
Committee Meeting

of

NEW JERSEY LEGISLATIVE SELECT COMMITTEE ON INVESTIGATION

"The Committee will meet to consider a Committee resolution regarding the issuance of subpoenas pursuant to Senate Concurrent Resolution No. 49 and Assembly Concurrent Resolution No. 10"

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: January 27, 2014
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Loretta Weinberg, Co-Chair
Assemblyman John S. Wisniewski, Co-Chair
Senator Nia H. Gill
Senator Linda R. Greenstein
Senator Kevin J. O'Toole
Assemblywoman Marlene Caride
Assemblyman Louis D. Greenwald
Assemblywoman Valerie Vainieri Huttle
Assemblywoman Bonnie Watson Coleman
Assemblyman Michael Patrick Carroll
Assemblywoman Amy H. Handlin
Assemblyman Gregory P. McGuckin



ALSO PRESENT:

Charles S. Buono
Office of Legislative Services
Committee Aide

Francisco Maldonado
Senate Majority
Aaron Binder
Assembly Majority
Committee Aides

Frank Dominguez
Senate Republican
Keith A. Loughlin
Assembly Republican
Committee Aides

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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Stephen M. Sweeney
Senate President

Kevin Drennan
Executive Director

MEMORANDUM

TO: Members of the Senate

FROM: Stephan M. Sweeney
President of the Senate

DATE: January 24, 2014

RE: **New Jersey Legislative Select Committee on
Investigation Monday, January 27, 2014**

Please be advised that the Committee will meet at 1 p.m. on Monday, January 27, 2014 in Committee Room 11.

The committee will meet to consider a committee resolution regarding the issuance of subpoenas pursuant to SCR-49/ACR-10.

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ASSEMBLYMAN JOHN S. WISNIEWSKI (Co-Chair): I'd like to call this meeting to order of the New Jersey Legislature's Joint Select Committee on Investigation.

I'm John Wisniewski, the Co-Chair along with my colleague Senate Majority Leader Loretta Weinberg.

Just a brief opening statement: Today's votes to create the Committee and adopt the resolution, that we'll adopt here outlining its operations, are a key step forward toward learning what happened with this threat to public safety and abuse of government power. Senator Weinberg and I both want to thank legislative leadership for bringing everyone together and look forward to a bipartisan cooperation as we move forward.

As a matter of technical procedure, the 20 subpoenas that were previously issued by the Assembly Committee will be reissued by this new Committee with unchanged returned date and terms; the return date being February 3. No other action is being taken by the Committee at this time.

With that, Mr. Buono, would you please call the roll?

MR. BUONO (Committee Aide): Senator O'Toole.

SENATOR O'TOOLE: Here.

MR. BUONO: Assemblyman McGuckin.

ASSEMBLYMAN MCGUCKIN: Here.

MR. BUONO: Assemblywoman Handlin.

ASSEMBLYWOMAN HANDLIN: Here.

MR. BUONO: Assemblyman Carroll.

ASSEMBLYMAN CARROLL: Here.

MR. BUONO: Assemblywoman Watson Coleman.

ASSEMBLYWOMAN WATSON COLEMAN: Here.

MR. BUONO: Assemblywoman Vainieri Huttle.

ASSEMBLYWOMAN VAINIERI HUTTLE: Here.

MR. BUONO: Majority Leader Greenwald.

ASSEMBLYMAN GREENWALD: Here.

MR. BUONO: Senator Greenstein.

SENATOR GREENSTEIN: Here.

MR. BUONO: Senator Gill.

SENATOR GILL: Here.

MR. BUONO: Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Present.

MR. BUONO: Co-Chair Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Here.

MR. BUONO: Co-Chair Weinberg.

SENATOR LORETTA WEINBERG (Co-Chair): Here.

ASSEMBLYMAN WISNIEWSKI: We have a quorum.

The procedure will follow as-- We have a resolution that should be in your folders. I will ask for a motion and a second to move the resolution, and then we'll have discussion by the members.

With that, could we have a motion on the resolution.

SENATOR GILL: Move.

ASSEMBLYMAN WISNIEWSKI: Moved by Senator Gill.

ASSEMBLYWOMAN WATSON COLEMAN: Second.

ASSEMBLYMAN WISNIEWSKI: Seconded.

Discussion?

Assemblyman Carroll.

