
Commission Meeting

of

THE STATE HOUSE COMMISSION

LOCATION: Governor's Policy Conference Room
Room 252
New Jersey State House
Trenton, New Jersey

DATE: June 10, 2010
9:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Wayne Hasenbalg, Chair
Senator Bob Smith
Senator Gerald Cardinale
Assemblyman Joseph Cryan
Assemblyman Declan J. O'Scanlon Jr.
Charlene M. Holzbaur
Robert Romano



ALSO PRESENT:

Robert J. Shaughnessy Jr.
Secretary

Gary A. Kotler
Counsel

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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pnf: 1-27

WAYNE HASENBALG (Chair): Good morning, everybody.

First of all, thank you all for -- on very short notice -- attending this meeting.

My name is Wayne Hasenbalg; I am Deputy Chief of Staff to the Governor. I've been duly designated to represent the Governor on the State House Commission. And, at this point, I'd like to turn it over to Bob Shaughnessy, as Secretary, to call the roll.

MR. SHAUGHNESSY (Secretary): Thank you, Mr. Chair.
Deputy Chief of Staff Hasenbalg.

MR. HASENBALG: Present.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Present.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Here.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Here.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Here.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Here.

MR. SHAUGHNESSY: Assemblyman O'Scanlon.

ASSEMBLYMAN O'SCANLON: Here.

MR. SHAUGHNESSY: Okay, all present.

The next item will be the approval of calling of an emergency meeting.

SENATOR SMITH: So moved.

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Please-- I believe there's notice been provided, if you would, Mr. Chair. Thank you.

MR. HASENBALG: Adequate notice of this meeting, as set forth in the Open Public Meetings Act, has not been provided. This meeting of the State House Commission is being conducted on an emergency basis. The reason for holding this meeting on an emergency basis is to deal with an urgent matter which could not have reasonably be foreseen, involving the conveyance to Montclair State University of approximately an additional .2 acres of vacant land in Clifton to complete the land acquisition necessary for the development of student housing. The need for this emergency meeting was not reasonably foreseen at a time when adequate notice could have been provided, as this matter had not come to the attention of the people involved.

Delay will cause substantial harm to the public interest as a closing on the bond financing necessary for the construction of the housing will be jeopardized. The meeting will be limited to discussion and action with respect to this urgent matter.

Notice of this emergency meeting was provided on Wednesday, June 9, 2010, at approximately 5:00 p.m. to the Secretary of State of the State of New Jersey, and the State House press row, and posted at the office of the State House Commission.

MR. SHAUGHNESSY: In accordance with the provisions of the Open Public Meetings Act, specifically N.J.S.A. 10:4-9, may I have a motion that it be resolved that the State House Commission hold an

emergency meeting to deal with an emergent matter which could not be reasonably foreseen.

I'll call the roll.

Deputy Chief of Staff Hasenbalg.

MR. HASENBALG: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman O'Scanlon.

ASSEMBLYMAN O'SCANLON: Yes.

MR. SHAUGHNESSY: That motion passes unanimously.

Okay. The sole item on the agenda today is RPR #10-07, Block 51.02, part of lot 40, in Clifton, Passaic County.

New Jersey Department of Treasury, on behalf of Montclair State University, requests approval to grant .2 plus or minus acres -- approximately .2 acres -- of vacant land in Clifton to Montclair State University, which is necessary for the development of student housing.

Just as a way of background: At the December 17, 2009 meeting, the State House Commission approved the transfer of 5.43 plus or

minus acres of vacant land located in Little Falls to Montclair State University to permit a ground lease for the private development of student housing under the New Jersey Economic Stimulus Act.

We do have representatives from Montclair State University here today who are much more familiar with the nature of this disposal, as well as the urgency, if the Commission should have any questions or comments.

SENATOR SMITH: One item, if I might.

I don't see Assemblyman Wisniewski here, but being lawyers who practice in land use, we had always asked for any disclosure of the parties -- so we want to make sure we're not voting for something that may have some client connection. So the entity that's developing the property -- do we have anything concerning their principals?

