
Commission Meeting

of

STATE HOUSE COMMISSION

(revised)

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

DATE: December 10, 2018
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Justin Braz, Chair
Senator Bob Smith
Senator Gerald Cardinale
Assemblyman Paul D. Moriarty
Assemblyman John DiMaio
Catherine Brennan
David Ridolfino



ALSO PRESENT:

Robert J. Shaughnessy Jr.
Commission Secretary

Gary A. Kotler
Commission Counsel

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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(The following transcript is a recording of the State House Commission on December 10, 2018.

This is a revised version of the transcript to reflect all portions of the meeting held outside of Executive Session.

The recording -- beginning with the portion of the meeting where the State House Commission sits as the Judicial Retirement System Board of Trustees -- was of poor quality. The transcript reflects the best efforts to retrieve the audio)

JUSTIN BRAZ (Chair): Good morning, everybody.

Thank you for being here today for today's meeting of the State House Commission.

I would like to turn it over to Mr. Shaughnessy to go through the Open Public Meetings Act, as well as the roll.

MR. SHAUGHNESSY (Commission Secretary): Good morning.

In compliance with the Open Public Meetings Act, notice of this meeting was given by way of notice filed with the Secretary of State, delivered to the State House Press Corps, and posted in the Office of the State House Commission, as well as on the State House Commission website.

I'll move to call to order.

Deputy Chief of Staff Braz.

MR. BRAZ: Here.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Here.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Here.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Here.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Here.

MR. SHAUGHNESSY: Okay; we have a quorum, sir.

So moving on to Old Business, the first item is approval of the September 27, 2018, State House Commission meeting minutes.

Hello, Senator Smith; welcome.

SENATOR SMITH: Thank you.

Okay, may I have a motion with regard to the September 27 meeting minutes?

MR. BRAZ: Motion.

MR. SHAUGHNESSY: Second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Okay; all in favor? (affirmative responses)

Any opposition? (no response)

Any abstentions? (no response)

Those are approved.

Moving on to No. 2; that's RPR 97-17, Sea Girt Training Center, Block 106, Sea Girt, Monmouth County.

Treasury, on behalf of the Department of Military and Veterans' Affairs, is requesting approval to lease 0.38 +/- acres to MFS CableCo, U.S. Inc. MFS CableCo, U.S. Inc. is the current tenant of this space.

This matter was tabled at the September 27, 2018, meeting of the State House Commission, pending additional information from the

Department of Treasury regarding the dollar amount of the proposed new lease.

The lease will be for a term of five years, at an increased rental of \$75,000 per year, with a 3 percent annual rent increase during any renewal option.

Any members have any questions on this matter? (no response)

Hearing none, any member from the public want to be heard on this matter?

Hearing none, may I have a motion, please?

ASSEMBLYMAN MORIARTY: I'll make that motion.

MR. SHAUGHNESSY: Second?

MR. BRAZ: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: No. 2 is approved.

Moving on to No. 3 under Old Business.

And I may add that numbers-- The next three items, 3, 4, and 5, are substantially similar. They are properties at Vineland Development Center, East Campus. All have been unsuccessfully auctioned at least twice before; and all hope to be re-auctioned at a more realistic, currently appraised value.

So the first one is RPR 15-12B, 1990 East Landis Avenue, Vineland, Cumberland County.

Treasury, on behalf of Human Services, recommends the disposal of a single family dwelling surplus to the needs of the Department. The State House Commission previously approved the Department's request to auction the property.

The property will be sold via Internet auction for the appraised liquidated value of \$32,000, minimum starting bid.

Any members have any questions on this matter? (no response)

Any members of the public wish to be heard?

ASSEMBLYMAN MORIARTY: I have a comment, though.

MR. SHAUGHNESSY: Okay.

And may I stop you for a moment, please.

ASSEMBLYMAN MORIARTY: Sure.

MR. SHAUGHNESSY: Because I forgot and neglected to say, before we started this meeting, that on Friday we received comments from Jean Public, opposing and/or commenting on certain of the items. A copy has just been distributed to the members, and will be incorporated into the records of the State House Commission.

Assemblyman, I apologize for the interruption.

ASSEMBLYMAN MORIARTY: No problem.

My comment is, would it be too much of a bother to ask the Departments, when they're asking to dispose of a property, to include a picture of the property in our booklet?

MR. SHAUGHNESSY: Globally, I can't speak for all the departments. I don't know, but it seems like a reasonable request.

MR. BRAZ: Assemblyman, we'll make that request of the departments, going forward.

ASSEMBLYMAN MORIARTY: Because going-- I just can't believe we can't get a picture of the property. I mean, I just went on my own phone and looked at the property; but I think that we should get that so we don't have to do that individually. It's not a big deal. But just my comment; if we can get that, going forward, that would great.

MR. SHAUGHNESSY: Okay; thank you, Assemblyman.

MR. RIDOLFINO: Bob, what was the minimum bid on this property?

MR. SHAUGHNESSY: The minimum bid is-- Well, it's been a renewed appraised value; it's \$32,000.

MR. RIDOLFINO: Am I missing something? Because the record-- I mean, the printed materials say \$41,000.

MR. SHAUGHNESSY: Unfortunately, Mr. Ridolfino, we recently, I think, received appraisals in. The old approval was at minimum starting bid of \$41,000. And my understanding is, it was twice auctioned at \$41,000, with no bidders. So now, because of time, and conditions, and market value, the minimum starting bid is going to be \$32,000.

MR. RIDOLFINO: Okay.

MR. SHAUGHNESSY: Okay, so with regard to that, any other members have questions or comments? (no response)

Any member from the public wishing to be heard? (no response)

May I have a motion, please?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Second?

MR. BRAZ: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Similarly, on to No. 4, RPR 16-03A, 405 North Main Road, Block 3201, Lot 7, Vineland, Cumberland County.

Treasury recommends the disposal of a single family dwelling surplus to the Department's needs. The State House Commission

previously approved the request to auction this property; and again, there were two unsuccessful auctions. The property will be sold via Internet auction for the appraised liquidation value of \$43,000.

Any members have any questions on that? (no response)

Any member of the public wish to be heard? (no response)

Hearing none, may I have a motion?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN MORIARTY: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: We have Deputy State Treasurer Brennan. Pardon me; we are No. 4 under Old Business, Deputy State Treasurer.

Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: No. 4 is approved.

No. 5, RPR 16-03B, 455 North Main Street, Vineland, Cumberland County.

Treasury, on behalf of the Department of Human Services, recommends the disposal of a single family dwelling surplus to the needs of the Department. The State House Commission previously approved the Department's request to auction the property; and again, there were two unsuccessful auctions. The property will be sold via Internet auction for the appraised liquidation value of \$35,000, the minimum starting bid.

Any questions or comments with regard to that?

SENATOR SMITH: Just one.

MR. SHAUGHNESSY: Sure.

SENATOR SMITH: Not on the matter, but we have so many matters on the list today where there was an unsuccessful Internet auction. Is there any other vehicle we have to market our properties? Because it doesn't sound like the Internet auctions are working so well.

And I don't know the answer; that's a long-term question. I don't need an answer today, but maybe our staff should start to think about that to see if there is some other vehicle. It wouldn't be the worst thing -- to try and get a little bidding competition going on.

MR. SHAUGHNESSY: Understood.

SENATOR SMITH: And that being said, I have no objection to the matter going forward.

MR. SHAUGHNESSY: Okay; thank you, Senator.

Okay; any other members have any questions or comments?

(no response)

Anyone from the public wish to be heard on this matter? (no response)

Hearing none, then, may I have a motion?

SENATOR SMITH: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN MORIARTY: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Thank you.

Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Okay, we're now on to No. 6 under Old Business.

RPR 17-10, The Learning Center, 860 North Orchard Road, Block 2101, part of Lot 53, Vineland, Cumberland County.

Treasury, on behalf of the New Jersey Department of Human Services, recommends the disposal of the building known as The Learning Center, located on the grounds of the Vineland Developmental Center; specifically, the former East Campus of the Vineland Developmental Center -- the *West* Campus. It's a West Campus matter.

The Commission previously approved two leases of this facility, as well as an auction. The leases have expired, and the Department is now requesting approval to dispose of the property.

The property will be sold, via Internet auction, for the appraised liquidated value of \$1.6 million, subject to legislative approval, which I understand is already underway.

So do we have any questions from the members on this matter?

(no response)

Any member of the public wish to be heard? (no response)

Hearing none, may I have a motion?

MR. BRAZ: Motion.

MR. SHAUGHNESSY: Motion; second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Oh, I forgot Senator Smith, pardon me, Senator.

Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Finally, we have a matter, No. 7, under Old Business.

It's Route 21, Section 6, Parcels VX26A1, VXU26B1, VX26D1, VX26B2, VXU26B2, VX26D2, VX165, Block 1052, Lot 1, Passaic, Passaic County.

DOT is requesting approval to auction the above-identified property. The parcels contain approximately 0.258 acres. The property is an irregular-shaped lot of vacant land.

The matter was previously heard and tabled at the September 27, 2018, State House Commission meeting pending an inquiry by the Commission concerning the auction process. DOT Procurement Division

has since made the recommendation for auctions to utilize an existing Treasury contract, Treasury has, with GovDeals.com, and dispose of future properties via Internet auction.

The property is considered buildable, and will be sold at public auction to the highest bidder. The minimum starting bid is \$100,000, which is the appraised value of the property.

Do any members have any questions on this matter? (no response)

Any members of the public wishing to be heard? (no response)

Hearing none--

I understand the Chair is recused on this matter.

So may I have a motion, please?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Thank you; second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Okay.

Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved; thank you.

On to New Business; Department of Treasury requests.

RPR 16-08, Plainfield Group Home, 519 W. 8th Street, Block 761, Lot 4, Plainfield, Union County.

The Department of the Treasury, on behalf of the Department of Children and Families, recommends the disposal of the Plainfield Group Home, which has been declared surplus to the needs of the Department.

The property will be sold via Internet auction at the appraised liquidation value of \$200,000, the starting minimum bid.

Any members have any questions? (no response)

Any members of the public have any questions or comments?

(no response)

Hearing none, may I have a motion?

SENATOR CARDINALE: So moved.

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Motion and second; thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

On to the Department of Environmental Protection requests.

No. 9, Delaware & Raritan Canal State Park, Block 1002, part of Lots 3 and 4, Lambertville, Hunterdon County.

The Department requests approval to enter into a 20-year lease agreement with PSE&G for the installation, removal, maintaining, repairing, and operating of an existing aerial electrical transmission line. The property to be leased consists of 0.404 acres of land.

The annual rent will be -- the first year will be \$3,390, with 2.5 percent annual escalations. The rental rate was established through an appraisal. Over the 20-year term of the lease the Department will receive \$86,596.39.

Any members have any questions or concerns about this?

ASSEMBLYMAN MORIARTY: I just thought it was low. How did we arrive at that price?

MR. SHAUGHNESSY: Anyone from the Department here to talk about that?

Thank you.

G E O R G E A. C H I D L E Y: Good morning; George Chidley, with the Office of Leases and Concessions with DEP.

MR. SHAUGHNESSY: Good morning, sir.

MR. CHIDLEY: The appraisal was jointly done with the Water Supply Authority. So it's a hired Green Acres-qualified professional. I mean, it's only a small portion of property, and it's not developed -- it can't be developed. So that's why the rates are lower.

ASSEMBLYMAN MORIARTY: Okay; thank you.

MR. SHAUGHNESSY: Any further questions from the members? (no response)

Anyone from the public who wishes to be heard? (no response)

Hearing none, then, I'll have a motion please.

SENATOR SMITH: So moved.

MR. SHAUGHNESSY: Motion; thank you, Senator.

Second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Motion and second; thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Next, on to No. 10 on the agenda.

South Branch Wildlife Management Area, Block 33, part of Lots 70.01 and 70.03, Washington Township, Morris County.

DEP requests approval to execute a five-year lease, with options to renew, to Harbe Dan Farm, LLC, in care of Daniel O. Farrand, tenant. Since there is no direct access to the leased land, the tenant will access the DEP lands through their own adjacent property.

The rent for the initial five-year term will be \$1,750; that's \$350 per year, which is set using the soil rental rates set by the Farm Service Agency of the U.S. Department of Agriculture.

Do any members have questions or concerns on this matter?

ASSEMBLYMAN MORIARTY: I have a question. What are they going to be using this for?

MR. SHAUGHNESSY: Mr. Chidley again; thank you.

MR. CHIDLEY: My pleasure. I probably should have just stayed sitting. (laughter)

The property is going to be used for -- the adjacent farmer is just going to farm on the property. It will be for hay and other such things.

ASSEMBLYMAN MORIARTY: So they're going to be farming it?

MR. CHIDLEY: Yes.

ASSEMBLYMAN MORIARTY: Okay. Is that what the--

MR. CHIDLEY: The property is, in essence, landlocked, because there are no means of egress without chopping down substantial amounts of trees and other things.

ASSEMBLYMAN MORIARTY: Sure.

MR. CHIDLEY: So he has a property immediately adjacent, and he would do that. And we're looking for the biodiversity and the other positives that it permits.

ASSEMBLYMAN MORIARTY: How was this property originally acquired?