ASSEMBLYMAN CARROLL: Mr. Chairman, if I may, reiterating the concerns that our party has expressed about the bipartisan nature of this commission and this Committee, I have taken the liberty of having amendments drafted to this proposal which will ensure equal access to documents, ensure that the Committee has the right to vote on subpoenas, and otherwise modify the resolution that has been proposed in order to ensure a truly bipartisan investigation. And I would move those amendments to the proposed resolution.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Carroll makes a motion to amend the resolution.

Is there a second to the motion?

ASSEMBLYWOMAN HANDLIN: Second.

SENATOR O'TOOLE: Second.

ASSEMBLYMAN WISNIEWSKI: Seconded.

Majority Leader Greenwald.

ASSEMBLYMAN GREENWALD: I move to table the motion.

ASSEMBLYMAN WISNIEWSKI: There's a motion to table Assemblyman Carroll's motion. The motion to table is nondebatable.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Your mike is off.

ASSEMBLYMAN WISNIEWSKI: Sorry. There is a motion made by Majority Leader Greenwald to table that motion. The motion to table is nondebatable.

UNIDENTIFIED MEMBER OF COMMITTEE: Second.

ASSEMBLYMAN WISNIEWSKI: Seconded.

Could we have a roll call on the motion to table Assemblyman Carroll's motion?

MR. BUONO: On the motion to table the motion -- on Assemblyman Carroll's motion to amend the Committee resolution, Senator O'Toole.

SENATOR O'TOOLE: No.

MR. BUONO: Assemblyman McGuckin.

ASSEMBLYMAN MCGUCKIN: No.

MR. BUONO: Assemblywoman Handlin.

ASSEMBLYWOMAN HANDLIN: No.

MR. BUONO: Assemblyman Carroll.

ASSEMBLYMAN CARROLL: No.

MR. BUONO: Assemblywoman Watson Coleman.

ASSEMBLYWOMAN WATSON COLEMAN: Yes.

MR. BUONO: Assemblywoman Vainieri Huttle.

ASSEMBLYWOMAN VAINIERI HUTTLE: Yes.

MR. BUONO: Majority Leader Greenwald.

ASSEMBLYMAN GREENWALD: Yes to table.

MR. BUONO: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MR. BUONO: Senator Gill.

SENATOR GILL: Yes.

MR. BUONO: Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Yes.

MR. BUONO: Co-Chair Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Yes to table.

MR. BUONO: Co-Chair Weinberg.

SENATOR WEINBERG: Yes.

ASSEMBLYMAN WISNIEWSKI: The motion is tabled.

Any other discussion?

SENATOR O'TOOLE: Chair.

ASSEMBLYMAN WISNIEWSKI: Senator O'Toole.

SENATOR O'TOOLE: Chair, I'm hoping it's appropriate now to ask these questions relative to the resolution -- or I can wait until after the resolution has been adopted or declined -- regarding issues that came up on the Senate floor today regarding process, procedure, counsel, and some other things. So if you think it's appropriate now, I'd be more than happy to raise it to you now.

ASSEMBLYMAN WISNIEWSKI: If it's germane to the adoption of the resolution. If not, we can talk about the process after the adoption. I'll leave it up to you because I don't know the questions you're going to ask.

SENATOR O'TOOLE: Sure.

Well, let me ask some of the questions. If you think it's not germane, I'll hold off.

ASSEMBLYMAN WISNIEWSKI: Sure.

SENATOR O'TOOLE: To the Chair, the-- And, again, I apologize. This is the fourth Committee -- this is my first meeting here, so I don't know what occurred in the first or the second Committees. And I understood your opening comments about the 20 subpoenas that were issued. Was that the initial Committee?

ASSEMBLYMAN WISNIEWSKI: The 20 subpoenas were the subpoenas that were issued by the Assembly Select Investigative Committee about a week-and-a-half ago. And those responses are due on February 3. Just to eliminate any question -- we don't think it's absolutely necessary, but just to be certain -- we're reissuing them. And the return date for all of those subpoenas is February 3.

SENATOR O'TOOLE: The Senate President and Majority Leader were asking questions on the floor today, and I just wanted to -- for clarity sake-- They were asked about the actual retention of the attorney who is serving as the Committee counsel. And what the majority said that-- He -- or the firm, I guess -- would be formally retained today. There has been a draft retention that has been sent but not signed. And I read in the paper that the individuals in fact signed as counsel to this Committee.

So the question I have, among a variety of questions: Is the letter of retention operating -- retaining Jenner & Block or Mr. Schar for his legal services?