MR. SHAUGHNESSY: I'm not sure; maybe Montclair State does. But I can clearly state that this transaction is a transaction from the State of New Jersey--

SENATOR SMITH: To Montclair.

MR. SHAUGHNESSY: --to Montclair State University.

SENATOR SMITH: Right.

MR. SHAUGHNESSY: And then Montclair's transaction.

Is there anyone from Montclair State here who may be able to aid the Senator?

UNIDENTIFIED MEMBER OF AUDIENCE: (indiscernible)

MR. SHAUGHNESSY: Please come up and introduce yourself, and speak into a microphone.

GARY E. WALSH, Esq.: I'm Gary Walsh from Windels Marx Lane & Mittendorf, who represents Montclair State.

The purpose of the transfer of land is to permit Montclair State to enter into a public/private partnership act under the New Jersey Economic Stimulus Act that was passed by the Legislature last summer. Montclair has followed all the necessary procedures in terms of Requests for Proposals, gone through and received New Jersey Development Authority approval, all in accordance with the Economic Stimulus Act. The developers, under that act if you recall, do have to make filings with the State and follow all necessary procedures to be properly accorded -- to be able to do this business. So I think that, certainly, Montclair State feels very comfortable that in following all these procedures they have chosen reputable firms to go through this process.

SENATOR SMITH: Not even a doubt? Just trying to avoid any appearance of a conflict of interest.

MR. WALSH: Understood.

SENATOR SMITH: Do we have any idea who is the developer?

MR. WALSH: Yes. The developer is Capstone Development Corporation.

SENATOR SMITH: A New Jersey corporation?

MR. WALSH: I believe-- No, they are not a New Jersey corporation. I'm not sure what-- Do you recall--

VALERIE VAN BAAREN, Esq. : Alabama.

MR. WALSH: They're an Alabama corporation? Okay. And then in order to do this on a tax-exempt financing basis, there has been

created a limited liability corporation -- which is a New Jersey limited liability corporation -- as the owner of the facility. But they are a wholly owned subsidiary of a Georgia not-for-profit corporation -- Provident Group, Inc.

SENATOR SMITH: Okay. Do we have any idea who the principals are, or the managing member?

MR. WALSH: Yes, we've been through all that.

SENATOR SMITH: I'm new, and I'm just asking the question who they are.

MR. WALSH: Yes; I don't know all the names of all the principals. Do you--

DONALD D. CIPULLO: The owner of Capstone--

MR. HASENBALG: Excuse me -- if you're going to speak, we have to speak in front of a microphone.

MR. CIPULLO: My name is Don Cipullo; I'm with Montclair State University.

The owner of Capstone Corporation is John (*sic*) Mouron, and he's a resident of Alabama. The Provident--

SENATOR SMITH: That makes it easy.

MR. CIPULLO: Provident Resources Group, which is the Georgia-based 501(c)(3); the Executive Director is Steve Hicks. They have a board-- I mean, we could provide a list of the board members. To the best of my knowledge, none of them are from New Jersey.

SENATOR SMITH: Okay. Just for my information, there's a lot of ways you could do this, do student housing. Is this a situation where you have a turnkey project they build for you, and then they turn it over to

the University; or is it one where they build it, operate it, and collect rents from it?

MR. CIPULLO: Capstone Development is going to build it. There's going to be a management agreement with Capstone Management Corporation (*sic*) and they will manage it. The initial term of that management agreement is 15 years; however, there are provisions where that could be terminated, if necessary.

SENATOR SMITH: And if that happens, what happens to the building?

MR. CIPULLO: The building will be owned by the limited liability corporation that Gary mentioned, and that's going to be under a ground lease with a term of approximately 40 years.

SENATOR SMITH: What happens at the end of the 40 years?

MR. CIPULLO: The property is turned over to the University.

SENATOR SMITH: Okay. Under any circumstances, you don't see any conflict, even if there was an issue, which there appears to be no issue? Since the property is going to Montclair State, that, in effect, prevents any ethical conflicts.

MR. SHAUGHNESSY: Right.

SENATOR SMITH: Okay, thank you.

ASSEMBLYMAN CRYAN: When was the title search done?