MR. CHIDLEY: It was acquired through Green Acres, and it was turned over to the Division of Wildlife. It's a Wildlife Management Area, so it does have a lot of restrictions on it.

ASSEMBLYMAN MORIARTY: Was there a restriction that it was to be used as Open Space?

MR. CHIDLEY: It is an Open Space; yes.

ASSEMBLYMAN MORIARTY: But Open Space isn't farmland, is it?

MR. CHIDLEY: We use Open Space, generally, for farmland and other things. Again, it's to promote biodiversity; otherwise, it would naturalize and you'd change the nature of the area, and the habitat would change dramatically if we didn't have some of this allowed from time to time.

ASSEMBLYMAN MORIARTY: Okay, thank you.

MR. SHAUGHNESSY: Any other members have any questions or concerns?

MS. BRENNAN: Can we get an explanation of the soil rental rates and how that works?

MR. CHIDLEY: Soil rental rates are established by the U.S. Department of Agriculture. They're based on the actual soils that are present on the property. We take-- Through GIS, we have the GIS soil maps, and each soil type has a rate assigned to it. So we take the entire lot; we determine the number of soils and how many square feet; those rates are then applied to that number of square feet. And it comes up with a base rent; and then there is an additional-- We take 20 percent off because the property is open to the public. So that if there's hunting going on, or the public is allowed to walk through and there's damage to crops, that's accounted for in that 20 percent reduction.

MR. SHAUGHNESSY: Any members have any other questions? (no response)

Okay; any members of the public wish to be heard? (no response)

Hearing none, may I have a motion on this matter? This is No.
10.

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Okay; motion.

Second?

SENATOR SMITH: Second.

MR. SHAUGHNESSY: Okay; I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Thank you; that matter is approved.

Moving on to No. 11; No. 11 -- Veterans Memorial Park, Block 2914, part of Lot 1, Union, Union County.

DEP, on behalf of the Township of Union, requests approval to allow the conveyance of a utility easement on approximately 0.038 +/- acres of Township-owned parkland within the Veterans Park, to the New Jersey Department of Transportation. The easement is needed as part of the replacement of the Route 22 bridge.

As compensation, the DOT will provide \$5,000 to the Township to be used for improvements to the Park. In addition, DOT will provide both tree planting and cash compensation to offset tree removal impacts in the easement area.

Any members have any questions on this matter? (no response)

Any member of the public wishing to be heard? (no response)

Hearing none, may I have a motion, please.

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Second?

MR. BRAZ: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Next, we're on to the final DOT request, No. 12.

Raritan River Conservation Area, Block 703.03, part of the former Lot 1 -- I believe it's currently 1.003 -- New Brunswick, Middlesex County.

The DEP requests approval to convey 0.105 acre aerial easement within the Raritan River Conservation Area to PSE&G. As compensation, PSE&G will pay \$10,000 to the City to be used for the installation of new signs at all the City's parks.

Any members have any questions on this matter? (no response)

Hearing none, any member of the public wish to be heard? (no response)

None as well; may I have a motion please?

MR. BRAZ: Motion.

MR. SHAUGHNESSY: Motion; and second?

ASSEMBLYMAN MORIARTY: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Acting Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Moving on to DOT requests.

No. 13, Wireless Communications Tower, Frontage Road Ramp, Route 1 and 9 Northbound, Mile Post 49.1, Newark, Essex County.

DOT is requesting approval to license the subject property for the purpose of erecting a Wireless Communication Facility, consisting of a 125-foot monopole on State-owned property.

This proposal will generate \$37,300 per annum for 5 to 20 years, depending on renewal options.

Does anyone have any questions or comments on this?

ASSEMBLYMAN MORIARTY: I do.

MR. SHAUGHNESSY: Okay; so--

ASSEMBLYMAN MORIARTY: Is there someone who could tell me what -- how did you arrive at that price, and what do wireless carriers pay per month, generally, around the country for being located on a monopole?

RICHARD THAYER: Well, we have a Master License Agreement that we've had in effect for the last 10 years with the carriers. It's due next year, 2020, for new ones. And we established this fee back then; and that's what we followed.

The initial carrier pays the \$37,300; any co-locators pay \$18,700. So this pole has two people on it right now, from what I understand. It's a Crown Castle pole, about 400 to 500 feet away on an existing motel across from Frontage Road. And from what I understand, the property is going to be redeveloped, so Crown approached the Department to remove the tower from there and place it on our property.

And right now, they have one carrier that's going to transfer with them; I believe it's Verizon.

And so they already had the Master License Agreement with us, signed; and--

ASSEMBLYMAN MORIARTY: Who does? Verizon?

MR. THAYER: No; Crown does. It's going to be their pole. But I have Master License Agreements with all the main carriers and some tower managers. Crown happens to be the owner of the pole right now.

ASSEMBLYMAN MORIARTY: So they're going to put the pole up; and then they have one tenant, and they could have more.

MR. THAYER: Yes.

ASSEMBLYMAN MORIARTY: And as they get more tenants, we get more money?

MR. THAYER: Yes.

ASSEMBLYMAN MORIARTY: Okay.

MR. THAYER: Yes.

ASSEMBLYMAN MORIARTY: And so this was a price that was set 10 years ago?

MR. THAYER: Yes.

ASSEMBLYMAN MORIARTY: And it hasn't changed?

MR. THAYER: No; instead-- We used to do the yearly thing and monthly thing; it got to be too much, with the accounting. We took an average of the Consumer Price Index and based it over what we would get. And we just came up with a set figure for 10 years. And then, in 2020, when the 10 years are up, that figure jumps up to \$51,000. So we kind of,

like, averaged out throughout the years; it's just easier for the Department, because we don't have an accounting department to take care of these fees.

ASSEMBLYMAN MORIARTY: So it will go from \$37,300--

MR. THAYER: It will go from \$37,300 to \$51,000.

ASSEMBLYMAN MORIARTY: --to \$52,000 -- \$51,000, in what year?

MR. THAYER: In 2020.

MR. SHAUGHNESSY: Sir, would you please identify yourself, and put your affiliation?

MR. THAYER: Yes; my name is Rick Thayer; I'm from the New Jersey Department of Transportation. It's the Office of Outdoor Advertising Wireless Communications Unit.

MR. SHAUGHNESSY: Thank you, Mr. Thayer.

ASSEMBLYMAN MORIARTY: The people building the monopole -- they're in the monopole business? Is that what-- I mean, they're not in the wireless business, are they?

MR. THAYER: Crown is not; no.

ASSEMBLYMAN MORIARTY: That's what I mean.

MR. THAYER: No, they're the tower manager.

ASSEMBLYMAN MORIARTY: Yes; so they build towers, and then they get tenants.

MR. THAYER: Yes.

ASSEMBLYMAN MORIARTY: Do you know how much they get, per carrier, per month, to place -- to be on their antenna?

MR. THAYER: No, we don't get involved in third-party fees between carriers. What it used to be is -- the carriers had different fees

amongst themselves. And our policy was always to charge 50 percent for the co-locators. And some of the carriers, for each site amongst themselves, would charge different fees. And some would be down to, like, \$5,000 or \$8,000 per year for co-locators. This was, you know, years ago. And so we approached the carriers and asked them to -- since we're taking 50 percent in our agreement with them, that they should -- the primary carrier should charge the co-locator exactly what we're charging the primary; so we would get more money. Because when we were originally charging -- if we were charging \$18,000, \$20-some-thousand dollars per year, if they were charging that much, we would get a higher fee, because they ended up having their co-locators at a cheaper price. So, basically, in the last 15 years or so, that's what we've been doing.

ASSEMBLYMAN MORIARTY: Okay. Well, interesting. I think we're leaving money on the table, and I think that we probably shouldn't wait 10 years between setting rates. But it sounds like it's already in place, so--

MR. THAYER: Yes, it's in place. Next year, were going to be redoing the Master License Agreement; it takes about a year or two to write it up and have everybody review it, and the DAG's Office. And we're promoting to have a new contract come 2020.

ASSEMBLYMAN MORIARTY: I would recommend that we not wait -- set that for another 10 years; maybe make the term shorter so that we could review current situations. But that's just me.

MR. THAYER: Well, we have looked at that. But from the carrier's point of view, they can't recoup their costs within five years, when they're paying \$250,000 to \$300,000 to put up a monopole. So we looked

at that, and it came out to where -- in about 10 years they could recoup what they were doing. And I believe that's kind of like the standard.

When we first started our program in the Department, we actually followed what the Department of Treasury already had established. And I believe that's similar to what they were doing with the carriers that put antennas on these State buildings and whatnot.

ASSEMBLYMAN MORIARTY: Sure, sure.

I mean, obviously we want businesses to be able to be successful. But my main concern is the taxpayers of the State of New Jersey -- that they get due compensation.

Thank you very much.

MR. BRAZ: Sir, one more question, please.

So-- How are you?

MR. THAYER: Fine.

MR. BRAZ: When we recalculate the rates, it will be -- roughly, you expect to be around \$51,000, \$52,000 a year. Will that carrier begin paying that as soon as it is recalculated? Because it's in the middle of this term. Or it may wait until a term's expired to pay the new rate that was set by the Department?

MR. THAYER: No, that rate will come about in 2020; and that will be for the next, I believe, at least five years. In our Master License Agreement, the first 10 years were stated at \$37,400, and then \$51,000-something. And after that point, we didn't know what would occur; so we actually have a clause in there about the Consumer Price Index, and it lists a certain formula for that. Because from what I understand, there are three different types of Consumer Price Indexes, and whatever which one we

chose, the formula is actually there for anything future when it goes into 2029 and above -- further.

MR. BRAZ: So throughout the course of this term -- right? -- so it's 2018; so it's at least a five-year term, so it would be from 2023. Will the carrier be paying-- As of 2020, they will be paying the \$37,300; or as of 2020, in the middle of their term, it will be readjusted to the newer valuation of \$52,000?

MR. THAYER: Yes, the new value of \$51,000.

MR. BRAZ: Okay; so in 2020, it will be \$52,000, regardless of when they set the term up.

MR. THAYER: Yes.

MR. BRAZ: Okay; thank you for the clarification.

MR. RIDOLFINO: Can I ask one question?

When you guys do this 10-year contract, or whatever -- and I heard you say average increase in the CPI. So are the -- like in this 10-year, period -- right? -- are these carriers paying more in the early years? If you're saying it's currently around, you know, the high \$40,000s, low \$50,000s, then obviously they're paying less than market rate now. But were they paying a higher amount, as compared to what they would have been, when you're averaging it out in the beginning of the term?

MR. THAYER: Well, basically, what it was--

MR. RIDOLFINO: Or is it staying flat through the term, at \$37,000?

MR. THAYER: Yes; we just took an average. Because what it was, when our program first started, we had -- Sprint and T-Mobile were paying a much lower fee for some reason.

MR. RIDOLFINO: Maybe without getting into all the details, maybe what we can do is, you know, before you start implementing a new approach for the next 10 years, perhaps what we can do is -- talking with the Deputy State Treasurer; between Treasury, the Purchase Bureau, OIT, and DOT, we take a look at the process and see whether or not we're actually getting value there or not.

MR. THAYER: Well, that's--

MR. RIDOLFINO: Because I don't see locking in for 10 years -- understanding that the carriers need to recover their costs over the course of a longer period. You still have to balance that out, as the Senator was saying, with regard to the value that we're getting as well.

And so if you can -- you have my name; can you just shoot me an e-mail, all right? And then I'll respond and I'll set something up, and (indiscernible).

MR. BRAZ: And I'm sorry; I know you just represent the Department, but do you know the time sensitivity of this agreement for the carrier?

MR. THAYER: What was that exactly?

MR. BRAZ: I know you represent the Department--

MR. THAYER: Yes.

MR. BRAZ: --but do you know the time sensitivity around the approval of this agreement? Or are you not aware of the specifics?

MR. THAYER: Not specifics, yes.

MR. BRAZ: All right, thank you.

MR. SHAUGHNESSY: Okay--

SENATOR CARDINALE: I have a question.

MR. SHAUGHNESSY: Yes, Senator.

SENATOR CARDINALE: Have you checked comparables of what cell towers that are not rented from government property -- where they're on non-governmental property -- what are they paying?

MR. THAYER: They're paying, usually--

SENATOR CARDINALE: Do you have any idea of where we sit in terms of that comparison?

MR. THAYER: Well, we're higher than what they would be paying on private property fees. We charge more.

SENATOR CARDINALE: So you are higher cost than private sites?

MR. THAYER: Yes; if they were to be on a private site, they're paying the private owner, probably, a lot less than what we're paying (*sic*).

SENATOR CARDINALE: Why do they come to you then?

MR. THAYER: It's an easier process -- to go through the Department of Transportation. Usually it takes about two years to establish a site, and go through the State House, and then give them permission to build. Where if it's on private property, with local zoning, it ends up taking a lot longer.

And then, also, it's an area of coverage. If they have an area of coverage to fill that hole, and if our property fits that need, we're just one of the properties that they look at.

SENATOR CARDINALE: You have a variation with respect to location? This one is in Newark.

MR. THAYER: Yes.

SENATOR CARDINALE: If you had something in Vineland, would it be a different price?