ASSEMBLYMAN WISNIEWSKI: The Assembly Committee retained Jenner & Block and Mr. Schar and his partners for their services. I think that's, from a technical standpoint, a work in progress because this new Committee just started today. So the Assembly Select Committee, which was concluded with the adoption of this joint resolution today-- So we're in a transition phase, but that's the goal.

As we speak today, I can't say for certain that the letter retaining Jenner & Block has been perfected or finalized for the Joint Committee, but it would follow precisely the same format that the retention of Jenner & Block for the Assembly Committee was.

SENATOR O'TOOLE: Okay. So let me just throw some concerns I have that, perhaps, could be addressed either during the retention or the actual signing. I'm hoping that this Committee -- this side -- will be able to receive a copy of the original retainer. I have not received that, nor have I requested it.

The nature of the retainer-- Who is the client? Is it the Committee, is it the Chairs only? Is there an attorney-client that attaches to the entire Committee or is it just to the Speaker or the Chair himself?

With regard to the Rules of Professional Conduct, the RPCs, there is a concern -- that most of us would have when you take on a lawyer -- whether there is ever a conflict; and if there has been a conflict search embarked at Jenner & Block to see if there is any conflict with individuals who are being looked at, investigated, reviewed legislatively. Are there current clients at Jenner & Block that will come into conflict?

I'm aware that Jenner & Block represented, I think, the Democratic State Committee during redistricting, according to the *Philadelphia Inquirer* article. If that's the case, I assume that someone can opine that there is not a conflict.

With regard to the Supreme Court's decision in Jackman-- There is a concern that some of us would have as to whether Mr. Schar is a New Jersey attorney -- whether he's practicing law in New Jersey or whether he is going to be pro hac in or have some administrative application to the Supreme Court that is going to allow him to act as counsel to this Committee. And if he is counsel to the Committee, I'd like an opinion from him outlining what his duties are and addressing some of the issues that I've just raised.

And the last issue that was asked on the Senate floor, that the Senate President addressed and Majority Leader Weinberg addressed, is whether, in fact, now that we have this new composition of this Committee -- whether the U.S. Attorney has been contacted so we're not going to trample on a current inquiry or investigation. The Senate President I think said that he had not contacted the U.S. Attorney. And I think the Majority Leader said you had reached out previously to the U.S. Attorney. I wasn't quite clear what the message was.

SENATOR WEINBERG: What I said was that I reached out under the auspices of the original Senate Committee but not under the auspices of the Joint Committee.

SENATOR O'TOOLE: Well then, as part of the resolution, I would like to have a motion that we have either you, Chair, or the two Chairs, or the attorney reach out to the U.S. Attorney to find out if, in fact, we are running in harms way or interfering inadvertently or otherwise. Somebody should just make that phone call much like the Majority Leader had done previously.

ASSEMBLYMAN WISNIEWSKI: Majority Leader Greenwald.

ASSEMBLYMAN GREENWALD: I have the greatest confidence in the U.S. Attorney's Office, as I'm sure Mr. O'Toole does. I believe that if they feel that we are running afoul of the investigation they will reach out to us. I believe they are looking into Federal crimes which are different than the scope of this body; and that they have their own investigation, which is separate and distinct from ours.

I think our commitment and mission is -- which I would encourage in a bipartisan fashion -- that we will not trample on any of the

investigations, whether it's the Federal authorities under the Housing Authority, whether it's the Office of Inspector General, whether it's the U.S. Senate's review of other investigations, whether it is our own investigation. I don't think that we would go to one investigatory body and say, "Well, we're going to stand aside." The roles and the constitutional obligations that we have as a body are different than the U.S. Attorney's Office. And I believe that we have taken an oath to uphold not only the Constitution of the United States, but the Constitution of the State of New Jersey. And based on that oath, we have an obligation here to continue to look.

Now, if the U.S. Attorney's Office reaches out to us, I think our position is -- as it should be -- that we will coordinate with our outside counsel, Reid Schar; that Mr. Schar-- One of the reasons why he was selected is because of his experience as a former U.S. Attorney and his interaction with those offices, and that we would obviously listen to that advice and counsel and make those determinations. But I think it's premature to make an early determination that just because the U.S. Attorney's Office has issued subpoenas, that this Committee should stand down. I think it's not serving the taxpayers or our role under our constitutional oath.

ASSEMBLYMAN WISNIEWSKI: Senator Gill.

SENATOR GILL: We have a statutory responsibility that is separate and distinct from the United States Attorney. And so that even if the United States Attorney's Office is undertaking an investigation, that does not obligate the Legislature to stop their inquiry because we are a non-criminal body, in all respects, and we are not undertaking a criminal

investigation. So I do not believe that statutorily the actions taken by the United States Attorney's Office should be dispositive with respect to our going forward.