MR. CIPULLO: When was the title search done?

MS. VAN BAAREN: The title search was done in December.

MR. HASENBALG: Excuse me, everybody needs to use the mike.

MS. VAN BAAREN: An initial title search was done in December, and then there was a follow-up in April when we learned that there was this .2 acre parcel that was not a part of the original State House Commission approval of the project.

ASSEMBLYMAN CRYAN: All right, so in April we learned we had a problem with the Clifton parcel, if these minutes are correct.

MS. VAN BAAREN: That is correct.

ASSEMBLYMAN CRYAN: And in May, knowing that we had a problem with it, without State House Commission approval, we went out and bonded \$245 million. Is that correct?

MS. VAN BAAREN: Yes.

ASSEMBLYMAN CRYAN: Do I have that correct?

MS. VAN BAAREN: We received a title search -- we requested, I'm sorry, a title search in April. It was on Friday, June 4, that we learned there was this issue with regard to this parcel.

ASSEMBLYMAN CRYAN: So a title search takes two-and-a-half-months, is that right? And an initial title search -- because it says in this document "a full title search was not conducted at such time" -- in December, I assume, because of the cost. So does it take two-and-a-half-months to do a title search?

MS. VAN BAAREN: It probably should not.

ASSEMBLYMAN CRYAN: Okay, so what happened?

MS. VAN BAAREN: One of the complications with property that is occupied by Montclair State is that we do not have title to the property that we occupy, and therefore to identify which parcels are titled

in the name of the State of New Jersey, the Department of Higher Education, the EFA, is a complex matter.

ASSEMBLYMAN CRYAN: So Montclair State knows, and evidently has a history of confusion over the different designations of title on the property that they have. That's what it sounds like -- is that correct? Or knows that there's going to be difficulties in this title?

MS. VAN BAAREN: Well, we are aware--

ASSEMBLYMAN CRYAN: Okay.

MS. VAN BAAREN: --of the fact that there are title issues with regards to our--

ASSEMBLYMAN CRYAN: And yet knowing that, you don't do a full title search in December. You do one in April, knowing that you're under, again, some deadlines, is what it would seem here. And then you go out and bond without the title search, either, being verified. Am I the only one here who finds it a little weird that we bonded \$245 million, and didn't have a complete title search done? I find that to be extraordinary.

So can you explain that to me? Because I don't feel the pressure of a deadline, because I don't understand how it is that title searches that are touched in December, then done in April -- not completed, and yet the University or somebody felt like it was okay to go out for \$245 million.

ASSEMBLYMAN O'SCANLON: And what would happen with those bonds if we didn't approve them?

ASSEMBLYMAN CRYAN: Yes, that's going to be my next question.

MS. VAN BAAREN: If we did not, then it puts at risk all of the bonding that-- All of the bondholders.

ASSEMBLYMAN CRYAN: All right; so when was the title search in April completed?

MS. VAN BAAREN: We received on the 4th of June--

ASSEMBLYMAN CRYAN: So did anyone-- So you went out -- Montclair State, if I understand this correctly -- went out for a \$245 million bond without a complete title search? Is that correct? Verify? Is that what I'm understanding here?

MS. VAN BAAREN: We were under the impression, sir, that there were no issues related to the title; that we had come before the Commission; that we had requested and been approved--

ASSEMBLYMAN CRYAN: Do you have a letter from the title search company indicating that the title provided matched what we did in the Commission's work in December?

MS. VAN BAAREN: It is precisely the fact that the title company raised this issue on June 4 that--

ASSEMBLYMAN CRYAN: Am I missing something here? How the hell does anybody spend \$245 million -- at the end of the day is, I believe, backed up by the people of the State of New Jersey, at the very end of the day, right -- Montclair State, through us? And then the documents aren't in place? Is that, essentially-- That's how I understand this. You don't have-- You're telling me that you didn't have a signed title document approving what the parcels of land were for this when we went out to bond. That's what I'm understanding you to say, is that correct?

MS. VAN BAAREN: That is correct.