MR. THAYER: No, it's the same. It used to be different; and then, under this agreement, we changed everything. Because, like, when I was trying to explain, without all your specifics, we had three sections of the state -- North, Central, and South -- and then we ended up having four categories of towers. And like I said, with that combination, we simplified it. It's all statewide. Whether it's one antenna or 12 antennas on a pole, it's the same price. Everything used to vary before, and it just got to be too complicated for us to deal with it. So we came up with an average and brought all the carriers to the same price. Like what I was trying to say before, the Newark carriers are smaller carriers like Sprint, T-Mobile, Nextel. They were paying half of what AT&T and Verizon were paying.

So I wasn't in the program at the time; but just from what I understand, was that Verizon and AT&T were considered, like, the *big boys*; and they had more customers, so they could afford to pay more. They gave, like, a break to the startup companies, you know, in the mid-1990s, when this program first started.

SENATOR CARDINALE: So if you have both AT&T and Verizon competing for the same site, how do you choose between the two of them?

MR. THAYER: It's not really a competition for the site; it's whoever approaches the Department first. And the additional carriers are able to co-locate on there, so they could still get their coverage. It's just one carrier--

SENATOR CARDINALE: That's not my question. My question is, really, in terms of how you make a selection. In the free market, if you have two people who want a piece of property, they bid against one another. What you're telling us is that you have one price, and it doesn't matter who's coming in -- you're going to give it to the first one who asked for it?

MR. THAYER: Yes.

SENATOR CARDINALE: Thank you.

MR. SHAUGHNESSY: Any other members?

MR. BRAZ: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Just real quick -- do you have an overall number, throughout the state, of what the revenue we receive each year is?

MR. THAYER: The Department's about \$3 million a year now. I think we have 41 towers; this should be the 42nd.

ASSEMBLYMAN DiMAIO: And that money goes into DOT, or the General Fund?

MR. THAYER: No, this money goes to the DOT. What it was, was -- the wireless program was basically a Federal Highway program; and they turned it over to the states to run it. And so the money that comes in stays at the Department, and we distribute that throughout the Department, different regions, to their maintenance yards. And it also provides the cell phone coverage for all the Department field crews and whatnot.

And then the people who work in the program, you know, it pays for their salaries, so it doesn't come out of the General Fund.

ASSEMBLYMAN DiMAIO: So similar to permit fees or whatever.

MR. THAYER: Yes.

ASSEMBLYMAN DiMAIO: It stays within the Department.

Okay; thank you.

MR. SHAUGHNESSY: No other questions or comments from the members? (no response)

Does anyone from the public want to be heard on this matter? (no response)

Hearing and seeing none, may I have a motion?

SENATOR CARDINALE: Before you have a motion -- it seems to me that this policy does not follow normal business practices. Normally, in any real estate transaction that I've been involved in, the value of a particular site depends on location. And what we seem to have is the Department has said all locations are equal; but they're not in reality.

I think the Department should go back and formulate a policy that follows some kind of business sense. I suppose that this policy, at some point, was approved by the State House Commission. I don't recall it; I've been on here for a while, but it was probably before my time. And I just think we-- If we approve this one, perhaps it should be for a limited period until the Department comes up with a better policy which reflects the real value of the individual sites.

That's my thought. I don't know if anyone agrees with me, but it's my thought that we ought to try to get this into a more rational kind of condition.

MR. RIDOLFINO: Senator, as I mentioned-- You're going to e-mail me, and we'll take a look at the process. Because they're not the only ones leasing space for cell towers; I mean, you have OIT--

MR. THAYER: Yes.

MR. RIDOLFINO: They're only dealing with their space -- the right-of-ways and everything else that's on their property.

So shoot me an e-mail and we'll take a look at the process. OIT should play a role in this, as well as Property Management and, I assume, the State Division of Purchase and Property too, to see whether we're doing it the right way or not.

MR. THAYER: Yes, sir.

ASSEMBLYMAN MORIARTY: Senator I agree with you in principle that not all real estate is about location, location, location. And I certainly started this off with my own questions about whether we're doing the right thing here.

However, we also have a public interest-- The public's interest is at play here as well, which is that regardless of location, we still want our citizens to be able to have even cellular coverage throughout the state as they travel throughout New Jersey. And so I think this is a little bit different than selling a house or a commercial property, because there is a public interest of universal, global coverage.

It sounds like they did have a plan at one time where they at least broke down the state into three areas regarding costs, depending on how many people lived in the north, or the south, or the central. And it sounds like they tried to make this real easy for themselves, to simplify it, because it got a little difficult.

I would think that, at the very least, they should go back and look at -- again, looking at different zones at least. But for the moment I'm willing to grant this going forward, with the understanding that we will look at this sooner than later and make some changes to how we do this.

MR. THAYER: And the property is actually -- it's not *leased*; it's *licensed*. We license them to operate on our property, because a lessee has more property rights, and we don't want them to have any rights. That way it won't affect the Department for any future use or whatnot. So it's a licensing to be on the property; and that's what it's called, the *Master License*, not a *lease*.

MR. BRAZ: Yes, and as Director Ridolfino had said, it seems like there's multiple departments that are involved in the process behind this. So to have a full understanding of all the agencies and departments that touch on what the actual process is, it would be helpful to see if there really is a fair market value for this, to your point, Senator.

Any other questions? (no response)

Mr. Thayer, thank you very much for your time. We appreciate it.

MR. SHAUGHNESSY: Okay; based upon all of that, may I have a motion?

ASSEMBLYMAN MORIARTY: I will make that motion.

MR. SHAUGHNESSY: Okay; and second?

MR. BRAZ: Second.

MR. SHAUGHNESSY: Motion and second; thank you.

I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

ASSEMBLYMAN MORIARTY: He stepped out.

MR. SHAUGHNESSY: Oh, he stepped out for a moment;
pardon me.

Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: And Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

On to No. 14. It's Route 21, Section 4, Parcel VX202B2,
adjoining Block 1086, Lot 9, Passaic, Passaic County.

DOT requests approval to convey a vacant piece of excess land
having an area of approximately 1,975 square feet, to the only adjoining
property owners, Felix and Carmen Sanchez. The property will be
conveyed to Felix and Carmen Sanchez for \$23,000, which is the appraised
value.

Any members have any questions or concerns about this
matter? (no response)

Anyone from the public wish to be heard? (no response)

Hearing none, may I have a motion, please?

MS. BRENNAN: Motion.

MR. BRAZ: Second.

ASSEMBLYMAN MORIARTY: Can I--

MR. BRAZ: Assemblyman Moriarty.

MR. SHAUGHNESSY: Discussion? Motion, second, discussion.

ASSEMBLYMAN MORIARTY: I'm sorry.

So they previously had executed a contract to buy this for \$40,000?

MR. SHAUGHNESSY: We're on No. 14.

Is someone here to discuss this matter? This is No. 14, Route 21 project.

Please identify yourself and your affiliation, sir.

D A V I D K O O K: My name is Dave Kook; I'm with the Department of Transportation, Right of Way and Access Management Division.

I'm sorry; I don't have any details about a previous contract with the property. This is a very thin strip of property between the actual bank of the slope going up to Route 21, and the building which these folks have been, sort of, using for a while. It's a physically very constrained piece; just a strip along their building, not even, really, much room to turn around in it.

That's as far as my recollection of this goes.

ASSEMBLYMAN MORIARTY: The only reason I'm bringing this up is that there's this strange letter, that I didn't originally see, which is dated October 5, 2018, signed by Felix and Carmen Sanchez, that says -- it's to Stephanie Prettyman, Reality Specialist I, saying, "Please be advised that, in 2014, we had executed contracts with the NJDOT for the purchase

of the above-referenced property. After the fact, due to the purchase price of \$40,000, we have decided to cancel the agreement and revisit a possible purchase at a later time. Therefore, we are proceeding with a formal cancelation of the previous agreement in 2014.”

I don't understand that letter. It was written in October 2018; they're saying that they had executed contracts in 2014. Does anybody else have any questions about that? I'm a little curious.

MR. KOOK: We try to leave these things open for people to actually fulfill a contract. At that time, apparently, from what you're explaining, in fact they weren't interested in pursuing that previous contract; which isn't necessarily unusual. And I'm sure by the time, after that many years, we had to go back and revalue it. The property out there, in that particular section, isn't really a place that's going up much in value. And if I recall the property right, it's a small food-factory-type thing that makes tortillas, if I recall the property right.

ASSEMBLYMAN MORIARTY: I'm not questioning any of that. I'm just curious; there are these two letters that just make me a little wary. Because there's another letter, which is not dated, which says, "Dear Ms. Prettyman, This letter confirms our desire to acquire the property for \$23,000." They both look like they may have been -- I'm guessing one was written after October 5 and one was written on October 5.

So they agreed to buy the property for \$40,000 in 2014; and then on October 5, 2018, they say, "You know what? We don't want to go through with that." And then, at some point, in an undated letter, they say, "Hey, we'll buy the property for \$23,000."

MR. KOOK: Ms. Prettyman, unfortunately, was not available to come today to discuss that case. And my suspicion is, that in an attempt to be thorough and make sure that all was on the record, that she asked them to confirm that they weren't going to follow through with the 2014 contract; although that was pretty obvious by the fact that we hadn't been able to get payment from them for it.

ASSEMBLYMAN MORIARTY: Right.

MR. KOOK: And we might have canceled it ourselves. The person who was in charge has retired; and as I said, Ms. Prettyman isn't here, so I don't want to speculate too much. But if we could have sold it back then, we would have. And this much time -- we go back and reconfirm that there isn't some need for it, subsequent to, for instance, maybe a drainage basin or something. So we would have redone the appraisal at this time too, because the appraisal would have been stale.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio, you had a question?

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: I'm sorry; are we done?

ASSEMBLYMAN MORIARTY: I just wanted to say I'm not comfortable voting on this today without knowing further. Because it just seems like a strange series of events and no one can explain it.

So that's my feeling.

ASSEMBLYMAN DiMAIO: Did I hear you say that they're using this property in a somewhat manner?

MR. KOOK: There would be -- during inspection there would be, possibly, a vehicle parked on it, or some of the equipment from the building might be on it. And we would ask them to remove it.

ASSEMBLYMAN DiMAIO: Have they?

MR. KOOK: Yes.

ASSEMBLYMAN DiMAIO: Because I can't tell by the photo; but they may have, what -- HVAC equipment or something on the ground there?

MR. KOOK: I think that might still be on their property. I think they own a foot or two over.

ASSEMBLYMAN DiMAIO: So they're encroaching on State property--

MR. KOOK: Yes.

ASSEMBLYMAN DiMAIO: --they don't want to buy it, but they do want to buy it; and we're allowing it to continue--

MR. KOOK: I would think, at the time, given the small nature of their business, that \$40,000 is probably more than they could afford at the time. And that they just hesitated long enough that either we canceled it-- Because the contract is only good for, I think, 120 days or something like that.

ASSEMBLYMAN DiMAIO: So they signed a contract--

MR. KOOK: Yes.

ASSEMBLYMAN DiMAIO: --and didn't perform.

MR. KOOK: Right.

ASSEMBLYMAN DiMAIO: Why did they sign it?

ASSEMBLYMAN MORIARTY: And in the meantime, used the property.

ASSEMBLYMAN DiMAIO: Why did they sign it? They're using our property--

ASSEMBLYMAN MORIARTY: Yes.

ASSEMBLYMAN DiMAIO: --not *ours*, but collectively, as a State -- the people's property, for their use.

SENATOR SMITH: How long have they been using the property?

MR. KOOK: If you go look at it, it looks like it's their property -- the way the highway comes down to it and then levels out, right up to their building. So I can understand why they might have thought that it was theirs originally. I honestly don't know how far back they might have been using it. And the use was not acceptable; but it wasn't like they had the whole thing stacked up with boxes or stuff, where they were getting a full value out of it. They were just, sort of-- The inconvenience -- pulling stuff up, and then taking it into the building, or stuff like that.

So it wasn't something we'd be able to see, on a regular basis, them doing.

SENATOR SMITH: Right.

The law in New Jersey still provides for a theory called *adverse possession*. If you use property, open and notoriously, and the property owner never objects to it, it's your property. So it might be worthwhile for the Department to take a look at that and see whether or not you want to give them some kind of notice to move the stuff off our property.

Otherwise, there won't even be a discussion about them buying it; because they'll own it. (laughter)

MR. SHAUGHNESSY: So what's the consensus--

SENATOR CARDINALE: So if I may ask another question.

You appraised it at \$23,000. What's the basis of that appraisal? Do you have comparables?

MR. KOOK: All of our appraisals would provide comparables of the local lots that are available out there.

SENATOR CARDINALE: Do you have those available to talk to us about?

MR. KOOK: Unfortunately I do not have that file with me. I would be happy to table the matter to discuss it more intelligently at some future meeting.

But the appraisal doesn't just take into account the unit value out there, say \$10. When you look at a property like that, with an established building on it, what it's going to add to his property isn't necessarily the full \$10. It's a convenience for him to be able to park a vehicle there, or move stuff in or out. But he's not going to get a bigger building there.

SENATOR CARDINALE: But I can agree that it's probably desirable for this property to be sold to the adjacent property owner. That's not a question that I think we have to discuss. The question we have to discuss -- the Assemblyman brought it up; I saw some of the same kind of questions -- I have never, frankly, been impressed with the quality of the appraisals that the Department does within its own house. And that has

been reinforced from time to time with things that have come before this group.