SENATOR O'TOOLE: Chair, I left you a number of questions. At the next meeting perhaps we could have some definitions just so I could have some -- a better framework.

ASSEMBLYMAN WISNIEWSKI: Senator, I think those are all questions that I can understand you wanting to have answers to. And I think the members of the Committee should know that Mr. Schar will be available to all members of the Committee to have questions answered. We're working on the exact format. But we certainly want to make sure that members of the Committee feel comfortable in making the decisions they're making on this body and have access to counsel. That's why we brought him in. Obviously, his résumé speaks for itself. He understands the interplay between Federal criminal investigations and other investigations. And I think his guidance of us will make sure that we can conduct our legislative business without impinging on any other inquiry.

SENATOR O'TOOLE: Well, with regard to the question on the attorney-client-- Is he retained by the Committee, the Committee members, is it just you and the Speaker?

ASSEMBLYMAN WISNIEWSKI: I don't believe--

SENATOR O'TOOLE: I'm trying to understand it.

ASSEMBLYMAN WISNIEWSKI: It's a fair question. No individual committee in the Legislature has the authority to enter into that kind of contract. It would be through the presiding officers of both houses. But I believe the format is going to be the presiding officers of both houses

are retaining the counsel for this Committee. And so that language we'll make available to you. We had language for the Assembly Committee. It's not applicable now because of the Joint Committee. And so that's part of the process of just massaging the language to make sure it works with the new Joint body. But the counsel will be available for this Committee specifically with regard to this investigation, retained by both houses. Because I think from a technical standpoint, that's how it has to happen.

SENATOR O'TOOLE: Not to be repetitive, but the counsel -- the attorney-client goes to the Speaker and the Senate President? Maybe you can't answer it. Maybe if Mr. Schar could just give us a memo. Who is the client? When did it start? What's the nature of that relationship?

ASSEMBLYMAN WISNIEWSKI: We'll make sure Mr. Schar gets you answers to all of those questions.

SENATOR O'TOOLE: Okay.

ASSEMBLYMAN WISNIEWSKI: I don't want to jump into his role.

SENATOR O'TOOLE: Okay.

ASSEMBLYMAN WISNIEWSKI: I'd like to have him answer it. We do know that they obviously did a conflict check before they looked at the engagement with the Assembly. And I'm fairly confident that they fairly vetted any potential conflicts and feel comfortable, from their professional standpoint, that there are no conflicts.

SENATOR O'TOOLE: Okay. I guess we can follow up on these here, and we can ask the questions.

ASSEMBLYMAN WISNIEWSKI: Absolutely.

SENATOR O'TOOLE: And you'll get back to the Committee with those questions I have?

ASSEMBLYMAN WISNIEWSKI: Yes, I will, Senator.

SENATOR O'TOOLE: Great. Thank you, Chair.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman.

ASSEMBLYWOMAN HANDLIN: Yes, thank you, Mr. Chairman.

You know from the discussions on the Assembly floor that some of us are very concerned about being able to access the relevant documents in a timely way and in a complete way. And I note that in this new resolution, Section 1b -- there is an addition. Section 1b begins by saying, "Any documents and other information received by the Committee shall be in the custody and control of the Co-Chairs, and the Co-Chairs shall be authorized to determine access and availability of those documents." Now, we've already debated that point. I know that you have assured us that we will get the access that we need.

However, it then goes on and says -- and this sentence is new -- "The President of the Senate and the Speaker of the General Assembly shall be granted access to documents and other information received by the Committee." So what that says to me is: The documents and the information shall be in the custody and control of the Co-Chairs, shall be -- the Co-Chairs shall be authorized to determine access and availability. They shall be required to grant access to the President of the Senate and the Speaker of the Assembly. But there is no mention of those of us who are members of the Committee. So if there is no mention of the procedure of-- Co-Chairs shall be granting access to documents and other information

received by the Committee -- does that mean that the members of the Committee may be or may not be granted access to the documents and information provided to the Committee? That it's purely permissive?

ASSEMBLYMAN WISNIEWSKI: I'm going to restate for you what I had stated for you a week-and-a-half ago and I stated earlier today on the floor, and Co-Chair will then offer her comments.