ASSEMBLYMAN CRYAN: I find that to be an extraordinary, extraordinary either absence of leadership, or you want me to use incompetence or some other term, I will. I find this to be reprehensible; I really do. I don't care whether it's .2 acres or not. What I find reprehensible is not providing the paperwork, and the disclosure, and the documentation necessary to go out and spend this type of bonding. I really don't care how small the piece is. And I also find it flabbergasting that the problem is now ours, because someone decided to spend \$245 million of taxpayer money.

If I'm wrong here, somebody correct me.

MS. VAN BAAREN: Well, only to the extent, sir, that it's \$245 million of taxpayer money. Under the New Jersey Stimulus Act, no New Jersey taxpayer money is at risk in this transaction.

ASSEMBLYMAN CRYAN: If Montclair defaults, I know who-- I think the Senator and the Assemblymen know where they're coming from for the payment -- respectfully.

MS. VAN BAAREN: My colleague will--

MR. CIPULLO: With regard to the financing, this financing is a non-request financing to Montclair State University. The owner of the property, which is the LLC, which is wholly owned by the 501(c)(3), is the issuer of the bonds. So these are not Montclair State University bonds, and there is no recourse. The satisfaction of these bonds is solely from the revenue of the project.

ASSEMBLYMAN CRYAN: So the developer is at risk for the \$245 million -- is that correct?

MR. CIPULLO: Yes.

ASSEMBLYMAN CRYAN: Okay. So based on that premise then, what is the impact? I have to tell you, when I look at paperwork sent to a mayor that's dated June 8 saying we're going to redesignate-- By the way, who designates property as surplus and how does that process work?

MR. SHAUGHNESSY: That would come through-- That would come through the department, so--

ASSEMBLYMAN CRYAN: Department of who?

MR. SHAUGHNESSY: Whatever department it is. So in this case, it is the New Jersey Department of Treasury.

ASSEMBLYMAN CRYAN: Okay, so Treasury-- When did Treasury decide, and how is that process done to designate this property as surplus, and how does that fit in the compliance (indiscernible)? Because it's dated June 8 to the Mayor. If I was the Mayor of Clifton, I'd be pretty outraged, if he even got this letter.

MR. SHAUGHNESSY: I sent that letter dated June 8. I sent that letter as soon -- as reasonably soon as I learned that there was reason to declare this property surplus. And we did hear back from the Mayor of Clifton--

ASSEMBLYMAN CRYAN: Okay, so how does the process work for developing something as surplus? Who makes that decision, and how is it done?

MR. SHAUGHNESSY: It's done by the respective departments, Assemblyman. In other words, if a department feels that this property is no longer needed and can be declared surplus, then the department will then initiate--

ASSEMBLYMAN CRYAN: Is that done in a public meeting?
Is it done-- How is that process done with New Jersey-owned properties?

MR. SHAUGHNESSY: It's actually done, first, via memo, which is sent to all the State departments and agencies to make sure before disposing of it that there's no other property that could be utilized by the State of New Jersey.

ASSEMBLYMAN CRYAN: So the title search ended June 4--

MR. SHAUGHNESSY: That's what I understand.

ASSEMBLYMAN CRYAN: --which was last Friday -- right? --
by my math.

MR. SHAUGHNESSY: Yes.

ASSEMBLYMAN CRYAN: So on June 4, the title search company and this problem surfaced. Between June 7 and June 8, you were able to get all the agencies of the State of New Jersey to give you a response that this property was surplus?

MR. SHAUGHNESSY: Um, all--

ASSEMBLYMAN CRYAN: I find that to be an incredibly magnificent task.

MR. SHAUGHNESSY: We have a circular which, in essence, is a guideline. And what we did was notify the departments. We have heard back from all departments except the Department of Transportation.

ASSEMBLYMAN CRYAN: Okay, so--

MR. SHAUGHNESSY: That it's approved.

ASSEMBLYMAN CRYAN: So the process is for all the agencies to approve it; is that correct?

MR. SHAUGHNESSY: Departments; department heads, right.
The land review office.

ASSEMBLYMAN CRYAN: So all the departments haven't approved it -- they haven't.