I think we need to have a justification of the price, greater than saying, "This is the appraised value." I think we need to see more detail. And I would conclude that you made a very good suggestion that we table it for the moment until we can get more detail with respect to what the price really ought to be. In fairness to the taxpayers and in fairness to the purchaser, we should come up with a fair price.

I abstained from a matter that was a year or two ago here, because I knew the property. And you sold it for about \$80,000, when it was -- I sold the property immediately next door to someone else for \$2 million-something. Now, that was only a third of what I had sold, but the comparison to me seemed absurd. And I would hope that that's not a general practice.

MR. KOOK: I would only say that there are many possible factors and things that bring an appraisal down in value; some factors that can bring it up in value, depending on the need of the owner to acquire it.

SENATOR CARDINALE: I would make a motion that we table this for the moment.

MR. SHAUGHNESSY: Okay; if that's the consensus.

A motion to table.

MR. BRAZ: Assemblyman DiMaio, if you want to--

ASSEMBLYMAN DiMAIO: Just one other point, one other question -- is that if people are operating on State property, that does expose us to some legal liability should someone be injured on that property. And if we know these conditions exist, we really ought to have--

They want to use it, but they want to buy it for less than they agreed to buy it for before. It sounds like there's some gamesmanship here.

But the bigger thing here, if someone were to be injured we'd be brought into a lawsuit in all likelihood. I'm not the attorney, but Senator Smith would know more than I.

SENATOR SMITH: Free advice: Send notice, get off our property.

ASSEMBLYMAN DiMAIO: Thank you, sir.

MR. SHAUGHNESSY: Okay, so I think the consensus is a motion to table--

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: --and seconded by the Assemblyman.

I'll call the roll.

Deputy Chief of Staff is recused on this matter.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: And this is a motion to table.

Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is tabled.

We're moving on to No. 15, I believe it is.

Route 324, Section 1, Parcels 1A and 1B-1, adjoining Block 302, Lot 1; and Block 305, Lot 1, Logan Township, Gloucester County.

DOT is requesting approval to convey a vacant piece of excess land, having an area of approximately 11 acres of land, to the only adjoining property owner, American Atlantic Company.

This is, apparently, authorized by law.

The property will be conveyed to American Atlantic Company for \$15,000, which is the appraised value.

Any members have any questions about this matter?

SENATOR CARDINALE: Yes, I do.

MR. SHAUGHNESSY: Okay, Senator.

SENATOR CARDINALE: I mean, they are similar questions to the prior.

Eleven acres at \$15,000; that just does not seem to compute. What is the basis of the appraisal?

MR. KOOK: The property is a very large site along the Delaware River, mostly swampland. Our road runs through swampland. The only developable pieces are two areas of uplands close to the Delaware, neither of which obtain any value from the removal of the road. What the removal of the road allows them to do is to be able to run driveways between the two properties.

There's absolutely no increase in the value of the properties as a result of this road being released, because there's no increase in buildability

of those properties. So you have all the excess land that they might need to count as Open Space, and their physical area that can be built is not near or affected by the release of the road.

What they'd like to do is to get rid of the road so that they don't have people driving back there and causing issues. They haven't developed it yet; maybe never will, given all the wetlands around it. But it's basically wetland land that the road sits on, and no practical value to the two developable sites that are in the back.

SENATOR CARDINALE: But you raised a question in my mind. Why would the State want to divest itself of wetlands?

MR. KOOK: The road--

SENATOR CARDINALE: We have all kinds of programs to buy wetlands, to keep them for environmental reasons, to make sure that they're not going to be disturbed. Now, if you have a portion that is usable, why aren't you selling, simply, the portion that is usable and keeping the wetlands, the marsh, in the public domain?

MR. KOOK: The history of the road is such that I'm not aware, precisely, if that was wet itself and it was originally filled and built. However, my suspicion is, based on the soil maps, that that road, too -- it went down to a ferry. Back in those days, you built through wetlands no matter what.

We don't have any functionally usable land; that strip is -- it's 50 feet wide, part of which belongs to the town. So we don't own the entire width of the road. It's no longer used by anybody, and the roadway itself, as I said, is not physically buildable by anybody else, nor does it add any

value to the owners' usable pieces that are located in back, sort of like two eyeballs on a big glob of property.

SENATOR CARDINALE: I'm unimpressed with your explanation.

SENATOR SMITH: So a thought: I think Senator Cardinale makes a good point about the preservation of wetlands. And it sounds like they're not -- the buyer is not interested in developing the site. Why can't we convey it with a conservation easement to protect the wetlands that are on the property?

They still get the-- I assume, just a guess, that they're trying to increase their acreage so that on the site they already have, when they go to a planning or zoning board, they can say their site is 11 acres bigger -- that you should take that into account when you're considering whatever the zoning criteria are. But it doesn't sound like they're trying to develop it.

That being said, why don't we-- Could it be discussion with the possible purchaser about a conservation easement on the existing wetlands?

MR. BRAZ: Is the purchaser here today?

UNIDENTIFIED MEMBER OF AUDIENCE: We are.

MR. KOOK: Wonderful.

MR. BRAZ: Senator, would you like to hear from them?

SENATOR SMITH: Yes, I would love to have them come up.

Tell us what -- why is it you want to buy the property.

MR. SHAUGHNESSY: Please identify yourselves and your affiliations, please.

Thank you.

KEVIN P. HAGAN: Good morning, Commissioners.

Thank you for your time this morning in considering this matter.

My name is Kevin Hagan with Princeton Public Affairs Group.

And I'll let my clients introduce themselves.

T E D G E H R I G: My name is Ted Gehrig; I'm here representing American Atlantic.

A L E X A N D R A W E E K S: My name is Alexandra Weeks. I am an employee of Weeks Marine, which is -- American Atlantic is a subsidiary of.

MR. GEHRIG: Just to describe the property a little bit; it might be helpful in terms of understanding the appraisal.

First of all, on the property -- there's a highway, and the right-of-way is 120 feet wide; it's a little less -- roughly 4,000 feet long.

The ferry went in, in 1920, and American Atlantic owns the ferry dock at the end of the road. So American Atlantic owns the property on the left side of the road, the right side of the road, and at the end of the road. So the road only serves one owner, American Atlantic.

In addition, before the highway went in, in 1920 -- before it became a State highway -- it was a town road. So the town owns a 50-foot strip. And the State owns-- The highway is 120-foot right-of-away. So the State owns 10 feet on one side, and 70 feet on the other, and the town owns a piece going down the middle.

The State does not own the land under the highway. When this highway was taken in 1920, it was taken through a condemnation proceeding. And at the time, the State did not take title to the land; they only got an easement to run their highway across the land. So the land is actually owned by American Atlantic -- the land in question.

So really what's being appraised is not the land, it's an easement to cross the land that serves only one party, and that's American Atlantic.

The highway is a bit of problem; people drive down it, it's rather long, they dump garbage, trash it. So what American Atlantic really wants to do is, they want to be able to control the property so that people don't do that.

MR. HAGAN: And if I could add, this was created through statute, which the Legislature passed and the Governor signed at the end of Governor Christie's term, sponsored by Senate President Sweeney and Assemblyman John Burzichelli. We've worked in partnership with both the County of Gloucester, as well as Logan Township, on this matter as well, as a case of public safety and issues that, locally, they were experiencing.

MR. GEHRIG: And Logan Township is interested in having the roadway shut down because they have to police it. And every time kids go down there and drink beer and raise hell, the local police have to go answer it. And we don't like that, because it's right adjacent to our property; so they get onto our property. So this is kind of a nuisance thing for us, and we'd like to try and solve that problem.

SENATOR SMITH: Are you going to remove the road?

MR. GEHRIG: No, there's no plan at the current time to remove the road.

SENATOR SMITH: So the plan would be to put a barrier up--

MR. GEHRIG: Put a barrier up and just fence it off; that's correct. So it would stay exactly the way it is currently.

SENATOR SMITH: Okay. What did you think about the suggestion to have a conservation easement on the wetlands areas?

MR. GEHRIG: It's not really a wetland. This is not wetland land; it's high and dry. It's very narrow, it's very long, it's not zoned -- buildable zonally, it doesn't meet the zoning restrictions. It's a very odd parcel. It's very long, very narrow, and it has a city-owned piece going down the middle of it. So we just want to fence it off.

SENATOR SMITH: Is it your intention to build on the strip?

MS. WEEKS: No, not at the time being. The land is vacant at the moment.

SENATOR SMITH: One of the questions is, the appraisal seems to be very low for 11 acres. Would you be willing to live with a restriction on the property, saying "no construction."

What I'm really asking is -- what's the plan for the property? If we put the restriction on, saying "no construction on the property," it's clear that you're just buying it to assemble it to your parcel; add on to the size--

MR. GEHRIG: Currently, the property, historically, has been a confined disposal site for dredge material. So what the site has -- it has 30 feet-- The road bed is low and high on either side; it's 30 feet of combined disposal site. Most of the property is farmed on either side of this roadway, so it's not really a wetland, it's farmland.

SENATOR SMITH: So what's the plan for the property? What are you planning to do with it?

MR. GEHRIG: Continue to farm it; fence it off so people won't come in and disrupt the land.

SENATOR SMITH: So the plan is to farm it.

MR. GEHRIG: It has been farmed for--

MS. WEEKS: --for the last five years, and we're in the process--

SENATOR SMITH: So could you live with the restriction that says, "for farming purposes only"?

MR. GEHRIG: But what you're selling is an easement to cross the property. You're not selling the property; what you own is the right for the public to cross. And all we're asking is that that right be taken away, because there is no longer a public need for the public to cross.

SENATOR CARDINALE: It occurs to me that a description that we've been furnished as to what we are doing is totally inaccurate. We're not selling the land; they own the land. If there is an easement that really services only one person, and it's them, there is no public value to that easement other than to them.

So if that had been the description that we had been given, I think we could have a different attitude towards this. I know I would have a different attitude towards this.

And that makes me a little concerned that we're getting a description here and being asked to act on something which is basically inaccurate. It makes me wonder about, are there other things that we're getting which are inaccurate, in terms of what a Department actually wants to do. You know, it's a sloppy description.

MR. GEHRIG: We've been in this process for four years now, trying to gain control over this property so we can kind of police it properly.

SENATOR SMITH: Well, in terms of valuation, if it's an easement and not fee simple, the price makes sense at this point.

But I do agree with Gerry. We would have saved about 20 minutes of discussion if it was clear that it was just the easement that was being sold.

ASSEMBLYMAN MORIARTY: Yes, it seems to me that what's occurring here is totally appropriate. And, exactly -- if we had known this beforehand we wouldn't be going through all of these discussions. And it's no wonder that you were in the back of the room shaking your head.

MR. GEHRIG: Thank you very much; we appreciate your time.

MR. SHAUGHNESSY: Correspondingly, do we have a motion with respect to this matter?

SENATOR SMITH: So moved.

ASSEMBLYMAN MORIARTY: Second.

MR. SHAUGHNESSY: Okay; motion and second. Thank you, Senator and Assemblyman.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes; but is the underlining paperwork going to be corrected to reflect the terminology? Because it references the--

MR. SHAUGHNESSY: DOT is--

MR. KOOK: (off mike) I am not aware; but it's possible--

It appears we were unaware that that was not a fee simple. We're fine with changing that to an easement if, in fact, that is indeed the fact. Typically, the Department has bought areas in fee; although, as the

requestor stated, there is a municipal right-of-way there that is land only, or right-of-way only. It's possible that we bought that similarly; but I don't know.

ASSEMBLYMAN DiMAIO: Do we have a deed?

MR. KOOK: We should have. The person who worked extensively on this retired, so I don't have access to that. Normally, he's a very efficient soul, and I'm not sure we would have noted that, other than that they requested it.

ASSEMBLYMAN DiMAIO: How were you going to transfer the property?

MR. GEHRIG: I have the condemnation papers from 1941, 1942, or 1943; I can't remember which -- May, 1942, condemnation. So it wasn't until 1958 that the Department -- the 1950s that the Department, when they condemned land, actually got the title, as well as the right to pass. So this was done in 1942, which was before that period.

When I was meeting with Department staff, that's what they informed me; and it's the same parcel numbers.

SENATOR SMITH: So are you suggesting that it is owned in fee simple by the Department of Transportation?

MR. GEHRIG: It is owned in fee simple by the Department, and I have the papers that show that the Township owns their parcel. Their parcel, also, does not extend to a public right-of-way. So when the right of the State to pass is erased, eliminated, the Township parcel, where there's a right to pass, will be about 150 feet short of our property line. So it will be totally surrounded.

MR. KOOK: So I think you said *fee simple*. Are you reading that it was just a right-of-way?

MR. GEHRIG: It's just a right-of-way; that's all you have. Yes, it's just a right-of-way; fee simple, and it's owned by American Atlantic.

MR. KOOK: There have been occasions where they have condemned for the entire piece. The basic ruling was that-- For instance, the Pulaski Skyway is an easement for the Bridge; and people cross underneath it, or put stuff underneath it. It's sort of a problem for us today with Homeland Security. In other cases, things have been acquired in fee, or the Department has gone back sometimes, afterwards, to buy the fee or not.

