the real experts that can do the calculations and make a determination as to whether they want to reconsider, read the judge's opinion, and-- You know, no one likes to say they're wrong, but sometime this is-- It's not a matter of blame. It's a matter of a fresh look.

SENATOR KAVANAUGH: A question? Say the judge died 30 years ago -- you got that--

MR. MARGULIES: Yes.

SENATOR KAVANAUGH: --at retirement pay. And his widow is still alive.

MR. MARGULIES: Yes.

SENATOR KAVANAUGH: Does she now get brought up to the one hundred-and-whatever thousand it is?

MR. MARGULIES: Senator, it's not as bad as you said. Because here's what-- There are two different acts. There's a COLA, a Cost of Living Adjustment Act. So along the way, there is some adjustment. What has happened is, historically -- and this has happened, as far as I know, in all states and with the Federal government -- because the judges' increases go interstitially. There may be three, five, ten years between them. There's always a catch-up. So, from their point of view, at least, and ultimately from the Legislature's point of view, that catch-up, obviously, is reasonable. So all that really happens is, to the extent of the cost of living as it really -- and here it's only 25 percent of whatever they were making at the time -- hasn't really caught up. It completes the gap.

So we're not talking about the unfairness, really. And that's why I wanted to represent widows and children. I remember when I was a brand new lawyer. My wife gave me a plaque, you know, one of these funny plaques that said, "Lawyers for widows and children -- special rates." I'm honored to represent these people. It really is--

In 1982, the Legislature -- and we don't have any history to suggest why -- but the Legislature corrected that to allow those people to come up, really, to parity. It really is to Judge Healy's widow and children. They're young people, and they've got young kids in high school that are trying to make it. We're talking about-- She doesn't rely on the pension. She works as well. We're talking about some parity here for having served in the judicial service.

SENATOR KAVANAUGH: What you're saying then is-- My uncle was in Court of Errors and Appeals. His widow is still alive. She'll be a

happy lady when she's going to get 75 percent of one hundred-and-some thousand.

MR. MARGULIES: Twenty-five percent.

SENATOR KAVANAUGH: No. His salary-- He gets 75 percent of his final salary.

MR. MARGULIES: No. That's what I'm saying, because they die. They get 75 percent of their final salary if they're alive. Once they die, their widows and children get -- it's 25 percent for each child. I think it's 10 percent up until 18 or something like that.

MR. GORMAN: Of the current salary. The widow's benefit is 25 percent of the current 133,000, or it's 133 today.

SENATOR KAVANAUGH: If they remarried, would it make any difference?

MR. MARGULIES: You've raised an issue that was just raised by me that I think the judges want to visit with the Legislature. They can't marry, because if they get married, they get boxed out.

MR. GORMAN: Or the wives would remarry.

MR. MARGULIES: That's actually an unfairness, and that's an issue because a pension is earned from their years of service -- the concept now, the major concept. So right now, they can't get remarried. So, for instance, someone like Mrs. Healy, who's young, it would be uneconomic for her to get remarried. So we're--

SENATOR KAVANAUGH: You marry for love, not money.
(laughter)

MR. MARGULIES: You can't always afford love, I guess.

SENATOR KAVANAUGH: Is there anything else to come before the Commission? (no response)

May I have a motion for adjournment?

ASSEMBLYMAN LANCE: So moved.

DEPUTY TREASURER ADAMS: Second.

SENATOR KAVANAUGH: Thank you.

(MEETING CONCLUDED)