MR. SHAUGHNESSY: All--

ASSEMBLYMAN CRYAN: All but one, which is not all.

MR. SHAUGHNESSY: That's correct.

ASSEMBLYMAN CRYAN: Okay. So not all have approved it, yet it's designated as surplus anyway. I'm not taking a shot at you here, because I get the money. But it's not really, because we didn't follow our own procedures, because not all departments approved it. Now -- here a day-and-a-half later, right? Because it's the morning of the 10th -- the property is designated surplus even though everybody hasn't signed off on it, so that we can move \$245 million that went out to bond without the proper title work to begin with. Do I basically have this situation correct?

SENATOR CARDINALE: Can I ask a question?

You indicated that this money has been spent.

ASSEMBLYMAN CRYAN: No, I didn't.

SENATOR CARDINALE: Yes, you did. You said--

ASSEMBLYMAN CRYAN: What money?

SENATOR CARDINALE: --we spent the money.

ASSEMBLYMAN CRYAN: No, they bonded for it.

SENATOR CARDINALE: They bonded for it. I-- Well--

ASSEMBLYMAN CRYAN: They went out for bonds.

SENATOR CARDINALE: I just wanted to correct that statement. No money of that bond issue has yet been expended--

ASSEMBLYMAN CRYAN: Well taken.

SENATOR CARDINALE: --to my knowledge.

ASSEMBLYMAN CRYAN: Agreed. The documents say that.

SENATOR CARDINALE: And what I believe we are here today to do is to make sure that prior to any expenditure of those funds, all of the appropriate paperwork is in order.

ASSEMBLYMAN CRYAN: Okay.

SENATOR CARDINALE: And I agree--

ASSEMBLYMAN CRYAN: It would sound here, Senator, that it isn't.

SENATOR CARDINALE: And I agree with you, I agree with you, Assemblyman, that the small portion of this property that is involved -- of the total parcel that's only a very small portion -- but having been involved in any number of real estate transactions myself, personally, as a State official, I can tell you that when titles are examined closely by the appropriate authorities, it is not uncommon that little discrepancies are discovered. And when those little discrepancies happen to also have an impact on whether or not certain bonds can be issued at a favorable rate to the State or to the institution, and when the delay -- the further delay -- might cause an initial expenditure of a great deal of additional money, it behooves those of us who are entrusted with making these decisions to act in a prompt manner.

Now, I too, like you, wish that we were not under the gun of a date where the closing has to take place, in order for the previously authorized or previously bid bonds for that bid to remain valid and

available for this purpose -- I wish that we had another couple of weeks. We don't.

ASSEMBLYMAN CRYAN: Okay.

SENATOR CARDINALE: So we are here today to try to make this go in the best way possible for the people of New Jersey. Whether it's going to be the responsibility of Montclair, or the taxpayers, or some other nonprofit, really, ultimately, it comes down to what is going to be the tuition and what is going to be the cost of rooming for students. And, were the interest to be higher, I'm sure that the cost to the students would be greater.

So we are here today to make this work--

ASSEMBLYMAN CRYAN: Senator, I recognize the--

SENATOR CARDINALE: --positively.

ASSEMBLYMAN CRYAN: I recognize the penalty that we're under, which I believe, by the way, is self-imposed, because I fail to grasp how one goes out without having the documentation in order. I am mystified. I've only done a few home closings where I've happened to live. I'm not a real estate developer.

SENATOR SMITH: Actually, you should be mystified at the bank.

ASSEMBLYMAN CRYAN: Well, I'm mystified--

SENATOR SMITH: At the lender.

ASSEMBLYMAN CRYAN: --at somebody, I can tell you this, Senator, all right? And I'm also mystified as how we can, frankly, label something as surplus when it's not done through the proper procedure.

SENATOR CARDINALE: It should be obvious--

ASSEMBLYMAN CRYAN: Excuse me, but that's fairly--

SENATOR CARDINALE: It should be obvious that there was a mistake made in December that all of the property necessary to be transferred was not authorized in December by the State House Commission -- and probably relying on an erroneous drawing, or an erroneous survey, or an erroneous title review that was done back in December. That was discovered. I don't see this as any enormous problem--

ASSEMBLYMAN CRYAN: Okay, I--

SENATOR CARDINALE: --to correct whatever that mistake was that was made, probably, in December.