The process that we're using is mirroring the process that the Transportation Committee used. The process will be as follows: The documents will be received. The subpoenas have a response date of February 3. When and if they come in, they'll be sent into OLS; they'll be reviewed by OLS, and counsel, and the Chairs; and then they'll be made available to the Committee members. There is a room on the third floor of this building somewhere. Maureen and Charlie know where it is. And Committee members will have access in that room to all the documents that are received pursuant to those subpoenas.

ASSEMBLYWOMAN HANDLIN: Unfortunately, that doesn't seem to be captured in this resolution.

ASSEMBLYMAN WISNIEWSKI: That's the process we used. This is the exact same wording we used before. And so the review of the documents is through the Chairs with OLS. And then after they're done being reviewed for completeness, for making sure-- One of the issues that was amply debated on the floor was: What if there is spurious material in these documents -- somebody puts in a list of Social Security numbers? I mean, obviously that's something that we ought to make sure people are aware of -- flag and make sure they don't get out unintentionally.

And so you have my representation as Co-Chair; I will then turn it over to my Co-Chair -- and how we intend to handle this process.

SENATOR WEINBERG: Thank you, Assemblyman Wisniewski.

We have had conversations over the last few days as I attempted to explore the rules under which the prior Committee was operating. I agree with everything that Assemblyman Wisniewski just said. These documents will be turned over to OLS. They will receive them. They will be available after their first review in a document room. And any member of this Committee will be entitled to spend as much time as they choose reviewing them.

ASSEMBLYMAN WISNIEWSKI: Seeing no further questions--

SENATOR O'TOOLE: Just one other--

ASSEMBLYMAN WISNIEWSKI: Senator, sure.

SENATOR O'TOOLE: When you speak to counsel, just refer to Page 4d. I assume you have the same resolution as we do.

(Senator O'Toole stands and speaks away from microphone)

ASSEMBLYMAN WISNIEWSKI: Seeing no further questions--

Assemblyman McGuckin.

ASSEMBLYMAN MCGUCKIN: Thank you. Thank you, Chairman.

Mr. Chairman, I heard just before, for the first time, and I believe at the time you were the Chairman of the State Democratic

Committee, is it true Jenner & Block represented the State Democratic Committee in the past few years?

ASSEMBLYMAN WISNIEWSKI: Jenner & Block represented the Legislative Redistricting Committee.

ASSEMBLYMAN McGUCKIN: The Committee itself or the majority -- or the Democratic members of that Committee?

ASSEMBLYMAN WISNIEWSKI: They represented the Legislative Redistricting Committee. There were two subcommittees -- the Majority side and the minority side, the Democratic side, the Republican side. I'm not sure what that has to do with this hearing, though.

ASSEMBLYMAN McGUCKIN: Well, it seems to me that, perhaps, that should have been disclosed before the prior Committee voted on the resolution that was passed previously. But more importantly, as of this moment, you've indicated that we don't have a retainer agreement with Mr. Schar, and I think it would be appropriate to get an opinion from him as to whether he believes that's a conflict -- or any other conflicts.

Having said that, I also wish to discuss the resolution itself. You're certainly familiar -- and you've answered perhaps not the way we're hoping with changes to the resolution -- but you've answered our questions with respect to the documents. But may I ask this question: Would it be fair to say that every document that is received will be Bates stamped, and that if there are any documents which are not disclosed to the minority party, will receive a privileged log or a list of those documents that are not provided to us?

ASSEMBLYMAN WISNIEWSKI: We haven't Bates stamped documents received. The documents that we've received have been Bates

stamped by counsel who has submitted them to us. And that's the process we'll continue to use, going forward. I mean, I understand your question. The process through this point in time has been complimented by members on your side of the aisle; that led us to the point where we uncovered e-mails from the Governor's Office to close the lanes leading onto the George Washington Bridge. We're going to use that same process, Assemblyman. I don't think it's fair for you to suppose, at this very first meeting, that there are going to be documents withheld; there's not been documents withheld to date. When the Assembly Transportation Committee first received documents in its inquiry of the Port Authority, one person from the Republican minority office came to look at them in a period of a year -- one person. And so these documents have been made available in the document room. It'll be up to you and your colleagues to review them, and digest them, and understand them.

ASSEMBLYMAN McGUCKIN: Mr. Chairman, the only reason I bring it up is because at the beginning of the hearing you indicated that you don't want spurious documents being disclosed -- I assume you don't mean to the Committee members; I believe we will have access to every document that is received. Is that correct?