So I don't know the history of whether anything else-- Did you do a title search past this point?

MR. GEHRIG: No.

MR. KOOK: No.

MR. GEHRIG: Past this-- Yes, I mean, title searches have been done on the property since that point; but not on the roadway, not our parcel.

MR. KOOK: So I-- You know, unless we finish the title search and we're 100 percent sure, I'd be hesitant to say that it's only a right-of-way we're extinguishing here.

I would like to point out that, in reviewing our appraisal, our Chief Appraiser looked at the DEP soil mapping and the areas that were upland; I guess the old controlled disposal facilities--

MR. GEHRIG: Confined Disposal Facility.

MR. KOOK: Right -- those are the things that are up; around that area was not, in his opinion--

MR. GEHRIG: There are drainage ditches on either side of the highway; they're overgrown and haven't been maintained in 40 years.

MR. KOOK: Well, what we were dealing with was what does this road add to the bigger piece, not what this road is worth by itself. And in looking at the bigger piece it didn't seem that anything we got rid of there would add anything to what your buildability was on the two areas that were--

MR. GEHRIG: I agree; it's a matter of controlling the property--

MR. KOOK: Right.

MR. GEHRIG: --and restricting access, and making it easier for the State -- they won't have to maintain the highway; making it easier for Logan Township, so they won't have to police it; and making it easier for us, so people don't dump stuff on our land.

MR. KOOK: Which is why, even if that is transferred to fee simple, it physically can't add any more to your buildable area on the property. You have so much extra land there that's available for excess space that you're not going to get any more credit if you own this road--

MR. GEHRIG: Yes.

MR. KOOK: --or you don't.

MR. GEHRIG: It's roughly 400 acres of land; that's correct.

MR. KOOK: That's why the value is as low as it was, because it wasn't adding anything to its overall property other than for his convenience.

MR. GEHRIG: That's right.

MS. BRENNAN: So I'm not sure what the answer to my question is. (laughter)

SENATOR CARDINALE: It would appear that we don't have an accurate description here of what we're being asked to authorize. I'm uncomfortable -- I don't know if anyone is; well, I guess the Treasurer is -- with authorizing something on the wrong description of what we are authorizing.

If the fee simple belongs to these folks already, it's a totally different thing than if it's just an easement. But in our book we're talking about selling the land, and I don't think we can vote on selling the land given all of the circumstances that have been described.

SENATOR SMITH: And I actually understood it the opposite. I thought the property owner came up and said that this -- the land wasn't just an easement that was condemned; it was the land that was condemned, and that--

MR. GEHRIG: (off mike) No, no.

SENATOR SMITH: No?

MR. GEHRIG: (off mike) No.

SENATOR CARDINALE: No.

MR. GEHRIG: (off mike) Prior to 19--

SENATOR SMITH: Do you own -- you absolutely, positively own the property? It is only the extinction of the easement.

MR. GEHRIG: (off mike) (Indiscernible)

SENATOR SMITH: All right; and I hear you saying something--

SENATOR CARDINALE: Senator, it's similar to where you have a road, a municipal road, and you own the property on both sides of it and it doesn't go anywhere else. They'll *undedicate* that road and just give it to the property owners on each side. I think it's analogous to that.

SENATOR SMITH: Right.

SENATOR CARDINALE: That's what they're describing.

SENATOR SMITH: So a *vacation*; right.

ASSEMBLYMAN MORIARTY: Can someone explain the--

SENATOR CARDINALE: Because the property originally came from the landowners on either side when the town -- when the municipality originally got it, or whatever governmental entity originally got it. So when they need to dispose of it, there is generally not a fee; it's just given to the property owners on each side.

I've been involved, personally, in several of those kinds of transactions.

ASSEMBLYMAN MORIARTY: Can someone explain the legislative intent behind this? There was--

MR. BRAZ: Please; Mr. Hagan.

ASSEMBLYMAN MORIARTY: I mean, I feel for these property owners; because I understand what they want to do, and I think it's not a problem, and they've been trying to do this for several years. Can you explain the legislative background?

MR. HAGAN: I believe the original legislation declared this a State highway. So the intent was to allow it to be no longer a State highway, to no longer distinguish it as a State highway.

We found out that, through several years in the process, that it was actually created and designated a State highway.

It would be our hope, or ask, today -- understanding some of the questions -- that we could move forward, you know, with clarity if need be.

MR. GEHRIG: So the State-- It's unusual for the State to get rid of a State highway, right? And what happened here was the State highway led to the ferry dock. The bridge was built and the highway, kind of, became surplus.

So this was -- this State highway was declared-- On April 27, 1931, the law was passed to create the State highway. So the only way you can get rid of a State highway is to have legislation passed to get rid of it, because legislation was passed to create it. So the reason the legislation was passed was to undo the 1931 legislation so that this whole process could move forward.

MR. HAGAN: Because in working with the town, the county, and the Department of Transportation, obviously we couldn't do this without passing that legislation.

MR. GEHRIG: Yes; so your example of a municipal road is right. When there is a municipal road -- that the town comes in and they take the land. In this case, the land wasn't taken; it was just an easement to cross the property.

ASSEMBLYMAN DiMAIO: Do you have a survey of your property that shows that to be an easement on your property?

MR. GEHRIG: Yes, yes. That was all part of the State process. Survey drawings were prepared. We paid to have that done, and they were turned over to--

ASSEMBLYMAN DiMAIO: They should be identified in your deed and on your survey.

MR. GEHRIG: --to the State; and the parcel numbers were all laid out.

Let's see.

(witness checks notes)

ASSEMBLYMAN DiMAIO: Do you have the deed description as well?

MR. GEHRIG: Bear with me one second; let me find the right piece of paper here. I'm a little bit disorganized, having shuffled them a bit.

SENATOR SMITH: I think we have it in our materials.

MR. GEHRIG: You do? Yes.

MR. BRAZ: Yes, you have it in your materials. Assemblyman, it's in the binder under 15, Tab 15.

MR. GEHRIG: Yes; Najarian Associates prepared a set of drawings.

ASSEMBLYMAN DiMAIO: Yes, I'm in Tab 15, but I-- I mean, do they have--

MR. BRAZ: Towards the back.

MR. GEHRIG: Can I help point it out, perhaps? It's parcel LT-1 on the drawing.

SENATOR SMITH: The document you're referring to -- is it the one with--

MR. GEHRIG: Yes.

SENATOR SMITH: --the three parallel lines?

MR. GEHRIG: Yes, yes.

SENATOR SMITH: All right; which is the -- of the three parallel, which is the one we're talking about? Or is it all three? There are three darkened areas.

MR. GEHRIG: Does anybody have a highlighter?

SENATOR SMITH: No. (laughter)

MR. GEHRIG: If I could make--

SENATOR SMITH: Yes, please. Show it to everybody, yes.

MR. GEHRIG: Could I make a sketch?

SENATOR SMITH: Okay.

MR. GEHRIG: Thank you.

SENATOR SMITH: It's the one with the three -- these three (indicates), right?

MR. GEHRIG: Yes, those three; that's correct. And it's kind of confusing, because it's on 3 instead of 1.

SENATOR SMITH: Yes.

MR. GEHRIG: But the way it goes -- it goes like this, and curves over like that (indicates).

So at the top we have the Delaware River; at the end of the Delaware River is the old ferry dock. And then there's a mile-long section of road, right? And this is 120 feet wide right here (indicates); 120 feet wide. It's not to scale; excuse me. My engineering degree is going to waste. And there's a municipal roadway 50 feet wide in the middle, okay? So the parcel -- the 11 acres is this (indicates) -- is 120 feet wide.

ASSEMBLYMAN MORIARTY: Can you turn it this way?

MR. GEHRIG: It's 120 feet wide and it's about 4,000 feet long. And this (indicates) we don't own. That's the old municipal roadway that used to lead to the ferry dock before the State highway was built. So this is not part of what you're approving; what you're approving is the release of the easement on this shaded parcel (indicates), right in here -- all this shaded stuff.

MR. HAGAN: And I would like to point out that both the municipality and the county, required by the DOT, confirmed that they had no use or interest in the property.

MR. GEHRIG: Does that make sense?

SENATOR SMITH: So it's the sliver; not the whole--

MR. GEHRIG: It's a sliver; it's 120 feet wide and 4,000 long. And this (indicates) is way fat. (laughter) It's a sliver; it's just the right of the public to pass over that section of land -- is what we're talking about.

MR. BRAZ: Deputy Treasurer.

MS. BRENNAN: So with respect to legislative intent, the floor statement to S-3556, the R1 version of the Bill references that the amendments remove reference to Buttonwood Lane and the road's realignment to Springers Road to provide access easements to properties in the area; that 2R--

SENATOR SMITH: Right.

MS. BRENNAN: --changes the acreage. So it's clearly -- we're clearly dealing with an easement.

MR. GEHRIG: Yes. DOT has confirmed it's-- All the technical people we've dealt with at DOT, at the working level, have agreed that this is an easement; that's clear.

SENATOR SMITH: So on the theory that they've been in the desert for 40 years (laughter)-- And I agree with Gerry; the description is wrong, because it's talking about the sale of a property. I think we've now cleared up, based on the survey by Najarian and by looking at the original intent of the law, that it is strictly the removal of the easement; that now the purchase price makes sense to me. So I have -- even though the description was wrong in our paperwork -- I have no problem going ahead with this today.

MR. BRAZ: And Senator, the description can be amended to properly reflect --

SENATOR SMITH: Yes, of course.

MR. BRAZ: --what we are actually moving on today.

SENATOR SMITH: Right.

ASSEMBLYMAN MORIARTY: So then we make a motion, with the stipulation that it be amended to correctly identify what we're doing here today. And if that's the case, I would make that motion.

SENATOR SMITH: And I'll second it.

MR. SHAUGHNESSY: Okay; so based upon the motion and second, then I'll call the roll.

MR. GEHRIG: Thank you very much.

MR. HAGAN: Thank you.

MR. SHAUGHNESSY: Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Okay; that motion is made, as revised and amended -- the description; and it's approved.

SENATOR SMITH: All right; we want no more difficult questions today. (laughter) We've hit our quota.

MR. SHAUGHNESSY: Okay; quickly on to No. 16 which, as I understand, is a land exchange.

Route 18, Section 1, Parcels VX15B and VX89B, adjoining Block 32, Lot 2.08, East Brunswick, Middlesex County.

DOT is requesting approval to exchange DOT property known as Parcels VX15B and VX89B, of the Route 18, Section 1 Project, having an approximate area of 11,719 square feet; with Parcels 88A, 88B, and 90 of the Route 18, Section 1 Project, having approximately 35,294 square feet.

The property will be conveyed to East Brunswick UE II LLC. No consideration shall be paid as part of this exchange. The value of Parcels 88A, 88B, and 90 is \$530,000, which is the appraised value. The value for Parcels VX15B and VX89B is \$150,000, which is the appraised value.

Do any members have any questions about this matter? (no response)

Hearing none, any members from the public wishing to be heard? (no response)

Hearing none, may I have a motion on No. 16?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Motion.

MR. BRAZ: Second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio. (no response)

That matter is approved.

Oh, okay; I'm just noting that Assemblyman DiMaio left the room. We still have a quorum, though.

MR. KOTLER (Commission Counsel): Yes, we do. It still passes.

MR. SHAUGHNESSY: Thank you, Counsel.

No. 17 is Route 440, Section 1, Parcel VX238B, Block 21, Lot 1.02, Woodbridge, Middlesex County.

DOT is requesting approval to convey a vacant piece of excess land, identified as Parcel VX238B, having an area of approximately 34,892 square feet, to the only adjoining property owner, PSE&G, for assemblage to their adjoining commercial utility property.

The property will be conveyed to PSE&G for -- actually, it's \$175,000, which is the appraised value. I know the public agenda said -- but that was a typo -- \$170,000. The members' package reveals \$175,000 as the appraised value.

Any members want to be heard on this? (no response)

Any member from the public wishing to be heard? (no response)

Hearing none, may I have a motion?

MR. BRAZ: Motion.

MR. SHAUGHNESSY: Thank you, Mr. Braz.

Second?

ASSEMBLYMAN MORIARTY: Second.

MR. SHAUGHNESSY: Motion and second; thank you, Assemblyman.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

That matter is approved.

Final DOT request -- No. 18, South Jersey Regional Airport, Block 33, Lots 7, 8, 12, 13, and 14.01; Block 36, part of Lot 14; and Block 38, Lot 4.01, Lumberton, Burlington County.

DOT is requesting approval for the starting minimum bid for a lease auction of a portion of the South Jersey Regional Airport. The property has been appraised; the lease appraisal suggests a market value of \$55 to \$130 per tillable acre, or \$4,198 per month for the starting bid.

This property is currently being leased, on a month-to-month basis, to Good Farms, who was awarded the property through a public auction in 2013, and is currently paying \$5,000 per month.

As the appraised value is significantly less than the current month-to-month lease, it is requested that the current lease of \$5,000 per acre be used to set the minimum bid for auction, or to continue the current lease agreement.

Any members have any questions or concerns about that? (no response)

Hearing none--

SENATOR CARDINALE: Well, which are we going to vote on; which alternative?