ASSEMBLYMAN CRYAN: Senator, I appreciate--

SENATOR CARDINALE: I don't recall what-- You know, I voted on it; I was one of the members of this Commission in December. And we approved the transfer--

ASSEMBLYMAN CRYAN: I read that.

SENATOR CARDINALE: --but we probably had a description that was deficient.

ASSEMBLYMAN CRYAN: Senator, I don't have any problem with the approval. My problem is understanding-- This memo very clearly, from this law firm, indicates that the penalties are severe: that either students will be entrusted with a higher tuition; or there's \$245 million in a potential bond issue that, according to you, may have a different market rate -- I don't know if anyone can answer to that, if bond rates have gone up in the past three weeks.

SENATOR CARDINALE: In that report it indicates that the bond rate would be less favorable.

ASSEMBLYMAN CRYAN: With that said, I don't really care. I just want to understand the process as to how this works, because it's pretty clear to me this process is pretty screwed up -- whether it's a designation or whether it's from, frankly, a University who we've entrusted with this. This isn't a new project. And the idea that we're sitting here under the threat of penalties seems to me to be, frankly, wrong. I'm still mystified as to how you can go to market without the paperwork in order. And I'm still mystified as to why that's our problem.

SENATOR SMITH: Two additional questions, if I may.

We were faxed a memo from Windels Marx Lane & Mittendorf, and I have to tell you, I can't remember ever receiving a letter or an opinion or a whatever from a law firm where it's not signed by a lawyer. It's signed by Windels Marx Lane & Mittendorf. Who drafted the letter?

MR. WALSH: I did.

SENATOR SMITH: Okay, so--

MR. WALSH: (indiscernible)

SENATOR SMITH: Why didn't you put your signature on it?

MR. WALSH: It was-- In the process of getting this out quickly--

SENATOR SMITH: Okay.

MR. WALSH: We usually provide opinions to our clients in these instances under the firm name--

SENATOR SMITH: Okay.

MR. WALSH: --as opposed to under an individual attorney's name. So I drafted that in that sense. I wasn't quite sure who might be appearing here today, so--

SENATOR SMITH: Got it.

MR. WALSH: --we did it on behalf of the partnership.

SENATOR SMITH: I understand the explanation.

MR. WALSH: Okay.

SENATOR SMITH: In the letter it says, "A full title search was not conducted at such time because of the prohibitive cost and the time involved (knowing that an application needed to be made and approved at the Commission's meeting). And Capstone Development determined the metes and bounds description of the project through its engineering firm based upon the best available public documents such as tax maps, existing deeds to Montclair State from the State of New Jersey EFA--

MR. WALSH: Yes, that should have been EDA; I realize it was a typo--

SENATOR SMITH: "EDA -- an existing contiguous land owned by New Jersey--"

MR. WALSH: Oh, no.

SENATOR SMITH: It says here--

MR. WALSH: That might have been EFA there; I'm sorry.

SENATOR SMITH: Okay, could be EFA.

Anyway, it also says above it that Montclair State doesn't expend its own money in the project, all right? So apparently this was Capstone that made the decision to not do the title search at that time?

MR. WALSH: It may have been a joint decision, you know, a meeting with the University. But yes, it would have been the owners-- It's basically the owners' obligation to have gone to do that at that time.

SENATOR SMITH: Who's representing Capstone?

MR. WALSH: They have their own attorneys.

SENATOR SMITH: They have their own counsel?

MR. WALSH: Sure.

MS. VAN BAAREN: Yes.

SENATOR SMITH: Okay; and what was the cost of the title work?

MS. VAN BAAREN: It was approximately \$100,000.

SENATOR SMITH: \$100,000.

MS. VAN BAAREN: Yes, sir.

SENATOR SMITH: Whoa, that's a great premium.

MR. WALSH: That's just for the search; that's not the premium.

SENATOR SMITH: That was the search?

MR. WALSH: Yes; right?