ASSEMBLYMAN WISNIEWSKI: If it concerns-- Again, I'm responding to the concern raised by your Minority Leader who suggested that it might not be appropriate to be receiving these documents because there might be unintended materials submitted to the Committee. The one way that we can guard against that being accidentally disseminated is to undertake the process we've talked about. And so that in the, I believe, very unlikely event that somebody is going to respond with something

that's nonresponsive, OLS and staff will be able to alert us to that -- so that document is flagged in some way that it potentially contains personal information, Social Security numbers. There could be an e-mail exchange that perhaps mentions somebody's children, and I don't think we want to have their names made part of any official record -- things like that. It hasn't happened to date -- I want to point that out. It hasn't happened with any document that we've received to date. I don't expect it will happen because all of the individuals to whom we've issued subpoenas appear to be represented by competent counsel and I'm sure that their counsels are going to make sure that what they respond with is going to be responsive to the subpoena -- no more, no less.

But to address the issue raised by your leader, I wanted to make that clear -- that in the event that something like that comes our way, that's the process that will be used.

ASSEMBLYMAN McGUCKIN: And just so I'm clear, the process will be that the Co-Chairs will decide if those documents should be provided to the rest of the Committee, or OLS?

ASSEMBLYMAN WISNIEWSKI: No, no -- that they get flagged so that everybody understands that a particular document might have personal information.

ASSEMBLYMAN McGUCKIN: I understand, great, terrific.

And my last question relates to the access to the special counsel. I know at the last meeting of the prior Assembly Committee it was mentioned that any inquiries of the counsel would have to go through the Chair. Is that still the process? Because that's not mentioned in this resolution that I can see.

ASSEMBLYMAN WISNIEWSKI: No, I mean, frankly there is going to be a lot of things that are not in this resolution because there are a lot of things that haven't happened yet and we're going to have to feel our way through this process.

But the point we made at the last meeting, and I'll make again today, is that we certainly want to have all of the proper advice that we need, but we also don't want to duplicate efforts; and we don't want to be directing questions to special counsel that could, quite frankly, be more adequately addressed by OLS. You know, there are a lot of novel issues that we may cross while we're looking at this because we've not had this kind of Committee looking at this kind of issue. But there are a lot of issues that OLS is perfectly capable of addressing. The statutory construct under which we are here today -- OLS understands and has researched far more than any outside counsel. And so one of the things that we wanted to do is just serve as a facilitator to make sure Committee members get their questions answered that they need answered; that we're not engaging in duplicative questions. I mean, there are 12 members of the Committee. If we have every member making the same request of counsel, they'll all get the same answer. And we'll probably get a larger bill. So we want to make sure that we can maintain a control on that. And we also don't want to be asking special counsel questions that could be very adequately answered by OLS. And so it's more of a gatekeeping function, but once that initial decision is made, have the conversation with special counsel all you want. We just want to make sure we're not duplicating efforts or wasting resources.

ASSEMBLYMAN McGUCKIN: Very good. Thank you, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Handlin.

ASSEMBLYWOMAN HANDLIN: Thank you, Mr. Chairman.

I know that you put it well when you said that we're feeling our way. You've said a couple of times on the Assembly floor that we're in uncharted territory. And I understand that we can't possibly anticipate every situation that might arise in structuring this resolution.

Having said that, there is what I see as a glaring omission here. And that is that there are no criteria set out on the basis of which a decision would be made whether we widen this investigation. In other words, it seems to me under these circumstances anybody could investigate anything. And it is not in anyone's interest to proceed without any kind of a check on our work to make sure that it is not (*sic*) logical and fair. So what would be the reason for not drafting some basic objective criteria? If it meets these criteria, we move forward, we include it in the investigation. If it falls short, we don't.

ASSEMBLYMAN WISNIEWSKI: Because if you go back through the history of this inquiry, no one could have-- Objective criteria such as that would have precluded us from obtaining the e-mails that led us to the point we're in now. I understand your suspicion and your skepticism -- and that's your role, and I compliment you on that. But the fact of the matter is that this resolution that we both -- our both houses adopted today is intentionally broader than the resolution that had initially been granted to the Transportation Committee because the area of inquiry is broader. And we don't know what the next set of document requests -- subpoenas --

will deliver for us. We don't know where it will take us. And so I think while I understand your skepticism, I think it also will have the unwanted side effect of unfairly handcuffing the Committee in a bureaucratic logjam that I don't think is helpful.