MR. SHAUGHNESSY: It seems to be a joint approval; but that's a fair question.

Is anyone from DOT going to explain that?

SENATOR CARDINALE: We're either going to sell it, or continue the current lease arrangement. Are we authorizing the Department to do whichever it deems beneficial? Normally, we--

ASSEMBLYMAN MORIARTY: That's what the paperwork seems to suggest -- that they're asking approval of one or the other.

MR. KOOK: The intent was that -- because there are expenses involved with an auction, and advertising, and whatnot, if \$5,000 is exceeding the proposed market rate for the farm-- But if that was sufficient for the Commission's concerns, that we would just go with the \$5,000, or auction it at \$5,000, if they were concerned about the \$5,000 not being sufficient.

SENATOR CARDINALE: Do you have the option of continuing the lease?

MR. KOOK: No, we haven't had it yet. We needed approval to do one or the other.

SENATOR CARDINALE: Well, no, no. From a business perspective, if this Commission were to give you the opportunity to continue the lease, would you have -- the tenant is agreeable to that?

MR. KOOK: Absolutely; the tenant is all set to start planting.

SENATOR CARDINALE: It would seem that continuing the lease is the most beneficial thing for the State.

MR. KOOK: I hope so.

SENATOR CARDINALE: Why don't we vote to give them the opportunity to continue the lease? I think we need to have one or the other; I don't think we can vote on both.

So I make a motion--

MR. SHAUGHNESSY: Okay; motion--

SENATOR CARDINALE: --that we give them the authority to continue the lease.

SENATOR SMITH: Second.

MR. SHAUGHNESSY: Motion and second.

Any further discussion with members? (no response)

Hearing none, anyone wish to be heard from the public? (no response)

Hearing none, then, with that motion to continue the lease, I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Okay, that motion to continue the lease is approved.

MR. BRAZ: Mr. Shaughnessy is going to make a motion to sit as the Judicial Retirement Review System.

But before we do so, I just want to make sure that -- I want to give credit to Assemblyman Moriarty on an issue that was actually a first order of business on Old Business, for the Sea Girt Training Center.

Because of his evaluation, we were able to significantly increase the amount of money that the State will receive on a monthly basis for that Training Center. I should have mentioned that during the first go-round, but I didn't want this session to close without that acknowledgement.

ASSEMBLYMAN MORIARTY: Thank you. Chairman.

MR. BRAZ: So thank you, Assemblyman.

ASSEMBLYMAN MORIARTY: Do I get a commission on that? (laughter)

MR. BRAZ: Unfortunately, you do not.

SENATOR SMITH: No, you don't. (laughter)

MR. BRAZ: You do not.

ASSEMBLYMAN DiMAIO: You're on a fixed salary.

MR. BRAZ: Mr. Shaughnessy, please.

MR. SHAUGHNESSY: Okay.

We've now completed the regular State House Commission agenda.

So now may I have a motion to sit as the Judicial Retirement System Board of Trustees?

MR. BRAZ: Motion.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Okay; all in favor? (affirmative responses)

Any opposed? (no response)

Any abstentions? (no response)

We are sitting and convening as the Judicial Retirement System Board of Trustees.

No. 19 on the agenda-- No. 1 is approval of the minutes of the meeting held on September 27.

May I have a motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Okay; motion and second.

All in favor? (affirmative responses)

Any opposed? (no response)

Any abstentions? (no response)

No. 1 is approved.

No. 2 on our agenda is confirmation of the Death Claims, Retirements, and Survivor Benefits.

Any members have questions or concerns about that? (no response)

Hearing none, any member of the public want to be heard on that matter? (no response)

Hearing none, may I have a motion?

MR. RIDOLFINO: Motion.

MR. BRAZ: Second.

MR. SHAUGHNESSY: Okay.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: And Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Okay, No. 2 is approved.

And finally, on No. 3 is to receive or receipt of financial statements for December 2017 through June 2018.

Anyone want to be heard on that? (no response)

Anyone from the public want to be heard? (no response)

Hearing none, motion?

SENATOR CARDINALE: So moved.

MR. BRAZ: Second.

MR. SHAUGHNESSY: Okay; motion and second.

I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Paul Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Okay; that's approved.

Moving on to No. 4 under the Judicial Retirement System agenda.

This matter is Honorable Service Review for Judge Liliana DeAvila-Silebi.

Is anyone here on this matter and wishes to be heard and make any sort of statements or opening remarks?

And before doing so, sir, I would just like to point out that we have a Deputy Attorney General representing Pensions here for us today.

So, thank you.

PETER WILLIS, Esq.: Thank you.

Good morning.

My name is Peter Willis; I'm an attorney, and I have represented Judge Silebi through prior proceedings.

And we're here to answer any questions that the Commission may have.

And Judge Silebi is here, also, obviously, to answer any questions that may be raised by the Commissioners. We're here to answer any questions that you have.

MR. SHAUGHNESSY: At this point, I don't know that any of the Commission members have any questions at this point. But I understand that we were going to have a motion to go into Executive Session to receive advice from the Attorney General's Office concerning this matter.

So if that's the case, is there a motion to that effect?

SENATOR SMITH: Motion to do so.

MR. BRAZ: Second.

MR. SHAUGHNESSY: Motion and second.

All in favor? (affirmative responses)

Any opposed? (no response)

Any abstentions? (no response)

MR. KOTLER (Commission Counsel): Let me just add that the discussions in Executive Session will remain confidential until the need for confidentiality no longer exists.

So we would ask everyone to please leave the room for the time being while we get advice from our onsite Counsel for the JRS.

MR. SHAUGHNESSY: Thank you, State House Commission Counsel.

(Commission enters Executive Session)

(Commission re-enters public session)

We are actually back into public session now, sitting as the Judicial Retirement System Board.

With regard to the Honorable Service, I am going to read statute and some factors.

NJSA 43:1-3 establishes 11 factors for which the Board is to consider in balance and view of the goals of the pension statutes when determining whether forfeiture or partial forfeiture is appropriate, taking into account the goals to be achieved under the pension laws.

The factors are as follows:

One: the member's length of service. Ten years of judicial service, 15 years and 5 months of non-judicial service; 25 years and 5 months total service.

Two: The basis of retirement -- early retirement.

Three: The extent to which the member's pension has vested. Judge DeAvila-Silebi is vested with 5 or more consecutive of judicial service, and 10 or more years in the aggregate of public service.

Four: The duties of the particular member. Superior Court Judge.

Five: The member's public employment history and record covered under the retirement system. The Judge enrolled in the Judicial Retirement System, JRS, on June 16, 2008, as a result of her appointment to the position of Judge of the Superior Court.

Six: Any other public employment.

At the time of her enrollment in the JRS, the Judge had 15 years and 6 months of prior service in the Public Employees Retirement System, PERS. She elected to interfund transfer her PERS service to the JRS at the time of her enrollment in the JRS.

Seven: The nature of the misconduct or crime, including the gravity or substantiality of the offense, whether it was a single or multiple offenses, and whether it was continuing or isolated.

Charges: Essex County was notified of a potential misconduct by the Judge. A complaint was filed, reporting that, on May 9, 2015, that the Judge inappropriately interceded with the Fort Lee Police Department on behalf of a litigant in an Essex County Family Court matter concerning a

vitiating dispute over which Judge Casale was then presiding, and about which she was not involved.

On November 9, 2017, the Judge was suspended with pay.

On June 20, 2018, the Judge was suspended without pay, pending the outcome of the Supreme Court hearing.

On September 26, 2018, the Judge was removed from judicial office and permanently barred from holding judicial office with violations of Canon 1, Rule 1.1 and Canon 3, Rule 2.1, and Rule 2.3a of the Code of Judicial Conduct.

Eight: The relationship between the misconduct and the member's public duties.

A judge is held to a high degree of responsibility to respect and uphold the laws.

Nine: The quality of moral turpitude or the degree of guilt or culpability, including the member's motives and reasons, personal gain, and similar considerations.

The Court found beyond a reasonable doubt that the Judge violated Canon 1, Rule 1.1 and Canon 2, Rule 2.1 and Rule 2.3a, of the Code of Judicial Conduct by misusing the judicial office to advance the private interests of a litigant by making false statements under oath before the Advisory Committee on Judicial Conduct; and by submitting altered telephone records to the panel to perpetrate the prior false statements.

Ten: The availability and adequacy of other penal sanctions.

The charges on September 26, 2018, the Judge was removed from judicial office and permanently barred from holding judicial office in

the state. Her file was forwarded to the Office of Attorney Ethics for such action as deemed appropriate.

Eleven: Other personal circumstances relating to the member which bear upon the justness of forfeiture.

Although the Judge did not testify, the Advisory Committee on Judicial Conduct noted that prior to this incident she had an excellent reputation in the legal community, and the length of her unblemished public service.

That's the end of the recitation.

So I guess at this point -- I don't know if there are comments from either the Judge or Mr. Willis, with regard to this matter.

MR. WILLIS: Yes, I would like to address the Commission, with your permission, please.

Former Judge Silebi has had a stellar career of public service her entire life.

In 1992, Judge Silebi became a law clerk and served for a year in a judicial capacity as a clerk to a Superior Court Judge.

In 1993, Judge Silebi went to work for the Bergen County Prosecutor's Office and volunteered to work in that office for a period of three months without pay. She was asked to remain at the Prosecutor's Office, and put together a 16-year stellar career.

I'd like to remind or, perhaps, tell you for the first time some of the wonderful achievements that Judge Silebi has had in her professional life, both as a lawyer and as a judge.

Those 16 years -- obviously she vested in the 10-year pension through the Prosecutor's Office. There was never an incident, there was

never any accusations alleging any misconduct -- anything improper during those years of service.

Judge Silebi volunteered for every available position within the Prosecutor's Office and went on to a career that included the following:

She was originally assigned to the Appellate Division of the Prosecutor's Office back in 1993. And during her career, she was the Chief of the Sex Crimes Unit, Criminal and Child Abuse Unit, and took particular interest in the crime of child abuse -- not only during her hours of employment, but during her after hours Judge Silebi went and spoke publicly on the issues of child abuse; went to schools, went to community centers, on her time, without pay, volunteered -- went and spoke to children of all ages about child abuse and the issues that are involved in that.

She went on to become the first Chief of the money laundering section of the Bergen County Prosecutor's Office; and then became the Chief of the Insurance Fraud Unit of the Bergen County Prosecutor's Office.

At the end of her long career as a prosecutor, Judge Silebi wound up as the Chief of the Sexual Assault team that included managing four lawyers and approximately 16 private investigators who worked in the Bergen County Prosecutor's Office.

She's married; she has two children -- two wonderful children at home, age 15 and 21.

On June 16, 2008, Judge Silebi was honored to be nominated to be a member of the Superior Court of the State of New Jersey, and served in that capacity through her tenure; and received tenure two years ago.

You have to understand what happened here. And you have to have some compassion and some understanding of the circumstances involved in this case

So let me take a few moments of your time on this very important matter that has impacted Judge Silebi's life.

Back in May 2015, while Judge Silebi was a member of the Judiciary, she had an intern -- not a law clerk, but an unpaid, part-time, part time intern by the name of Vivianne Chermont. And Ms. Chermont would show up periodically at the Judge's chambers and the Judge and Ms. Chermont had almost no contact whatsoever during the internship program that was provided.

After Ms. Chermont left her internship at the Judge's chamber where she had worked, on May 9, 2015, while home, the Judge's phone rang; and the phone call was from a Vivianne Chermont, her former intern. Her intern was hysterical, crying on the phone to the Judge, and explained to the Judge that her child was in the custody of the father, and the child was not, according to court order, supposed to be in the custody of the father that weekend -- which happened to be Mother's Day weekend.

She also was told that the child had been unheard from, and she had not heard from the child at all, and was concerned and called on a private number -- Judge Silebi.

The Judge initially refused to become involved in the matter. But with a constant barrage of crying and hysteria -- and the fact that the mother had not heard from her child in over 24 hours, and was concerned for the welfare and well-being of the child -- Judge Silebi called the Fort Lee Police Department.

Now, I want this Commission to understand something. It says in this outline -- what benefit was to be received by the Judge or the recipient of a pension; what's the benefit that they got for their actions that they may have taken?

Judge Silebi got nothing out of this; nothing, zero. As a matter of fact, in an effort to help a desperate woman get her child back under an existing court order -- that Judge Silebi believed existed, although she did not actually see it, initially -- eventually it proved to be that there was a court order; that the court order existed; and that Judge Silebi followed the existing scheduled visitation; and the child was supposed to be with the mother on this weekend.

Judge Silebi called the Fort Lee Police Department and spoke to sergeant at the desk, and asked the sergeant to look into this. And if any of the allegations were accurate or true, that the Police Department should take custody of the child and arrange for the mother to get custody of the child, pursuant to what the Judge believed was a court order.

Remembering that Judge Silebi volunteered her time in the community, you should also be aware that Judge Silebi was the Duty Judge or on-duty call on the weekend that this occurred. Judge Silebi, with the permission of Judge Dion (phonetic), who was the Assignment Judge in Bergen County, was acting as the duty judge 24/7 and had been so doing with permission of the Assignment Judge, for a long period of time. She was not paid anything extra; she didn't receive any favors of this. This was volunteer work by Judge Silebi.