MS. VAN BAAREN: Yes.

MR. WALSH: Yes.

SENATOR SMITH: Wow.

ASSEMBLYMAN CRYAN: Do you bid that?

MS. VAN BAAREN: It was--

MR. WALSH: Again, it wasn't--

MS. VAN BAAREN: --Capstone's responsibility; it was not done--

MR. WALSH: Yes, it's not their cost.

ASSEMBLYMAN CRYAN: So it's Capstone that eats the cost?

MS. VAN BAAREN: Yes.

MR. WALSH: Correct.

ASSEMBLYMAN CRYAN: And we saved Capstone \$100,000, and we get to sit here today and worry about whether we're in accordance with all New Jersey regulations. But Capstone saved \$100,000 in a \$245 million project. Is that pretty much right?

MR. WALSH: Out of their pocket at that time, yes.

ASSEMBLYMAN CRYAN: I'm glad they have \$100,000 extra.

My final questions are on this Asset Disposition Form. Who determined the price of \$1?

MR. SHAUGHNESSY: At the December meeting, the--

ASSEMBLYMAN CRYAN: Yes, but this is new business, right? And this parcel is considered new business, is it not?

MR. SHAUGHNESSY: It's going under new business.

ASSEMBLYMAN CRYAN: Okay, so under new business, how did it get determined to be \$1?

MR. SHAUGHNESSY: Well, that's up to the Commission to decide. What I'm here to advise on the State of New Jersey Asset Disposition Form, the appraised value of the entire parcel, with this addition, is \$360,000 via an appraisal dated June 9, 2010. So the Asset Disposition Form will be amended accordingly. There is a June 9, 2010, Value Research Group appraisal that was provided to Montclair State, and the value remains at \$360,000.

ASSEMBLYMAN CRYAN: So let me summarize: In this meeting, you want us to vote for a parcel of land to be sold for \$1, that is worth \$360,000, that has not been declared surplus by all the departments in the process of the State of New Jersey, that the title search was incorrect because the developers saved \$100,000, it seems like, in December. Is that pretty much the story here?

MR. WALSH: Can I add something to that, if you don't mind?

MR. SHAUGHNESSY: Let me, let me-- If I may, let me just clarify that the appraisal indicates that the addition of this .2 acres of land does not increase or decrease the prior appraised value.

ASSEMBLYMAN CRYAN: So it's still \$360,000?

MR. SHAUGHNESSY: That's what the appraisal says, sir, yes.

ASSEMBLYMAN CRYAN: And was there any bid or anything done here, and did the departments-- Did anybody know that it was \$360,000 when you declared the item surplus, since it only came out yesterday, and you did that on the 4th?

MR. SHAUGHNESSY: No, not if the date was previous or prior on that.

ASSEMBLYMAN CRYAN: Okay. So do I accept the surplus notification based on the dollar value at all, or is that impacted at all?

MR. SHAUGHNESSY: I would submit that you do accept that.

MR. WALSH: All I was going to add is just an understanding that, even though you're looking at this as surplus property, this property -- owned by the State in the middle of Montclair State's campus, that used to be owned by the Department of Higher Education -- its use is not changing.

Its use has always been available for Montclair State University and not other pieces of the State, at this point in time.

ASSEMBLYMAN CRYAN: Then why aren't you paying \$360,000 for it, if that's what it's worth?

MR. WALSH: I don't know how it was originally acquired, but there is-- You know, it's been used by Montclair State University all these years, and I don't know the original acquisition of it.

ASSEMBLYMAN CRYAN: I appreciate that. But if it's worth \$360,000, why are you getting it for \$1?

MR. WALSH: Because the State is--

ASSEMBLYMAN O'SCANLON: What did we get for the other property--

MR. WALSH: Montclair State University is the same thing as the State.

ASSEMBLYMAN O'SCANLON: The other property that we transferred, the five acres-- What did we get at the time?

MR. SHAUGHNESSY: \$1.

MR. WALSH: \$1.

ASSEMBLYMAN O'SCANLON: That was \$1 as well.

MR. WALSH: It was nominal; yes, nominal.