When we met as an Assembly Committee you were part of that meeting. We resolved into Executive Session. The Committee talked about the 20 subpoenas that would be issued. At the end of that conversation -- in which special counsel participated -- no one objected to any one of those subpoenas. That's the same process that will be used going forward, Assemblywoman. And I think that based on how it's worked with the Assembly Committee so far, it's a fair way to look at how this Committee will operate, going forward. And I think that we have to be judged by our actions, going forward.

ASSEMBLYWOMAN HANDLIN: So then, with all due respect, Assemblyman, are you saying that as long as something is mentioned in one of the e-mails related to this matter it will then be an appropriate target of this investigation? Or is there, again, some other basis for-- There has to be some basis for judgment, even for the two of you. Again, I greatly respect both of you, but you have to have some way to decide which of the many, many authorities, for example, are appropriate targets of investigation. It's clearly not just the Port Authority -- we all know that. There are scandals that go back years and years which could be the appropriate targets of investigation. So I'm just saying, and I would like to know, how the decision will be made whether or not to take up certain allegations, certain concerns that may present themselves as we proceed.

ASSEMBLYMAN WISNIEWSKI: I don't know what allegations and concerns may present themselves as we proceed. I do know the allegations and concerns that are in front of us now. An e-mail was issued by a Deputy Chief of Staff that clearly was inappropriate, clearly abused her authority, and then there was an effort to conceal that. We know that. We don't know why, we don't know how, we don't know who else was involved. And there's a lot of work to be undertaken just to get to those answers.

So I think it's premature to now start talking about where else is the Committee going to go. We have our work cut out for us. But we also don't know where that work will lead us. We don't know if an e-mail that is a predecessor to the e-mail that closed the lanes leads us somewhere else in the Governor's Office, leads us into a political campaign, leads us into some other area we haven't anticipated. And so while I understand your skepticism, and certainly that is your role on this Committee, I don't think that we can create a written document that creates checklists. We had a process we used at the very last meeting of the Assembly Select Committee in which all the members sat down. The rationale for each of the subpoenas was discussed. Nobody disagreed on what we were inquiring about. And that's exactly the process that we'll use going forward from here.

We will disagree, Assemblywoman, but I think you'll have to judge Senator Weinberg and me and the rest of the Committee by our actions, not on the what-ifs of what may happen on things that we can't know about right now.

ASSEMBLYWOMAN HANDLIN: Okay. Thank you, and just to note for the record: This Committee has, for all intents and purposes, been granted immortality.

ASSEMBLYMAN WISNIEWSKI: No, two years. It dies in two years.

ASSEMBLYWOMAN HANDLIN: Well--

ASSEMBLYMAN WISNIEWSKI: I don't know about you, but that's not immortal.

ASSEMBLYWOMAN HANDLIN: Is that a promise?

ASSEMBLYMAN WISNIEWSKI: That's not immortal.

ASSEMBLYWOMAN HANDLIN: In politics, it perhaps is. But we won't debate that.

The point I want to make is simply that a lot can happen in two years. And if the taxpayers are paying for a semi-permanent committee of inquiry, I think they are entitled to know where this Committee could go -- and when and how.

ASSEMBLYMAN WISNIEWSKI: Co-Chair.

SENATOR WEINBERG: Yes, thank you.

And your questions, as Assemblyman Wisniewski said, are very appropriate. But I think that this Committee will be aware, will be able to speak out for or against if, in fact, the Committee veers off into some area that any member of the Committee does not agree with. I think we've said from the very beginning -- I certainly have said, and I've read the same kind of statements from my Co-Chair and from members of this Committee -- that we'll go wherever the documents and the witnesses take us. And we

can't come up with some kind of a laundry list here or parameters that says, "We're only going to look at this, we can't look at that."

But this Committee and each and every member will have an opportunity to agree, to disagree, to state if they feel in any way, shape, or form that we have veered off. We are starting with the George Washington Bridge. I've been involved in this issue for over four months. I wouldn't be sitting here today if, in fact, I had gotten some kind of a response from the body that I appeared before no less than four times; the body that I said, "If you don't give us an answer, I'm going to ask for subpoena power." If we had gotten some direct answers, we wouldn't be sitting here today.

So based on that, I don't know what's going to happen tomorrow or on February 3 when we receive these documents -- except that we will look at them; you will have as fair and heard voice as any other member of this Committee.

ASSEMBLYMAN WISNIEWSKI: Assemblyman McGuckin.

ASSEMBLYMAN MCGUCKIN: Thank you, Mr. Chairman.