What's happened to her is, really, the destruction of a wonderful person with a beautiful career. As you know, being in Executive

Session, Judge Silebi was interviewed by a representative of the Judicial Committee, and made a terrible mistake. She gave multi-page interview to an investigator with the Office of the Executive Director with the Office of Judicial Investigations. And this was done on August 9, 2016; and this resulted in a 76-page statement by Judge Silebi to the investigator.

And Judge Silebi, as the record reflects, was not honest in her answers; she was not complete in the answers that she gave to the investigator.

She did initially remember the phone call from Ms. Chermont; but eventually, during the 76-page interview, admitted to receiving a phone call on May 9, 2015 from an attorney -- someone that she believed was an attorney, and someone that she believes to this day was an attorney, or represented to her that he was an attorney -- and read to her the court order that allowed Judge Silebi to recommend to the Fort Lee Police Department to get the child and bring the child to the Police Department and return the child to the mother.

Judge Silebi was less than completely honest in that interview; and that's the sad truth. And the sad truth is that Judge Silebi testified consistent with her original statement, which contained information which was not accurate.

Judge Silebi went through a hearing in which Judge Silebi testified at that hearing. And as a result of her testimony, and as a result of the witnesses who were called before that Committee, the Committee determined that Judge Silebi should have a full hearing before a special panel; and recommended that Judge Silebi be removed from the bench.

I was present during the multi-days of hearings that took place before three judges of the Superior Court and one judge of the Appellate Division, Judge Messano. As a result of that hearing -- and I stress to you that Judge Silebi did not testify at that hearing, and did not go under oath at that hearing, and did not participate in the proceedings as an active witness but certainly was present -- it was determined that the original findings of the Committee should be sustained, with a recommendation that Judge Silebi be removed from the bench.

Which brings us here, before this Commission, to determine what, if any, percentage -- or any action should be taken against her pension.

You have to, I suggest, in evaluating someone's life -- anyone's life -- look at the entire picture of who this person is, what their background is, their education. I should also tell you that Judge Silebi is an Adjunct Professor of Biology at Farleigh Dickinson University. She has tremendous academic achievements, and she was a bright future in front of her as an attorney.

In fundamental fairness to her, you have to put this in perspective.

There are two parts to this, the way I look at it.

Part one is the mistake that was made by changing the custody and doing what she was charged with. And I suggest to you that that was an honest mistake, made in the time of an emergent matter, with a hysterical mother on the phone, putting enormous pressure on Judge Silebi.

I also want to tell you that during this period of time -- and we submitted substantial medical information to the Committee. And I

suggest that if you need access to this medical information, we could provide, with certain concerns, of course, of privacy -- we could provide this.

The Judge, in May, and June, August of 2015, had been suffering from a severe case of Addison's Disease, and had lost -- as painful as this is; I wasn't asked to tell you this, but I'm going to tell you -- lost all her hair and was an emotional wreck; was bring administered transfusions and medical treatment for Addison's Disease. And during his period of time, I believe the judge's thinking was affected by her medical condition. She tried to work through it; she went to work. But she was an emotional mess, and was seeing a psychologist and psychiatrist for medical help.

She was stressed out; she has given years of public service, unblemished, untouched by any wrongdoing. And I ask you to mitigate this incident that occurred in her life. Punishment has been great; I mean, punishment has been enormous in this case. She's been punished by being removed from the bench. What worse public punishment could there be? She has a family, and children, and a long career in public service; and I'm asking this Commission to recognize the years of good and public service that she gave to this one incident that occurred.

And I would also ask Judge Silebi to address you, briefly, as to contrition and as to what has happened to her, if you would permit.

MR. BRAZ: Please, Judge.

MR. WILLIS: Judge Silebi.

L I L I A N A S. D e A V I L A - S I L E B I, Esq.: Thank you for giving me the opportunity to speak.

I first became a Prosecutor volunteer because I wanted to help people. And then I became a Prosecutor, and that's all I did. I woke up

every day thinking that that was the best job -- because you wake up and help people. And then I had an opportunity to become a Judge; and people asked me to put my application in, and I did. And I thank God for that opportunity as well.

And in the end, it was that desire and that fire to help people that led to this horrible situation. I've lost everything. I've lost the love of giving my life to government service. I've lost my health; I've lost the ability to care for and support my children.

I lost my ability to have happiness and peace in my family. I've apologized to my children, my family; and I should also apologize to all of you as well.

I did it not because of any personal gain to me, but because I thought a child was in need of protection. I thought the police should intervene to find out the whereabouts of the child. But I didn't do it for the mother; I didn't do it for me; I didn't do it for any of that. Only because I'm a mother myself -- I couldn't imagine not knowing where your child was for more than a week.

At first, I told her that she had to get an attorney; I wouldn't help her. But in the end, my order was to help the child, and I apologize for that. I shouldn't have let that be the decision. I should not have gotten involved.

And I'm sorry.

Thank you.

MR. BRAZ: Thank you.

Does anyone have any questions?

SENATOR SMITH: I have one.

SENATOR CARDINALE: Yes, I do.

SENATOR SMITH: The materials that we received referred to what can only be described as a cover up -- that phone records were modified, and that you continued in your position of what you were doing that day -- you kind of resisted. Why did you do that?

MS. SILEBI: They asked me for my phone records. I just printed them out on the computer; I think it was, like May, through November. I didn't even know about the phone calls in February, because she's not my friend; like, she's not a family member. She's not a friend of mine. So I didn't remember that she had called in February.

So there were so many documents, that I just printed them out from the computer. I didn't get them from the Verizon subpoena office, which are more detailed records -- like, when you print them out in your computer; you don't get text messages or anything like that. It's just, like, the computer screen you print it out. So I didn't even know she had called in February; I had forgotten about that. I was more worried about my health; and, you know, it's different when a friend calls you all the time, because you're friends. But I didn't remember those phone calls.

MR. BRAZ: Senator Cardinale.

SENATOR CARDINALE: Counselor, the reports that we have received describe a pattern of lies and deceit.

And as I was listening to your testimony, you continued with them. You told us that you were on duty that weekend by the order of Judge Doin (phonetic). Dragging Judge Doin into this matter is a disgrace. The fact that she was not on duty, by order of Judge Doin or anyone else, and that she no longer a Bergen Judge, but she had already been assigned to

Passaic County-- And you talked about -- she still believes this fellow who called her and supposedly read a court order to her was a lawyer? It's established -- he was a bartender, not a lawyer.

You know, it bothers me that people come before official bodies and perpetuate lies and deceit, when they are supposed to be representatives looking for justice.

I will not apologize for lawyers who do that -- despite I know that their intention is to help their client. We need a system where people are honest when they come before public bodies.

And if I had any doubt, you convinced me. The phone records would not be complete; according to the reports that we have received, they were altered; they were changed; items were removed. The pattern we have before us -- the pattern of lies and deceit, and no remorse before any of the committees which subsequently examined the case.

I'm not going to go over the whole thing with you; but you have not done your client any good here today, at least as far as I'm concerned.

MR. BRAZ: Thank you, Senator.

Any further comments from the members? (no response)

MR. SHAUGHNESSY: At this point, are we ready to entertain a motion? If so, do we have a motion as to the--

SENATOR CARDINALE: Are you going to read the motion? I thought we had a written motion; and if we don't--

MS. SCHIMMEL: No.

SENATOR CARDINALE: --I'll be very happy to make a motion that we consider the service dishonorable and we eliminate the entire pension.

ASSEMBLYMAN MORIARTY: I second.

MR. SHAUGHNESSY: Motion and second.

Any further discussion from the members? (no response)

Hearing none, we have a motion on the table; I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: While I certainly think that disciplinary action is required and necessary, I do not believe that the full revocation of the Judge's pension is commensurate with the disciplinary action that was provided to us.

I vote "no."

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: I also agree with Commissioner Braz.

For that reason, I vote "no."

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: A comment.

I'm voting "no." I think the discussion about -- not the act itself, the thing that got the Judge initially in trouble -- but rather the "cover up" afterwards, which goes to the heart of what we expect from our judges.

I think that my understanding of that was, it was greatly modified by the comments from the Judge's attorney, which indicated that she was having severe medical issues at the time. To some extent, I believe that may explain her behavior in the post-incident conduct. And I certainly agree that the punishment doesn't fit the crime here, so I'm voting "no."

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: I've served in office for a long, long time; for decades, in fact, in various levels, from local to here.

I've never dealt with an issue that was as serious as this in my life; and I don't take this lightly.

But we need to maintain the highest integrity for not only ourselves, but all branches of the government.

Therefore, I vote "yes."

MR. SHAUGHNESSY: So the tally is 4 yes, and 3 no.

That motion passes.

MR. BRAZ: Thank you for your time.

MR. SHAUGHNESSY: We're moving on now to continuing to sit as the Judicial Retirement System Board of Trustees.

We have member appeals of administrative decisions regarding the repayment of pension loans due by members to the Judicial Retirement System.

There are initially four matters listed on the agenda. We have received a letter, dated December 4, from Judge Holler-Gregory, retired, requesting that the hearing not proceed with regard the Judge's matter.

The other three remaining Judicial Retirement System or pension loans -- we have the appeal by the Honorable Judge Joseph Foster, retired; we have the appeal by the Honorable Nicholas Stroumtsos, retired; and then we have an appeal by the Honorable Robert Mega, active service.

So I guess the first thing that we're going to ask is if the judges would like to come up, with their counsel, to make any statements with regard to this matter.

We are going to have an Executive Session on this matter as well.

Right now, any statements, questions, or comments you have, sir.

JUDGE JOSEPH L. FOSTER: I don't know to what extent-- My letter to the Judicial Retirement System is self-explanatory.

Just very quickly -- I don't want to unduly burden the--

First of all, I thank -- I appreciate you all, the Commission, having me here this morning. I know it's getting late.

I retired February 1, 2016, I was initially appointed to the Tax Court in 1998, and was assigned to the Superior Court, until the point of my retirement. I'm currently on recall.

Starting in 2003, I adopted a practice where I would, year to year -- I would take, annually, a pension loan. And following certification of the loan, the installments due on the loan would be from paycheck to paycheck deducted as matters proceeded.

That practice was followed until -- based on the information I now have -- until April of 2006, when unbeknownst to myself and my wife, the pensions loans -- which I had from, year to year, been applying for --

were not the subject of paycheck deductions in either the required amount; or, for a period of time, there was no deduction at all.

We were completely unaware of this. We both assumed that the Judicial Retirement System, as had been the case previously, was accurately deducting the amount due in order to satisfy the loan each year.

I retired February 1, 2016. In October 2016 I received phone call from Lisa Fisk, who told me that, "You're going to be getting a letter from the Judicial Retirement System indicating that there's an arrearage in your pension loan." She told me that the amount of the arrearage was about \$15,000. As it turns out, the actual amount was \$15,143.90. And she told me that on the basis of the arrearage that \$1,370 would be deducted from each paycheck until the arrearage in the loan was fully satisfied. In fact, that amount was deducted from each of my paychecks for 11.5 months after that.

It's not my position at all that the Judicial Retirement System should not be reimbursed for outstanding principal. What I would ask the Commission to consider is possibly reimbursing that portion of the repayment which represents interest. I received a letter from the Judicial Retirement System indicating that the \$15,141 and change -- included in that amount is accrued interest, which was accruing on declining balances. This arrearage was basically the result of a mistake-- Maybe I recognize now, we should have paid more attention to what was happening with each paycheck as the years went on. But we were completely unaware and just assumed and relied upon the Judicial Retirement System taking accurate deductions from the paycheck. And we were completely taken by surprise when I received this phone call.

That basically is it. I just ask, to the extent that the Commission feels appropriate, that the Commission at least consider reimbursing the interest which is included in the arrearage. As I understand it, based on materials and correspondence that I've received from the Judicial Retirement System, of the \$15,141, \$4,970.69 of that amount represents interest which was charged. And it was at 6 percent which, I might note parenthetically, was not exactly, in recent times, a market rate of interest.

Whatever considerations the Commission could bring to bear here, I'd appreciate it very much.

MR. SHAUGHNESSY: Do any of the members have any questions or comments as to Judge Foster's matter?

MS. BRENNAN: Just curious why the appeal was supposed to previously have been heard by the Commission back in 2016, and is being heard now.

JUDGE FOSTER: Well, as I understand it, the Judicial Retirement System notified me that the IRS would have treated this-- If this loan was in arrears for more than five years, it would have been considered a distribution and, therefore, income. As I understand it, the Judicial Retirement System has been attempting to deal with that issue directly with the Internal Revenue Service. I don't know the outcome of that, but I was notified by e-mail that a previously scheduled hearing before this Commission was going to be adjourned to allow the Judicial Retirement System additional opportunity to address that issue with the Internal Revenue Service. And I don't really know what the status of that process is at this point.

ASSEMBLYMAN MORIARTY: I think the Judge has a point here. It's verified in the letter from the State -- that they failed to take out 40 payments over a course of time. And because of that, this balance that he actually owed -- one could say maybe he should have noticed that he was getting an extra \$283. I don't know that I would have, so I give him the benefit of the doubt. I think the monthly check that you received was how much? What was your monthly pension check?