ASSEMBLYMAN O'SCANLON: So this is sort of a continuation--

MR. WALSH: Correct.

ASSEMBLYMAN O'SCANLON: --and a continuous property.

Look, I'm inclined to vote for this because I get it: the situation on the ground, and the ground itself. But the points that Assemblyman

Cryan raises-- This seems really sloppy. And the fact that it happened here, I think, the point ultimately is that it raises a red flag. Where else might it happen, and when else are we going to be asked to rubber-stamp something that comes to us with some of these questions? Senator Cardinale makes a fair point about the fact that some of these things do come along later in a process -- I get it. But it's troubling, and there's certainly a red flag there. Here -- I get it; and is this .2 piece completely surrounded by those other 5 acres that we're talking about? How's that, physically--

MR. WALSH: Completely; well, it's contiguous. If you think of a rectangle, it's a small piece of a triangle of the rectangle, essentially.

ASSEMBLYMAN O'SCANLON: Okay. So you could get me to vote for this today, because, again, of conditions on the ground. But fair points have been raised, and the whole idea that some of the sloppiness came about because maybe someone was trying to save someone \$100,000 -- I get that. But we can't have that with the disposition of public property. That's not acceptable. So I'm troubled by it.

But again, I'm ready to move forward with it, but the points need to be well taken and then we should not let it happen again.

SENATOR SMITH: Mr. Shaughnessy, are we okay with-- Assemblyman Cryan pointed out that there's one agency that hasn't signed off.

MR. SHAUGHNESSY: That's the Department of Transportation.

SENATOR SMITH: And can we move forward without that sign-off?

MR. SHAUGHNESSY: I believe you can. It's, in essence, a guideline, if you will, in a circular. It's not statutory, Senator.

SENATOR SMITH: Okay, it's a guideline.

I think Assemblyman Cryan makes tremendous points. I mean, this is not a magic moment in the history of the State House Commission. I mean, it's a-- There is a lot of sloppiness. I do think there are two villains in the piece, neither of which is Montclair, because I think Montclair is just trying to get student housing built, to take advantage of a law that helps get it built. But Capstone, by trying to pinch pennies in terms of \$245 million, has created, I think, an embarrassment for us and for the University, and I have to be amazed at whoever was underwriting the bonds. You have bond counsel who looks at this stuff and says, "The title work is good, and there's no problem," and if they allowed the bonds to be issued, or the transaction in some way consummated, shame on whoever bond counsel was. I mean, really, they didn't do their job.

That being said, I think the ultimate long-term good of the State is assisted by having student housing at a reasonable price. And if it's appropriate, I'll move the motion to approve this very sloppily performed transaction forward.

SENATOR CARDINALE: I'm going to second the motion, but I'd also, under discussion, like to ask a question of the attorney: My understanding -- and just correct me if I'm wrong -- is that if whatever description of the property we had available to us in December was accurate, and the State House Commission had voted to include this other .2 acres, we wouldn't have to do any of this today.

MR. SHAUGHNESSY: That's correct.

SENATOR CARDINALE: That's the point of error.

And the subsequent actions uncovered the error in the description that was given to the State House Commission in December. Is that correct?

MR. WALSH: That would be correct, to my knowledge, yes.

MS. VAN BAAREN: That is correct.

SENATOR CARDINALE: Thank you, thank you.

MR. SHAUGHNESSY: So we have a motion and a second. I will call the roll.

Deputy Chief of Staff Hasenbalg.

MR. HASENBALG: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman O'Scanlon.

ASSEMBLYMAN O'SCANLON: Yes.

MR. SHAUGHNESSY: Okay; the motion is carried, and the matter is approved.

May I have a motion to adjourn?

ASSEMBLYMAN O'SCANLON: So moved.

MR. SHAUGHNESSY: Second?

SENATOR CARDINALE: Second.

Deputy Chief of Staff Hasenbalg.

MR. HASENBALG: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman O'Scanlon.

ASSEMBLYMAN O'SCANLON: Yes.

MR. SHAUGHNESSY: The motion is carried.

The meeting is concluded. Thank you.

(MEETING CONCLUDED)