You indicated that in response to the Assemblywoman's comments about reviewing the documents-- Just like the last vote that was made, 20 subpoenas were issued, there was a discussion in Executive Session, there were no objections, and an agreement was reached and subpoenas were issued. But the resolution we're about to vote on doesn't provide for that. It provides that the Co-Chairs -- yourself and Chairwoman Weinberg -- with prior notification to each other, not to the Committee -- can issue subpoenas. I respectfully submit that we should follow the process that was in place last week and do the exact same thing. And that if new subpoenas are going to be issued, that it come before the Committee

and the Committee have a chance to make those comments. You indicated you welcomed those comments, you've both indicated you think it's appropriate. Why don't we just put that in the resolution?

ASSEMBLYMAN WISNIEWSKI: Well, the process we used last week was under an almost identical resolution that we're adopting today, Assemblyman. The only change between the two resolutions is this one mentions the Senate President and the Speaker of the General Assembly. Other than that, it is the same, exact process.

But for the reasons that are necessary in an investigation in which we can't anticipate exactly all the facts that will come our way, the flexibility is necessary. You have a commitment from Co-Chair Weinberg and I that the Committee will be part of this process every step of the way. It is our express expectations that before subpoenas are issued that the Committee will meet. It may come to pass that there may be a reason why we have to convene the members by telephone just to let people know what's going on. There may be an event that comes up that requires expeditious action. And so while I understand your skepticism, and as I said before to Assemblywoman Handlin that's your role, we also have to have flexibility and let this resolution, as provided, have the flexibility for the Committee to act. It is the exact same version -- not the exact same, but a version of the resolution that the Transportation Committee operated under. And that was a process that received high marks from your own caucus. So I think it's safe to say that we'll follow that same process and we'll continue forward in the same fashion that we have in the past.

ASSEMBLYMAN McGUCKIN: Thank you, Mr. Chairman. I could support the resolution if that change was made. Unfortunately it appears that that is not going to happen.

But last but not least, I do see the change to “The President of the Senate and the Speaker of the Assembly shall be granted access to the documents.” Any reason that the Minority Leaders in those houses should not be provided that same access?

ASSEMBLYMAN WISNIEWSKI: I think that would be through the presiding officer, as most things happen in both of these houses. You know that -- that they’re run by the presiding officers; and I think that Assemblyman Bramnick, Senator Kean would make those requests to the presiding officers and they would have that discussion with the presiding officer.

ASSEMBLYMAN McGUCKIN: Thank you, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Seeing no further questions, could we have a roll call on the resolution, which is the organizational resolution for the Joint Select Committee on Investigations that, among other things, empowers the Co-Chairs to issue subpoenas.

ASSEMBLYMAN GREENWALD: So moved.

UNIDENTIFIED MEMBER OF COMMITTEE: Second.

MR. BUONO: To adopt and release this organizational resolution, Senator O’Toole.

SENATOR O’TOOLE: No.

MR. BUONO: Assemblyman McGuckin.

ASSEMBLYMAN McGUCKIN: No.

MR. BUONO: Assemblywoman Handlin.

ASSEMBLYWOMAN HANDLIN: No.

MR. BUONO: Assemblyman Carroll.

ASSEMBLYMAN CARROLL: No.

MR. BUONO: Assemblywoman Watson Coleman.

ASSEMBLYWOMAN WATSON COLEMAN: Yes.

MR. BUONO: Assemblywoman Vainieri Huttle.

ASSEMBLYWOMAN VAINIERI HUTTLE: Yes.

MR. BUONO: Majority Leader Greenwald.

ASSEMBLYMAN GREENWALD: Yes.

MR. BUONO: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MR. BUONO: Senator Gill.

SENATOR GILL: Yes.

MR. BUONO: Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Yes.

MR. BUONO: Co-Chair Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Yes.

MR. BUONO: Co-Chair Weinberg.

SENATOR WEINBERG: Yes.

ASSEMBLYMAN WISNIEWSKI: The resolution is adopted.

Seeing no further business before this Committee--

Co-Chair, do you have anything to add?

SENATOR WEINBERG: I do not.

I want to thank you for your past cooperation. I stated this many times in the length of time I've been involved with this issue: I wish we'd gotten answers a little earlier. But I believe we are on the right,

appropriate, fair, and impartial road. And I'm looking forward to moving down that road as quickly as possible.

Thank you.

ASSEMBLYMAN WISNIEWSKI: Just a housekeeping issue. You have to sign the voting sheet, like any other Committee meeting. So if members would not leave before they've done that.

Other than that, this meeting now stands adjourned.

(MEETING CONCLUDED)