JUDGE FOSTER: I can tell you that \$1,370 was deducted from my pension check to satisfy the arrearage over a period of 11 months; and then there was a small balance that was--

ASSEMBLYMAN MORIARTY: No, I'm going back to the period when they failed to take money out that they were supposed to over--

JUDGE FOSTER: I don't know the exact amount of the check.

MR. KOTLER: Assemblyman, we're going to address your question in Executive Session.

ASSEMBLYMAN MORIARTY: Okay.

MR. KOTLER: So the point now is to get the testimony from each of the judges.

ASSEMBLYMAN MORIARTY: Got it.

MR. KOTLER: Certainly you can ask questions; but that bears on the legal basis.

ASSEMBLYMAN MORIARTY: Got it; thank you.

MR. SHAUGHNESSY: Anything else at the moment, Judge Foster?

JUDGE FOSTER: I think that's about it.

MR. SHAUGHNESSY: Okay.

JUDGE FOSTER: And I appreciate whatever consideration the Commission might (indiscernible).

Thank you very much.

MR. SHAUGHNESSY: Thank you, sir.

Next is Judge Stroumtsos.

J U D G E N I C H O L A S J. S T R O U M T S O S: Commissioners, good morning.

My name is Nicholas Stroumtsos. I am a retired Superior Court Judge.

To my left is my Counsel, Bradley Parsons.

In the interest of time, perhaps I can address you rather than he.

My situation is basically the same. I started taking these loans because I thought I wanted to retire early. I accumulated \$62,000 in the pension system, which I didn't collect, because I didn't retire early. But that was my goal -- to retire early. So, therefore, that money is still within your coffers.

When I retired, I was told I owed \$15,000 on my last loan; and then, surprisingly I got a letter, just like Judge Foster did -- it's not \$15,000 it's some other number.

My appeal is very simple. They have been deducting, for two years-- In fact there was a question of why it was adjourned. I'll tell you why it was adjourned -- because I questioned how it's going to impact me on my IRS returns in the years because of their mistake. And their mistake

was, they didn't follow through and make the deductions as they should have.

So it was adjourned. I was being charged \$1,700 a month. They were nice enough to make it half that; so they've been deducting \$800 a month for two years. My calculations -- that the total amount I've paid since they started deductions since my retirement was \$25,197. The amount of money I borrowed, just prior to my retirement in 2010, was \$22,992. They claim there was a shortage of my earlier loan of \$464. So the total amount I owe them in principal would be \$23,456.

And if you do the addition, the \$25,197 I paid since 2016 -- and there was an additional \$7,723 which they did deduct from my paycheck just prior to my retirement.

The total amount I've paid is \$32,920 on a \$23,000 loan. That's pretty good interest; and I'm going to ask that, considering everything, that that interest be waived and we stop those deductions immediately; and beginning in 2020 I get my full retirement.

I thank you for your time.

MR. RIDOLFINO: Is your Counsel a tax counsel, or just--

JUDGE STROUMTSOS: No, he's my son-in-law. (laughter)

But I have the best lawyer; Brad, let me go up -- it's been a long day for all of you -- rather than he. You hear it right from the horse's mouth.

ASSEMBLYMAN DiMAIO: I just have one general question.

JUDGE STROUMTSOS: Yes.

ASSEMBLYMAN DiMAIO: I guess I should have asked it earlier.

When the deductions were being made -- was there a time when they weren't being made?

JUDGE STROUMTSOS: Yes, there was. You know, I don't pay attention--

ASSEMBLYMAN DiMAIO: Did you notice -- you don't get advice copies?

JUDGE STROUMTSOS: We get nothing.

ASSEMBLYMAN DiMAIO: You don't get advice copies on your pay stub--

JUDGE STROUMTSOS: No, I had no idea--

ASSEMBLYMAN DiMAIO: --with the deductions for a loan?

JUDGE STROUMTSOS: On my paychecks -- you can see the recent paychecks. I get nothing; no.

ASSEMBLYMAN DiMAIO: It tells you how much Social Security was taken out; the various lists there.

But when they were making deductions, there was nothing--

JUDGE STROUMTSOS: Nothing on my loan.

ASSEMBLYMAN DiMAIO: --nothing on that advice copy as to--

JUDGE STROUMTSOS: Not that I recall.

ASSEMBLYMAN DiMAIO: Maybe I'm too critical on my money, but I watch every cent.

JUDGE STROUMTSOS: I got a surprise letter saying I owed \$38,000.

ASSEMBLYMAN DiMAIO: Okay. Did you get an annual statement from Pensions?

JUDGE STROUMTSOS: Not that I'm aware of. We get no annual statement.

ASSEMBLYMAN DiMAIO: Nothing?

JUDGE STROUMTSOS: Not that I recall.

ASSEMBLYMAN DiMAIO: So you didn't even know the balance from year to year, like a bank would give you a statement.

JUDGE STROUMTSOS: No, no.

MR. RIDOLFINO: Once you retired, the pension loan payment just stopped?

JUDGE STROUMTSOS: I don't know if it stopped or didn't. It obviously stopped. All I know is my checks started to change--

MR. RIDOLFINO: Right. But you were still working, and the pay back of the term of that loan would obviously have included interest.

JUDGE STROUMTSOS: I assume it would, right.

MR. RIDOLFINO: Okay.

JUDGE STROUMTSOS: Anything further?

MR. SHAUGHNESSY: Do any of the members have any other questions or comments? (no response)

B R A D L E Y M. P A R S O N S, Esq.: Could I just insert one thing, very quickly?

MR. SHAUGHNESSY: Absolutely.

MR. PARSONS: Just in clarification to the Commissioner's point.

So he previously had had a loan in about \$35,000. That loan was repaid by monthly withdrawals of \$386; and that loan was essentially retired, other than a few hundred dollars.

And then there was a second loan, in 2010 -- the loan that has led to all this. And, essentially, by the Division's paperwork that loan was supposed to be paid off by \$800 deductions; but the \$386 deductions just continued. And so that's what created this first spread; so it wasn't something that was going to get the Judge's attention. I mean, the deductions just continued as they had with the previous loan.

MR. SHAUGHNESSY: Thank you.

MR. RIDOLFINO: So is it your assertion that this was a mistake on the part of the State?

MR. PARSONS: Well, from my reading of this -- and the Division has been responsive, in terms of getting us the paperwork that they have and answering our questions. But it's not clear how they get to the number that they asserted, in 2016, as the Judge just stated-- When he retired in 2011, he was told \$15,000. Which, if you take a \$22,000 loan and deduct it by the \$386 payments of (indiscernible). I have not seen an explanation of how it goes from \$15,000 to \$38,000 over the course of five years.

JUDGE STROUMTSOS: All I want to do is stop the bleeding. I want my check in 2020, without the \$836 deducted. And it was only by virtue of you folks who could stop that. That's what Pensions told me. It's only when you say, "Stop it; it's paid," that they stop it. That's why we're here.

MR. SHAUGHNESSY: Okay, thank you very much.

JUDGE STROUMTSOS: Thank you.

MR. SHAUGHNESSY: And I think the other related matter is the appeal by the Honorable Robert Mega.

J U D G E R O B E R T J. M E G A: Good morning, Commission members.

MR. BRAZ: Good morning.

MR. SHAUGHNESSY: Good morning.

JUDGE MEGA: Thank you so much for having me today.

Honorable members of the Commission, what I am seeking in appearing before you today is a refund of what appears to be an overcharge.

Let me try to break this down and give you the road map of what happened.

In or about May of 2011, I had applied for a pension loan. The pension loan that I had applied for -- I was informed would require a repayment of 97 payments at \$190.72, totaling \$18,499.84.

That payment was supposed to commence with the pay period beginning in June of 2011 -- pay period number 12.

When pay period number 12 arrived and I did not see a deduction in my check, I immediately called up the pension point person -- which, at that time, was Eileen Dillon -- and I explained, "I have problem. No deductions were taken."

Now, I had an amortization sheet which was provided to me by JRS; and I was told, "No problem. We'll start it two cycles later; we can't catch up. So it will start in July."

So, sure enough, in July of 2011, pay period number 14 -- the deductions start. And if you look at my paycheck stub, pay period 14, \$190.72 was taken out; the remaining balance was \$18,309.12. That payment continued until the loan was brought down to \$5,149.44.

At the time I called to take a second loan. So I was told, "We'll consolidate the loans for you. Your new payoff balance is \$16,492, plus the outstanding balance of \$5,149.44 will come out to a total \$21,641.44. Now, your new schedule will begin in pay period number 6, check of March 14, 2014. It will be for 51 payments at \$434.22."

My paycheck deduction began in pay period number 6, check date March 14, 2014, and continued until pay period 3, check date February 12, 2016; at which point the balance was zeroed out.

Everything's paid off. Both loans were paid off within the five-year period, as required under the IRS

In October of 2016, approximately 10 months later, I receive a letter saying "as a result of an active member audit, the Division of Pensions has determined that you have a pension loan shortage in your Judicial Retirement System account. The shortage is a result of bi-weekly scheduled loan deductions not served timely by centralized payroll and a beginning receivable balance being understated. Your loan balance shortage as of November 1, 2016, is \$1151.60."

I spoke to Ms. Shirlene Scott, who is here, who is always been more than helpful in working with and trying to resolve the issues. Yet it didn't seem we could come up-- And to this day, I still don't know where the \$1,151 figure came from. I do know it was taken, but I don't know where it came from.

I submit before the Board -- I don't know what else I could have done. I monitored every check; I followed the amortization sheet; I said, "If you show me where I'm wrong, I'd pay it back if I missed a payment." But clearly the checks -- even when the loans were consolidated

-- all went down to zero. And I don't -- I think -- I believe I was very diligent in making sure my debts were paid, and that's what I strive to do.

But when I find out 10 months later-- And I know \$1,155 may not seem like a huge amount, but to me it was; to me it is. And I open the floor to any questions that anyone has. I would cite the principals of *equitable estoppel laches* and *accord and satisfaction* in this matter.

So I thank the Commission for hearing me, and giving me the opportunity.

Any questions I can answer?

MR. SHAUGHNESSY: Questions or comments? (no response)

I thank that's it.

Thank you, Your Honor.

JUDGE MEGA: Thank you.

MR. SHAUGHNESSY: At this point, is there a motion to move into--

ASSEMBLYMAN MORIARTY: So moved.

SENATOR SMITH: Second.

MR. SHAUGHNESSY: Motion and second; okay.

All in favor? (affirmative responses)

And that's to receive advice from various Counsel.

(Commission enters Executive Session)

(Commission re-enters public session)

MR. SHAUGHNESSY: We are now returning to public session.

Invite the public in.

Okay; we are back in public session.

Do I have a motion-- We'll take these individually, but is there a motion with respect to the appeal of the Honorable Joseph Foster?

MR. RIDOLFINO: Yes.

Based on the understanding of our agreement with the IRS, the motion is to deny the appeal to waive any interest and/or penalty and uphold the decision of the Division.

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

MR. BRAZ: Second.

MR. SHAUGHNESSY: Okay; I'll read the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale has indicated he's voting in the affirmative to that motion.

Senator Smith.

SENATOR SMITH: Just a statement for the record -- which is that it was made abundantly clear to the members of the Commission that there's really no choice in this matter -- that there is an IRS code, but the

IRS closing agreement makes it clear that this is not an option that's available to us.

So I have to vote "yes."

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes; I wish I could vote otherwise. I feel for all these cases -- I feel great sympathy, and wish I could sympathize with them with my vote. But as a Trustee of the JRS, I cannot jeopardize the tax status of the Judicial Retirement System, based on Counsel.

I have to vote "yes."

And Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Agreed; yes.

MR. SHAUGHNESSY: Moving on to the next appeal -- the appeal by the Honorable Nicholas Stroumtsos.

Is there a motion with regard to that matter?

MR. RIDOLFINO: Yes, based on the understanding of the agreement with the IRS, the motion is to deny the appeal to waive the interest and/or penalty, and uphold the decision of the Division.

MR. SHAUGHNESSY: Is there a second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale is in the affirmative.
Senator Smith.

SENATOR SMITH: Same comments; yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Same comments; yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: And the last one is the appeal by the
Honorable Robert Mega.

Is there a motion with regard to that?

MR. RIDOLFINO: Yes.

Based on the understanding of the agreement with the IRS, the
motion is to deny the appeal to waive the interest and/or penalty and
uphold the decision of the Division.

MR. SHAUGHNESSY: Second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

MR. RIDOLFINO: Yes.

MR. SHAUGHNESSY: Senator Cardinale has been marked in
the affirmative.

Senator Smith.

SENATOR SMITH: Yes; same comments.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes; same comments.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That concludes the Judicial Retirement System matters.

Is there any other business coming before the Commission? (no response)

I need to make a motion to go back to reconvene as the State House Commission.

MR. RIDOLFINO: So moved.

MR. BRAZ: Second.

(Commission returns as State House Commission)

MR. SHAUGHNESSY: Okay, we're sitting as the State House Commission.

Any other business to come before the Commission today? (no response)

If not, motion to adjourn.

SENATOR SMITH: So moved.

MR. BRAZ: Second.

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

(MEETING CONCLUDED)